

Mark

Thank you for consulting SNH on the review of Ofgem's Impact Assessment guidance. We have some general comments, as well as responses to the specific questions in the consultation letter of 18 March 2013 from Philip Callum.

### **Question 1 on revising the structure of the guidance**

We welcome the overall approach/emphasis proposed.

However, we have some concerns with the reasons given for not carrying out an IA - that the proposal is urgent or IA is not practical. It would be helpful to provide some clearer examples here, in particular relating to the 'urgency' of a proposal.

### **Question 2 on Ofgem's proposed approach to assessing impacts**

While we broadly welcome the approach set out, there are a number of detailed aspects which we are concerned about.

The part of most interest to us is the environmental aspect of the assessment process - in particular, the 'long-term hard-to-monetise (strategic and sustainability) issues. There is little or no indication of how this will be carried out. In addition, the current text implies that only long-term environmental issues which are important - whereas impacts caused in the short-term can have large impacts. It may be that this is intended to mean 'permanent' or 'irreversible' impacts. If so, the wording could be revised to make it clearer.

We suggest that, given this is a guidance document, there should be more explanation on how Ofgem intends to carry out this strategic and sustainability part of the assessment; it may be that this explanation picks out some of the key points in the reference document *Strengthening strategic and sustainability considerations in Ofgem decision-making (2012)*.

On a more particular environmental issue, biodiversity is only mentioned as part of environmental assets when looking at the 2020-2050 period. However, there are important policy issues for biodiversity in the period before 2020 - in particular the 2020 biodiversity targets about halting loss and raising public awareness (more detail can be found here: <http://www.cbd.int/sp/targets/>). Clearly, the carbon targets are related to 2050 - and it may be that all the other environmental issues have been linked in with that. However, water, biodiversity and a range of other environmental topics which are likely to be affected in some way by the activities which Ofgem regulates all have their own EU legislative drivers running to a different timescale.

### **Question 3 on Ofgem's proposed approach on sustainable development**

Some of our comments above are also relevant to this question - for example, on how biodiversity and other non-carbon environmental issues are addressed.

We welcome the broad approach, but there is little detail on issues such as weighting among different issues (for example, sustainability, security and social equity), on what discount rates would be used in the CAB or what the time period to be used would be (whether near-term to 2020, long-term to 2050, or the lifetime of the assets being considered. For example, will the 'hard-to-monetise' issues be given a weighting comparable to the economic and social elements of the IA?

In some places, the terms 'quantification' and 'monetisation' appear to be used interchangeably. Given that they do mean different things, it would be helpful to ensure they are used correctly.

### **Question 4 on other changes to be incorporated**

On consultation, the document states 'Ofgem will generally consult with anyone likely to be significantly affected by the implementation of a proposal'. It would be helpful if this was to be clarified so those interested would know what they are likely to be consulted on as well as where to look for information on proposals/IAs which they might have an interest in, but might not be consulted on directly.

The document also states that Ofgem doesn't intend to consult on the screening stage, but will have regard to any representations made. However, how will potential stakeholders or consultees know when an 'important' proposal has been screened out?

It would be useful if the process document included reference to any requirements which Ofgem might have to undertake Habitat Regulations Appraisals (HRAs) under legislation implementing the EU Habitats & Species Directive. The IA process could help consider the need for HRA of particular proposals.

The document is intended to apply UK/GB-wide. However, there are some differences among the legislation which applies in Scotland, England, Wales and Northern Ireland - and it is important to list what applies in each country. For example, there is reference to the biodiversity duty under the Natural Environment and Rural Communities Act 2006. This legislation doesn't apply to Scotland - the biodiversity duty in Scotland is under the Nature Conservation (Scotland) Act 2004. In addition, the table in section 2.8 mentions Areas of Outstanding Natural Beauty; this landscape designation does not apply in Scotland - we have National Scenic Areas.

#### **Other comments**

The language in the document can be quite inaccessible for some - for example, terms such as 'hard-to-monetise considerations', 'shock', 'lock-in' and 'lock-out', and even 'important proposals'. In order to encourage engagement in consultations (especially public participation), it would be helpful to make the terminology more accessible. This could either be by providing definitions/explanations at the start of the document or in a glossary, or using terms found in conventional assessment process - for example, 'relevant proposals' rather than 'important proposals'.

I hope these comments are helpful, but please get in touch if you wish to discuss further any of the points in my email.

All the best,

Daniel.

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