

Implementing the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004:

River Basin Management Planning in the Solway Tweed River Basin District

Guidance



October 2007

Ministerial Forward

The EU Water Framework Directive establishes new and better ways of protecting and improving the water environment. The Scottish Environment Protection Agency and the Environment Agency (England and Wales) are required to work jointly to produce and implement a River Basin Management Plan for the Solway Tweed River Basin District.

To support this requirement for joint working, the Scottish and English Ministers are issuing this guidance to the Agencies. This sets out our expectations in relation to the key steps of the river basin management planning process, and the requirements for the Agencies to co-ordinate functions, recognising the different legislative and policy frameworks in Scotland and England, and sets out the associated approval processes.

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Michael Russell
Minister for Environment

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STATUS OF GUIDANCE AND EXTENT OF APPLICATION

Statutory guidance with respect to the practical implementation of the Water Framework Directive (WFD) may be issued under paragraph 16(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (SI 2004/99). The general principles of the application of such guidance are:

1. Where guidance is predicated by a provision that it is issued by the “Ministers”, it constitutes guidance issued by the Scottish Ministers to SEPA, and the Secretary of State to the EA; such guidance sets out the expectations of Scottish Ministers and the Secretary of State (referred to as ‘the Ministers’) about the joint delivery of the WFD in the Solway Tweed River Basin District (RBD) by SEPA and the EA (referred to as ‘the Agencies’).
2. Where guidance is predicated by the provision that is issued by the “Scottish Ministers” or the “Secretary of State” it shall be applicable to SEPA or the Environment Agency respectively, and accordingly limited to their specific geographical area of responsibility, however the Agencies must consult and collaborate with each other to try to ensure a common approach within the framework of their respective guidance where the matter upon which such guidance has been issued impacts upon each agency’s geographical area of responsibility.

This statutory guidance is issued by Ministers under paragraph 16(2) of Schedule 1 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (SI 2004/99). Accordingly it constitutes guidance issued by the Scottish Ministers to the Scottish Environment Protection Agency (SEPA) and guidance issued by the Secretary of State to the Environment Agency (England and Wales) (EA) with respect to the practical implementation of the Directive.

Where this guidance is silent on any matter upon which guidance is necessary or expedient for the practical implementation of the WFD in the Solway Tweed RBD:

- SEPA must have regard to existing and future guidance issued to it by the Scottish Ministers which relates to RBDs that neighbour the Solway Tweed RBD. To date this includes Scottish policy statements: *Principles for Setting Objectives for the River Basin Management Plan* (issued March 2007) and *Development of environmental standards and conditions* (issued March 2007); and
- the EA must have regard to existing and future guidance issued to it by the Secretary of State which relates to RBDs that neighbour the Solway Tweed RBD. To date, this includes the Defra and Welsh Assembly Government’s *River Basin Planning Guidance* (issued August 2006).

In this situation, the Agencies must, when having regard to such guidance:

- consult and collaborate with each other to ensure a common approach to the matter; and
- apply such guidance to the Solway Tweed RBD as appropriate taking into account any unique characteristics of that RBD.

Where such a common approach is not possible, or the common application of such guidance is not appropriate for the Solway Tweed RBD, then each agency shall request bespoke guidance from their respective Minister on the matter.

Directions about the date for submitting river basin management plans and proposals for environmental objectives and programme of measures may be issued jointly by the Scottish Ministers and the Secretary of State under paragraphs 6(1) and 7(1) of Schedule 1 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (SI 2004/99). This document also contains a direction made under these provisions as set out below.

Scottish Ministers and the Secretary of State acting jointly hereby direct the Scottish Environment Protection Agency and the Environment Agency to prepare and submit to them a River Basin Management Plan for the Solway Tweed River Basin District including proposals for environmental objectives and a summary of the programme of measures to be applied in order to achieve those objectives by 22nd September 2009.

1. INTRODUCTION

1.1 Background

The Water Framework Directive 2000/60/EC (WFD) requires Member States to put in place integrated approaches for the protection, improvement and sustainable use of the water environment. The key mechanism for delivering these aims will be the river basin management planning process which applies to a “river basin district” (a geographical area defined on the basis of hydrology).

