

Appendix L Implementation of New Powers

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Overview

Appendix L presents the principal elements of the Company's approach to implementing the new powers enshrined in the amended section 76 of the Water Industry Act 1991, the Water Use (Temporary Ban) Order 2010 and Drought Direction 2011. The appendix is divided into the following five parts:

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L1 Section 76 Water Industry Act 1991, Water Use (Temporary Bans) Order 2010 and Drought Direction 2011

L1.1 New legislation

The Company's Drought Plan was reviewed and updated to comply with Defra's request to ensure the plan takes account of the extended powers of water companies to restrict water use following an amendment to Section 76 of the Water Industry Act 1991, made by the Flood and Water Management Act 2010 (FWMA 2010) and further prescribed by the Water Use (Temporary Bans) Order 2010 (Temporary Use Ban) in 2012. Additionally, the Drought Direction 2011 (DD11), which updates powers of water companies to ban non essential use under the terms of an Ordinary Drought Order, has been considered in parallel with the Temporary Use Ban powers and its implementation incorporated into the updated Plan.

Temporary Use Ban

The legislation governing hosepipe restrictions first appeared in the Water Act of 1945, authorising hosepipe prohibitions for two specified activities, namely, watering private gardens and cleaning private motor vehicles. The new legislation permits restrictions on eleven categories of use (also referred to as 'activities', 'measures' or 'purposes'), including the original two, see Table L1. It is up to the individual water company to decide which activities should be banned, how these restrictions should be phased in and which of these, if any, should be subject to exemptions or concessions. These are further discussed in the following appendices. Several of the activities have a statutory exemption on health or safety grounds.

Table L1- Temporary Use Ban Powers- Categories of Use

Description of measure	Additional comments
1. Watering a garden using a hosepipe*	Definition of 'garden' has now been greatly extended to include: a) a park; b) gardens open to the public; c) a lawn; d) a grass verge; e) an area of grass used for sport or recreation; f) an allotment garden g) any area of an allotment used for non-commercial purposes; h) any other green space. This is a new and much more wide ranging definition than the original. Includes statutory health or safety exemption.
2. Cleaning a private motor-vehicle using a hosepipe	Watering by hand using a bucket, using greywater or rainwater is acceptable.
3. Watering plants on domestic or other non-commercial premises using a hosepipe	A watering can could be used.
4. Cleaning a private leisure boat using a hosepipe*	Includes statutory health or safety exemption.
5. Filling or maintaining a domestic swimming or paddling pool	Customers may fill swimming and paddling pools by hand, using a bucket. Public pools are not covered by this restriction. Use of alternative water sources, including rainwater, is permitted.
6. Drawing water, using a hosepipe, for domestic recreational use	Customers may use a bucket to fill recreational equipment. Filling of recreational toys directly from a tap is not included.
7. Filling or maintaining a domestic pond using a hosepipe*	Ponds where fish or other aquatic animals are being reared are exempt.
8. Filling or maintaining an ornamental fountain*	This is an effective way of reinforcing the message of the seriousness of the drought
9. Cleaning walls, or windows, of domestic premises using a hosepipe*	Includes statutory health or safety exemption.
10. Cleaning paths or patios using a hosepipe*	This activity also applies to commercial premises. Includes statutory health or safety exemption.
11. Cleaning other artificial outdoor surfaces using a hosepipe*	This activity also applies to commercial premises. Includes statutory health or safety exemption.

In terms of giving public notice of impending Temporary Use Ban enforcement, section 76B of the WIA 1991 enhances the previous publicity requirements by requiring the water undertaker:

- To publish its notice on its website at the same time as it publishes the notices in two newspapers;
- To provide details in the notice of how to make representations about the proposed prohibition;

- To give notice each time the scope of any prohibitions imposed under section 76 of the WIA 1991 is varied; and
- To give notice in relation to the lifting of any prohibitions on its website and in two newspapers.

Drought Direction 2011

Drought Direction 2011 (DD11) came into force on 31 March 2011 and replaces Drought Direction 1991. DD11 has been designed to supplement the restrictions prescribed within the 1991 direction by extending the categories of possible water use restriction when further savings are needed. DD11 sets out ten categories of use or activities that can be prohibited, see Table L2; as for the Temporary Ban legislation, several measures include exemptions on health or safety grounds. An Ordinary Drought Order application to the Secretary of State is still required before these so-called non essential use bans on commercial customers may be implemented. Drought Direct 2016 has since been published but DD11 remains in force.

