



Llywodraeth Cymru
Welsh Government

GUIDANCE

River basin planning guidance

Statutory guidance on the implementation of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

First published: 11 December 2020

Last updated: 11 December 2020

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Abbreviations used in this guidance

BHD	Birds and Habitats Directives
CIS	Common Implementation Strategy
EQS	Environmental Quality Standards
EU	European Union
FCS	Favourable Conservation Status
GCS	Good Chemical Status
GEP	Good Ecological Potential
GES	Good Ecological Status
N2K	Natura 2000
NRP	Natural Resources Policy
NRW	Natural Resources Wales
NWEBS	National Water Environment Benefits Survey
PoM	Programme of Measures
RBD	River Basin District
RBMP	River Basin Management Plan
SMNR	Sustainable Management of Natural Resources
SoNaRR	State of Natural Resources Report
SWD	Shellfish Waters Directive
WFD	Water Framework Directive
WWMF	Wales Water Management Forum

1. Introduction

1.1 River Basin Management Plans (RBMPs) take a holistic approach to managing our waters, looking at the water within the wider ecosystem and taking into account the movement of water through the hydrological cycle from source to sea. Each RBMP must apply to a river basin district (RBD), which is an area of land made up of one or more neighbouring river basins and associated coastal waters – see map at [Annex 1](#).

1.2 RBMPs are prepared on a six yearly cycle as part of the implementation of the Water Framework Directive (WFD) and corresponding domestic legislation, the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (“the 2017 Regulations”).

1.3 The river basin planning process involves setting environmental objectives for all groundwater and surface waters (including estuaries and coastal waters) within the RBD, and devising a programme of measures (PoM) to meet those objectives.

1.4 As well as integration of water management issues, implementation of the WFD and domestic regulations requires that other environmental priorities, economic considerations and social issues are considered and taken into account when setting water management objectives. This is in line with Ministerial objectives of ensuring that the Welsh Ministers’ statutory duties are implemented cost-effectively, takes account of the needs and interests of different stakeholders and the need for sustainable development.

1.5 This guidance on river basin planning from the Welsh Ministers to Natural Resources Wales (NRW) is a revision of the guidance published in 2014.

1.6 The guidance contains links to European guidance on WFD implementation. NRW should refer to this Common Implementation Strategy (CIS) guidance, where relevant, as it provides valuable assistance in interpreting the requirements of river basin management planning. All CIS documents can be accessed via the [European Commission web pages](#).

1.7 The Environment (Wales) Act 2016 gained royal assent on 21 March 2016, and puts in place a modern legislative approach that recognises that our water, land, air and sea are all interlinked and our economy, society and environment are all interdependent. It sets out the requirements to manage, use and enhance Wales’ natural resources to deliver lasting, sustainable economic, social and environmental benefits. The Act builds on the Well-Being of Future Generations (Wales) Act and Planning Act (Wales) 2015. A key theme of the Environment (Wales) Act is the sustainable management of natural resources (SMNR), which draws on the UN Convention on Biological Diversity’s Ecosystem Approach.

This puts in place an area based approach to plan and manage our natural resources in a more joined-up way to improve ecosystem resilience and the ability of our ecosystems to adapt to climate change. This will involve the alignment of RBMP objectives with Area Statements, which are the documents outlining the priorities, challenges and opportunities for SMNR at a regional level in Wales.

1.8 This guidance is aimed at NRW but is also intended to provide a point of reference for other regulators, bodies and individuals affected by, or contributing to, the river basin planning process.

The Impact of the UK's exit from the European Union

1.9 The UK left the EU on 31 January 2020. Under the UK-EU withdrawal agreement, a transition period ends on 31 December 2020 (end of the transition period), during which time the UK will be treated for most purposes as if it were still an EU member state, and most EU law (including as amended or supplemented) will continue to apply to the UK.

1.10 Following the end of the transition period, the Welsh Ministers continue to be bound by domestic legislation including EU-retained law. To ensure the operability of regulatory regimes affecting the water environment, specific correcting legislation has been drafted to address deficiencies arising from the UK's withdrawal from the EU. The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 and The Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019 are set to come into force at the end of the transition period.

2. The role and status of this guidance

2.1 This is statutory guidance to NRW on the practical implementation of the 2017 Regulations, in so far as it relates to RBDs that are wholly in Wales and the Welsh section of cross-border RBDs. The guidance is issued under regulation 36(5) of the 2017 Regulations. Supplementary guidance on joint river

basin planning in the Severn and Dee RBDs will be issued to NRW and the Environment Agency by the Welsh ministers and the Secretary of State.

2.2 This guidance is made by the Welsh Ministers.

2.3 This document also includes at paragraph 11.3 a **Direction** to NRW to submit its RBMP for each RBD to the Appropriate Authority for approval. This Direction is made under regulation 28 of the 2017 Regulations.

2.4 By issuing this guidance the Welsh Government intend to assist NRW in carrying out its river basin planning functions for the third planning period 2021-2027 and, in particular, to help NRW to develop the updated RBMPs which they will submit to the Welsh Ministers for approval. The guidance sets out ministerial expectations for the main steps and principles of the river basin planning process and the content of the documents they must produce, namely the:

- statements of steps and consultation measures
- summaries of significant water management issues
- consultation on updating the RBMPs
- RBMPs, including objectives and the summary of the PoM, which are submitted to the Appropriate Authority for approval (and accompanying information about the results of public participation).

2.5 This guidance represents the views of the Welsh Ministers at the time of issue. It may be necessary to issue further guidance documents in future to reflect general developments, developments following our exit from the European Union, further policy changes or changes in our understanding.

3. The principles of river basin management planning in the context of SMNR

3.1 This guidance does not set out the details of the river basin planning process. The detail of the process is for NRW to determine. However, there are

some important principles, set out below, which Welsh Ministers consider NRW should take into account when carrying out their river basin planning responsibilities in the context of SMNR.

3.2 The Welsh Government **Natural Resources Policy (NRP)** sets the priority for taking a place-based approach to deliver SMNR. Area Statements play a key role in delivering the NRP through identifying where taking action at the right scale, both directly by NRW and through advocating action by others, can maximise benefits and identify synergies across policy areas.

