

**Explanatory Memorandum to** Strategic Priorities and Objectives Statement to Ofwat issued under section 2B of the Water Industry Act 1991.

This Explanatory Memorandum has been prepared by the department for Climate Change and Rural Affairs of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Strategic Priorities and Objectives Statement to Ofwat issued under section 2B of the Water Industry Act 1991.

Julie James MS  
Minister for Climate Change

6 July 2022

## **PART 1**

### **1. Description**

1.1 The Water Industry Act 1991 enables the Welsh Government to publish a statement setting out strategic priorities and objectives (SPS) for Ofwat in carrying out its regulatory functions relating wholly or mainly to Wales.

1.2 Ofwat must carry out these functions, which include the 5 yearly price determinations in accordance with the SPS. These include the expectations for water company business plans (methodology) which sets the framework for investment and service level priorities and determines water charges. The next price review determination will be in 2024 for the period 2025-2030.

1.3 This instrument constitutes the SPS and replaces the current version published in 2017.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

None.

### **3. Legislative background**

3.1 Section 24 of the Water Act 2014 inserted section 2B into the Water Industry Act 1991. This provides the Welsh Ministers with powers to publish a statement (SPS) setting out the strategic priorities and objectives for Ofwat in relation to its relevant functions relating wholly or mainly to Wales. Ofwat must carry out these functions in accordance with the statement published by the Welsh Ministers.

3.2 In preparing the SPS the Welsh Ministers must have regard to the statutory duties of Ofwat. These are set out in Annex A of the SPS. Ofwat should embed the priorities and objectives set out in the SPS when regulating water companies operating wholly or mainly in Wales.

3.3 This instrument is being laid in accordance with section 2B(5) of the Water Industry Act 1991.

### **4. Purpose and intended effect of the legislation**

4.1 Ofwat is the independent economic regulator for the water industry in England and Wales. This SPS sets out the Welsh Ministers expectations for Ofwat to engage proactively and transparently with Welsh stakeholders and to develop a regulatory approach best able meet the specific requirements of Wales.

4.2 The SPS sets a clear expectation for Ofwat to enable, challenge or incentivise water companies to contribute to the delivery of Welsh Government policy and strategies so far as is possible and to work with the Welsh

Government to keep under review its regulatory policies and framework in light of current and future changes to legislation and to submit an annual report summarising the steps taken and the consideration given to delivering on the objectives and priorities set out in the SPS.

4.3 The SPS also sets out a number of ambitions for the water industry in Wales, focussed on supporting the delivery of the Programme for Government, the Water Strategy for Wales and distinct Welsh Government priorities and legislation. These are grouped in 5 key themes – Climate and Nature Emergencies, Environment, Resilience, Asset Health and Customers and Communities.

4.4 This SPS replaces the version published in 2017.

## **5. Consultation**

### *5.1 Duty to consult*

Between June 2021 and February 2022, in accordance with the section 2B of the Water Industry Act 1991 the following key stakeholders were consulted

- The Consumer Council for Water
- The water companies likely to be affected by the proposed guidance. These were Hafren Dyfrdwy, Dŵr Cymru Welsh Water and Albion Eco
- Natural Resources Wales
- The Drinking Water Inspectorate
- The Environment Agency & UK Government
- Ofwat
- WLGA

5.2 Most of the consultees chose to participate in workshops to consider the themes and content of the SPS. The stakeholders co-developed a number of ambitions for the water industry in Wales, focussed on supporting the delivery of the Programme for Government, the Water Strategy for Wales and distinct Welsh Government priorities and legislation.

5.3 Individual discussions were held with most of the stakeholders, and drafts of the SPS were circulated between September 2021 and February 2022 for further consideration.

5.4 Consultees were generally supportive of the draft SPS.

## **6. Regulatory Impact Assessment (RIA)**

An RIA has not been prepared for this instrument as it sets out existing legislation and Government policy and places no new duties or costs on the Welsh Government or third parties. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.