Table L2- Drought Direction 2011- Categories of use

Description of non essential use measure	Additional comments
1. Watering outdoor plants on commercial premises	This activity mirrors the domestic equivalent (Activity 3).
2. Filling or maintaining a non-domestic swimming or paddling pool	Pools under construction are not included. This includes significant renovations and alterations that require substantial changes to the shape of a pool or major additions to the structure around the pool. It does not include minor works such as retiling or resurfacing.
3. Filling or maintaining a pond	Customers may fill using a bucket. Use of alternative water sources is permitted including rainwater. Ponds where fish or other aquatic animals are being reared are exempt.
4. Operating a mechanical vehicle-washer	
5. Cleaning any vehicle, boat, aircraft or railway rolling stock	Includes statutory health or safety exemption.
6. Cleaning non-domestic premises	Building cleaning may proceed by hand using water from a bucket. Greywater and rainwater may be used. Storage tanks- Restrictions apply to water drawn from the mains supply after the statutory notice has been given, so water drawn into a container prior to that date may be used for cleaning the exterior of buildings. Includes statutory health or safety exemption.
7. Cleaning a window of a non-domestic	An alternative (non-potable) water source could also be offered. Includes statutory health or safety exemption.

building	
8. Cleaning industrial plant	Includes statutory health or safety exemption.
9. Suppressing dust	Includes statutory health or safety exemption.
10. Operating cisterns	Covers operating a cistern in any building that is unoccupied and closed.

L2 UKWIR Code of Practice

The Company has based its policy on the statutory requirements and the guidance given in the UKWIR Code of Practice (*'Code of Practice and Guidance on Water Use Restrictions', UKWIR*). The Code of Practice (CoP) offers the following four principles to guide water companies when they are evaluating whether and how water restrictions will be implemented by them during times of drought:

- Ensuring a consistent and transparent approach;
- Ensuring that water user restrictions are proportionate;
- Communicating clearly with customers; and
- Considering representations in a fair way.

In the task of setting out the Company's implementation policy, the 2nd principle of proportionality is the most immediately relevant of the four. In putting the 2nd principle into practice, the key points to bear in mind are:

- The nature and seriousness of the water supply situation.
- The water savings that will result from restricting the activity.
- Whether it is appropriate to introduce the restriction in a phased manner.
- Whether the restriction will result in a serious commercial impact.
- The health or safety and biosecurity implications of the restriction.
- Whether the restriction will impact on vulnerable customers or groups.
- Whether it is appropriate to offer any concessions to any individual or group of customers.

Exemptions/concessions

Exemptions or concessions fall into two broad categories: statutory and discretionary. The former category is written explicitly into the legislation and includes health and safety requirements. The latter are not anywhere defined but general guidance is given in the CoP. Following the four principles, it is up to individual companies to decide how they wish to implement the discretionary exemptions/concessions suggested in the CoP.

Statutory

Statutory exemptions for health or safety exist in seven of the eleven Temporary Ban activities and six of the ten DD11 activities, see Tables L1 and L2 above.

The legislation defines health and safety as including the following:

- a) removing or minimising any risk to human or animal health or safety; and
- b) preventing or controlling the spread of causative agents of disease.

Regarding clause a) and in respect to human health or safety, the risk can only be assessed on an activity/purpose. The CoP guidance suggests that generally the real risk is quite low in most cases.

Regarding clause b), the legislator's concern here includes biosecurity, which is generally associated with the introduction of non-native species to the UK or their spread to other parts of the UK.

Discretionary exemptions

At workshops aimed at developing the Company's implementation policy, the Code of Practice (CoP) was used as the starting point for discussions on possible phasing arrangements and exemptions. The CoP provides companies with a wide range of possible exemptions and concessions. Where appropriate and in adherence to the 2nd principle of proportionality, a short-list of potential exemptions was developed (see Table L3) and used as the basis for discussions in the customer research surveys (Appendix L3) as well as the inter-company liaison meetings (Appendix L4).

Table L3- Temporary Ban- Short-list of potential Exemptions

Exemption	Source	Rationale
Small businesses	CoP	Businesses whose sole or primary income depends on the activity to be banned.
Micro-irrigation	CoP	These systems use very little water compared to hosepipes or normal sprinklers.
Use of short hosepipe	Internal workshop	A length of perhaps 1.5m to enable filling a watering can.
Physical/mobility impairment	CoP/Customer survey	In cases where watering plants or vegetables is an important aspect of a person's life.
Sports grounds	CoP	Commercial impact
Offensive graffiti	CoP	Removal of offensive graffiti will help to alleviate private and /or public concerns.
Gardens open to the public	CoP	Potential economic impact.

Phasing

The Code of Practice describes the use of sprinkler and unattended hosepipe bans later followed by full hosepipe bans as a form of phasing under the old legislation. Companies now have a wider range of powers and will need to give careful consideration to phasing of the eleven activities within the Temporary Ban legislation.