The river basin management planning process involves setting environmental objectives for groundwater and surface waters (including lakes/lochs, rivers, estuaries and coastal waters) within the river basin district, and putting in place programmes of measures to meet those objectives. The WFD also requires that other relevant environmental priorities, economic considerations and social issues are considered when setting environmental objectives. These must be documented in a River Basin Management Plan (RBMP) for each River Basin District (RBD).

1.2 Role of this guidance

This statutory guidance sets out the expectations of Scottish Ministers and the Secretary of State (referred to as ‘the Ministers’) about the joint delivery of the WFD in the Solway Tweed RBD by the Scottish Environment Protection Agency (SEPA) and the Environment Agency (England and Wales) (EA) - referred to as ‘the Agencies’.

This guidance underpins the delivery of river basin management planning in the Solway Tweed RBD, and sets out:

- key steps and milestones for development and approval of key documents; and
- the Ministers’ expectations for the Agencies to coordinate functions and approaches.

Whilst this guidance is for the Agencies, stakeholders in the Solway Tweed RBD will also find it informative and relevant.

Further guidance may be issued as policy is developed.

This guidance complements the approaches described in the Agencies’ documents:

- *River Basin Planning Framework for the Solway Tweed River Basin District* (published August 2006); and
- *Solway Tweed River Basin Planning: A Plan of Action* (consultation issued December 2006).

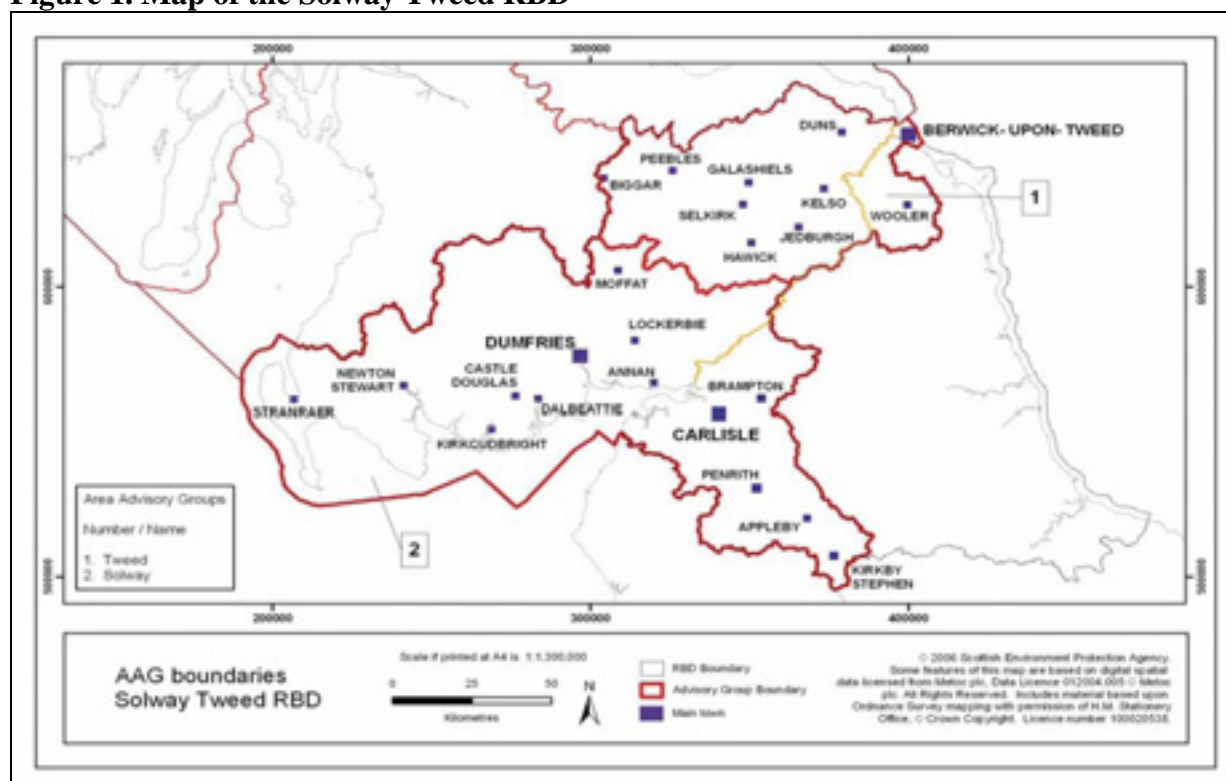
1.3 The Solway Tweed River Basin District and its management

The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (SI 2004/99) transpose the WFD in respect of this RBD. These regulations are referred to in this guidance as ‘the transposing regulations’.

