



## IAP Response

Ref B2.10.WSH.CE.A1

## Cost Adjustment Claim – Welsh Language Service costs

1 April 2019

## Cost adjustment claim summary form

Name of claim	Welsh Language Service Costs	
Name and identifier of related claim submitted in May 2018	N/A	
Business plan table lines where the totex value of this claim is reported.	£2.9m in R1 line A1, £2.6m in R1 line A5 for base, £0.3m in R1 line A13 for depreciation.	
Total value of claim for AMP7	£5.8m	
Total opex of claim for AMP7	£5.5m	
Total capex of claim AMP7		
Depreciation on capex in AMP7 (retail controls only)	£0.3m	
Remaining capex required after AMP7 to complete construction	£0m	
Whole life totex of claim	£5.8 (AMP7 only)	
Do you consider that part of the claim should be covered by our cost baselines? If yes, please provide an estimate	£0m	
Materiality of claim for AMP7 as percentage of business plan (5 year) totex for the relevant controls.	$\text{£5.8m} / \text{£266.957m (R7 Line 1)} = 2.17\%$	
Is the claim likely to feature as a Direct Procurement for Customers (DPC) scheme? (please tick)	Yes	No
		<input type="checkbox"/>

	Brief summary of evidence to support claim	List of accompanying evidence, including document references, page or section numbers.
<p>Need for investment/ Expenditure</p> <p>Need for the adjustment (if relevant)</p>	<p>Companies providing water and sewerage services for customers in Wales are specified as public bodies for the purposes of the Welsh Language Act 1993. As a result of the act, Dŵr Cymru Welsh Water is required to have a statutory Welsh Language Scheme.</p> <p>Our statutory Welsh Language scheme requires us to treat the Welsh and English languages equally and to ensure customers can deal with us through their language of choice.</p> <p>The only water and sewerage companies to whom the requirements of the Welsh Languages Act would apply are Welsh Water and Hafren Dyfrdwy. Consequently the associated costs are not taken in to account in cost modelling.</p> <p>The specific costs incurred by Welsh Water in offering this dual language service include; a dedicated Welsh language line, the additional cost to recruit this skill into customer facing and relevant back-office roles, additional printing costs to provide all communication in English and Welsh as well as the cost of translation for all customer facing documents and systems including the website and adjacent offerings.</p> <p>We also commit to produce all customers awareness campaigns materials – hard copies and digital content - in Welsh.</p> <p>We also incur additional testing costs for all current and future systems changes that are customer facing and are required in both English and Welsh.</p> <p>Summarised in the table below;</p>	<p>DCWW Welsh Language Scheme (1)</p> <p>Welsh Language Act (2)</p>

Outside management control (if relevant)	The service is a legal obligation under the Welsh Language Act and as such is beyond management control.	Welsh Language Act (2)								
Best option for customers (if relevant)	<p>As a company in Wales we honour the commitment to meet both customer expectations as identified in our customer engagement which took place in March 2017.</p> <p>Customers have expressed that they expect Welsh Water to provide a Welsh language service as per our customer research in March 2017.</p> <p>The specific expectations for Welsh Water were to provide Phone/verbal greetings and communications as well as the availability to be passed to a Welsh speaker if requested or to have separate Welsh speaking line which we offer.</p> <p>Customers also wish to have the option to opt in to the Welsh language for all written communication.</p> <p>Customers believe that offering this service benefits them by providing them with an essential service if they do not speak English or if Welsh is their preferred language.</p> <p>The CCG report produced in 2018 assured the engagement with customers on this service measure. Feedback contained in their report stated that;</p> <p>‘As a leading Welsh Company providing an essential utility there is a responsibility on the Company to ensure that the Welsh language is core to its strategy both in serving customers and supported across business operations’</p>	CCG report for Ofwat 2018 (3)								
Robustness and efficiency of claim’s costs	<p>The assessment of Welsh language specific costs has been carried out based on the costs incurred to the business in 18/19 actuals to date to ensure the confidence and robustness in our forecast.</p> <p>Specific costs breakdown;</p> <table><tr><th>Cost Item</th><th>AMP7 Opex £m</th></tr><tr><td>Printing</td><td>1.5</td></tr><tr><td>Campaigns</td><td>1.7</td></tr><tr><td>Staff</td><td>1.7</td></tr></table>	Cost Item	AMP7 Opex £m	Printing	1.5	Campaigns	1.7	Staff	1.7	
Cost Item	AMP7 Opex £m									
Printing	1.5									
Campaigns	1.7									
Staff	1.7									

	<table><tr><td>IT Costs</td><td>0.6</td></tr><tr><td>Total</td><td>5.5</td></tr></table>	IT Costs	0.6	Total	5.5	
IT Costs	0.6					
Total	5.5					
Customer protection (if relevant)	<p>We have put forward a reputational measure of success to monitor the growth in the number of customers registered for our Welsh language services. We estimate that this volume will increase threefold by 2025 as a result of the new Welsh Language Standards which will replace the existing Welsh Language Scheme anticipated to come into force in 2020, however this date is yet to be confirmed.</p> <p>By offering a Welsh language scheme we are able to guarantee customers who contact us in Welsh are always responded to in their chosen language. We also ensure that their language preference is recorded to ensure we continue to honour this commitment.</p> <p>As a company we always aim to respond positively to any complaints received, and this includes linked to the Welsh Language Scheme. A recent example has been our commitment to develop a new 'In your area' page on the website by Q2 of 2019 as the current webpage is not able to support Welsh. This system had caused concern for some customers and resulted in a complaint against the company being received by the Welsh Language Commissioner.</p> <p>Any failures to comply with the Scheme pose a reputational risk to the company from both a customer and stakeholder perspective. Most politicians in Wales are passionate advocates of the language and will often champion complaints against companies failing to comply.</p>					
Affordability (if relevant)	<p>Our overall PR19 business plan including the expenditure on specific welsh language costs resulted in a £22 reduction in customer bills. Customer acceptability testing of our plan found that 92% of our customers found the plan acceptable and 95% found it affordable.</p>					
Board assurance (if relevant)	<p>The Board approved this cost adjustment claim along with other changes to the PR19 business plan at its meeting on 28 March 2019. The Board assurance statement is found in section A.2 Board Assurance statement.</p>					

## DCWW Welsh Language Scheme

Please refer to our website to access our Welsh Language Scheme document which was prepared under The Welsh Language Act 1993.



# Mesur y Gymraeg (Cymru) 2011

2011 mccc 1

# Welsh Language (Wales) Measure 2011

2011 nawm 1

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Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Mesur hwn ac maent ar gael ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Measure and are available separately.

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**£31.75**

*Adargraffiad Cywiriedig – Ionawr 2014*

*Corrected Reprint – January 2014*



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# Welsh Language (Wales) Measure 2011

2011 nawm 1

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# Welsh Language (Wales) Measure 2011

A Measure of the National Assembly for Wales to make provision about the official status of the Welsh language in Wales; to provide for a Welsh Language Partnership Council; to establish the Office of Welsh Language Commissioner; to provide for an Advisory Panel to the Welsh Language Commissioner; to make provision about promoting and facilitating the use of the Welsh language and treating the Welsh language no less favourably than the English language; to make provision about standards relating to the Welsh language (including duties to comply with those standards, and rights arising from the enforceability of those duties); to make provision about investigation of interference with the freedom to use the Welsh language; to establish a Welsh Language Tribunal; to abolish the Welsh Language Board and Welsh language schemes; and for connected purposes.

**This Measure, passed by the National Assembly for Wales on 7 December 2010 and approved by Her Majesty in Council on 9 February 2011, enacts the following provisions:**

## PART 1

### OFFICIAL STATUS OF THE WELSH LANGUAGE

#### **1 Official status of the Welsh language**

- (1) The Welsh language has official status in Wales.
- (2) Without prejudice to the general principle of subsection (1), the official status of the Welsh language is given legal effect by the enactments about—
  - (a) duties on bodies to use the Welsh language, and the rights which arise from the enforceability of those duties, which enable Welsh speakers to use the language in dealings with those bodies (such as the provision of services by those bodies);
  - (b) the treatment of the Welsh language no less favourably than the English language;
  - (c) the validity of the use of the Welsh language;
  - (d) the promotion and facilitation of the use of the Welsh language;
  - (e) the freedom of persons wishing to use the Welsh language to do so with one another;
  - (f) the creation of the Welsh Language Commissioner; and
  - (g) other matters relating to the Welsh language.

- 
- (3) Those enactments include (but are not limited to) the enactments which—
- (a) require the Welsh and English languages to be treated on the basis of equality in the conduct of the proceedings of the National Assembly for Wales;
  - (b) confer a right to speak the Welsh language in legal proceedings in Wales;
  - (c) give equal standing to the Welsh and English texts of—
    - (i) Measures and Acts of the National Assembly for Wales, and
    - (ii) subordinate legislation;
  - (d) impose a duty on the Welsh Ministers to adopt a strategy setting out how they propose to promote and facilitate the use of the Welsh language;
  - (e) create standards of conduct that relate to the use of the Welsh language, or the treatment of the Welsh language no less favourably than the English language, in connection with—
    - (i) delivering services,
    - (ii) making policy, and
    - (iii) exercising functions or conducting businesses and other undertakings;
  - (f) create standards of conduct in promoting and facilitating the use of the Welsh language;
  - (g) create standards of conduct for keeping records in connection with the Welsh language;
  - (h) impose a duty to comply with those standards of conduct that are created, and create remedies for failures to comply with them; and
  - (i) create the Welsh Language Commissioner with functions that include—
    - (i) promoting the use of the Welsh language,
    - (ii) facilitating the use of the Welsh language,
    - (iii) working towards ensuring that the Welsh language is treated no less favourably than the English language,
    - (iv) conducting inquiries into matters relating to the Commissioner's functions, and
    - (v) investigating interference with the freedom to use the Welsh language.
- (4) This Measure does not affect the status of the English language in Wales.

## PART 2

### THE WELSH LANGUAGE COMMISSIONER

#### *The Commissioner*

#### **2 The Welsh Language Commissioner**

- (1) There is to be a Welsh Language Commissioner (referred to in this Measure as “the Commissioner”).
- (2) The First Minister must appoint the Commissioner.
- (3) Schedule 1 makes further provision about the Commissioner.
- (4) For provision about the integrity of the Commissioner, see Chapter 1 of Part 8.

#### *General duty*

#### **3 The Commissioner's principal aim**

- (1) The principal aim of the Commissioner in exercising his or her functions is to promote and facilitate the use of the Welsh language.
- (2) The actions which the Commissioner must undertake in exercising functions in accordance with subsection (1) include (but are not limited to) working towards increasing—
  - (a) the use of the Welsh language in the provision of services, and
  - (b) other opportunities for persons to use the Welsh language.
- (3) In exercising functions in accordance with subsection (1), the Commissioner must have regard to—
  - (a) the official status which the Welsh language has in Wales,
  - (b) the duties to use Welsh which are (or may be) imposed by law, and the rights which arise from the enforceability of those duties,
  - (c) the principle that, in Wales, the Welsh language should be treated no less favourably than the English language, and
  - (d) the principle that persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

#### *Functions*

#### **4 Promoting and facilitating use of Welsh and treating Welsh no less favourably than English**

- (1) The Commissioner may do anything that he or she thinks appropriate—
  - (a) to promote the use of the Welsh language,
  - (b) to facilitate the use of the Welsh language, or

- (c) to work towards ensuring that the Welsh language is treated no less favourably than the English language.
- (2) That includes, but is not limited to, doing any of the following things –
  - (a) promoting the provision of opportunities to use the Welsh language;
  - (b) encouraging best practice in relation to the use of Welsh by persons who deal with, or provide services to, other persons;
  - (c) keeping under review the adequacy and effectiveness of the law relating to the Welsh language;
  - (d) producing and publishing reports;
  - (e) carrying out, or commissioning others to carry out, research;
  - (f) carrying out, or commissioning others to carry out, educational activities;
  - (g) giving assistance (including financial assistance) to any person;
  - (h) making recommendations in writing to the Welsh Ministers;
  - (i) making representations to any person;
  - (j) giving advice to any person.
- (3) If the Commissioner makes a recommendation or representation, or gives advice, to the Welsh Ministers in writing, they must have due regard to the recommendation, representation or advice in exercising any function to which it relates.
- (4) The power of the Commissioner under subsection (2)(g) to give financial assistance is subject to section 11(4).
- (5) The powers of the Commissioner under subsection (2)(h) to (j) to make recommendations or representations, or to give advice, to a person (including the Welsh Ministers) may be exercised whether or not the person has requested the Commissioner to exercise the powers.
- (6) The Commissioner may consult the Advisory Panel in connection with the exercise of a function conferred by this section.

## **5 Production of 5-year reports**

- (1) The Commissioner must produce, in relation to each reporting period, a report on the position of the Welsh language in that period.
- (2) In this Measure, such a report is referred to as “a 5-year report”.
- (3) If a 5-year report is the first such report to be produced after a census, the report must include the following matters –
  - (a) a report of the results of the census so far as they relate to the Welsh language;
  - (b) an assessment of the implications of those results for the position of the Welsh language.
- (4) Subsection (3) does not limit the matters which the Commissioner may include in any 5-year report.
- (5) In this section –

“census” (“*cyfrifiad*”) means a census taken under the Census Act 1920 in Wales (whether or not the census is also taken elsewhere than in Wales);

“reporting period” (“*cyfnod adrodd*”) means—

- (a) the period that begins with the day on which section 2 comes into force and ends with 31 December 2015; and
- (b) each successive period of 5 years.

## **6 5-year reports: supplementary**

- (1) In preparing each 5-year report, the Commissioner—
  - (a) must consult the Advisory Panel, and
  - (b) may consult any other persons that the Commissioner thinks it appropriate to consult.
- (2) The Commissioner must publish each 5-year report in Welsh and in English.
- (3) The Commissioner must publish each 5-year report as soon as reasonably practicable after the end of the period to which it relates.
- (4) As soon as reasonably practicable after each 5-year report is published, the Commissioner must send a copy of the report to the Welsh Ministers.
- (5) The Welsh Ministers must—
  - (a) examine each 5-year report submitted to them, and
  - (b) lay a copy of the report before the National Assembly for Wales.

## **7 Inquiries**

- (1) The Commissioner may conduct an inquiry into any matter relating to any of the Commissioner's functions.
- (2) But that is subject to subsections (3) to (5).
- (3) Subsection (1) does not authorise the Commissioner to conduct an inquiry in a case where he or she—
  - (a) may or must carry out a standards investigation under Chapter 8 of Part 4, or
  - (b) undertakes (and does not discontinue) an investigation under Part 5.
- (4) Subsection (1) does not authorise the Commissioner to conduct an inquiry into the failure, by one or more particular persons, to comply with one or more relevant requirements.
- (5) Subsection (1) does not authorise the Commissioner to conduct an inquiry into the interference, by one or more particular persons, with the freedom to communicate in Welsh (but see Part 6 for power to investigate certain interference with that freedom).
- (6) Subsection (4) or (5) does not prevent the Commissioner from taking the conduct of one or more particular persons into account when conducting an inquiry into—
  - (a) failure to comply with relevant requirements, or



- (b) interference with the freedom to communicate in Welsh.
- (7) The Commissioner may –
  - (a) discontinue, or
  - (b) suspend,the conduct of an inquiry or any aspect of an inquiry.
- (8) If, in the course of an inquiry, the Commissioner begins to suspect that a person may have failed to comply with one or more relevant requirements –
  - (a) in continuing the inquiry the Commissioner must, so far as possible, avoid further consideration of whether or not the person has failed to comply with the requirements,
  - (b) the Commissioner may commence an investigation into that question under Part 5, and
  - (c) the Commissioner may use information or evidence acquired in the course of the inquiry for the purpose of the investigation.
- (9) Schedule 2 makes supplemental provision about inquiries.
- (10) In this section, a reference to failure to comply with one or more relevant requirements has the same meaning as in Part 5.

## **8 Judicial review and other legal proceedings**

- (1) The Commissioner may institute or intervene in legal proceedings in England and Wales if it appears to the Commissioner that the proceedings are relevant to a matter in respect of which the Commissioner has a function.
- (2) Subsection (1) –
  - (a) does not create a cause of action, and
  - (b) is subject to any limitation or restriction imposed by virtue of an enactment or in accordance with the practice of a court.
- (3) In this section “legal proceedings” includes, but is not limited to, proceedings before any court or tribunal.

## **9 Legal assistance**

- (1) The Commissioner may provide an individual with assistance if the person is, or may become, a party to actual or possible legal proceedings in England and Wales that are relevant to a matter in respect of which the Commissioner has a function.
- (2) This section does not affect any restriction imposed in respect of representation –
  - (a) by virtue of an enactment, or
  - (b) in accordance with the practice of a court or tribunal.
- (3) It is for the Commissioner to determine, for the purposes of this section, whether there are possible legal proceedings that are relevant to a matter in respect of which the Commissioner has a function.

(4) In this section –

“assistance” (“*cymorth*”) includes, but is not limited to, the following things –

- (a) legal advice;
- (b) legal representation;
- (c) facilities for the settlement of a dispute;

“legal proceedings” (“*achos cyfreithiol*”) includes, but is not limited to, proceedings before any court or tribunal.

## 10 Legal assistance: costs

(1) This section applies where –

- (a) the Commissioner has assisted an individual under section 9 in relation to proceedings, and
- (b) the individual becomes entitled to some or all of his or her costs in the proceedings (whether by virtue of an award or by virtue of an agreement).

(2) The Commissioner's expenses in providing the assistance –

- (a) are charged on sums paid to the individual by way of costs, and
- (b) may be enforced as a debt due to the Commissioner.

(3) A requirement to pay money to the Commissioner under subsection (2) ranks after a requirement imposed by virtue of section 11(4)(f) of the Access to Justice Act 1999 (recovery of costs in funded cases).

(4) For the purposes of subsection (2), the Commissioner's expenses are to be calculated in accordance with such provision (if any) as the Welsh Ministers make for the purpose by regulations.

(5) Regulations under subsection (4) may, amongst other things, provide for the apportionment of expenditure incurred by the Commissioner –

- (a) partly for one purpose and partly for another, or
- (b) for general purposes.

## 11 Powers

(1) The Commissioner may do anything that he or she thinks to be appropriate in connection with any of his or her functions.

(2) That includes, but is not limited to, any of the following things –

- (a) making grants and loans and giving guarantees;
- (b) charging for the provision of advice or other services;
- (c) paying third parties for the provision of advice or other services;
- (d) accepting gifts of money or other property;
- (e) acquiring or disposing of any property or right.

(3) Subsection (2) is subject to subsections (4) to (6).

- (4) The Commissioner must not –
  - (a) make a grant or loan,
  - (b) give a guarantee, or
  - (c) acquire or dispose of any interest in land,except with the approval of the Welsh Ministers.
- (5) Subsection (4) does not apply to anything done under section 9.
- (6) The Commissioner's power to charge for the provision of advice or services is limited to charging such amounts as the Commissioner thinks appropriate to recover the actual or estimated costs to the Commissioner of providing that advice or those services.

## **12 Staff**

- (1) The Commissioner –
  - (a) must appoint a person to be the Deputy Welsh Language Commissioner (referred to in this Measure as “the Deputy Commissioner”), and
  - (b) may appoint such other staff as the Commissioner thinks appropriate in connection with the exercise of his or her functions.
- (2) References in this Measure to the Commissioner's staff are to the Deputy Commissioner and other staff.
- (3) The Commissioner may pay remuneration to the members of the Commissioner's staff.
- (4) The Commissioner may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the members of the Commissioner's staff.
- (5) The Commissioner may pay –
  - (a) pensions to, or in respect of, persons who have been members of the Commissioner's staff, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the Commissioner's staff.
- (6) The Commissioner must obtain the approval of the Welsh Ministers for –
  - (a) the number of staff that may be appointed,
  - (b) the terms and conditions of service of the staff, and
  - (c) payments made under any of subsections (3) to (5).
- (7) The First Minister must appoint the Deputy Commissioner if –
  - (a) the office of Commissioner is vacant, or
  - (b) it appears to the First Minister that the Commissioner will fail to appoint the Deputy Commissioner in accordance with this section.
- (8) For provision about the integrity of the Deputy Commissioner, see Chapter 1 of Part 8.

### **13 Exercise of Commissioner's functions by staff**

- (1) The Commissioner may delegate any or all of the Commissioner's functions to a member of the Commissioner's staff.
- (2) The functions of the Commissioner are exercisable by the Deputy Commissioner if –
  - (a) the office of Commissioner is vacant, or
  - (b) it appears to the First Minister that the Commissioner is for any reason unable to exercise the functions of Commissioner.
- (3) If a function of the Commissioner is exercisable by a member of the Commissioner's staff in accordance with subsection (1) or (2), any property or rights vested in the Commissioner may be dealt with by the member of staff in exercising the function as if vested in the member of staff.

### **14 Complaints procedure**

- (1) The Commissioner must establish a procedure for the investigation of complaints about acts or omissions relating to the exercise of the Commissioner's functions ("the complaints procedure").
- (2) The complaints procedure must include provision about –
  - (a) how a complaint may be made;
  - (b) the person to whom a complaint may be made;
  - (c) the period within which consideration of a complaint must begin and be concluded; and
  - (d) action that the Commissioner must consider taking in response to a complaint.
- (3) The Commissioner may amend the complaints procedure.
- (4) The Commissioner must –
  - (a) ensure that a copy of the complaints procedure is available for inspection at the Commissioner's office, and
  - (b) ensure that copies of the complaints procedure are made available at such other places and by such other means (including by electronic means) as he or she thinks appropriate.
- (5) The Commissioner must ensure that the arrangements for inspecting and gaining access to copies of the complaints procedure are published in such a way as to bring those arrangements to the attention of persons whom the Commissioner thinks likely to have an interest in the procedure.

### **15 Seal and validity of documents**

- (1) The Commissioner may have a seal.
- (2) A document purporting to be –
  - (a) duly executed under the seal of the Commissioner, or
  - (b) signed by or on the Commissioner's behalf,is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

**16 Welsh Ministers' power of direction**

- (1) The Welsh Ministers may give directions to the Commissioner.
- (2) But the Welsh Ministers may not direct the Commissioner in relation to the following matters –
  - (a) giving a compliance notice to a person under Chapter 6 of Part 4 (including the content of a compliance notice to be given to a person);
  - (b) Part 5 (enforcement of standards);
  - (c) Part 6 (the freedom to use Welsh).
- (3) The Commissioner must comply with directions given by the Welsh Ministers.

**17 Consultation**

If, in connection with the exercise of a function, the Commissioner consults –

- (a) the Advisory Panel, or
- (b) any other person in accordance with this Measure,

the Commissioner must have regard to the consultation in exercising the function.

*Annual reports*

**18 Annual reports**

- (1) The Commissioner must produce a report in relation to each financial year of the Commissioner (an “annual report”).
- (2) An annual report must include the following matters –
  - (a) a summary of the action taken in the exercise of the Commissioner's functions;
  - (b) a review of issues relevant to the Welsh language;
  - (c) a summary of the Commissioner's work programme;
  - (d) the Commissioner's proposals for a work programme for the following financial year;
  - (e) a summary of the complaints made in accordance with the procedure established under section 14.
- (3) An annual report may also include any other matters which the Commissioner thinks it appropriate to include in such a report.
- (4) For provision about the Commissioner's financial year, see paragraph 15 of Schedule 1.

**19 Annual reports: supplementary**

- (1) In preparing each annual report, the Commissioner may consult –
  - (a) the Advisory Panel, and
  - (b) any other persons that the Commissioner thinks it appropriate to consult.

- (2) The Commissioner must publish each annual report in Welsh and in English.
- (3) The Commissioner must publish each annual report no later than 31 August in the financial year following the financial year to which the report relates.
- (4) As soon as reasonably practicable after each annual report is published, the Commissioner must send a copy of the report to the Welsh Ministers.
- (5) The Welsh Ministers must –
  - (a) examine each annual report submitted to them, and
  - (b) lay a copy of the report before the National Assembly for Wales.

*Working with other ombudsmen, commissioners etc*

## **20 Working jointly with the Public Services Ombudsman for Wales**

- (1) This section applies if it appears to the Commissioner that the subject matter of a particular standards enforcement investigation (the “Commissioner’s investigation”) could also be the subject of an investigation by the Public Services Ombudsman for Wales.
- (2) If the Commissioner thinks it appropriate, he or she must –
  - (a) inform the Ombudsman about the Commissioner’s investigation (including the Commissioner’s proposals for undertaking the investigation), and
  - (b) consult the Ombudsman in relation to the Commissioner’s investigation.
- (3) If the Commissioner consults the Ombudsman in relation to the Commissioner’s investigation, the Commissioner and the Ombudsman may do any or all of the following –
  - (a) co-operate with each other in relation to the investigation;
  - (b) conduct a joint investigation;
  - (c) prepare and publish a joint report in relation to the investigation.
- (4) The Welsh Ministers may by order –
  - (a) provide for this section to apply in relation to any other person as it applies in relation to the Public Services Ombudsman for Wales, and
  - (b) make such other provision as the Welsh Ministers think appropriate in connection with, for the purposes of, or in consequence of provision made under paragraph (a).
- (5) The provision that may be made under subsection (4) includes, but is not limited to –
  - (a) provision enabling or requiring the other person to work jointly with the Commissioner; and
  - (b) amendments of any enactment.
- (6) Before making an order under subsection (4), the Welsh Ministers must consult the Commissioner and any other persons they think it appropriate to consult.

## (7) In this section –

“investigation” (*“ymchwiliad”*), in relation to the Public Services Ombudsman for Wales, includes examination and inquiry, and cognate expressions are to be construed accordingly;

“standards enforcement investigation” (*“ymchwiliad i orfodi safonau”*) means an investigation which the Commissioner is entitled to undertake, or is undertaking, under section 71.

**21 Working collaboratively with ombudsmen, commissioners etc**

- (1) This section applies if it appears to the Commissioner that the subject matter of a particular standards enforcement investigation (the “Commissioner's investigation”) relates to, or raises, a matter which could be the subject of an investigation by a particular ombudsman (the “connected matter”).
- (2) If the Commissioner thinks it appropriate, he or she must inform the ombudsman about the connected matter.
- (3) If the Commissioner undertakes the Commissioner's investigation, the Commissioner must, if he or she thinks it appropriate –
  - (a) inform the ombudsman about the investigation (including the Commissioner's proposals for undertaking the investigation), and
  - (b) consult the ombudsman in relation to the investigation.
- (4) If the Commissioner undertakes the Commissioner's investigation and the ombudsman investigates the connected matter, they may do any or all of the following –
  - (a) co-operate with each other in relation to their separate investigations;
  - (b) conduct a joint investigation;
  - (c) prepare and publish a joint report in relation to their separate investigations or their joint investigation.
- (5) If the Commissioner does not undertake the Commissioner's investigation, the Commissioner must, if he or she thinks it appropriate –
  - (a) give the person seeking to bring the case information about how to refer the connected matter to the ombudsman, and
  - (b) give that information to any other person interested in the case.
- (6) In this section –

“investigation” (*“ymchwiliad”*), in relation to an ombudsman, includes examination and inquiry, and cognate expressions are to be construed accordingly;

“ombudsman” (*“ombwdsmon”*) means –

- (a) the Public Services Ombudsman for Wales,
- (b) the Children's Commissioner for Wales,
- (c) the Commissioner for Older People in Wales, and
- (d) the Commission for Equality and Human Rights;

“standards enforcement investigation” (“*ymchwiliad i orfodi safonau*”) means an investigation which the Commissioner is entitled to undertake, or is undertaking, under section 71.

- (7) The Welsh Ministers may by order amend the definition of “ombudsman” in subsection (6) by—
  - (a) adding a person;
  - (b) omitting a person;
  - (c) changing a description of a person.
- (8) The Welsh Ministers may, by order, make such other provision as the Welsh Ministers think appropriate in connection with, for the purposes of, or in consequence of provision made under subsection (7), including, but not limited to—
  - (a) provision enabling or requiring the other person to work with the Commissioner, and
  - (b) amendments of any enactment.
- (9) Before making an order under subsection (7), the Welsh Ministers must consult the person concerned and any other persons they think it appropriate to consult.
- (10) Schedule 3 contains amendments about other Commissioners and Ombudsmen working jointly and collaboratively with the Welsh Language Commissioner.

#### *Disclosure of information*

## **22 Power to disclose information**

- (1) Information which has been obtained by the Commissioner in the exercise of any of the Commissioner's functions must not be disclosed unless the disclosure is authorised by subsection (2).
- (2) The Commissioner may disclose the information—
  - (a) for the purpose of the exercise of any of the Commissioner's functions;
  - (b) for the purpose of proceedings for an offence of perjury alleged to have been committed in the course of a standards enforcement investigation;
  - (c) for the purpose of an inquiry with a view to the taking of proceedings mentioned in paragraph (b);
  - (d) for the purpose of issuing a certificate under section 107 (obstruction and contempt);
  - (e) if the information is to the effect that a person is likely to constitute a threat to the health or safety of one or more persons, and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest;
  - (f) if the information is of the kind mentioned in subsection (3), and the disclosure is to the Information Commissioner;
  - (g) if the disclosure is to a permitted person, and the Commissioner is satisfied that the public interest condition is met;



- 
- (h) if the information was obtained by the Commissioner more than 70 years before the date of disclosure, and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest.
- (3) The information referred to in subsection (2)(f) is information that appears to the Commissioner to relate to –
- (a) a matter in respect of which the Information Commissioner could exercise a power conferred by an enactment mentioned in subsection (4); or
  - (b) the commission of an offence mentioned in subsection (5).
- (4) The enactments referred to in subsection (3)(a) are –
- (a) Part 5 of the Data Protection Act 1998 (enforcement);
  - (b) section 48 of the Freedom of Information Act 2000 (practice recommendations); and
  - (c) Part 4 of that Act (enforcement).
- (5) The offences referred to in subsection (3)(b) are those under –
- (a) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 to that Act (obstruction of execution of a warrant); or
  - (b) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).
- (6) For the purposes of subsection (2)(g), the public interest condition is met if the disclosure –
- (a) is appropriate for the purpose of the exercise by the permitted person of any of that person's functions, and
  - (b) is in the public interest.
- (7) In determining for the purpose of this section whether disclosure of information is in the public interest, the Commissioner must take into account the interests of –
- (a) any person to whom the information relates; and
  - (b) such other persons as the Commissioner thinks appropriate.
- (8) This section does not affect the application of the Data Protection Act 1998 to the Commissioner.
- (9) In this section –
- “permitted person” (*“person a ganiatawyd”*) means –
- (a) the Welsh Ministers;
  - (b) the First Minister;
  - (c) the Counsel General to the Welsh Assembly Government;
  - (d) the Public Services Ombudsman for Wales;
  - (e) the Children's Commissioner for Wales;
  - (f) the Children's Commissioner;
  - (g) the Commission for Equality and Human Rights;
  - (h) the Commissioner for Children and Young People for Northern Ireland;

- (i) the Commissioner for Older People in Wales;
- (j) a housing ombudsman appointed in accordance with a scheme approved under section 51 of the Housing Act 1996;
- (k) a council for a county or county borough in Wales;
- (l) a council for a county or district in England;
- (m) a council for a London borough;
- (n) a chief of police of a police force for a police area;
- (o) the chief constable of the British Transport Police Force;

“standards enforcement investigation” (*“ymchwiliad i orfodi safonau”*) means an investigation undertaken by the Commissioner under section 71.

- (10) The Welsh Ministers may by order amend the definition of “permitted person” in subsection (9) by—
- (a) adding a person;
  - (b) omitting a person;
  - (c) changing a description of a person.
- (11) Before making an order under subsection (10), the Welsh Ministers must consult the person concerned and any other persons they think it appropriate to consult.

### PART 3

#### ADVISORY PANEL TO THE WELSH LANGUAGE COMMISSIONER

#### 23 Advisory Panel

- (1) The Welsh Ministers must appoint persons to be members of a panel of advisers to the Commissioner.
- (2) The panel is to be known as the Advisory Panel to the Welsh Language Commissioner (referred to in this Measure as the “Advisory Panel”).
- (3) The Welsh Ministers must secure that, as far as it is practicable, there are at least 3, but not more than 5, members of the Advisory Panel at any time.
- (4) Schedule 4 makes further provision about the members of the Advisory Panel.

#### 24 Consultation

- (1) The Commissioner may consult the Advisory Panel on any matter.
- (2) The other provisions of this Measure which provide for the Commissioner to consult the Advisory Panel do not limit subsection (1).
- (3) References in this Measure to consultation with the Advisory Panel are to consultation with any or all of the members of the Advisory Panel.

## PART 4

### STANDARDS

#### CHAPTER 1

##### DUTY TO COMPLY WITH STANDARDS

#### **25 Duty to comply with a standard**

- (1) A person (P) must comply with a standard of conduct specified by the Welsh Ministers in accordance with Chapter 2 if, and for as long as, the following conditions are met.
- (2) Condition 1 is that P is liable to be required to comply with standards (see Chapter 3).
- (3) Condition 2 is that the standard is potentially applicable to P (see Chapter 4).
- (4) Condition 3 is that the standard is specifically applicable to P (see Chapter 5).
- (5) Condition 4 is that the Commissioner has given a compliance notice to P (see Chapter 6).
- (6) Condition 5 is that the compliance notice requires P to comply with the standard (see Chapter 6).
- (7) Condition 6 is that the compliance notice is in force (see Chapter 6).
- (8) Subsection (1) is subject to the provisions of the compliance notice given to P.
- (9) For provision about—
  - (a) rights of challenge in respect of the duty to comply with standards, see Chapter 7;
  - (b) standards investigations and reports, see Chapter 8;
  - (c) general matters, see Chapter 9.

#### CHAPTER 2

##### STANDARDS AND THEIR SPECIFICATION

##### *Specification of standards*

#### **26 Welsh Ministers to specify standards**

- (1) The Welsh Ministers may, by regulations—
  - (a) specify one or more service delivery standards,
  - (b) specify one or more policy making standards,
  - (c) specify one or more operational standards,
  - (d) specify one or more promotion standards, and

- (e) specify one or more record keeping standards.
- (2) The Welsh Ministers may, by regulations, make other provision about such standards.

## **27 Specification of standards: supplementary provision**

- (1) The Welsh Ministers may specify a record keeping standard relating to the keeping of records that fall within section 32(1)(b)(ii) (complaints concerning the Welsh language other than complaints concerning a person's compliance with other standards) only if it appears to the Welsh Ministers that the standard would –
  - (a) assist the Welsh Ministers to exercise any function under this Measure, or
  - (b) assist the Commissioner to exercise any function.
- (2) Regulations under any of paragraphs (a) to (e) of section 26(1) may specify different standards of the kind referred to in that paragraph in relation to different conduct.
- (3) Regulations under any of paragraphs (a) to (e) of section 26(1) may specify, in relation to particular conduct –
  - (a) a single standard of the kind referred to in that paragraph, or
  - (b) a number of standards of the kind referred to in that paragraph.
- (4) Standards specified under section 26(1), or regulations under section 26(2), may, among other things, deal with any of the following –
  - (a) the preparation, by persons who are under the duty in section 25 to comply with standards, of strategies or plans setting out how they propose to comply with the standards;
  - (b) procedures to be followed by persons who are under the duty in section 25 to comply with standards;
  - (c) the collection of information by persons who are under the duty in section 25 to comply with standards, including information about the use of Welsh and the use of English in relation to a particular conduct;
  - (d) information to be made available to the Commissioner;
  - (e) monitoring arrangements and publicity requirements;
  - (f) reporting requirements.

### *Service delivery standards*

## **28 Service delivery standards**

- (1) In this Measure “service delivery standard” means a standard that –
  - (a) relates to a service delivery activity, and
  - (b) is intended to promote or facilitate the use of the Welsh language, or to work towards ensuring that the Welsh language is treated no less favourably than the English language, when that activity is carried out.
- (2) In this section “service delivery activity” means a person –

- (a) delivering services to another person, or
- (b) dealing with any other person in connection with delivering services —
  - (i) to that other person, or
  - (ii) to a third person.

*Policy making standards*

**29 Policy making standards**

- (1) In this Measure “policy making standard” means a standard that —
  - (a) relates to a policy decision, and
  - (b) is intended to secure, or to contribute to securing, one or more of the following results.
- (2) The first of those results is that the person making the policy decision considers what effects, if any, (whether positive or adverse) the policy decision would have on —
  - (a) opportunities for other persons to use the Welsh language, or
  - (b) treating the Welsh language no less favourably than the English language.
- (3) The second of those results is that the person making the policy decision considers how the decision could be made so that the decision has positive effects, or increased positive effects, on —
  - (a) opportunities for other persons to use the Welsh language, or
  - (b) treating the Welsh language no less favourably than the English language.
- (4) The third of those results is that the person making the policy decision considers how the decision could be made so that the decision does not have adverse effects, or has decreased adverse effects, on —
  - (a) opportunities for other persons to use the Welsh language, or
  - (b) treating the Welsh language no less favourably than the English language.
- (5) In this section a reference to positive or adverse effects is a reference to such effects whether direct or indirect.
- (6) In this section “policy decision” means a decision by a person about —
  - (a) the exercise of the person's functions, or
  - (b) the conduct of the person's business or other undertaking.

*Operational standards*

**30 Operational standards**

- (1) In this Measure “operational standard” means a standard that —
  - (a) relates to the relevant activities of a person (A), and
  - (b) is intended to promote or facilitate the use of the Welsh language —

- (i) by A in carrying out A's relevant activities,
  - (ii) by A and another person in dealings between them in connection with A's relevant activities, or
  - (iii) by a person other than A in carrying out activities for the purposes of, or in connection with, A's relevant activities.
- (2) In this section –
  - (a) “relevant activities” means –
    - (i) functions, or
    - (ii) a business or other undertaking;
  - (b) a reference to the carrying out of relevant activities is to –
    - (i) the exercise of functions, or
    - (ii) the conduct of a business or other undertaking.

*Promotion standards*

**31 Promotion standards**

In this Measure “promotion standard” means a standard (relating to any activity) that is intended to promote or facilitate the use of the Welsh language more widely.

*Record keeping standards*

**32 Record keeping standards**

- (1) In this Measure “record keeping standard” means a standard relating to the keeping of –
  - (a) records about other specified standards, and
  - (b) records about –
    - (i) complaints concerning a person's compliance with other specified standards, or
    - (ii) other complaints concerning the Welsh language.
- (2) In this section “specified standard” means a standard specified by the Welsh Ministers under section 26(1).

**CHAPTER 3**

PERSONS LIABLE TO BE REQUIRED TO COMPLY WITH STANDARDS

**33 Persons liable to be required to comply with standards**

- (1) A person (P) is liable to be required to comply with standards if P is –
  - (a) within Schedule 5 and also within Schedule 6, or
  - (b) within Schedule 7 and also within Schedule 8.
- (2) This section applies for the purposes of this Part.

**34 Persons who are within Schedules 5, 6, 7 and 8**

- (1) A person is within Schedule 5 if the person is within a category of persons specified in column (2) of the Schedule 5 table.
- (2) A person is within Schedule 6 if the person —
  - (a) is specified in column (1) of the Schedule 6 table, or
  - (b) is within a category of persons specified in that column.
- (3) A person is within Schedule 7 if the person is within a category of persons specified in column (2) of the Schedule 7 table.
- (4) A person is within Schedule 8 if the person —
  - (a) is specified in column (1) of the Schedule 8 table, or
  - (b) is within a category of persons specified in that column.
- (5) A change in the name of a person specified in Schedule 6 or in Schedule 8 does not affect the operation of this Measure in relation to the person.
- (6) References in this Part to a person's entry in the Schedule 6 table or the Schedule 8 table are to the entry in that table which (in column (1)) specifies —
  - (a) P, or
  - (b) a category of persons which P is within.
- (7) This section applies for the purposes of this Measure.

**35 Amendment of persons and categories specified in Schedules 6 and 8**

- (1) The Welsh Ministers may, by order, amend the Schedule 6 table and Schedule 8 table in accordance with this section.
- (2) The Welsh Ministers may amend the Schedule 6 table so that column (1) includes a reference to —
  - (a) a person who falls within one or more of the Schedule 5 categories, or
  - (b) a category of persons, all of whom fall within one or more of the Schedule 5 categories.
- (3) The Welsh Ministers may amend the Schedule 6 table by removing any reference in column (1).
- (4) The Welsh Ministers may amend the Schedule 8 table so that column (1) includes a reference to —
  - (a) a person who falls within one or more of the Schedule 7 categories, or
  - (b) a category of persons, all of whom fall within one or more of the Schedule 7 categories.
- (5) The Welsh Ministers may amend the Schedule 8 table by removing any reference in column (1).
- (6) The Welsh Ministers may make such other amendments of the Schedule 6 table or Schedule 8 table, or of any other provision of this Measure, as they think appropriate in connection with, for the purposes of, or in consequence of, the powers in any of subsections (2) to (5).

(7) In this section –

“Schedule 5 category” (“*categori yn Atodlen 5*”) means a category of persons specified in column (2) of the Schedule 5 table;

“Schedule 7 category” (“*categori yn Atodlen 7*”) means a category of persons specified in column (2) of the Schedule 7 table.

## CHAPTER 4

### STANDARDS POTENTIALLY APPLICABLE

#### 36 Persons within Schedule 6

- (1) This section applies to a person (P) who is within Schedule 6.
- (2) A standard specified by the Welsh Ministers under section 26(1) is potentially applicable to P if it belongs to a class of standard that is specified in column (2) of P's entry in the Schedule 6 table.
- (3) For that purpose, each of the following is a class of standard –
  - (a) service delivery standards;
  - (b) policy making standards;
  - (c) operational standards;
  - (d) promotion standards;
  - (e) record keeping standards.
- (4) This section applies for the purposes of this Part.

