

The
Lisbon
Charter

Guiding the Public Policy and Regulation
of Drinking Water Supply, Sanitation and
Wastewater Management Services

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It is timely for the IWA, together with the community of water and sanitation professionals and opinion leaders, to agree on an international framework of good practice for public policy and regulation in drinking water supply, sanitation and wastewater management services, with clear reference to the rights and responsibilities of the various stakeholders and users.

Preamble

Over the past ten years the importance of creating an enabling environment for the performance of essential drinking water, sanitation and wastewater services through the formulation of good public policy and the establishment of effective regulation, has been increasingly recognized; in fact, the number of countries with a regulatory framework for drinking water supply, sanitation and wastewater management services is on the rise and so is the contingent of regulators.

The International Water Association (IWA) is an international association of professionals and companies covering all facets of the water cycle, whose shared vision is a world in which water is wisely managed to satisfy the needs of human activities and ecosystems in an equitable and sustainable way; and whose shared mission is to inspire change and service IWA members, the community of professionals concerned with water, external organisations, opinion leaders, and society in general.

The satisfactory delivery of drinking water, sanitation and wastewater management services depends critically on contributions from all stakeholders, playing their role effectively and efficiently. However, international documents like the UN 'International guidelines on access to basic services for all' and the International Organization for Standardization (ISO) standards 24510, 24511 and 24512 have defined the respective roles of different stakeholders without specifying the roles of regulatory authorities in detail.

The IWA Governing Assembly acknowledged the importance of the human rights to safe drinking water and sanitation in a Resolution adopted in 2012, which encouraged IWA

members to support the progressive realisation of these rights. Access to safe drinking water and sanitation were recognised as human rights by the General Assembly of the United Nations in July 2010, and many countries have incorporated them into their legislation. Public policy and regulatory frameworks are derived from this legislation.

The IWA Bonn Charter for Safe Drinking Water established a framework for the collective implementation of integrated risk assessment and management systems aimed at ensuring the safe management of drinking water. It has contributed substantially to the introduction, expansion and further development of the concept of Water Safety Planning, as proposed by the WHO Global Drinking Water Quality Guidelines. The Bonn Charter is an exemplary document in both bringing together a range of stakeholders to take collective action and providing an international framework to be adapted into local legislation, regulation and practices.

In September 2014, the First International Regulators Forum, jointly organized by IWA and the Portuguese Water and Waste Services Regulation Authority (ERSAR), brought together water services regulators and their public health and environmental counterparts to discuss the role of regulation, its current status and future trends on water services provision; as well as the different interactions between regulatory bodies across sectors. The Forum contributed to the dissemination of good practices, allowing for harmonization of regulatory practices. Inspired by the Bonn Charter, and on the initiative of ERSAR, it was decided to establish a Charter for guiding the Public Policy and Regulation of services.

Part One - Nature & Purpose

BACKGROUND

Drinking water, sanitation and wastewater professionals and practitioners, policy and decision makers with responsibilities for these services, managers of public or private service providers, and the community of practice working in water management, gathered at the First International Regulators Forum in Lisbon, in September 2014. They commended the IWA initiative to develop, formulate and establish a Charter with a view to laying out the basic principles for good public policy and effective regulation of drinking water supply, sanitation and wastewater management services (henceforth the 'Services'), declaring the respective rights, duties and responsibilities of the governments and public administration, regulatory authorities, service providers and users.



PURPOSE

The Lisbon Charter provides guidance on the formulation of national and local public policies, the creation of associated regulatory frameworks for the Services, and on good practice for the implementation of such policies and regulations. In order to achieve its purpose, the provisions of the Charter rely on the following fundamental elements:

The main premise of the Lisbon Charter is that the reliable supply of safe, affordable, acceptable and accessible drinking water (to which the Bonn Charter also relates) and sanitation, and the sustainable and safe management of wastewater are fundamental to the health of communities and to their sustainable socioeconomic development. Access to safe drinking water and sanitation have been acknowledged, furthermore, as human rights under the International Covenant on Economic, Social and Cultural Rights, derived from the right of all peoples to a basic standard of living and linked to every individual's right to health.

