

# UK Technical Advisory Group on the Water Framework Directive

## Guidance on objectives and standards for Protected Areas (Final)

<b>This Guidance Paper is a final report defined by the UKTAG. It documents the principles to be adopted by agencies responsible for implementing the Water Framework Directive (WFD) in the UK.</b>			
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<b>WFD Requirement:</b>	Protected areas	<b>UKTAG Review</b>	28/6/07 UKTAG reviewed and signed off

### 1. General requirements for Protected Areas

#### 1.1 Article 4 of the Water Framework Directive specifies that:

*In making operational the programmes of measures specified in the river basin management plans, for Protected Areas, Member States shall achieve compliance with any standards and objectives set for each Protected Area by 22 December 2015, unless otherwise specified in the Community legislation under which the Protected Area was established*

#### 1.2 Article 6 requires Member States to establish a register, or registers, of Protected Areas. The register, or registers, must comprise *areas lying within each river basin district designated as requiring special protection under specific Community legislation for the protection of their surface water and groundwater or for the conservation of habitats and species directly depending on water.*

#### 1.3 Annex IV lists the types of areas that must be included in the register. These are:

- (i) *Areas designated for the abstraction of water for human consumption;*
- (ii) *Areas designated for the protection of economically significant aquatic species;*
- (iii) *Bodies of water designated as recreational waters, including areas designated as Bathing Waters;*
- (iv) *Nutrient-sensitive areas, including areas identified as Polluted Waters under the Nitrates Directive or areas designated as sensitive under Urban Waste Water Treatment Directive*
- (v) *Areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in their protection including relevant N2K sites.*

## UKTAG guidance on the objectives and standards for Protected Areas

- 1.4 Article 5 and Annex II require Member States to assess risks to the achievement of the objectives for Protected Areas.
- 1.5 Article 11 requires Member States to include measures to achieve the objectives for Protected Areas within the programme of measures.
- 1.6 Article 13 and Annex VII requires Member States to include the monitoring results for Protected Areas in the River Basin Management Plans and hence report whether the objectives for Protected Areas are being achieved.
- 1.7 The Water Framework Directive's provisions for setting alternative objectives<sup>1</sup> cannot be applied to any standard or objective necessary to comply with the Community legislation under which a Protected Area was established. However, they can be applied in relation to any additional standards and objectives applicable to the water body or bodies in a Protected Area as a result of Article 4.1 of the Water Framework Directive.
- 1.8 Any provisions for exemptions or derogation in the Community legislation under which a Protected Area was established may still be applied to the standards or objectives specified in that legislation, where appropriate. However, this cannot prejudice the achievement of environmental objectives set for the relevant water bodies under the Water Framework Directive, taking into account the applicability of that Directive's provisions for setting alternative objectives.
- 1.9 If the deadline for achieving the standards and objectives for a Protected Area is not specified in the Community legislation under which the area was established (e.g. Habitats and Birds), the Water Framework Directive imposes a deadline of 22<sup>nd</sup> December 2015. The UK takes the view that the Water Framework Directive's provisions for setting alternative objectives can be applied in relation to this deadline where the conditions specified in Article 4.4 apply.
- 1.10 The objectives and standards for the different Protected Areas are summarised in Annexes 1 to 5 of this paper. The standards include environmental standards and other types of standards (e.g. emission standards; process standards; etc)
- 1.11 Where it is expedient to do so and in so far as the duties and powers vested in the competent authorities responsible for river basin planning require<sup>2</sup> or permit, the river basin management planning process will also be used to help deliver relevant national environmental objectives and priorities (e.g. for biodiversity conservation).

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<sup>1</sup> See paragraphs 3, 4, 5, 6 and 7 of Article 4 of the Water Framework Directive

<sup>2</sup> For example, the Environment Agency is required by statutory guidance to do this – see paragraph 7.2 and Chapter 12 of the River Basin Planning Guidance issued by the Secretary of State and the National Assembly for Wales.

