

Welsh Government

Implementation of sustainable drainage systems on new developments - Draft regulations and national standards

Background to CIWEM

CIWEM is the leading independent Chartered professional body for water and environmental professionals, promoting excellence within the sector. The Institution provides independent commentary on a wide range of issues related to water and environmental management, environmental resilience and sustainable development.

CIWEM welcomes the opportunity to respond to the Welsh Government on its consultation on the implementation of sustainable drainage systems on new developments – draft regulations and national standards. CIWEM has undertaken extensive work in this area including the Big SuDS Survey and our 2017 report “A Place for SuDS¹”. This response has been compiled with the assistance of members from our Urban Drainage Group and our Welsh Branch.

Response to consultation questions

1. We propose to commence Schedule 3 in Wales and bring forward the related Statutory Instruments in May 2018. Do you agree this is reasonable? If not please give reasons.

Yes.

2. We propose SAB approval will not be required for the first 12 months for:
Developments that were already granted planning permission before commencement;
or

Developments with one or more reserve matters where an application for approval of the reserve matter(s) is made; or

A valid planning application had been submitted before commencement. Do you agree with this approach for transitional arrangements? If not please give reasons.

CIWEM agrees.

3. What, if any, areas in addition to those listed above should the guidance cover?

Will surface water drainage still be a material matter for planning purposes?

What effect will a S104 agreement for all or a substantial part of the work have on fees and the need for and size of bond for the SAB?

¹ A Place for SuDS is available from www.ciwem.org/suds

4. Do you agree with the proposed exemption for Lead Local Flood Authorities? Can you provide evidence to support an exemption?

Yes, provided it is clear that it only applies to works carried out in their function as LLFA and is not a general exemption for all local authority works.

5. What information should the SAB be required to submit as part of a review mechanism of SAB approval costs? How often should the review take place, once every year or once every two years?

Staff costs (including any consultants required)

Some metrics – numbers of applications and the size and complexity of those applications

The level of involvement from Statutory Consultees

Performance metrics in terms of response times

6. We propose to give enforcement powers to the SuDS Approving Body and the local planning authority. Do you agree?

Yes, as the LPA may have more presence on the ground in National Park Areas.

7. Do you agree that the proposed powers of entry are reasonable and proportionate, if not please explain why?

CIWEM agrees.

8. We propose that claims for compensation related to powers of entry and temporary stop notices must be submitted within 12 months of the powers being exercised or the notice being withdrawn/ ceasing to have effect. Do you agree, if not please explain why?

CIWEM agrees.

9. We propose that, as in planning, a time limit of four years is set for when the SuDS Approving Body is able to give an enforcement notice? Do you agree, if not please explain why

CIWEM agrees.

10. Are the proposed intervention powers and criminal offences provisions in the draft statutory instrument appropriate and proportionate?

Yes.

11. We propose to provide similar procedures for appeals against SuDS enforcement notices to those which currently apply to planning enforcement appeals (written representation, hearing or inquiry). Do you agree? If not please explain why?

CIWEM agrees.

12. We propose a register of SuDS enforcement notices which mirrors the register for planning enforcement notices. Do you agree?

CIWEM agrees.

13. Question 13: Do you have any information or case studies which could help inform the guidance on this subject? If so, please provide details.

N/A

14. Question 14: Is our definition of a single property drainage system clear on what will or will not be adopted? If not please provide an alternative definition. Can you suggest additional examples for inclusion in guidance?

Yes, perfectly clear.

15. Question 15: We propose a 4 week time limit for administrative processes (for example return of bonds, the process of registration or designations) for the SuDS Approving Body. This time limit applies throughout the SuDS process. Do you agree with this timeframe? If not please explain why.

CIWEM agrees.

16. Question 16: Are there any additional statutory works which should be included in this list?

Telecommunications works are the obvious omission.

17. Question 17: We propose that all Statutory Undertakers must notify the SuDS Approving Body at least four weeks in advance of works that may affect the SuDS operation. Do you agree with this timeframe? If not please explain why.

Agree, though a shorter period may be required for emergency work in line with the NRSWA provisions for emergency street works.

18. Question 18: We propose upon completion of the works, the SuDS Approving Body must decide within 12 months if it is satisfied that the SuDS functions in accordance with the SuDS Standards. Do you agree with this timescale? If not please explain why.

This is difficult as it depends on the weather – has there been enough rain, or has the groundwater been high enough to test the system? It is probably a good compromise.

19. Question 19: We propose that an appeal must be made within six months of either the SuDS Approving Body's decision or the date the decision was due. Do you agree?

Yes

20. Question 20: We propose to adopt similar procedures for SuDS appeals to those which currently apply to planning appeals (including written representation, hearing or inquiry). Do you agree? If not please explain why.

CIWEM agrees.

21. Question 21: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed please do tell us about them.

The draft procedure regulations say:

"Meaning of "sustainable drainage system"

3. For the purpose of paragraph 17(5) of Schedule 3, "sustainable drainage system" means those parts of a drainage system that are not vested in a sewerage undertaker pursuant to an agreement under section 104 of the Water Industry Act 1991(2)."

It is not clear whether the exception only arises on vesting (i.e. at the end of the S104 agreement) or at the time the agreement comes into force.