The Lisbon Charter acknowledges that governments must ensure their people's basic needs are met, in compliance with their international commitments to pursue development goals (such as the Millennium Development Goals and the anticipated Sustainable Development Goals); and that they are the duty bearers for the process of progressive realisation of the human rights to safe drinking water and sanitation, with the obligation to respect, protect and fulfil these human rights, eliminating inequality and discrimination towards the achievement of universal access.

Governments are the main body responsible for policymaking, but may not be the sole entity implementing all actions required to attain universal access to safe drinking water and sanitation, and to achieve an acceptable level of wastewater management. However, as human rights duty bearers, governments should foster good public policy and effective regulation to meet their international commitments as well as the commitments to their own people.

HOW TO USE THE CHARTER

The Lisbon Charter presents principles for good public policy and effective regulation of the Services. These principles are linked to rights, responsibilities and good practices for each group of stakeholders (governments and public administration, regulatory authorities, service providers and users) and for the community of water and sanitation practitioners at large. Guidance is therefore provided for each stakeholder group to optimize their role – collectively and individually – in the formulation and implementation of public policy and regulation.

DEFINITIONS

For the purpose of this Charter, the following definitions shall apply:

THE LISBON CHARTER

The Lisbon Charter, Guiding the Public Policy and Regulation of Drinking Water Supply, Sanitation and Wastewater Management Services.

REGULATION OR REGULATIONS

In this Charter, the term is used to refer to:

1. the rules that emanate from governments and public administration and are enforceable by regulatory authorities or regulators –i.e. ‘regulations’;
2. the act of applying and enforcing standards, criteria, rules or requirements, which have been legally or contractually adopted –i.e. ‘to regulate’.

STAKEHOLDERS

Drinking water, sanitation and wastewater professionals and practitioners, policy and decision makers with responsibilities for the Services, public administration, regulatory authorities, managers of public or private service providers, the community of practice working in water management and recipients of the Services. The Lisbon Charter groups them into four distinctive roles: governments and public administration, regulatory authorities, service providers and users.

GOVERNMENTS AND PUBLIC ADMINISTRATION

Government is the political system that includes politicians and exercises executive authority by which a state is governed, including relevant authorities and responsible bodies [ISO 24510:2007]. Public administration is the administrative system that includes public functionaries and daily implements government policy.

REGULATORY AUTHORITY, REGULATORY BODY OR REGULATOR

is a public authority responsible for applying and enforcing standards, criteria, rules or requirements – which have been politically, legally or contractually adopted – exercising autonomous authority over the Services, in a supervisory capacity.

SERVICE PROVIDERS OR UTILITIES

Those who supply the Services to the population, regardless of whether their ownership status is public or private.

USERS

The final beneficiaries of the drinking water supply, sanitation and wastewater management services.

Part Two - Principles

Article One

The Lisbon Charter recognizes the following fundamental principles for good public policy and effective regulation of the Services:

1.1.

Effective water supply, sanitation and wastewater management make a positive contribution to sustainable development

Because of their critical importance to the development of modern societies, the Services are essential to public health, general welfare and a decent standard of living. Therefore, they must address the three pillars of sustainability and collectively safeguard the population, economic activities and the environment.

1.2.

The provision of services should enshrine accountability and transparency

The Services must fulfil a set of public administration obligations: ensuring universal access; having clear standards and norms in terms of quantity, quality, reliability and continuity; discharging a duty of care to users by proactive, preventative, and risk-based management; providing full access to information for all stakeholders; establishing structural and operational efficiency; managing stewardship of assets with integrity and due regard to affordability and intergenerational costs; maintaining a fair balance between affordability of the services and cost recovery to ensure operational sustainability; and adopting rules of good practice, such as those stated in the IWA Bonn Charter and in this IWA Lisbon Charter.

1.3.