#### 37 Persons within Schedule 8

- (1) This section applies to a person (P) who is within Schedule 8.
- (2) A standard specified by the Welsh Ministers under section 26(1) is potentially applicable to P if, and to the extent that, the standard is –
  - (a) a service delivery standard that relates to the provision by P of a specified service (a “qualifying service delivery standard”), or
  - (b) a record keeping standard that relates to the keeping of records about –
    - (i) qualifying service delivery standards,
    - (ii) complaints concerning P's compliance with qualifying service delivery standards, or
    - (iii) complaints concerning the Welsh language that relate to the provision by P of specified services.
- (3) In this section “specified service” means a service that is specified in column (2) of P's entry in the Schedule 8 table.
- (4) This section applies for the purposes of this Part.

#### 38 Amendment of standards potentially applicable

- (1) The Welsh Ministers may, by order, amend the Schedule 6 table and Schedule 8 table in accordance with this section.



- 
- (2) The Welsh Ministers may amend the Schedule 6 table so that column (2) of an entry includes a reference to one or more of the following –
- (a) service delivery standards;
  - (b) policy making standards;
  - (c) operational standards;
  - (d) record keeping standards.
- (3) The Welsh Ministers may amend the Schedule 6 table so that column (2) of any of the following entries in the table includes a reference to promotion standards –
- (a) the Welsh Ministers' entry;
  - (b) a county borough council's entry;
  - (c) a county council's entry;
  - (d) a National Park authority's entry;
  - (e) an entry for any other person, but only if the person has given consent that promotion standards should be potentially applicable to that person.
- (4) For the purpose of subsection (3) –
- (a) “consent” means consent in writing given to the Welsh Ministers;
  - (b) a person may withdraw consent, but only with the agreement of the Welsh Ministers;
  - (c) if a person withdraws consent after that person's entry has been amended to include a reference to promotion standards, the Welsh Ministers must amend the Schedule 6 table by removing the reference to promotion standards in the entry for that person.
- (5) The Welsh Ministers may amend the Schedule 6 table by removing any reference in column (2).
- (6) The Welsh Ministers may amend the Schedule 8 table so that column (2) of an entry relating to a person or category of person includes a reference to provision of a service (the “specified service”), but only if –
- (a) the condition in subsection (7) is met, and
  - (b) the condition in subsection (8) or (9) is met.
- (7) The specified service must fall within a category of service specified in column (3) of the Schedule 7 table (an “available service”).
- (8) If the specified service is to relate to a person within Schedule 8, that person must fall within the category of persons in column (2) of the Schedule 7 table to which the available service relates.
- (9) If the specified service is to relate to a category of persons within Schedule 8, all persons within that category must fall within the category of persons in column (2) of the Schedule 7 table to which the available service relates.
- (10) The Welsh Ministers may amend the Schedule 8 table by removing any reference in column (2).

- (11) The Welsh Ministers may make such other amendments of the Schedule 6 table or Schedule 8 table, or of any other provision of this Measure, as they think appropriate in connection with, for the purposes of, or in consequence of, the powers under any of subsections (2) to (10).

## CHAPTER 5

### STANDARDS THAT ARE SPECIFICALLY APPLICABLE

#### **39 Standards that are specifically applicable**

- (1) A standard specified by the Welsh Ministers under section 26(1) is specifically applicable to a person (P) if the Welsh Ministers, by regulations, authorise the Commissioner to give P a compliance notice requiring P to comply with the standard.
- (2) The regulations may provide for a standard to be specifically applicable to P by means of provision that refers to—
  - (a) P in particular, or
  - (b) a group of persons which P is within.
- (3) This section applies for the purposes of this Part.

#### **40 Duty to make standards specifically applicable**

- (1) This section applies in relation to each standard that is specified by the Welsh Ministers under section 26(1).
- (2) The Welsh Ministers must secure that regulations under section 39 provide for the standard to be specifically applicable to one or more persons.

#### **41 Different standards relating to particular conduct**

- (1) This section applies if regulations under any of paragraphs (a) to (e) of section 26(1) specify a number of standards of the kind referred to in that paragraph in relation to particular conduct.
- (2) Regulations under section 39 may provide for one or more of the following—
  - (a) for one standard to be specifically applicable to one person, to two or more persons, or to a group of persons;
  - (b) for two or more standards to be specifically applicable to one person, to two or more persons, or to a group of persons;
  - (c) for different standards to be specifically applicable to different persons.

#### **42 Duty to make certain service delivery standards specifically applicable**

- (1) This section applies if regulations under section 39 provide for any service delivery standard to be specifically applicable to a person (P).
- (2) The Welsh Ministers must secure that regulations under section 39 provide for service delivery standards relating to all of the activities specified in Schedule 9 (so far as such standards have been specified by the Welsh Ministers under section 26(1)) to be specifically applicable to P if, and to the extent that, P carries out those activities.

- (3) But the Welsh Ministers need not secure that regulations provide for service delivery standards to be specifically applicable to P in relation to an activity specified in Schedule 9 if, or to the extent that—
  - (a) a standards report under section 64 indicates that it would be unreasonable or disproportionate for service delivery standards to be specifically applicable to P in relation to that activity, or
  - (b) the Welsh Ministers think it would be unreasonable or disproportionate for service delivery standards to be specifically applicable to P in relation to that activity.
- (4) This section does not prevent regulations under section 39 from providing for other service delivery standards to be specifically applicable to P.
- (5) The Welsh Ministers may, by order, amend Schedule 9 by adding, omitting or amending a reference to an activity.

#### **43 Limitation on power to make standards specifically applicable**

- (1) Regulations under section 39 may not provide for a standard to be—
  - (a) specifically applicable to a person unless the standard is potentially applicable to that person, or
  - (b) specifically applicable to a group of persons unless the standard is potentially applicable to all the persons in that group.
- (2) Regulations under section 39 may not provide for a standard to be specifically applicable to a Minister of the Crown unless the Secretary of State consents to that provision.
- (3) In a case where—
  - (a) a standard is specifically applicable to a Minister of the Crown, and
  - (b) the standard is modified by provision in regulations under section 26,the standard as modified is not specifically applicable to the Minister of the Crown unless the Secretary of State consents to that provision in those regulations.
- (4) In this section, “Minister of the Crown” has the same meaning as in Schedule 6.

### **CHAPTER 6**

#### **COMPLIANCE NOTICES**

##### *Compliance notices*

#### **44 Compliance notices**

- (1) In this Measure “compliance notice” means a notice given by the Commissioner to a person (P) which—

- (a) sets out, or refers to, one or more standards specified by the Welsh Ministers under section 26(1), and
  - (b) requires P to comply with the standard or standards set out or referred to.
- (2) A compliance notice may require a person to comply with a particular standard –
  - (a) in some circumstances, but not in other circumstances;
  - (b) in some area or areas, but not in other areas.
- (3) If regulations under section 39 provide for two or more standards specified in relation to particular conduct to be specifically applicable to a particular person, a compliance notice may require the person –
  - (a) to comply with only one of the standards, or
  - (b) to comply with different standards –
    - (i) at different times;
    - (ii) in different circumstances (whether at the same time or different times);
    - (iii) in different areas (whether at the same time or different times).

*Giving compliance notices*

**45 Giving compliance notices to any person**

- (1) The Commissioner may give a person (P) a compliance notice only if P is liable to be required to comply with standards (see Chapter 3).
- (2) A compliance notice given to P may set out, or refer to, a particular standard specified by the Welsh Ministers under section 26(1) only if the standard –
  - (a) is potentially applicable to P (see Chapter 4), and
  - (b) is specifically applicable to P (see Chapter 5).
- (3) If the Commissioner gives P a compliance notice, the Commissioner must also –
  - (a) give P a copy of any relevant code of practice issued under section 68, and
  - (b) inform P of the right of challenge under Chapter 7.
- (4) For provision about giving compliance notices to contractors, see section 48.

**46 Imposition days**

- (1) This section applies as respects each standard specified in a compliance notice given to a person.
- (2) The notice must state the imposition day or imposition days.

- (3) The imposition day, or the earliest of the imposition days, must fall after the end of the period of 6 months beginning with the day on which the notice is given.
- (4) In this section “imposition day”, in relation to a standard, means –
  - (a) the day from which a person is to be required to comply with the standard, or
  - (b) the day from which a person is to be required to comply with the standard in a respect.
- (5) For provision about giving compliance notices to contractors, see section 48.

#### **47 Consultation**

- (1) The Commissioner must consult a person before giving the person a compliance notice.
- (2) But subsection (1) does not require the Commissioner to consult a person on any matter if the Commissioner is satisfied that the person has already been consulted, or given the opportunity to be consulted, on that matter in connection with a standards investigation (see Chapter 8).
- (3) The failure of a person to participate in a consultation does not prevent the Commissioner from giving the person a compliance notice.

#### **48 Giving compliance notices to contractors**

- (1) This section applies (in addition to sections 45 and 46) in relation to a qualifying person who provides the public with services (the “relevant services”) provided under an agreement, or in accordance with arrangements, made with a public authority (the “relevant contract”).
- (2) A compliance notice given to the qualifying person may set out, or refer to, a particular standard (the “relevant standard”) in relation to the provision of the relevant services under the relevant contract only if –
  - (a) the public authority is required to comply with the relevant standard in providing the public with the relevant services (or would be so required if it provided the public with those services),
  - (b) the relevant contract was entered into on or after the public authority's imposition day, and
  - (c) the qualifying person's imposition day falls on or after the public authority's imposition day.
- (3) The Commissioner must secure that the requirement for the qualifying person to comply with the relevant standard (which arises by virtue of the compliance notice being given in accordance with subsection (2)) is the same as, or no greater than, the requirement for the public authority to comply with the standard.
- (4) Expressions used in this section and in Schedule 8 have the same meanings in this section as in Schedule 8.

- (5) In this section –

“public authority's imposition day” (“*diwrnod gosod yr awdurdod cyhoeddus*”) means the day, or the earliest of the days, on which the public authority is required to comply with the relevant standard;

“qualifying person's imposition day” (“*diwrnod gosod y person neilltuedig*”) means the day, or the earliest of the days, stated in the compliance notice given to the qualifying person as a day when the qualifying person is to be required to comply with the relevant standard in relation to the provision of the relevant services under the relevant contract.

#### *Varying compliance notices*

### **49 Varying compliance notices**

- (1) The Commissioner may vary any compliance notice.
- (2) Sections 45 to 47 apply to the variation of a compliance notice as they apply to the giving of a compliance notice, but only insofar as the notice is varied.
- (3) Section 48 applies to the variation of a compliance notice as it applies to the giving of a compliance notice.

#### *Revoking compliance notices*

### **50 Revoking compliance notices**

- (1) The Commissioner may revoke any compliance notice.
- (2) Subsections (3) and (4) apply in a case where the Commissioner –
  - (a) revokes a compliance notice that was given to a person (the “old notice”), and
  - (b) at the same time gives that person a compliance notice (the “new notice”).
- (3) Sections 45 to 47 apply to the giving of the new notice only insofar as the new notice is different from the old notice.
- (4) Section 48 applies to the giving of the new notice as it applies to the giving of a compliance notice.

#### *When compliance notice in force*

### **51 When compliance notice in force**

- (1) A compliance notice given to a person (P) is in force from the day when the Commissioner gives the notice to P.
- (2) A compliance notice remains in force unless – and until – it is revoked.
- (3) This section applies for the purposes of this Measure.

*Publicising compliance notices***52 Publicising compliance notices**

- (1) This section applies in relation to each compliance notice which is in force.
- (2) As from the relevant imposition day, the Commissioner must—
  - (a) ensure that a copy of the compliance notice is available for inspection at the Commissioner's office, and
  - (b) ensure that copies of the compliance notice are made available at such other places and by such other means (including by electronic means) as the Commissioner thinks appropriate.
- (3) If a person makes an application to the Commissioner under Chapter 7 in respect of a standard, the Commissioner must ensure that, until the application is finally determined, the copies of the compliance notice made available in accordance with subsection (2) indicate—
  - (a) that the application has been made, and
  - (b) that the requirement to comply with the standard does not apply by virtue of section 60 (if that is the case).
- (4) The Commissioner must ensure that the arrangements for inspecting and gaining access to compliance notices are published in such a way as to bring those arrangements to the attention of persons whom the Commissioner thinks likely to have an interest in inspecting or gaining access to compliance notices.
- (5) In this section “relevant imposition day” means—
  - (a) if only one imposition day is stated in a compliance notice, that imposition day;
  - (b) if two or more imposition days are stated in a compliance notice, the earliest of those days.

*Cessation of requirement to comply with standard***53 Cessation of requirement to comply with standard**

- (1) This section applies in any case where a person (P) ceases to be under the duty in section 25(1) to comply with a standard because—
  - (a) one or more of conditions 1 to 3 in section 25 cease to be met, or
  - (b) the standard ceases to be specified by the Welsh Ministers under section 26(1).
- (2) As soon as practicable after this section applies, the Commissioner must, by exercising the powers conferred by this Chapter, secure that the change described in subsection (1) is reflected in the compliance notices (if any) that remain in force in relation to P.

## CHAPTER 7

### RIGHT OF CHALLENGE

#### 54 Challenging future duties

- (1) This section applies if –
  - (a) the Commissioner has given a person (P) a compliance notice, and
  - (b) the notice requires P –
    - (i) to comply with a standard, or
    - (ii) to comply with a standard in a particular respect,as from an imposition day that is in the future.
- (2) P may apply to the Commissioner for the Commissioner to determine whether or not the requirement for P to comply with that standard, or comply with it in that respect, is unreasonable or disproportionate.
- (3) If that determination is being made before the imposition day, the Commissioner must make the determination by reference to the circumstances as they are expected to exist on the imposition day.
- (4) An application under this section must be made before the imposition day.
- (5) In this section “imposition day” has the same meaning as in section 46.

#### 55 Challenging existing duties

- (1) This section applies if –
  - (a) the Commissioner has given a person (P) a compliance notice, and
  - (b) the notice already requires P –
    - (i) to comply with a standard, or
    - (ii) to comply with a standard in a particular respect.
- (2) P may apply to the Commissioner for the Commissioner to determine whether or not the requirement for P to comply with that standard, or to comply with it in that respect, is unreasonable or disproportionate.
- (3) But the Commissioner may refuse to accept an application under this section if he or she is satisfied that there has been no material change in P's circumstances –
  - (a) since the day on which P was first required to comply with that standard, or to comply with it in that respect, or
  - (b) if the Commissioner has determined the relevant question on a previous application under this section, since the Commissioner determined the relevant question on that application.
- (4) In this section “relevant question” means the question to which an application under this section relates.



**56 Applications to the Commissioner**

- (1) This section applies to an application under section 54 or 55 for the Commissioner to determine whether or not the requirement for P to comply with a standard, or to comply with it in a particular respect, is unreasonable or disproportionate.
- (2) The application must be made in writing.
- (3) The application must be made in the form required by the Commissioner (if he or she requires it to be made in a particular form).
- (4) The application must set out the reasons why P considers that the requirement to comply with the standard, or to comply with it in the particular respect, is unreasonable or disproportionate.

**57 Determining an application**

- (1) This section applies to –
  - (a) any application under section 54, and
  - (b) any application under section 55 which the Commissioner does not refuse to accept.
- (2) It is for P to show that the requirement for P to comply with the standard, or to comply with it in the particular respect, is unreasonable or disproportionate.
- (3) The Commissioner must determine the application as soon as practicable after the application is made.
- (4) In determining the application, the Commissioner –
  - (a) must consult P, and
  - (b) may consult any other person the Commissioner considers to have an interest in the outcome of the application.
- (5) The Commissioner must notify P of the determination of the application.
- (6) If the Commissioner determines that the requirement for P to comply with the standard, or to comply with it in the particular respect, is unreasonable or disproportionate, he or she must do one of the following –
  - (a) revoke the compliance notice;
  - (b) revoke the compliance notice and give a new compliance notice;
  - (c) vary the existing compliance notice.
- (7) If the Commissioner gives a new compliance notice or varies the existing compliance notice –
  - (a) section 45(3) does not apply, and
  - (b) sections 46(3) and 47 do not apply insofar as the Commissioner and P agree the new compliance notice, or the variation of the existing compliance notice.

**58 Right of appeal**

- (1) This section applies if the Commissioner notifies P under section 57 of a determination that the requirement for P to comply with a standard, or to comply with it in a particular respect, is not unreasonable or disproportionate.

- (2) P may appeal to the Tribunal for the Tribunal to determine whether or not that requirement is unreasonable or disproportionate.
- (3) An appeal under this section must be made within the period of 28 days beginning with the day when the Commissioner notified P under section 57.
- (4) But the Tribunal may, on a written application by P, allow an appeal to be made after the end of that period if the Tribunal is satisfied that there is a good reason—
  - (a) for the failure to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (5) The Tribunal must notify P and the Commissioner of its determination of an appeal made under this section.
- (6) If the Tribunal determines that the requirement is unreasonable or disproportionate, subsections (6) and (7) of section 57 apply as if the Commissioner had made that determination.
- (7) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which appeals under this section may be brought).

## **59 Appeals from Tribunal**

- (1) This section applies if the Tribunal has decided an appeal under section 58.
- (2) The Commissioner or P may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court finds that the Tribunal has made an error on a point of law, the High Court—
  - (a) may set aside the decision of the Tribunal, and
  - (b) if it sets the decision aside, must either—
    - (i) remit the case to the Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following—
  - (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside;
  - (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court—
  - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and
  - (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application of its determination of the appeal under section 58.

- (7) But the Tribunal or High Court may, on a written application by the Commissioner or P, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason –
  - (a) for the failure to apply for permission to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.

## **60 Postponement of imposition of duty**

- (1) This section applies if P makes an application under section 54 for the Commissioner to determine whether or not the requirement for P to comply with a standard, or to comply with it in a particular respect, is unreasonable or disproportionate.
- (2) The requirement for P to comply with that standard, or to comply with it in that respect, does not apply unless and until –
  - (a) the Commissioner has determined whether or not the requirement is unreasonable or disproportionate, and
  - (b) P's rights of appeal are exhausted.
- (3) For that purpose, P's rights of appeal are exhausted if –
  - (a) the period mentioned in section 58(3) for making an appeal to the Tribunal has ended without an appeal being made, or
  - (b) an appeal under section 58 has been made and determined, and a further appeal –
    - (i) may not be made, or
    - (ii) may be made only with the permission of the Tribunal or a court.

## **CHAPTER 8**

### **STANDARDS INVESTIGATIONS AND REPORTS**

#### *Standards investigations*

## **61 Standards investigations**

- (1) In this Measure “standards investigation” means an investigation carried out in relation to a person (P) for the purpose of determining one or more of the following questions –
  - (a) whether P should be – or should continue to be – liable to be required to comply with standards;
  - (b) if P is within Schedule 6, what standards (if any) should be – or should continue to be – potentially applicable to P;
  - (c) if P is within Schedule 8, what services (if any) should be – or should continue to be – specified in column (2) of P's entry in the Schedule 8 table;

- (d) what standards (if any) should be – or should continue to be – specifically applicable to P (whether or not the standards are already specified by the Welsh Ministers under section 26(1));
  - (e) any other question which the Commissioner considers to be relevant to the extent to which P may be subject to the duty in section 25(1) to comply with standards.
- (2) A particular standards investigation may be carried out in relation to –
  - (a) a particular person, or
  - (b) a group of persons.

## **62 Power to carry out standards investigations**

- (1) The Commissioner may carry out standards investigations.
- (2) But the Commissioner may not carry out a standards investigation unless he or she has given an exploration notice to each relevant person, at least 14 days before beginning the investigation.
- (3) An exploration notice is a notice in writing which –
  - (a) states that the Commissioner is proposing to carry out a standards investigation, and
  - (b) specifies the subject matter of the standards investigation.
- (4) In this section “relevant person” means –
  - (a) in the case of a standards investigation relating to a particular person, that person;
  - (b) in the case of a standards investigation relating to a group of persons, such persons –
    - (i) who appear to the Commissioner to be members of the group, and
    - (ii) to whom the Commissioner thinks it appropriate to give exploration notices.

## **63 Requirements when carrying out standards investigations**

- (1) In carrying out a standards investigation, the Commissioner must have regard to the need to secure that requirements for persons to comply with standards by virtue of section 25(1) are not unreasonable or disproportionate.
- (2) If the Commissioner decides, or is directed, that a standards investigation is to consider whether service delivery standards should be specifically applicable to P, the investigation must –
  - (a) consider whether, in respect of each of the activities specified in Schedule 9 which P carries out, it is reasonable and proportionate for service delivery standards to be specifically applicable to P, and
  - (b) as respects each such activity, if it is reasonable and proportionate for service delivery standards to be specifically applicable to P, conclude that service delivery standards should be specifically applicable to P in relation to that activity.

- (3) In carrying out a standards investigation, the Commissioner must consult—
  - (a) each relevant person,
  - (b) the Advisory Panel, and
  - (c) the public, except—
    - (i) if, or
    - (ii) to the extent thatthe Commissioner considers that it is inappropriate to do so.
- (4) The failure of a person to participate in the Commissioner's consultation does not prevent the Commissioner from carrying out the standards investigation.
- (5) In this section “relevant person” means—
  - (a) in the case of a standards investigation relating to a particular person, that person;
  - (b) in the case of a standards investigation relating to a group of persons, such persons—
    - (i) who appear to the Commissioner to be members of the group, and
    - (ii) whom the Commissioner thinks it appropriate to consult.

*Standards reports*

**64 Standards report**

- (1) After carrying out a standards investigation, the Commissioner must produce a standards report.
- (2) A standards report is a document that sets out—
  - (a) the conclusions of the standards investigation, and
  - (b) the Commissioner's reasons for reaching those conclusions.
- (3) If—
  - (a) the conclusions of the investigation are (in whole or in part) that any standards should be specifically applicable to P, and
  - (b) any or all of those standards are not specified by the Welsh Ministers under section 26(1),the report must set out the standards that are not specified.
- (4) As soon as reasonably practicable after preparing a standards report, the Commissioner—
  - (a) must send a copy of the report to—
    - (i) each relevant person,
    - (ii) the Advisory Panel,
    - (iii) each person who participated in the Commissioner's consultation under section 63, and
    - (iv) the Welsh Ministers, and

- (b) may send a copy of the report to any other person whom the Commissioner considers to have an interest in the report.
- (5) In this section “relevant person” means –
  - (a) in the case of a standards investigation relating to a particular person, that person;
  - (b) in the case of a standards investigation relating to a group of persons, such persons –
    - (i) who appear to the Commissioner to be members of the group, and
    - (ii) to whom the Commissioner thinks it appropriate to give a copy of the report.

*Welsh Ministers' power of direction*

**65 Direction to carry out standards investigation**

- (1) This section applies if the Welsh Ministers exercise their powers under section 16 to direct the Commissioner so as to direct him or her to carry out a standards investigation in respect of a person or group of persons.
- (2) The direction must specify the following matters –
  - (a) the person or group of persons in respect of which the investigation is to be carried out;
  - (b) the subject matter of the investigation;
  - (c) the reasons why the Welsh Ministers consider that the Commissioner should conduct the standards investigation;
  - (d) the period (which must be no shorter than six months) within which the Commissioner must carry out the standards investigation.
- (3) Subsection (2) does not prevent the direction from specifying other matters.

*Regard to be had to standards report*

**66 Welsh Ministers to have due regard to report**

- (1) This section applies if the Commissioner has carried out a standards investigation and produced a standards report (whether or not at the direction or request of the Welsh Ministers).
- (2) The Welsh Ministers must have due regard to the standards report in deciding whether, and how, to exercise the powers conferred on them by this Part.

## CHAPTER 9

### GENERAL

#### *Exception for broadcasting*

#### **67 Exception for broadcasting**

- (1) This Measure –
  - (a) does not require, and
  - (b) does not authorise a person to require,a person to comply with a standard if, and to the extent that, the standard relates to broadcasting.
- (2) In this section –
  - (a) “broadcasting” means the commissioning, production, scheduling, transmission or distribution of programmes (including advertisements, subtitles, continuity announcements and teletext), access services, interactivity, online content and other output of a similar nature for television, radio, the internet or other online or wireless platforms;
  - (b) but references to broadcasting do not include any activity that is carried out in connection with broadcasting (unless the activity is itself broadcasting).

#### *Codes of practice*

#### **68 Codes of practice**

- (1) The Commissioner may issue codes of practice for the purpose of providing practical guidance with respect to the requirements of any standards specified by the Welsh Ministers under section 26(1) (“standards codes of practice”).
- (2) The Commissioner may revise or withdraw standards codes of practice.
- (3) The Commissioner must not issue, revise or withdraw a standards code of practice without the consent of the Welsh Ministers.
- (4) Before seeking that consent, the Commissioner must consult –
  - (a) persons who are required to comply with the standard or standards to which the code of practice relates, and
  - (b) the Advisory Panel.
- (5) Where a code of practice is issued or revised by the Commissioner, the Commissioner must also issue a notice in writing –
  - (a) identifying the code in question and stating the date of issue, and
  - (b) specifying to which standard or standards the code relates.
- (6) Where the Commissioner withdraws a code of practice, the Commissioner must issue a notice in writing identifying the code in question and stating the date on which the code is to cease to have effect.

**69 Failure to comply with codes**

- (1) A person's failure to comply with a provision of an approved code of practice does not render that person liable to enforcement action of any kind.
- (2) But if any action under this Measure is taken in respect of a failure of a person (P) to comply with a standard ("the alleged standards failure") –
  - (a) a failure by P to comply with a relevant provision of an approved code of practice may be relied upon as tending to establish that P is liable for the alleged standards failure, and
  - (b) compliance with a relevant provision of an approved code of practice may be relied upon as tending to establish that P is not liable for the alleged standards failure.
- (3) References in this section to an approved code of practice are references –
  - (a) to a standards code of practice as it has effect for the time being, and
  - (b) where a standards code of practice has been revised, to that code as revised as it has effect for the time being.

*Interpretation***70 Interpretation**

- (1) In this Part –
  - (a) references to a person being liable to be required to comply with standards are to be read in accordance with section 33;
  - (b) references to a person's entry in the Schedule 6 table or the Schedule 8 table are to be read in accordance with section 34;
  - (c) references to a standard being potentially applicable to a person are to be read in accordance with sections 36 and 37;
  - (d) references to a standard being specifically applicable to a person are to be read in accordance with section 39.
- (2) In this Part –

"Schedule 5 table" means the table in Schedule 5;

"Schedule 6 table" means the table in Schedule 6;

"Schedule 7 table" means the table in Schedule 7;

"Schedule 8 table" means the table in Schedule 8.



## PART 5

### ENFORCEMENT OF STANDARDS

#### CHAPTER 1

#### INVESTIGATING FAILURE TO COMPLY WITH STANDARDS ETC

##### *Investigations*

#### **71 Investigating failure to comply with standards etc**

- (1) The Commissioner may investigate whether a person (D) has failed to comply with a relevant requirement.
- (2) In this Part, “relevant requirement” means any of the following—
  - (a) a duty to comply with a standard specified by the Welsh Ministers (see section 25);
  - (b) a requirement included in a decision notice by virtue of section 79 (requirement to prepare action plan or take steps);
  - (c) an action plan (see sections 79 and 80);
  - (d) a requirement included in a decision notice by virtue of section 82 (publicising failure to comply).
- (3) If the relevant requirement is a duty to comply with a standard, the Commissioner may undertake an investigation under this section only if he or she suspects that D has failed to comply with the relevant requirement.
- (4) Schedule 10 makes further provision about investigations.

#### **72 Discontinuing an investigation**

- (1) This section applies if the Commissioner undertakes an investigation under section 71.
- (2) The Commissioner may, at any time, discontinue the investigation.
- (3) If the Commissioner decides to discontinue the investigation, the Commissioner must—
  - (a) inform each interested person, and
  - (b) inform D of the reasons for reaching the decision.
- (4) The Commissioner must comply with subsection (3) as soon as practicable after reaching the decision.

##### *Determination of investigation*

#### **73 Determination of investigation**

- (1) This section applies if—
  - (a) the Commissioner undertakes an investigation under section 71, and
  - (b) does not discontinue the investigation.

- (2) The Commissioner must determine whether or not D has failed to comply with the relevant requirement.
- (3) The Commissioner must –
  - (a) produce an investigation report, and
  - (b) give a copy of the investigation report to each interested person.
- (4) The Commissioner must –
  - (a) give D a decision notice, and
  - (b) give a copy of the decision notice to any other interested person.
- (5) This section is subject to section 85.

#### *Investigation reports*

### **74 Investigation reports**

- (1) In this Measure, “investigation report” means a report on an investigation under section 71 which includes all of the following –
  - (a) the terms of reference of the investigation;
  - (b) a summary of the evidence taken during the investigation;
  - (c) the Commissioner's findings on the investigation;
  - (d) the Commissioner's determination of whether or not D has failed to comply with the relevant requirement;
  - (e) a statement of whether the Commissioner is taking further action;
  - (f) if the Commissioner is taking further action, a statement of that action.
- (2) Subsection (1) does not prevent the Commissioner from including other matters in an investigation report.

#### *Decision notices*

### **75 Decision notices**

- (1) In this Measure “decision notice” means a notice that states the Commissioner's determination of whether or not D has failed to comply with the relevant requirement.
- (2) Subsection (1) does not prevent a decision notice from including other matters (and certain provisions of this Part require a decision notice to include other matters in certain circumstances).

#### *No failure to comply: Commissioner's options*

### **76 No failure to comply with a relevant requirement**

- (1) This section applies if the Commissioner determines that D has not failed to comply with a relevant requirement.
- (2) The Commissioner may –

- (a) take no further action, or
  - (b) act under subsection (3).
- (3) The Commissioner may do one or more of the following things –
  - (a) give D or any other person recommendations;
  - (b) give D or any other person advice.
- (4) If the investigation that led to the determination follows a complaint under section 93, the relevant decision notice must inform the person who made the complaint of the right to appeal under section 99.
- (5) This section is subject to section 85.
- (6) In this section, “relevant decision notice” means the decision notice which the Commissioner is required by section 73 to give to the person who made the complaint under section 93.

*Failure to comply: Commissioner's options*

**77 Failure to comply with a relevant requirement**

- (1) This section applies if the Commissioner determines that D has failed to comply with a relevant requirement.
- (2) The Commissioner may –
  - (a) take no further action,
  - (b) act under subsection (3), or
  - (c) act under subsection (4).
- (3) The Commissioner may do one or more of the following things –
  - (a) require D to prepare an action plan for the purpose of preventing the continuation or repetition of D's failure to comply with the relevant requirement;
  - (b) require D to take steps for the purpose of preventing the continuation or repetition of D's failure to comply with the relevant requirement;
  - (c) publicise D's failure to comply with the relevant requirement;
  - (d) require D to publicise the failure to comply with the relevant requirement;
  - (e) impose a civil penalty on D.
- (4) The Commissioner may do one or more of the following things –
  - (a) give D or any other person recommendations;
  - (b) give D or any other person advice;
  - (c) seek to enter into a settlement agreement with D (see Chapter 2), but only if the relevant requirement is a duty to comply with a standard.
- (5) If the Commissioner seeks to enter into a settlement agreement with D –
  - (a) D is not obliged to enter into such an agreement;

- (b) if D declines to enter into a settlement agreement, the Commissioner may, but need not, exercise his or her powers under this section differently.
- (6) If the Commissioner acts under subsection (3), subsections (2) and (3) do not prevent the Commissioner from also doing either or both of the following—
  - (a) giving D or any other person recommendations;
  - (b) giving D or any other person advice.
- (7) This section is subject to section 85.

*No imposed enforcement action*

**78 No imposed enforcement action**

- (1) This section applies if the Commissioner —
  - (a) determines that D has failed to comply with a relevant requirement, but
  - (b) decides —
    - (i) to take no further action, or
    - (ii) to act under section 77(4).
- (2) The relevant decision notice must give the Commissioner's reasons for deciding —
  - (a) to take no further action, or
  - (b) to act under section 77(4) and not under section 77(3).
- (3) This section is subject to section 85.
- (4) In this section “relevant decision notice” means the notice which the Commissioner is required by section 73 to give to D.

*Preventing continuation or repetition of D's failure*

**79 Requirement to prepare action plan or take steps**

- (1) This section applies if the Commissioner —
  - (a) determines that D has failed to comply with a relevant requirement, and
  - (b) decides to require D to do either or both of the following —
    - (i) to prepare an action plan for the purpose of preventing the continuation or repetition of D's failure to comply with the relevant requirement;
    - (ii) to take steps for the purpose of preventing the continuation or repetition of D's failure to comply with the relevant requirement.
- (2) The relevant decision notice must set out what the Commissioner requires D to do.
- (3) If the Commissioner requires D to prepare an action plan, the relevant decision notice must specify the period within which D must —

- (a) produce a first draft plan, and
  - (b) give that draft to the Commissioner.
- (4) The relevant decision notice must inform D of—
  - (a) the consequences if D does not comply with a requirement included in the notice by virtue of this section; and
  - (b) the right to appeal under section 95.
- (5) This section is subject to section 85.
- (6) In this section “relevant decision notice” means the decision notice which the Commissioner is required by section 73 to give to D.

## **80 Action plans**

- (1) This section applies if the Commissioner gives D a decision notice which requires D to prepare an action plan.
- (2) D must give a first draft plan to the Commissioner within the period specified in the decision notice.
- (3) After receiving a first draft plan from a person the Commissioner must—
  - (a) approve it, or
  - (b) give the person a notice which—
    - (i) states that the draft is not adequate,
    - (ii) requires the person to give the Commissioner a revised draft by a specified time, and
    - (iii) may make recommendations about the content of the revised draft.
- (4) Subsection (3) applies in relation to a revised draft plan as it applies in relation to a first draft plan.
- (5) An action plan comes into force—
  - (a) at the end of the period of six weeks beginning with the date on which a first draft or revised draft is given to the Commissioner, if that period expires without the Commissioner—
    - (i) giving a notice under subsection (3)(b), or
    - (ii) applying for an order under subsection (6)(b), or
  - (b) upon a court's declining to make an order under subsection (6)(b) in relation to a revised draft of the plan.
- (6) The Commissioner may apply to a county court—
  - (a) for an order requiring a person to give the Commissioner a first draft plan by a time specified in the order; or
  - (b) for an order requiring a person who has given the Commissioner a revised draft plan to prepare and give to the Commissioner a further revised draft plan—
    - (i) by a time specified in the order, and

- (ii) in accordance with any directions about the plan's content specified in the order.
- (7) An action plan may be varied by agreement between the Commissioner and the person who prepared it.
- (8) Paragraphs 5 to 12 of Schedule 10 apply in relation to consideration by the Commissioner of the adequacy of a draft action plan as they apply in relation to the conduct of an investigation.

*Publicising D's failure to comply*

**81 Publicising the failure to comply**

- (1) In this Measure, references to the Commissioner publicising D's failure to comply with the relevant requirement are to the Commissioner doing either or both of the following—
  - (a) publishing a statement that D has failed to comply with the relevant requirement;
  - (b) publishing the investigation report produced in relation to the investigation of D.
- (2) In this Measure, references to D being required to publicise the failure to comply with the relevant requirement are to D being required to publicise any or all of the following—
  - (a) a statement that D has failed to comply with the relevant requirement;
  - (b) the investigation report produced in relation to the investigation of D;
  - (c) other information relating to D's failure to comply with the relevant requirement.

**82 Requiring the failure to comply to be publicised**

- (1) This section applies if the Commissioner—
  - (a) determines that D has failed to comply with a relevant requirement, and
  - (b) decides to do either or both of the following—
    - (i) publicise D's failure to comply with the relevant requirement;
    - (ii) require D to publicise the failure to comply with the relevant requirement.
- (2) The relevant decision notice must set out what the Commissioner—
  - (a) is to do to publicise D's failure;
  - (b) requires D to do to publicise the failure.
- (3) The relevant decision notice must inform D of—
  - (a) the consequences if D does not comply with a requirement included in the notice by virtue of this section; and

- (b) the right to appeal under section 95.
- (4) This section is subject to section 85.
- (5) In this section “relevant decision notice” means the decision notice which the Commissioner is required by section 73 to give to D.

### *Civil penalties*

## **83 Civil penalties**

- (1) The Commissioner must have regard to the matters set out in subsection (2) when determining—
  - (a) whether to impose a civil penalty on any person, and
  - (b) the amount of any civil penalty.
- (2) Those matters are—
  - (a) the seriousness of the matter in respect of which the civil penalty is to be imposed;
  - (b) the circumstances of the person on whom the civil penalty is to be imposed;
  - (c) the need to prevent the continuation or repetition of the matter in respect of which the civil penalty is to be imposed.
- (3) Subsection (1) does not prevent the Commissioner from having regard to other matters.
- (4) A civil penalty must not exceed £5,000.
- (5) A civil penalty is recoverable by the Commissioner as a debt due to the Commissioner.
- (6) The Commissioner must pay all civil penalties received by him or her into the Welsh Consolidated Fund.
- (7) The Welsh Ministers may, by order, substitute a different amount for the amount that is specified for the time being in subsection (4).
- (8) In this section “civil penalty” means any civil penalty that may be imposed by the Commissioner.

## **84 Imposition of civil penalty**

- (1) This section applies if the Commissioner—
  - (a) determines that D has failed to comply with a relevant requirement, and
  - (b) decides to impose a civil penalty on D.
- (2) The relevant decision notice must—
  - (a) set out the civil penalty which the Commissioner has decided to impose;
  - (b) set out how the civil penalty may be paid;
  - (c) set out the period within which the civil penalty must be paid (which must be a period of not less than 28 days).
- (3) The relevant decision notice must also inform D of—
  - (a) the consequences if D does not pay the civil penalty; and

- (b) the right to appeal under section 95.
- (4) This section is subject to section 85.
- (5) In this section “relevant decision notice” means the decision notice which the Commissioner is required by section 73 to give to D.

### *Consultation*

#### **85 Consultation before final determination etc**

- (1) This section applies if the Commissioner undertakes an investigation under section 71.
- (2) Before finally determining whether or not D has failed to comply with the relevant requirement, the Commissioner must give each interested person notice of the determination which the Commissioner is proposing to make.
- (3) Before finally deciding what, if any, further action to take, the Commissioner must give each interested person –
  - (a) notice of whether or not the Commissioner is proposing to take further action, and a statement of the Commissioner's reasons for proposing to do so;
  - (b) if the Commissioner is proposing to take further action, notice of that proposed action, and a statement of the Commissioner's reasons for proposing to take that action; and
  - (c) copies of the draft of the decision notice which the Commissioner is proposing to give.
- (4) Before settling the investigation report, the Commissioner must give each interested person a draft of the proposed report.
- (5) The Commissioner must –
  - (a) give D an opportunity to make representations about the proposals referred to in subsections (2), (3) and (4), and
  - (b) give any other interested person an opportunity to make representations about the proposals referred to in subsections (2) and (4).
- (6) The Commissioner must have due regard to any representations made by D or any other interested person before the Commissioner does any thing to which the representations relate.
- (7) The Commissioner is to determine the period within which a person may make representations in accordance with subsection (5); but the period must not be less than 28 days.

#### **86 Consultation before final determination following an appeal**

- (1) This section applies if the Commissioner is directed, following an appeal under section 99 or 101, or following any further appeal, to determine under section 73 that D has failed to comply with a standard (the “new determination”).
- (2) Before finally deciding what, if any further action to take based upon the new determination, the Commissioner must give each interested person –
  - (a) notice of whether or not the Commissioner is proposing to take further action, and a statement of the Commissioner's reasons for proposing to do so;



- (b) if the Commissioner is proposing to take further action, notice of that proposed action, and a statement of the Commissioner's reasons for proposing to take that action; and
  - (c) copies of the draft of the decision notice which the Commissioner is proposing to give.
- (3) Before settling the investigation report, the Commissioner must give each interested person a draft of the proposed report.
- (4) The Commissioner must –
  - (a) give D an opportunity to make representations about the proposals referred to in subsections (2) and (3), and
  - (b) give any other interested person an opportunity to make representations about the proposals referred to in subsection (3).
- (5) The Commissioner must have due regard to any representations made by D or any other interested person under subsection (4).
- (6) The Commissioner is to determine the period within which a person may make representations in accordance with subsection (4); but the period must not be less than 28 days.

*When enforcement action takes effect*

**87 When enforcement action takes effect**

- (1) This section applies if the Commissioner gives D a decision notice setting out enforcement action which the Commissioner has decided to take in relation to a determination under section 73.
- (2) D must –
  - (a) prepare an action plan or take steps, or
  - (b) publicise a failure to comply,if, in accordance with section 79 or 82, the decision notice requires D to do so.
- (3) D must pay a civil penalty set out in the decision notice in accordance with section 84.
- (4) But subsections (2) and (3) apply only after the end of the 28 day period for making a relevant appeal.
- (5) The Commissioner may publicise D's failure to comply with the relevant requirement only after the end of the 28 day period for making a relevant appeal.
- (6) If a relevant appeal is made, subsections (2), (3) and (5) do not apply unless and until –
  - (a) that appeal, and any further appeal, has been disposed of, and
  - (b) a further appeal –
    - (i) may not be made, or
    - (ii) may be made only with the permission of the Tribunal or a court.

- (7) In this section “relevant appeal” means an appeal to the Tribunal under section 95 in respect of the matters set out in the decision notice.

*Enforcement by county court*

**88 Failure to comply with requirement to take steps**

- (1) This section applies if the Commissioner gives D a decision notice that requires D to take steps for the purpose of preventing the continuation or repetition of D's failure to comply with the relevant requirement.
- (2) The Commissioner may, during the relevant period, apply to a county court for an order requiring D to comply with the requirement in the decision notice.
- (3) In this section “relevant period” means the period of 5 years beginning with the day when the decision notice is given.