3.3 Local initiatives emerging from the priorities set by Area Statements will determine the appropriate spatial scale for partnership working. In some instances this may result in projects and partnerships that build on opportunities at a catchment scale as identified by a list of Opportunity Catchments, but the emphasis on a place-based approach may also result in initiatives that align to other locally relevant boundaries.

3.4 The aim is for action by NRW and partners to be focussed in areas of most benefit and for these areas to be clearly identified, together with the rationale for why they have been prioritised. RBMPs will be critical to delivering the NRP, linking water management issues with wider land use and socio-economic opportunities to deliver SMNR.

3.5 Partnership working at the national level will be supported by the Wales Water Management Forum (WWMF) that represents a wide range of organisations with responsibility for water and land management, chaired by NRW. The WWMF replaces the previous River Basin District Liaison Panels in Wales.

The WWMF will:

- support and promote integrated planning, with improved linkages between plans affecting the water environment
- identify opportunities and support the development of projects and nature-based solutions to tackle pressures on the water environment
- share expertise, knowledge and gather relevant evidence relating to water

management, including joint work on the evidence base within the **State of Natural Resources Report** (SoNaRR) to understand the pressures on Wales' water resources.

- The WWMF will work collaboratively with other Wales wide natural resource management forums, including the Wales Land Management Forum and Wales Fisheries Forum.

4. The River Basin Management Plan (RBMP)

Purposes of the RBMP

4.1 The RBMP should be a strategic plan which gives everyone concerned with the RBD a measure of certainty about the future of water management in that district. It will include objectives for each water body and a summary of the PoM necessary to reach those objectives. The RBMP should also be a gateway, providing easy access to relevant supporting information.

4.2 The river basin planning process should be a mechanism for:

- co-ordination and integration between water management plans and policies
- co-ordination and integration of water management plans and policies with other relevant plans and strategies
- enabling other public bodies and stakeholders who have an interest (including those likely to be involved in implementing the RBMPs) to influence the approach to future water management in the RBD by contributing to RBMPs and co-ordinating their plans with RBMPs.

4.3 The 3 main purposes of the RBMP document are to:

- record outcomes from this integrated, participative, planning process
- set the policy framework within which future regulatory decisions affecting the water environment in that RBD will be made
- report to the public on the implementation of the water objectives.

4.4 In addition to the things that must be included in an RBMP as listed under

regulation 27 of the 2017 Regulations, each RBMP should set out, in broad terms, policies and strategies which will underpin and interact with the management of the water environment. These policies and strategies should be developed from, and supported by, information from a range of sources including, where available:

- SoNaRR
- Area Statements
- Flood Risk Management Plans
- Nature Recovery Plans
- water company business plans
- water resource management plans and development plans
- information gathered from public participation and consultation, including consultations on the summary of significant water management issues and draft RBMP
- impact assessment information - from relevant Impact Assessments, cost-effectiveness analysis and disproportionate cost assessments for that RBD
- the Environmental Report required under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 unless considered by NRW, as Responsible Authority, to be a minor modification that does not have significant environmental effects, under Article 3.2. In this case NRW will publish their screening determination against undertaking a Strategic Environmental Assessment and inform statutory consultees
- the Habitats Regulations Assessment of the potential impacts on Natura 2000 (N2K) sites (Special Areas of Conservation and Special Protection Areas) in accordance with regulations 24 and 63 of The Conservation of Habitats and Species Regulations 2017. As a matter of Welsh and UK Government policy, Ramsar sites, though not legally subject to the Habitats Directive and Regulations, should be treated in the same way as Special Areas of Conservation and Special Protection Areas
- Priority Improvement Plans for N2K sites
- the policies and proposals for adjoining RBDs and, where relevant, the Welsh National Marine Plan and other UK marine plans where these have been developed.

4.5 The RBMP should explain how **climate change adaptation** has been

taken into account in the planning process. Climate change mitigation should also be considered by, for example, taking account of impacts on carbon emissions when considering alternative ways of achieving an objective.

5. Environmental standards

Use of standards in river basin planning

5.1 NRW must apply the standards and other criteria defining water body status set out in the statutory Directions: **The Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015** ^[footnote 1].

5.2 The Appropriate Authorities may issue revised Directions to take account of new and revised standards. NRW should use these standards for the third cycle river basin management planning in preference to those specified in paragraph 5.1.

5.3 Once any new or updated standards have been formally adopted, NRW should incorporate the new and revised standards and criteria into existing regulatory processes in a timely way to achieve RBMP objectives.

5.4 For some environmental standards where the links between the standard and the biology are complex (for example, standards for nutrients), failure of the standard in a particular water body is not always enough to judge whether the biology that the standard supports is truly impacted. Where this is the case NRW should take into account biological results and any other supporting evidence, in considering the case for expensive targeted improvement action.

[1] These Directions replace the River Basin Districts Typology, Standards and Groundwater Threshold Values (Water Framework Directive) (England and Wales) Directions 2010 and the River Basin Districts Surface Water and Groundwater Classification (Water Framework Directive) (England and Wales) Direction 2009. They also, together with the Water Environment (WFD) (England

and Wales) Regulations 2017, transpose EU Directive 2013/39/EC on environmental quality standards for priority substances.

6. Environmental objectives

Water body objectives

6.1 Part 5 of the 2017 Regulations establishes environmental objectives for the water environment, all of which must be met unless one or more of the exemptions set out in regulations 16, 17, 18 or 19 of the 2017 Regulations are applicable (see [chapter 7](#)).

6.2 For surface waters NRW will need to set objectives for each water body in relation to:

- preventing deterioration
- achieving a particular status class (as defined in accordance with the criteria for classification set out in the [Directions on Classification](#))
- protected area objectives, where relevant.

6.3 For groundwater, NRW will need to set objectives for each water body in relation to:

- preventing deterioration
- achieving a particular status class (as defined in accordance with the criteria for classification set out in the [Directions on Classification](#))
- prevention or limitation of input of pollutants
- reversing significant trends in pollutants in accordance with the requirements of the [Groundwater Directive](#)
- protected areas objectives, where relevant.