The economics of service provision should be framed by long-term infrastructure investments and cost recovery instruments

The Services deal with a set of heterogeneous products and aspects within the context of the water cycle. They have the potential to achieve economies of scale, of scope and of process, yet their assets are designed to be able to cope with peak situations and to face emergency events. This implies high unitary costs that have a rigid structure because of the significant fixed capital cost component. Typically, the recovery of invested capital requires a long timeframe and a low elasticity between price and demand. Cost recovery instruments, that include user charges, external transfers and fiscal subsidies, should consider the total costs of the services, i.e. financial costs, operation and maintenance, funding of new infrastructure, environmental costs and resource costs. The degree of contribution of different sources of funds (tariffs, transfers and taxes) should be determined with the maximum degree of transparency.

1.4.

Service provision should take into account the financial, social and environmental aspects of all water resources

The Services are inextricably linked to water resources, which constitute the raw material for drinking water and the final destination for wastewater. Water resources are literally the beginning and the end of all water cycles, at whatever scale.

1.5.

Effective service provision relies upon the collective actions of interdependent stakeholders

Considering the diversity of actors and stakeholders, articles six to ten spell out the responsibilities of the main actors in relation to governments and public administration, regulatory authorities, service providers and users. These responsibilities should, collectively, ensure that the aforementioned obligations towards the delivery of the Services are met in an equitable and non-discriminatory way.

Part Three - Roles & Responsibilities

Article Two

COMMON RESPONSIBILITIES

All stakeholders should have an ongoing and open dialogue and share information on the sustainable and continuous provision of Services. Policies on access to information should be formulated and agreed, spelling out criteria to balance confidentiality against wide-ranging, reliable and comprehensive information to be made available to the public.

Article Three

RESPONSIBILITIES OF GOVERNMENTS & PUBLIC ADMINISTRATION

All stakeholders should have an ongoing and open dialogue and share information on the sustainable and continuous provision of Services. Policies on access to information should be formulated and agreed, spelling out criteria to balance confidentiality against wide-ranging, reliable and comprehensive information to be made available to the public.

The formulation and implementation of appropriate public policies for the provision of the Services to the population comprises:

3.1.

Adopt strategic plans for the sector, at a national or regional level and in the medium term, which embodies the vision of governments and society;

3.2.

Establish and strengthen the legal framework for provision of the Services and ensure that all regulations are applied equitably to all stakeholders, whether they are public, private, mixed or associative;

3.3.

Define the governance models of the Services whether public or private, central, regional or local, according to each country context;

3.4.

Create and guarantee an effective institutional framework with clear allocation of responsibilities and accountabilities amongst the various entities involved in the provision and management of these services, as an essential basis for optimal sector performance;

3.5.

Design regulatory frameworks as a tool for national, regional and local governments to scrutinise and enforce legislation, norms, standards and best practice in infrastructure and service delivery, guarantee and protect the independence of the regulatory authority;

3.6.

Define the objectives, capabilities and capacities of the various bodies having regulatory functions at national, regional or local levels in the fields of health protection, environmental protection, economic regulation, implementation of human rights, and others exploring opportunities for harmonization;

3.7.

Oversee and evaluate the legal and regulatory frameworks for the provision and management of the Services, as well as the functioning of the respective institutional frameworks to enable innovation and good governance;

3.8.

Define goals and set realistic, measurable targets and standards to improve the availability, access, quality, reliability and affordability of the Services;

3.9.

Ensure provision of mechanisms to access reliable information on the Services, both to support the definition of public policies and business strategies and to ensure greater transparency in their provision;

3.10.

Ensure equality and non-discrimination in access to the Services and, if needed, prioritisation of their provision to marginalized user groups;

3.11.

Establish a fiscal framework for the Services that promote economic incentives for the long-term conservation and protection of water resources, to reduce emission pressures to the environment and sustain infrastructure investments;

3.12.

Promote tariff policies that enable gradual cost recovery to promote economic sustainability and guarantee reinvestment; periodically adapt tariff policies to the economic capacity of the population and guarantee service delivery to cover the most economically disadvantaged;

3.13.

Provide and efficiently manage the available financial resources, from public budgets or from cooperation and development support funds;

3.14.

