

## **MEMORANDUM OF UNDERSTANDING BETWEEN THE WELSH MINISTERS AND THE CONSUMER COUNCIL FOR WATER**

### **Explanatory Note**

This Memorandum of Understanding contains an agreement between the Consumer Council for Water (CCWater) and the Welsh Ministers and sets out the principles and values which underlie the relationship between the two parties.

The Memorandum is a statutory agreement required under section 27B of the Water Industry Act 1991, as amended by the Water Act 2003. This Act places a duty on CCWater and the Welsh Ministers to make arrangements with each other with a view to securing:

- Co-operation and the exchange of information between them; and
- The consistent treatment of matters which affect both of them.

For the purposes of this Memorandum "Wales" means water company areas that are wholly or mainly in Wales.

## MEMORANDUM OF UNDERSTANDING

### 1. Introduction

- i. This Memorandum of Understanding sets out the principles that guide relations between the Consumer Council for Water (“CCWater” or “the Council”), and the Welsh Ministers. For the purposes of this Memorandum “Wales” means water company areas that are wholly or mainly in Wales.
- ii. The Memorandum is required by section 27B of the Water Industry Act 1991, as amended by the Water Act 2003 (hereafter collectively called “the Act”), to secure (a) co-operation and exchange of information between the Welsh Government and the Council; and (b) the consistent treatment of matters which affect them both. The Memorandum is not intended to cover every detailed aspect of the relationship between the two parties. It is a statement of principles which will guide relations between the two parties to ensure sufficient arrangements are in place to enable each party to discharge our respective responsibilities effectively and to avoid duplication of effort.
- iii. This Memorandum is not legally binding but to serve as a working document which will be subject to review in the light of operational practice.

### 2. Review of Memorandums

This Memorandum will be kept under review and amendments may be made at any time by agreement of both parties. A full review will be undertaken by 2024.

### 3. Roles and Responsibilities

- i. CCWater is a statutory body with functions in respect of England and Wales. It is established as an executive Non-Departmental Public Body (NDPB). It carries out its statutory functions with technical expertise, impartiality and transparency, across England and Wales and at arm’s length from both Governments.
- ii. CCWater represents the interests of consumers across England and Wales by handling complaints about water and sewerage undertakers and licensed water suppliers, acquiring and publishing information, providing advice, and investigating matters of interest to consumers.
- iii. The Council is supported by regional committees in England and a Committee for Wales established under the Act principally to provide advice and information to CCWater on consumer matters affecting the areas of the relevant water and sewerage undertakers allocated to the committees.
- iv. The Welsh Government provides the strategic direction for water policy and sets the regulatory framework for the water and sewerage sector in Wales. Welsh Government policy, Welsh legislation and the views and interests of the consumers of the water companies operating in Wales set the framework within which CCWater conducts its duties in respect of Wales.
- v. In agreeing this Memorandum we affirm our commitment to working together, where appropriate, on matters of mutual interest. We recognise the importance

of co-operation across a range of areas, whilst at the same time maintaining our statutory independence.

- vi. The Welsh Government fully recognises the independence of CCWater and CCWater recognises the legitimate interests and responsibilities of the Welsh Government in the overall work of CCWater.
- vii. Water Policy Branch within the Welsh Government is the first point of contact for CCWater.

#### **4. Working Relationship**

We will seek to build on the good working relationship that already exists between us by:

- Having an open and constructive working relationship;
- Working closely together at all levels, both in policy, and in strategic issues of importance;
- Undertaking regular bilateral meetings between CCWater and Welsh Government officials;
- Facilitating meetings between the Wales Chair of CCWater and Welsh Government officials and Ministers.
- Respecting each other's views, where different, after discussion to ensure proper understanding of the reasons for any such differences;
- Having a "no surprises" policy, based on notifying each other well in advance where possible of significant announcements and developments in policy; and
- Minimising duplication of activity wherever possible.

#### **5. Treatment of Matters of Common Interest**

- i. We are committed to the principle of good communication with each other on areas of mutual interest on a "no surprises" basis. This will be done through regular liaison and regular discussion on relevant issues. The intention is not to constrain the discretion of either party but to allow each to make representations to the other in sufficient time for those representations to be considered.
- ii. Against this background, and subject to the Freedom of Information Act 2000, the Environmental Information Regulations 2004, and the Data Protection Act 2018, in confidence where necessary, we will:
  - Brief one another as soon as practicable to relevant developments within their areas of responsibility, whenever possible prior to publication.
  - Give appropriate consideration to the views of others and explain where we do not agree.