L3 Customer Research

L3.1 Objectives and methodology

Thames Water commissioned an independent market research company to conduct a survey for which the over-arching objective was to gain customer feedback (domestic and commercial) and views regarding key elements of the revised draft, specifically:

- Media campaign.
- New powers regarding Temporary Use Ban and options for exemptions and phasing .
- New powers regarding Drought Direction 2011.

In all, three surveys were conducted, the first two with domestic customers and the third with commercial customers. In regard to the domestic customers, a two-phase research programme was conducted starting with a qualitative phase of three online group discussions in the week beginning 13 June 2011, composed of:

- domestic customers with private garden and / or allotment – 7 participants;
- domestic customers with private garden and / or allotment – 8 participants;
- domestic customers without private garden or allotment – 9 participants.

Participants were recruited from the Thames Water customer panel. Within each group a mixture of consumers was surveyed by age, socio-economic group, ethnicity, location (London and Thames Valley), garden/allotment ownership and presence of a water meter.

A second domestic survey was conducted between 24 June and 3 July in the form of an online quantitative phase in which 1299 domestic customers were emailed and invited to participate, from which a good response rate of 62% (804) was achieved.

A quantitative survey of commercial customers was conducted between 6 July – 22 July in which 57 relevant businesses and business consortiums were sent a questionnaire. The response was unfortunately disappointing with replies dominated by cricket clubs (NB this was because the English and Welsh Cricket Club Board forwarded the questionnaire to all its members), with the only other replies received from:

- Turf Grass Growers Association
- Federation of Window Cleaners
- Horticultural Trades Association
- Racecourse Association
- Heathrow Airport Ltd.

In all three surveys participants were informed of the nature of the Temporary Use Ban and DD11 measures. In the domestic qualitative survey participants were asked about their views about their water supply and what they perceived to be the main issues facing water

companies today. The customer panel were shown the short-list of exemptions, Table L3, and asked for their views on their acceptability.

L3.2 Findings- Qualitative survey

Attitudes to a media campaign

Most participants felt that they used reasonable amounts of water and that a media campaign would have little effect on them but may impact others. They were already careful with the amount of water they used. They know what measures to take to reduce water use and it is 'common sense'. Participants said key messages in a media campaign should be:

- Encouragement to behave responsibly
- Communication of facts e.g. top tips, how much rainfall does there need to be to make a drought, who decides there is a drought.
- Communicating what may happen if action is not taken.
- Demonstrating water companies are doing their bit.
- Stressing both the personal benefits (financial) and wider benefits (environmental).

Temporary Use Ban

There was a high level of agreement among participants that it was acceptable to ban all eleven activities. In discussing possible exemptions, there was a high level of agreement that all the short-listed options were acceptable. Interestingly, physical or mobility impairment was not on the initial short-list of exemptions, but was spontaneously suggested by the participants and subsequently added to the short-list.

Attitudes on DD11 measures

Participants were given a list of activities that could be banned if a Drought Order were to be introduced. There was a broad level of agreement with the measures proposed. Those participants who were broadly in favour of the measures had a number of associated caveats:

- Businesses should be given sufficient warning and notice of the measures to allow them to prepare.
- Health and safety should be a factor, i.e. suppressing dust etc. could be important in some circumstances, so should be exempt if health and safety is at risk. NB the statutory exemptions will generally cover these concerns.
- They wanted reassurance about the objectivity and accountability of the decision to introduce a Drought Order and the associated stringent measures.

One possibility discussed was the exemption of mechanical car washers that are water efficient, for example, an exemption for washers that recycle water and use less than a certain amount of water per vehicle. Participants had mixed views on allowing mechanical car washers that are water efficient if a Drought Order was introduced. Some felt that protecting small businesses was a good idea, but others felt that washing cars was not a priority activity and did not warrant an exemption.

L3.3 Findings- Quantitative domestic survey

Temporary Use Ban

The key findings can be summarised as:

- Overall, garden or allotment ownership appeared to have little impact on views.
- No significant difference in attitude between London and Thames Valley customers.
- Almost half of respondents would not be affected by any of the measures.
- The top three activities affecting the most respondents were:
 - Watering a garden or allotment using a hosepipe
 - Watering plants on domestic properties using a hosepipe
 - Cleaning a private vehicle using a hosepipe
- 75% of respondents agreed with restrictions on five or more proposed Temporary Use Ban measures, 21% agreed with all.
- Younger respondents (16 to 34) were more negative about the ban and had lower levels of agreement with all of the individual measures.

The profile of levels of agreement with the individual banned measures is given in Figure L1. The most notable point is that whilst watering gardens and plants were the most 'unpopular' measure relative to the overall set of measures, over 68% either agreed with or were neutral on the instigation of those measures.

