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## Consultation – summary of responses

# Statutory Guidance on sewerage undertakers' duty to connect properties to the public sewerage system under the Water Industry Act 1991 Section 101A

Date of issue: October 2015

## **Summary of Responses and Welsh Government Response to Consultation**

### **Statutory Guidance on sewerage undertakers' duty to connect properties to the public sewerage system under the Water Industry Act 1991 Section 101A**

#### **Overview**

The majority of properties in England and Wales are connected to the public sewerage system, but an estimated 4% of properties depend on independent privately owned and operated systems.

Where these systems are unable to provide a satisfactory, long term solution one option is for the owners to apply for the provision of a public sewer under the first-time sewerage provisions in Section 101A of the Water Industry Act 1991 (Section 101A).

#### **Purpose of the Consultation**

In 2014, the Welsh Government consulted on draft Statutory Guidance on the sewerage undertakers' duty to connect properties to the public sewerage system under Section 101A. As a result of the consultation responses, we made a number of amendments to the Guidance which was subsequently published in July 2014.

Following the publication of the Guidance, concerns were expressed about an amendment that related to clarification around whether permanent caravan and mobile homes should be regarded as 'buildings' for the purpose of considering suitability of premises for connection to a public sewer under Section 101A. Comments were received that the amendment implied an inflexible legal rule that permanent caravans and mobile homes are 'buildings', which was inserted without further consultation.

The Guidance was amended to leave open the question as to whether permanent caravans, etc. are 'buildings'. We set out relevant considerations for the undertaker to take into account when deciding whether to provide a public sewer to premises containing permanent caravans and mobile homes.

The Guidance was also amended to reflect the decision of the Welsh Ministers to designate the Planning Inspectorate to determine disputes arising from applications under Section 101A.

#### **Consultation period and distribution**

The consultation ran between 18 June and 31 July 2015. It was published on the Welsh Government website and a link was sent to all organisations that responded to the original consultation, and to the industry regulators, Planning Inspectorate and sewerage undertakers.

## **Responses received**

We received eight responses to the consultation. They were generally supportive of the revised guidance, although two respondents would have preferred that the definition of building had not been changed, and another that the focus should be on the permanence of demand, not on the permanence of a building.

Dŵr Cymru Welsh Water and Anglian Water, suggested a number of minor clarifications and drafting changes. These included definitions as to what is meant by terms such as “long term” and permanent. Dŵr Cymru Welsh Water repeated a suggestion made in the previous consultation for the addition of a decision hierarchy for property owners.

Natural Resources Wales, Institute of Civil Engineers and the British Holiday and Home Parks Association welcomed the appointment of PINS to determine disputes, no respondents were opposed.

The following responded to the consultation:

Anglian Water  
Dŵr Cymru Welsh Water  
Councillor Hazel Smith (South Cambridgeshire District Council  
Conservators of the River Cam  
Institute of Civil Engineers  
Amroth Bay Holiday Park  
Natural Resources Wales  
British Holiday and Home Parks Association

## **Response to comments received**

The Welsh Government would like to thank all those who responded to our consultation on the ‘Statutory Guidance on sewerage undertakers’ duty to connect properties to the public sewerage system under Section 101A of the Water Industry Act 1991’. We have considered the comments and the views expressed within the responses in amending the consultation draft to produce the final document.

The decision to amend the definition of buildings had been taken in response to representations from Dŵr Cymru Welsh Water and legal advice, and amended text will be used in the published Guidance. The intention of the revised Guidance was to provide clarity in an area which has caused confusion in the past, rather than provide a legal definition of terms. It would not be appropriate for statutory Guidance to appear to do so in place of legislation – to some extent these matters, along with issues of timescales will be considered by the determining body on a case by case basis, taking into account the evidence provided.

We did not include a decision hierarchy for property owners - Section 5.1 of the Guidance makes it clear that sewerage undertakers should publish information for potential applicants, so if they think one would be helpful they could publish one.

We have made a number of drafting changes to the Guidance to clarify points raised by Dŵr Cymru Welsh Water, including further emphasis on the responsibility of the private owners to upgrade or replace their existing treatment systems where an application is unsuccessful.

### **Next Steps**

We have published the revised Guidance, which takes into account the comments received in the consultation at the same time as this summary. We will review this Guidance within the next 5 years.