**Annex 1 Standards and objectives for areas designated for the abstraction of water intended for human consumption under Article 7**

A1.1 Drinking Water Protected Areas are:

- Bodies of water used for the abstraction of water for human consumption which provide more than an average of 10 m<sup>3</sup> a day in total or which serve more than 50 persons;
- Bodies of water intended for such level of use in the future

A1.2 Under the Drinking Water Directive (98/83/EC), water for human consumption means all water either in its original state or after treatment which is:

- (a) Intended for drinking, cooking and food preparation or other domestic purposes; or
- (b) Used in any food production business for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless the competent national authorities in relation to drinking water quality are satisfied that the quality of water has no influence, directly or indirectly, on the health of consumers concerned.

A1.3 The objectives for Drinking Water Protected Areas are to:

- *Ensure that, under the water treatment regime applied, the drinking water produced meets the requirements of the Drinking Water Directive; and*
- *Aim to avoid deterioration in the quality of Drinking Water Protected Areas in order to reduce the level of purification treatment required in the production of drinking water*

A1.4 The first objective is achieved by compliance with the Drinking Water Directive.

The second objective is achieved when all necessary steps have been taken to try and prevent any deterioration resulting from human activity in the quality of water at the point or points of abstraction, or at the intended point or points of abstraction, that would lead to a significant and sustained adverse trend in the concentration of any parameter relevant to drinking water production.

A1.5 The duties on Member States in relation to Drinking Water Protected Areas probably apply from the end of 2007 when the Surface Water Abstraction Directive (75/440/EEC) is repealed. The relevant steps necessary for the aim of preventing deterioration in the quality of raw water to comply with the Surface Water Abstraction Directive and the Groundwater Directive (80/68/EEC) will continue to be taken after 2007.

A1.6 The UK administrations are in the process of developing further controls on diffuse source pollution. These controls will contribute to achieving the objectives for Drinking Water Protected Areas.

## **Annex 2 Standards and objectives for Protected Areas designated for the protection of economically significant aquatic species**

### **Economically Significant Aquatic Species Protected Areas (freshwater fish)**

A2.1 The objective for freshwater fish waters designated under the Freshwater Fish Waters Directive is:

*To protect or improve the quality of running or standing freshwaters to enable them to support fish belonging to:*

- (i) Indigenous species offering a natural diversity; or*
- (ii) Species the presence of which is judged desirable for water management purposes by the competent authorities of the Member States*

A2.2 The environmental standards required to achieve the objectives for the freshwater fish elements of Economically Significant Aquatic Species Protected Areas are specified in the Freshwater Fish Waters Directive.

A2.3 The standards will be reviewed and revised as appropriate after the repeal of the Freshwater Fish Waters Directive in 2013. The revised standards will be the standards needed to support fish at good ecological status/potential. These standards may be more (e.g. nearer existing guideline) or less stringent than the existing mandatory standards specified in the Freshwater Fish Waters Directive.

A2.4 The designation of freshwater fish waters as Economically Significant Aquatic Species Protected Areas for freshwater fish may be periodically reviewed under Article 6.3 of the Water Framework Directive after the repeal of the Freshwater Fish Waters Directive. Such reviews may result in the de-designation of some areas and/or the designation of new areas.

A2.5 The Freshwater Fish Waters Directive requires that the standards for freshwater fish designated areas must be met within five years of the initial designation under that Directive. For any new Protected Area for economically important fish species designated after 2013, the relevant timetable for achieving the standards in the water bodies concerned will be that determined in accordance with Article 4 of the Water Framework Directive, taking into account the application of its provisions for setting alternative objectives.

A2.6 After 2013, deterioration of the quality of Economically Significant Freshwater Fish Species Protected Areas as a consequence of exceptional weather conditions or pollution incidents will be managed in accordance with the those provisions of the Water Framework Directive that apply to any water body in such circumstances.