6.4 The default objectives for the third river basin planning cycle are to prevent deterioration in status (or ecological potential for heavily modified or artificial water bodies) and protect, enhance and restore all water bodies with the aim of achieving 'good' status (or 'potential') for all water bodies not already at 'good' or

better by 2027, where this objective has not been met by the end of the second cycle in 2021.

6.5 There will be more certainty of meeting some of the objectives under the 2017 Regulations than others because of variations in the level of confidence that applies to the classification of a given water body and certainty about the effectiveness of proposed measures. Absolute certainty is not necessary for the setting of objectives, however an indication of confidence in meeting an objective may be provided.

6.5(a) NRW should propose long-term environmental objectives for each water body in the RBD and a PoM to achieve those objectives. NRW should also provide an estimate of the scale of actions and improvements that might be delivered by the end of the third cycle (2027). This estimate should be based on an assumed level of available national funding (looking up to 2027) related to the most directly relevant programmes and an assumed level of additional voluntary action through local efforts.

Preventing deterioration

6.6 Preventing deterioration is a key objective under the 2017 Regulations with few and limited exceptions. Recent case law ^[footnote 2] has clarified that deterioration of a water body status is established as soon as the status of at least one of the quality elements, within the meaning of Annex V to the Directive, falls by one class (including from high to good), even if that fall does not result in a fall in classification of the body of surface water as a whole. For surface waters the requirement to prevent deterioration applies to each of the elements used to determine the ecological status and chemical status of a water body. For groundwater the no deterioration requirements will be applied to each of the component tests for quantitative and chemical status.

6.7 The no deterioration baseline for a water body should be set by NRW for the third cycle in the RBMP.

6.8 Where an element status is already in the lowest status class then any

further deterioration (within class) is considered a deterioration of the water body. In these instances any negative change must be measurable and meaningful at a water body scale in order for it to be considered deterioration.

6.9 For groundwater, measures must be taken to reverse any environmentally significant deteriorating trend, whether or not it affects status.

6.10 NRW may only undertake or authorise activities that it considers may cause a deterioration in water body status if the provisions in regulation 19 of the 2017 Regulations are met.

6.11 NRW may advise other public bodies who undertake or authorise activities which would be likely to cause a deterioration in status as to the acceptability of the proposed activity. However, the other public body is responsible for the final decision.

6.12 Each use of regulation 19 of the 2017 Regulations to justify water body deterioration must be reported in the next update of the RBMP. A change in the classification of a water body resulting from the introduction of a revised standard should be reported as a revised classification, not as a deterioration.

Protected area objectives

6.13 In addition to setting environmental objectives for water bodies, Part 3 of the 2017 Regulations makes provision for certain protected areas. Regulation 8 requires the identification of bodies of water from which drinking water is abstracted, and specifies specific measures that must be included in a programme of measures (see Part 5 of the 2017 Regulations) to protect the quality of the water. Regulation 9 sets out a procedure for designating areas of water as shellfish water protected areas which will have additional objectives (see regulation 13). Regulation 10 requires a number of types of areas which are protected by other EU legislation (for example, protected habitats and birds sites), as well as the areas under regulations 8 and 9, to be included on registers of protected areas.

Objectives arising from Directives repealed by the WFD

6.14 The Shellfish Waters Directive (SWD) was repealed in December 2013.

6.15 In order to secure the same level of protection afforded by the SWD, regulation 9 of the 2017 Regulations sets out a procedure for designating areas of water as shellfish water protected areas and requires the Welsh Ministers to keep under review, those areas designated for the protection of shellfish. This is because the microbial standard for shellfish established for the protection of human health under the SWD is not relevant to the assessment of ecological status in WFD water bodies and therefore must be separately maintained for shellfish waters. Regulation 10 requires NRW to include shellfish water protected areas on registers of protected areas.

6.16 The microbial standard, which will only be applied to designated shellfish waters, has been set out in **Directions** to NRW. NRW should endeavour to achieve the standard provided that it is feasible and not disproportionately expensive to do so.

Natura 2000 (N2K) protected areas

6.17 This section refers to areas designated under the Birds and Habitats Directives (BHD) for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in their protection. In this section, “the relevant conservation advisor” refers to NRW.

6.18 The BHD and the 2017 Regulations aim at ensuring healthy aquatic ecosystems while at the same time ensuring a balance between water/nature protection and the sustainable use of natural resources. For the BHD, this is expressed in terms of “favourable conservation status” (FCS). FCS does not necessarily apply at the site level ^[footnote 3]. Objectives for individual protected areas may vary according to the contribution they are required to make to FCS at a national scale. NRW should use the river basin planning process to consider in a co-ordinated and transparent way the appropriate objectives and environmental conditions to be achieved for individual water bodies, other water dependent N2K sites recorded on the protected areas register and river basins

so that they fulfil the requirements of the BHD and the 2017 Regulations.

6.19 Good chemical status (GCS), good ecological status (GES) or good ecological potential (GEP) may contribute to FCS. Some habitat types or species may require more stringent standards to secure FCS, such as high ecological status for one or more quality elements or even more stringent than high status. It is possible that the 2017 Regulations will require more stringent conditions than BHD. In either case, NRW should apply the most stringent standard to the water body or part of water body that is a protected area.

6.20 For both the 2017 Regulations and BHD, a key requirement is to prevent deterioration from current status. No plan or project that might affect an N2K site should be approved unless NRW is satisfied that it will not have an adverse effect upon the integrity of the site. It does not automatically follow that any negative change in a single monitoring parameter in any part of a site must always be avoided. Any such change should be considered in the context of the integrity of the site overall.

6.21 If quality elements help the achievement of N2K targets then they should have been met by 2021, but if not, NRW should aim to achieve the targets for those elements as soon as possible in the 3rd cycle or apply alternative objectives to those elements if allowable under the N2K legislation. The alternative objectives described in Chapter 7 may be used provided that NRW ensure that the use of any alternative objectives complies with the requirements of all protected areas.

6.22 The use of extended deadlines under regulation 16 of the 2017 Regulations may be particularly relevant in cases where measures were established in or before the first or second RBMPs but have not yet achieved the expected results because of natural conditions or for technical reasons.

6.23 Where NRW propose new or revised targets for any quality element to underpin the conservation objective for a protected area water body, NRW should present their proposals for consultation in the draft RBMP. This should cross-refer to the site evidence.