The transposing regulations set out the boundaries of the Solway Tweed RBD (see Figure 1). They assign responsibilities for implementing the WFD in this RBD to ‘the Ministers’ – the Scottish Ministers and the Secretary of State – and ‘the Agencies’ - SEPA and the EA.

SEPA and the EA are jointly responsible for implementing and coordinating river basin management planning in the Solway Tweed RBD taking into consideration the range of plans and controls in both Scotland and England for managing the water environment.

Figure 1. Map of the Solway Tweed RBD



1.4 Defined roles and responsibilities

The Ministers, the Agencies and public bodies such as local authorities have specific roles in the river basin management planning process (summarised in Table 1).

Table 1. Responsibilities of public bodies in river basin management planning

Bodies/organisations	Responsibilities
<p>The Ministers in Westminster and Holyrood</p> <p>Supported by their respective administrations and officials.</p>	<ul style="list-style-type: none"> act jointly as the appropriate authority. set the legal and policy framework that underpins the river basin management planning process (for example, objective-setting process, environmental standards and legal tools). provide direction and guidance to the Agencies on WFD implementation in the Solway Tweed RBD including the river basin management planning process and ministerial involvement. approve the RBMPs (including objectives and any alternative objectives where appropriate and summary of programme of measures).¹
<p>The Agencies:</p> <ul style="list-style-type: none"> Scottish Environment Protection Agency (SEPA) Environment Agency (EA) 	<ul style="list-style-type: none"> act as joint Competent Authorities under the WFD. co-ordinate the various steps of the river basin management planning process and ensure that consultation, drafting and requirements are carried out to the required time-lines.²

¹ Paragraph 10 of Schedule 1 to the transposing regulations.

	<ul style="list-style-type: none"> • establish, operate and, when appropriate, update a coordinated environmental monitoring programme and classification system for the Solway Tweed RBD.³ • ensure the programme of measures is co-ordinated for the whole of the Solway Tweed RBD. • implement relevant parts of the programme of measures (e.g. through regulatory and other functions).
Other public bodies (including Scotland's responsible authorities) ⁴	<ul style="list-style-type: none"> • have a statutory responsibility to have regard to the RBMP and any supplementary plans when undertaking their functions. • provide relevant information and assistance to the Ministers and the Agencies.^{5,6}

² The Agencies' planned approach is set out in: *River Basin Planning Framework for the Solway Tweed River Basin (2006)*; and *Solway Tweed River Basin Planning: A Plan of Action (2006)*.

³ Paragraph 5 of Schedule 1 to the transposing regulations.

⁴ *The Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006* refers to local authorities, Scottish Natural Heritage, Scottish Water, District Salmon Fisheries Boards, National Park Authorities, British Waterways, Forestry Commission, Fisheries Committee.

⁵ For England, refer paragraphs 13 and 15 respectively of Schedule 1 to the transposing regulations.

⁶ For Scotland, refer sections 16 and 18 of the *WEWS (Scotland) Act 2003* as modified by regulation 5(1) and Schedule 4 (paragraph 3) of the transposing regulations.

2. KEY STEPS AND MILESTONES

The WFD introduces a six yearly cycle of river basin management planning. A RBMP for each RBD must be produced in 2009 and updated every six years thereafter. The key milestones are summarised in Figure 2 and reflect statutory requirements under relevant legislation.

