

**RHAGOROL O'R TAP**  
**WONDERFUL ON TAP**



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OFFICIAL - SENSITIVE

Llyr Gruffydd  
**Senedd Cymru**  
Bae Caerdydd,  
Caerdydd,  
CF99 1SN

Sent by email

18 October 2024

Dear Llyr,

Thank you for giving us this opportunity to share our views on the Water (Special Measures) Bill, clauses 1, 3 to 9 and 11 to 13 as well as our views on the benefits and disbenefits of clause 2. As a conscientious and environmentally focussed company, we absolutely understand the need to review legislation from time to time and are pleased to be able to take part.

In relation to Clause 1, rules about remuneration and governance, we comment now in principle, namely that we consider that the new rules should not be applied retrospectively; the rules should target only the most senior executives such as statutory directors, and that the performance criteria should be proportionate, calibrated to poor performance in the sector and considered in the round. We look forward to seeing how the Welsh Government intend to build the proposed rules into the future Strategic Priorities and Objectives Statement.

For Clause 2, pollution incident reduction plans, we note that the Welsh Government has not yet agreed to the application of Clause 2 in Wales, but we would like to restate our commitment to reviewing options on this issue and working with NRW and Defra to agree the best and most appropriate approach to benefit Wales. We are really proud of our total pollution performance in HD, seeing very low numbers that have an impact on the environment, and we are dedicated to continuing this. Whilst we don't necessarily suggest we need a legislative change to create a pollution incident reduction plan, neither do we see the disbenefits in this clause applying to us in Wales. We note that there are existing remedies that already apply in relation to pollutions and we follow a robust programme of investment within HD to reduce pollutions, which we've seen to be successful.

We support the introduction of Clause 3, requiring water companies to publish near real time data (within an hour) on discharges from all emergency overflows by April 2035. We have 100% of our storm overflows fitted with an event duration monitor (EDM) and we are following a stretching investment programme to install additional EDMs on emergency overflows at pumping stations across our network. We launched our live storm overflow map in spring 2024 which shows near real time data from our EDMs and believe we are well positioned to expand our reporting when required. We would like to take this opportunity to express our wish to work with Welsh Government and NRW, via

the Better River Quality Taskforce, to ensure that the purpose and operation of emergency overflows is clearly communicated to customers and other stakeholders, well ahead of any reports being published, to ensure the data was understood and used correctly.

Clause 4, impeding investigations: sentencing and liability. We pride ourselves on having an open and transparent relationship with NRW and have strong processes in place for reporting and managing environmental incidents. All our operators are fully aware of the need to co-operate with our regulators and provide requested information in a timely manner. We believe there is a robust water company to regulator engagement structure in place in Wales, which has been recently reviewed and revised. We therefore do not believe these additional powers should be necessary but would support them if introduced. We suggest that the additional sanctions are appropriate for the most serious offences.

In relation to Clause 5, Civil penalties: modification of standard of proof, whilst we don't oppose this clause, if this were to be enacted, we would request strong reassurance that it would be supported by clear and transparent guidance for regulatory officers. This would enable consistent application across Wales and in line with NRW's regulatory service standards. We have a similar response to Clause 6, automatic penalties for certain offences. If there isn't a clear remit in which to utilise these clauses, there is a risk of inconsistency between regulatory officers and between Water companies. There should be greater clarity around offences to which this would apply and a clear cap on the fines that could be imposed.

For Clause 7, abstraction and impounding: power to impose general conditions, we would welcome an opportunity to discuss this proposal in more detail to understand the potential impact for the abstraction licensing regime and possible impacts on water resource management planning.

Clause 8, charges in respect of EA and NRW: We have seen a significant increase in permitting and licensing charges of late. At the same time, NRW are carrying out a large-scale review of resources and are in the process of restructuring their teams. We would request reassurance that any additional cost recovery powers would result in funding being ring fenced accordingly and supported by clear guidance on charges and associated activities.

In relation to Clause 9, DWI, functions and fees: we would request that the cost recovery process is transparent and, in a similar way to the water quality fees, estimated costs are provided to us for budgeting and forecasting purposes.

Clause 11, modification by Welsh ministers of water company's appointment conditions etc. to recover losses: we would like to better understand the proposal for the recovery of losses and seek reassurance that should another member of the sector go into special administration, the loss recovery does not financially impact our customers.

Clause 12, winding-up petitions: we have no comments to make on this provision.

In relation to clause 13, extent, commencement, transitional provision and short title: we are not aware of any relevant reviews of clauses 5, 6 and 7 and query whether the proposed timing for them coming into force is appropriate. As with any changes, a period of consultation and review are

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imperative to ensuring all involved a truly aware of their implications and have had a chance to respond on the detail to make sure they are rolled out in a consistent and clear way.

Best wishes

A handwritten signature in black ink, appearing to read 'J. Jesic', written over a thin horizontal line.

**James Jesic**  
**Managing Director, Hafren Dyfrdwy**