6.24 In order to contribute to the achievement of objectives under the Ramsar Convention, NRW should apply the same considerations in terms of preventing deterioration, setting water objectives, applying exemptions and establishing measures for water objectives for Ramsar sites as to protected areas designated under regulation 10 of the 2017 Regulations.

Drinking water protected areas

6.25 As provided by regulation 8(2) of the 2017 Regulations, NRW should, in addition to water body status objectives, aim to prevent any significant and sustained deterioration in water quality so that the need to increase the level of purification treatment is avoided and the level of treatment over time is reduced. This should be achieved by setting out the requirements in the RBMPs and working collaboratively to deliver measures. NRW may distinguish between their approach to drinking water protected areas for surface water bodies and for groundwater bodies. NRW should ensure that drinking water protected area safeguard zones are applied, assessed and reported for both public and, where appropriate, private drinking water supplies.

Bathing waters

6.26 **The Bathing Waters Directive (2006/7/EC)** as implemented in domestic legislation by the Bathing Water Regulations 2013 requires Member States to achieve at least 'sufficient' at all bathing waters by 2015 and, from 2015, to take realistic and proportionate measures to increase the number of bathing waters meeting the 'good' or 'excellent' classifications.

[2] 1 July 2015, Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland

[3] See European Commission paper 'Links between the Water Framework Directive (WFD 2000/60/EC) and Nature Directives (Birds Directive 79/409/EEC and Habitats Directive 92/43/EEC)' [3.4]

7. Alternative objectives and defences

7.1 Objectives which are set using the exemptions referred to in [paragraph 6.1](#) above are also referred to in this guidance and some European guidance - [CIS guidance 20](#) as alternative objectives.

7.2 Use of the alternative objectives is the mechanism which the 2017 Regulations provide for:

- considering, amongst other things, environmental, social and economic priorities alongside water management priorities
- prioritising action over successive river basin management planning cycles.

7.3 The types of alternative objective are:

- an extended deadline (regulation 16)
- a less stringent objective (regulation 17).

The 2017 Regulations also provide for different ecological objectives for heavily modified or artificial water bodies (regulation 15) [\[footnote 4\]](#) and provide for new modifications or new sustainable development activities (regulation 19).

7.4 In addition, the provisions in regulation 18 may be used as a defence to justify cases where an objective in a RBMP has not been met as a result of a temporary deterioration in status due to natural causes or force majeure and all the conditions set out in regulation 18 are met.

7.5 The provisions in regulation 19 can be used as a defence where:

- a failure to achieve a status objective or to prevent deterioration is due to new modifications to the physical characteristics of a water body, or
- deterioration from high status to good status is the result of new sustainable development activities, and
- all the conditions set out in regulation 19 are met.

7.6 The 2017 Regulations' alternative objectives and defences can only be used in relation to the standards and objectives arising from the mechanisms of

the 2017 Regulations, not in relation to standards or objectives arising from other legislation.

7.7 Each use of an alternative objective or defence, including the application of regulation 19, made necessary by a decision of NRW or any other public body, must be reported in the RBMP or updates of the plan as applicable.

7.8 If a less stringent objective is set, the objective and justification for it must be reviewed for each update of the RBMP.

7.9 When drawing up proposals for objectives and a PoM for consideration by the Welsh Government, NRW should recommend application of alternative objectives where appropriate and consistent with the overall aims of the 2017 Regulations. They are an integral part of the 2017 Regulations (see **CIS Guidance 20**, paragraph 3.1) and their use should be an integral part of river basin planning.

7.10 However, alternative objectives are the only considerations which may be used to justify a course of action which will not lead to meeting the default objectives.

Extending deadlines and setting less stringent objectives

7.11 Regulation 16 (extended deadline) may only be used for reasons of natural conditions beyond 2027, unless allowable for new chemicals identified by the Priority Substances Directive (2013/39/EU).

7.12 The option to apply a less stringent objective remains available. A less stringent objective should be considered if it becomes clear that it will be infeasible or disproportionately expensive to achieve good status by 2027. Each less stringent objective and the reasons for it must be reviewed every 6 years and explained in subsequent updates of the RBMP.

Changes to objectives in the third planning cycle (See [CIS Guidance 20](#), paragraph 3.3.4)

7.13 It may be necessary and appropriate in some cases to apply a new exemption under regulations 16 or 17 on updates of the RBMP. For example, if a water body will not achieve the objective set for it because the measures implemented are proving less effective than expected. If bringing the achievement of the objective back on track would be infeasible or disproportionately expensive, a less stringent objective may be applied, as appropriate, in accordance with the restrictions on their use set out in the 2017 Regulations.

7.14 Equally, it may be necessary and appropriate to modify or replace a less stringent objective or extended deadline based on new information and understanding about a water body. This may allow, for example, the default objective of good status to be set in an update of the RBMP, in place of a current less stringent objective.

[4] Heavily modified and artificial water bodies are a separate category of water bodies which are expected to achieve the same standards as the nearest equivalent natural water body except where this is prevented by the direct effects of the heavily modified or artificial characteristics of the water body as set out in paragraph 4, Part 2 of Directions on classification of water bodies.

8. Justifications for applying alternative objectives

8.1 Natural conditions, technical infeasibility, infeasibility and disproportionate costs are key criteria for justifying the use of alternative objectives.

8.2 The concepts are inter-related and to some extent it is necessary to consider them in parallel. However, it is important that NRW is clear about the meaning and use of these terms when justifying alternative objectives.

8.3 There is a logical sequence of considering these factors:

- natural conditions, technical and other feasibility of achieving the objective (can the objective be reached?)
- disproportionate costs (is it proportionate, that is both efficient and equitable, to reach the objective by taking the most cost effective actions?).

The concepts are therefore considered in that order in the following paragraphs.

Natural conditions

8.4 The 2017 Regulations include references to “natural conditions” in

- regulation 16(3)(c): one of the justifications for extending a deadline is that “natural conditions do not allow timely improvement in the status of the body of water”, and
- regulation 17(1)(a): one of the justifications for setting a less stringent objective is that the “natural condition [of a water body] is such that achievement of [the default] objectives would be infeasible or disproportionately expensive”.