Figure 2. River basin management planning process

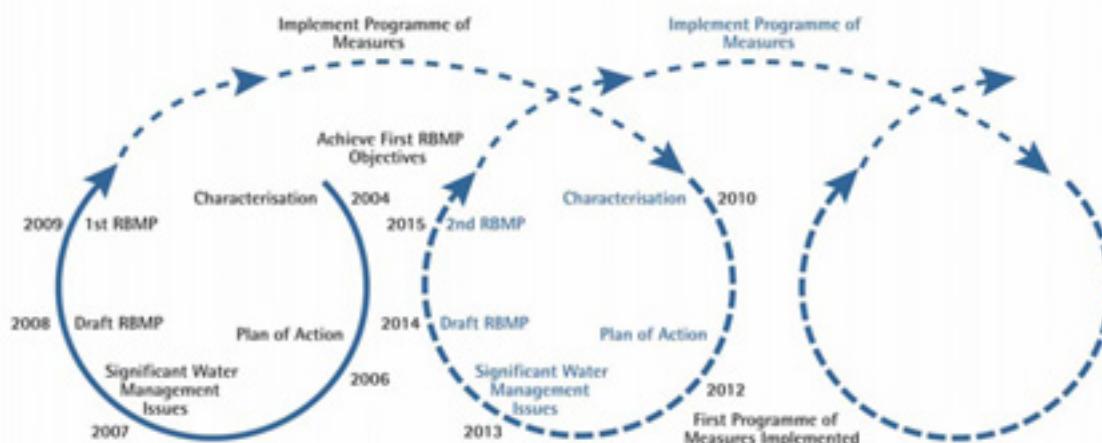


Table 2 summarises the responsibilities and timing for delivering documents in line with the transposing regulations.

Table 2. Production of documents for the first river basin planning cycle

Step	Some key requirements of the transposing regulations	Requirements introduced by this guidance
Statement of steps and consultation measures (known as the Plan of Action within the Solway Tweed RBD)	SEPA and EA must draft a joint statement setting out the timetable and consultation measures required and publish it for consultation by 22 December 2006 for 6 months, in accordance with paragraph 8 of Schedule 1 to the transposing regulations.	The drafting of the statement should take account of the advice of the Area Advisory Groups and other interested stakeholders. Relevant government officials in Scotland and England should be given the opportunity to comment on the draft document prior to publication. The Agencies should take responses from the consultation into account in their work towards production of the summary of significant water management issues, draft and first RBMPs.
Summary of significant water management issues (SWMI)	SEPA and EA must draft a joint summary of the significant water management issues for the RBD and publish it for consultation by 22 December 2007 for 6 months, in accordance with paragraph 8 of Schedule 1 to the transposing regulations.	The Agencies should take account of the advice of the Area Advisory Groups and other interested stakeholders when preparing the document. Relevant government officials in Scotland and England should be

Step	Some key requirements of the transposing regulations	Requirements introduced by this guidance
		<p>provided the opportunity to comment on the draft document concurrently with its release for comment by the area advisory groups prior to publication.</p> <p>The agencies should take account of the comments from the consultation when developing the draft RBMP.</p>
Draft River Basin Management Plan (RBMP)	<p>SEPA and EA must prepare the draft RBMP in accordance with paragraph 8 of Schedule 1 to the transposing regulations.</p> <p>SEPA and EA must publish the draft RBMP for consultation by 22 December 2008 for 6 months in accordance with paragraph 9(1) of Schedule 1 to the transposing regulations.</p>	<p>Relevant government officials in Scotland and England should be briefed on key issues in relation to the development of the draft RBMP that may require joint decision-making.</p> <p>When preparing the plan, the Agencies shall identify and inform the Ministers of any significant issues (for instance, where there are disagreements between the Agencies, where action may be required by The Ministers, whether jointly or individually).</p> <p>The Agencies should make the draft plan available for initial briefings of the Ministers at least three months prior to its release for consultation or concurrently with its release for comment by the area advisory groups prior to its publication.</p> <p>The draft RBMP must detail the proposed objectives for 2015 and the summary of the programme of measures necessary to achieve these objectives. It should also provide workings and explanation for proposed objectives in the river basin district, including the consideration of alternative objectives to enable consultees to make informed responses to the consultation.</p>
RBMP submission for approval	<p>SEPA and EA must submit the RBMP to the Ministers for approval.</p> <p>When submitting the plan to The Ministers, the Agencies must provide a summary of representations received from the consultation and of any changes made to the plan in light of the representations in accordance with paragraph 9 of Schedule 1 to the transposing regulations.</p> <p>The Agencies must jointly make copies of the submitted RBMP accessible to the public through their web-sites and at</p>	<p>The Agencies should make the revised RBMP plan available for initial briefings of the Ministers at least three months prior to its submission for approval.</p> <p>As part of the summary of representations, the Agencies should advised of any significant issues raised during the consultation on the draft plan that the Agencies have been unable to resolve.</p> <p>SEPA and EA must submit the RBMP for the first cycle, including proposals for environmental objectives and</p>