Improve the structural efficiency of the Services, with an optimised territorial organisation and promotion of utilities' operational efficiency;

3.15.

Develop the economy in the water sector, strengthening its capacity in national and possibly international markets by creating jobs and wealth;

3.16.

Promote awareness and participation of users regarding the Services to ensure greater and more fruitful civic participation;

3.17.

Support the development of human resource capacity in terms of numbers of and balance between qualified professional and technical staff, and a conducive organisational structure in which they can perform essential functions that ensure the good quality of the Services;

3.18.

Provide the means and define the responsibilities for the resolution of any conflicts of interest between parties that may arise from any of the above;

3.19.

Promote research in areas related to the Services, enhancing local knowledge.



RESPONSIBILITIES OF REGULATORY AUTHORITIES

The actions of regulatory authorities must be based on the principles of competence, professionalism, impartiality, accountability and transparency. Organised in whatever way best meets local and national needs, they should ensure the implementation of models which foster an integrated approach, i.e. regulating both the sector as a whole and each service provider individually, identifying the optimal conditions for all segments of the population and service delivery models.

An integrated regulatory approach for the Services must be defined for each specific context, including the following activities:

4.1.

Ensure that all stages, from design and tendering processes, contracting, service management, contract amendment and termination, are carried out in strict compliance with legislation and with any pre-existing contract, such as in the case of delegation or concession of the Services to third parties;

4.2.

Supervise tariff schemes to ensure they are fair, sustainable and fit for purpose; promoting efficiency and affordability of prices together with a level of cost recovery that meets the requirements for economic and financial sustainability; enabling service providers to adequately perform operation and maintenance activities, considering infrastructure, environmental and resource costs;

4.3.

Oversee and promote the provision of a suitable quality of services to users, ensuring compliance with standards, norms and best practices for the benefit of public health and the environment;

4.4.

Address the interface between service providers and users, in order to ensure the protection of consumers' rights, safeguard the right to submit complaints and due process, and improve the quality of the relationship between service providers and users;

4.5.

Help to clarify the operating rules of the sector, based on regulations, which are essential for the proper delivery of the Services;

4.6.

Contribute to fair and open competition between service providers to facilitate faster implementation of innovative solutions and technical progress; in this manner, promoting efficiency and quality of the Services while minimising the effects of their monopolistic nature;

4.7.

Collect, analyse and disseminate accurate information on the implementation of the public policy of the sector and on the performance of service providers; enable a culture of transparency, providing reliable, concise, credible information that can be easily interpreted by all, covering all operators, regardless of the management system adopted for service provision;

4.8.

Promote research to facilitate innovation, building on indigenous knowledge and the development of human resources with suitable technical and professional training, fit to carry out essential functions, thus ensuring increased autonomy of the Services;

4.9.

Provide incentives for improvement of the Services, imposing appropriate and proportionate sanctions in case of non-compliance with established regulations for the Services, following due process rules.

Article Five

RESPONSIBILITIES OF THE SERVICE PROVIDERS

As key stakeholders in this sector, service providers, whether public or private, should effectively and efficiently ensure the equitable, universal supply of the Services, as a fundamental contribution to the wellbeing of society.

Regardless of their organisational structure and management model, service providers should:

5.1.

Operate in accordance with the policies set out by governments and act in strict compliance with legal, contractual and regulatory frameworks, particularly for service delivery, tariff structure, quality of service and quality, quantity and reliability of drinking water, collection and treatment of wastewater, consumer protection and competition, and environmental legislation;

5.2.

Improve operational efficiency, adopting an optimal type of organisation for the local context, particularly in relation to staff management, the gathering and sharing of information, administrative routines, financial resources, planning, accounts, budget and quality assurance;

5.3.

Contribute to improving the structural efficiency of the Services using economies of scale, scope and process through integrated management of the systems – on a technically and economically appropriate scale – with proven benefits in terms of reduced unitary costs;

5.4.

