

Written evidence to the Levelling Up, Housing and Communities Committee: Ofwat's strategic policy statements

In September 2022, the clerk of the Levelling Up, Housing and Communities Committee asked Ofwat to provide written evidence about how having a strategic policy statement (SPS) has affected the way we work. This request formed part of the Committee's work looking at the introduction of a new SPS for the Electoral Commission.

Below we set out some factual information and analysis around Ofwat's SPSs and how they inform our work, based on our understanding of the Committee's interests. These points relate only to Ofwat's own work and we do not wish to imply any conclusions regarding the committee's broader consideration of the Electoral Commission's SPS.

What are Ofwat's SPSs?

The Water Industry Act 1991 (WIA 91) empowers the UK and Welsh Governments to publish statements which set out each government's strategic priorities and objectives for Ofwat to focus on in the course of our work¹. Alongside our other statutory duties and functions, Ofwat has a statutory duty to carry out most of its functions relating wholly or mainly to England or Wales in accordance with the respective government's SPS.

How have Ofwat's SPSs evolved over time?

The Water Act 2003 inserted a new section 2A into the WIA 91, empowering the Secretary of State and Welsh Government to each issue social and environmental guidance to Ofwat, to which we had to have regard when carrying out our respective work in England and Wales. Guidance was issued under this power in 2008 from both the UK and Welsh Governments, and then again in 2014 from the UK Government and 2015 from the Welsh Government.

The Water Act 2014 substituted this with a power for the Secretary of State and Welsh Government to issue a statement setting out strategic priorities and objectives for Ofwat, and a strengthened duty on Ofwat to act in accordance with the SPS when carrying out most (but not all) of our functions.

The first SPSs issued under this power were published in 2017.² New SPSs from both the UK and Welsh Governments were published in 2022.³

¹ See sections 2A and 2B of the Water Industry Act 1991

² [2017 UK Government SPS](#); [2017 Welsh Government SPS](#)

³ [2022 UK Government SPS](#); [2022 Welsh Government SPS](#)

How do the SPSs inform Ofwat's work?

Section 2 of the WIA 91 sets out our primary duties, and subject to these, our secondary duties. We must carry out most (but not all) of our functions in the way we consider best meets these duties. This provides us with a certain degree of discretion.

We do not have such discretion when applying the SPSs to our work, as we have a statutory duty to 'act in accordance with' them. This means we need to look at the wording used in the SPSs carefully when carrying out our work, to ensure we are following any direct steers and expectations set for us. In practice, this means that in considering our approach to policy areas and especially when making important decisions, we carefully consider the potential interactions between the SPSs and our potential options, alongside our other duties.

In addition, the UK Government SPS requires Ofwat to:

- set out how activity across its forward work programme will deliver against the government's strategic priorities⁴
- explain clearly how major decisions support delivery of our strategic priorities, for example, when establishing the methodology for price reviews or publishing draft and final determinations⁵
- report on progress to its Board and through its annual report and accounts.⁶

The Welsh Government SPS has very similar requirements.

How do Ofwat's SPSs relate to its independence?

We believe that both the UK and Welsh Governments recognise Ofwat's expertise as the economic regulator for the water industry in England and Wales and provide appropriate scope for Ofwat to exercise its independent judgment. Ofwat likewise values the steers provided by both governments in their SPSs. The steers are intended to operate at a strategic level, recognising the important policy context that is required to underpin our work. Understanding each government's key priorities is helpful for Ofwat as we develop our regulatory approach. The two governments and Ofwat engage constructively on a wide range of matters on a regular basis and the SPSs provide a useful part of the foundation for that engagement.

How were Ofwat's current SPSs agreed?

When preparing an SPS, the Defra Secretary of State or Welsh Government must have regard to our section 2 duties and social and environmental matters, and may have regard to such other matters as they think fit. Before issuing a SPS, the Secretary of State or Welsh Government must:

⁴ For example: see our most recent [Forward Programme](#), p.15

⁵ For example: see [our PR19 Final Determinations UK SPS document](#)

⁶ For example: see our most recent [Annual Report](#), p.14

- carry out a consultation with certain bodies, including Ofwat, CCW, the EA, and water companies.
- lay a draft of the SPS in Parliament or the Senedd for 40 days

During the most recent revision of the UK Government SPS, Defra conducted a public consultation on a draft SPS prior to the laying of the draft in Parliament. The Welsh Government did not carry out a public consultation on their draft SPS but consulted directly with stakeholders as required above.

In developing their SPSs, both governments engaged constructively with Ofwat on a bilateral basis over a number of months to understand our views on the emerging themes.