Step	Some key requirements of the transposing regulations	Requirements introduced by this guidance
	<p>relevant offices and publicise these arrangements in accordance with paragraph 9 of Schedule 1 to the transposing regulations.</p> <p>In line with paragraph 10 of Schedule 1 to the transposing regulations, the Ministers are jointly responsible for considering the RBMP for the Solway Tweed RBD, using the mechanisms available to approve (in whole or part), amend or reject the plan.</p>	<p>summary of programmes of measures, to Ministers for approval by 22 September 2009, in accordance with paragraphs 6(1) and 7(1) of Schedule 1 to the transposing regulations and the direction issued at page 4 above.’</p> <p>The Agencies should seek to promote agreement between relevant parties about the content of the RBMP which they submit for approval.</p> <p>In considering the RBMP for the Solway Tweed RBD, the Ministers should consider whether:</p> <ul style="list-style-type: none"> • the RBMP has been prepared in accordance with the WFD, the transposition regulations and this (and any additional) guidance; • the RBMP is proportionate and sustainable; • the RBMP takes appropriate account of plans for adjacent RBDs in Scotland and England; • the Agencies have made modifications to the RBMP to comply with any Ministerial direction in relation to the RBMP.
Publication of RBMP, once approved.	SEPA and EA must publish the approved RBMP by 22 December 2009 in accordance with paragraph 10(3) of Schedule 1 to the transposing regulations.	
Submission of UK RBMPs to European Commission.	Secretary of State must submit UK RBMPs to European Commission by 22 March 2010.	SEPA and EA must support the compilation and entry of data into European reporting systems for the Solway Tweed RBD.
Progress report on implementation of programme of measures	Secretary of State must submit UK interim reports for Solway Tweed RBD (and other RBDs) to European Commission by 22 December 2012.	<p>SEPA and EA should submit the draft interim report for the Solway Tweed RBD describing progress in the implementation of the planned programme of measures to the Ministers by 22 September 2012.</p> <p>SEPA and EA must jointly support the compilation and entry of data into European reporting systems on progress of implementation of programme of measures for the Solway Tweed RBD.</p>

3. JOINT WORKING TO SUPPORT RIVER BASIN MANAGEMENT PLANNING

In this section, the Scottish Ministers and the Secretary of State outline their expectations of SEPA and the EA in terms of the level of effort to be focused on joint delivery of functions underpinning river basin management planning in the Solway Tweed RBD.

The level of joint working needs to be commensurate with the desired outcome and the benefit it provides in terms of improvement to the environment and the ability to deliver the WFD requirements.

SEPA and the EA should share and exchange information to support a co-ordinated approach to river basin management planning and the implementation of the River Basin Management Plan for the RBD. In particular, the Agencies should agree approaches for the management of those water bodies that cross the Scottish-English border.

There are two levels of joint working:

Level of Joint Working	Description, when most likely applied
Integrated	SEPA and EA should align and use common procedures and methods to produce integrated outcomes (including documents) for stakeholders, submission to Ministers and the European Commission.
Coordinated	SEPA and EA should use their own procedures, methods and data systems but work together to share and transfer information and data to produce a joint outcome. This would recognise existing processes, plans and controls in Scotland and England for managing the water environment.

Sections 3.1 and 3.2 below identify the requirements on The Agencies' to undertake the appropriate level of joint working with respect to:

- formal reports (section 3.1); and
- critical functions (section 3.2).

The Agencies must plan and put in place the necessary level of joint working. The Agencies should advise their respective Ministers concurrently of any key issues that may detrimentally affect achieving the desired level of joint working, and suggest appropriate solutions.

The Agencies have set out their intentions for continued joint delivery of WFD requirements in the *River Basin Planning Framework for the Solway Tweed River Basin District* released in August 2006.

3.1 Formal reports

The transposing regulations set out key steps which must be met by the Agencies (summarised in Table 2). In addition the Agencies must support the submission of reports into the European Commission's reporting system (known as WISE⁷) according to the timelines stated in the WFD.

