

# Welsh Affairs Select Committee

## One Off Evidence Session on Silk Review Part II: devolving legislative powers to Wales

### 1.0 Introduction

1.1 The Consumer Council for Water (CCWater) is the independent, non-departmental public body representing the interests of water and sewerage consumers across England and Wales. We have a committee for Wales and four local committees in England.

1.2 We have worked with the water industry and its regulators since 2005 to get the best results for water consumers. In that time we have secured £1.15billion of additional value for customers through companies bringing forward investment, not claiming for costs incurred, and providing extra help for vulnerable and indebted customers. We have also helped return **£18 million** to household and non-household customers in compensation and rebates since 2005, of which **£2.26million** has been returned to customers in Wales. We cost 21p for each water bill payer in 2014-15.<sup>1</sup>

1.3 We welcome the opportunity to submit written evidence to the Welsh Affairs Select Committee on the Silk Review Recommendation on Water (recommendation 16) for your consideration in advance of the oral evidence session planned for 28 April 2014.

### 2.0 Summary

2.1 The implementation of all aspects of Recommendation 16 is a decision for Ministers in England and Wales, but the implications for water and sewerage customers need further consideration and assessment.

2.2 We note the recommendation to devolve powers over sewerage to the National Assembly for Wales to improve consistency in arrangements for devolved matters. We consider that a formal intergovernmental protocol on water should explicitly ask both governments to consider the interests of water and sewerage customers in the exercise of their regulatory and legislative functions.

2.3 We ask the Welsh Affairs Select Committee to consider:

- Recommendation 16 on legislative competence should be spelt out clearly to avoid ambiguity, and to facilitate an accurate assessment of the implications for water and sewerage customers.

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<sup>1</sup> Our Forward Work Programme for 2014/15-2016/17 can be accessed online at <http://www.ccwater.org.uk/aboutus/ourvision/fwp/>.

- An in depth analysis of the costs of the proposed recommendations by Ofwat and the governments should be undertaken. It should identify an estimated likely impact on customer bills.
- Measures to limit impacts on customers' bills when recommendation 16 is implemented.
- Citizen engagement, or customer research, exploring the principle of a realignment of boundaries might help inform further discussions, in the absence of evidence of specific customer views.
- CCWater can play a role in working with the water companies to ensure they put plans in place to both communicate such changes to their customers and mitigate any effects.
- Customer confusion on who their supplier is and on non-household customer eligibility to switch suppliers, particularly if legislative competence is realigned after March 2017, as this could cause a repeal of eligibility to switch suppliers for Severn Trent Water non-household customers in Wales.

### **3.0 Our views on Recommendation 16 of the Silk Commission report**

3.1 The implementation of all aspects of Recommendation 16 is a decision for Ministers in England and Wales, and the implications for water and sewerage customers need further consideration and assessment. We will work with the UK and Welsh Governments, the companies and regulators to help assess these implications.

***Recommendation 16a: Powers over sewerage should be devolved to National Assembly for Wales.***

3.2 We note the recommendation to devolve powers over sewerage to the National Assembly for Wales. Given the devolved arrangements for water this would improve consistency in devolved matters arrangements.

***Recommendation 16b: The boundary for legislative competence for water should be aligned with the national boundary.***

3.3 We understand the recommendation to mean that legislative competence for both water and sewerage should be realigned with national boundaries, but at the moment only water is mentioned in this recommendation of the Silk Report (16b). The recommendation could also be read to mean that a realignment of company boundaries might be considered in the process of changing legislative competence. This could have additional implications on customers' bills and planning for customer communications. We think that Recommendation 16b should be spelt out clearly to avoid ambiguity and to facilitate an accurate assessment of implications on water and sewerage customers.

3.4 Implementing the legislative competence realignment to the national border could affect approximately 155,000 water customers in the border areas of Wales and England. According to figures provided by companies in April 2014, Wales-based customers of Severn Trent Water are approximately 25,000, England-based customers of Dŵr Cymru Welsh Water total 80,000 and Dee Valley Water's customers based in England are around 50,000. Around 139,000 sewerage customers at the borders of England and Wales would be similarly affected<sup>2</sup>. The views of these customers should be taken into account before decisions are taken on whether to align company boundaries with legislative boundaries.

#### Potential positive implications for water and sewerage customers

3.5 The border customer figures above reveal customer overlaps between companies in Wales and England. The process of legislative competence realignment might require accurate water company maps and customer data in border areas, with any data inaccuracies addressed before realignment.