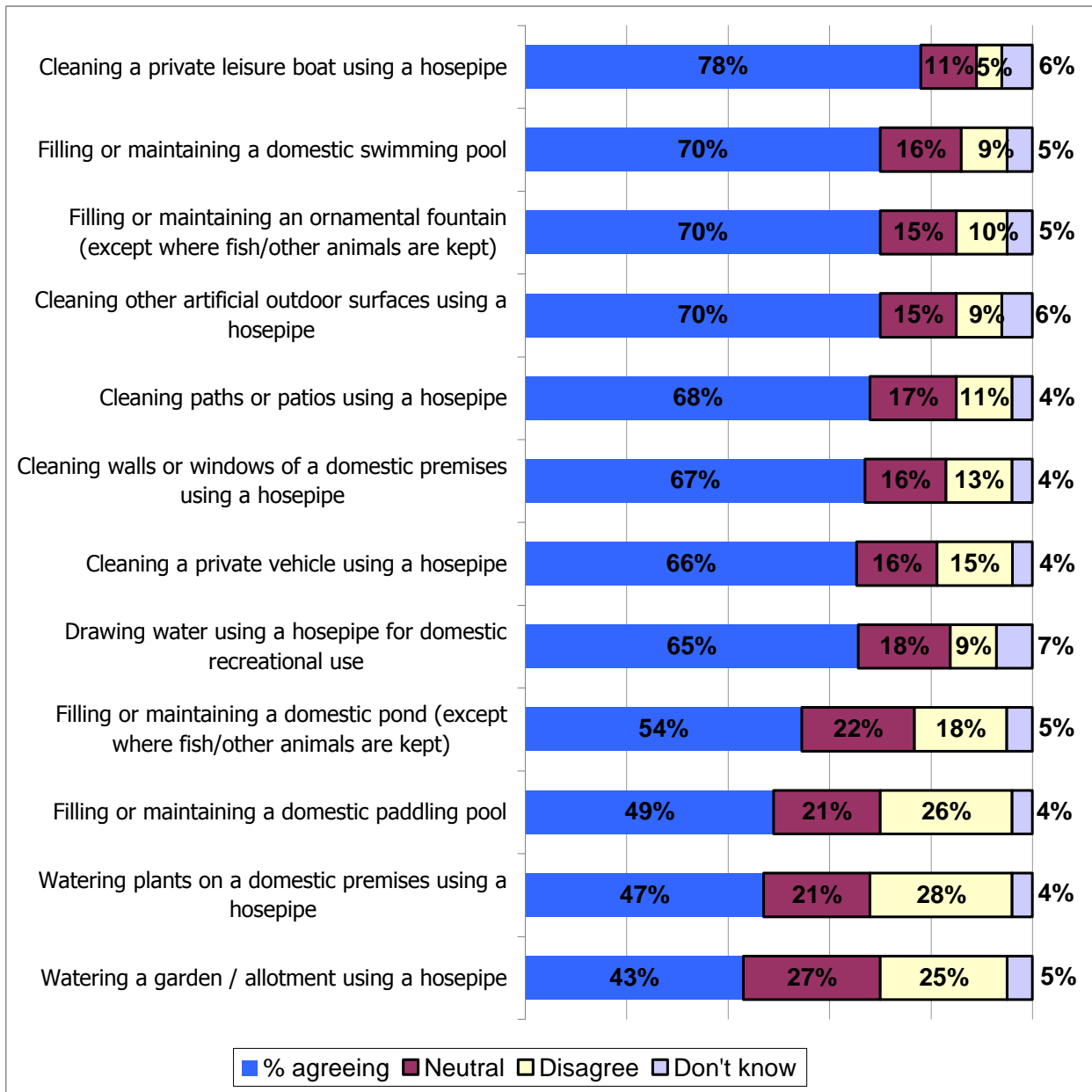


Figure L1- Levels of agreement on activities banned under the Temporary Ban

Exemptions

As shown below in Figure L2, based on the results all but *offensive graffiti* and *gardens open to the public* could be said to have good customer support.