**89 Failure to comply with action plan**

- (1) This section applies if D has prepared an action plan in accordance with section 80.
- (2) The Commissioner may, during the relevant period, apply to a county court for an order requiring D to comply with the action plan.
- (3) In this section “relevant period” means the period of 5 years beginning with the day when the action plan comes into force.

**90 Failure to comply with requirement to publicise failure to comply**

- (1) This section applies if the Commissioner gives D a decision notice that requires D to take steps to publicise the failure to comply.
- (2) The Commissioner may, during the relevant period, apply to a county court for an order requiring D to comply with the requirement in the decision notice.
- (3) In this section “relevant period” means the period of 5 years beginning with the day when the decision notice is given.

**CHAPTER 2**

**SETTLEMENT AGREEMENTS**

**91 Settlement agreements**

- (1) A reference to a settlement agreement between the Commissioner and a person (D) in relation to D's failure to comply with a standard (the “relevant failure”) is a reference to an agreement which contains –
  - (a) an undertaking by D to do one or more of the following –
    - (i) not to fail to comply with one or more standards;
    - (ii) to take particular action (which may include, but is not limited to, the preparation of a plan of steps to be taken);

- (iii) to refrain from taking particular action; and
  - (b) an undertaking by the Commissioner not to take enforcement action in respect of the relevant failure.
- (2) A settlement agreement –
  - (a) may include incidental or supplemental provision (which may include, but is not limited to, provision for termination in specified circumstances), and
  - (b) may be varied or terminated by agreement of the Commissioner and D.
- (3) D is not to be taken to have admitted the relevant failure by reason only of entering into a settlement agreement.
- (4) Subsection (1) applies for the purposes of this Measure.

## **92 Failure to comply with settlement agreement**

- (1) The Commissioner may, during the relevant period, apply to a county court for an order requiring D to comply with a settlement agreement.
- (2) In this section “relevant period” means the period of 5 years beginning with the day when the settlement agreement is entered into.

## **CHAPTER 3**

### **NON-COMPLIANCE WITH STANDARDS: COMPLAINTS BY PERSONS AFFECTED**

## **93 Consideration of whether to investigate if conduct complained about**

- (1) The Commissioner must consider whether to carry out an investigation under section 71 of whether the conduct of a person (D) (“the alleged conduct”) amounts to a failure to comply with a standard if –
  - (a) a person (P) makes a complaint to the Commissioner about that conduct, and
  - (b) that complaint is valid.
- (2) A complaint made by P to the Commissioner is a valid complaint if the conditions in subsections (3) to (6) are met.
- (3) P must be –
  - (a) a person who appears to the Commissioner to have been directly affected by the alleged conduct, or
  - (b) a person acting on behalf of such a person.
- (4) The complaint must be made in writing, unless P's personal circumstances are such that it would not be reasonable for P to make the complaint in writing.
- (5) The complaint must give an address at which the Commissioner may contact P (whether the address is postal, electronic or of another description).
- (6) The complaint must identify –

- (a) D, and
  - (b) the alleged conduct.
- (7) But, if those conditions are met, the Commissioner need not consider whether to carry out the investigation of the alleged conduct if –
  - (a) the complaint is made more than 1 year after the affected person became aware of the alleged conduct,
  - (b) the Commissioner considers that the complaint is frivolous or vexatious or is one that has already been made repeatedly, or
  - (c) the complaint is withdrawn.
- (8) This section does not prevent the Commissioner from considering whether to carry out the investigation of the alleged conduct if –
  - (a) any of the conditions in subsections (3) to (6) is not met, or
  - (b) subsection (7) applies.
- (9) If a complaint is made under this section by a person acting on behalf of another person, in the provisions of this Measure which relate to appeals or further appeals connected with the complaint, a reference to the person who made the complaint (including a case where that person is referred to as “P”) is to be read as a reference to the other person (and not as a reference to the person who made the complaint).
- (10) In this section “affected person” means the person who appears to the Commissioner to have been directly affected by the alleged conduct.

#### **94 Notification if no investigation etc**

- (1) This section applies in any of the following cases.
- (2) The first case is where –
  - (a) the duty under section 93 to consider whether to carry out an investigation of the alleged conduct applies, and
  - (b) the Commissioner decides not to carry out an investigation.
- (3) The second case is where –
  - (a) section 93(7) applies in relation to a complaint, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct.
- (4) The third case is where the Commissioner decides that the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply.
- (5) The fourth case is where –
  - (a) the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct under section 93(8) or, having considered whether to carry out an investigation under that section, decides not to carry out the investigation.

- (6) The fifth case is where –
  - (a) the Commissioner decides to carry out an investigation, and
  - (b) the Commissioner then decides to discontinue the investigation.
- (7) The Commissioner must notify P of –
  - (a) the decision mentioned in subsection (2)(b), (3)(b), (4), (5)(b) or (6)(b), and
  - (b) the reasons for that decision, and
  - (c) the right of review under section 103.

## CHAPTER 4

### APPEALS

#### 95 Appeals to the Tribunal

- (1) This section applies if the Commissioner –
  - (a) undertakes an investigation under section 71, and
  - (b) determines that D has failed to comply with a relevant requirement.
- (2) D may appeal to the Tribunal on the grounds that D did not fail to comply with the relevant requirement.
- (3) But D may not appeal to the Tribunal under subsection (2) if the Commissioner has been directed, following an appeal under section 99 or 101, or any further appeal, to determine that D did fail to comply with the relevant requirement.
- (4) If the Commissioner takes enforcement action in connection with D's failure to comply with the relevant requirement, D may appeal to the Tribunal on the grounds that the enforcement action is unreasonable or disproportionate.
- (5) An appeal under this section must be made before the end of the relevant 28 day period.
- (6) But the Tribunal may, on a written application by D, allow an appeal to be made after the end of the relevant 28 day period if the Tribunal is satisfied that there is a good reason –
  - (a) for the failure to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (7) An application under subsection (6) may be made before or after the end of the relevant 28 day period.
- (8) D may appeal under subsection (4) whether or not D also appeals under subsection (2).
- (9) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which appeals under this section may be brought).
- (10) In this Chapter “relevant 28 day period” means the period of 28 days beginning with the day on which the Commissioner gives D the decision notice in relation to the investigation.

**96 Powers of Tribunal on appeal**

- (1) On an appeal under section 95(2), the Tribunal may –
  - (a) affirm the Commissioner's determination, or
  - (b) annul the Commissioner's determination.
- (2) On an appeal under section 95(4), the Tribunal may –
  - (a) affirm the enforcement action,
  - (b) vary the enforcement action (including, but not limited to, by taking enforcement action of a different kind), or
  - (c) annul the enforcement action.
- (3) The Tribunal must notify D and the Commissioner of its decision on an appeal under section 95.
- (4) Any decision of the Tribunal on an appeal under section 95 has the same effect, and may be enforced in the same manner, as a determination of the Commissioner.

**97 Appeals from Tribunal**

- (1) This section applies if the Tribunal has decided an appeal under section 95.
- (2) The Commissioner or D may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court find that the Tribunal has made an error on a point of law, the High Court –
  - (a) may set aside the decision of the Tribunal, and
  - (b) if it sets the decision aside, must either –
    - (i) remit the case to the Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following –
  - (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,
  - (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court –
  - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and
  - (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application of its decision on the appeal under section 95.

- (7) But the Tribunal or High Court may, on a written application by the Commissioner or D, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason—
  - (a) for the failure to apply for permission to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.

## **98 Commissioner's duty on an appeal**

- (1) This section applies if—
  - (a) the Commissioner has carried out an investigation under section 71 following a complaint under section 93, and
  - (b) an appeal under section 95 or 97, or any further appeal, is made in relation to the investigation, and
  - (c) P is not a party to those proceedings.
- (2) The Commissioner must—
  - (a) as soon as reasonably practicable after being informed of the outcome of an appeal under section 95, give the person who made the complaint notice of the outcome,
  - (b) as soon as reasonably practicable after being informed of an appeal under section 97 or any further appeal, give the person who made the complaint notice that the appeal has been made, and
  - (c) as soon as reasonably practicable after being informed of the outcome of an appeal under section 97 or of the outcome of a further appeal, give the person who made the complaint notice of the outcome.

## **CHAPTER 5**

### **APPEALS BY THE COMPLAINANT**

*Appeals against a determination that D has not failed to comply with a standard*

## **99 Right of appeal by P**

- (1) This section applies if—
  - (a) a person (P) makes a complaint under section 93,
  - (b) the Commissioner undertakes an investigation under section 71 following the complaint, and
  - (c) the Commissioner determines that D has not failed to comply with a standard.
- (2) P may appeal to the Tribunal on the grounds that D did fail to comply with the standard.
- (3) An appeal under this section must be made before the end of the relevant 28 day period.

- (4) But the Tribunal may, on a written application by P, allow an appeal to be made after the end of that period if the Tribunal is satisfied that there is a good reason –
  - (a) for the failure to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (5) An application under subsection (4) may be made before or after the end of the relevant 28 day period.
- (6) The Tribunal must notify P and the Commissioner of its decision on an appeal made under this section.
- (7) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which appeals under this section may be brought).
- (8) In this Chapter “relevant 28 day period” means the period of 28 days beginning with the day on which the Commissioner gives P the decision notice in relation to the investigation.

#### **100 Powers of Tribunal on appeal by P**

- (1) On an appeal under section 99, the Tribunal may –
  - (a) affirm the Commissioner's determination, or
  - (b) annul the Commissioner's determination.
- (2) If the Tribunal annuls the Commissioner's determination (the “original determination”), the Tribunal must direct the Commissioner to determine under section 73 that D has failed to comply with the standard (the “new determination”).
- (3) If the Tribunal gives the Commissioner a direction under subsection (2), the Commissioner must revoke the decision notice and investigation report given under section 73 in relation to the original determination.
- (4) Section 73(3) and (4), and the other provisions of this Measure, apply to the new determination as they apply to any other determination under section 73.
- (5) The investigation report given under section 73(3) in relation to the new determination must include a statement that the Commissioner has made the new determination in compliance with a direction by the Tribunal.
- (6) In their application in relation to the new determination, sections 77, 78, 79, 82 and 84 are subject to section 86 but not to section 85.

#### **101 Appeals from Tribunal**

- (1) This section applies if the Tribunal has decided an appeal under section 99.
- (2) The Commissioner or P may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court finds that the Tribunal has made an error on a point of law, the High Court –
  - (a) may set aside the decision of the Tribunal, and
  - (b) if it sets the decision aside, must either –



- (i) remit the case to the Tribunal with directions for its reconsideration, or
  - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following—
  - (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,
  - (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court—
  - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and
  - (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application of its decision on the appeal under section 99.
- (7) But the Tribunal or High Court may, on a written application by the Commissioner or P, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason—
  - (a) for the failure to apply for permission to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.

## **102 Commissioner's duty on an appeal by P**

- (1) This section applies if—
  - (a) the Commissioner has carried out an investigation under section 71 following a complaint under section 93,
  - (b) an appeal under section 99 or 101, or any further appeal, is made in relation to the investigation, and
  - (c) D is not a party to those proceedings.
- (2) The Commissioner must—
  - (a) as soon as reasonably practicable after being informed of the outcome of an appeal under section 99, give D notice of the outcome,
  - (b) as soon as reasonably practicable after being informed of an appeal under section 101 or any further appeal, give D notice that the appeal has been made, and

- (c) as soon as reasonably practicable after being informed of the outcome of an appeal under section 101 or of the outcome of a further appeal, give D notice of the outcome.

## CHAPTER 6

### REVIEW BY THE COMPLAINANT

#### *Review of Commissioner's failure to investigate a complaint*

#### **103 P's right of review**

- (1) This section applies if P makes a complaint to the Commissioner under section 93 about D's conduct ("the alleged conduct"), whether or not that complaint is a valid complaint under that section.
- (2) P may, with the permission of the Tribunal, apply to the Tribunal to review the decision of the Commissioner in any of the cases specified in this section.
- (3) The Tribunal must, subject to section 104, deal with an application for such a review as if it were an application for judicial review made to the High Court.
- (4) The Tribunal must give permission to apply where the Tribunal considers that—
  - (a) the application would have a reasonable prospect of success, or
  - (b) there is some other compelling reason why the application should be heard.
- (5) The first case referred to in subsection (2) is where—
  - (a) the duty under section 93 to consider whether to carry out an investigation of the alleged conduct applies, and
  - (b) the Commissioner decides not to carry out an investigation.
- (6) The second case is where—
  - (a) section 93(7) applies in relation to a complaint, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct.
- (7) The third case is where the Commissioner decides that the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply.
- (8) The fourth case is where—
  - (a) the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct under section 93(8) or, having considered whether to carry out an investigation under that section, decides not to carry out the investigation.
- (9) The fifth case is where—
  - (a) the Commissioner decides to carry out an investigation, and

- (b) the Commissioner then decides to discontinue the investigation.
- (10) An application under subsection (2) must be made before the end of the relevant 28 day period.
- (11) But the Tribunal may, on a written application by P, allow an application under subsection (2) to be made after the end of that period if the Tribunal is satisfied that there is a good reason—
  - (a) for the failure to apply before the end of that period, and
  - (b) if there has been any delay in applying for permission to apply out of time, for that delay.
- (12) An application under subsection (11) may be made before or after the end of the relevant 28 day period.
- (13) The Tribunal must notify P and the Commissioner of its decision on an application made under subsection (2).
- (14) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which applications under this section may be brought).
- (15) In this Chapter “relevant 28 day period” means the period of 28 days beginning with the day on which the Commissioner gave P notice of his or her decision under section 94.

#### **104 Powers of Tribunal on review**

- (1) On an application under section 103, the Tribunal may—
  - (a) affirm the Commissioner's determination, or
  - (b) annul the Commissioner's determination.
- (2) If the Tribunal annuls the Commissioner's determination, the Tribunal must remit the case to the Commissioner with directions for its reconsideration.

#### **105 Appeals from Tribunal**

- (1) This section applies if the Tribunal has decided an application under section 103(2).
- (2) The Commissioner or P may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court finds that the Tribunal has made an error on a point of law, the High Court—
  - (a) may set aside the decision of the Tribunal, and
  - (b) if it sets the decision aside, must either—
    - (i) remit the case to the Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following—

- (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,
  - (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court –
  - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and
  - (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application under this section of its decision on the application under section 103.
- (7) But the Tribunal or High Court may, on a written application by the Commissioner or P, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason –
  - (a) for the failure to apply for permission to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.

## CHAPTER 7

### ADDING A PARTY TO PROCEEDINGS

#### **106 Right to apply to be added as a party to proceedings**

- (1) This section applies if –
  - (a) an appeal is made to the Tribunal under section 95(2) or section 99, and
  - (b) the appeal is made in relation to a determination made after an investigation that follows a complaint made under section 93.
- (2) In the case of an appeal made under section 95(2) –
  - (a) the Tribunal must notify the person who made the complaint (P) that the appeal has been made, and
  - (b) P may apply to the Tribunal to be added as a party to the proceedings.
- (3) In such a case, if P is added as a party to the proceedings –
  - (a) the Tribunal must notify P of its decision on the appeal, and
  - (b) P may, with the permission of the Tribunal or High Court, appeal to the High Court under section 97 on a question of law arising out of that decision.
- (4) In the case of an appeal made under section 99 –
  - (a) the Tribunal must notify D that the appeal has been made, and
  - (b) D may apply to the Tribunal to be added as a party to the proceedings.
- (5) If D is added as a party to proceedings –

- (a) the Tribunal must notify D of its decision on the appeal, and
- (b) D may, with the permission of the Tribunal or High Court, appeal to the High Court under section 101 on a question of law arising out of that decision.
- (6) This section is subject to Tribunal Rules (which may, among other things, make provision about the manner in which and the time within which an application under this section to be added as a party to proceedings may be made).
- (7) This section does not prevent Tribunal Rules from making provision about other persons who may be added as a party to proceedings.

## CHAPTER 8

### GENERAL

#### *Obstruction and contempt*

#### **107 Obstruction and contempt**

- (1) If the Commissioner is satisfied that the condition in subsection (2) is met in relation to a person, the Commissioner may issue a certificate to that effect to the High Court.
- (2) The condition is that the person –
  - (a) without lawful excuse, has obstructed the discharge of any of the Commissioner's functions under this Part, or
  - (b) has done an act in relation to an investigation under section 71 which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) If the Commissioner issues a certificate under subsection (1), the High Court may inquire into the matter.
- (4) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with the person in any manner in which it could have dealt with the person if the person had committed contempt in relation to the High Court.

#### *Enforcement policy document*

#### **108 Enforcement policy document**

- (1) The Commissioner must produce an enforcement policy document.
- (2) The Commissioner may amend the enforcement policy document.
- (3) An enforcement policy document is a document setting out advice and information on the Commissioner's intended approach to the exercise of the Commissioner's functions under this Part.
- (4) The Commissioner may not produce or amend the enforcement policy document without the approval of the Welsh Ministers.
- (5) The Commissioner must –
  - (a) ensure that a copy of the enforcement policy document is available for inspection at the Commissioner's office, and

- (b) ensure that copies of the document are made available at such other places and by such other means (including by electronic means) as he or she thinks appropriate.
- (6) The Commissioner must ensure that the arrangements for inspecting and gaining access to copies of the enforcement policy document are published in such a way as to bring those arrangements to the attention of persons whom the Commissioner thinks likely to have an interest in the document.

*Register of enforcement action*

**109 Register of enforcement action**

- (1) The Commissioner must create and maintain a register of enforcement action.
- (2) The register of enforcement action must include all of the following—
  - (a) a description of every investigation undertaken by the Commissioner;
  - (b) as respects each investigation undertaken, the following information as included in the investigation report—
    - (i) the Commissioner's findings on the investigation;
    - (ii) the Commissioner's determination of whether or not D had failed to comply with the relevant requirement;
    - (iii) the statement of whether the Commissioner took further action;
    - (iv) if the Commissioner took further action, the statement of that action;
  - (c) as respects each investigation undertaken, details of any decision notice given;
  - (d) details of appeals made to the Tribunal under Chapter 4 (including, but not limited to, the decisions made by the Tribunal).
- (3) The Commissioner must keep the register of enforcement action up to date.
- (4) The Commissioner must—
  - (a) ensure that a copy of the register of enforcement action is available for inspection at the Commissioner's office, and
  - (b) ensure that copies of the register of enforcement action are made available at such other places and by such other means (including by electronic means) as he or she thinks appropriate.
- (5) The Commissioner must ensure that the arrangements for inspecting and gaining access to copies of the register of enforcement action are published in such a way as to bring those arrangements to the attention of persons whom the Commissioner thinks likely to have an interest in the register.
- (6) In this section “investigation” means an investigation under section 71.

*Interpretation***110 Interpretation**

In this Part –

“enforcement action” (*“camau gorfodi”*), in relation to an investigation under section 71, means one or more of the following –

- (a) requiring D to prepare an action plan for the purpose of preventing the continuation or repetition of D's failure;
- (b) requiring D to take steps for the purpose of preventing the continuation or repetition of D's failure;
- (c) publicising D's failure;
- (d) requiring D to publicise the failure;
- (e) imposing a civil penalty on D;

“interested person” (*“person a chanddo fuddiant”*), in relation to an investigation under section 71, means –

- (a) D, and
- (b) if the investigation follows a complaint under section 93, the person who made the complaint.

**PART 6****FREEDOM TO USE WELSH****111 Application to Commissioner**

- (1) An individual (P) may apply to the Commissioner for the Commissioner to investigate whether a person (D) has interfered with P's freedom to undertake a Welsh communication with another individual (R) (the “alleged interference”).
- (2) An application under this section must comply with the following requirements.
- (3) The application must be made in writing, unless P's personal circumstances are such that it would not be reasonable for P to make the application in writing.
- (4) The application must give an address at which the Commissioner may contact P (whether the address is postal, electronic or of another description).
- (5) The application must identify –
  - (a) D, and
  - (b) the alleged interference.

**112 Welsh communications**

In this Measure, “Welsh communication” means a communication in Welsh between two individuals, both of whom –

- (a) are in Wales, and
- (b) wish to use the Welsh language with one another in undertaking the communication.

### **113 Interference with freedom to use Welsh**

- (1) For the purposes of this Measure, D is to be taken to interfere with P's freedom to undertake a Welsh communication with R in any of the following cases.
- (2) Case 1 is where D indicates that P or R should not undertake –
  - (a) a particular communication in Welsh that is a Welsh communication, or
  - (b) a category of communications in Welsh consisting (wholly or partly) of one or more Welsh communications.
- (3) Case 2 is where D indicates that P or R will be subjected to a detriment (by D or any other person) because P or R has undertaken –
  - (a) a particular communication in Welsh that is a Welsh communication, or
  - (b) a category of communications in Welsh consisting (wholly or partly) of one or more Welsh communications.
- (4) Case 3 is where D, or a person acting at D's instigation, subjects P or R to a detriment because P or R has undertaken –
  - (a) a particular communication in Welsh that is a Welsh communication, or
  - (b) a category of communications in Welsh consisting (wholly or partly) of one or more Welsh communications.
- (5) But, in a case falling within subsection (2)(b), (3)(b) or (4)(b), D is to be taken to interfere with P's freedom to undertake a Welsh communication only insofar as the category of communications consists of one or more Welsh communications.
- (6) For the purposes of subsection (2), the circumstances in which D is to be taken to indicate that P or R should not undertake a particular communication, or a category of communications, include, but are not limited to, circumstances where –
  - (a) D instructs P or R not to undertake the communication or category of communications,
  - (b) D indicates that P or R will be subjected to a detriment (by D or any other person) if P or R undertakes the communication or category of communications, or
  - (c) D, or a person acting at D's instigation, subjects P or R to a detriment in connection with P or R undertaking the communication or category of communications.
- (7) For the purposes of this section, it is irrelevant –
  - (a) whether or not D or any other person has authority to give an indication, and
  - (b) whether or not D or any other person has authority to enforce an indication.
- (8) In this section, references to P or R being subjected to a detriment include P or R being intimidated, bullied, harassed or humiliated.



**114 Deciding whether to investigate**

- (1) This section applies if P makes an application to the Commissioner under section 111.
- (2) It is for the Commissioner to decide whether or not to investigate the alleged interference.
- (3) When deciding whether to investigate the alleged interference, the Commissioner –
  - (a) must take into account the context in which interference is alleged to have taken place (including, but not limited to, the relationships, if any, that exist between D and P and between D and R);
  - (b) may ask P, D, or any other person, for information or views relating to the alleged interference; and
  - (c) must, if he or she asks P or D for information or views, give P or D the relevant information about investigations.
- (4) Subsection (3) does not limit the matters which the Commissioner may consider when deciding whether to investigate the alleged interference.
- (5) If the Commissioner decides to investigate the alleged interference, the Commissioner must –
  - (a) inform P and D of the decision, and
  - (b) give P and D the relevant information about investigations (insofar as the Commissioner has not already given the information under subsection (3)(c)).
- (6) If the Commissioner decides not to investigate the alleged interference, the Commissioner must inform P of –
  - (a) the decision, and
  - (b) the reasons for reaching the decision.
- (7) The Commissioner must comply with subsection (5) or (6) as soon as practicable after reaching the decision in question.
- (8) In this section “relevant information about investigations” means information about –
  - (a) the procedure for carrying out investigations under this Part, and
  - (b) the Commissioner's powers in relation to such investigations (including, but not limited to, the power under section 118 to produce and publish reports and other documents).

**115 Investigations**

- (1) This section applies if the Commissioner decides to investigate the alleged interference.
- (2) The Commissioner may ask P, D, or any other person, for information or views relating to the alleged interference.
- (3) The Commissioner must, so far as it is practicable, give D the opportunity to respond to the allegations made by P or any other person.

**116 Discontinuing investigations**

- (1) The Commissioner may, at any time, discontinue the investigation of the alleged interference.
- (2) If the Commissioner decides to discontinue the investigation, the Commissioner must—
  - (a) inform P and D of the decision, and
  - (b) inform P of the reasons for reaching the decision.
- (3) The Commissioner must comply with subsection (2) as soon as practicable after reaching the decision.

**117 Concluding investigations**

- (1) This section applies if the Commissioner—
  - (a) decides to investigate the alleged interference, and
  - (b) does not discontinue the investigation.
- (2) The Commissioner must determine whether or not D has interfered with P's freedom to undertake the Welsh communication.
- (3) If the Commissioner determines that D has interfered with P's freedom to undertake the Welsh communication, the Commissioner must also give his or her views on the interference (including, but not limited to, his or her views on whether the interference was justified).
- (4) Before the Commissioner makes a determination under subsection (2) or gives his or her views under subsection (3), he or she must—
  - (a) inform D of the determination which the Commissioner is proposing to make and of the views which the Commissioner is proposing to give, and
  - (b) so far as it is practicable, give D the opportunity to respond to the proposed determination and views.
- (5) The Commissioner must notify P and D—
  - (a) of the determination of P's application, and
  - (b) if the determination is that D has interfered with P's freedom to undertake the Welsh communication, of his or her views on the interference.
- (6) The Commissioner must comply with subsection (5) as soon as practicable after making the determination.
- (7) The Commissioner may give P, D, or any other person advice about—
  - (a) the alleged interference, or
  - (b) any matter that relates to the alleged interference.

**118 Reports**

- (1) This section applies in any case where an application is made under section 111.
- (2) The Commissioner may produce, and give the Welsh Ministers, a report on—
  - (a) the application, and
  - (b) the action taken by the Commissioner in response to the application.

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- (3) The Commissioner must give copies of any such report to P and D.
  - (4) The Commissioner may publish –
    - (a) a report given to the Welsh Ministers under subsection (2),
    - (b) a version of such a report, or
    - (c) another document that relates (whether wholly or partly) to the subject matter of such a report,(a “public document”), but only if the following conditions are met.
  - (5) The first condition is that the Commissioner –
    - (a) notifies P and D of the intention to publish a public document, and
    - (b) so far as it is practicable, gives P, D, or any other person the Commissioner considers appropriate, the opportunity to provide the Commissioner with views about publication of a public document.
  - (6) The second condition is that –
    - (a) P and D agree to the publication of a public document, or
    - (b) the Commissioner considers that it is in the public interest to publish a public document.
  - (7) In considering whether it is in the public interest to publish a public document, the Commissioner must take account of, amongst other things –
    - (a) the interests of P and D, and
    - (b) the interests of any other persons which the Commissioner thinks it is appropriate to take account of.
  - (8) In relation to any application in which the Commissioner determines that D has not interfered with P's freedom to undertake a Welsh communication, a public document must not identify D.

## **119 Annual report to Welsh Ministers**

- (1) The Commissioner must include in each annual report produced in accordance with Part 2 a report on –
  - (a) relevant applications made to the Commissioner in the period to which the report relates,
  - (b) the action taken by the Commissioner in response to relevant applications made in that period, and
  - (c) the Commissioner's view of the adequacy and effectiveness of the law in protecting the freedom of persons in Wales wishing to use the Welsh language to do so with one another.
- (2) In formulating a view for the purposes of subsection (1)(c), the matters which the Commissioner must consider include, but are not limited to –
  - (a) all relevant applications made since section 111 came into force, and
  - (b) all action taken by the Commissioner in response to relevant applications made since section 111 came into force.

- (3) In relation to any relevant application in which the Commissioner determines that D has not interfered with P's freedom to undertake a Welsh communication, the matters included in an annual report in accordance with this section must not identify D.
- (4) The Welsh Ministers may, by regulations, make provision about reports under this section.
- (5) In this section “relevant application” means an application made under section 111.

## PART 7

### WELSH LANGUAGE TRIBUNAL

#### *The Tribunal*

#### **120 The Welsh Language Tribunal**

- (1) There is to be a Welsh Language Tribunal (referred to in this Measure as the “Tribunal”).
- (2) The Tribunal is to consist of the following members –
  - (a) the President of the Welsh Language Tribunal (referred to in this Measure as the “President”);
  - (b) legally-qualified members; and
  - (c) lay members.
- (3) The Welsh Ministers must appoint the members of the Tribunal.
- (4) Schedule 11 makes further provision about the Tribunal.

#### **121 Composition for proceedings before Tribunal**

- (1) The President must select the members of the Tribunal who are to deal with particular proceedings before the Tribunal.
- (2) The President must select three members of the Tribunal to deal with the proceedings.
- (3) The President must ensure that –
  - (a) at least one of the three members is a legal member, and
  - (b) at least one of the three members is a lay member.
- (4) If only one of the three members is a legal member, that legal member is to chair the proceedings.
- (5) If more than one of the three members are legal members, the President is to select the legal member who is to chair the proceedings.
- (6) This section is subject to Tribunal Rules.
- (7) In this section “legal member” means –
  - (a) the President, or

- (b) a legally-qualified member of the Tribunal.

## **122 Hearings in public**

- (1) Proceedings before the Tribunal are to be held in public.
- (2) But that is subject to Tribunal Rules.

*Practice and procedure etc*

## **123 Welsh Language Tribunal Rules**

- (1) The President must make rules governing the practice and procedure to be followed in the Tribunal.
- (2) The rules are to be known as “Welsh Language Tribunal Rules” (but are referred to in this Measure as “Tribunal Rules”).
- (3) Tribunal Rules must include the following –
  - (a) provision about the selection under section 121(2) of the three members of the Tribunal to deal with proceedings;
  - (b) provision about the selection under section 121(5) of the legal member to chair proceedings;
  - (c) provision about conflicts of interest that arise –
    - (i) in relation to the participation of members of the Tribunal in the determination of proceedings, or
    - (ii) in relation to the exercise of the President's functions under section 121.
- (4) Tribunal Rules may, amongst other things, include provision about the following matters –
  - (a) the exercise by the President, or by the member chairing any proceedings, of any functions which relate to matters that are preliminary or incidental to the proceedings;
  - (b) the conduct of proceedings in the absence of any member other than the member chairing them;
  - (c) the disclosure or inspection of documents, and such right to further particulars as might be granted by a county court;
  - (d) the determination of proceedings without a hearing in circumstances prescribed in Tribunal Rules;
  - (e) frivolous and vexatious proceedings;
  - (f) the award of costs (including, but not limited to, punitive costs) or expenses;
  - (g) assessing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be assessed in the county court);
  - (h) the publication of reports of the Tribunal's decisions;
  - (i) the Tribunal's powers to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with Tribunal Rules;

- (j) the date upon which a notice is deemed to have been given by the Tribunal.
- (5) The power to make Tribunal Rules includes power –
  - (a) to make different provision for different purposes, and
  - (b) to confer functions on the President or the Welsh Ministers (as well as on any other person), including functions involving the exercise of a discretion.
- (6) The President must submit Tribunal Rules to the Welsh Ministers.
- (7) The Welsh Ministers may allow or disallow Tribunal Rules submitted to them.
- (8) Rules allowed by the Welsh Ministers –
  - (a) come into force on such day that the Welsh Ministers direct, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by the Welsh Ministers.
- (9) A statutory instrument containing rules made by the President is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

#### **124 Practice directions**

- (1) The President may give directions as to the practice and procedure of the Tribunal.
- (2) But the President may not give practice directions unless they have been approved by the Welsh Ministers.
- (3) Subsection (2) does not apply to practice directions to the extent that they relate to –
  - (a) the application or interpretation of the law, or
  - (b) the making of decisions by members of the Tribunal.
- (4) The power under this section to give practice directions includes –
  - (a) power to vary or revoke practice directions given in exercise of the power, and
  - (b) power to make different provision for different purposes.

#### **125 Guidance, advice and information**

- (1) The President may give guidance to other members of the Tribunal in relation to the exercise of their functions as members of the Tribunal.
- (2) A member of the Tribunal must have regard to such guidance in exercising such functions.
- (3) The President may give advice and information in respect of the Tribunal and its functions (including, but not limited to, its practice and procedure).
- (4) The President may give such advice –

- (a) to particular persons, or
- (b) more generally.

## **126 Supplementary powers**

- (1) In relation to the matters mentioned in subsection (2), the Tribunal has the same powers, rights, privileges and authority as the High Court.
- (2) The matters are—
  - (a) the attendance and examination of witnesses,
  - (b) the production and inspection of documents, and
  - (c) all other matters incidental to the Tribunal's functions.
- (3) Subsection (1)—
  - (a) does not limit any power to make Tribunal Rules, or
  - (b) is not limited by anything in Tribunal Rules, except an express limitation.
- (4) The Tribunal may direct that a party or witness is to be examined on oath or affirmation.
- (5) The Tribunal may administer any oath, or take any affirmation, that is necessary for that purpose.

### *Staff and other resources*

## **127 Staff, accommodation and other resources of Tribunal**

- (1) The Welsh Ministers must ensure that the Tribunal is provided with—
  - (a) staff,
  - (b) accommodation, and
  - (c) financial and other resources,that are appropriate for the Tribunal to exercise its functions.
- (2) It is for the Welsh Ministers to determine what staff, accommodation and financial and other resources are appropriate for that purpose.
- (3) The Welsh Ministers may satisfy the duty under subsection (1) by—
  - (a) providing staff, accommodation or other resources, or
  - (b) entering into arrangements with any other person for the provision of staff, accommodation or other resources.
- (4) The Welsh Ministers may pay remuneration to the staff of the Tribunal.
- (5) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the staff of the Tribunal.
- (6) The Welsh Ministers may pay—

- (a) pensions to, or in respect of, persons who have been staff of the Tribunal, and
- (b) amounts for or towards provision of pensions to, or in respect of, persons who have been staff of the Tribunal.

### **128 Specially qualified advisers**

- (1) The President may appoint specially qualified advisers to provide assistance to the Tribunal (whether in relation to particular proceedings before the Tribunal or otherwise).
- (2) The President may pay remuneration to specially qualified advisers.
- (3) The President may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to specially qualified advisers.
- (4) But the Welsh Ministers must approve the amount of any remuneration, allowances or gratuities payable to a specially qualified adviser before the President agrees to pay, or pays, the remuneration, allowances or gratuities.

#### *Administrative matters*

### **129 Seal**

- (1) The Tribunal is to have an official seal.
- (2) Every document purporting to be sealed with the official seal of the Tribunal is to be received in evidence in England and Wales without further proof.
- (3) But subsection (2) does not apply if the document is shown not to be sealed with the official seal of the Tribunal.

### **130 Financial year**

- (1) The Tribunal's first financial year is the period that begins with the commencement day and ends with—
  - (a) the following 31 March (if the commencement day is 1 April), or
  - (b) the second following 31 March (if the commencement day is not 1 April).
- (2) Subject to that, the Tribunal's financial year is the period of 12 months ending with 31 March.
- (3) In this section “commencement day” means the day when section 120 comes into force.

### **131 Vacancy in the office of President**

- (1) This section applies if the office of President is vacant.
- (2) The Welsh Ministers may appoint one or more of the legally-qualified members of the Tribunal to exercise any or all of the President's functions.



- (3) If, or to the extent that, the President's functions are not exercisable by a legally-qualified member in accordance with subsection (2), the Welsh Ministers may exercise the functions.
- (4) But the Welsh Ministers may not participate in determining any proceedings before the Tribunal.

*Reports, reviews and performance*

**132 President's annual report**

- (1) As soon as practicable after the end of each financial year, the President must –
  - (a) produce a report on the Tribunal's exercise of its functions in that financial year, and
  - (b) lay a copy of the report before the National Assembly for Wales.
- (2) The President must comply with any requirements of the National Assembly for Wales in relation to the form of the report and the laying of it.

**133 Training etc for members of Tribunal**

- (1) The President must maintain appropriate arrangements for the training, guidance and welfare of members of the Tribunal.
- (2) It is for the President to decide what arrangements are appropriate for that purpose.

**PART 8**

GENERAL

**CHAPTER 1**

INTEGRITY

**134 Register of interests**

- (1) Each relevant office holder must create and maintain a register of interests.
- (2) A relevant office holder's register of interests must include all of his or her registrable interests.
- (3) A relevant office holder must produce his or her register of interests in Welsh and in English.
- (4) A relevant office holder must keep his or her register of interests up to date.
- (5) That includes, but is not limited to, a duty to include a registrable interest in the register of interests within 4 weeks of –
  - (a) the interest arising, or

- (b) the relevant office holder becoming aware of the interest (if that occurs after the interest arises).

### **135 Publication of registers of interests**

- (1) The Commissioner must –
  - (a) ensure that a copy of the register of interests of each relevant office holder is available for inspection at the Commissioner's office, and
  - (b) ensure that copies of the register of interests of each relevant office holder are made available at such other places and by such other means (including by electronic means) as he or she thinks appropriate.
- (2) The Commissioner must ensure that the arrangements for inspecting and gaining access to copies of relevant office holders' registers of interests are published in such a way as to bring those arrangements to the attention of persons whom the Commissioner thinks likely to have an interest in the registers.
- (3) The Deputy Commissioner must give the Commissioner –
  - (a) such copies of the Deputy Commissioner's register of interests, and
  - (b) such other assistance,as the Commissioner may require to enable him or her to comply with the duty under subsection (1).

### **136 Conflicts of interest**

- (1) A relevant office holder must not exercise a function if he or she has a registrable interest which relates to the exercise of the function.
- (2) In a case where subsection (1) prevents the Commissioner from exercising a function, he or she must delegate that function (so far as necessary to enable that exercise of it to be carried out) to –
  - (a) the Deputy Commissioner, or
  - (b) another member of the Commissioner's staff.
- (3) In a case where subsection (1) prevents the Deputy Commissioner from exercising a function, the Commissioner must make arrangements for the function to be exercised otherwise than by the Deputy Commissioner.

### **137 Validity of acts**

The validity of an act of a relevant office holder is not affected by a failure to comply with any provision of, or made under, this Chapter.

### **138 Regulations**

- (1) The Welsh Ministers may, by regulations –
  - (a) specify what interests are registrable interests for the purposes of this Chapter, and
  - (b) make other provision for the purposes of this Chapter.
- (2) Registrable interests may, among other things, include interests of persons with whom relevant office holders have a connection (whether familial, financial or of any other kind).

- (3) In this section “interest” means an interest of any kind (including, but not limited to, financial interests, and all activities and occupations).

### 139 Interpretation of this Chapter

In this Chapter –

“registrable interest” (*“buddiant cofrestradwy”*) means a registrable interest specified in regulations made under section 138;

“relevant office holder” (*“deiliad swydd perthnasol”*) means –

- (a) the Commissioner, or
- (b) the Deputy Commissioner.

## CHAPTER 2

### DEFAMATION

### 140 Absolute privilege

- (1) For the purposes of the law of defamation, the following are absolutely privileged –
- (a) the publication of a matter by the Commissioner in the exercise of any of his or her functions;
  - (b) the publication of a matter by a member of the Advisory Panel in the exercise of any of his or her functions;
  - (c) the publication of a matter by a person in compliance with a requirement in a decision notice;
  - (d) the publication, in a communication between –
    - (i) the Commissioner, and
    - (ii) a protected person,
 of a matter in connection with an inquiry or investigation;
  - (e) the publication, in a communication between –
    - (i) the complainant or a person acting on behalf of the complainant, and
    - (ii) a representative,
 of a matter in connection with an investigation under Part 5 or Part 6.
- (2) In this section a reference to the Commissioner includes the following persons –
- (a) the members of the Commissioner's staff;
  - (b) any person acting on the Commissioner's behalf or assisting in the exercise of the Commissioner's functions.

**141 Interpretation of this Chapter**

In this Chapter –

“complainant” (*“achwynnydd”*) means –

- (a) in relation to an investigation under Part 5, the person (if any) referred to as “P” in section 93;
- (b) in relation to an investigation under Part 6 –
  - (i) the person referred to as “P” in section 111; and
  - (ii) the person referred to as “R” in section 111;

“inquiry” (*“ymholiad”*) means an inquiry under section 7;

“investigation” (*“ymchwiliad”*) means any of the following –

- (a) a standards investigation under Chapter 8 of Part 4;
- (b) an investigation under Part 5 (compliance with relevant requirements);
- (c) an investigation under Part 6 (interference with the freedom to communicate in Welsh);

“protected person” (*“person a ddiogelir”*), in relation to an inquiry or investigation, means any of the following persons –

- (a) a member of the Advisory Panel;
- (b) a representative;
- (c) a person who is the subject of the inquiry or investigation;
- (d) a person with whom the Commissioner is communicating for the purpose of obtaining information in connection with an inquiry or investigation;
- (e) the complainant;
- (f) a person acting on behalf of a person falling within paragraph (c) to (e);

“representative” (*“cynrychiolydd”*) means any of the following persons –

- (a) a member of a community council, county borough council or county council in Wales;
- (b) a Member of the National Assembly for Wales;
- (c) a Member of Parliament;
- (d) a member of the House of Lords;
- (e) a Member of the European Parliament.

## CHAPTER 3

### RESTRICTIONS

#### **142 Restrictions**

- (1) This Measure does not authorise or require the Commissioner to exercise a prescribed function which by virtue of an enactment is also exercisable by a prescribed person.
- (2) In this section “prescribed” means prescribed in an order made for the purposes of this section by the Welsh Ministers.

## PART 9

### WELSH LANGUAGE BOARD, WELSH LANGUAGE SCHEMES ETC

#### **143 Abolition of Board and transfer of functions**

- (1) The Welsh Language Board is abolished.
- (2) The functions conferred on the Board by section 3 of the 1993 Act are transferred to the Commissioner.
- (3) But that is subject to any order under section 154 which provides for those functions to be transferred to the Welsh Ministers (whether instead of, or in addition to, the functions being transferred to the Commissioner).
- (4) The functions conferred on the Board by Part 2 of the 1993 Act are transferred to the Commissioner.
- (5) The following provisions of the 1993 Act are repealed –
  - (a) section 1;
  - (b) section 2;
  - (c) section 4(2);
  - (d) section 34(2);
  - (e) Schedule 1.

#### **144 Abolition of Board's general functions and replacement of schemes with standards**

- (1) The functions conferred by section 3 of the 1993 Act (and transferred as mentioned in section 143) are abolished.
- (2) Part 2 of the 1993 Act ceases to apply to a person if and when that person first becomes subject to the duty under section 25(1) of this Measure to comply with a standard.
- (3) The following provisions of the 1993 Act are repealed –
  - (a) section 3;
  - (b) section 4(1).