- Agree agendas and proposals for meetings between Ministers and senior CCWater representatives at least two weeks ahead of scheduled meetings.
  - Invite each other to press and public events hosted by one, but of interest to both.
  - Where appropriate, liaise, involve and keep each other informed on the drafting of key documents where relevant to the other party's functions.
- iii. The Welsh Government will consult the national Chair of CCWater before appointing a Council member, namely the Chair of CCWater's Wales Committee. (Water Industry Act 1991 Paragraph 1(3) of Schedule 3A), and invite the Chair to join the appointments panel.
- iv. The Welsh Government's internal audit services may assess the effectiveness of CCWater's internal audit arrangements by scrutiny of their plans for future activity, reports of past activity and its annual assurance report; and have access to all documents prepared by CCWater's internal audit function, including where the service is contracted out.
- v. CCWater will
- Hold a Board meeting in Wales at least once a year and invite the relevant Welsh Government Minister and Welsh Government officials to attend.
  - Consult with the Welsh Government and its Welsh stakeholders on the development of its Forward Work and Programmes.
  - Contribute to the achievement of the aims, objectives and targets of the Welsh Government including those set out in the 'Well Being of Future Generations (Wales) Act (2015)' and the 'Water Strategy for Wales'.
  - Participate in Welsh Government policy and regulators forums at Board or Executive Team level.
  - Submit a draft of the Annual Report and Accounts reports to the Welsh Government to consider.
  - Consult with the Welsh Government on CCWater's strategic objectives in relation to Wales and on its proposed annual budget.
  - Outline in their operational business plan how CCWater's forward work programme will be delivered each year and include key targets and milestones for the year immediately ahead and link them to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the Welsh Government.
  - Liaise at least annually with Welsh Government officials to review CCWater's financial performance against plans and targets and how well it is achieving its strategic objectives and is delivering value for money.

- Provide timely forecasts and monitoring information on performance and finance to the Welsh Government; and notify the Welsh Government promptly, if over or under spends are likely and of any proposed corrective action is taken, and of any significant problems whether financial or otherwise, and whether detected by internal audit or by other means.
- Provide the Welsh Government via a quarterly report with such information about its operations, performance individual projects or other expenditure as it may reasonably require.
- Share the agenda and minutes of all Audit and Risk Management Committee meetings with the Welsh Government.
- Provide the Welsh Government with access to all CCWater records and personnel for any purpose including, for example, sponsorship audits and operational investigations.
- Provide the Auditor General for Wales (by virtue of the Government of Wales Act 1998 as amended by the Public Audit (Wales) Act 2004) with full access to CCWater's books and records for the purpose of carrying out examinations into the economy, efficiency and effectiveness with which CCWater has used its resources in discharging its functions, and to examine matters of regularity and propriety of expenditure and receipts in Wales.

## **6. Exchange of Information**

- i. We will aim to minimise the burden placed on water and sewerage undertakers and licensed water suppliers ("the Companies") in providing information to public authorities. We will aim to avoid duplication by sharing publication schedules and plans to collect information from Companies. Where appropriate, we will consult each other before considering an approach to Companies to determine whether the required information is already held in a suitable form by the other party.
- ii. We will provide information in our possession that may be reasonably requested by the other subject to necessary confidentiality constraints and safeguards or any relevant bars on disclosure.
- iii. We will take account of each other's statutory responsibilities in relation to the disclosure of sensitive information.
- iv. We will refer back to the originating party any requests for information we hold but did not collect and which we are aware is confidential in nature. If we have shared information with each other, and we disclose this information to third parties, we will inform each other. We will make each other aware of any significant disclosures to third parties of information we have shared.

## **7. Disputes**

If there is a dispute about the interpretation and/or operation of the Memorandum which cannot be resolved between us at working level, the Council's Chief Executive and the relevant Deputy Director in the Welsh Government will discuss the matter and decide what action to take.

## **8. Publication of Memoranda**

This memoranda before will be published on CCWater's website ([www.ccwater.org.uk](http://www.ccwater.org.uk)) and on the Welsh Government's website ([www.wales.gov.uk](http://www.wales.gov.uk))

**Signed by:**



**Tony Smith, Chief Executive for the Consumer Council for Water**

**Date:** 16 December 2019



**Eifiona Williams, Head of Water Branch for the Welsh Ministers**

**Date:** 16 December 2019