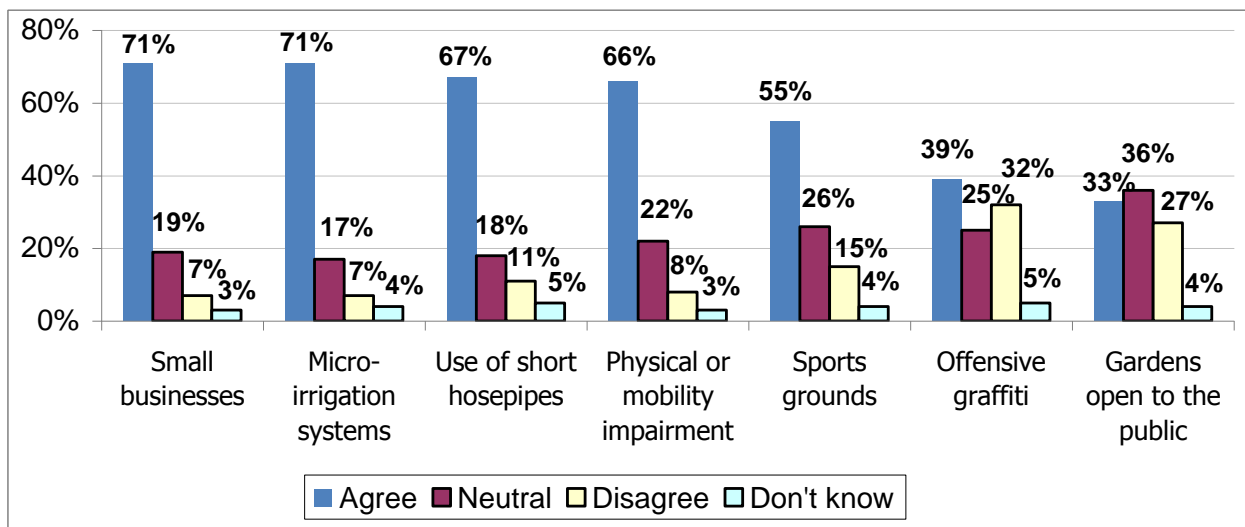


Figure L2- Levels of agreement on possible Temporary Use Ban exemptions

Phasing

In this context, ‘phasing’ is when one or more categories of use are excluded from the list of banned water use activities until a later phase of the drought event. The wider range of powers that is now available for Temporary Use Bans means that water companies should give careful consideration to the phasing of demand restrictions. A more flexible approach to the implementation of the legislation is now possible, for example first banning the watering of lawns and verges, later followed by plants grown as food. However, under the new legislation, each phase is to be treated afresh, and so a formal period of notice would have to be given prior to the introduction of each new phase, in Thames Water’s case, this would be 3 weeks. Multiple phasing would also tend to increase customer uncertainty during the course of the drought as to what activity was or was not currently banned.

In the survey, two phases gained a 2 to 1 majority over one phase. However, the principal reason for preferring two phases was either allowing more time to adjust or it lessens the impact on the customer. Unsurprisingly, there was a majority consensus on *watering a garden using a hosepipe* and *watering plants on domestic or other non-commercial premises using a hosepipe* being the two activities left for Phase 2. However, this option could reasonably be rejected on grounds of such a lax policy on reducing water use would not pass the proportionality test (2nd Principle of Code of Practice). Clearly, a two-phase approach with the highest water uses being in the second phase would not demonstrate a clear commitment to reducing demand and could be considered by Defra or the Environment Agency as an ineffective use of full powers. The principal reason given for just having one phase was the obvious one: less confusing/easier to understand.

A second key point is the need for customers to understand the rationale behind the phasing of the Temporary Use Ban in the wider context of a water company’s Levels of Service. This is particularly important in Thames Water’s case in which the Temporary Use Ban measures (replacing the old ‘hosepipe ban’) come in at Level 3 of the Company’s Levels of Service (Level 3 drought) in association with a drought of severity of one year in twenty or worse. If Level1 Media Campaign is regarded as the first phase of restrictions, in reality, customers

would experience two phases in a Level 3 drought, as the Level 2 sprinkler ban would run alongside the Temporary Use Ban in a Level 3 drought. Hence the concern expressed in the domestic survey in regard to *'allowing more time to adjust'*, could be largely allayed by a timely and targeted Level 1 Media Campaign

L3.4 Findings- Commercial Survey

Overall there was good agreement with domestic survey results. Again there is support for banning most activities, without exemptions being required. However, 'watering plants at a commercial garden premises (excluding those grown or kept for sale)' was only agreed with if exemptions were to be applied, as were 'cleaning of industrial plant' and 'suppressing dust'. The only activity where a ban was disagreed with outright was 'operating cisterns'. This was for health and safety reasons. However, there has likely been some misunderstanding on the conditions of the ban, as the legislation refers to "operating a cistern in any building that is unoccupied and closed".

In regard to the suggested exemptions under the Temporary Use Ban the respondents did not agree with the exemptions on 'offensive graffiti' and 'gardens open to public', a very similar result to the quantitative domestic survey.

Two phases were preferred with watering gardens and plants in the 2nd phase, an identical result to the domestic survey.