**145 Replacement of Welsh language schemes with standards**

- (1) The functions conferred on the Board by Part 2 of the 1993 Act (and transferred as mentioned in section 143) are abolished.
- (2) The following provisions of the 1993 Act are repealed –
  - (a) Part 2;
  - (b) section 34(1) and (3).

**146 Other provision**

Schedule 12 contains other provision relating to the abolition of the Board.

**147 Supplementary**

- (1) The Welsh Ministers' powers under other Parts of this Measure may be exercised for the purpose of bringing into force any provision of this Measure relating to the Commissioner so as to enable functions of the Board to be transferred to, and to be exercisable by, the Commissioner before any new function is exercisable by the Commissioner (whether or not any new function subsequently becomes exercisable whilst any transferred function remains exercisable).
- (2) For that purpose “new function” means a function which is conferred on the Commissioner by a provision of any other Part of this Measure.
- (3) This Part does not limit the Welsh Ministers' powers under other Parts of this Measure (and accordingly those powers may be used to make provision in addition to, or in place of, provision in this Part).
- (4) In this section, references to the Welsh Ministers' powers under other Parts of this Measure include, but are not limited to, their powers under –
  - (a) section 154 (transitional and consequential provision etc), and
  - (b) section 156(2) (commencement).
- (5) In this Part –

“1993 Act” (“*Deddf 1993*”) means the Welsh Language Act 1993;

“Board” (“*y Bwrdd*”) means the Welsh Language Board.

**PART 10****WELSH MINISTERS' WELSH LANGUAGE STRATEGY****148 Welsh Ministers to prepare an action plan**

- (1) Section 78 of the Government of Wales Act 2006 is amended as follows.
- (2) After subsection (8), insert –

- “(9) For each financial year, the Welsh Ministers must publish a plan setting out how they will implement the proposals set out in the Welsh language strategy during that year.
- (10) The plan must be published as soon as reasonably practicable before the commencement of the financial year to which it relates.”

#### **149 The Welsh Language Partnership Council**

- (1) The Welsh Ministers must establish and maintain a body to be known as the Welsh Language Partnership Council (referred to in this section as “the Partnership Council”).
- (2) The Partnership Council is to consist of –
  - (a) the Welsh Minister with responsibility for the Welsh language (who is to chair the Partnership Council), and
  - (b) members appointed by the Welsh Ministers from among –
    - (i) the Welsh Ministers,
    - (ii) the Deputy Welsh Ministers,
    - (iii) persons who appear to the Welsh Ministers to have experience of matters relating to the Welsh language, and
    - (iv) persons who appear to the Welsh Ministers to have experience relevant to any of the matters listed in subsection (6).
- (3) The Welsh Ministers must, in exercising their power to appoint members of the Partnership Council under subsection (2)(b)(iii) and (iv), have regard to the fact that it is desirable for the Partnership Council's membership to reflect the varying extent to which the Welsh language is used by those living in Wales.
- (4) The Partnership Council's procedure is to be regulated by standing orders, to be made by the Welsh Ministers following consultation with the Partnership Council.
- (5) The standing orders may make provision about who is to chair the Partnership Council in the absence of the Welsh Minister with responsibility for the Welsh language.
- (6) The Partnership Council may –
  - (a) give advice or make representations to the Welsh Ministers in relation to the Welsh language strategy adopted under section 78 of the Government of Wales Act 2006 (including the plan setting out how the Welsh Ministers will implement the proposals set out in the strategy), and
  - (b) do anything it considers appropriate for the purposes of giving that advice or making those representations.

**PART 11****SUPPLEMENTARY****150 Orders and regulations**

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales –
  - (a) an order under section 20(4)(a) or (b) (application of section 20 to persons other than Public Services Ombudsman for Wales etc) that amends provision of primary legislation;
  - (b) an order under section 21(7) (amendment of definition of “ombudsman”);
  - (c) an order under section 21(8) (provision in connection with order under section 21(7)) that amends primary legislation;
  - (d) an order under section 22(10) (amendment of definition of “permitted person”);
  - (e) regulations under section 26(1) or (2) (specification of standards etc);
  - (f) an order under section 35 or 38 (amendment of Schedule 6 or 8), apart from an order containing provision under that section all of which is of the kind referred to in subsection (4);
  - (g) regulations under section 39 (standards that are specifically applicable);
  - (h) an order under section 42 (amendment of Schedule 9);
  - (i) regulations under section 68 (supply of information to Commissioner);
  - (j) an order under section 83(7) (alteration of maximum amount of civil penalty);
  - (k) an order under section 154 (transitional and consequential provision etc) that contains a provision amending, repealing or otherwise modifying an enactment (other than an enactment contained in subordinate legislation);
  - (l) regulations under paragraph 7(1) of Schedule 1 (provision about the appointment of the Commissioner);
  - (m) an order under paragraph 8(1) of Schedule 1 (exercise of Commissioner's functions by Welsh Ministers) that amends this Measure;
  - (n) an order under paragraph 1 of Schedule 5 (alteration of amount of public money specified in the Schedule 5 table).
- (3) Any other statutory instrument containing an order or regulations under this Measure, apart from an instrument containing only an order under section 156 (commencement), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) The provision mentioned in subsection (2)(f) is provision amending a reference to a person in the person's entry in the Schedule 6 table or Schedule 8 table in consequence of a change in that person's name.



- (5) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power –
  - (a) to make different provision for different cases, different purposes, or different geographical areas;
  - (b) to make provision generally or in relation to specific cases;
  - (c) to make such transitional, transitory, consequential, saving, incidental and other provision as the Welsh Ministers think necessary or appropriate.
- (6) The power of the Welsh Ministers under section 155(3) also includes, in the case of the commencement of the repeal of provision in the Welsh Language Act 1993, power to provide for different commencement for different jurisdictions.
- (7) In this section “primary legislation” means an Act of Parliament or a Measure or Act of the Assembly.

## **151 Directions**

Any direction given by the Welsh Ministers under this Measure –

- (a) may be varied or revoked by a later direction;
- (b) must be given in writing;
- (c) may make provision generally or in relation to specific cases; and
- (d) may make different provision for different cases, different purposes or different geographical areas.

## **152 Notices etc**

- (1) This section applies in relation to notices and other documents required or authorised to be given under this Measure.
- (2) A notice or document that is required or authorised to be given to the Commissioner may be given –
  - (a) by delivering it to the Commissioner,
  - (b) by sending it by post to the principal office of the Commissioner, or
  - (c) subject to subsection (3), by transmitting it electronically.
- (3) A notice or document may be given to the Commissioner by transmitting it electronically only if it has been transmitted in such manner as the Commissioner may require.
- (4) A notice or document that the Commissioner is required or authorised to give to another person may be given –
  - (a) by delivering it to the person,
  - (b) by sending it by post to the person's last known address, or
  - (c) subject to subsection (5), by transmitting it electronically.

- (5) The Commissioner may give a notice or document to a person by transmitting it electronically only if the following requirements are met –
  - (a) the person to whom the notice or document is to be given must have –
    - (i) indicated to the Commissioner that person's willingness to receive the notice or document by transmission by electronic means, and
    - (ii) provided the Commissioner with an address suitable for that purpose, and
  - (b) the Commissioner must send the notice or document to the address provided by that person.
- (6) A person may give, for the purposes of subsection (4), an indication of willingness to receive –
  - (a) notices or documents generally by transmission by electronic means, or
  - (b) notices or documents of particular descriptions by electronic means.
- (7) This section does not exclude any method of giving or sending a notice or other document not expressly provided for by this section.
- (8) A requirement of this Measure for a notice or document to be in writing does not prevent this section from applying in relation to it.
- (9) A requirement for the Commissioner to give a notice or other document to a person does not apply if the Commissioner thinks that it is not practicable to give that notice or document to that person in accordance with subsection (4).
- (10) The Welsh Ministers may by order make provision about the date upon which a notice or document is deemed to have been given.

### **153 Interpretation of this Measure**

- (1) In this Measure –
 

“Advisory Panel” (*“Panel Cynggori”*) means the Advisory Panel to the Welsh Language Commissioner (see Part 3);

“Commissioner” (*“Comisiynydd”*) means the Welsh Language Commissioner (see Part 2);

“Deputy Commissioner” (*“Dirprwy Gomisiynydd”*) means the Deputy Welsh Language Commissioner (see section 12);

“enactment” (*“deddfiad”*) includes an Assembly Measure, an Act of the Assembly, subordinate legislation and any future enactment;

“President” (*“Llywydd”*) means the President of the Welsh Language Tribunal (see Part 7);

“Tribunal” (*“Tribiwnlys”*) means the Welsh Language Tribunal (see Part 7);

“Tribunal Rules” (*“Rheolau'r Tribiwnlys”*) means Welsh Language Tribunal Rules (see Part 7).
- (2) In this Measure references to the Commissioner's staff are to be construed in accordance with section 12(2).

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**154 Transitional and consequential provision etc**

- (1) The Welsh Ministers may, by order, make such transitional, transitory, consequential, saving, incidental and other provision as they think necessary or appropriate in connection with, or to give full effect to, this Measure.
- (2) The provision that may be made under this section includes, but is not limited to, provision that amends, repeals or otherwise modifies an enactment.

**155 Extent**

- (1) This Measure extends to England and Wales only.
- (2) But that is subject to subsection (3).
- (3) A repeal of a provision of the Welsh Language Act 1993 has the same extent as the provision repealed.

**156 Commencement**

- (1) The following provisions come into force on the day on which this Measure is approved by Her Majesty in Council—
  - (a) Part 1;
  - (b) this Part.
- (2) Subject to subsection (1), this Measure comes into force in accordance with provision made by the Welsh Ministers by order.

**157 Short title**

This Measure may be cited as the Welsh Language (Wales) Measure 2011.

SCHEDULE 1  
(*introduced by section 2*)

THE WELSH LANGUAGE COMMISSIONER

PART 1

STATUS ETC

*Status*

- 1 (1) The Commissioner is a corporation sole.
- (2) The Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (3) The Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.
- (4) When exercising functions in relation to the Commissioner, the Welsh Ministers must have regard to the fact that it is desirable to ensure that the Commissioner is under as few constraints as reasonably possible in determining his or her —
  - (a) activities,
  - (b) timetables, and
  - (c) priorities.

*Validity of acts*

- 2 (1) The validity of an act of a person as Commissioner is not affected by a defect in the appointment of —
  - (a) that person, or
  - (b) any member of the Advisory Panel.
- (2) The validity of an act of a person exercising functions of the Commissioner is not affected by a defect in the appointment of —
  - (a) that person,
  - (b) the Commissioner, or
  - (c) any member of the Advisory Panel.

## PART 2

## APPOINTMENT

*Appointment*

- 3 (1) In appointing the Commissioner, the First Minister –
- (a) must comply with appointment regulations (see paragraph 7),
  - (b) must take account of the recommendations made by the selection panel in relation to the appointment (see paragraph 7), and
  - (c) may take into account the views of any other persons whom the First Minister thinks it is appropriate to consult.
- (2) The First Minister may not appoint a person to be Commissioner if the person –
- (a) is disqualified from being Commissioner on grounds of employment (see paragraph 13), or
  - (b) has already been appointed as Commissioner.
- (3) The views which the First Minister may take into account under sub-paragraph (1)(c) include, but are not limited to, the views of –
- (a) the National Assembly for Wales,
  - (b) committees of the National Assembly, and
  - (c) members of the National Assembly.

*Remuneration, allowances and pensions*

- 4 (1) The Welsh Ministers may pay remuneration to the Commissioner.
- (2) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the Commissioner.
- (3) The Welsh Ministers may pay –
- (a) pensions to, or in respect of, persons who have been Commissioner, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been Commissioner.

*Terms of appointment*

- 5 (1) The Commissioner holds office subject to the terms of his or her appointment.
- (2) But that is subject to the other provisions of this Schedule.
- (3) The terms of the Commissioner's appointment must provide for him or her to hold office on a full-time basis.

*Duration of appointment*

- 6 (1) A person appointed as Commissioner holds the office (by virtue of that appointment) for 7 years.
- (2) But that is subject to Part 3 of this Schedule.

*Appointment regulations*

- 7 (1) The Welsh Ministers must, by regulations, make provision about the appointment of the Commissioner (“appointment regulations”).
- (2) Appointment regulations must make provision for the establishment of a panel of persons (a “selection panel”) who are to—
- (a) interview candidates for appointment as Commissioner, and
  - (b) make recommendations to the First Minister in relation to the appointment.
- (3) The provision that may be made in appointment regulations includes, but is not limited to, provision of the kind referred to in sub-paragraphs (4) to (7).
- (4) Appointment regulations may make provision about principles to be followed in appointing the Commissioner.
- (5) Appointment regulations may make provision about—
- (a) the knowledge of, and proficiency in, the Welsh language, and
  - (b) the knowledge and experience of the matters in respect of which the Commissioner has functions,
- which the Commissioner must have.
- (6) Appointment regulations may—
- (a) apply (with or without modifications) any code of practice that is concerned with appointments to public bodies, or
  - (b) make other provision relating to any such code.
- (7) Appointment regulations may confer functions on the Welsh Ministers or First Minister (as well as on any other person), including functions involving the exercise of a discretion.

*Delegation of appointment functions etc*

- 8 (1) The First Minister may, by order—
- (a) provide for the Welsh Ministers to exercise—
    - (i) the First Minister's function of appointing the Commissioner, and
    - (ii) any or all of the First Minister's other functions that relate to the Commissioner, and
  - (b) make such other related provision as the First Minister thinks appropriate.
- (2) The provision that may be made in an order under this paragraph includes, but is not limited to, provision amending or otherwise modifying this Measure.

### PART 3

#### END OF APPOINTMENT

##### *Resignation*

- 9 The Commissioner may resign from office if he or she gives the First Minister not less than 3 months' notice in writing of his or her intention to do so.

##### *Disqualification*

- 10 A person ceases to be Commissioner if the person is disqualified from being Commissioner on grounds of employment.

##### *Dismissal*

- 11 The First Minister may dismiss the Commissioner if the First Minister is satisfied that the Commissioner –
- (a) is unfit to continue as Commissioner, or
  - (b) is unable or unwilling to exercise the Commissioner's functions.

##### *Payments on ceasing to hold office*

- 12 The Welsh Ministers may make a payment to a person who ceases to hold the office of Commissioner if it appears to the Welsh Ministers that there are special circumstances which make it right that the person should receive the payment in compensation.

### PART 4

#### DISQUALIFICATION FROM BEING COMMISSIONER

- 13 A person is disqualified from being Commissioner on grounds of employment if the person is –
- (a) a Member of Parliament;
  - (b) a Member of the National Assembly for Wales;
  - (c) a member of a county council, a county borough council or a community council in Wales;
  - (d) a member of the Tribunal;
  - (e) a member of the Advisory Panel;
  - (f) a person who is employed by, or advises, a person who is within Schedule 5 or Schedule 7;
  - (g) a member of the Commissioner's staff.

## PART 5

### FINANCIAL MATTERS

#### *Payments by the Welsh Ministers*

- 14 The Welsh Ministers may pay the Commissioner such amounts, at such times and on such conditions (if any), as they think appropriate in respect of expenditure incurred in carrying out the functions of Commissioner.

#### *Financial year*

- 15 (1) The Commissioner's first financial year is the period that begins with the commencement day and ends with—
- (a) the following 31 March (if the commencement day is 1 April), or
  - (b) the second following 31 March (if the commencement day is not 1 April).
- (2) Subject to that, the Commissioner's financial year is the period of 12 months ending with 31 March.
- (3) In this paragraph “commencement day” means the day when section 2 comes into force.

#### *Accounting officer*

- 16 (1) The Commissioner is the accounting officer for the office of the Commissioner.
- (2) The accounting officer has, in relation to the accounts and the finances of the office of the Commissioner, the responsibilities which are from time to time specified by the Treasury.
- (3) In this paragraph references to responsibilities include, amongst other things—
- (a) responsibilities in relation to the signing of accounts,
  - (b) responsibilities for the propriety and regularity of the finances of the Commissioner, and
  - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Commissioner are used.
- (4) The responsibilities which may be specified under this paragraph include, amongst other things, responsibilities owed to—
- (a) the National Assembly for Wales, the Welsh Ministers or the Public Accounts Committee of the National Assembly, or
  - (b) the House of Commons or the Committee of Public Accounts of that House.
- (5) If requested to do so by the Committee of Public Accounts of the House of Commons (“the Parliamentary Committee”), the Public Accounts Committee of the National Assembly for Wales may—
- (a) take evidence on behalf of the Parliamentary Committee from the accounting officer,
  - (b) report to the Parliamentary Committee on the evidence taken, and
  - (c) transmit to the Parliamentary Committee the evidence taken.
- (6) Section 13 of the National Audit Act 1983 (interpretation of references to the House of Commons Committee of Public Accounts) applies for the purposes of this Measure as it applies for the purposes of that Act.



- (7) In this paragraph “office of the Commissioner” means the Commissioner and the Commissioner's staff.

*Estimates*

- 17 (1) For each financial year other than the first, the Commissioner must prepare an estimate of the income and expenses of the Commissioner's office.
- (2) The Commissioner must submit the estimate to the Welsh Ministers at least five months before the beginning of the financial year to which it relates.
- (3) The Welsh Ministers must examine an estimate submitted to them in accordance with this paragraph and must then lay the estimate before the National Assembly for Wales with the modifications (if any) they think appropriate.
- (4) In sub-paragraph (1) “Commissioner's office” means the Commissioner and the Commissioner's staff.

*Accounts*

- 18 (1) The Commissioner must –
- (a) keep proper accounting records, and
  - (b) prepare accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Welsh Ministers.
- (2) The directions which the Welsh Ministers may give under this paragraph include, amongst other things, directions as to –
- (a) the information to be contained in the accounts and the manner in which the accounts are to be presented;
  - (b) the methods and principles in accordance with which the accounts are to be prepared;
  - (c) additional information (if any) that is to accompany the accounts.

*Audit*

- 19 (1) The Commissioner must submit the accounts prepared for a financial year to the Auditor General for Wales no later than 31 August in the following financial year.
- (2) The Auditor General for Wales must –
- (a) examine, certify and report on each set of accounts submitted under this paragraph, and
  - (b) no later than four months after the accounts are submitted, lay before the National Assembly for Wales a copy of them as certified by him or her together with his or her report on them.
- (3) In examining accounts submitted under this paragraph, the Auditor General for Wales must, amongst other things, satisfy him or herself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

*Examinations into the use of resources*

- 20 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which resources have been used in discharging the Commissioner's functions.
- (2) Sub-paragraph (1) is not to be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Commissioner.
- (3) In determining how to exercise the functions under this paragraph, the Auditor General for Wales must take into account the views of the Public Accounts Committee of the National Assembly for Wales as to the examinations which he or she should carry out.
- (4) The Auditor General for Wales may lay before the National Assembly for Wales a report of the results of any examination carried out under this paragraph.

## PART 6

## GENERAL

*Interpretation*

- 21 In this Schedule—

"appointment regulations" ("*rheoliadau penodi*") means regulations made under paragraph 7;

"selection panel" ("*panel dethol*") has the meaning given in paragraph 7.

SCHEDULE 2  
(*introduced by section 7*)

INQUIRIES BY THE COMMISSIONER

*Introduction*

- 1 This Schedule applies to inquiries under section 7.

*Terms of reference*

- 2 Before conducting an inquiry, the Commissioner must prepare the terms of reference of the inquiry.
- 3 (1) This paragraph applies if the terms of reference relate to a particular person or category of person.
- (2) The terms of reference must specify that person or category of person.
- (3) Before settling the terms of reference, the Commissioner must—
- (a) give each relevant person notice of the proposed terms,
  - (b) give each relevant person an opportunity to make representations about the proposed terms, and
  - (c) consider any representations made.
- (4) After settling the terms of reference (having complied with sub-paragraph (3)), the Commissioner must—
- (a) publish the terms of reference of the inquiry in a manner that the Commissioner thinks is likely to bring the inquiry to the attention of persons whom it concerns or who are likely to be interested in it, and
  - (b) give notice of the terms of reference to—
    - (i) each relevant person, and
    - (ii) the Welsh Ministers.
- (5) In this paragraph “relevant person” means—
- (a) a person specified in the terms of reference of an inquiry, and
  - (b) in relation to a category of persons specified in the terms of reference of an inquiry, each person whom the Commissioner considers to fall within that category.
- 4 (1) This paragraph applies if the terms of reference do not relate to a particular person or category of person.
- (2) The Commissioner must—
- (a) publish the terms of reference of the inquiry in a manner that the Commissioner thinks is likely to bring the inquiry to the attention of persons whom it concerns or who are likely to be interested in it, and
  - (b) give notice of the terms of reference to the Welsh Ministers.

- 5 Paragraph 3 or 4 applies to any change in the terms of reference as the paragraph would apply if the change in the terms were the preparation of those terms.

*Representations*

- 6 (1) The Commissioner must make arrangements for giving persons an opportunity to make representations in relation to inquiries.
- (2) The arrangements must give the following persons an opportunity to make representations in the course of an inquiry –
- (a) each person who –
    - (i) is specified in the terms of reference, or
    - (ii) falls within a category of person specified in the terms of reference, and
  - (b) the Welsh Ministers.
- (3) Arrangements under this paragraph may, amongst other things, include arrangements for oral representations.
- 7 (1) The Commissioner must consider representations made in relation to an inquiry by –
- (a) a person who –
    - (i) is specified in the terms of reference, or
    - (ii) falls within a category of person specified in the terms of reference, or
  - (b) a legal adviser who is acting on behalf of a person falling within paragraph (a)(i) or (ii), or
  - (c) the Welsh Ministers.
- (2) The Commissioner must consider representations made in relation to an inquiry by any other person, unless the Commissioner thinks it is appropriate to refuse to do so.
- (3) If the Commissioner refuses to consider representations made in relation to an inquiry, he or she must give the person who made the representations written notice of –
- (a) the decision to refuse to consider the representations, and
  - (b) the reasons for the decision.
- (4) In this paragraph “legal adviser” means –
- (a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person, or a European lawyer who is an exempt person by virtue of paragraph 7 of Schedule 3 to that Act, in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), and
  - (b) an advocate or solicitor in Scotland.

*Reports on inquiries*

- 8 (1) The Commissioner must prepare a report of his or her findings on any inquiry.

- 
- (2) The report must not—
    - (a) identify a failure to comply with a relevant requirement (within the meaning of Part 5) by a person who is, or may be, identified by virtue of the report, or
    - (b) otherwise refer to the activities of a person who is, or may be, identified by virtue of the report, unless the Commissioner thinks that the reference—
      - (i) will not cause the person harm, or
      - (ii) is necessary for the report to adequately reflect the results of the inquiry (having regard to its terms of reference).
  - (3) The Commissioner must send a draft of the report to the Welsh Ministers.
  - (4) If the terms of reference specify a particular person or category of person, the Commissioner must also send a draft of the report to each relevant person.
  - (5) The Commissioner must—
    - (a) give the Welsh Ministers, and any other person to whom a draft of a report is sent, an opportunity to make representations about the draft report, and
    - (b) consider any representations made.
  - (6) After settling the report (having complied with sub-paragraph (5)), the Commissioner must publish it.
  - (7) This paragraph does not affect the application of the Data Protection Act 1998 to the Commissioner.
  - (8) In this paragraph “relevant person” has the same meaning as in paragraph 3.

SCHEDULE 3  
(*introduced by section 21*)

AMENDMENTS ABOUT JOINT AND COLLABORATIVE WORKING

*Care Standards Act 2000*

- 1 Amend the Care Standards Act 2000 as follows.
- 2 In section 75ZA (Children's Commissioner for Wales: working with the Commissioner for Older People in Wales) –
  - (a) in the title, for “the Commissioner for Older People in Wales” substitute “other Commissioners”;
  - (b) in subsection (1), after “Wales” insert “or the Welsh Language Commissioner”;
  - (c) in subsection (2), after “Wales” insert “, or may inform the Welsh Language Commissioner,”;
  - (d) in subsection (3) –
    - (i) after “must” insert “(as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)”;
    - (ii) in paragraphs (a) and (b), after “Wales” insert “or the Welsh Language Commissioner”;
  - (e) in subsection (4), after “Wales” insert “or the Welsh Language Commissioner”;
  - (f) in subsection (5) –
    - (i) after “must” insert “(as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)”;
    - (ii) for “the Commissioner for Older People in Wales” substitute “that Commissioner”.
- 3 In section 76 (further functions) in subsection (5), after paragraph (b) insert –
  - “(c) provide that the Commissioner may make a joint report with the Welsh Language Commissioner where they have exercised their respective functions under this Act and the Welsh Language (Wales) Measure 2011 in relation to the same matters.”

*Public Services Ombudsman (Wales) Act 2005*

- 4 Amend the Public Services Ombudsman (Wales) Act 2005 as follows.
- 5 In section 25A (working jointly with Commissioner for Older People in Wales) –
  - (a) in the title, for “the Commissioner for Older People in Wales” substitute “other Commissioners”;

- (b) in subsection (1)(b), after “Wales” insert “or the Welsh Language Commissioner”;
  - (c) in subsection (2), after “must” insert “(as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)”.
- 6 In section 25B (working collaboratively with the Commissioner for Older People in Wales) –
- (a) in the title, for “the Commissioner for Older People in Wales” substitute “other Commissioners”;
  - (b) in subsection (1), for “the Commissioner” substitute “the Commissioner for Older People in Wales or the Welsh Language Commissioner”;
  - (c) in subsection (2), after “must” insert “(as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)”;
  - (d) in subsection (3), after “must” insert “(as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)”;
  - (e) in subsection (5), after “must” insert “(as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)”;
  - (f) omit subsection (6).

*Commissioner for Older People (Wales) Act 2006*

- 7 Amend the Commissioner for Older People (Wales) Act 2006 as follows.
- 8 In section 15 (reports following discharge of particular functions), in subsection (3), after paragraph (d) insert –
- “(e) provide that the Commissioner may make a joint report with the Welsh Language Commissioner where they have discharged their respective functions under this Act and the Welsh Language (Wales) Measure 2011 in relation to the same matters.”.
- 9 In section 17 (working collaboratively with other ombudsmen) –
- (a) in subsection (2), for “must” substitute “may (as respects the Welsh Language Commissioner) or must (as respects another Ombudsman)”;
  - (b) in subsection (3), for “must” substitute “may (as respects the Welsh Language Commissioner) or must (as respects another Ombudsman)”;
  - (c) in subsection (5), for “must” substitute “may (as respects the Welsh Language Commissioner) or must (as respects another Ombudsman)”;
  - (d) in subsection (6), after paragraph (b) insert –
    - “(c) the Welsh Language Commissioner.”

SCHEDULE 4  
(*introduced by section 23*)

MEMBERS OF THE ADVISORY PANEL

PART 1

APPOINTMENT

*Appointment*

- 1 (1) In appointing a member of the Advisory Panel, the Welsh Ministers must comply with appointment regulations (see paragraph 5).
- (2) The Welsh Ministers may not appoint a person to be a member of the Advisory Panel if the person is disqualified from being a member of the Advisory Panel on grounds of employment.

*Remuneration, allowances and pensions*

- 2 (1) The Welsh Ministers may pay remuneration to the members of the Advisory Panel.
- (2) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the members of the Advisory Panel.
- (3) The Welsh Ministers may pay –
  - (a) pensions to, or in respect of, persons who have been members of the Advisory Panel, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the Advisory Panel.

*Terms of appointment*

- 3 (1) A member of the Advisory Panel holds office subject to the terms of his or her appointment.
- (2) But that is subject to the other provisions of this Schedule.

*Duration of appointment*

- 4 (1) A person appointed as a member of the Advisory Panel holds office (by virtue of that appointment) for 3 years.
- (2) But that is subject to Part 2 of this Schedule.

*Appointment regulations*

- 5 (1) The Welsh Ministers must, by regulations, make provision about the appointment of members of the Advisory Panel ("appointment regulations").
- (2) The provision that may be made in appointment regulations includes, but is not limited to, provision of the kind referred to in sub-paragraphs (3) to (6).
- (3) Appointment regulations may make provision about principles to be followed in appointing members of the Advisory Panel.
- (4) Appointment regulations may make provision about –



- (a) the knowledge of, and proficiency in, the Welsh language, and
- (b) the knowledge and experience of—
  - (i) the matters in respect of which the Commissioner has functions, and
  - (ii) any other matters relevant to anything that falls to be done by the Commissioner,

which a member of the Advisory Panel must have.

- (5) Appointment regulations may—
  - (a) apply (with or without modifications) any code of practice that is concerned with appointments to public bodies, or
  - (b) make any other provision relating to any such code.
- (6) Appointment regulations may confer functions on the Welsh Ministers (as well as on any other person), including functions involving the exercise of a discretion.

## PART 2

### END OF APPOINTMENT

#### *Resignation*

- 6 A member of the Advisory Panel may resign from office if he or she gives the Welsh Ministers not less than 2 months' notice in writing of his or her intention to do so.

#### *Disqualification from membership*

- 7 A person ceases to be a member of the Advisory Panel if the person is disqualified from being a member of the Advisory Panel on grounds of employment.

#### *Dismissal*

- 8 (1) The Welsh Ministers may dismiss a member of the Advisory Panel if the Welsh Ministers are satisfied that the person—
  - (a) is unfit to continue as a member of the Advisory Panel, or
  - (b) is unable or unwilling to act as a member of the Advisory Panel.
- (2) The Welsh Ministers must consult the Commissioner before dismissing a member of the Advisory Panel.

#### *Payments on ceasing to hold office*

- 9 The Welsh Ministers may make a payment to a person who ceases to be a member of the Advisory Panel if it appears to the Welsh Ministers that there are special circumstances which make it right that the person should receive the payment in compensation.

### PART 3

#### DISQUALIFICATION

##### *Disqualification on grounds of employment*

- 10 A person is disqualified from being a member of the Advisory Panel on grounds of employment if the person is –
- (a) a Member of Parliament;
  - (b) a Member of the National Assembly for Wales;
  - (c) a member of the Welsh Language Tribunal;
  - (d) a member of the Commissioner's staff.

### PART 4

#### GENERAL

##### *Interpretation*

- 11 In this Schedule “appointment regulations” means regulations made under paragraph 5.

SCHEDULE 5  
(introduced by section 33)

CATEGORIES OF PERSON THAT MAY BE ADDED TO SCHEDULE 6

Column 1 Entry	Column 2 Person/Category
(1)	Public authorities.
(2)	Persons providing services to the public established by an enactment.
(3)	Persons established by prerogative instrument – <ul style="list-style-type: none"> <li>(a) to advance learning and knowledge by teaching or research or by developing or awarding qualifications,</li> <li>(b) to collect, preserve or provide access to recorded knowledge or to objects and things which further understanding,</li> <li>(c) to support, improve, promote or provide access to heritage, culture, sport or recreational activities,</li> <li>(d) engaged in promoting a wider knowledge and representing the interests of Wales to other countries, or</li> <li>(e) engaged in central banking.</li> </ul>
(4)	Persons upon whom functions of providing services to the public are conferred or imposed by an enactment.
(5)	Persons providing services to the public who receive public money amounting to £400,000 or more in a financial year, where – <ul style="list-style-type: none"> <li>(a) that person also received public money in a previous financial year, or</li> <li>(b) a decision has been made that that person will receive public money in a subsequent financial year.</li> </ul>
(6)	Persons overseeing the regulation of a profession, industry or other similar sphere of activity.
(7)	Providers of social housing.
(8)	Persons who consent to being specified in Schedule 6.

*Entry (5): amendment by order*

- 1 (1) The Welsh Ministers may, by order, amend entry (5) in the table by replacing the relevant amount with any other amount that is not less than £400,000.
- (2) In sub-paragraph (1), “relevant amount” means the amount of public money that is for the time being specified in entry (5) in the table.

*Entry (8): interpretation etc*

- 2 For the purposes of entry (8) in the table –
  - (a) “consent”, in relation to a person, means consent in writing given to the Welsh Ministers by the person;
  - (b) consent may be withdrawn, but only with the agreement of the Welsh Ministers.

*Interpretation*

- 3 In this Schedule –
  - “public authority” (*“awdurdod cyhoeddus”*) means each public authority within the meaning of section 6 of the Human Rights Act 1998;
  - “public money” (*“arian cyhoeddus”*) means –
    - (a) moneys made available directly or indirectly by –
      - (i) the National Assembly for Wales;
      - (ii) the Welsh Ministers;
      - (iii) Parliament;
      - (iv) Ministers of the Crown; or
      - (v) an institution of the European Union;
    - (b) moneys provided by virtue of any enactment.

SCHEDULE 6  
(introduced by section 33)

PUBLIC BODIES ETC: STANDARDS

Column 1 Person/Category	Column 2 Potentially applicable standards
<b>GOVERNMENT</b>	
The Welsh Ministers ( <i>"Gweinidogion Cymru"</i> )	Service delivery standards Policy making standards Operational standards Promotion standards Record keeping standards
Ministers of the Crown ( <i>"Gweinidogion y Goron"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Government departments ( <i>"Adranau'r Llywodraeth"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Persons exercising, on behalf of the Crown, functions conferred by or under an Act or Measure ( <i>"Personau sy'n arfer, ar ran y Goron, swyddogaethau a roddir gan neu o dan Ddeddf neu Fesur"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
<b>LOCAL GOVERNMENT ETC</b>	
County borough councils and county councils in Wales ( <i>"Cynghorau sir a chynghorau burdeistref sirol yng Nghymru"</i> )	Service delivery standards Policy making standards Operational standards Promotion standards Record keeping standards
Community councils ( <i>"Cynghorau cymuned"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

Local authority joint committees ( <i>"Cyd-bwyllgorau awdurdodau lleol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Local authority joint boards ( <i>"Cyd-fyrddau awdurdodau lleol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Local Health Boards ( <i>"Byrddau Iechyd Lleol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Community Health Councils ( <i>"Cynghorau Iechyd Cymuned"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
National Health Service Trusts ( <i>"Ymddiriedolaethau Gwasanaeth Iechyd Gwladol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Special Health Authorities ( <i>"Awdurdodau Iechyd Arbennig"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
National Park Authorities ( <i>"Awdurdodau Parciau Cenedlaethol"</i> )	Service delivery standards Policy making standards Operational standards Promotion standards Record keeping standards
Police Authorities ( <i>"Awdurdodau'r Heddlu"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

Probation Trusts ( <i>"Ymddiriedolaethau Prawf"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Fire and Rescue Authorities ( <i>"Awdurdodau Tân ac Achub"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Providers of Social Housing ( <i>"Darparwyr Tai Cymdeithasol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
<b>GENERAL</b>	
Aberystwyth University ( <i>"Prifysgol Aberystwyth"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Agricultural Land Tribunal (Wales) ( <i>"Tribiwnlys Tir Amaethyddol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Agriculture and Horticulture Development Board ( <i>"Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Alcohol Education and Research Fund ( <i>"Cronfa Addysgu ac Ymchwilio Alcohol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The Arts Council of Wales ( <i>"Cyngor Celfyddydau Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Arts and Humanities Research Council ( <i>"Y Cyngor Ymchwil i'r Celfyddydau a'r Dyniaethau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Auditor General for Wales ( <i>"Archwilydd Cyffredinol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Bangor University ( <i>"Prifysgol Bangor"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Bank of England ( <i>"Banc Lloegr"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Big Lottery Fund ( <i>"Y Gronfa Loteri Fawr"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Biotechnology and Biological Sciences Research Council ( <i>"Cyngor Ymchwil Biotechnoleg a Gwyddorau Biolegol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The British Broadcasting Corporation ( <i>"Y Gorfforaeth Ddarlledu Brydeinig"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards



The British Council ( <i>"Y Cyngor Prydeinig"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The British Waterways Board ( <i>"Bwrdd Dyfrffyrdd Prydain"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The British Wool Marketing Board ( <i>"Bwrdd Marchnata Gwlân Prydain"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Carbon Trust ( <i>"Yr Ymddiriedolaeth Garbon"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Cardiff University ( <i>"Prifysgol Caerdydd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Care Council for Wales ( <i>"Cyngor Gofal Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Charities Commission for England and Wales ( <i>"Comisiwn Elusennau Cymru a Lloegr"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Child Maintenance and Enforcement Commission ( <i>"Comisiwn Trefnu a Gorfodi Cynhaliaeth Plant"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The Children's Commissioner for Wales ("Comisiynydd Plant Cymru")	Service delivery standards Policy making standards Operational standards Record keeping standards
Colleges Wales Limited ("Colegau Cymru Cyfyngedig")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Commission for Equality and Human Rights ("Comisiwn Cydraddoldeb a Hawliau Dynol")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Commissioner for Older People in Wales ("Comisiynydd Pobl Hŷn Cymru")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Community Development Foundation ("Sefydliad Datblygu Cymunedol")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Competition Commission ("Y Comisiwn Cystadlu")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Consumer Council for Water ("Y Cyngor Defnyddwyr Dŵr")	Service delivery standards Policy making standards Operational standards Record keeping standards
Consumer Focus ("Llais Defnyddwyr")	Service delivery standards Policy making standards Operational standards Record keeping standards

The Council for Healthcare Regulatory Excellence ( <i>"Cyngor Rhagoriaeth Rheoleiddio Gofal Iechyd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Countryside Council for Wales ( <i>"Cyngor Cefn Gwlad Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Criminal Injuries Compensation Authority ( <i>"Yr Awdurdod Digolledu am Anafiadau Troseddol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Disabled Persons Transport Advisory Committee ( <i>"Pwyllgor Ymgynghorol Trafnidiaeth i'r Anabl"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Economic and Social Research Council ( <i>"Y Cyngor Ymchwil Economaidd a Chymdeithasol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Electoral Commission ( <i>"Y Comisiwn Etholiadol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Energy Saving Trust Limited ( <i>"Yr Ymddiriedolaeth Arbed Ynni Cyfyngedig"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Engineering and Physical Sciences Research Council ( <i>"Cyngor Ymchwil Peirianeg a Gwyddorau Ffisegol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The Engineering Construction Industry Training Board ( <i>"Bwrdd Hyfforddi'r Diwydiant Adeiladu Peiriannol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Environment Agency ( <i>"Asiantaeth yr Amgylchedd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Finance Wales plc ( <i>"Cyllid Cymru ccc"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Financial Services Authority ( <i>"Awdurdod Gwasanaethau Ariannol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Further education corporations ( <i>"Corfforaethau addysg bellach"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Gambling Commission ( <i>"Y Comisiwn Hapchwarae"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The General Chiropractic Council ( <i>"Y Cyngor Ceiropractig Cyffredinol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The General Dental Council ( <i>"Y Cyngor Deintyddol Cyffredinol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The General Medical Council ( <i>"Y Cyngor Meddygol Cyffredinol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The General Optical Council ( <i>"Y Cyngor Optegol Cyffredinol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The General Osteopathic Council ( <i>"Y Cyngor Osteopathig Cyffredinol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The General Teaching Council for Wales ( <i>"Cyngor Addysgu Cyffredinol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Glyndŵr University ( <i>"Prifysgol Glyndŵr"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The governing bodies of schools ( <i>"Cyrff llywodraethu ysgolion"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Health, Education and Social Care Chamber ( <i>"Y Siambr Iechyd, Addysg a Gofal Cymdeithasol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Health Professions Council ( <i>"Y Cyngor Proffesiynau Iechyd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

Higher education corporations ( <i>"Corfforaethau addysg uwch"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Higher Education Funding Council for Wales ( <i>"Cyngor Cyllido Addysg Uwch Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Hybu Cig Cymru - Meat Promotion Wales	Service delivery standards Policy making standards Operational standards Record keeping standards
The Independent Living Funds ( <i>"Y Cronfeydd Byw'n Annibynnol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Independent Police Complaints Commission ( <i>"Comisiwn Cwynion Annibynnol yr Heddlu"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Information Commissioner's Office ( <i>"Swyddfa'r Comisiynydd Gwybodaeth"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Investors in People UK ( <i>"Buddsoddwyr mewn Pobl y DU"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Legal Services Commission ( <i>"Comisiwn Gwasanaethau Cyfreithiol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The Local Government Boundary Commission for Wales ( <i>"Comisiwn Ffiniau Llywodraeth Leol i Gymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Local Government Data Unit-Wales ( <i>"Uned Ddata Llywodraeth Leol - Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Medical Research Council ( <i>"Y Cyngor Ymchwil Meddygol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Mental Health Review Tribunal for Wales ( <i>"Tribiwnlys Adolygiad Iechyd Meddwl Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Motability	Service delivery standards Policy making standards Operational standards Record keeping standards
National Botanic Garden of Wales ( <i>"Gardd Fotaneg Genedlaethol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
National Clinical Assessment Service ( <i>"Yr Awdurdod Asesu Clinigol Cenedlaethol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
National Endowment for Science, Technology and the Arts ( <i>"Y Gwaddol Cenedlaethol ar gyfer Gwyddoniaeth, Technoleg a'r Celfyddydau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

National Heritage Memorial Fund ( <i>"Cronfa Goffa'r Dreftadaeth Genedlaethol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
National Institute for Health and Clinical Excellence ( <i>"Sefydliad Cenedlaethol dros Iechyd a Rhagoriaeth Glinigol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The National Library of Wales ( <i>"Llyfrgell Genedlaethol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The National Lottery Commission ( <i>"Comisiwn y Loteri Genedlaethol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The National Museum of Wales ( <i>"Amgueddfa Genedlaethol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The National Policing Improvement Agency ( <i>"Yr Asiantaeth Genedlaethol er Gwella Plismona"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The National Theatre of Wales	Service delivery standards Policy making standards Operational standards Record keeping standards
The Natural Environment Research Council ( <i>"Cyngor Ymchwil yr Amgylchedd Naturiol"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards