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<sup>2</sup> 120,000 Dŵr Cymru Welsh Water and 19,000 Severn Trent Water sewerage customers.

3.6 The process of assessing the realignment and correcting data inaccuracies could also lead to a better understanding and a rationalisation of administrative costs for companies in implementing different policies in the two countries.

### Potential negative implications for water and sewerage customers

#### *The impact of repealing eligibility to switch water and sewerage service providers*

3.7 The most notable difference between the UK and Welsh Government policies on water relates to UK government's market reform proposals for companies wholly or mainly in England. If realignment occurs after market reform is introduced in April 2017 this could cause non-household customers confusion following a repeal of eligibility to switch companies for some.

3.8 The eligibility of non-household water customers of Dŵr Cymru Welsh Water and Dee Valley Water in England (around 9,000 for Dŵr Cymru and 4,000 for Dee Valley) and non-household water customers of Severn Trent Water in Wales (approximately 4,700) would change after the realignment, twice in the case of the Severn Trent's Wales-based customers<sup>3</sup>. This would also affect the eligibility of the non-household sewerage customers of Dŵr Cymru in England and Severn Trent in Wales. Consequently there is a need to consider how non-household customers in Wales served by an English company would be treated if they had already exercised their right to switch supplier.

#### *Cost implications for water and sewerage bills*

3.9 We support Ofwat's suggestion in the Silk Review report that further in depth analysis of the costs of the proposed recommendation is necessary. The relevant water companies should contribute to this review. Ofwat's indicative estimate of potential administrative costs on companies ranged between £700,000 and £1.6m. Further analysis should seek to estimate the likely impact on customer bills, assess this against the benefits of realignment, and demonstrate how negative financial impacts, if any, might be addressed.

3.10 The UK and Welsh Governments would need to understand and consider the possible cost implications of realignment on different customer segments in both Wales and England. This is important as often there are winners and losers where charges are adjusted. It would be helpful if change effects could be modelled to guide the decision making process, including the development of mitigation measures. We and customers would want it to be clear what, if any, impact there would be on customers' bills.

3.11 Based on our understanding of this Silk Commission recommendation impacts on water bills could be a result of:

- company administrative costs relating to the realignment;
- costs arising from different policies or regulation in the future set by the governments either side of the border; or
- costs arising from likely changes to company boundaries or regulation that might be considered in implementing the recommendation by 2025.

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<sup>3</sup>Currently Severn Trent's non-household customers in Wales are eligible to switch supplier if they use at least 5megalitres of water per annum. After 2017 the threshold is set at zero. If the boundaries are subsequently realigned those customers could revert to the threshold of 50 megalitres per annum as applied in the rest of Wales. Dee Valley and Dŵr Cymru customers in England would become eligible to switch supplier when the borders are realigned and would go from a threshold of 50 megalitres to zero.

3.12 If a realignment of company boundaries emerges in the process of the implementation of the Silk report customers would need to be protected through transitional or phased changes to their bills and/or the use of subsidised tariffs. This is important as Dŵr Cymru Welsh Water's average household water and sewerage bill is amongst the highest in the water industry at £440, and Dee Valley Water's average household bill, using Dŵr Cymru's average household sewerage charges, is £409. This compares to Severn Trent Water's average household water and sewerage of £333 - the major component of the difference being the sewerage charge (Dŵr Cymru £257 compared to £157 for Severn Trent).

#### Engaging customers and researching their views

3.13 It should be made easy for water and sewerage customers to understand who provides their water and sewerage services, what their rights and responsibilities are and, if there are plans to change their suppliers with likely consequences for the bills, to engage and consult them in the process. In the absence of evidence of specific water customer views on the realignment of boundaries, citizen engagement, or customer research, that explores the realignment of boundaries in principle, might help inform further discussions.

3.14 CCWater can play a role in this process, and could work with the companies to ensure they put plans in place to both communicate such changes to their customers and mitigate the effects of changes.

***Recommendations 16c&d: A formal intergovernmental protocol should be established in relation to cross-border issues and the Secretary of State's executive powers should be removed in favour of mechanisms under the intergovernmental protocol.***

3.15 We think that as part of the process of realignment of boundaries a strong intergovernmental protocol on water would be particularly important to address any remaining cross-border issues, such as the implementation of the Water Framework Directive and management of cross-border catchments.

3.16 As water is an emotive and important subject in Wales it might be worth considering developing a protocol that specifically asks both governments to consider the interest of water consumers in the exercise of their regulatory and legislative functions.

#### CCWater contact details

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