For DD11 exemptions, 'short hosepipe', 'small businesses' and 'mechanical car washers' were all endorsed.

Understandably, health and safety was often cited as a reason for exempting an activity. Cricket clubs all made the case for watering the cricket square, often for health and safety reasons.

L4 Inter-company liaison

L4.1 Introduction

Water companies, regulators and customers alike all agree that water use restrictions should be implemented in a clear and consistent manner across the South East of England. For example, in his letter of 14 January 2011 to Thames Water, Richard Benyon, the Minister for Natural Environment and Fisheries, expressed a particular concern that had been raised on the risk of confusion for customers in neighbouring areas where different approaches are taken and stated that it would be helpful if consideration could be given on how to avoid such confusion.

The need for water companies to review their Drought Plans to incorporate the new powers has provided an opportunity to work towards a consistent approach. It was with this aim in mind that water companies of the South East met over the summer.

Points of agreement

An initial meeting (20 June) with most of the other companies in the South East gave unanimous support for working towards a consistent approach, although it was acknowledged that due to inherent differences in water resource systems and variations in rainfall patterns, it was unlikely that the implementation of restrictions could always be simultaneously applied across the South East. However, the reasons for any differences should be understood and clearly explained to customers. It was agreed that a joint statement (see Section 7.4.3 in Main Report) explaining the position should be included in each updated company drought plan.

At the follow-up meeting of 26 August companies discussed progress towards their implementation policy for the incorporating the new legislation. Generally companies would introduce the Temporary Use Ban measures in one phase, although some companies that were solely reliant on groundwater sources had decided on a more gradual introduction involving two or three phases. With regard to exemptions, a minimalist approach had been adopted by all companies. The two main exemptions on using a hosepipe were for undue commercial impact largely on businesses whose income depended largely on the banned activity and the elderly or disabled whose impairment was such that they were physically unable to cope with watering their garden, plants or allotment with a watering can. In implementing the banned activities under Drought Direction 2011, all companies would apply to the Secretary of State for the full powers. It was felt in this case that if such powers were needed the drought would have to be posing a serious risk to supplies and so maximum water use savings should be aimed for.

L4.2 2011/2012 Consultation Response process

Throughout the consultation response process Thames Water has been discussing proposed changes with the other companies in the South East in order to achieve as consistent approach as possible in revised draft Drought Plans.

L5 Changes resulting from December 2011 Consultation

L5.1 Introduction

On 13 December 2011, Thames Water published its updated draft Plan for an 8 week consultation period ending 8 February 2012. The publication process allows for a fifteen week period to enable consultation and company response (see Main Report, Section 1.2.2). The Company has also used this time to review its rationale for its implementation policy.

The response from the consultation, ongoing dialogue on the draft Plan with stakeholders and internal review has resulted in two substantive changes to the implementation policy for the Temporary Use Ban, namely the inclusion of two further exemptions relating to sports grounds and micro-irrigation.). The internal review was undertaken in the light of the representations that Thames Water received to its announcement of the implementation of a Temporary Use Ban on 5 April 2012. This appendix describes the changes and the reasons for them.

L5.2 Sports grounds

Exempting sports grounds is an option open to water companies that is noted in UKWIR's Code of Practice (described therein as 'sports pitches'). Watering areas of grass used for sport or recreation using a hosepipe is covered under Category of Use 1 with the much wider definition of a 'garden'. This includes all sports pitches or similar, such as cricket and football pitches, bowling greens, horseracing tracks and golf courses. It applies to both publicly and privately owned facilities; both can be large users of water but some may have private water supplies for watering sports pitches. Watering for health or safety reasons is exempt from the legislation in any case and sports pitches can still be watered using other sources of water and innovative recycling methods can be encouraged.

This option was discussed as part of the Company's initial consideration of the new Temporary Use Ban powers (see Appendix L2 (Table 3) and Appendix L3 ('Exemptions')). In the customer research quantitative survey the option gained good support with 81% either agreeing or remaining neutral on its inclusion as an exemption. In the end the Company decided against its inclusion because of its uncontrolled broad and general scope and the potential significant loss of water savings that such a wide scope could produce.

During the fifteen week consultation/response period, the current drought has brought into much sharper focus the need to re-consider sports ground irrigation, in particular respect to national and international events, such as Wimbledon, various Premiership games and Test matches. On the basis of the proportionality principle, it is felt that the loss of water savings is outweighed by the need to maximise the success of such widely enjoyed events, albeit limited in number. In addition, the national or international criterion would enable certain specified events to be exempt, thereby overcoming any issues of uncontrolled abuse of this exemption.