8.4(a) This provision requires that the measures needed to achieve good status have been taken by 2027 at the latest, but the characteristics of the river basin or water body are such that the recovery to good status is expected to take a longer time period. Hence it is recognised that, after sometimes decades of unsustainable practices, the river basin or water body may take a long period of time to recover to good status even though the necessary corrective measures have been implemented.

8.5 Natural conditions may be a justification for setting an alternative objective including where:

- it takes time, after a damaging or polluting activity has ceased, for the conditions necessary to support GES to be restored and for the plants and animals to recolonise and become established;
- due to varying natural hydrogeological conditions, groundwater bodies may

take time to reach good chemical status; or

- legacy chemicals for which there is an ongoing diffuse source which is expected to decrease to levels which would allow the achievement of the Environmental Quality Standards (EQS) as a result of ongoing measures.

8.5(a) Note that the application of regulation 16 time extensions on grounds of natural conditions does not require that pressures are removed completely but that the RBMPs include the measures envisaged as necessary to achieve good status, and there is evidence that nevertheless the achievement of the objectives will require more time due to natural conditions.

Technical feasibility

8.6 The 2017 Regulations include references to technical feasibility in:

- regulation 15(1)(b) in relation to designation of Heavily Modified and Artificial Water Bodies
- regulation 16(3)(a) in relation to the justification required for extension of deadlines
- regulation 19(5) in relation to justification for new modifications and new sustainable human development activities.

8.7 NRW should consider it technically infeasible to achieve an objective only where:

- no technical solution is available, or
- there is insufficient information on the cause of the problem to allow a solution to be identified, or
- there are practical constraints of a technical nature (for example, if the commissioning of a new industrial process or site prevents implementation of measures by an earlier deadline).

8.8 In principle, the technical feasibility of achieving an objective relates only to issues of a technical nature, and not to cost issues. In practice, the greater the effort expended in trying to overcome issues of a technical nature, the more likely it is that ways of making the improvements will be found. Where the

benefits resulting from achieving an objective would be substantial, a much higher degree of effort to find a technically feasible option is likely to be appropriate than where the benefits of an improvement are expected to be low. If no technical solution is available

8.9 There may be various reasons why NRW might suggest that “no technical solution is available” to reach an objective, in particular:

- **If standards are below the limits of detection or monitoring**

Meeting the EQS which have been set for some specific pollutants and priority substances might be technically infeasible if the levels were below current limits of detection and monitoring. If an EQS is below analytical limits of quantification, NRW should use the best available techniques not entailing excessive costs in accordance with [Directive 2009/90/EC](#), which lays down technical specifications for chemical analysis and monitoring of water status (see Directive [2013/39/EU](#) amending the WFD and the 2008 Directive on priority substances).

Technical infeasibility should not be proposed as the basis for an exemption if:

- it is possible and appropriate to make use of analytical methods in matrices other than water, such as biota or sediment according to the criteria set out in directives [2008/105/EC](#), [2009/90/EC](#) and [2013/39/EU](#), or
- in cases where levels of contamination are sufficiently high that concentrations can be robustly measured, even if concentrations at the EQS are below the limit of quantification.

In both these types of cases, measures to tackle the pollution should be considered.

- **If no measure is available to deal with the problem**

While a very wide range of actions could be taken to help achieve 2017

Regulations' objectives, there may be some problems for which there is no measure which can be deployed in practice. For example, it may be impossible to remove a population of an alien species once it has become well established within a given habitat. Or there may be a new technique for dealing with a problem, which has been proven to work under controlled conditions in a laboratory but has not yet been sufficiently developed to be effective in practice.

- **If there are failures of priority substance standards for which further practical and feasible measures are not possible**

This is most common with ubiquitous, persistent, bioaccumulative and toxic substances (uPBT). Measures taken at national or international level, such as source control through REACH, may be implemented but there can be a significant time lag between implementation and improvement in the receiving environment due to significant ongoing releases for example from domestic sources. In these instances, local measures are often not practicable and/or the scale and potential impact of the intervention required (for example, the removal of household goods to prevent chemicals reaching the environment) is technically infeasible.

If there is insufficient information on the cause of the problem; hence a solution cannot be identified

8.10 This may arise because there are gaps in scientific information about the effects on ecological status of some types of pressures from, for example, morphological changes, abstraction, alien species or sediment.

8.11 Where there is scientific uncertainty NRW should take a precautionary approach to preventing deterioration when setting objectives and alternative objectives. The appropriate level of precaution is a matter for judgement after the duration and severity of the consequences of a wrong decision have been considered.

Feasibility

8.12 Regulation 17, which relates to setting less stringent objectives, uses the term “infeasible” rather than “technical infeasibility”.

8.13 NRW should interpret the meaning of the term “infeasible” as being wider than the term “technical infeasibility”, in that “infeasible” also includes situations where addressing a problem is out of the control of a Member State (see CIS Guidance 20, paragraph 3.2.4).

Disproportionate cost

8.14 The 2017 Regulations include references to “disproportionate cost” or “disproportionately expensive” in:

- regulation 15(1)(b) in relation to the designation of Heavily Modified and Artificial Water Bodies
- regulation 16(3)(b) in relation to the justification required for the extension of deadlines
- regulation 17(10)(a) in relation to the justification required for less stringent objectives
- regulation 19(5) in relation to the justification for new modifications and new sustainable human development activities.

8.15 The 2017 Regulations refer to “disproportionate costs” and to improvements and objectives being “disproportionately expensive”. Welsh Ministers consider that there is no material difference between the terms. References to “disproportionate costs” in this guidance should be read as including both terms.

8.16 Alternative objectives proposed for reasons of disproportionate cost should be based on the most cost effective combination of measures (see **Chapter 9: Economic analysis**) taking account of the ‘polluter pays’ principle.

8.17 NRW should consider the full range of available mechanisms, including the use of regulatory measures, voluntary agreements and economic

instruments such as paid ecosystem services, before proposing an alternative objective for reasons of disproportionate cost.

8.18 NRW must ensure that when disproportionate cost has been used as the basis for exemptions, the reasons for doing so are clearly set out in the RBMP. Where possible, any underlying data and assessments used to inform the decision must be available to the public.