### **Economically Significant Aquatic Species Protected Areas (shellfish)**

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- A2.7 The objective for shellfish waters designated under the Shellfish Waters Directive is:
- *To protect and, where needed, improve the quality of shellfish waters in order to support shellfish (bivalve and gastropod molluscs) life and growth, and thus contribute to the high quality of shellfish products directly edible by man.*
- A2.8 The environmental standards required to achieve the objective for the shellfish elements of economically significant aquatic species Protected Areas are specified in the Shellfish Waters Directive.
- A2.9 The standards may be reviewed after the repeal of the Shellfish Waters Directive in 2013. Revisions to the standards will take account of what is necessary to achieve the objectives of the Protected Area.
- A2.10 Revised standards may be more stringent (e.g. nearer existing guideline) or less stringent than the existing mandatory standards in the Shellfish Waters Directive. In practice, the standards for those parameters which are also quality elements supporting good ecological status are expected to be the same as the standards for good ecological status/potential.
- A2.11 The designation of Economically Significant Aquatic Species Protected Areas for shellfish may also be periodically reviewed under Article 6.3 of the Water Framework Directive after the repeal of the Shellfish Waters Directive. The reviews may result in the de-designation of some areas and/or the designation of new areas.
- A2.12 The Shellfish Waters Directive requires that the standards for Shellfish designated areas be met within six years of the initial designation under that Directive. For any new Protected Area designated after 2013, the relevant timetable for meeting standards in the water bodies concerned will be that determined in accordance with Article 4 of the Water Framework Directive, taking account of the application of its provisions for setting alternative objectives.
- A2.13 After 2013, deterioration of the quality of the shellfish elements of economically significant aquatic species Protected Areas resulting from exceptional weather conditions or pollution incidents will be managed in accordance with those provisions of the Water Framework Directive that apply to any other water body in such circumstances.

**Annex 2           Standards and objectives for areas designated as bathing waters under Directive 76/160/EEC and Directive 2006/7/EC**

- A3.1       Subject to the transitional provisions in Article 17.2 of Directive 2006/7/EC, until 31<sup>st</sup> December 2014, the objective for Bathing Water Protected Areas is to achieve specific mandatory water quality standards for the protection of bathers. These standards are listed in Directive 76/160/EEC. They include guideline standards
- A3.2       Subject to the transitional provisions in Article 17.2 of Directive 2006/7/EC, from the end of 2014, the objective for Bathing Water Protected Areas is to achieve a bathing water class of at least 'sufficient' by the end of 2015. There are some exceptions to this. The requirements for 'sufficient' class bathing waters are specified in Directive 2006/7/EC. In practice, action may be needed prior to 2014 in order to achieve a bathing water class of at least 'sufficient' by the end of 2015.
- A3.3       Subject to the transitional provisions in Article 17.2 of Directive 2006/7/EC, from 31<sup>st</sup> December 2014, Member States must also take such realistic and proportionate measures as they consider appropriate with a view to increasing the number of bathing waters classified as 'excellent' or 'good'.
- A3.4       The standards for Bathing Water Protected Areas under the new Directive must be achieved by the end of 2015, subject to Article 5.4 (i.e. poor bathing waters that nevertheless comply with the Directive).
- A3.5       For any new Bathing Waters designated after the end of 2015, the bathing water class must be at least sufficient from the date of designation unless Article 5.4 applies.
- A3.6       Water bodies identified as Bathing Water Protected Areas will be protected from deterioration of Water Framework Directive status. However, there is no requirement to prevent their deterioration to a poorer bathing water class where this does not affect status provided the conditions of Article 5.3 and 5.4 of the new Bathing Water Directive are met.