The new exemption for sporting events of national or international importance is worded as follows:

Using a hosepipe to water an area of grass or artificial outdoor surfaces used for sport or recreation, where this is required in connection with a national or international sports event. View the list of Sporting events exempt under Temporary Use Ban on our website which will be updated as and when required.

L5.3 Micro-irrigation (water-efficient irrigation)

Like sports grounds, it is suggested in the Code of Practice as an exemption that water companies may wish to consider exempting water-efficient apparatus such as drip irrigation or micro-irrigation through perforated hosepipes and sprinkler systems. Micro-irrigation /drip irrigation received a majority of 88% (agree with or neutral) in the customer research survey (see Appendix L2 (Table 3) and Appendix L3 ('Exemptions') . Whilst the Company was keen to encourage water efficiency, given that garden irrigation formed a majority of potential water use savings, it decided against this exemption due to the ambiguity of the definition of micro or drip irrigation systems, which it believed could lead to uncontrolled, incorrect and inefficient application of such systems.

Ongoing representations from the Horticultural Trade Agency (HTA) and Waterwise on the water-efficiency merits of this exemption have led to a change of policy. The HTA argued that such an exemption, if implemented wisely, would help to gain support of garden retailers in promoting water-efficient gardening, not only in a drought, but for every year. Just as importantly from the point of view of practicable implementation, Waterwise provided a working definition, which the Company consider will greatly help to limit widespread and inefficient application of micro-irrigation systems.

The Environment Agency has accepted the inclusion of this exemption provided the opportunity was taken to gather information on its effectiveness. Consequently, Thames Water and the other companies exempting drip irrigation will be working with Waterwise to monitor results and build the long-term evidence base of the savings delivered.

The new exemption for allowing water-efficient irrigation is worded as follows:

drip or trickle irrigation watering systems, fitted with a pressure reducing valve and a timer, that are not handheld, that place water drip by drip directly onto the soil surface or beneath the soil surface, without any surface run off or dispersion of water through the air using a jet or mist.

L6 Implementation Policy

L6.1 Policy formulation

The Company's implementation policy has been based on the following factors:

- Defra/EA guidance.
- UKWIR Code of Practice generally and in particular adherence to the 2nd principle of proportionality, see Appendix L2
- Findings from customer research survey, see Appendix L3.
- Clarity of message- consistent with Thames Water's experience with recent droughts, Defra and the EA, Ofwat and CCWater have emphasised the need for clear and straightforward customer communication to facilitate an effective response to the new measures.
- South East companies consistent approach, see Appendix L4.
- Consultee representations from the December 2011 consultation process, ongoing stakeholder dialogue and internal review

L6.2 Proposed Policy- Overview

Temporary Use Ban Exemptions

The following will be exempted from the Temporary Use Ban restrictions:

- i) using a hosepipe in a garden or for cleaning walls or windows of domestic premises, paths or patios, a private leisure boat or an artificial outdoor surface, where such use is necessary for health and safety reasons;
- ii) people with severe mobility problems who hold a current Blue Badge as issued by their local authority will not be prohibited from using a hosepipe to water a garden attached to a domestic dwelling, plants on domestic premises, or allotments where the Blue Badge holder is the tenant;
- iii) using a hosepipe to clean a private motor vehicle, walls and windows of domestic premises, or paths, patios and other outdoor surfaces where this is done as a service to customers in the course of a business;
- iv) using a hosepipe to water an area of grass or artificial outdoor surfaces used for sport or recreation, where this is required in connection with a national or international sports event. (Nb A list of sporting events exempt under a TUB or DD11 will be published on the Thames Water website and will be updated as and when required);
- v) drip or trickle irrigation watering systems, fitted with a pressure reducing valve and a timer, that are not handheld, that place water drip by drip directly onto

the soil surface or beneath the soil surface, without any surface run off or dispersion of water through the air using a jet or mist;

- vi) using a hosepipe to water a garden or to water plants where such watering is restricted to newly laid turf, newly sown lawns, newly planted trees, shrubs and plants when the laying, sowing or planting has been carried out as service to customers in the course of a business. This exemption only applies for a period of 28 days from the day of planting, sowing or turf laying.

Exemption i) is included to help to ensure that, as stated in the Temporary Use Ban legislation, the use of a hosepipe for the purposes as stated for health and safety reasons is not restricted.

Exemption ii) will apply to Blue Badge holders engaged in the following two categories of use:

Category of use 1): Watering a garden using a hosepipe, and

Category of use 3): Watering plants on domestic or other non-commercial premises using a hosepipe.

This exemption is intended to allow people who are disabled or physically impaired to continue to use a hosepipe in their own garden who would otherwise find great difficulty in carrying a watering can. Exemption i) and ii) will be allowed to run throughout the drought event.