9. Economic analysis

General principles

9.1 The level and extent of economic analysis should be appropriate for the decision it informs.

9.2 Involving stakeholders in developing a PoM is an integral part of implementing the 2017 Regulations. These partners may be able to make a useful contribution to the economic appraisal process and should be provided with opportunities to do so.

9.3 In many cases it will not be possible to provide monetary values of the full costs and benefits of a measure or PoM. NRW should use alternative approaches to identify, describe and, if possible, quantify the cost or benefit and report it together with available monetised values.

Assessing the cost effectiveness of measures

9.4 Regulation 7 of the 2017 Regulations implements the requirement to carry out an economic analysis in accordance with Annex III of the WFD. It requires the Welsh Ministers to “make judgements about the most cost-effective combination of measures in respect of water uses to be included in the programme of measures”.

9.5 In assessing the cost effectiveness of measures, NRW should refer to relevant European CIS guidance and documents.

9.6 In order to make judgments about the most cost-effective combination of measures to deliver WFD objectives, NRW should:

- consider the full range of available measures and the inter-relationships between measures
- consider all of the impacts which a measure could help to address
- consider all costs including financial costs, resource costs and environmental costs
- use the best available technical and scientific evidence to assess the effect of a PoM on the water environment
- adopt an SMNR approach where resilience, multiple benefits, preventative action, stakeholder participation etc is equally important.

9.7 NRW should, where possible, use cost effectiveness analysis to determine the combination of measures that will achieve objectives under the 2017 Regulations. NRW may draw on cost effectiveness analyses used previously, appropriately updated, or a new analysis.

Disproportionate cost assessment

9.8 Disproportionality “is a political judgement informed by economic information” (EU WFD **CIS Guidance 20**).

9.9 In general, costs (negative consequences) can be considered disproportionate when they exceed benefits (positive consequences). However, it is not sufficient to show that the best monetised estimate of costs exceeds the best monetised estimate of benefits. This is because benefits may be more difficult to quantify and monetise than costs. NRW must take account of these aspects in disproportionate cost assessment, taking account of sensitivity analysis and qualitative information where relevant.

9.10 Costs of measures already required by other Directives should not be

subject to assessment of whether they are disproportionate. However, it may be relevant to include such measures in the PoM and report their impacts, including when these may affect the affordability of other costs of the PoM.

9.11 To assess the value of benefits, NRW should make use of the monetary values derived from the updated analysis of the National Water Environment Benefits Survey (NWEBS) at a reliable level of disaggregation.

9.12 NRW should, where appropriate, take account of any alternative valuations of the benefits covered in NWEBS that may be available. When appropriate, NRW should show with sensitivity analysis how the results of the appraisal would be affected by using an alternative valuation.

9.13 NRW should, where appropriate, use the best available estimates of any benefits of a measure that are not covered in NWEBS. NRW should assess whether any benefits not covered in NWEBS could be substantial or relevant to Ministers' decisions and should strive to ensure that all that could be included in their appraisal of the PoM.

9.14 In most cases, there will be a degree of uncertainty in the estimate of a cost or benefit. NRW should reflect this by reporting a feasible range, giving high and low values for the top and bottom of the range as well as the value considered most likely.

9.15 Where it is uncertain whether a measure or PoM will achieve the intended environmental outcome, this should be identified and taken into account in consideration of costs and benefits.

9.16 All costs and benefits should be expressed in present value terms by discounting as set out in the **Treasury Green Book**.

9.17 It may be appropriate to carry out the analysis of some costs and benefits at the national level. However, NRW must avoid double-counting of benefits between local and national levels. In general, a suitable starting point is likely to be the consideration of any nationally identified benefits. These can then be supplemented with local information where appropriate and proportionate to

decision making.

9.18 NRW should also refer to EU CIS guidance on the use of Exemptions and Disproportionate costs (EU WFD [CIS Guidance 20](#)).

Affordability

9.19 Affordability may be a consideration in the assessment of disproportionate cost. NRW should report an assessment of the distributional impacts of the PoM proposed in the draft updated RBMPs along with any alternatives.

9.20 The affordability of the improvement for those who would have to pay is a factor in the assessment of disproportionate costs from a distributional perspective and might be a factor in proposing a less stringent objective in accordance with Article 4.5.

9.21 Affordability needs to be seen in the context of the characteristics of a firm and the sector in which it operates. Considerations of affordability are not intended to protect companies that are performing poorly against the industry standard. Therefore, affordability analysis is normally carried out at the level of the industry or group of firms, not for individual firms. However, in the case of water and sewerage companies, NRW should, where possible, present information on the costs and benefits of the PoM at individual company level.

9.22 Affordability issues may be resolvable over time if costs can be spread or alternative ways of paying for the benefits can be found. This should be considered when reviewing less stringent objectives set on affordability in 2027.

Reporting information on disproportionate cost

9.23 The information reported to Ministers should be sufficient to determine whether exemptions have been applied appropriately and should, where possible, include:

- the undiscounted costs in real terms of the PoM to achieve protected area objectives and avoid deterioration
- the undiscounted costs in real terms of the PoM to achieve GES/GEP by 2027 or any alternative objective proposed in the draft RBMPs
- the undiscounted benefits in real terms of the PoM to achieve GES/GEP by 2027 or any alternative objective proposed in the draft RBMPs
- all costs, benefits and net impacts broken down by industrial sector and by year of incidence
- where an affected sector includes water or sewerage, all costs, benefits and net impacts broken down by individual company
- information, where available, to show whether the individual, business or sector affected by each measure is the polluter (responsible for the environmental impact the measure addresses), a beneficiary, another party or some combination of these.

10. The programme of measures (PoM)

10.1 The 2017 Regulations refer to both actions and the delivery mechanisms as 'measures'. However, in this guidance the terms are used as follows:

- 'Measure' is used to mean any action which will be taken on the ground to help achieve the objectives under the 2017 Regulations.
- 'Mechanism' is used to mean the policy, legal and financial tools which are used to bring about those actions. Mechanisms include, for example: legislation, economic instruments (which can include taxes, tradable permits and payments for ecosystem services); codes of good practice; negotiated agreements; promotion of water efficiency; educational projects; research, development and demonstration projects.