## **Annex 4 Standards and objectives for nutrient-sensitive areas**

### **Nutrient-Sensitive Protected Areas (91/271/EEC)**

A4.1 The general objective of the Urban Waste Water Treatment Directive (UWWTD) is:

- *To protect the environment from the adverse effects of urban waste water discharges and waste water discharges from certain industrial sectors*

A4.2 The standards required to achieve the objective for UWWTD Nutrient Sensitive Protected Areas are the following emission standards for discharges from relevant urban waste water treatment plants situated in the relevant catchment areas of the nutrient sensitive areas and which contribute to the pollution of those areas:

- for freshwater and estuarine nutrient sensitive areas, the emission standards specified in Table 1 of Annex I to the UWWTD for relevant discharges from urban waste water treatment plants serving agglomerations of greater than or equal to 2000 p.e;
- for coastal water nutrient sensitive areas, the emission standards specified in Table 1 of Annex I to the UWWTD for relevant discharges from urban waste water treatment plants serving agglomerations of greater than or equal to 10,000 p.e (Article 4);
- for all nutrient sensitive areas subject to eutrophication, the emission standards specified in Table 2 of Annex I to the UWWTD for relevant discharges from urban waste water treatment plants serving agglomerations of greater than or equal to 10,000 p.e. Depending on the local circumstances, the requirements in Table 2 for phosphorus and/or nitrogen may apply;
- For nutrient sensitive areas intended for the abstraction of drinking water which could contain more than 50 mg/l of nitrate if action is not taken;- nitrate removal from relevant discharges from urban waste water treatment plants serving agglomerations of greater than or equal to 10,000 p.e. to the extent necessary to contribute to achieving the objectives of Article 7 of the WFD for the relevant surface water Drinking Water Protected Area in the most cost-effective way.

A4.3 The emission standards for discharges to a UWWTD Nutrient Sensitive Protected Area must be achieved within seven years of the designation of that area

### **Nutrient-Sensitive Protected Areas (91/676/EEC)**

A4.4 The general objective of the Nitrates Directive is to:

- *Reduce water pollution caused or induced by nitrates from agricultural sources and*
- *Prevent further such pollution*

## UKTAG guidance on the objectives and standards for Protected Areas

- A4.5 The Nitrate Directive requires Member States to implement action programmes within five years of designating a Nitrate Vulnerable Zone. It does not set a deadline for achieving its objectives in Nitrate Vulnerable Zones. This is evidenced by the fact Member States are required to revise their action programmes if it becomes apparent that, unless revisions are made, the objectives of the Nitrates Directive will not be achieved. This is not affected by Article 4.1c of the Water framework Directive.

## **Annex 5. Standards and objectives for areas designated for the protection of habitats or species where the status of water is an important factor in their protection**

A5.1 The objective for Natura Protected Areas identified in relation to relevant areas designated under the Habitats Directive is to:

*Protect and, where necessary, improve the status of the water environment to the extent necessary to achieve the conservation objectives that have been established for the protection or improvement of the site's natural habitat types and species of Community importance in order to ensure the site contributes to the achievement of favourable conservation status*

In relation to areas designated under the Birds Directive, it is to:

*Protect and where necessary improve the water environment to the extent necessary to achieve the conservation objectives that have been established for the protection or improvement of the site in order to ensure that the site contributes to the conservation (survival and reproduction in their area of distribution) of birds species listed in Annex I of the Birds Directive.*

A5.2 The standards required to achieve the objective for a Natura Protected Area are the biological, physico-chemical and hydromorphological standards in surface water and groundwater that are necessary to support the achievement of the conservation objectives that have been established for site.

A5.3 Deterioration of the relevant natural habitat types and the habitats of species of Community importance as well as disturbance of those species as a result of impacts on the status of the water environment must be prevented.

A5.4 No deadline is specified in the Natura Directives for making any environmental improvements necessary to achieve favourable conservation status for any habitat or species listed in those Directives. Consequently, there is also no deadline required by those Directives for making any improvements to the status of the water environment that are necessary to achieve the conservation objectives for a Natura site. The Water Framework Directive's deadline of 2015 for making such improvements therefore applies. However, the Directive's provisions for setting alternative objectives for water bodies can be used to extend the 2015 deadline where appropriate. Consultation with the relevant conservation agencies should be part of this process. The measures, with any extended deadline and the reasons for it, must be included in the river basin management plans.