Exemptions iii) and vi) are intended alleviate potential hardship a Temporary Use Ban and DD11 could have on some business, particularly the smaller businesses whose income is derived from a single or limited number of activities. However, this exemption will be withdrawn if and when DD11 measures are imposed. The rationale for such phasing of the commercial users exemption is to enable it to run for a reasonable length of time before banning the activity in line with the DD11 measures. If the drought has become sufficiently serious as to introduce such measures then it could be reasonably argued that the exemption applied to commercial users should be lifted. On the other hand, it is felt that the physical impairment and disability exemption should remain in place throughout the drought event because the reason for its implementation still remains.

Exemption iv), is as described in Appendix L5. This is a new exemption to arise from the Company's internal review of its implementation policy during the consultation/response. Given that events of national importance can take place throughout the year and they will be of a limited number, this exemption will run throughout a drought event.

Exemption v), is as described in Appendix L5. This is a new exemption to arise from the December 2011 consultation process and from otherwise ongoing stakeholder dialogue. The Environment Agency has accepted the inclusion of this exemption provided the opportunity was taken to gather information on its effectiveness. Consequently, Thames Water and the other companies exempting drip irrigation will be working with Waterwise to monitor results and build the long-term evidence base of the savings delivered. As with Exemption ii), this exemption will be lifted if and when DD11 measures are introduced.

Insofar as exemptions iv) and v) were supported by customers (Appendix L3), the proposed approach is consistent with the findings from the customer survey. These exemptions represent an approach that minimises any complication to the message to customers and

which is consistent with the 2nd principle of proportionality in the Code of Practice. That is to say, it can be shown that together, the exemptions do not constitute a significant reduction in the potential water savings, but they could mean loss of livelihood in the case of affected commercial customers and undue personal hardship in the case of people with health impairment or disability. It is considered that the exemptions would also be acceptable to the rest of the companies in the South East, and consistent with the companies imposing similar exemptions.

Phasing of Temporary Use Ban

The Temporary Use Ban legislation includes an option for phased implementation of the possible prohibitions.

Thames Water is not proposing any phasing to the imposition of the eleven categories of use as set out in the TUB. However, dependent upon the Drought Event Level assigned, not all of the categories of use will be prohibited in any one year.

As part of a Drought Event Level 2, DEL2 (see Table 10) an unattended hosepipe and sprinkler ban is likely to be enforced (see Table 15), with authorisation given through the Temporary Use Ban legislation, see Section 5.4.1. This level of water use restriction would be consistent with Level 2 of Thames Water's Levels of Service, that is to say, a drought of severity with an occurrence no more frequent than one year in ten.

A more severe drought of frequency of occurrence at least one year in twenty would be designated a DEL 3 event. As part of a DEL3 (see Table 10), the introduction in a single phase of all eleven categories of use as set out in the new legislation is considered to be the most appropriate way for Thames Water to implement the Temporary Use Ban measures. A single phase would help to maximise water savings as well as send out a strong simple message that the situation is worsening. In practice, because a combined Level 1 and 2 Media Campaign (see Table 15) would be introduced well in advance to prepare the way for the Temporary Use Ban, customers would not experience an abrupt start to restrictions.

The Drought Event Level is a function of the prevailing and potential water situation (Section 4.3.3.3) and generally this can be set at the end of the winter recharge season in March when the final status of groundwater levels is known (Section 2.2). It is most likely that the DEL set at this point will apply until the beginning of the next recharge period, thereby determining whether all of the categories of use should be prohibited for the summer period. Therefore, unless the dry period is exceptionally long, extending well into the next winter recharge period the following autumn, it is very unlikely that a DEL2 involving an unattended hosepipe and sprinkler ban would be followed by a DEL3 involving the full eleven Temporary Use Ban restrictions within the same year.

In addition and as noted above, most of the other water companies in the South East are proposing to introduce the full eleven Temporary Use Ban activities in a single phase.

Drought Direction 2011 (DD11)

In regard to DD11 restrictions, which primarily affect non-essential water use in connection with commercial activities, Thames Water would not be introducing such extreme measures as given in the Drought Direction 2011 legislation if the water situation was not becoming demonstrably very serious. The Company considers that a straightforward total ban without exemptions (apart from the exemptions noted above that continue on from the earlier introduction of Temporary Use Ban measures) not only sends a clear message underlining

the severity but also maximises water savings and is easier to communicate and administer. In the unlikely event of the need to apply for an Emergency Drought Order, such an approach would stand the Company in good stead for a successful application.

The administration of the policy should take full account of the formal statutory health and safety exemptions written into both the Temporary Ban and Drought Direction 2011 legislation.