⁷ WISE is the Water Information System for Europe hosted by the European Commission.

The table below identifies both the formal reports required and the desired outcomes from joint working. It also recognises the need for reports to support assessing the implications of implementing the River Basin Management Plan in line with: the European Directive 2001/42EC ‘on the assessment of the effects of certain plans and programmes on the environment’ (the Strategic Environment Assessment or SEA Directive); and Cabinet Office Requirements for Impact Assessment (refer <http://www.cabinetoffice.gov.uk/regulation/ria/>).

Table 3.1 Joint working to produce formal reports

Report	Level of joint working	Action/Outcome	Date to achieve desired level of joint working
Plan of Action (Statement of steps and consultation measures)	Integrated	The Agencies must: <ul style="list-style-type: none"> produce an integrated report on the high level structures (such as AAG and Forum) for engaging stakeholders, supported by a conflict resolution process; review Plan of Action at the beginning of each river basin planning cycle. 	By December 2006: report released for consultation. By December 2012: revised Plan of Action for second river basin planning cycle.
Summary of significant water management issues	Coordinated (first cycle)	The Agencies must produce a summary report for the RBD, based on characterisation data and shared information held by SEPA, EA and other stakeholders.	By December 2007: report released for consultation.
	Integrated (second cycle and beyond)	The Agencies must produce an integrated summary report based on an agreed common methodology to characterisation and shared information held by SEPA, EA and other stakeholders.	By December 2013: report released for consultation.
Draft River Basin Management Plan	Integrated	The Agencies must produce a single plan for the RBD with single set of objectives and summary programme of measures based on shared information held by SEPA, EA and other stakeholders.	By December 2008: draft RBMP published for consultation.
River Basin Management Plan	Integrated	The Agencies must jointly make available to interested stakeholders the submitted RBMP when provided to the Ministers. Once approved the Agencies must jointly publish the approved RBMP. The Agencies must report a single dataset for RBMP into WISE and advise the Ministers on any issues with respect to submission to Europe.	By September 2009: RBMP submitted for approval. By December 2009: approved RBMP available to RBD stakeholders. By March 2010: data reported into WISE for Secretary of State to approve submission to European Commission.
Impact Assessment (IA)	Integrated	The Agencies and relevant government officials in Scotland and England should agree a common process of development of the Impact Assessment for this RBD in line with Cabinet Office requirements. This will draw on information from	By December 2008: partial RIA released concurrently with draft RBMP in 2008 for consultation. By December 2009: full RIA will be released

Report	Level of joint working	Action/Outcome	Date to achieve desired level of joint working
		draft RBMP and supporting economic analysis undertaken in Scotland and England.	with approved RBMP.
Strategic Environment Assessment (SEA)	Integrated	<p>The Agencies should conduct Strategic Environment Assessment in line with the <i>Environment Assessment of Plans and Programmes Regulations 2004 (SI2004/1633)</i> to:</p> <ul style="list-style-type: none"> integrated scoping report; integrated Environment Report; integrated SEA statement. <p>This will be conducted in line with the time-frames and commitments in the Plan of Action report.</p>	<p>By December 2007: integrated scoping report provided to statutory consultees.</p> <p>By December 2008: single SEA report released concurrently with draft RBMP in 2008.</p> <p>By December 2009: SEA statement issued with revised RBMP in 2009.</p>
River Basin Characterisation Report (RBC)	Integrated (second cycle and beyond)	The Agencies must update and report changes in characterisation data (including economic analysis of water use) for the Solway Tweed RBD.	By December 2016: reported to European Commission as part of RBMP

3.2 Critical functions supporting river basin management planning

RBMPs include a series of components: classification, objectives and programme of measures. The high level framework and supporting principles for undertaking each component will be discussed at a UK level to aid consistent delivery of the Directive. Each administration will then take into consideration its legislative and policy environment when setting out how each component will be applied in their jurisdiction. In some cases, the Agencies may agree a more detailed common approach for the Solway Tweed RBD, which should be in place prior to release of the draft RBMP. The Agencies will need to collect the relevant information to support reporting on the results from classifying water bodies, setting objectives and defining programme of measures.