NIACE	Service delivery standards Policy making standards Operational standards Record keeping standards
The Nursing and Midwifery Council ( <i>"Y Cyngor Nyrsio a Bydwreigiaeth"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Office of Communications ( <i>"Y Swyddfa Gyfathrebiadau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Office of Rail Regulation ( <i>"Swyddfa Rheoleiddio'r Rheilffyrdd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Olympic Delivery Authority ( <i>"Awdurdod Gweithredu'r Gemau Olympaidd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Open University ( <i>"Y Brifysgol Agored"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Passenger Focus ( <i>"Ffocws ar Deithwyr"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Pensions Advisory Service ( <i>"Gwasanaeth Cyngori ar Bensiynau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The Pensions Ombudsman ( <i>"Yr Ombwdsmon Pensiynau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Pensions Regulator ( <i>"Y Rheoleiddiwr Pensiynau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Providers of career services ( <i>"Darparwyr gwasanaethau gyrfaedd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Quality Assurance Agency for Higher Education ( <i>"Asiantaeth Sicrwydd Ansawdd Addysg Uwch"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Rent Assessment Panel for Wales ( <i>"Panel Asesu Rhenti i Gymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Residential Property Tribunal Wales ( <i>"Tribiwnlys Eiddo Preswyl Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Royal Commission on the Ancient and Historical Monuments of Wales ( <i>"Comisiwn Brenhinol Henebion Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Royal Mail Group plc ( <i>"Grŵp y Post Brenhinol ccc"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

The Royal Pharmaceutical Society of Great Britain ("Cymdeithas Fferyllol Frenhinol Prydain Fawr")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Royal Welsh College of Music and Drama Limited ("Coleg Brenhinol Cerdd a Drama Cymru Cyfyngedig")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Sector Skills Councils ("Y Cyngorau Sgiliau Sector")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Security Industry Authority ("Awdurdod y Diwydiant Diogelwch")	Service delivery standards Policy making standards Operational standards Record keeping standards
Sianel 4 Cymru	Service delivery standards Policy making standards Operational standards Record keeping standards
The Science and Technology Facilities Council ("Cyngor Cyfleusterau Gwyddoniaeth a Thechnoleg")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Social Fund Commissioner ("Comisiynydd y Gronfa Gymdeithasol")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Special Educational Needs Tribunal for Wales ("Tribiwnlys Anghenion Addysgol Arbennig Cymru")	Service delivery standards Policy making standards Operational standards Record keeping standards

The Sports Council for Wales (" <i>Cyngor Chwaraeon Cymru</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards
Student Loans Company Limited (" <i>Cwmni Benthyciadau Myfyrwyr Cyfyngedig</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards
The Sustainable Development Commission (" <i>Y Comisiwn Datblygu Cynaliadwy</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards
Swansea University (" <i>Prifysgol Abertawe</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards
Theatr Genedlaethol Cymru	Service delivery standards Policy making standards Operational standards Record keeping standards
UFI Ltd (" <i>UFI Cyf</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards
The UK Commission For Employment and Skills (" <i>Comisiwn y DU dros Gyflogaeth a Sgiliau</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards
UK Film Council (" <i>Cyngor Ffilm y DU</i> ")	Service delivery standards Policy making standards Operational standards Record keeping standards

The UK Sports Council ( <i>"Cyngor Chwaraeon y DU"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Universities and Colleges Admission Service ( <i>"Gwasanaeth Derbyn y Prifysgolion a'r Colegau"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
University of Glamorgan ( <i>"Prifysgol Morgannwg"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The University of Wales ( <i>"Prifysgol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The University of Wales Institute, Cardiff ( <i>"Athrofa Prifysgol Cymru, Caerdydd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The University of Wales, Newport ( <i>"Prifysgol Cymru, Casnewydd"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
University of Wales: Trinity St David ( <i>"Prifysgol Cymru: Y Drindod Dewi Sant"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Valuation Tribunal Service for Wales ( <i>"Gwasanaeth Tribiwnlys Prisio Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

Wales Council for Voluntary Action ( <i>"Cyngor Gweithredu Gwirfoddol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Wales Millennium Centre ( <i>"Canolfan Mileniwm Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Welsh Books Council ( <i>"Cyngor Llyfrau Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Welsh Local Government Association ( <i>"Cymdeithas Llywodraeth Leol Cymru"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
Welsh National Opera Limited ( <i>"Opera Cenedlaethol Cymru Cyfyngedig"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards
The Youth Justice Board for England and Wales ( <i>"Bwrdd Cyfiawnder Ieuenctid Cymru a Lloegr"</i> )	Service delivery standards Policy making standards Operational standards Record keeping standards

*Interpretation etc*

- 1 The table has effect subject to the following provisions—
  - (a) the entry relating to government departments does not include anything that is within the entry relating to Ministers of the Crown;
  - (b) the entry relating to persons exercising functions on behalf of the Crown does not include any person that is within any other entry.
- 2 In this Schedule—
 

“Act” (*“Deddf”*) means an Act of Parliament or an Act of the National Assembly of Wales;

“Agricultural Land Tribunal (Wales)” (*“Tribiwnlys Tir Amaethyddol Cymru”*) means the agricultural land tribunal established for Wales by the Agricultural Land Tribunals (Areas) Order 1982;

“Community Health Council” (*“Cyngor Iechyd Cymuned”*) means a community health council established under section 182 of the National Health Service (Wales) Act 2006;

“Consumer Focus” (*“Llais Defnyddwyr”*) means the National Consumer Council established under section 1 of the Consumers, Estate Agents and Redress Act 2007;

“Fire and Rescue Authority” (*“Awdurdod Tân ac Achub”*) means a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies;

“further education corporation” (*“corfforaeth addysg bellach”*) means a further education corporation established under section 15 or 16 of the Further and Higher Education Act 1992;

“governing body of a school” (*“corff llywodraethu ysgolion”*) means a governing body of a community, foundation or voluntary school or a community or foundation special school within the meaning of the School Standards and Framework Act 1998, as substituted by section 140(1) and paragraph 50 of Schedule 30 of the School Standards and Framework Act 1998;

“higher education corporation” (*“corfforaeth addysg uwch”*) means a higher education corporation established under section 121 or 122 of the Education Reform Act 1988;

“local authority joint board” (*“cyd-fwrdd awdurdod lleol”*) means a joint board of which the members are two or more of following—

  - (a) county councils,
  - (b) county borough councils, or
  - (c) community councils;

“local authority joint committee” (*“cyd-bwyllgor awdurdod lleol”*) means a joint committee of two or more of following—

  - (a) county councils,
  - (b) county borough councils, or
  - (c) community councils;

“Local Health Board” (*“Bwrdd Iechyd Lleol”*) means a local health board established under section 11 of the National Health Service (Wales) Act 2006;

“Minister of the Crown” (*“Gweinidog y Goron”*) includes the Treasury;

“National Health Service Trust” (*“Ymddiriedolaeth y Gwasanaeth Iechyd Gwladol”*) means a National Health Service trust constituted under the National Health Service Act 2006 or the National Health Service (Wales) Act 2006;

“Passenger Focus” (*“Ffocws ar Deithwyr”*) means the Rail Passengers' Council established under the Railways Act 2005;

“provider of career services” (*“darparwr gwasanaethau gyrfaedd”*) means a person with whom the Secretary of State for Wales has made arrangements (not being arrangements which have been terminated) under section 10 of the Employment and Training Act 1973 (provision of career services);

“Special Health Authority” (*“Awdurdod Iechyd Arbennig”*) means a special health authority established under section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006.



SCHEDULE 7  
(introduced by section 33)

CATEGORIES OF PERSON THAT MAY BE ADDED TO SCHEDULE 8

Column 1 Entry	Column 2 Description of person	Column 3 Available service(s)
(1)	Qualifying persons who provide the public with gas, water or electricity services (including supply or distribution).	(a) Gas, water or electricity services (including supply or distribution). (b) Other services which relate to services within paragraph (a).
(2)	Qualifying persons who provide the public with sewerage services (including disposal of sewage).	(a) Sewerage services (including disposal of sewage). (b) Other services which relate to services within paragraph (a).
(3)	Qualifying persons who provide the public with postal services or post offices.	(a) Postal services or post office services. (b) Other services which relate to services within paragraph (a).
(4)	Qualifying persons who provide the public with telecommunication services.	(a) Telecommunication services. (b) Other services which relate to services within paragraph (a).
(5)	Qualifying persons who provide the public with education, training (where the provider receives public money for its provision), or career guidance.	(a) Education, training (where the provider receives public money for its provision), or career guidance. (b) Other services which relate to services within paragraph (a).

(6)	Qualifying persons who provide the public with services to encourage, enable or assist participation in education, training or career guidance.	(a) Services to encourage, enable or assist participation in education, training or career guidance. (b) Other services which relate to services within paragraph (a).
(7)	Qualifying persons who provide the public with bus or railway services.	(a) Bus or railway services. (b) Other services which relate to services within paragraph (a).
(8)	Qualifying persons who provide the public with services to develop or award educational or vocational qualifications.	(a) Services to develop or award educational or vocational qualifications. (b) Other services which relate to services within paragraph (a).
(9)	Qualifying persons who provide the public with services which relate to any primary service.	Services which relate to any primary service.
(10)	Qualifying persons who provide services to the public under an agreement, or in accordance with arrangements, made with a public authority.	Services to the public provided under the agreement, or in accordance with the arrangements, made with the public authority.

*Services provided in shops: exclusions*

- 1 (1) The references in the table to “related services” do not include services provided in shops, unless those services are –
  - (a) post office counter services, or
  - (b) the sale of tickets or the provision of timetables for bus and railway services.
- (2) For that purpose, the references in the table to related services are –
  - (a) in column (3) of each of rows (1) to (8) of the table, the references in each paragraph (b) to other services, and
  - (b) in columns (2) and (3) of row (9) of the table, the references to services which relate to any primary service.

*Interpretation*

- 2 In this Schedule –

“bus services” (“*gwasanaethau bysiau*”) means a scheduled service, by public service vehicle (within the meaning of section 1 of the Public Passenger Vehicles Act 1981), for the carriage of passengers at separate fares, other than a service –

- (a) for which the whole capacity of the vehicle has been purchased by a charterer for the charterer's own use or for resale;
- (b) which is a journey or trip organised privately by any person acting independently of the vehicle operator; or
- (c) on which the passengers travel together on a journey, with or without breaks and whether or not on the same day, from one or more places to one or more places and back;

"postal services" ("*gwasanaethau post*") means the service of conveying letters, parcels, packets or other articles from one place to another by post and the incidental services of receiving, collecting, sorting and delivering such articles;

"primary service" ("*gwasanaeth sylfaenol*") means a service within paragraph (a) in column (3) of any of rows (1) to (8) in the table;

"public authority" ("*awdurdod cyhoeddus*") means each public authority within the meaning of section 6 of the Human Rights Act 1998;

"public money" ("*arian cyhoeddus*") means –

- (a) moneys made available directly or indirectly by –
  - (i) the National Assembly for Wales;
  - (ii) the Welsh Ministers;
  - (iii) Parliament;
  - (iv) Ministers of the Crown; or
  - (v) an institution of the European Union;
- (b) moneys provided by virtue of any enactment;

"qualifying person" ("*person neilltuedig*") means a person who is not within Schedule 6;

"shop" ("*siop*") means any premises where the sale of goods is the principal trade or business carried on;

"telecommunications service" ("*gwasanaethau telathrebu*") means any service that consists of providing access to, or facilities for making use of, any system which exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical, magnetic or electro-magnetic energy (including the apparatus comprised in the system), but does not include broadcasting, radio, or television.

SCHEDULE 8  
(introduced by section 33)

OTHER BODIES: STANDARDS

Column 1 Person/Category	Column 2 Specified service(s)
Qualifying persons who are licensed gas suppliers.	Supply of gas to the public under the relevant gas licence.
Qualifying persons who, by virtue of an appointment under section 6 of the Water Industry Act 1991, or by virtue of a variation of such an appointment under section 7 of that Act, are water undertakers for the whole or any part of Wales.	Services provided to the public in the exercise of the functions of water undertaker for the whole or any part of Wales.
Qualifying persons who, by virtue of an appointment under section 6 of the Water Industry Act 1991, or by virtue of a variation of such an appointment under section 7 of that Act, are sewerage undertakers for the whole or any part of Wales.	Services provided to the public in the exercise of the functions of sewerage undertaker for the whole or any part of Wales.
Qualifying persons who are licensed electricity suppliers.	Supply of electricity to the public under the relevant electricity licence.
Qualifying persons who provide the public with post offices.	Providing the public with post offices.
Qualifying persons, other than not for profit organisations, who provide the public with postal services.	Providing the public with postal services.
Qualifying persons who provide the public with telecommunications services.	Providing the public with telecommunications services.
Qualifying persons who provide the public with bus services.	Providing the public with bus services.

Qualifying persons who provide the public with passenger railway services.	Providing the public with passenger railway services.
Qualifying persons who provide the public with education, training (where the provider receives public money for its provision), or career guidance.	Providing the public with education, training (where the provider receives public money for its provision), or career guidance.
Qualifying persons who provide the public with services to encourage, enable or assist participation in education, training or career guidance.	Providing the public with services to encourage, enable or assist participation in education, training or career guidance.
Qualifying persons who provide the public with services to develop or award educational or vocational qualifications.	Providing the public with services to develop or award educational or vocational qualifications.
Qualifying persons who provide the public with services (the "related services") which relate to a service that is within column (2) of any of the preceding entries in this table (the "primary service"), whether or not they are the persons providing the primary service.	Providing the public with the related services.
<p>Qualifying persons who provide services to the public under an agreement, or in accordance with arrangements, made with—</p> <ul style="list-style-type: none"> <li>(a) the Welsh Ministers,</li> <li>(b) a Minister of the Crown,</li> <li>(c) a government department,</li> <li>(d) a person exercising on behalf of the Crown functions conferred by or under an Act or Measure, or</li> <li>(e) a county borough or county council in Wales.</li> </ul>	Providing services to the public under that agreement, or in accordance with those arrangements.

*Interpretation*

- 1 (1) Expressions used in this Schedule and in Schedule 7 (apart from “related service” and “primary service”) have the same meanings in this Schedule as in Schedule 7.
- (2) But that is subject to the following provisions of this Schedule.
- 2 References to the provision of a service to the public include (but are not limited to) —
- (a) provision of the service to the public in general or to particular members of the public, and
  - (b) provision of the service for any purpose (whether it is a domestic, business or other purpose).

*Gas*

- 3 In this Schedule —
- “licensed gas supplier” (“*cyflenwr nwy trwyddedig*”) means the holder of a relevant gas licence;
- “relevant gas licence” (“*trwydded nwy berthnasol*”) means a licence under section 7A of the Gas Act 1986.

*Electricity*

- 4 In this Schedule —
- “licensed electricity supplier” (“*cyflenwr trydan trwyddedig*”) means the holder of a relevant electricity licence;
- “relevant electricity licence” (“*trwydded drydan berthnasol*”) means a licence under section 6(1)(d) of the Electricity Act 1989.

*Postal services*

- 5 In this Schedule “not for profit organisation” means a person or other body that —
- (a) is not constituted for the purpose of making a profit, or
  - (b) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes.

*Railways*

- 6 In this Schedule “passenger railway services” includes (but is not limited to) passenger services provided on a narrow gauge or heritage railway.

*Related services*

- 7 In this Schedule the references to “related services” do not include services provided in shops, unless those services are —
- (a) post office counter services, or
  - (b) the sale of tickets or the provision of timetables for bus and railway services.

SCHEDULE 9  
(*introduced by section 42*)

ACTIVITIES IN RELATION TO WHICH SERVICE DELIVERY STANDARDS MUST BE  
SPECIFIED

These are the activities referred to in section 42(2) –

- correspondence;
- telephone calls;
- help-lines and call-centres;
- personal meetings;
- public meetings;
- publicity and advertising;
- public exhibitions;
- publications;
- forms;
- websites and online services;
- signage;
- reception of visitors;
- official notices;
- awarding grants;
- awarding contracts;
- raising awareness of Welsh language services that are available.

SCHEDULE 10  
(*introduced by section 71*)

COMMISSIONER'S INVESTIGATION OF FAILURE TO COMPLY WITH STANDARDS  
ETC

PART 1

GENERAL

*Introduction*

- 1 This Schedule applies to investigations under section 71.

*Terms of reference*

- 2 (1) Before conducting an investigation, the Commissioner must prepare the terms of reference of the investigation.
- (2) The terms of reference must specify –
- (a) the person who is being investigated (“D”),
  - (b) the suspected failure to comply with a relevant requirement.
- (3) Before settling the terms of reference, the Commissioner must –
- (a) give notice of the proposed terms to –
    - (i) D, and
    - (ii) any other interested person,
  - (b) give each person who is given notice of the proposed terms an opportunity to make representations about the proposed terms, and
  - (c) consider any representations made.
- (4) After settling the terms of reference (having complied with sub-paragraph (3)), the Commissioner must –
- (a) publish the terms of reference of the investigation in a manner that the Commissioner thinks is likely to bring the investigation to the attention of persons whom it concerns or who are likely to be interested in it, and
  - (b) give notice of the terms of reference to –
    - (i) D, and
    - (ii) any other interested person.
- (5) This paragraph applies to any change in the terms of reference as the paragraph would apply if the change in the terms were the preparation of those terms.

*Representations*

- 3 (1) The Commissioner must make arrangements for giving persons an opportunity to make representations in relation to investigations.
- (2) The arrangements must give the following persons an opportunity to make representations in the course of an investigation –



- (a) D, and
    - (b) any other interested person.
  - (3) Arrangements under this paragraph may, amongst other things, include arrangements for oral representations.
- 4 (1) The Commissioner must consider representations made in relation to an investigation by—
- (a) D, or
  - (b) a legal adviser who is acting on behalf of D.
- (2) The Commissioner must consider representations made in relation to an investigation by any other person, unless the Commissioner thinks it is appropriate to refuse to do so.
- (3) If the Commissioner refuses to consider representations made in relation to an investigation, he or she must give the person who made the representations written notice of—
- (a) the decision to refuse to consider the representations, and
  - (b) the reasons for the decision.
- (4) In this paragraph “legal adviser” means—
- (a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person, or a European lawyer who is an exempt person by virtue of paragraph 7 of Schedule 3 to that Act, in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), or
  - (b) an advocate or solicitor in Scotland.

## PART 2

### INFORMATION, DOCUMENTS AND ORAL EVIDENCE

#### *Evidence notices*

- 5 (1) In the course of an investigation, the Commissioner may give a person (A) an evidence notice.
- (2) In this Measure, “evidence notice” means a notice that requires A to do one or more of the following—
- (a) to provide information in A's possession;
  - (b) to produce documents in A's possession;
  - (c) to give oral evidence.
- (3) A notice under this paragraph may include provision about—
- (a) the form of information, documents or evidence;
  - (b) the timing of anything to be done in accordance with the notice.

- 
- (4) A notice under this paragraph may not require A to do anything that A could not be compelled to do in proceedings before the High Court.
  - (5) A notice under this paragraph must inform A of—
    - (a) the consequences if A does not comply with the notice; and
    - (b) the right of appeal under paragraph 9.
- 6 (1) This paragraph applies if, in the course of an investigation, a person (B) —
- (a) provides information,
  - (b) produces documents, or
  - (c) gives oral evidence.
- (2) The Commissioner may, if he or she thinks fit, pay to B —
- (a) sums in respect of expenses properly incurred by B, and
  - (b) allowances by way of compensation for loss of B's time.
- (3) Any payment to B is to be made —
- (a) in accordance with such scales as may be determined by the Commissioner, and
  - (b) subject to such conditions as may be determined by the Commissioner.

*Confidentiality etc*

- 7 A notice under paragraph 5 —
- (a) may not require a person to provide information that the person is prohibited from disclosing by virtue of an enactment, and
  - (b) may not require a person to do anything that the person could not be compelled to do in proceedings before the High Court.
- 8 (1) A must disregard a notice given under paragraph 5, and must notify the Commissioner that A is disregarding it, in so far as A thinks it would require A —
- (a) to disclose sensitive information within the meaning of paragraph 4 of Schedule 3 to the Intelligence Services Act 1994 (Intelligence and Security Committee),
  - (b) to disclose information which might lead to the identification of an employee or agent of an intelligence service (other than one whose identity is already known to the Commissioner),
  - (c) to disclose information which might provide details of processes used in recruiting, selecting or training employees or agents of an intelligence service,
  - (d) to disclose information which might provide details of, or cannot practicably be separated from, information falling within any of paragraphs (a) to (c), or
  - (e) to make a disclosure of information relating to an intelligence service which would prejudice the interests of national security.
- (2) In sub-paragraph (1) “intelligence service” means —

- (a) the Security Service,
  - (b) the Secret Intelligence Service, and
  - (c) the Government Communications Headquarters.
- (3) If A notifies the Commissioner under sub-paragraph (1) above –
- (a) paragraphs 9 and 10 do not apply in relation to that part of the notice under paragraph 5 to which the notice under sub-paragraph (1) above relates,
  - (b) the Commissioner may apply to the tribunal established by section 65 of the Regulation of Investigatory Powers Act 2000 for an order requiring the person to take such steps as may be specified in the order to comply with the notice,
  - (c) the following provisions of that Act are to apply in relation to proceedings under this paragraph as they apply in relation to proceedings under that Act (with any necessary modifications) –
    - (i) section 67(7), (8) and (10) to (12) (determination),
    - (ii) section 68 (procedure), and
    - (iii) section 69 (rules), and
  - (d) the tribunal established by section 65 of that Act must determine proceedings under this paragraph by considering the opinion of A in accordance with the principles that would be applied by a court on an application for judicial review of the giving of the notice.
- (4) Where the Commissioner receives information or documents from or relating to an intelligence service in response to a notice under paragraph 5, the Commissioner must store and use the information or documents in accordance with any arrangements specified by the Secretary of State.

#### *Appeals*

- 9 A may apply to the Tribunal to have the notice under paragraph 5 cancelled on the grounds that a requirement imposed by the notice is –
- (a) unnecessary having regard to the purpose of the investigation, or
  - (b) otherwise unreasonable or disproportionate.
- 10 A may apply to the Tribunal to have the notice under paragraph 5 cancelled on the grounds that the requirement imposed by the notice is undesirable for reasons of national security, other than for the reason that it would require a disclosure of a kind to which paragraph 8(1) applies.

#### *Enforcement*

- 11 (1) This paragraph applies where the Commissioner thinks that A –
- (a) has failed without reasonable excuse to comply with a notice under paragraph 5, or
  - (b) is likely to fail without reasonable excuse to comply with a notice under paragraph 5.
- (2) The Commissioner may apply to a county court for an order requiring A to take such steps as may be specified in the order to comply with the notice.

## PART 3

### POWER OF ENTRY AND INSPECTION

#### *Power of entry and inspection*

- 12 (1) The Commissioner, or any person authorised by the Commissioner, may enter and inspect premises if the Commissioner or the authorised person thinks that the entry and inspection is necessary for the purposes of an investigation.
- (2) But that is subject to sub-paragraphs (3) and (4).
- (3) This paragraph does not authorise entry to –
- (a) a dwelling, or
  - (b) premises that are not under the control of the person being investigated.
- (4) This paragraph does not authorise entry to premises at a particular time if entry at that time is unreasonable.

SCHEDULE 11  
(*introduced by section 120*)

THE WELSH LANGUAGE TRIBUNAL

PART 1

NUMBER OF MEMBERS OF THE TRIBUNAL

*Legally-qualified members*

- 1 (1) The Welsh Ministers must from time to time determine the number of legally-qualified members which the Tribunal is to have.
- (2) The Welsh Ministers must consult the President before determining that number.
- (3) So far as it is practicable to do so, the Welsh Ministers must secure that the number of persons serving as legally-qualified members of the Tribunal is equal to the number determined under this paragraph.

*Lay members*

- 2 (1) The Welsh Ministers must from time to time determine the number of lay members which the Tribunal is to have.
- (2) The Welsh Ministers must consult the President before determining that number.
- (3) So far as it is practicable to do so, the Welsh Ministers must secure that the number of persons serving as lay members of the Tribunal is equal to the number determined under this paragraph.

PART 2

APPOINTMENT

*The President*

- 3 (1) The Welsh Ministers may appoint a person to be President only if the person satisfies —
  - (a) the judicial-appointment eligibility condition on a 10-year basis, and
  - (b) any other conditions applicable to the appointment that are specified in appointment regulations.
- (2) But the Welsh Ministers may not appoint a person to be President if the person is —
  - (a) disqualified from membership of the Tribunal on grounds of employment or unsuitability, or
  - (b) disqualified from appointment as President on grounds of age, previous appointment or previous dismissal.
- (3) Part 2 of the Tribunals, Courts and Enforcement Act 2007 applies for determining whether a person satisfies the judicial-appointment eligibility condition on a 10-year basis as if this paragraph were a statutory provision (within the meaning of section 50 of that Act).

*Legally-qualified members*

- 4 (1) The Welsh Ministers may appoint a person to be a legally-qualified member only if the person satisfies –
- (a) the judicial-appointment eligibility condition on a 5-year basis,
  - (b) any other conditions applicable to the appointment that are specified in appointment regulations.
- (2) But the Welsh Ministers may not appoint a person to be a legally-qualified member if the person is –
- (a) disqualified from membership of the Tribunal on grounds of employment or unsuitability, or
  - (b) disqualified from appointment as a legally-qualified member on grounds of age, previous appointment or previous dismissal.
- (3) Part 2 of the Tribunals, Courts and Enforcement Act 2007 applies for determining whether a person satisfies the judicial-appointment eligibility condition on a 5-year basis as if this paragraph were a statutory provision (within the meaning of section 50 of that Act).

*Lay members*

- 5 (1) The Welsh Ministers may appoint a person to be a lay member only if the person satisfies any conditions applicable to the appointment that are specified in appointment regulations.
- (2) But the Welsh Ministers may not appoint a person to be a lay member if the person –
- (a) is disqualified from membership of the Tribunal on grounds of employment or unsuitability,
  - (b) is disqualified from appointment as a lay member on grounds of age, previous appointment or previous dismissal, or
  - (c) may be appointed as a legally-qualified member of the Tribunal.

*Remuneration etc*

- 6 (1) The Welsh Ministers may pay remuneration to the members of the Tribunal.
- (2) The Welsh Ministers may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the members of the Tribunal.
- (3) The Welsh Ministers may pay –
- (a) pensions to, or in respect of, persons who have been members of the Tribunal, and
  - (b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the Tribunal.

*Terms of appointment*

- 7 (1) A member of the Tribunal holds office subject to the terms of his or her appointment.
- (2) But that is subject to the other provisions of this Schedule.

*Duration of appointment*

- 8 (1) A person appointed to be a member of the Tribunal is a member (by virtue of that appointment) for 5 years.
- (2) But, if the Welsh Ministers think it necessary or expedient, they may appoint a person to be a legally-qualified or lay member of the Tribunal for a period of less than 5 years.
- (3) This paragraph is subject to Part 3 of this Schedule.

*Appointment regulations*

- 9 (1) The Welsh Ministers may, by regulations, make provision about the appointment of members of the Tribunal ("appointment regulations").
- (2) Appointment regulations may, amongst other things, make provision about any of the following matters –
- (a) principles to be followed in making any appointment to the Tribunal;
  - (b) the knowledge of, and proficiency in, the Welsh language which the members of the Tribunal must have.
- (3) Appointment regulations may, amongst other things –
- (a) apply (with or without modifications) any code of practice that is concerned with appointments to public bodies, or
  - (b) make other provision relating to any such code.
- (4) Appointment regulations may, amongst other things, confer functions on the Welsh Ministers (as well as on any other person), including functions involving the exercise of a discretion.

## PART 3

## END OF APPOINTMENT

*Resignation*

- 10 (1) The President may resign from the Tribunal if he or she gives the Welsh Ministers not less than 3 months' notice in writing of his or her intention to do so.
- (2) A legally-qualified or lay member of the Tribunal may resign from the Tribunal if he or she gives the Welsh Ministers not less than 2 months' notice in writing of his or her intention to do so.

*Disqualification from membership*

- 11 A person ceases to be a member of the Tribunal if the person is disqualified from membership of the Tribunal on grounds of employment or unsuitability.

*Dismissal*

- 12 (1) The Welsh Ministers may dismiss a member of the Tribunal if the Welsh Ministers are satisfied that he or she –
- (a) is unfit to continue as a member of the Tribunal, or

- (b) is unable or unwilling to exercise his or her duties as a member of the Tribunal.
- (2) The Welsh Ministers must consult the President before dismissing any other member of the Tribunal.

## PART 4

### DISQUALIFICATION FROM MEMBERSHIP OR APPOINTMENT

#### *Disqualification from membership: employment*

- 13 (1) A person is disqualified from membership of the Tribunal on grounds of employment if the person is –
- (a) a Member of Parliament;
  - (b) a Member of the National Assembly for Wales;
  - (c) a member of the staff of the Welsh Assembly Government;
  - (d) a member of the staff of the National Assembly for Wales Commission;
  - (e) the Commissioner;
  - (f) the Deputy Commissioner;
  - (g) any other member of the staff of the Commissioner; or
  - (h) the husband or wife or civil partner of a person falling within paragraph (e), (f) or (g).

#### *Disqualification from membership: unsuitability*

- 14 (1) A person is disqualified from membership of the Tribunal on grounds of unsuitability if the person –
- (a) has been adjudged bankrupt and remains bankrupt;
  - (b) has been granted a debt relief order (within the meaning of Part VIIA of the Insolvency Act 1986), and the moratorium period under that order is continuing;
  - (c) has made an arrangement with his or her creditors and the arrangement remains in force;
  - (d) has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine has been imposed;
  - (e) is disqualified from being a member of a county borough council or county council in Wales; or
  - (f) is disqualified from being a director of a company.
- (2) For the purposes of sub-paragraph (1)(a) a person remains bankrupt until such time as –
- (a) the person is discharged from bankruptcy, or
  - (b) the bankruptcy order made against that person is annulled.



- (3) For the purposes of sub-paragraph (1)(c) an arrangement with a person's creditors remains in force until—
  - (a) the person pays his or her debts in full, or
  - (b) if later, the end of the period of five years beginning with the day on which the terms of the arrangement are fulfilled.
- (4) If the question of whether a person is disqualified from membership of the Tribunal on grounds of unsuitability arises in relation to the appointment of the person to be a member of the Tribunal, any conviction which that person received more than five years before the date of the appointment is to be disregarded.

*Disqualification from appointment: age*

- 15 A person is disqualified from appointment as President or as a legally-qualified or lay member of the Tribunal if the person has already reached the age of 70 at the date of the appointment.

*Disqualification from appointment: previous appointment*

- 16 (1) A person is disqualified from appointment as President on grounds of previous appointment if the person has already been President for a period of 10 years or more (whether in consecutive or non-consecutive appointments).
- (2) A person is disqualified from appointment as a legally-qualified member of the Tribunal on grounds of previous appointment if the person has already been a legally-qualified member for a period of 10 years or more (whether in consecutive or non-consecutive appointments).
- (3) A person is disqualified from appointment as a lay member of the Tribunal on grounds of previous appointment if the person has already been a lay member for a period of 10 years or more (whether in consecutive or non-consecutive appointments).

*Disqualification from appointment: previous dismissal from office*

- 17 A person is disqualified from appointment as President or as a legally-qualified or lay member of the Tribunal on grounds of previous dismissal if the Welsh Ministers have previously dismissed the person from the Tribunal under paragraph 12.

## PART 5

### GENERAL

*Interpretation*

- 18 In this Schedule “appointment regulations” means regulations made under paragraph 9.

SCHEDULE 12  
(*introduced by section 146*)

ABOLITION OF WELSH LANGUAGE BOARD: OTHER PROVISION

*Staff of the Board*

- 1 (1) The Welsh Ministers may, by order, make provision for staff of the Board to be transferred to—
  - (a) the Commissioner, or
  - (b) the Welsh Assembly Government.
- (2) The contract of employment of a person transferred by virtue of this paragraph—
  - (a) is not terminated by the transfer, and
  - (b) has effect from the date of the transfer as if originally made between the transferred person and the transferee.
- (3) Without prejudice to sub-paragraph (2)—
  - (a) where a person is transferred to the employment of the Commissioner—
    - (i) all the rights, powers, duties and liabilities of the Board under or in connection with the person's contract of employment are transferred to the Commissioner on the date of the transfer, and
    - (ii) anything done before that date by or in relation to the Board in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Commissioner,
  - (b) where a person is transferred to the employment of the Welsh Assembly Government—
    - (i) all the rights, powers, duties and liabilities of the Board under or in connection with the person's contract of employment are transferred to the Welsh Ministers on the date of the transfer, and
    - (ii) anything done before that date by or in relation to the Board in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Welsh Ministers.
- (4) Where a person is transferred by virtue of this paragraph, that person's period of employment with the Board immediately before the transfer date—
  - (a) counts as a period of employment as a member of the staff of the transferee, and
  - (b) is to be treated as continuous employment as a member of the staff of the transferee for the purposes of section 218(3) of the Employment Rights Act 1996.
- (5) A contract of employment (or the rights, powers, duties and liabilities under or in connection with it) is not transferred under this paragraph if the employee objects to the transfer and informs the Board or the transferee of that objection.

- (6) If the employee informs the Board or the transferee of an objection under sub-paragraph (5) –
  - (a) the contract of employment is terminated immediately before the date the transfer would occur, but
  - (b) the employee is not treated, for any purpose, as having been dismissed by the Board.
- (7) Nothing in this paragraph affects any right of a person transferred to terminate his or her contract of employment if (apart from the change of employer) a substantial change is made to the person's detriment in his or her working conditions.
- (8) Provision may be made under sub-paragraph (1) in respect of all persons employed by the Board, any class or description of person, or any individual person.
- (9) In this paragraph “transferee” refers to the employer to whom the person is or would be transferred under this paragraph.

*Property, rights and liabilities of the Board*

- 2 (1) Without prejudice to paragraph 1, the Welsh Ministers may, by order, make provision about the property, rights and liabilities of the Board.
- (2) The power conferred by sub-paragraph (1) includes, but is not limited to, power to make provision for –
  - (a) property, rights and liabilities to be transferred to –
    - (i) the Commissioner, or
    - (ii) the Welsh Ministers;
  - (b) transfers of property, rights or liabilities of the Board to have effect subject to exceptions or reservations;
  - (c) transfers of property, rights or liabilities to have effect in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer;
  - (d) the creation of interests in, or rights over, property of the Board or property transferred from the Board;
  - (e) the creation of rights and liabilities –
    - (i) between the Board and the Commissioner, or
    - (ii) between the Board and the Welsh Ministers.
- (3) In this paragraph –
  - “property” (*“eiddo”*) includes property situated outside the United Kingdom;
  - “rights and liabilities” (*“hawliau a rhwymedigaethau”*) includes rights and liabilities arising otherwise than under the law of England and Wales.

*Modification of 1993 Act in relation to functions transferred to Welsh Ministers*

- 3 If the functions conferred on the Board by section 3 of the 1993 Act are transferred to the Welsh Ministers (whether instead of, or in addition to, the functions being transferred to the Commissioner), the following provisions of the 1993 Act do not apply to the functions as they are exercisable by the Welsh Ministers –
- (a) section 3(2)(a);
  - (b) section 3(3) and (4);
  - (c) section 4(1).

*References to the Board*

- 4 Any reference to the Board in the 1993 Act is to be construed –
- (a) so far as it relates to a function of the Board that is transferred to the Commissioner, as being, or including, a reference to the Commissioner; and
  - (b) so far as it relates to a function of the Board that is transferred to the Welsh Ministers, as being, or including, a reference to the Welsh Ministers.

*Continuation of legal proceedings, validity of acts etc*

- 5 (1) Anything (including legal proceedings) which relates to –
- (a) a transferred function, or
  - (b) transferred property, rights or liabilities,
- and which is in the process of being done by, or in relation to, the Board immediately before the transfer time may be continued by, or in relation to, the transferee.
- (2) Anything which was done by, or in relation to, the Board for the purpose of, or in connection with –
- (a) a transferred function, or
  - (b) transferred property, rights or liabilities,
- and which is in effect immediately before the transfer time, has effect after the transfer as if done by, or in relation to, the transferee.
- (3) In any instruments, contracts or legal proceedings which relate to –
- (a) a transferred function, or
  - (b) transferred property, rights or liabilities,
- and which are made or commenced before the transfer time, the transferee is substituted for the Board.
- (4) This paragraph does not apply in relation to rights and liabilities under a contract of employment of a member of the staff of the Board.
- (5) In this paragraph –
- “transfer time” (“*adeg y trosglwyddo*”), in relation to a transferred function, or transferred property, rights or liabilities, means the time of the transfer of the function, or property, rights or liabilities;

“transferred function” (“*swyddogaeth a drosglwyddwyd*” ) means a function of the Board transferred to the Commissioner or Welsh Ministers under this Measure;

“transferred property, rights or liabilities” (“*eiddo, hawliau neu rwymedigaethau a drosglwyddwyd*”) means property, rights or liabilities of the Board transferred to the Commissioner or Welsh Ministers under this Measure.

*Interpretation*

6 In this Schedule –

“1993 Act” (“*Deddf 1993*”) has the meaning given in section 147(5);

“Board” (“*y Bwrdd*”) has the meaning given in section 147(5).

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# Chapter 1

## Introduction from Chair of the Customer Challenge Group

I am pleased to introduce the report of the independent Dŵr Cymru Welsh Water Customer Challenge Group on the Company's PR19 business plan.

Our key role as a Customer Challenge Group (CCG) is to ensure that customers are involved in the business planning and their views clearly drive decision making, fulfilling the Ofwat vision of *"putting current and future customers at the heart of the way water companies run their business"*<sup>1</sup>.

The CCG is not intended to represent customers directly; it is an independent group, bringing together a range of expertise and networks that can work independently to challenge that the Company to produce a business plan that meets the needs of all customers. It has a particular responsibility to ensure these plans reflect the needs of vulnerable customers, who find it most difficult for their voice to be heard, the range of non-household customers, as well as future generations of customers who do not yet have a voice, but whose needs will be met by decisions the Company takes today.

Dŵr Cymru Welsh Water is rightly proud of its distinctive not-for-profit model. There is evidence indicating that customer trust increases with awareness of the not-for-profit status of the Company. This means there is the basis for a different relationship with customers than that of the other water companies in England and Wales, but one which is also based on high expectations of service and performance.

Over the last two years the Customer Challenge Group has worked to ensure that the Company appropriately reflects customer interests in the business plan proposals that form the submission to Ofwat's 2019 Price Review. This has involved overseeing detailed customer research, drawing from the range of customer day-to-day interactions with the Company and ensuring that we learn from best practice from other companies and sectors.

The report highlights that this has not always been a straightforward process given the scale of the activity and we have been clear that in some cases we were not able to comment on the detail. I want to pay tribute to the voluntary contribution of the skilled and knowledgeable members of the CCG over that period. This report gives an indication of the scale of the demands on the CCG in covering the complexities of the PR19 process and responding to an ambitious programme of customer engagement initiated by the Company.

I also want to acknowledge the positive working relationship with the range of Dŵr Cymru staff who have engaged with the CCG, and in particular acknowledge the close working relationship with the Dŵr Cymru Board. I had opportunity to present to the Board on five occasions and, in addition, non-executive Board members attended three separate CCG sessions. The Chairman and the Board have taken the contribution of the CCG very seriously in their consideration of the business plan and it has been encouraging to hear the Board

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<sup>1</sup> [https://www.ofwat.gov.uk/wp-content/uploads/2015/12/pap\\_pos20160525w2020cust.pdf](https://www.ofwat.gov.uk/wp-content/uploads/2015/12/pap_pos20160525w2020cust.pdf) (page 3)

reflect on the changes that they had seen take place through the process, influenced by the customer research and the independent role of the CCG.

As Chair I have wanted to develop an innovative and iterative role for the CCG in its relations with the Company, keeping a sense of challenge as the focus, while enabling greater coproduction with customers and stakeholders. There has been a lot of learning through the process as we have had to adapt to the increasing demands of the role. The appointment of Cynnal Cymru as an independent secretariat was an important step in improving the process, while commissioning CCG member Dr Dimitrios Xenias to undertake a detailed review of the customer research provided us with valuable assurance and recommendations for improvements.

As Chair I wanted to establish a more dynamic method of recording the work of the group, which could cope with the extent of input required and constraints with members' time. We adopted an online tool, Trello, in October 2017 with the aim of providing an innovative platform to support the independence and coproduction approach. This has enabled all materials to be visible, for all CCG members to directly comment and contribute to the process without censorship and at any time.

The CCG has also benefited from the expert contributions from the Consumer Council for Water (CCWater), Natural Resources Wales (NRW) and the Environment Agency (EA). The CCG's discussions were also informed by CCWater's bilateral meetings with the Company, which often helped to progress response to ongoing detailed questions. The environmental regulators have set out their views in respect of the National Environment Programme and the environmental ambition for the business plan in their respective annexes to our report.

It is not the role of the CCG to endorse the Company business plan, but I believe this report provides Ofwat with an independent view of the approach Dŵr Cymru have taken to understanding customer views and using them to drive business planning. This though is not the end point but the starting point for the CCG, in working to ensure the Company meets and exceeds the expectations of customers in delivering a sustainable and locally responsive plan.

A handwritten signature in black ink, appearing to read 'Peter Davies', with a long horizontal line extending from the end of the signature.