10.2 NRW is responsible for combining the available measures together to form a PoM to achieve the objectives under the 2017 Regulations in each RBD. NRW must therefore consider both the measures which will be necessary and the mechanisms by which they will be delivered.

Scope of the PoM: objectives under the 2017 Regulations only

10.3 A PoM must include all of the measures necessary to meet all the objectives under the 2017 Regulations for that RBD, including the protected area objectives and measures with the aim of progressively reducing pollution from priority substances and ceasing or phasing out emissions, discharges and losses of priority hazardous substances. It should not include measures which are required solely to meet other, non-WFD objectives (for example, NRW's corporate plan targets).

10.4 Where measures contribute towards both objectives under the 2017 Regulations and other objectives, they should be included in the PoM to the extent that they are required to achieve those objectives. This definition of the scope of a PoM is intended to help clarify what NRW should submit to the Welsh Government for approval. It is not intended to inhibit integration and streamlining between the river basin planning process and other planning processes such as plans for delivering biodiversity outcomes.

Consideration of impact of other policies and activities on baseline status

10.5 Action taken as a result of other policies may have an impact on the amount of action which needs to be taken to meet the objectives under the 2017 Regulations. It is important to take account of the influence of these impacts of current and planned policies and development, so far as they are known, in order to identify the right baseline for decision-making.

Consideration of the impacts of climate change

10.6 Climate change is expected to lead to major changes in precipitation and water flow, flooding and coastal erosion risks, water quality, and the distribution of species and ecosystems. See the UK Climate Change Risk Assessment for

further information.

10.7 The Climate Change Act 2008 sets out a framework for Welsh Ministers to report from time to time on their objectives, actions and future priorities to adapt to the impacts of climate change. The Welsh Government's climate change adaptation plan, Prosperity for All: A Climate Conscious Wales, sets out the importance of implementing RBMPs in order to reduce flood risk and improve water quality and quantity.

10.8 NRW should seek to integrate adaptation to climate change into the steps of the river basin management planning process under the 2017 Regulations, in particular by setting out how climate change has been considered in monitoring, assessment of pressures and choice of measures. Preference should be given to measures that provide a high level of climate resilience or flexibility and additional measures to deal with climate risks should be encouraged where needed. NRW Area Statements should also enable action on the ground by guiding collaborative action on the range of opportunities for nature-based solutions in catchments.

10.9 NRW should clearly set out how they are responding to climate change within the RBMPs and associated documentation. More information to help guide this integration of climate change adaptation is available in 'CIS Guidance number 24, River basin management in a changing climate'.

Choosing appropriate measures and mechanisms

10.10 When considering which measures to use, NRW should bear in mind the mechanisms by which they will be delivered, and the principles of better regulation. Better regulation is about aiming to regulate only when necessary, in a way that is proportionate to the risk being addressed, and to deregulate and simplify wherever possible.

10.11 Non-regulatory measures that NRW may wish to consider include voluntary agreements (for example, with one or more farmers in a catchment to adopt land management practices that exceed expected minimum good

practice).

10.12 Non-regulatory measures could also include payments for ecosystem services schemes. For example, a Rivers Trust working with the agricultural industry to fence riparian habitat.

10.13 When considering such non-regulatory measures, NRW should assess and factor into their decision making process whether the arrangements will deliver the required outcomes with sufficient certainty and permanence. For example, arrangements between a water company and land managers would need to be capable of being monitored and subject to contractual arrangements to provide sufficient certainty of outcome.

10.14 When adopting non-regulatory measures, NRW should ensure that they are not used to undermine the 'polluter pays' principle, which is an important underlying principle of WFD implementation. For example, a key principle for payments for ecosystem services is that the scheme rewards the delivery of additional services that go beyond regulatory requirements.

10.15 Although NRW are responsible for drawing up programmes of measures, many of the measures which could be included in the programme will be ones for which they are neither the regulator nor the deliverer. Given the scale of the actions needed, it is important to mobilise all available tools and potential funding sources. During the river basin planning process, NRW should work with a range of possible regulators and deliverers when deciding what objectives to include in the RBMPs which they submit for approval, the necessary measures to be included in the PoM and the arrangements for implementing those measures and monitoring their implementation.

11. Approval, amendment and review

Approval of updated RBMPs

11.1 NRW must prepare the following for each RBD (Regulation 28 of the

2017 Regulations):

- an updated RBMP (including objectives and summary of the PoM)
- the information about public participation required under regulation 29 of the 2017 Regulations.

11.2 These do not all need to be separate documents.

11.3 NRW must by 22 October 2021 submit to the Appropriate Authority an updated RBMP for each RBD and include in that document proposals for environmental objectives and a PoM to be applied in order to achieve those objectives.

11.4 The criteria which the Welsh Government will generally take into account when making decisions about approving a RBMP will include those set out in Table 1 below.

Table 1: Welsh Government approval criteria

Approval criteria

- i The RBMP has been prepared in accordance with the 2017 Regulations, and NRW has had regard to principles and advice set out in this (and any additional) guidance

- ii The RBMP is realistic, including about the availability of resources

- iii The policies, objectives and measures within the RBMP are consistent with one another

- iv The RBMP is consistent with those for other UK RBDs

- v NRW has made modifications necessary to comply with any Welsh Ministers' Direction in relation to the RBMP (unless the Direction is withdrawn)

11.5 When submitting the third cycle RBMPs for approval, NRW should indicate the main changes since the preceding plans, such as the number of

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water bodies expected to achieve 'good' and additional measures.

11.6 If satisfied with an updated RBMP, the Welsh Ministers will approve it and NRW must then publish it **by 22 December 2021**.

11.7 If unsatisfied with an updated RBMP, the Welsh Ministers may reject it, modify it, or require NRW to modify and resubmit it within a set deadline. The time allowed for modifications would be set case by case, taking into account the nature and extent of the modifications required, but would normally be between 6 and 8 weeks. If NRW is directed to take further action before the RBMP is published, the Welsh Ministers will give reasons for this. (This applies to the RBMPs originally submitted for approval and to any resubmissions.)