Table 3.2 Joint working to support river basin management planning processes

Process	Level of joint working	Outcome	Date to achieve desired level of joint working
Classification methods and classifying water bodies (classification schemes and environmental standards and conditions)	Coordinated	<p>The classification process will be developed on a UK basis but transposed on a Scotland and England basis.</p> <p>The Agencies must coordinate the classification process in the Solway Tweed RBD and jointly classify water bodies that straddle the border.</p> <p>SEPA and EA must take account of any relevant statutory/policy mechanisms in Scotland and England respectively which define application of UK biological classification schemes and environmental standards and conditions.</p>	By June 2008: inclusion of provisional classification results information in the draft RBMP.

Process	Level of joint working	Outcome	Date to achieve desired level of joint working
Setting objectives	Coordinated	<p>The Agencies must share information on and agree objectives for cross-border water bodies.</p> <p>The Agencies must take account of objective setting processes set out for Europe, UK, Scotland and England. Underpinning procedures to set objectives must be compatible and comparable.</p> <p>Economic analysis supporting objective-setting in Scotland and England approaches will be based on common principles. There may be some differences in application due to procedures and base-line information collected in line with existing legislative requirements.</p>	By June 2008: inclusion of provisional objectives in the draft RBMP.
Developing programme of measures	Coordinated	<p>The development of a programme of measures must be as co-ordinated as possible for the whole RBD.</p> <p>The programme of measures must be compatible where there are shared water bodies or water bodies that straddle the national boundary. In such circumstances the Agencies should work together to develop a single set of appropriate measures. This will aid reporting of the summary of Programme of Measures in the draft RBMP. The information provided should be at an appropriate level of detail and comparable across the RBD.</p> <p>The Agencies must utilise available regulatory and other mechanisms in Scotland and England pertaining to the respective area of Solway Tweed RBD. The Agencies should actively encourage opportunities for partnership initiatives to deliver the RBMP.</p>	By June 2008: inclusion of proposed programme of measures in the draft RBMP.
	Coordinated	The Agencies should agree an approach for future review of the effectiveness of the programme of measures (including possible amendment to monitoring networks).	By March 2012: agree approach to review of RBMP and monitoring programme in preparation for second RBMP.
Wider planning	Coordinated	The Agencies should work with other public bodies to encourage better co-ordination between the various planning systems (e.g. land-use, sustainable development and community planning) as part of the development of the RBMP and future revisions.	By December 2008: arrangements in place to inform development of first draft RBMP.
Monitoring programme	Coordinated	The Agencies must agree and coordinate procedure for maintenance of monitoring network.	By September 2007: procedures in place to meet ongoing requirement.

Process	Level of joint working	Outcome	Date to achieve desired level of joint working
	Integrated	The Agencies must present joined up monitoring networks for Solway Tweed RBD.	By September 2007: publish network on web-site for Solway Tweed RBD.
	Coordinated	The Agencies must agree the methodology to review the monitoring network for second river basin planning cycle.	By March 2012: agree approach to review of RBMP and monitoring programme.
River Basin Characterisation Report (RBC)	Coordinated (second cycle and beyond)	<p>The Agencies should:</p> <ul style="list-style-type: none"> • have an agreed common methodology for characterisation in second river basin planning cycle. • have improved coordination of data systems for assessing the state of the environment, pressures and risks to water bodies reporting and economic analysis of water use. <p>This will recognise and take account of differences in supporting information and systems in Agencies.</p>	By December 2009: systems in place to support review of characterisation for second river basin planning cycle.
Data management and reporting	<p>Coordinated (data collection and approaches)</p> <p>Integrated (reporting)</p>	<p>The Agencies should move towards co-ordinated presentation and management of information related to the Solway Tweed RBD. This includes development and maintenance of single data repository for critical elements, including but not limited to:</p> <ul style="list-style-type: none"> • water bodies; • risk to water bodies; • monitoring network and summary of monitoring programme; • summary of classification of each water body; • summary of objectives for each water body; • summary of Programme of Measures. <p>Where appropriate, this information should be available to stakeholders.</p>	<p>By June 2008: data repository will include information and maps for inclusion in the RBMP.</p> <p>By December 2009: data repository will include information and maps for inclusion in final RBMP.</p> <p>By March 2010: reporting of data into WISE for Secretary of State approval to submit to European Commission.</p>