Peter Davies

Dŵr Cymru Welsh Water Customer Challenge Group Chair

# Chapter 2

## Executive Summary

1. There has been a step-change in the Company's customer involvement activities compared to PR14, with 30 pieces of research engaging over 40,000 customers with 9,000 participating in formal research that has contributed to the formation of the business plan. The CCG recognises this step-change in customer engagement from PR14 and that this body of research, along with other sources of customer evidence, has provided the basis for building the business plan. The PR19 Business Plan has been influenced by the views of customers throughout its development – as opposed to have been developed by the Company and then amended by consultation.
2. The Company set out with the aim to build the plan from bottom up with an understanding of customer priorities shaping the design of the draft plan, which was then the basis of acceptability testing with customers. The final acceptability research indicates high levels of support from customers with 80% uninformed and 92% informed accepting of the plans. The acceptability research also shows 81% of customers felt it was good value for money.
3. The CCG recognises the importance of the work that the Company has done in attempting to take a long term view through the 'Welsh Water 2050' plan. This plan was developed by the Company with expert input and extensive customer engagement through consultation, resulting in changes to the strategic responses in the final plan. The 2050 plan provides the context for the PR19 plan and the CCG believes it is important that the Company demonstrates how the plan will deliver Welsh Water 2050 without placing undue burdens on future generations.
4. The Customer Challenge Group's six strategic challenges presented to the Board in May 2017 set out the evidence the CCG would expect to see in ensuring an effective process for customer engagement in the development of the business plan. These challenges reflected the Ofwat best practice guidance and the specific context of business operations in Wales. The Company has responded to these challenges in the development of the business plan as summarised in [Appendix 01](#) 'Company Responses to Strategic Challenges'. The CCG wants to ensure the Company applies this framework in delivering the PR19 business plan to build a more informed and involved customer base.
5. The responses to the strategic challenges demonstrate that the Company has applied a range of research approaches and innovative techniques, as well as drawing on in-house data. The CCG commissioned Dr Dimitrios Xenias, a CCG member, to undertake an independent 'Customer Research Assurance Report' ([Appendix 02](#)). This report indicated that the Company had broadened the research scope, expanded the range of methods applied and the breadth of available data. The

report highlighted areas for improvement but concluded that “*the Company has been successful in securing an understanding of the views of its customer base from the phase 1 research and triangulation process*”<sup>2</sup>. The CCG supports this finding and agrees that the Company has been successful in securing an understanding of the views of the customer base.

6. The CCG did raise challenges over elements of the process in this phase of building the business plan, which were highlighted in the ‘Research Assurance Report’. These concerns are outlined in more detail in the report, with Company responses in [Appendix 3](#), but can be summarised as the:
  - a) challenges for the CCG in responding to the scale and timelines of the research programme reducing opportunities for co-design.
  - b) complexities with the initial triangulation process, which while comprehensive, was complicated.
  - c) nature of the Willingness to Pay methodology despite the improvements from the PR14 process.
  - d) need for a clearer narrative to provide an overview of the process to demonstrate how the individual elements of the research stages contributed to the big picture.
  - e) lack of clarity in the process by which the evidence base was being assimilated and applied to the decision making.

These last two points related to the desire of the CCG to see a clear ‘golden thread’ in the narrative between the evidence base, the measures of success and the Welsh Water 2050 objectives. This was a strong and consistent challenge from the CCG throughout the ongoing process of building the business plan from the customer evidence base. The final PR19 submission from the Company includes documentation which demonstrates how customer evidence was applied to decision making in the formation of the business plan.

7. The customer evidence base was used to establish the Measures of Success for the business plan using a triangulation process which drew on a range of evidence to establish a view of customer priorities. The second phase involved the application of the triangulation process to the evidence base to establish the targets or performance commitments against each measure. The CCG did provide challenge to this process but agrees that the measures as a whole do provide an effective performance framework that reflects customer priorities. Specific key points on which the CCG engaged with the Company in this process are set out below:
  - (a) The Company set out 45 measures of success, (subsequently amended following Ofwat feedback to 47) which was initially challenged by the CCG as being too many measures. It was further reviewed by the CCG and agreed that all measures were relevant to provide for a comprehensive business plan.

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<sup>2</sup> [Appendix 02 Research Assurance Report](#) (page 4)

- (b) The application of the Willingness to Pay methodology to the establishment of the performance commitment, with the concerns being acknowledged by the company which applied a wider range of sources of data to the process of target setting.
- (c) While the CCG accepts that these measures provide an effective performance framework, it has stressed that some of the high-level measures may not be sufficient on their own, as they provide a quantitative figure which may not reflect the qualitative impact that is desired. For example, affordability and vulnerability related metrics will need to be supplemented by regular monitoring on the quality of assistance provided according to customer views; the Company has agreed to report on this qualitative element of this measure in a separate report.
- (d) The CCG challenged the ambition of the performance commitments, particularly on priority measures of success for customers. The CCG stressed the need for a clear line-of-sight between the Welsh Water 2050 plan and the progress represented through the performance commitments in the PR19 plan. The CCG questioned whether enough of a start was being made in the key areas of water supply interruptions, per capita reduction levels, leakage, customer acceptability of water quality, pollution incidents, kms of rivers improved and lead pipe replacement. The CCG review of the Performance Commitments is summarised in [Chapter 6: Measures of Success](#).

- 8 The CCG accepts that while it encourages the Company to be ambitious across a range of measures this must be balanced against the evidence which shows the high level of financial vulnerability within the customer base in Wales. This needs to be fully recognised within the business plan, and its delivery, both in terms of affordability and other support for those who find it difficult to pay. The CCG supports passing through the reduction in cost of capital to reduce customer bills. In the acceptability testing 95% of customers considered the plan to be affordable, although 30% thought that it would be 'a stretch'. This though is dependent on the Company keeping operating costs down, supporting vulnerable customers while clearly communicating with customers to keep them informed and engaged in the work it needs to undertake for customers.
- 9 The customer research indicates that while affordability is an issue, bill reduction is not an overriding concern for most customers who support investment for the long term. The CCG notes that the Company intends to drive efficiency savings to deliver an increase in its investment plans for the next AMP. The options testing phase of the Acceptability Research did indicate that a small majority of customers were in favour of a smaller bill reduction to allow for extra investment. The CCG felt that this was not a strong enough mandate for the Company to proceed with the additional options in the business plan and the associated additional cost on the customer bill. The CCG welcomed the compromise of including the top priority extra investments in the plan while keeping the proposed level of bill reduction.

- 10 The issue of support for customers in vulnerable circumstances has been a key focus as set out in the CCG challenge to the Company's draft strategy. The Company's commitment to increase engagement with Priority Service customers, from 2% to 8% in-line with the current energy sector benchmark, is welcome, but the CCG notes that Ofgem are seeking the energy sector to offer a far higher level of engagement in servicing various degrees of vulnerability. The CCG stressed the need for the Company to consider a holistic cross-sector, community-focused approach to enable customer participation and has put particular significance on the Water Resilient Community pilot in Rhondda Fach. The CCG supports the adoption of the Water Resilient Communities project as a mainstream approach within the business plan. We encourage the Company to go beyond the minimum number of five communities in five years, to ensure the wider application of learning across the business operations and to extend the collaboration with other companies.
- 11 The CCG welcomes the Company's commitment to continue to increase the number of customers supported through assistance schemes, given the number of low income customers in Wales. However, it has asked for consistency in reporting against the target of 148,000, distinguishing between the targets for the HelpU social tariff and the WaterSure Wales assistance. The CCG welcomes the continued ambition but notes that the most recent customer research did not demonstrate enough support to justify an increase in social tariffs cross-subsidy on bills beyond current levels. This result, along with the high potential numbers of eligible customers, the Company's view on the likely reductions in profits to return to customers and evidence of the need for better targeting, indicates that a new approach in the Company's assistance package going forward is required. The Company committed to working with the CCG to further develop the new affordability and vulnerability strategies in the autumn of 2018.
- 12 Ofwat were clear in their methodology that they expect companies to engage with customers on the design of their rewards and penalties. The Company did not include reference to ODIs in its final quantitative acceptability testing of the business plan. This was an issue raised through the CCG by the Consumer Council for Water, who felt that there was opportunity for the Company to find an effective way of engaging customers on the impact of ODIs in the quantitative research. The Company undertook qualitative research on the application of ODIs of the acceptability testing, which influenced the design of the proposed ODI model. This research indicated only limited support for ODIs but also highlighted the difficulty of engaging customers on the detailed design of the ODI scheme, not least in that customers are confused as to its application in the not-for-profit model.
- 13 The Company should ensure that there is a transparent approach to the application of the ODIs to ensure customers understand how the rewards and penalties are being applied. While recognising that the final quantitative acceptability testing research did not include a discussion on the potential impact of ODIs on bills, a key concern for

CCWater, the CCG supported the approach the Company is proposing for ODIs, as consistent with customer views from the qualitative research that took place on ODIs which are: a greater focus on penalties; prioritisation across the measures which are important to customers; the application at the lower end of the range to minimise volatility and retain customer confidence; the plans for returning any net reward to benefit customers through a Water Share scheme.

- 14 The CCG is pleased that the Company responded to its challenges to focus on Non-Household customers in Wales. In particular we note that the Company has incorporated a Non-Household Customer Experience Measure (B-Mex) which will replicate the Household customer C-Mex in Wales. In the context of no option for those customers to swap suppliers we think this is an important measure to include in the Company's performance measure suite.
- 15 Customers and stakeholders have high expectations of the Company's contribution to environmental improvements. The scale of ambition for environmental improvement and the degree to which that can be achieved in the PR19 business plan has been the focus for negotiations with Natural Resources Wales (NRW) and the Environment Agency (EA) in agreeing the National Environment Programme. Neither the CCG nor the Independent Environment Advisory Panel<sup>3</sup> were engaged in this process as it related to statutory obligations. The NRW and EA annexes set out their views on the Company's proposals for the delivery of the National Environment Programme and the wider environmental ambitions for the business plan. The CCG supports the importance placed on "avoiding storing up problems for future generations", but believes that proposals for phasing the NEP can potentially lead to better value for money outcomes for customers and supports Welsh Government's encouragement for the Company to seek out opportunities through alternative ways of working to identify different approaches to deliver environmental improvements in order to deliver value for money for customers, today and in the future.
- 16 The CCG has been supportive of the importance of initiatives such as 'RainScape' and investment in catchment management schemes, which provide opportunity for customer participation. Customers support nature-based approaches and there is strong commitment across stakeholders to develop catchment management schemes. This is an area where the CCG expects strong leadership and ambition from the Company in embedding this approach as core to the business operation. The commitment to the application of the principles of the sustainable management of natural resources as required through the Environment (Wales) Act provides the opportunity to demonstrate innovative models of working with customers and stakeholders alike. This is reflected in the Company's agreement to deliver on the

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<sup>3</sup> <https://www.dwrcymru.com/en/Environment/IEAP.aspx>



principles set out in the 'Blueprint for the 2019 Price Review in Wales'<sup>4</sup> issued by the NGO umbrella organisation, Wales Environment Link, who are represented on the CCG.

- 17 It is important to recognise that the Dŵr Cymru not-for-profit business model provides the foundation for a much stronger and trusting relationship with customers who 'have their say' in how the return of value is distributed. The CCG will want to ensure that the Company uses this relationship to deliver leading practice in customer participation and coproduction in the delivery of the business plan.
- 18 The CCG has worked closely with Welsh Government through its PR19 Forum to ensure that the business plan reflects the legislative framework and the priorities set out in the devolved Government's 'Water Strategy'<sup>5</sup> and the 'PR19 Strategic Priorities and Objectives Statement'<sup>6</sup>. The Welsh Water 2050 plan has been based on the frameworks of the Well-being of Future Generations<sup>7</sup> and Environment (Wales)<sup>8</sup> Acts and the CCG would expect progress against the business plan to be reported against this framework demonstrating its contribution to the achievement of the national well-being goals.

### **In summary**

This report demonstrates the scale of engagement the CCG has had with the Company throughout the process of developing the plan. The plan has been influenced by customers and the contribution of the CCG throughout its development.

It is the CCG's view that the Company has been successful in securing an understanding of the representative views of its customer base, and that this evidence has been used to develop the performance commitments and customer bills in the business plan. The final acceptability testing demonstrates strong support for the plan that meets customers' expectations, representing improved value for money.

The CCG's push for ambition in the plan recognised the necessary balance between addressing the affordability needs of the customer base in Wales and the need to make progress against the ambitions of Welsh Water 2050, in line with customers' expectations. The plan sets out to deliver a reduction in bills and increased investment levels with stretching efficiency targets to keep costs low. The CCG will continue to challenge the Company to be ambitious through innovation and the participation of customers in delivering solutions.

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<sup>4</sup> [http://www.waleslink.org/sites/default/files/blueprint\\_for\\_the\\_2019\\_price\\_review\\_in\\_wales.pdf](http://www.waleslink.org/sites/default/files/blueprint_for_the_2019_price_review_in_wales.pdf)

<sup>5</sup> <https://gov.wales/docs/desh/publications/150521-water-strategy-for-wales-en.pdf>

<sup>6</sup> <http://www.assembly.wales/laid%20documents/gen-ld11283/gen-ld11283-e.pdf>

<sup>7</sup> <https://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

<sup>8</sup> <https://gov.wales/topics/environmentcountryside/consmanagement/natural-resources-management/environment-act/?lang=en>



# Chapter 3

## Dŵr Cymru Welsh Water Customer Challenge Group

*Helping to ensure that current and future customers are at the heart of the way Dŵr Cymru Welsh Water operates.*

The Customer Challenge Group (CCG) **provides independent challenge, scrutiny and advice on the:**

- quality of the Company's customer engagement and involvement.
- extent to which the results of this engagement drive the Company's decision making, business planning and operations.
- the return of value to customers from the not-for-profit model

The membership and role of the group was reviewed following the PR14 process, with the recruitment and appointment of a new Chair through the independent process used by the Company to appoint Glas Cymru members. Peter Davies took up role as the independent Chair in February 2016, leading a refresh of the terms of reference and membership. The terms of reference and membership of the CCG are set out in [Appendix 04](#).

Over the past 32 months, the CCG has met 17 times and engaged from the outset of the PR19 process, with the proposals for customer research plans being discussed in the first meeting under the new Chair in March 2016. CCG engagement is summarised in the timeline set out in [Appendix 05](#) with the details being reflected in relevant sections in this report.

The membership has drawn on the expertise and networks of key agencies:

- Consumer Council for Water
- Natural Resources Wales
- Environment Agency
- specialist research expertise at Cardiff University.

Cross-sector representation from Warm Wales and YES Energy.

Key stakeholders from NFU-Cymru and the Federation of Small Businesses.

Voluntary groups representing vulnerable customers and the environment:

- MoneyLine UK
- Citizens Advice Bureau
- Age Cymru
- Wales Environment Link
- Cynnal Cymru.

The group has also benefited from the work of the Dŵr Cymru's Independent Environment Advisory Group<sup>9</sup> (IEAP) with its chair Professor Steve Ormerod being a member of the CCG.

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<sup>9</sup> <https://www.dwrcymru.com/en/Environment/IEAP.aspx>

In addition, the CCG has also been able to draw on a range of other expertise through the contribution of representatives from the Wales Council for Voluntary Action, Legal & General, Participation Cymru, CBI and the Bevan Foundation.

Members of the CCG have contributed their time, knowledge and significant experience, on a voluntary basis.

The secretariat for the CCG was provided by Dŵr Cymru from March 2016 to September 2017, at which point Cynnal Cymru, the sustainable development charity for Wales, were appointed to provide an independent secretariat reporting to the Chair. This move was designed to strengthen the independence and capacity of the CCG to be respond to Company requests, work proactively on priority areas, and provide robust and timely follow up. The independent secretariat has also facilitated the production of this CCG report.

In the latter stages of the process the CCG adopted the Trello online platform ([Appendix 06](#)) to deliver these elements, coordinated through Cynnal Cymru. The minutes and reports from the CCG are also made publicly available on the [Cynnal Cymru website](#).

The CCG has been attended by all three executive Dŵr Cymru Directors, the Managing Directors of the three main business units, and the CEO also attended four meetings. Three Dŵr Cymru Non-executive Board members have also attended CCG meetings. The CCG Chair has presented at five Dŵr Cymru Board meetings as well as contributing keynote presentations to two Dŵr Cymru Leadership conferences and the Innovation conference (see [Appendix 05](#) for the full timeline).

There has been regular and open correspondence with the Company summarising key points from the CCG meetings, along with reports and updates for the Board, and CCG reports on specific issues. These are referred to in the CCG timeline, along with the Company responses. The CCG Chair was keen to establish a constructive and iterative process, but it should be noted that CCWater felt that the Challenge Log would have been useful in the process, particularly as the Trello platform was introduced in the latter stages.

The key documents from the CCG include:

- CCG Report to the Board May 2017 ([Appendix 07](#)), summarising the key issues raised by the CCG over the previous 12 months and introduced the key strategic challenges
- CCG Report to the Board September 2017 ([Appendix 08](#))
- CCG Research Assurance Report of the customer engagement process March 2018 ([Appendix 02](#))
- CCG response to Draft Vulnerable Customer Strategy April 2018 ([Appendix 17](#))

The Company set out to engage the CCG from the outset of the PR19 customer engagement process in a transparent and open manner. The late engagement of the CCG in the PR14 process was identified as a weakness, although the early engagement with the reformed CCG also had challenges in the readiness of the group to engage effectively. Similarly, the increased scale and scope of the customer research, initiated by the Company in PR19, along with tight turnaround times, provided challenges in respect of the nature of the detailed comments of the customer research process required by voluntary group members.

As a result, CCG member Dr Dimitrios Xenias from Cardiff University was commissioned by the CCG Chair to review Phase 1 of the research process on behalf of the CCG to provide the necessary assurance for Ofwat and an additional level of expert rigor for the CCG. This Research Assurance Report ([Appendix 02](#)) informs the review of customer engagement in [Chapter 5](#) of the report and recognises the step change in the PR19 work. The report also reinforces some of the challenges faced by the CCG over this period of its operation.

*“It could be argued the process started with outdated assumptions and expectations, using a PR14 baseline as opposed to the much heavier requirements resulting from the ambitious step change implemented for PR19.”*

**CCG Research Assurance Report**

It was also felt important for the CCG to ensure that the big picture of best practice in customer engagement was kept in mind as the detail of the research programme unfolded, through setting out a strategic challenge framework.

The Customer Challenge Group paper to the Dŵr Cymru Board in May 2017 set out six strategic challenges where it wanted to ensure there was evidence for an effective process of customer engagement. These challenges were then further developed by the CCG to form the basis of the strategic challenge framework for the PR19 business planning process and subsequently presented to the Dŵr Cymru Leadership conference in September 2017. The framework reflects the best practice approach set out in the Ofwat commissioned ‘Tapped In’ report, with the aim of enabling a shift from passive consumers to active participants in shaping the future of the Company.

The Challenges have provided a framework for the CCG to review the role of customer engagement in the price review process.

*“As part of the Customer Challenge Group’s role in ensuring that the Company effectively engages with customers and that this involvement is reflected in its PR19 business plan, the CCG paper to the May 2017 Dŵr Cymru Board set out six strategic challenges. These themes were based on CCG discussions, informed by work commissioned by Ofwat on best practice in customer engagement and submitted at an early point in the PR19 process to provide a guide as to the evidence we would be looking to see in the business planning process. ...could the Company provide a summary response, indicating supporting evidence, of how you have responded to these challenges both in the process of planning for PR19 and in ensuring that they are embedded in business operations going forward?”*

**CCG Chair letter to Dŵr Cymru April 2018**

The Company reported against this Challenge Framework to the CCG in June 2018 ([Appendix 01](#)).

# Customer Challenge Group Framework for PR19

1. The Company draws on all interactions with customers to inform decision making, giving particular attention to groups who find it more difficult to have their voices heard.

**The CCG will expect to see how the Company:**

- has drawn on all the points of customer contact (including non-household customers) in understanding customer priorities.
- makes it easy for customers to contact and engage with the Company in a way that meets the customer's needs.
- gives specific attention to those customers who have difficulties/are hard to reach.
- plans for continual improvement in developing its capacity to understand the needs and priorities of customers.
- provides feedback to inform customers as to how their views have influenced decision making and outcomes.

2. An understanding of customer priorities based on the evidence of customer engagement is embedded as a business imperative across all elements of the business.

**The CCG will expect to see how the Company:**

- set its targets and measures of success against evidence of customer priorities.
- ensures that all parts of the business understand customer priorities.
- prioritises business improvement in the key performance areas identified by customers.
- sets customer service targets against benchmarks across the service sector.

3. There is a clear focus on affordability of bills, with specific support for those who find it difficult to pay. Customers in vulnerable circumstances are supported through their direct involvement and collaborations with other companies, the public and third sectors.

**The CCG will expect to see how the Company:**

- plans to improve the efficiency of its operations to minimise costs to customers.
- is transparent in how customer money is spent & its comparative performance with other water companies.
- uses the evidence of customer's willingness to pay and invests resources to support the significant number of customers in water poverty.
- increases the reach to those customers who find it difficult to pay through working with voluntary groups.
- supports an integrated approach to ensuring vulnerable customers receive essential services.
- reduces able to pay debt levels as part of the compact with customers support for those not able to pay.

4. Engagement with customers demonstrates a progression from listening and understanding customer needs to active participation of customers

**The CCG will expect to see how the Company:**

- builds an ongoing dialogue with customers as two way communication.
- uses two way communication to improve customer understanding on priority issues.
- provides a range of opportunities for active customer involvement in partnerships with the Company.
- ensures that young people are actively engaged.
- supports customers who may have difficulty in communicating with the Company.

5. The Company demonstrates that it drives innovation through working with customers and stakeholders on collaborative projects that offer multiple benefits

**The CCG will expect to see how the Company:**

- aligns investment in innovation with customer priorities.
- enables customers to contribute ideas to improve service.
- involves customers and partners in design and implementation of new services.
- builds behaviour change programmes that can reduce costs and improve services for especially through use of water and reducing blockages.
- participates in partnerships designed to deliver innovations for wider public benefit.

6. The principles of the Well-being of Future Generations and Environment (Wales) Acts are applied by the Company, demonstrating the ways of working and contribution to our national well-being goals.

**The CCG will expect to see how the Company:**

- involves customers in considering the needs to future generations.
- uses the ways of working and structures established under the Well-being of Future Generations Act to improve local well-being.
- measures and reports to customers its contribution to the national well-being goals.
- responds to the requirements of the Environment (Wales) Act.
- works with land managers and stakeholders to develop nature based solutions to improve service and reduce long term costs.
- demonstrates leading practice in corporate citizenship through all its operations.

# Chapter 4

## Operating Context for Dŵr Cymru Welsh Water

This section of the report focuses on the implications of the Dŵr Cymru business model and the distinctive operating environment in Wales; social, economic, environmental, cultural and legislative.

While the vast majority of Dŵr Cymru customers are based in Wales, the Company has worked to ensure that the 65,000 customers served by the Company in England have been fully engaged in all research, including ‘Have your Say’ consultation activities.

### Legislative context

Under current legislation, the Welsh Government has jurisdiction over the activities of water companies whose areas are wholly or mainly in Wales. The Wales Act 2017<sup>10</sup> will facilitate this jurisdiction to be aligned with national boundaries rather than catchment boundaries. This makes it even more important that the Company recognise and respond to the different legislative frameworks in Wales and England.

The CCG has worked closely with the Company to ensure that it reflects the priorities set out in the devolved Government’s ‘Water Strategy’<sup>11</sup> and the ‘PR19 Strategic Priorities and Objectives Statement’<sup>12</sup>. The CCG Chair has met with the Cabinet Secretary and Environment Ministers, with officials from the water branch of the Welsh Government also attending CCG meetings.

The Welsh Government set out six priorities for Ofwat in the PR19 statement:

- affordability
- innovation
- long-term
- markets and competition
- resilience
- strong customer focus
- sustainable management of natural resources

The Welsh Government decision not to adopt the open market for business retail services is particularly important for the work of the CCG, as the price controls will be applied to water and wastewater services provided to the non-household sector.

The PR19 business plan also needs to take into account the new legislative framework introduced in 2016 in the form of the Well-being of Future Generations and Environment Acts. The Well-being of Future Generations Act, although not directly applicable to the Company, has set a legal framework for the operations of the devolved public sector. It sets out the national well-being goals, and ways of working which put citizen engagement and long-term thinking at the heart of public policy. The supporting structures of Public Service Boards are required to put in place local plans to improve well-being, while the new role of

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<sup>10</sup> <https://www.assembly.wales/en/abthome/role-of-assembly-how-it-works/Pages/Wales-Act-2017.aspx>

<sup>11</sup> <https://gov.wales/docs/desh/publications/150521-water-strategy-for-wales-en.pdf>

<sup>12</sup> <http://www.assembly.wales/laid%20documents/gen-ld11283/gen-ld11283-e.pdf>

the Future Generations Commissioner is in place to enable the effective delivery of the legislation. It is early days in the operations of the new framework but it provides an important context and operating platform for the Company's engagement with public bodies and the communities they serve. The CCG would expect the PR19 business plan to reflect the way in which the Company was going to contribute to the national well-being goals and apply the ways of working in its operations.

Similarly, The Environment (Wales) Act places a duty on water and sewerage companies, to aim to improve and not reduce biodiversity, and in so doing seek to further the resilience of ecosystems. The Act also sets requirements for the sustainable management and stewardship of natural resources and the role of Natural Resource Wales, including the production of area statements. Again it is early days in the implementation of the legislation but it will have significant implications not least on the associated expectations of the Company in the sustainable management of a national water resource essential to customers in Wales and England.

The CCG has also worked closely with Welsh Government's PR19 Forum which has brought together key stakeholders to review progress with the Company's business planning.

*"We expect Ofwat to challenge companies to deliver for customers on the basis of comparison across companies in Wales and England, and across sectors where appropriate, while making appropriate allowances for differences in the operating and legal environments of companies in Wales, and taking into account variations in the priorities of customers and other stakeholders".*

**Welsh Government<sup>13</sup>**

## **The Business Model**

The CCG understands Dŵr Cymru's distinctive business model being owned by a not-for-profit company limited by guarantee, meaning that any financial surpluses are reinvested for the benefit of its customers.

This model means that there is potential for a different relationship with customers, as research evidence shows higher levels of trust once customers are aware of the not for profit model. Over the period of the business planning the Company has increased awareness across the customer base of their not-for-profit status from 31% to 64%. This is reflected in the findings of the Consumer Council for Water 'Water Matters' Report where levels of trust in Welsh Water were higher than all other water and sewerage companies in England and Wales.

The research has indicated high levels of cynicism by customers in respect to the operations of corporates but positive responses to the not-for-profit model, although there are still challenges in communicating what this model means to customers.

Ofwat believes that the *"combination of reputational, procedural and financial incentives used to be appropriate to all current ownership structures and models, including that of Dŵr*

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<sup>13</sup> <https://www.ofwat.gov.uk/wp-content/uploads/2017/12/Welsh-Govt-priorities-FM.pdf> (page 3)



*Cymru*".<sup>14</sup> Nevertheless, it is also important to recognise that this business model provides the basis for a much stronger relationship with the customer base, as exemplified in the 'Have Your Say' engagement with customers on the return of value through the customer dividend. The CCG will want to ensure that the Company uses this relationship to deliver leading practice in customer participation and coproduction in the delivery of the business plan.

The CCG recognises that customers are increasingly aware of the distinctive business model operated by Dŵr Cymru, with research showing improvements in awareness leads to related increases in customer trust. Customers though also want to ensure that the Company is performing at comparative or better levels than other water companies operating in England and Wales.

### **Economic, Social, Environmental, and Cultural Context**

The CCG is clear on the differences in the operating context for Dŵr Cymru which underpin variations in the cost base and measures of success when benchmarked across the water sector, in particular the length of the coastline, nature of the topography, exposure to high levels of flood risk, natural levels of mineral content, dispersed rural populations, heritage of an aging infrastructure.

The nature of customer research means that it can be difficult to reflect this operating context exactly but it puts emphasis on the importance of transparency and increased customer awareness in performance reporting. In addition, Wales traditionally receives high levels of rainfall, so customers thereby have a perception that water is easily and freely available at all times.

The CCG will be particularly focused on increased customer awareness and engagement in performance reporting going forward.

While customers may not be very aware of the impact of the operating context on costs and bill levels there is clear evidence of their understanding of the importance of the Company's contribution to the wider economic, social, environmental and cultural well-being; particularly the importance of clean beaches and good river quality to Wales.

The CCG would want to highlight the economic operating context to stress the low levels of income across the customer base and the high levels of financial insecurity. Research has emphasised that the customer-base has the lowest levels of income and highest levels of deprivation compared with other water companies. The bill research indicated that over 40% of customers found paying their water a bill 'a stretch'. This issue is considered in more detail in later chapters but underpins why affordability and support for customers in vulnerable circumstances is a key focus for the CCG in the business plan. This element is more critical following the long period of austerity.

There is also an important cultural and associated language context to the operations in Wales, which the CCG views as being an important consideration. Water is a key natural

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<sup>14</sup> <https://www.ofwat.gov.uk/wp-content/uploads/2017/12/Welsh-Govt-priorities-FM.pdf> (page 3)



resource for Wales and as such there is a long political and social history associated with the exploitation of this natural resource. As a leading Welsh Company providing an essential utility there is a responsibility on the Company to ensure that the Welsh language is core to its strategy both in serving customers and supported across business operations.

## **The National Environment Programme**

The CCG would like to note that it did not have the opportunity to engage with process of agreeing the National Environment Programme (NEP) in Wales. Members of the CCG asked for this discussion to be incorporated on our work, however discussions on the NEP took place in bilateral discussion between the Company and NRW as it related to statutory requirements. The negotiations on the NEP also took place late in the process and CCG members, in particular CCWater ([Appendix 20](#)), raised concerns on:

- the potential implications of the outcomes on current and future customer bills, including the acceptability research which had been completed in advance of the NEP. It should be noted, however, that the final NEP did not impact on the overall bill level tested in the acceptability research.
- the need to understand the evidence on the approach that would represent best value to customers in addressing the NEP requirements.
- ensuring that phasing the NEP did not jeopardise the Company's ability to meet its statutory obligations.

The CCG supports the importance placed on "avoiding storing up problems for future generations", but believes that proposals for phasing the NEP can potentially lead to better value for money outcomes for customers and supports Welsh Government's encouragement for the Company to seek out opportunities through alternative ways of working to identify different approaches to deliver environmental improvements in order to deliver value for money for customers, today and in the future.

The Natural Resources Wales and the Environment Agency annexes can be found in [Appendix 10](#) and [Appendix 11](#) respectively.

# Chapter 5

## Customer Engagement

### The CCG's approach

The CCG has a key role in providing independent assurance to Ofwat on the quality of the Company's customer engagement in the development of the PR19 business plan. This section of the report includes the CCG assessment of the overall quality of customer engagement, references the involvement of the CCG in providing independent challenge to the approach to customer engagement adopted by the Company and acknowledges a step change in engagement since the work undertaken in PR14.

The timeline of CCG involvement in the customer engagement programme for PR19 is set out in [Appendix 05](#), indicating early discussions in March 2016 on the nature of the engagement and the research which needed to be commissioned. There was a clear commitment from the Company both to involve the CCG at the outset of the research, and to build the business plan from ongoing consultation with customers; with each key stages informing the next.

*"We have striven to be "customer led" throughout the formulation of our Business Plan, following a three-phase approach: firstly, identifying customers' priorities to inform our Measures of Success as well as their views on the long-term challenges outlined in WW2050 in the development of which we had also, as you well know, interacted extensively both with our customers and the CCG; secondly, to inform our cost benefit analysis and target setting for the MOSs, as well as consideration of additional improvements at a higher bill level (options testing); and finally, the overall acceptability of the plan."*

*Letter from Dŵr Cymru Chair to CCG June 2018*

The Company issued a tender for the engagement of research agencies prior to engagement with the CCG. However, the tender itself did not include any detail in respect of the research framework and the May 2016 CCG meeting considered the high-level customer engagement plan, the timeline, approach and methodologies to be used for the first stage of the research programme. This session included a workshop in May 2016 to inform the topics for research and engagement, groups to target, methods of research and CCG work plan.

There was also a commitment to engage with the more deprived communities directly and to work with these communities to identify the best way of engaging with them. This has formed a key feature in the ongoing work with the development of a new approach to water resilient communities, with a pilot in the Rhondda Fach area of the south Wales valleys.

The July 2016 CCG welcomed the fact that the recommendations from their previous meeting had informed the research briefs and that the Company were committed to signing up to the 'National Principles for Public Engagement in Wales'. This meeting was an opportunity to engage with the appointed research agencies and the planned elements of the first stage research to be undertaken were set out. This included lessons learnt from PR14 and

adaptation for PR19; definitions and approach for ‘vulnerable’ and ‘hard-to-reach’ customers; Willingness to Pay; overarching priorities; performance measures; and resilience.

The CCG timeline ([Appendix 05](#)) identifies the engagement chronology between the Company and the CCG on the customer research process, clarifying when presentations on research plans and findings from the research agencies were shared with the CCG.

The CCG found it challenging to engage effectively with the detail of the research over this period as highlighted in the CCG Research Assurance Report ([Appendix 02](#)):

*“However, given the breadth and volume of research and tight deadlines, the CCG found it both difficult to comment on the detail of the research and to set each piece of work in the context of the big picture of what each was intended to contribute.”*

The report highlighted the process started with assumptions and expectations using a PR14 baseline as opposed to the much heavier requirements resulting from the ambitious step change implemented for PR19.

The CCG commentary and feedback on the research proposals and subsequent initial findings (for the period up to March 2017) was discussed with the Dŵr Cymru Board in May 2017 ([Appendix 07](#)). This provided feedback on the progress of developing the customer evidence base. An extract from the report and the Company response is set out below. This report also informed the Board of the CCG intention to undertake an independent analysis of the effectiveness of the commissioned customer research. A further update report was discussed with the Board in September 2017 ([Appendix 08](#)). Both reports are contained in the Appendices along with the response from the Chief Executive ([Appendix 09](#)).

## **CCG Commentary on progress of customer research and initial findings**

The following points were included in a report to the Dŵr Cymru Board in May 2017 and were drawn from key issues raised by the CCG in the period September 2016 to March 2017 raised. The summary includes the subsequent Company response to each point.

### **Commentary on Progress of Customer Research and initial findings**

The importance of the context of trends in customer service expectation particularly in respect of responsiveness, proactive engagement, increased use of automated services and opportunity to be in control. The role of transparency in building trust as “corporate cynicism” prevails coupled with a lack of appreciation of value of water, low awareness of special support and little understanding as to how water bills are assessed.

### **Dŵr Cymru Response**

We note there is a theme in customer service expectations research and in other research that customers’ expectations are increasing especially linked to proactive and responsive communication.

We do also note the theme that customers would be more supportive and trusting if they had more information and education about how their bills are calculated and where/how the money from bills is invested.

Awareness levels of our Priority services register and Social Tariffs are low across the engagement activities completed. We have commissioned a specific piece of research to look into vulnerable, struggling and hard to reach customers to understand how we could improve in communicating these services and any additional offering they feel we should offer to help shape of Vulnerable customer strategy.

### **Commentary on Progress of Customer Research and initial findings**

The CCG welcomed the specific research focused on those worse served or at risk customers. The research highlighted high levels of “acceptance and resignation” which may lead to under representation of the actual problems faced by this group of customers.

### **Dŵr Cymru Response**

While overall the number of worst served customers is low their issues outweigh the normal experience of our customers.

This is being looked at in Water2050 plan to ensure that this group of customers are identified, and solutions recognised to resolve their service issues.

### **Commentary on Progress of Customer Research and initial findings**

The research indicated the high level of appreciation and recognition for the DŴR CYMRU staff on the ground working to provide solutions for customers and the value of enabling local decision making. Conversely there seemed to be a need for greater visibility from the senior management in engagement with customers suffering repeated problems

**Dŵr Cymru Response**

This is noted and will be fed back to the teams working with customer on repeated services issues.

**Commentary on Progress of Customer Research and initial findings**

The outreach to vulnerable customers in at risk areas is particularly important, where priority support should be focused on those customers with additional needs. Identifying, communicating and providing specific support services where needed.

**Dŵr Cymru Response**

We have commissioned a specific piece of research to look into vulnerable, struggling and hard to reach customers to understand how we could improve in communicating these services and any additional offering they feel we should offer to help shape of Vulnerable customer strategy. This research was targeted to area's we know have high deprivation and therefore where a high number of customers should be using these specific services.

**Commentary on Progress of Customer Research and initial findings**

The environmental customer research identified an increased consciousness environmental impact compared to the PR14 research. Customers viewed river quality as the main issue for Welsh Water's leadership responsibility, also giving clear support for prioritising renewable energy. There as high awareness of the blue flag system with high association with quality of bathing water & value to tourism industry – although the blue flag status is dependent upon many factors beyond water quality.

**Dŵr Cymru Response**

We continue to develop our plans under the NEP to ensure we continue to make improvements to River water quality.

We've also completed a programme to develop costal models. This will enable us to enhance our understanding of the factors affecting water quality at bathing water and shellfish sites along the entire Welsh coastline.

We're now generating 20% of our own energy needs through wind, hydro, solar and advance anaerobic digestion with the aim to increase this to 30% by 2019.

In July 2017, we announced a new energy contract with DONG Energy will ensure that energy Welsh Water uses from the grid will also be guaranteed green energy. All this makes a big difference to reducing our carbon footprint, but also benefits our customers by reducing our overall operating costs so that we can keep bills low.

**Commentary on Progress of Customer Research and initial findings**

Understandably there was low awareness around the term "catchment management" but a positive response once explained. It is important that support for land managers in changing behaviour is not positioned as "subsidising industries that cause pollution".

**Dŵr Cymru Response**

Noted. In our environment research catchment management was introduced as 'preventing pollution from getting into raw water sources in the first place (and therefore reducing the costs of the water treatment process)'

We also introduced the example of the Weed Wiper trial where the campaign works with farmers and land managers to promote better advice on handling, applying and disposing of grassland sprays.

**Commentary on Progress of Customer Research and initial findings**

The CCG emphasised the importance of programmes of education to build understanding of value of good water management from land managers to individual customers and the need to triangulate customer research with informed stakeholder views and evidence based on sound science.

**Dŵr Cymru Response**

Our Triangulation framework includes a broad range of data/information sources. A wide breadth of data/information sources is used to enable decision to be based on a broad base of both customer views and robust evidence from data and stakeholders. This includes:

- quantitative/ qualitative research (including stated preference surveys).
- Historical and comparative performance: Includes performance against AMP6 commitments and comparative performance.
- Broader industry data & research: Includes PR14 customer research and wider industry research/evidence.

Data from continuous engagement: Includes customer engagement data (Trust Tracker), Customer interactions data (Rant and Rave / Complaints / Social Media analysis), External data (e.g. Ofwat SIM), Customer journeys / Pain point analysis, Customer sentiment dashboard, etc.

**Commentary on Progress of Customer Research and initial findings**

The fact that we have a lot of rain in Wales leads to customer perceptions that can impact on their views of investment needed for resilience, so importance of framing in terms of climate change, population growth, and water transfer needs. It was encouraging that the research indicated a greater awareness of these issues than in PR14. It is important that clear links are made to specific areas of focus such as the growth of the City Regions around Cardiff and Swansea Bay in respect of resilience of supply in areas of significant population growth and increased demand from industry.

**Dŵr Cymru Response**

Where possible research and information given to customers is locally linked but also given in the context of Wales as a whole.

When discussing complex long term issues such as resilience the research is designed to intermittently educate the customer's as part of the discussion to give them more

information about such context which will enable them to make informed decisions. We do also want to measure this against the view of uninformed and therefore we use this process of drip-feeding information to understand views as they learn more.

#### **Commentary on Progress of Customer Research and initial findings**

The perception of a plentiful supply of water in Wales also impacts upon behaviours around water efficiency and demand management. Important that this is addressed through collaboration with resource efficiency initiatives, specifically the link to domestic hot water efficiency.

#### **Dŵr Cymru Response**

This is correct in the uninformed customers how, as seen in the WRMP Qual research, referencing population growth/increased development increases relevance for Wales and changes perception to something which they see as relevant to them and something which could potentially affect them in the longer term with water restrictions etc.

Our WRMP Qual research found majority of customer to be conscious about their water use whether that be due to the use of a meter or being environmentally conscious. Customer would like for us to do more to help promote being water efficient.

#### **Commentary on Progress of Customer Research and initial findings**

Customers have a high expectation that the Company will plan to meet the needs of future generations taking into account these trends and unpredictable nature of impacts of climate change. It will be important to link with the engagement processes focused around long term wellbeing associated with the Wellbeing of Future Generations Act.

#### **Dŵr Cymru Response**

Our Water2050 plans are being updated to reflect the views of customer from the process of engagement activities so far. This plan looks to link these long term strategic responses with those of the Future Generations Act.

#### **Commentary on Progress of Customer Research and initial findings**

The importance of ensuring that the feedback from customer dialogue around complaints is fed back into the business improvement and planning process. This is an area where the CCG would like to receive more detail of the root cause analysis process.

#### **Dŵr Cymru Response**

Complaints and other customer feedback/performance is widely reported to employees in the Company through our Team brief every month.

We also hold specific scrutiny sessions to look at complaints and contacts in all business areas and with members of our exec team.

## CCG Research Assurance Report

Given the ambition, scale and intensity of the customer research undertaken by the Company over the period (March 2016 – March 2018), the CCG Chair felt that an independent overview of the research would help the CCG with referencing and understanding chronology and context of the research. The Chair drew on the specific research expertise of CCG member, Dr Dimitrios Xenias, Cardiff University, to undertake this report.

The research report was commissioned in April 2017 with the aim of providing the CCG with assurance that the Company had established an effective evidence base from a range of customer data sources to allow the development of a business plan that is based on customer priorities.

*“Whilst we are confident that the research is sound in approach, methodology and findings, further independent analysis of what key messages we have taken from the research and how it is influencing our decision-making and planning is welcome.”*

**Dŵr Cymru CEO letter to CCG**

The CCG endorsed the key findings of the report and submitted it to the Company with a covering letter from the Chair in April 2018.