Changes within the 6-year planning cycle

11.8 The fundamentals of the RBMP itself should not generally be changed during the 6-year planning cycle. The purpose of the RBMP is to provide - through the strategic policy statement, objectives and summary PoM - a degree of certainty about management of the water environment and how regulatory decisions will be taken in that RBD. Amending these elements of the RBMP mid-cycle would undermine this role.

11.9 However, management of the water environment is a continuous process. Although it is unlikely that the RBMP itself would need to be amended within the 6-year planning cycle, NRW and other public bodies and deliverers will, in carrying out their functions, be making changes to the detail (the large portfolio of technical, legal and administrative documents) of the PoM throughout this time.

11.10 Occasionally it may become apparent during the river basin planning cycle that the proposed PoM is unlikely to be sufficient to meet one or more of the objectives in the RBMP. If this is the case, NRW should determine what, if any, action to take in the current river basin planning cycle and carry out the steps set out in regulation 25 of the 2017 Regulations ensuring that:

- the causes of the possible failure are investigated
- relevant permits and authorisations are examined and reviewed as appropriate
- the monitoring programmes are reviewed and adjusted as appropriate
- additional measures necessary to achieve those objectives are established subject to the application of regulations 15 to 19 of the 2017 Regulations.

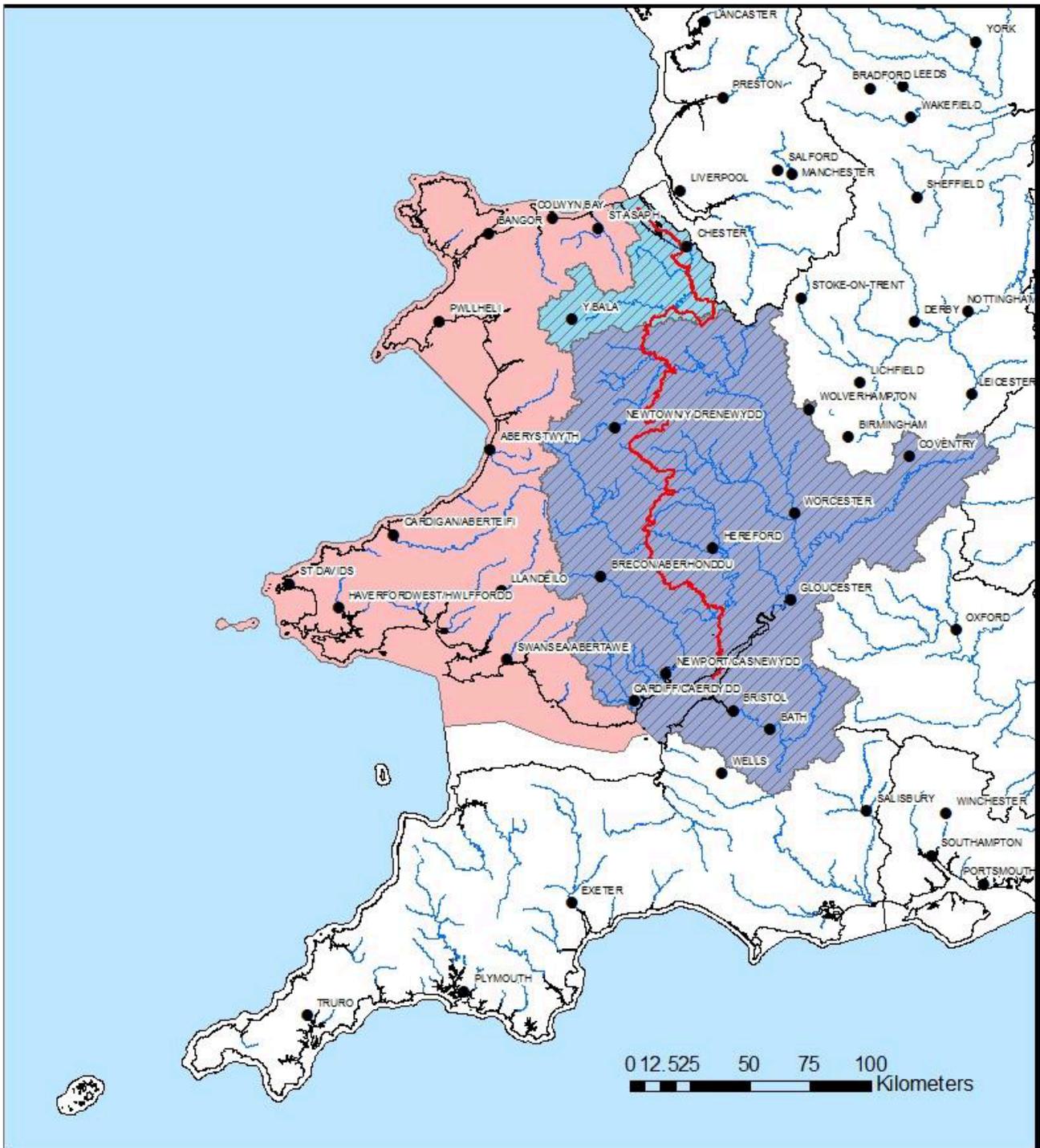
11.11 When considering actions, NRW should take into account the presumption that there will be no deviation from the RBMP. For example, NRW should review the whole package of measures and mechanisms necessary to meet an objective, and not just a single measure. They should assess the costs and benefits of any new package of measures and where they will fall. They should also ensure that the public, private and voluntary sector bodies which are likely to be affected by the change are engaged in any amendments.

11.12 If the approach set out in the RBMP is not followed, this deviation from the RBMP must be explained and justified in the subsequent RBMP.

11.13 The updated RBMPs must include the information specified in regulation 27 of the 2017 Regulations. This information includes:

- a summary of any changes or updates since the publication of the previous RBMP
- an assessment of progress towards the achievement of the environmental objectives
- a summary of, and explanation for, any measures foreseen in the previous RBMP which have not been undertaken
- a summary of any additional interim mechanisms and measures adopted under regulation 25 since the publication of the previous RBMP.

Annex 1: Map of river basin districts in Wales



River Basin District - Wales

- | | | |
|--------------------|---------------|--------------|
| ● Cities and towns | Western Wales | Cross Border |
| — National border | | Dee |
| — Main rivers | | Severn |

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