Implement the pricing policies and the procedures for recovery of water charges that are defined by the responsible public authorities, informing them on potential difficulties with cost recovery, particularly with the most disadvantaged users;

5.5.

Contribute to human resources capacity development and innovation in service delivery through cooperation with other bodies, as essential factors to ensure overall quality of service provision;

5.6.

Verify the integrity of their processes by appropriate monitoring, reporting and auditing, keeping track of information and conducting suitable and auditable accounting, in accordance with the requirements of the regulatory authority in particular. This includes providing reliable information to support the design of appropriate public policies and business strategies, as well as to evaluate the service that is provided to society;

5.7.

Aspire to operating 'beyond compliance' through the development of activities that contribute to the conservation of resources by minimizing waste and recovering by-products, including energy and nutrient recovery from wastewater and sludge.

Article Six

RESPONSIBILITIES OF THE USERS

Users are the key stakeholders and final beneficiaries of the Services; they have the following rights and duties:

6.1.

Effectively exercise their rights, particularly regarding physical and economic access to the Services and information about their quality; actively participating in decisions – if possible – and assuming their corresponding obligations;

6.2.

Make appropriate use of the Services, preventing and avoiding behaviours that may adversely impact other users, public health or the environment – such as contamination of water sources and the reduction in quality and/or reliability of water supply;

6.3.

Endeavour to ensure the efficient use of water resources, making appropriate use of and preventing damage to water facilities and individual systems for the provision of the Services; following established procedures and regulations, including the use of appropriate materials and necessary equipment.

Part Four - Regulatory Frameworks

Article Seven

PRINCIPLES OF EFFECTIVE REGULATORY FRAMEWORKS

The drafting, review and update of regulatory frameworks should consider international guidance, best available science and local circumstances to ensure a robust and appropriate instrument to regulate the Services, in consultation with civil society, service providers and industry. Key considerations for development of regulatory frameworks include:

7.1.

Regulation should be seen as a part of public policies on the Services. Although it is only one component amongst many, it plays a crucial role, in so far as it has responsibility for the control and promotion of most of the other components;

7.2.

Ensure that all contributors to the Services' delivery chain have clear objectives and means of action, deliver achievements that satisfy these objectives and act in an efficient manner;

7.3.

Assure an integrated regulatory approach for the Services, including both a regulation of the sector as a whole and the regulation of each service provider individually;

7.4.

Ensure an adequate level of institutional, functional and financial independence of the regulatory authorities; guarantee the stability and autonomy of these bodies, including freedom of decision making within their legally defined remit, subject to judicial review;

7.5.

Acknowledge that regulators constitute an essential element of good governance, reflecting the needs of our times, and providing a clear separation between technical and managerial dimensions on one hand and political decision making on the other;

7.6.

Establish the necessary mechanisms to ensure accountability and public scrutiny of regulatory authorities, particularly with regard to transparency of their actions;

7.7.

Recognise that regulation is a key instrument in the very constitution of a competitive market for the Services;

7.8.

Recognise that regulation fosters a culture of adhering to standards, norms and good practice that is resilient to external pressures and more rational, objective and evidence-based;

7.9.

Optimising the contribution of regulation to the modernisation of public administration and to the economy can be achieved by greater coherence in service provision, by further harmonisation, by the elimination of bottlenecks and by increasing the confidence of economic agents and users in the objectives and practice of regulation.

Part Five - Interpretation

Article Eight

INTERPRETATION OF THE CHARTER

The provisions of the Lisbon Charter shall be interpreted in good faith in accordance with the ordinary meaning given to the terms of the Charter, their context and in light of its purpose, unless otherwise defined in Part One of the Charter. The principles, responsibilities and general guidance provided by the Charter should be considered and adapted as appropriate to respond to specific circumstances and conditions.

Notes

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www.iwa-network.org



INTERNATIONAL WATER ASSOCIATION

Alliance House • 12 Caxton Street
London SW1H 0QS United Kingdom
Tel: +44 (0)20 7654 5500
Fax: +44 (0)20 7654 5555
E-mail: water@iwahq.org

Company registered in England No.3597005
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