*“The PR19 process to date presents a significant improvement compared to the PR14 experience but there are also opportunities for further improvement. It is clear that Dŵr Cymru has put much effort and resource into customer engagement since early 2016. The Company has also broadened their research scope compared to PR14. This expanded the breadth of available data and methods, and provided welcome addition of qualitative information. It is also very important to recognise that the Company took initiatives for early engagement with researchers, customers, and the CCG.”*

**CCG Research Assurance report (page 4)**

A full copy of the report along with the Company responses to the recommendations can be found in ([Appendix 02](#)).

The following points from the report should be highlighted:

- The research framework was ambitious and individual research briefs covered a broad remit, and employing a wide range of methods and techniques. This was certainly an improvement from PR14 and the Company demonstrated that they had broadened their scope, methods, and use of research companies. The report also commended the Company for the early engagement with CCG.
- The report found that the Company had delivered against Ofwat’s expectations on customer engagement but stressed that the intensive research exercise undertaken for PR19 should not be seen as a one off exercise related to requirements of the specific PR19 methodology. The use of mobile equipment that record customer feedback at the point of interaction e.g. by repair crews on the property and the online customer panel were highlighted as important initiatives that needed to be monitored by the CCG going forward.
- The report references the continued concerns over the nature of Willingness to Pay (WtP) methodology despite the changes from the PR14 process. It was felt



important that the Company drew on the wide range of evidence gathered and not depend on this one metric for key decisions in the business plan. A point that was applied by the company which used WtP as one of a range of sources in establishing performance commitments.

- The scale and nature of the individual research briefs led to a difficulty in establishing a sense of cohesion and continuity. The work grew to such an extent that in January 2017 Dŵr Cymru appointed PwC to advise and assist with research volume management and managing evidence in the triangulation process. The Company also worked with PwC to refine and strengthen the research framework, presenting the three Phase framework to the CCG in March 2017. This provided a stronger framework for the research but the Assurance Report highlighted that *“ideally such planning takes place, and is articulated, at the outset of the research process”*.
- The PR19 process has engaged a large number of customers to differing degrees of depth it is very important that there is some form of feedback loop to customers in respect of the impact of their involvement and opportunity for continued engagement.
- The Dŵr Cymru website needs to be improved; if the customer is at the heart of the process, it should also be made easy for them to participate and comment via the website.
- Given the volume and complexity of designing and implementing a successful research programme, Dŵr Cymru might benefit from greater in-house research expertise.
- The CCG was engaged in the early stages of design and development of the customer research but the report documents the challenges for the CCG in responding to the scale of the research programme reducing opportunities for co-design. This process can be improved in the future and needs to be part of the post PR19 review of the working of the CCG.

*“We appreciate that due to the scale of the programme this year there was a great deal of content. We recognise that there was a limit to the amount that CCG members were able to provide detailed feedback on research materials and design, owing to a combination of limited capacity of CCG volunteer members and the Dŵr Cymru team, tight timescales for the research process, and the need to keep CCG meetings to a manageable duration. We will look for ways to make the process more efficient in the future.”*

#### **Dŵr Cymru Response to Research Assurance Report**

## Willingness to Pay

The Research Assurance Report included a significant section on the Willingness to Pay research process, recognising that the Willingness to Pay (WtP) methodology was prioritised early on in the PR19 process, coinciding with the reformation of the CCG and at a time where many of its members felt that the CCG was not in a position to meaningfully contribute to the research design process. The report also highlighted the fact that the study of stated preferences in Willingness to Pay (WtP) research is complex, technical, and reliant on interpretation and that the Company put considerable effort into improving and simplifying the WtP methodology in PR19 compared to PR14. Given these factors it was particularly important that the WtP process was subject of independent peer review.

The July 2016 CCG meeting considered proposals for the WtP research. The CCG accepted the importance of a simpler more accessible approach, recommended a parallel exercise based on the PR14 model for comparative purposes, and encouraged the Company to apply innovative approaches and not to simply repeat the PR14 process.

The resulting WtP design approach put forward was new to Dŵr Cymru, and to the water sector more widely, and so an extensive programme of testing was designed and implemented to refine the design and provide assurance that the instrument was working effectively. The findings from each stage were presented in the Pilot report for the study to the CCG in February 2017 along with a peer review undertaken by Professor Ken Willis who endorsed the validity of the approach.

The CCG reviewed the two survey approaches in February 2017 and agreed that the PR19 style survey had the advantage of being simpler for respondents, could accommodate more attributes and demonstrated a higher conversion rate from recruitment to completion. The CCG approved the revised process understanding that there would be further refinements following the initial implementation stage.

The CCG Research Assurance Report highlighted general concerns over the WtP process and its application in the business planning process notably that *“it is important that the Company evidences a range of sources in making decisions as opposed to relying on the results of the WtP process. There is a real danger in over reliance of WtP to provide the ‘single right answer’” (page 18).* A point that was accepted by the Company in its response to the recommendations.

The Research Assurance Report also highlighted some unexpected anomalies in the WtP findings. CCWater also added a challenge to the CCG process on the differences in valuation that resulted since PR14 and whether this was due to changes in the methodology or reflected changes in customer views. This was subsequently the subject of further supplementary research. A report of the findings was produced and peer reviewed by Professor Ken Willis who endorsed the accuracy of the research findings.

Following the peer review and the changes made to the survey through engagement with the CCG and stakeholders, the CCG Chair gave approval on April 4th 2017 to move from pilot to the main stage Willingness to Pay survey.

The Consumer Council for Water produced its own report on ‘Improving Willingness to Pay Research in the Water Sector’<sup>15</sup> in July 2017 after the company had finalised its approach. Dŵr Cymru provided a retrospective response to this report which is included in [Appendix 12](#). A key concern of CCWater remains that the Company used WtP valuations to define the ranges of its ODI /PC targets instead of seeking to define this in its subsequent ODI research.

The application of the WtP values in cost benefit analysis (CBA), alongside other data/customer inputs, were discussed with the CCG in the March 2018 meeting which reviewed the setting of performance commitments (see [Chapter 6](#) ).

*“We agree that Willingness to Pay does not produce 100% accurate valuations of customer preferences. However, it is one of multiple sources of information we have used to set performance targets. Our approach was presented to the CCG on 21 March.”*

**Dŵr Cymru response to Research Assurance Report**

## **Triangulation of Customer Evidence**

The PR19 methodology stresses the importance of drawing on multiple sources of evidence in establishing business plan priorities. The Company’s triangulation approach was developed before CCWater’s Triangulation recommendations project was complete and therefore was not informed by this report.

The Company undertook an exercise to draw on different sources of evidence in Phase 1 and Phase 2 of the research.

The Phase 1 triangulation covered 94 areas of service that customers may potentially find of value and 28 categories of service. The information was drawn from primary research, historic research, comparative data and internal Company data. This data was then analysed against triangulation principles informed by PwC to produce customer priorities which were presented in three columns; these were used to form the basis of the customer-based measures of success.

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<sup>15</sup> <https://www.ccwater.org.uk/wp-content/uploads/2017/07/Improving-willingness-to-pay-research-in-the-water-sector.pdf>

## Triangulation principles

1. More weight should be placed on data/information which is **consistent with other sources** – e.g. where there is an established regulatory or industry consensus/view, less weight should be placed on ‘outliers’ (unless there is strong evidence of local nuances).
2. Most weight should be placed on data/information that is **fit for purpose** (collected using a methodology which has been designed appropriately for eliciting customer priorities/preferences) – e.g. where the methodology has enabled customers to explicitly identify their priorities as opposed to where we have needed to infer customer priorities.
3. More weight should be placed on data/information which is **more robust and reliable** (statistically significant, consistent/repeatable/stable, and intuitive / coherent). Data/information which is less reliable will still be considered, though only for context or as corroborating evidence.
4. More weight should be placed on more recent data/information, except where there is reason to suggest recent evidence is less reliable (or where a longer-time series is required).

When considering **comparative information**, more weight should be placed on data/information from closer comparators (companies with similar demographics, issues/challenges, etc.)

Source: Dŵr Cymru Welsh Water (2017a) p.5.

These principles were established in advance of the CCWater guidance on triangulation but Research Assurance report indicated “*This set of principles is not dissimilar to the triangulation guidance issued by CCWater in their July 2017 event in London*”<sup>16</sup>. The Research Assurance report also highlights some of the issues in the process particularly in respect to how internal data could be made more accessible for external review.

The June 2017 meeting of the CCG welcomed the Phase 1 triangulation report “recognising the significant amount of work required to draw together the information” and the fact it provided the basis for a “much stronger and wider evidence base for customer priorities”<sup>17</sup>. The process was comprehensive, but complex in its application of such a large range of data sources.

The process did provide a good indication of what the Company should consider as key priorities for customers. It cannot be regarded as a perfect reflection of customer views, but a consolidation against sound principles from a wide range of sources that provided an effective starting point for setting out the measures that customers most care about within the suite of Measures of Success.

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<sup>16</sup> CCG Research Assurance Report – [Appendix 02](#) (page 14)

<sup>17</sup> CCG Meeting June 2017 minutes

The research that informed the Welsh Water 2050 strategy was also subject to a triangulation process, drawing from the 'Have Your Say' consultation, stakeholder workshops and other engagement activities, as well as commissioned qualitative research.

The CCG accepted that the triangulation process provided a broad sense of the customer priorities drawn from the different data sources. We expressed some concern over the weighting given to the large scale, but top-level 'Have Your Say' programme and asked for more explanation as to the allocation of top weighting to this source. This was subsequently followed up by CCWater and amendments made to the weightings which led to minor adjustments in priority ranking.

The CCG received a paper from the Company in November 2017, which set out the proposals for the Phase 2 triangulation process. At the CCG meeting in March 2018, the Company explained to the CCG the process of applying this triangulation to the target setting, clarifying how the cost-benefit analysis process drew on the Willingness to Pay, performance commitment research, historical performance data, benchmarking across the sector and other evidence from customer research sources; responding to the challenge set out in the Research Assurance Report. This generated the 'performance target range' which was then subject to judgements as to what represents a stretching target.

This session was designed to address what the CCG in PR14 referred to a 'black box' process in how customer evidence was applied to target setting in the business plan.

## **Welsh Water 2050 – Looking to the Long Term**

A feature of customer engagement over the period has been the Company's focus on involving customers on longer term issues, considering the needs and requirements of future customers through the Welsh Water 2050 process.

The Welsh Water 2050 plans were developed by the Company following the Board's decision in 2016 to set the vision for Welsh Water in 2050: *'...to become a truly world class, resilient and sustainable water service for the benefit of future generations'*.

The Company published a detailed *'Welsh Water 2050 Consultation Document'* in the spring of 2017, following an extensive review of international best practice in resilience planning, aided by independent consultants Arup and by Cardiff University.

The CCG considered drafts of the consultation document in February and April 2017, before participating in the 2050 consultation launch in May. The CCG stressed that the:

- Welsh Water 2050 engagement work sets the long term context for the PR19 plan, so there needs to be a clear line of sight between the PR19 plan's performance measures and the 2050 strategic responses.
- Well-being of Future Generations Act should provide the context for the plan which should be framed against the national well-being goals.
- importance of considering disruptive challenges that are likely to transform systems should be applied, and not just consider business as usual models. It is

almost impossible to predict nature of change and importance to ensure flexibility of responses to disruptions cause by new technologies.

- potential scale of climate change impacts require a response in the resilience framework.
- Company needed to place a greater specific focus on affordability and impact of increasing vulnerability across customer base response to water efficiency needed to be stronger.

*“There was a general view that vulnerability was not prominent enough as an issue in the Welsh Water 2050 document, supporting the CCWater response that “affordability and ever-changing vulnerability of the population Dŵr Cymru services is one of the key challenges the Company is facing in the future.”*

*CCG report to September 2017 Board*

- involvement of farmers and land owners in long term change will be critical given their role as land managers and the potential for new approaches post Brexit, including payment for ecosystem services. The Catchment Management response needs to be based on a participation model.
- links between the customer preference research should be clarified with its contribution to the final Welsh Water 2050 report.

*“We would reinforce our earlier comments to ensure that the omissions listed are addressed in the revised Welsh Water plan. It was also stressed that the “citizen” element is expanded to clarify how the Company will meet customer expectations of its role as a corporate citizen in areas such as procurement and employment practices, as well as how it intends to work with citizens to address key issues such as demand management.” CCG Chair letter to Dŵr Cymru Nov 2017*

The consultation on the draft Welsh Water 2050 plan included over 20,000 customer responses, including qualitative workshops, input from the Youth Board ([Appendix 13](#)) and stakeholder groups, including the Independent Environmental Advisory Panel (IEAP).

The final Welsh Water 2050 strategy<sup>18</sup> was launched in the Senedd with the Minister for the Environment and the Chair of the CCG in May 2018, not only providing a focal point for the strategy but also an opportunity to engage policy makers in the future of water debate.

The final Welsh Water 2050 document reflected input from the CCG members and IEAP with specific changes including four new strategic responses that were included in the final plan:

- 12. Supporting customers in vulnerable circumstances
- 13. Working with customers and communities
- 14. Supporting ecosystems and biodiversity
- 18. Playing our part in the supply chain, the local economy and the circular economy

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<sup>18</sup> <https://www.dwrcymru.com/en/Company-Information/Business-Planning/Welsh-Water-2050.aspx>

*As the long-term foundation for our PR19 Business Plan, Welsh Water 2050 was amended specifically as a result of our customer and stakeholder engagement as well as very valuable input from the CCG. As a result, three additional Strategic Responses were added to our final document covering affordability, customers in vulnerable circumstances, and working with communities.*

***Dŵr Cymru Chair letter to CCG June 2018***

## **Innovation in Customer Engagement**

The PR19 methodology stresses the importance of innovation in customer engagement going beyond the formulaic customer research processes to establish a much more involved customer base. The CCG strategic challenges reflected this objective and were framed in the context of the Ofwat commissioned ‘Tapped In’ report asking the Company to demonstrate:

1. a progression from listening and understanding to active participation
2. how it involves customers who find it difficult to get their voice heard
3. how it works with customers to develop solutions

The Company responses to the strategic challenges ([Appendix 01](#)) includes evidence of the innovative approaches applied including:

- the Have your Say consultation which reached 12,000 customers and used ‘sliders’ to allow customers to distribute the £30 million return of value.
- Welsh Water 2050 introduced the Chatbot as an industry first with 3,000 completions and a vlog series that had 300,000 views.
- the Have Your Say panel launched 11 July 2017 to give customers a platform to share their views, take part in research and receive information on how their feedback is being used within the business, creating a continuous feedback loop.
- the Rhondda Fach Resilient Communities pilot “working with customers to co-create and co-deliver more resilient services”.
- investment in RainScape schemes has highly involved those in the community.
- the WaterSource scheme, involves several partnerships all aimed at improving the quality of water at its source.
- working in the community hubs in communities which are hard to reach, to engage customers who visit community centres or equivalent centres who may not respond to survey recruitment calls.
- the Let’s Stop the Block campaign designed to raise awareness of what not to put down the toilet to reduce blockages with the Youth Board being involved in designing campaign to target young people.

The CCG was pleased to see industry recognition for the engagement work as a whole, and Chatbot specifically, as the campaign won Marketing Initiative of the Year Award 2017 and was shortlisted for ICS Customer Commitment and Insight Awards 2018. This independent recognition is endorsement of the innovative methods employed to engage customers.

The Company has demonstrated a commitment to innovation in customer engagement – a point reinforced by the Dŵr Cymru Chair in his letter to the CCG in June 2018:



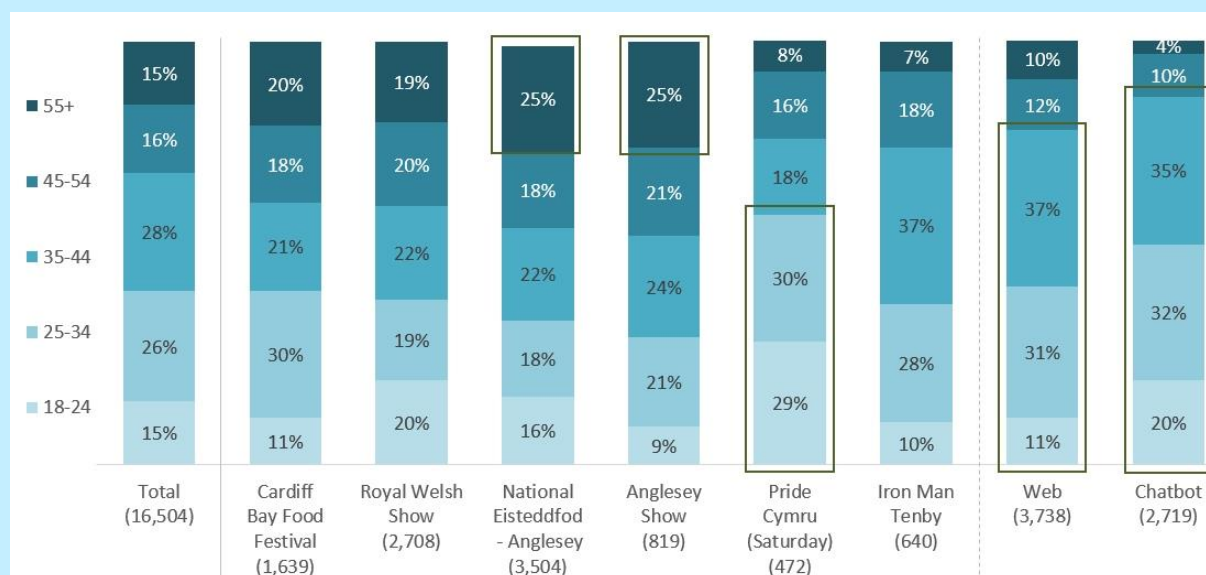
*"I have, since I joined the Board, seen a Company that has sought to put customers at the heart of our business planning and strategic decision-making. We are committed to building on this strong foundation throughout the next AMP period and innovative projects such as the Rhondda Fach Water Resilient Community pilot are an indication of how we are seeking to lead the way in this area."*

The challenge from the CCG going forward based on the experience to date is for the Company to ensure that:

- each individual piece of evidence clearly contributes to the big picture as opposed to sitting on its own.
- there is a clear line of sight through to the learning and actions.
- tensions between mixed messages from different sources are clearly identified.
- the Company can properly assimilate the scale and range of research findings and evidence from other data sources in shaping the business plan.
- the necessary changes are made to the processes to support the change in culture of the Company during the coming years.

## Chatbot Case Study

Chatbot is an industry first; developed to enable the Company to engage with a wider range of customers. Statistics below reveal how it has served to connect with a younger audience, probably because social media was used as the engagement tool. The chart shows a breakdown by age and event, and that a younger demographic completed the survey through Chatbot (87% were 44 and under).





## Engaging the Seldom Heard

The Company has included specific strategies to engage those customers who may find it more difficult to participate in the research process. [Chapter 7](#) (Supporting Vulnerable Customers) provides an analysis of the Company's work in this area. The research programme included home research on a one-to-one basis to ensure customers who were unable to leave home were included, as well as paired interviews with a close friend or relative who could support the customer in the interview.

The CCG has supported the Company in facilitating cross-sector learning on this issue such as through the contribution of expertise from Cynnal Cymru, Legal & General, Wales Council for Voluntary Action and Participation Cymru and in sharing practice across the energy sector with the joint conference with Wales & West Utilities and Western Power Distribution which was chaired by the CCG Chair.

The CCG has encouraged the Company to take a community focused approach and has been encouraged by the lead the Company has undertaken in the developing the Water Resilient Community Pilot in Rhondda Fach which includes some of the most deprived communities in Wales. This project is covered in detail in [Chapter 7](#) (Supporting Vulnerable Customers) and demonstrates the benefits working through community hubs to engage customers.

### Community Hub Case Study

The Community hub engagement exercise followed the work on-the-ground as part of the Rhondda Fach Resilient Community pilot and included a number of face-to-face surveys completed on a tablet and assisted by the independent researchers. Gaining feedback from individuals who otherwise would not have been engaged or in a position to contribute their views.

In addition there were also focus groups with pre-identified customers in vulnerable circumstances, as well as one-to-one interviews conducted in customers' homes; again with vulnerable customers.

- Vulnerable customer focus group participants: 64
- Vulnerable customer one-to-one interviews: 48
- Assisted community Hub surveys 180

This work was of particular interest to the CCG give Wales' high number of deprived areas. The CCG was pleased to see some of the individuals and groups involved with the initial engagement activities have strengthened their relationship with the Company, some have been part of the new bill design work, others have registered for social tariffs or the priority service register, and others have been involved with additional campaigns in the area.

The CCG encourage this kind of relationship building with the harder to reach in society, the seldom heard voices, and look forward to monitoring the depth of these relationships as well as the roll-out of this activity to other areas.

## The Voice of Future Generations

The Well-being of Future Generations (Wales) Act provides an important context for the operations of the Company across the vast majority of its operations. Although it does not apply directly to the Company it provides the legal operating framework for all public bodies in Wales. The CCG strategic challenges include asking the Company to demonstrate how it applies the ways of working and contributes to the national well-being goals as set out in the Act.

The CCG has recognised the Welsh Water 2050 strategy as an excellent example of applying the principles of the Act to the development of a long term plan. The customer engagement on the plan also encouraged all customers to take the long term view in shaping priorities for the Company for 2050. Future customers were specifically included in eight pieces of research:

- Resilience (DJS)- Oct 16,
- Customer priorities (Blue Marble)- Oct 16,
- Customer service expectations (Blue Marble)- March 17,
- Environment research (DJS)- Sept 17,
- Acceptability testing (Blue Marble)- Phase 1 options testing (May 2018),
- Acceptability testing (Blue Marble)- Phase 2 final acceptability (July 2018),
- Social Tariffs (Accent)- May 2018,
- Youth Board (July & Oct 2017).

The research on acceptability testing included future customers while other customer engagement methods, for example Chatbot, also secured involvement younger age ranges. In 2017 the Company created a Youth Board which involved 15 young people from schools across south Wales, aged 16-18, to advise the Company on how to tackle significant issues facing the Company in the future. The CCG Chair participated in the final panel session of the Youth Board.

The CCG would expect to see the continued focus on youth engagement models, such as a further development of the Youth Board, the Schools Innovation Challenge and projects undertaken as part of the Welsh Baccalaureate. The Company has an extensive and well regarded educational programme, however the CCG has not received evidence as to how this has contributed to future business planning and impact on behaviour change campaigns.

It is very positive that the PR19 business plan includes performance commitments to increase the scale of the education programme and the CCG will be looking for evidence as to how this programme is contributing to business objectives as well as improving educational outcomes.

## Non-Household Customers

The CCG has monitored non-household customer engagement through the PR19 process. Approximately 1,200 Non-Household Customers (NHH) customers have contributed to the commissioned research programme through focus groups, online surveys, telephone surveys and one-to-one interviews, across the range of research projects. The Company has also been able to draw information from its regular tracker surveys and third-party surveys. The CCG Chair also chaired a business breakfast and a meeting with developers.

The fact that the non-domestic retail market is not open to competition in Wales puts particular emphasis on the engagement with customers who do not have the option of choice of service provider.

The CCG requested a summary of NHH customer research responses and received a paper for consideration at its May 2018 meeting. The paper highlighted the positive performance of the Company in the twice yearly NHH tracker survey, CCWater Testing the Water survey, and Developer Levels of Services.

### **In the summary of responses SMEs said:**

- Few had longer term plans, instead managing threats and risks as they appeared. Local short term mind-set.
- Experience of Dŵr Cymru services is generally positive but in general are struggling to pay bills.
- Concerned about economic climate, import/export costs.
- Expectations increasing due to comparison with other sectors who have tracking services.
- Need support to cut costs.
- Need to proactively raise awareness of other services available.

While the larger Account Managed companies:

- are planning longer term, focusing on growth
- are more aware than HH of Dŵr Cymru and the work they do
- have heightened environmental awareness
- require higher level of communications, support to cut costs and Improved billing systems as well as Smart metering to monitor usage
- want Dŵr Cymru to plan for the longer term and prepare infrastructure for growth and climate risks
- expect Dŵr Cymru to be using technology to match other utilities
- also expect Dŵr Cymru to be investing in renewable energy.

### **The Company summarised the implications for PR19 as being**

- **Business Customers**
  - Personalise our service based on the differing Non-Household (NHH) customer segments. This will contribute to achieving the MoS target of 90% NHH customer satisfaction.
  - Significantly improve the digital offering and self-serve opportunities to NHH customers (current offering is very limited)
  - Expand the account management capability and overall regular engagement with NHH community (to enhance reputation, understand customers changing expectations and take customers on our journey)
  - Deliver electronic billing for all NHH customers that want this facility
  - Appropriately expand the range of added value services available e.g. leakage detection & repair, sub-metering
  - Identify differentiators to become industry leading in this sector

Developing an effective customer plan to support the implementation of the Wales Act 2017

- **Developer Services**
  - Developer customer satisfaction levels (D-MEX)
  - Improve the support for new developments upwards from 98% and reduce the frequency of using planning conditions to 'time-delay' development due to capacity constraints with our assets
  - Develop complete self-serve capability for Developer Services customers
  - Enhance account management capability
  - Secure the retention of skilled resource
    - Developing an effective customer plan to support the implementation of the Wales Act 2017
    - Continue to identify differentiators to maintain industry leading credentials

The CCG will be monitoring progress against these measures and actions in the delivery of the business plan.

The CCG is pleased that the Company responded to its challenges to focus on Non-Household customers in Wales. In particular we note that the Company has incorporated a Non-Household Customer Experience Measure (B-Mex) which will replicate the Household customer C-Mex in Wales. In the context of no option for those customer to swap suppliers we think this is an important measure to include in the Company's performance measure suite.

## Customer Engagement Summary

- There has been a step-change in customer involvement activities compared to PR14, driven by Dŵr Cymru need to fully and extensively understand the needs and expectations of their full customer base, but also the opinions of consumers and citizens. This has involved 30 pieces of research engaging over 40,000 customers with 9,000 participating in formal research. The comparison with PR14 customer engagement is set out in [Appendix 14](#) and while only some areas of PR19 engagement can be directly compared to PR14, the comparative scale and range of new initiatives provide evidence of the 'step change'.
- In addition to the commissioned research, the Company also drew on a range of customer views from its operational data and third party sources. The Company engaged with the CCG on the strategic framework for this research at an early stage; however, the CCG found it difficult to follow the thread of the interrelationships between the different phases, individual pieces of research and the sources of evidence through the exercise. This has been clearer as the process evolved but the CCG would have benefitted from the Company demonstrating links, chronology and evidence in a simpler way.
- There was a clear commitment from the Company to involve the CCG at the outset of the research and to clarify the timeline to give an indication of the continued engagement through the process. The CCG acknowledges the Company's intent but the demands of tight timescales along with the number of research projects did make effective and consistent co-design difficult to achieve over this phase of work.
- The CCG also acknowledges the commitment of the Company to building the business plan from the bottom up, with an understanding of customer priorities shaping the design of the draft plan. However, the interaction between the different sources of evidence and the decision-making process was not always clear to the CCG and was the subject of requests for clarification to establish clear lines-of-sight between the evidence and the decision making in a more transparent manner.
- The Welsh Water 2050 strategy represented an important step in engaging customers on the long-term issues, drawing on the framework of the Well-being of Future Generations Act and providing a foundation for the PR19 plan. The CCG continues to highlight the importance of continuing to work to build an informed customer base and to report progress against the 2050 objectives.
- Customer engagement is most effectively achieved at key points of connection with customers. The CCG has been very supportive of the development of supporting a place-based approach, linked to major capital investment programmes as a prime opportunity to have a more in-depth and greater engagement with a community. The Rhondda Fach pilot has developed an innovative model for a more localised engagement approach, providing multiple benefits and also generating lessons for wider application through the Company's operations.

**In summary** the Company has applied a range of research approaches and innovative techniques as well as drawing on in-house data to successfully secure an understanding of the views of its customer base.

# Chapter 6

## Measures of Success

This section summarises the extent to which the results of the customer engagement have driven the Company's decision making in respect to the measures of success and performance commitments, which form the basis for the PR19 business plan. It focuses on Phase 2 of the Company's engagement framework reflecting the Company's aim to be customer-led throughout the formulation of the business plan.

It also reviews the Performance Commitments related to each measure to ensure they are stretching and reflect customer priorities.

The proposals for customer research on performance measures and overarching customer priorities was presented to the CCG in July 2016. The working list of measures of success, related to each of the Company's customer promises, was subsequently presented at the CCG meeting on the 27th March 2017. The discussion focused on whether customer insight had been used appropriately in selecting the measures and whether there were any gaps in the set of measures being progressed. This meeting also received the details of the proposed customer research on performance targets.

The June 2017 CCG meeting reviewed the results of the triangulation process which reconciled the Phase 1 research findings with the operational and customer data from within the business and other external sources. This information provided the basis for re-assessment of the draft measures against the triangulated data and highlighted areas for further clarification.

*"As previously indicated the CCG welcomes the general approach taken to the establishment of the measures of success, reflecting Ofwat requirements, customer priorities and key business resilience measures. We are concerned about the number of measures, the potential for overlap, the need to be able to communicate each measure effectively and the degree to which the high level measures are underpinned by measures of impact.*

*We will also be challenging you to demonstrate how you will be pushing the Company towards exceptional performance on measures such as on water supply interruptions, per capita consumption, mains bursts, sewer collapses, sewer flooding and customer acceptability of drinking water quality."*

**CCG Chair letter to Dŵr Cymru 12<sup>th</sup> February 2018**

The further Phase 2 research and triangulation process contributed to the draft measures of success and performance commitments which were worked through with the CCG in March 2018. This session drew together conclusions on customer valuations and trade-offs regarding performance improvements, in the form of a set of cost-benefit analyses that underpinned the target setting exercise.

## Measures of Success – Challenges

The Company set out 45 measures of success, which the CCG initially considered as too many and asked the Board to review and submit a case for reduction. This was re-presented to the CCG with options for reduction of the number of measures. On further consideration the CCG agreed that it was better to keep the proposed number of measures, to avoid lowering priority given to key areas of performance.

*Regarding the suite of MOSs, we note the CCGs concern about the number of measures. While it is a high number, it is not out of line with what we have had in the past, nor with the rest of the industry. This is the minimum number that we believe is necessary to cover Ofwat's requirements, our customers' priorities, and the indicators the Company needs to track long-term resilience of the business. We have removed one measure where the CCG thought there was unnecessary overlap (on sewer flooding). We have also added an affordability measure in response to CCG feedback.* **Letter to CCG from Daniel Davies (Regulatory Strategy Manager) March 8th 2018**

*The Measures of Success have obviously been a key focus for the CCG. We did initially question whether 45 were too many measures, but have subsequently reviewed, and agreed that they do provide a comprehensive set, so would not recommend a reduction. Our main concern relates to how some of the measures can be a blunt tool and not give an effective picture of the impact that the Company is trying to achieve. This will be an area that will be a key focus for the work of the CCG going forward.* **CCG Chair letter to Dŵr Cymru Chair 23<sup>rd</sup> May 2018**

The CCG also challenged:

- the need to see a clear line-of-sight between the customer research, the measures of success and the long-term plan, demonstrating how the plan has been built on the customer evidence base. The letter from the Dŵr Cymru Chair to the CCG in June 2018 included a response to this challenge. The draft 'Delivering Outcomes for Customers' which formed part of the Company's PR19 submission was received by the CCG on the 7<sup>th</sup> August 2018. This document responded in detail to the CCG request for clarity on the 'golden thread' between customer views, Welsh Water 2050 and the Measures of Success targets.

*"Our Measures of Success were informed by the triangulation results of the first phase of our customer involvement programme. In addition, following the customer feedback on Welsh Water 2050 and the consequent additional Strategic Response of "working with communities" we included two additional measures of success on education and recreational activities (additional funding for recreation was also included as a result of our 2016 Have your Say consultation on how we should return value to customers). Despite Welsh Language Services not being included in the results of the Triangulation exercise, our Customer Service research noted the importance of the provision of Welsh Language services to our customers and it was consequently added to our final list of measures of success."* **Letter from Dŵr Cymru Chair 18<sup>th</sup> June 2018**



- the importance of clarity in the relationship between the customer promises, measures of success and Welsh Water 2050 strategy. The CCG has also consistently challenged on the line-of-sight between the PR19 Measures of Success and the performance objectives in the 2050 plan, to ensure we are making significant enough progress in the PR19 plan. We wanted the PR19 plan to clearly set out how the measures contribute to making a start on the 2050 objectives, demonstrating a clear long-term trajectory to achieving the 2050 outcomes. These longer term targets and the steps to their achievement were agreed by the Dŵr Cymru Board and subsequently circulated to the CCG on 16<sup>th</sup> August 2018.
- the fact that some of the high level measures may not provide an effective measure on their own, in providing a quantitative figure which may not reflect the qualitative impact that is being desired. This would be a key focus for the CCG in monitoring the impact.

*"We accept this. As discussed, a quantitative measure will rarely be adequate to capture the full impact intended. Note that Ofwat guidance is not to use combined/basket measures at PR19."* Dŵr Cymru response

- there are several measures which the Company referenced as not being relevant for customer contribution, while this may be strictly true in respect to some of the internal business measures, the CCG would stress that these measures are essential in maintaining and continue building customer trust with the business.

*"We agree that these are important measures that do indirectly impact customer service. At the same time, it is hard to ask customers what the appropriate target should be as these are to do with how we run our business and do not impact customers directly."* Dŵr Cymru response

- customers have a high expectation of the role of the Company and trust is easily undermined by poor corporate practice. This extends to measures not included e.g. the application of the real Living Wage, support for employees community involvement, the approach to ethical procurement etc., which form part of a customer's expectation of Company behaviour. The CCG will be focused on performance against these 'citizenship' measures in the Company's reporting to customers.

The CCG would recommend that the measures are assessed against the National Well-being Indicators that underpin the Goals in the Well-being of Future Generations (Wales) Act and the requirements of the Environment (Wales) Act. The Welsh Water 2050 strategy is set in the context of these Goals and it will be important to measure the contribution of the Company over the period of the business plan.

*"We will map the measures against the Wellbeing Goals as you suggest. The requirements of the Environment (Wales) Act are specific and not well-suited to MOSs as a way of tracking progress. However, we will be reporting on how we have met our obligations under the Act and contributed to it during AM P7."*

Dŵr Cymru response



The issue of transparency is central to the customer compact. This applies to how the measures of success and targets are constructed and communicated in ways that allow customers to consider both actual and relative progress. This particularly applies to how the customer bill is calculated and the way in which income is allocated. The customer research does indicate a low level of awareness and understanding on this issue, but a high level of value being put on transparency.

*“We agree that transparency of targets and performance is vital. We have engaged with the CCG on our Annual Performance Report and how it can be made more transparent to customers, and will continue to do so.”*

**Dŵr Cymru response**

The CCG subsequently further reviewed the Measures of Success and targets in the July 2018 meeting with the Company providing an update on actual performance figures for 2017/18 to ensure that targets are set against accurate baselines. The update also included changes to targets in sewer flooding due to new definition, increase in kilometres of river improved as agreed with Natural Resources Wales, the new measure on population subject to sewer flooding in a storm, waste water asset resilience, and confirmation of a doubling of the lead pipe replacement target.

Specific changes highlighted were the Company’s approach to measuring complaints, changes in the average household bill and financial resilience.

The Company also informed the CCG that following feedback from Ofwat that there would be changes to the Resilience measures moving from three to five asset resilience measures, resulting in a total now of 47 Measures of Success.

## **The Performance Commitment Targets**

The CCG believes that the suite of measures provides a comprehensive framework that reflects the views of customers. The CCG focused on pushing the Company towards exceptional performance on customer priority measures. These were discussed with the Dŵr Cymru Board in July 2018. **Specific areas of priority raised were:**

**Water Supply interruptions:** The CCG agrees that using an upper quartile benchmark that takes into account customers served by each company (rather than looking simply at an ‘unweighted’ upper quartile) makes sense given the wide variation in the size and nature of water companies, and how this variation impacts on this measure. The impact of increasingly severe weather events makes it important to prioritise addressing water supply interruptions of twelve hours or more.

CCWater provided its view ([Appendix 20](#)) on the trends in the company’s performance in order to inform the CCG’s challenge:

- Dŵr Cymru performance on water supply interruptions has been below industry average for at least three years.
- In 2016/17 the Company managed reduction of over 40% but still remained below industry average.

- In 2017/18 the Company's performance worsened significantly as a result of Storm Emma. However, even not taking into account Storm Emma's impact on water supply interruptions, the Company's performance would have worsened, just failing its target for 2017/18.
- Whilst we understand the challenges in addressing this issue, CCWater are concerned that the pace of improvement for customers is not fast enough.
- We recognise the affordability challenges explained by the Company. But as a starting point we would like to see the Company commit to eliminate water supply interruptions of 12 hour and more, and we were not able to establish that this was taken into account in the targets set for AMP7.

**Customer Acceptability of Water Quality:** Dŵr Cymru lag rest of industry on this measure and DWI want to see significant improvement. The CCG listened to the Company's explanation that industry leaders on this measure do not face the same operational environment which affects its performance. However, this needs to be a priority measure, with support for a focus on longer term solutions through catchment management and a long-term strategic plan for further long term improvements.

CCWater does not measure customer contacts on water quality but has had a long-term understanding of this being an ongoing performance issue in Wales. The challenging targets at PR14 seemed to be successful at mobilising the Company to implement some improvements in its performance by looking at ways it can improve its practices, and working to avoid external causes of complaints. CCWater's understanding of the DWI's expectations on this is that the target should be more challenging to improve the Company's performance in this AMP7, demonstrating higher ambition. The measure chosen by the Company is not comparable to what is measured by the Discover Water Dashboard therefore not allowing direct comparisons with the rest of the industry for CCWater.

**Leakage:** is a vital issue for customers that can enable behaviour change and is a high priority for stakeholders. It generates a strong emotional response from customers in respect to wastage and can be a major factor in undermining customer trust. The Company has set leakage targets on the basis of the 'economic levels of leakage', but the emotional reaction could have significant operational impacts through undermining trust, particularly given the increased likelihood of increased water stress through climate change. The IEAP has stressed the need to move leakage measures from largely a cost driven balance to a value proposition based around natural capital accounting.

The focus on reducing customer-side leakage is supported by the CCG and has the potential of offering multiple benefits in terms of customer engagement. However, there is uncertainty on its capacity to deliver the expected scale of reduction. There should be clarity and prominence to the role of customer metering in reducing leakage.

The Dŵr Cymru leakage performance in 2017/18 is slightly below upper quartile on a per km basis but some 22% below upper quartile when measures on a per property basis (in 2016/17 CCWater's industry performance report highlighted the industry average being 121 megalitres/property/day and Dŵr Cymru being one of the five companies being above that level on leakage at 123).

The targeted AMP7 leakage reduction would leave the company better than the forecast upper quartile by 24/25 on a per km basis, but it would continue to lag the upper quartile on a per property basis (due to the high proportion of mains per customer).

*“Ofwat should encourage and incentivise the sustainable and efficient use of water resources”.*

#### **Welsh Government’s 2017 Strategic Priority Statement**

**Per capita reduction:** The CCG feel there could be more focus on demand reduction as a way of improving resilience, improving environmental outcomes and tackling affordability for both domestic and Non-Household customers. CCWater provided its expert view on trends in the Company’s performance in order to inform the CCG’s challenge:

- In 2016/17 CCWater’s industry performance report highlighted Dŵr Cymru was one of the companies whose average consumption of water per person was above average, and it showed an upward trend. However, there are some concerns about the comparability of this measure on a consistent basis.
- The 2024/25 target is 138, against a 2015/16 outturn performance of 143, therefore raising concerns on whether the Company was ambitious enough in its targets.

The CCG challenged the Company plans on leakage and per capita reduction, this led to the Company presentation of the proposal for the ‘Cartref’ scheme at the July 2018 meeting.

**Pollution incidents:** This is viewed to be a priority measure of success by CCG with a high risk factor in undermining trust and a customer expectation in respect to the Company’s

## Cartref

At the July 2018 meeting, the CCG received a presentation from Ian Christie, Water Services Director, setting out the Company plans for ‘Cartref’ as a customer focused approach that can address both leakage and contribute to per capita reduction. The new strategy will represent a shift from the focus on reactive response to leakage within the supply system, which due to the high pressure and age of the infrastructure can lead to further problems; to a proactive focus on reducing customer side leakage, where evidence indicates significant water loss. The planned ‘Cartref’ programme will address customer-side leakage in high-loss areas and provide opportunity to work with customers on usage reduction as well as identifying the need for lead pipe replacements.

The CCG welcomed this strong focus on demand management and the plans for a different innovative approach and stressed:

- The need for significant customer engagement and education if the programme is to be successful as customers will need to allow access to the property.
- The importance of developing appropriate employee skills.
- The nature of the relationship with local plumbers.
- The need to work with NHH customers to reduce consumption.
- The great opportunity for addressing leakage and consumption to deliver real reductions to per capita consumption.
- The importance of stretching long term targets and milestones linked to the Water Resource Management Plan.

contribution to the quality of rivers and beaches as key national assets. The increase of severe weather events will put further pressure on performance. In CCWater's 2017/18 comparative analysis based on the commentary issued by NRW, the Company's rating on environmental performance has dropped due to non-compliance with permitting conditions set for discharges. The NRW annex ([Appendix 10](#)) indicates their recommendation that the Company should be more ambitious in improving its performance commitment below 90 incidents, while EA informed the CCG they would expect the target to be between UQ and Frontier.

**Environment Km of rivers improved:** The Wales Environment Link (WEL) representative questioned whether using kms of river improved as the sole measure of environmental improvement in the commitments was sufficiently defined. The Company explained that the measure and target are linked to delivery of the Company's statutory environmental obligations as set out in the NEP/WINEP. Customers also demonstrated significant support with 'cleaner rivers and beaches' being a top priority in the 'Have Your Say' consultation.

The targeted improvements of 418kms of rivers over the course of the AMP7 periods and a further 148km during AMP 8 have been agreed with NRW and EA under NEP/WINEP and as such have the status of formal legal obligations, which met with the WEL representative's approval.

**Catchments Improved (improvements in raw water quality):** Delivering nature-based solutions has been established as a key national priority in the Welsh Government's Natural Resource Policy. This policy identifies that healthy, resilient and diverse ecosystems can provide solutions for the benefit of society to the big challenges we face. There is growing evidence which shows a high return for investment in our natural resources, with rates of return comparable to more traditional infrastructure investment projects. The Brecon Beacons Mega Catchment project was highlighted by the Independent Environmental Advisory Panel (IEAP) as a great opportunity to test bed catchment and landscape management to help support a new approach to land management post Brexit. The CCG believe there are clear opportunities to demonstrate ambition in this area and to reflect and properly resource nature-based catchment approaches developed collaboratively within the business planning proposal for PR19. The IEAP has also stressed the need for Ofwat to incentivise the move from short-term asset related investments to longer-term catchment based investments where benefits would take multiple AMPs to deliver.

**Lead Pipe Replacement:** There is clear evidence of the impact of lead especially on the well-being of future generations. The CCG has highlighted the importance of this work supporting the role of the Wales Water Health Partnership and the Company's 2050 target of a lead-free Wales. Whilst there is no specific action in the Water Strategy for Wales on accelerated lead removal, a lead-free Wales commitment has been supported by the Welsh Government and is viewed as an important target by DWI. The CCG welcomes the increased target for lead pipe replacement, with a doubling from the original figures of 3,500 replacement pipes, as a result from the findings of the options testing with customers. However, there is a significant challenge in the scale of the task which will need to be met through both collaboration and innovation as yet there is no clear pathway to achieving the 2050 target.

**In summary**, the CCG believes that the suite of measures provides a comprehensive framework that reflects the views of customers. The CCG accepts that while it encourages the Company to be ambitious across a range of measures this has to be balanced against the evidence which shows the high level of financial vulnerability within the customer base in Wales.

The full CCG commentary on the measures of success as discussed with the Company between March and May 2018 is captured in [Appendix 15](#).

## Blueprint for the 2019 Price Review in Wales

Wales Environment Link, who are represented on the CCG, launched its Blueprint for PR19 in September 2017 setting out a manifesto with 18 asks under 5 themes of Protecting and restoring catchments; Stopping pollution in our rivers; A step change for biodiversity; Keeping rivers flowing and wetlands wet ; and Using water wisely and pricing water fairly.

The Company in a letter from Tony Harrington Director of Environment responded by agreeing the alignment of the 14 of the manifesto asks with the priorities in the PR19 business plan, as these were broadly supported by the Customer research undertaken by Dŵr Cymru for PR19. Due to resourcing issues within Wales Environment Link, the 4 areas which were not accepted and so remain subject to further discussions, relate to the role of natural capital accounting; moving to a position where demand reduction options are favoured by default over supply options; and proposals to financially incentivise customers to reduce consumption as part our water resource management planning.

The CCG is encouraged that the Company has subsequently agreed a set of environmental principles, unique to Wales with Wales Environment Link, who members are represented on both the IEAP and the CCG, to deliver the principles set out in the PR19 Wales Blueprint. These are to be launched in the autumn.

The environmental principles agreed for AMP7 in Wales are as follows:

1. **Continue to work in partnership and collaborate on areas of common interest pertinent to the fulfilment of the Company's functions**, e.g. by recognising the value of and actively pursuing policy change with Governments in support of catchment based approaches to protecting water supply.
2. **Recognise the roles of both sectors as environmental stewards**, e.g. work together to ensure everyone appreciates the fundamental links between water and the environment more generally. This should include supporting better links between land use and water policy in Government; the relevant goals detailed in the Well-being of Future Generations Act, and delivering Dŵr Cymru's strengthened biodiversity duty under the Environment (Wales) Act 2016.
3. **Work to support the principles detailed in the Water Framework Directive**, e.g. supporting the Polluter Pays and other WFD Principles in policy discussions with Government, helping to ensure that all relevant parties do their part to improve the aquatic environment.
4. **Work together and with our regulators to co-create and deliver resilient solutions to meet the environmental obligations in DŴR CYMRU's Business Plan** e.g. with respect to DŴR CYMRU catchment proposals; invasive species control; implementation of sustainable urban drainage systems; research; and land use change.
5. **Commit to making environmental data available in a timely and transparent way**, e.g. to enable eNGOs and our regulators to better understand the environment and thus promote improved, fair and equitable environmental policy making in Government.
6. **Recognise the importance of improving services to customers at an affordable price whilst improving and enhancing the environment**, e.g. work together to improve the resilience of Dŵr Cymru Welsh Waters' services and so improve the resilience of the natural environment in an affordable way.

# Chapter 7

## Customers in Vulnerable Circumstances

### **The Company's Proposals for Working to Support Customers in Vulnerable Circumstances**

Support for customers in vulnerable circumstances has been a key focus for the CCG in its work with the Company. The CCG has defined the term vulnerable as financial and non-financial, and through discussions we have also reiterated the learning from the customer research, where there was evidence of long-term and transient vulnerability, both situations where additional support is required.

The CCG held an initial workshop on the theme on September 19th 2016. The CCG wanted Dŵr Cymru to consider how their approach could align with CCG member organisations, how their approach would identify and support customers in vulnerable circumstances (and/or defined as hard to reach), and how their design, delivery and uptake of appropriate services and support would ameliorate their situation.

The workshop included a contribution from Legal & General as an opportunity to learn from another sector in helping to build a segmentation of the drivers of vulnerability, which was subsequently adopted by the Company:

- |                 |  |
|-----------------|--|
| • Crisis        | e.g. Death/Divorce/Redundancy/Major Health Life Conditions   |
| • Capability    | e.g. Physical or Mental Health Conditions/Learning/Language  |
| • Connectivity  | e.g. Messaging difficulties/Hard to Reach/Digitally Excluded |
| • Circumstances | e.g. Flood Prone/Remoteness/Lack of Public Support Services  |

As part of the follow up to the workshop the CCG was instrumental in initiating and facilitating a joint conference organised through CCG member Warm Wales, in December 2016 with Dŵr Cymru, Western Power Distribution and Wales & West Utilities, which was chaired by the CCG Chair. The aim of the event was to promote and enable greater collaboration and sharing of learning across the monopoly utility sector with public and voluntary sectors, supporting customers in vulnerable circumstances to make a sustained difference. The conference led to a commitment to wider data sharing and collaboration between the utility companies.

The CCG has encouraged the Company to take a collaborative approach to tackling poverty rather than a narrow focus on water poverty.

*"The bill research highlighted again the high level of financial vulnerability within the customer base in Wales, which needs to be fully recognised within the business plan. The CCG stressed the need for the Company to consider household poverty as opposed to the narrow water poverty focus, recognising the Company has a leadership role to play in developing cross sector solutions. The CCG recognises the limits to the Company role but would encourage partnership approaches in liaison with Welsh Government and other trusted intermediaries in tackling resource efficiency and reducing household expenditure e.g. in areas such as the costs of heating water."*

**Letter to Dŵr Cymru from CCG Nov 2017**



The customer evidence indicates that the majority of customers are unaware of the additional services and support for vulnerable (transient or longer term) customers. Of those who were on the list of customers eligible for additional services, most did not feel they had been given a service 'above and beyond' what they would have expected from a basic service.

### **Rhondda Fach Pilot (Water Resilient Communities)**

*"The CCG was keen to understand whether there were hotspots of overlapping issues that would be addressed and in particular the opportunity to engage such communities in the solutions to the issues."*

**CCG October 2016**

The CCG has worked with the Company to develop the 'deep dive' approach, working in depth in a community to develop a pilot for a place-based approach to supporting community resilience which could be part of the business as usual approach in AMP7. The Rhondda Fach Water Resilient Community pilot project was established in autumn 2017 linked to the Company's zonal infrastructure investment.

*"The Resilient Communities project will allow us to work with and involve customers in a way that we haven't done before, by "working with customers to co-create and co-deliver more resilient services" (Resilience in the Round, Ofwat19) as well as focusing on a targeted area that faces numerous challenges both from a Welsh Water asset point of view, and from a community point of view. The project will look at direct involvement and collaboration with the community for long-term benefit.*

*The project has been initiated with involvement from our Customer Challenge Group (CCG) Chair, Peter Davies and addresses some of the CCG strategic challenges."*

**Dŵr Cymru 2017**

The initial findings of the research for the pilot demonstrated the need for cross-sector collaboration and an in-depth, community-based approach as 34,500 households in the area represent some of those in the most vulnerable circumstances.

The initial research indicated that 187 customers were on the Priority Services Register and 693 registered for social tariff. Figures that suggest considerable scope for improvement, given the level of deprivation in the area.

The CCG has been encouraged by the clear commitment of the Chief Executive and Board to respond to the challenge highlighted by the initial research and to develop a transformative model.

*"I'm very excited about our approach to the Rhondda Fach Water Resilient Communities project and how that will work in line with the principles of the 'Tapped In' report. We have already held a number of positive meetings with local groups and organisations and are building our action plan to support the objectives outlined in the local wellbeing action plan designed by the Public Service Board. I'm keen that you and the CCG continue to play an active role in this project to ensure that we maximise the impact and customer*

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<sup>19</sup> <http://www.ofwat.gov.uk/publication/resilience-in-the-round/>



*involvement from the local community. This is a key project for our Business Plan and – if the pilot is successful - our ambition is that we can roll out a number of similar projects over the course of the next AMP”.*

**Letter to CCG from Dŵr Cymru CEO 9<sup>th</sup> February 2017**

A report on the Rhondda Fach pilot, prepared by CCG member Cynnal Cymru for the CCG, can be found in [Appendix 16](#). It includes the following key recommendations:

1. Given lessons learned from the pilot, and the creation of a blueprint for a new way of working, Dŵr Cymru should continue, adapt and improve on this pilot project to bring similar benefits to other communities. Ultimately embedding this way of working as corporate culture.
2. The success of reaching the seldom heard voices in the Rhondda Fach; and the innovative ways this has happened; should be shared with wider stakeholders for wider and longer lasting benefit.
3. Early commissioning of the socio-economic, place-based research should be used for each geographic area to inform on-the-ground activity (as each community will have its own areas of focus). This research has been valuable in informing activity and making recommendations at the outset, giving the project early focus.
4. We would recommend a similar wide stakeholder grouping and an initial ‘scoping’ meeting. This should be followed by subsequent meetings and workshops with appropriate and identified individuals (that may differ from the representatives that sit on the stakeholder group) to focus activity into separate work-streams.
5. As this was the first project of its kind it was expected that the internal culture would be slow to change. However, with the Company’s innovation, commitment and a dedicated team, there is early evidence of individuals and teams throughout the Company embedding this new way of working and supporting the vision of a customer-centric, coproduction approach. This momentum needs to be continued and built on.
6. The use of Trello came at quite an early stage but it has been adopted differently by different groups. Early tutorials and ongoing support could be included in subsequent projects with an idea of expected levels of use.
7. Building Trust, it takes time and commitment to build trust with local community groups and individuals. Allocating dedicated time to focus on this and having people spend time on the ground should be built in to future projects (as it has with this).
8. We learnt from some of the early stakeholder meetings and workshops that there was some early scepticism and mistrust around what Dŵr Cymru were trying to do (as many of the groups had seen lots of projects come and go in the area). A key part of the process was telling people about the project and allowing them the time to ask questions and understand how there is a genuine benefit to their own community and organisations, before asking them to share their ideas or get involved further.

*“This meeting showcased true collaboration and we learned so much from each other. Each member of staff shared with your team how we work well in that area, and your team took on board all the information we provided with great enthusiasm and we now*

*have a firm plan for future working. I was really impressed by both Trivallis and Dŵr Cymru, where both organisations demonstrated passion for our communities and the understanding of the complex issues some of the people in this area have. This meeting demonstrated real partnership working, putting plans in place from the start aiming to try and be one step ahead in delivering a successful programme together.”*

**Local Housing Association representative comment to the Company in February 2018**

The CCG recognises the importance of the approach being developed in the pilot and supports its wider application within the business plan at scale. The approach applies the principles of the ‘Tapped In’ report to customer participation, working in one of the most deprived communities to deliver multiple and place-based benefits in collaboration with others.

The CCG will also be looking to ensure that the lessons from the in-depth water resilient community project, as well as working through community hubs to gather on-the-ground information, are applied to the wider operations of the Company.

**Response to the Company’s Draft Strategy for Customers in Vulnerable Circumstance**

The CCG received the draft Vulnerable Customer strategy at the March 2018 meeting and subsequently undertook a consultation with members to produce a response that was submitted to the Company in April. This response can be found in [Appendix 17](#).

The CCG felt that the draft strategy represented a good start on building on the track record to date and made the below suggestions as areas for improvement.

A response from the Company to the CCG commentary on the draft vulnerability strategy was received on July 8<sup>th</sup> is included in [Appendix 18](#). The response indicates that the Company will be taking forward actions related to the key recommendations in finalising the strategy and in the implementation plan.

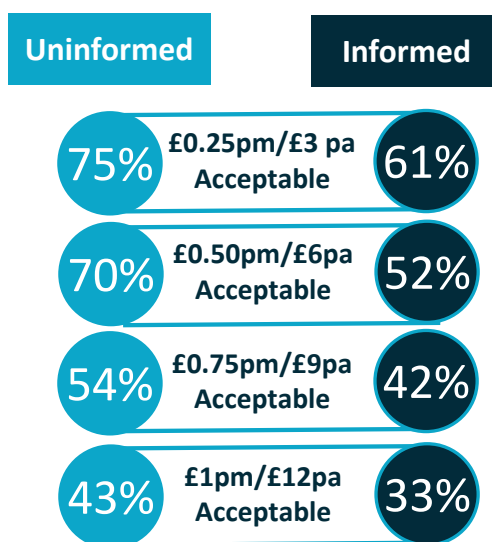
Key points accepted by the Company included:

- The strategy should put more emphasis on understanding the *different* challenges that customers face, accurate customer identification of degrees of vulnerability is fundamental to better targeting of resources and would then place the Company at the forefront of best national practice.
- Support for the greater use and promotion of the Priority Services Register (PSR) with the aim of increasing its numbers, but there needs to be a clear focus on quality of data and an avoidance of an over reliance on the register as an indicator. It will be important to assess the value of the assistance provided through the PSR.
- Collaboration with other sectors, particularly those leading practice in the energy sector, including a focus on the cost of heating water as a significant factor for customers with scope for greater collaborative action and innovation.
- Support for the plans to share data with key partners, train staff and make its services more accessible, but there is scope to go further, with a range of practical actions suggested which are designed to improve access for customers.

- A more strategic focus in developing delivery partnership with third sector partners in particular Citizens Advice Cymru.
- Improvements in communication with vulnerable customers at times of crisis such as in severe weather events.
- The importance of a specialist focus on those most in need.
- An extension to the Rhondda Fach pilot into a mainstream community focused programme.

## Social Tariffs

The CCG received the results of the research on social tariffs at the May 2018 meeting. The research tested the extent of customers' willingness to support the cross-subsidy element that contributes to the Dŵr Cymru social tariff. The results show that the majority (61%) of informed customers supported up to a £3 increase, but the Company did not feel this was a large enough majority to justify increasing the cross-subsidy.



*"We are not currently proposing to increase the cross-subsidy borne by customers to fund our social tariffs due to the lack of an overwhelming mandate from customers reflected in the results of our research despite a majority being in favour of the concept of a cross-subsidy itself."*

### Letter from Dŵr Cymru Chair to CCG 18<sup>th</sup> June 2108

During the July 2018 meeting, the CCG considered the need for a revised approach to social tariff support given:

- the evidence that customers do not demonstrate strong enough support to justify an increase of the cross-subsidy beyond current levels.
- the anticipated lower sums available for 'customer distributions' from the Company during AMP7.
- new data suggests that up to 31% (400,000) of the total customer base may be eligible, based on the existing eligibility criteria, financial or non-financially vulnerable.

- the PR19 plan includes an increase from the current 90,000 customers supported to 148,000 customers. The Company confirmed to CCWater that it will be looking for over 100% increase on current levels on the HelpU social tariff within that target, with an increase to 119,600 from 57,000 customers currently receiving this support.
- the evidence from current distribution shows take up does not necessarily meet those in most need.

The CCG accepted the analysis of the situation and agreed that it was vital to redesign the scheme to be better targeted. The CCG emphasised that in the development of a new approach, the Company should:

- draw on the lessons from Rhondda Fach pilot on better targeting of those most in need.
- be aware of limitations of a solely area based model.
- have a bigger part to play in a multi-agency, multi-sector collaborative approach.
- focus on staff training to provide responses tailored to customer circumstances, for example a metering solution as opposed to default to social tariff schemes.
- strengthen interaction with customers and tracking to take account of changed financial or personal circumstances.
- improve general customer awareness of the support for those less able to pay through the mix of cross-subsidy and Company contribution.
- establish clear metrics for measuring impact, as recommended by CCWater.
- directly involve the customer base and those who find the bill a stretch on the re-design.

### **Priority Services Register**

The Company's business plan commitment to increase engagement with priority service customers, from 2% to 8% in-line with the current energy sector benchmark, is welcome, but the CCG notes that Ofgem are seeking the energy sector to offer a far higher level of engagement in servicing various degrees of vulnerability.

The Company will need to apply the lessons from CCWater's Priority Services Register review. Performance is reported against quality measures of the effectiveness of support provided as well as the increase of numbers on the register. There should also be evidence of collaboration and shared learning with the energy sector.

### **Next steps**

The CCG recognises that the Company has an industry leading record in supporting customers in financial difficulty, but there will need to be a step change in the approach to implementation in the next period.

The Company has committed to working with the CCG to further develop the strategy for supporting customers in vulnerable circumstances with a stakeholder workshop planned for November 2018. The CCG will want to ensure that this reflects the ambition to 'do even more' in the efforts to support customers in vulnerable circumstances.

# Chapter 8

## Outcome Delivery Incentives

Ofwat methodology clearly states that companies are expected to engage with customers on the design of rewards and penalties. The early CCG discussions on the operation of ODIs highlighted issues over their application, in particular the potential difficulty of engaging customers on the detailed design of an ODI scheme, particularly given Dŵr Cymru's not-for-profit operating model. The CCG did, however, stress that it was important to seek customer views on how rewards and penalties, were likely to influence customer bills. The Company undertook qualitative research on customer views on ODIs, which was reported back to the CCG in March 2018.

The concerns of the CCG were reinforced by the findings of the research where customers accepted the principle of penalties, but did not understand why they had to reward the Company for good performance through increased bills, particularly given the not-for-profit status of Dŵr Cymru.

Customers were clear that there should be penalties for poor performance against their expectations of a quality service. Equally any incentives to reward excellence should clearly reflect the customer priorities based on the particular context of the Company's operations. Such incentives should reflect performance well beyond customer expectations and which would be recognised as such by customers.

The CCG therefore welcomed the Company's intent to weight ODIs more towards penalties than rewards and agreed with the principle that they should be set at the lower end of the Ofwat range.

The CCG also welcomed the proposals for a 'Water Share' scheme for managing any net ODI rewards through returning a proportion to customers in lower bills, and consulting with the CCG, Natural Resources Wales and the Environment Agency, before deciding on how the remainder would be returned to customers.

At the July 2018 meeting, the CCG considered the qualitative research on the acceptability of ODIs undertaken by Accent which concluded that:

*"the majority of customers understood the principle of targets and associated rewards/penalties for businesses. However, for most, linking the rewards and profits directly to the customers' bills is felt to be negative. Whether bills are perceived to be manageable or not, customer bill increases are not welcomed within this context and they find it difficult to comprehend why the customer has to be penalised for Dŵr Cymru exceeding targets. Dŵr Cymru's not for profit model adds an additional layer of complexity and many questioned the relevance of rewards/penalties for Dŵr Cymru".*

In respect to the discussion on the proposals for implementing the ODIs, while there were a range of comments, the CCG:

- Recognised the challenge of engaging customers in the process.
- Acknowledged that the proposals reflected the customer priorities.

- Reinforced previous agreement to the pitching of the ODIs at the lower end of the Ofwat range with a greater emphasis on penalties; and incentives only being applied to what customers would see as exceptional performance.
- Stressed the importance of building the informed customer base and communicating transparently the application of ODIs in practice.
- Repeated previous concerns in respect to the principle of ODIs, particularly as applied to a not-for-profit operation.

The research provided customer views on the priority performance areas across the measures of success to guide the Company's proposals for the allocation of the penalties and rewards.

The Company proposals for the allocation size and distribution of rewards and penalties presented to the CCG were largely in line with these findings with the top priority areas being:

- Water quality (risk to health).
- Sewer flooding in customer properties.
- Worst served customers (waste-water).
- Water supply interruptions.
- Pollution incidents.

The Company is proposing 'trust levels' as a 'flagship ODI', yet the research indicated that *"reward or penalties are not appropriate for subjective, softer measures such as this"*.

In response to a challenge on this issue the Company stated:

*"The key thing is that customers agreed that Trust is really important ("critical"), and captures a range of the things that customers care about (service, reliability, communication etc). However, there were some reservations as to whether it would be suitable for rewards and penalties. Some of the customers just felt that rewards and penalties were only suitable for 'hard' measures rather than 'soft' measures such as Trust. But they didn't give a basis for this. In fact, we know that Trust can be robustly measured through surveys, and we would argue that it is suitable as a 'flagship' measure that attracts significant rewards and penalties, because it is so important to customers, and because it is a hard number with a clear methodology".*

Dŵr Cymru July 2018

A similar point can be made for the lower level reward and penalty proposals in education and recreation which customers believe are important but feel *"that softer (self-imposed) targets are more appropriate."*

The CCG also raised the point that the lack of a question on ODIs in the final acceptability quantitative survey could have impacted the overall acceptability result and perhaps making it more favourable than it would be if such a question was included – a point stressed by CCWater.

## The Company responded:

*"1) We tested a question on ODIs in the pilot testing survey. Customers did not understand it. The answers to this question would not be meaningful.*

*2) Including a question on ODIs therefore risks 'contaminating' the quality of the answers to the wider survey.*

*3) The likely impact of ODIs on bills is most likely to be very small (less than £5 a year) so the actual impact on customers (and hence in principle of the acceptability of what we do) is minimal."*

## In summary

The CCG supports the approach the Company is proposing for ODIs, as consistent with customer views:

- A greater focus on penalties.
- The plans for returning any net reward to benefit customers.
- The application at the lower end of the range to minimise volatility and retain customer confidence.
- Prioritisation across the measures which are important to customers.

The CCG accepts that the concept is complex and difficult to convey effectively in the final quantitative acceptability survey, although the Consumer Council for Water have stressed that they see this as a missed opportunity.

The CCG will want to ensure that there is a transparent approach to the application of the ODIs to ensure customers understand how the rewards and penalties are being applied and to develop an improved narrative to better engage customers over AMP7 and beyond.

# Chapter 9

## Achieving a Balanced Plan

The CCG has a key role in reviewing the Company's approach to achieving a balanced plan, in particular reflecting the trade-offs between:

- Providing current customers with the best possible service at affordable levels.
- Meeting the expectations of society as a whole in delivering wider benefits and supporting customers in vulnerable circumstances.
- Ensuring investments will meet the needs of future customers.

The March 21st 2018 CCG meeting reviewed the evidence from customers about their circumstances and outlook, their opinion of affordability and acceptability of the current bill, and the balance of views between keeping bills low and investing for the future and improving performance.

The CCG highlighted affordability as a key concern for a customer base where average incomes are lower than the rest of the UK, yet have a water bill above the industry average, and where the customers are concerned about future income levels, with 42% saying that paying the bill is a 'stretch'. The evidence base therefore means that affordability issues need to be front and centre of the business plan.

Equally the CCG stressed the challenge for Dŵr Cymru to ensure delivery against the long term plans, ensuring that investment levels in the business plan deliver sufficient progress against the ambitions set out in Welsh Water 2050.

The CCG were supportive of the conclusions and the proposed approach set out by the Company to:

- Drive efficiency as hard as possible to keep bills down on an ongoing basis.
- Pass through any savings arising from the lower cost of capital directly to customers in the form of lower bills.
- Expand social tariffs so that affordability support is better focused on those customers who most need help.
- Charge today's customers for the costs of running the business and maintaining assets on an annual basis, plus a share of the costs (including borrowing costs) of required investments depreciated over a reasonable period.
- Ensure that the Company has a revenue forecast that enables it to maintain a strong credit rating and hence keep the costs of borrowing down.
- Take a measured approach to long-term (Welsh Water 2050) investments, ensuring that we 'make a start' during AMP7.



## Options Testing Research

### Phase 1

It should be noted that, due to severe weather and ensuing problems for the Company, the CCG meeting arranged for 5<sup>th</sup> March, where the Phase 1 options testing was to be discussed, was postponed. The research framework was circulated for comment but with very tight deadlines. The CCG received initial findings from this research in April 2018 and the full report in May 2018.

**The Phase 1 options research presented a ‘base plan’ and an optional ‘extras package’. The ‘base plan’ was linked to an average bill of £425, a real term reduction of £20 from 2020 levels. The ‘extras package’, consisted of a package of improvements and, was offered at an average bill of £435, £10 more than the ‘base plan’.**

The research did indicate customer support for the ‘extras package’ particularly through the qualitative research but the overall summary of the research indicated only a 51% majority in favour of the higher bill and ‘extras package’. The CCG wrote to the Company in April 2018 indicating its view that *“that the research findings did not provide a clear mandate for the Company to proceed with the additional options in the business plan and the associated additional cost on the customer bill.”*

This view was supported by the Dŵr Cymru Board in May 2018, they asked the CCG to consider a compromise in that the Phase 1 research provided customers with an either/or choice on two packages. The Company indicated that they had done further work on the financial modelling and this had provided some further flexibility which could allow some elements of the enhanced package to be funded while keeping the bill reduction at the same level.

*“Following the results of our “options research,” we have decided to reduce the average household bill (before inflation) by approx. £20. Our research established a majority support for a smaller reduction (£10) that would have delivered additional service improvements, but not an overwhelming level of support. Therefore, following the firming-up of our financial plans we have reflected these customer views and we’ve been able to fund some additional services – including customer service improvement that customers indicated they expected to see in our Business Plan.”*

**Letter from Dŵr Cymru Chair to CCG June 2018**

This compromise package would include elements where customers had indicated higher priority in the Phase 1 ‘extras’ list:

- **Customer service:** Keeping up with other sectors i.e. appointment tracking.
- **Lead pipe extra expenditure:** A clear part of Welsh Water 2050 and the Welsh Government strategy. High level of stakeholder support.
- **Water network resilience:** Investment that would help build resilience in more populated areas, a requirement highlighted as a response to Storm Emma.

If these options were not included there could be a further bill reduction in the region of £5 per year.

The CCG stressed that the options research on its own did not provide strong evidence as the percentage differences were small, so it would be important to ensure that the three areas could be linked back to the main customer research programme. The Company provided the following response:

*“The margins of customer preferences between the various options were very narrow, ranging from 22% for the highest to 15% for the lowest. We therefore had to rely on other rationale when selecting the optimal combination of options to progress and decided to include three of the options in our business for the reasons below:*

- Although the appointment tracking system scored lowest of all the options, the feedback from the “options testing” focus groups made it clear that customers weren’t scoring the appointments tracking option highly because they didn’t want it but because customers felt that the appointments tracking system should be included as “business as usual” as it is becoming standard practice in other sectors.*
- Additional lead pipe replacement is something that we know has strong stakeholder support, and we have been pushed to do more on this issue by the DWI, and helps us move faster towards a key Welsh Water 2050 objective.*
- Strengthening the resilience of the water network is a high priority – as already included in the business plan – however, in light of the impact of Storm Emma we believe that the need was highlighted by Storm Emma.”*

The CCG agreed that the additional investment areas should be included in the final plan for acceptability testing, while maintaining the bill level reduction already committed; as opposed to a further reduction of £4/5 per annum in the bill.

The customer research had highlighted the importance of affordability but there was no strong message that bill reduction was the overriding priority over other aspects of service improvement.

The CCG raised a concern over whether the efficiency drive to deliver the bill reduction would lead to a squeeze on ambition especially in relation to improvements in environmental outcomes which were of high priority for customers. The Company indicated that investment plans did not indicate that this would be the case and business efficiencies would deliver savings for customers without impacting on investment levels which would be higher than in the current AMP.

The CCG also raised the question as to whether future bills would be impacted adversely through a tightening in the next AMP, if not enough progress was being made against Welsh Water 2050 objectives. The Company noted that every price review requires them to balance affordability, financability and operational performance for both today’s and future customers. The company noted that it would continue to track progress against 2050 objectives whilst always striving to keep bills affordable.

## Overall Acceptability

The CCG discussed the proposed final acceptability testing at the private April 2018 meeting, and raised two points in respect of the nature of the online panel and the engagement of non-household customers:

- a) ***“The nature of the online panel being used for the core online survey – does this include the Online Customer Panel established by the Company? How do you intend to minimise the self-selecting nature of online surveys? In this discussion the CCG also asked to be briefed on the current status of the Company’s online customer panel.”***

### Company Response

*The online survey is not related to Dŵr Cymru’s customer panel. Instead the sample is sourced from a 3<sup>rd</sup> party panel provider.*

*Online panels are a highly representative solution, with online penetration nearing saturation (in 2016, 85% of households in Wales had Internet access. **Source: ONS**). To ensure the sample is as representative as possible, we will apply quota controls on key demographic criteria (age, gender, social grade and region). Our quota targets will be based on 2011 census information for Wales. An online method also offers the key benefit of being able to display visual stimulus which we believe will be essential in conveying bill profile scenarios to customers in an easy-to-understand way. The online survey will function both on computers and mobile devices, ensuring we reach the broadest possible range of consumers, and that they will be able to complete the survey at a time and place convenient to them.*

*Our ‘Online Community’ panel (Have your Say Panel) currently has 514 members and has been used for eight projects to date, including our bill redesign project, options testing and Welsh Water 2050. I’d be happy to update the CCG fully on this at a future meeting.*

- b) ***The proposed ‘in community’ survey while being welcomed as a means of reaching out to seldom heard customers, would not include the opportunity to secure views from non-household customers. We would encourage opportunity to specifically engage small and medium sized business who may also be seldom heard.***

### Company Response

*Non-household customers are represented comprehensively elsewhere in the project and we have a sample size of 180 non-household customers. The community panels are specifically to include hard to hear/remote/non digital household samples. All stimulus has been circulated ahead of the next CCG and we would welcome further discussion on this matter at the meeting.*

At the May 2018 meeting, the CCG further reviewed the acceptability testing survey following updates made by the Company and the research agency. The key points raised by the CCG and stressed by the Consumer Council for Water were:

- The importance of being clear on the impact of inflation in the acceptability testing the bill profiles with customers.
- The feasibility of including ODIs in the survey.

### **Acceptability Research Results**

At the July 2108 meeting, the CCG reviewed the results of the acceptability research. 80% of uninformed customers surveyed found the plan acceptable/very acceptable with the figure rising to 92% when participants were informed. 95% of all customers surveyed found the bill affordable but 30% say they would find it 'a stretch'. The acceptability research also shows 81% of customers felt it was good value for money, this is significantly above the perceived value for money of the current bill levels.

The CCG acknowledged the results as strong levels of acceptability and affordability. Specific areas highlighted were:

- The degree to which it is possible to compare against the PR14 results; Dŵr Cymru provided an analysis ([Appendix 14](#)).
- A profile was requested on the 30% of people that would find the bill 'a stretch'; subsequently provided by the Company.
- The lack of a question on ODIs could have impacted the overall acceptability result and perhaps making it more favourable than it would be if such a question was included.

Dŵr Cymru's response to this challenge:

*"1) We tested a question on ODIs in the pilot testing survey. Customers did not understand it. The answers to this question would not be meaningful*

*2) Including a question on ODIs therefore risks 'contaminating' the quality of the answers to the wider survey.*

*3) The likely impact of ODIs on bills is most likely to be very small (less than £5 a year) so the actual impact on customers (and hence in principle of the acceptability of what we do) is minimal."*

CCWater subsequently submitted a list of questions in respect of the acceptability research. The Company response to these is included in [Appendix 19](#).

### **Tensions and Trade offs**

The CCG accepts that there are necessarily trade-offs and tensions across competing priorities.

The CCG commentary on the measures of success in [Appendix 15](#) references some of the examples that have been discussed with the CCG in the process of building the plan:

- Low willingness to pay to address worst served customers due to high cost and low numbers involved, but the CCG supports the Company view that investment to provide solutions is justified.

- There are mixed customer messages concerning the importance of lead pipe replacement, but the CCG supports DWI and Welsh Government views that this needs to be a priority investment.
- Concepts such as catchment management and nature based solutions can be difficult for customers to understand without a more informed engagement process so giving variable results on customer priorities, the CCG and the IEAP have been consistent in the support of these approaches.
- The customer response to social tariffs showed a majority were in favour of an increase in the cross-subsidy, but the CCG agreed that this was not a clear enough mandate to justify the increase.
- Despite Welsh Language Services not being included in the results of the Triangulation exercise, Customer Service research noted the importance of the provision of Welsh Language services to customers and it was consequently added to the final list of measures of success with strong support from the CCG.
- The overriding tension is between the ambition to do more across a competing range of priorities; including the need to keep bill levels affordable for a customer base with high levels of financial vulnerability.

The CCG believes that Welsh Water 2050 reflects the aspirations of current customers and the needs of future customers. It provides the Company with a strong framework and clear direction to manage tensions and guide short-term decision making.

Our key area of concern throughout has been whether the PR19 Plan will make enough of a start in meeting these long-term objectives: “Is this plan big enough a step toward 2050?” The targets agreed by the Board in July 2018 set out the milestones on that journey and will enable the CCG to measure progress.

The CCG has pressed the company to be ambitious across a range of performance commitments. These have to be balanced against the priority of keeping bills affordable for a customer base that is financially insecure.

This imperative should not limit ambition to achieve a step change through innovation and doing things differently through a stronger partnership with customers. The Next Steps chapter sets out the key customer focused initiatives which will need to be successful if the 2050 ambition is to be realised.

**In summary**

This report demonstrates the scale of engagement the CCG has had with the Company throughout the process of developing the plan. The plan has been influenced by customers and the contribution of the CCG throughout its development.

It is the CCG's view that the Company has been successful in securing an understanding of the representative views of its customer base, and that this evidence has been used to develop the performance commitments and customer bills in the business plan. The final acceptability testing demonstrates strong support for the plan that meets customers' expectations, representing improved value for money.

The CCG's push for ambition in the plan recognised the necessary balance between addressing the affordability needs of the customer base in Wales and the need to make progress against the ambitions of Welsh Water 2050, in line with customers' expectations. The plan sets out to deliver a reduction in bills and increased investment levels with stretching efficiency targets to keep costs low. The CCG will continue to challenge the Company to be ambitious through innovation and the participation of customers in delivering solutions.

# Chapter 10

## CCG Next Steps

The Customer Challenge Group is conscious that this report represents a starting point rather than being an end in itself.

It is important to recognise that the Dŵr Cymru not-for-profit business model provides the foundation for a much stronger and trusting relationship with customers who 'have their say' in how the return of value is distributed. The CCG will want to ensure that the Company uses this relationship to deliver leading practice in customer participation and coproduction in the delivery of the business plan.

The six strategic challenges will provide a framework for continued engagement with the Company and as a reporting framework for the CCG. The Company has set out how it intends to take forward actions under each of the challenges:

- 1. Engagement with customers demonstrates a progression from listening and understanding customer needs to active participation of customers:**
  - a. Roll out Resilient Community Pilot to one new area per year until 2025.
  - b. Further develop our 'Have your say' Online Community and drive membership.
  - c. Develop our behavioural change campaigns to include behavioural economics.
  - d. Look for new engagement tools and channels to increase two-way discussions.
  - e. Develop an ongoing research and engagement plan with input from the CCG for AMP7; ongoing process of engagement with customers; how is value returned and agreed (e.g. Water Share).
  - f. Create a permanent youth board.
- 2. The Company draws on all interactions with customers to inform decision making, giving particular attention to groups who find it more difficult to have their voices heard:**
  - a. Develop customer sentiment dashboard and make it operational.
  - b. Use data and sentiment analysis to inform decisions and how we react during incidents and severe events (e.g. Storm Emma).
  - c. Use data to drive Resilient Community project.
- 3. An understanding of customer priorities based on the evidence of customer engagement is embedded as a business imperative across all elements of the business:**
  - a. Annual Customer Conference being considered.
  - b. Ambition to achieve ICS Servicemark Distinction by 2020.
  - c. Develop an approach for how customer feedback is disseminated through the business.
- 4. There is a clear focus on affordability of bills, with specific support for those who find it difficult to pay. Customers in vulnerable circumstances are supported through their direct involvement and collaborations with other companies, the public and third sectors:**

- a. Vulnerable customer strategy development.
  - b. Resilient communities roll out.
  - c. Reduce our costs.
  - d. Ongoing research programme to tackle affordability topic.
  - e. Currently investigating potential financial education programme being developed for schools.
5. **The Company demonstrates that it drives innovation through working with customers and stakeholders on collaborative projects that offer multiple benefits:**
- a. Continues focus on innovation (including conference and awards etc).
  - b. Learn from international best practice.
  - c. Develop online community.
  - d. Develop behavioural change approach, behavioural economics etc.
  - e. Roll out Water Resilient Communities pilot.
  - f. Continue to look for and test innovative approaches (e.g. Chabot, virtual assistants, dial testing etc).
6. **The principles of the Well-being of Future Generations and Environment (Wales) Acts are applied by the Company, demonstrating the ways of working and contribution to our national wellbeing goals:**
- a. Monitor and report against our Welsh Water 2050 strategic responses.
  - b. Follow up on our Biodiversity Action Plan.
  - c. Develop and open new visitor centre in Cardiff.
  - d. Continue discussion with partners to progress the Brecon Beacons Mega Catchment concept.
  - e. Review and act upon results of our SMNR trials.

The CCG will be reviewing these proposed actions, keeping the company true to its commitment to learn from the PR19 process and to further develop its customer insight strategy.

*“We will be conducting a review post PR19 submission to identify the key lessons to be learnt from the research programmes undertaken by Dŵr Cymru and other companies, and provide recommendations on the ongoing customer engagement programme. The long term approach will form part of this PR19 review. We will also be developing a Customer Insight strategy to identify how customer engagement will form part of our ongoing BAU in AMP7 to influence AMP8.”*

**Dŵr Cymru response to Research Assurance Report recommendation for long term engagement.**

The CCG sees a greater balancing of the formal customer research processes with the evidence from a stronger involved customer base as an important direction of travel. The not-for-profit status is a key driver of customer trust and along with the devolved legislative structures provides a platform for involving customers and partners in creating new solutions. The PR19 plan includes key opportunities for this to be taken forward, including:

- The Water Resilient Communities work.
- Support for customers in vulnerable circumstances.
- Water Source model for catchment management.



- The 'Cartref' scheme delivering multiple benefits in reducing leakage, reducing demand and lead pipe replacement.
- Stop the Block behaviour change campaigns.

The CCG has been consulted on the Company's annual reporting procedures over the last two years, but has not been able to give it enough focus due to the intensity of the PR19 research process. This will need to be a key element in the work plan for the CCG going forward, as we monitor delivery against the commitments in the business plan.

A key lesson from the PR19 customer engagement process has been the importance of enabling an informed and involved customer base, who are more able to understand, accept and willing to pay for future investment. The feedback loop to customers is a critical factor in this process, where the outcomes of their contribution are communicated and understood.

This point particularly applies to the whole process of customer feedback to the large numbers who have actively contributed to the business planning process in the PR19 process. Ensuring this feedback to customers on the outcomes of their contribution will be a key focus for the next stage of the CCG.

A key task will be to review the lessons from the operations of the group and the priorities for an independent role going forward. This report highlights the demands and the range of expertise required from a group largely made up of voluntary contributions, as well as its potential as an agent for enabling change and stimulating innovation. We will need to draw on the lessons from other CCGs in this process and also build links to the work of the equivalent groups being established in the energy sector.

The immediate priority is for the CCG to provide any further feedback on the PR19 business planning process, to respond to specific queries and engage with any further requirements as requested by Ofwat.

# Appendices

[Appendix 01 CCG Strategic Challenges with Company Response 2018](#)

[Appendix 02 Research Assurance Report](#)

[Appendix 03 Company response to Research Assurance Report](#)

[Appendix 04 Terms of Reference](#)

[Appendix 05 Timeline](#)

[Appendix 06 Trello screenshot](#)

[Appendix 07 CCG report to Board May 2017](#)

[Appendix 08 CCG report to Board September 2017](#)

[Appendix 09 CEO response to CCG Board papers May Sept 2017](#)

[Appendix 10 Natural Resources Wales Annex and Letter](#)

[Appendix 11 Environment Agency Annex](#)

[Appendix 12 Company response to CCWater Willingness to Pay Research](#)

[Appendix 13 Youth Board Report 30 Jan 2017](#)

[Appendix 14 PR14 and PR19 customer engagement comparison](#)

[Appendix 15 CCG commentary with Company responses on Measures of Success](#)

[Appendix 16 CCG Report on Rhondda Fach Pilot](#)

[Appendix 17 CCG response to Draft Vulnerable Customer Strategy](#)

[Appendix 18 Company Response to CCG comments on Draft Vulnerable Customer Strategy](#)

[Appendix 19 CCWater acceptability research principles and Company response](#)

[Appendix 20 CCWater letter with CCG Chair Response](#)