Institutional Reform in the Water & Sanitation (WASH) Sector in Sierra Leone

Briefing Note

January 2014

Summary: Following two decades of centralised rule and 10 years of civil war, Sierra Leone does not have an adequate institutional framework for delivering its development goals relating to water and sanitation. The government has embarked on profound reform and transformation across the WASH sector. A significant part of this reform includes changes in the mandates, structure and responsibilities of a number of public sector institutions. These reforms comprise:

- **Reforming and updating Sierra Leone’s legal and regulatory framework for WASH**, which is outdated, poorly applied, and of limited relevance to the current challenges facing Sierra Leone in the 21st century. Reforms include establishing a framework for resource regulation, establishing a framework for economic regulation of water supply, and reform of utilities’ legislation for modernised management and to bring this into line with the Government’s broader decentralisation agenda.

- **Transforming the mandate and functions of the Ministry of Water Resources (MWR)** from implementation carried out by the obsolete Water Supply Division to a broader policy formulation and sector leadership role.

- **Establishing a Directorate of Environmental Sanitation and Health in the Ministry of Health and Sanitation** in order to reflect the President’s high priority on sanitation expressed in Sierra Leone’s Phase III PRS, the Agenda for Prosperity, and shift the functions of the MHS from current implementation by the Environmental Sanitation Unit to a broader policy formulation and sector leadership role.

- **Establishing a new resource regulator, the National Water Resources Management Agency (NWRMA)**, which will protect and conserve Sierra Leone’s fragile water resources for future generations. Managing and regulating the competing demands of domestic, agricultural, and industrial users is a critical prerequisite for achieving permanent and lasting water supply for Sierra Leoneans now and in the future.

- **Establishing an economic regulator, the Electricity and Water Regulatory Commission (EWRC)**. This body will institute tariff regimes and foster competitive markets in service provision, enabling Sierra Leoneans to benefit from affordable and permanent supply. The EWRC will play a vital role in the government’s development trajectory towards becoming a middle-income country by 2025 and in achieving more immediate poverty reduction impacts stated in the national energy and water policies. The EWRC will do this by providing the right incentives for the right investments in the right place at the right time and for the right price.

- **Improving the capacity of Local Councils** who are at the frontline of service delivery in local level WASH Planning and coordination, and through full devolution of WASH functions
Why are WASH sector institutions in Sierra Leone undergoing transformation?

Following two decades of centralised rule and 10 years of civil war, Sierra Leone does not have an adequate institutional framework for delivering its development goals relating to water and sanitation. The government has embarked on profound reform and transformation across the WASH sector. A significant part of this reform includes changes in the mandates, structure and responsibilities of a number of public sector institutions.

Prior to the launch of the National Water & Sanitation Policy (NWSP) in 2011, the institutional framework for the sector was disjointed. In the past, water was viewed as an abundant free commodity with little attention paid to different uses and users. A result of this, as well as rapid disorderly urbanisation, was that water was increasingly becoming scarce and of inferior quality. With little coordination amongst sectors including industry, agriculture and mining, water resources were being used in a non optimal and unsustainable manner.

Previously, institutional arrangements for the sector were inadequate. There was an absence of government bodies able to carry out policy and regulatory functions. There were also overlapping service delivery mandates between the Ministry of Energy and Water Resources’ (MEWR) Water Supply Division, the two public water utilities, the Ministry of Health and Sanitation’s Environmental Sanitation Unit, and local governments. There was also no clear mandate for private sector WASH service delivery. It is therefore to fill these activity gaps and eliminate these institutional overlaps that fundamental institutions reform in the WASH sector is underway.

Institutional reform in the WASH sector in Sierra Leone is underway for three main reasons:

- Previously there were an absence of Government entities mandated to carry out policy and regulatory functions
- Previously there were overlapping service delivery mandates between entities at the national and local levels
- The role of the private sector in WASH service delivery has been unclear

What are the main institutional reforms underway in the WASH sector?

The main institutional reforms underway in the WASH sector in Sierra Leone are as follows:

- Separation of the MEWR into the MWR and the Ministry of Energy (MoE).
Shedding the obsolete implementation role of the MWR’s technical wing and elevating its functions to policy formulation and sector leadership.

Establishing the Electricity and Water Regulatory Commission - an economic regulator for electricity and water service provision.

Establishing the National Water Resources Management Agency - a resource regulator.

Internal restructuring of the Guma Valley Water Company (GVWC), keeping GVWC as a State Owned Enterprise but transforming the utility into a profitable, customer focussed entity.

Reform of the Sierra Leone Water Company (SALWACO), positioning the utility as a commercial entity with an expanded mandate in urban water and sewerage provision outside Freetown, and a knowledge services role in rural supply.


How did WASH sector institutional reform begin?

- In 2009, the MEWR, with the technical assistance of the Public Sector Reform Unit (PSRU) of the Office of the President, conducted a Management and Function Review, which made a number of key recommendations for the MEWR as the leader in water and energy. Subsequently, both the National Water and Sanitation Policy and the National Energy Policy stated a number of intents on institutional reform.
  - In 2011, in line with the broad public sector reform agenda, the MEWR began the process of restructuring both the water and energy sectors.
  - In early 2013, the Government of Sierra Leone took the decision to separate the policy mandates of the MEWR to create two Ministries focused specifically on each sector, the Ministry of Water Resources (MWR) and the Ministry of Energy (MoE).
  - The NWSP states that the Ministry of Water Resources (MWR) and MoHS are WASH sector leaders. This policy clarifies the roles of the new economic and resource regulators, local government planning, the two public utilities, local councils, and the private sector. The MWR and the MoHS have had to take a flexible approach in coordinating the implementation of the NWSP intents in order to address any legal/policy issues surrounding the Government’s broader decentralisation and public sector reforms. This has entailed extensive consultation and coordination with sector stakeholders across public and non-governmental sectors.

What does the National Water and Sanitation Policy (NWSP) say about institutional reform?

Institutional reform is a major theme of the NWSP, which recommends:

- shifting government focus from implementer to policy-making and facilitator;
strengthening the leadership roles of the Ministry of [Energy and] Water Resources and the Ministry of Health and Sanitation to secure the implementation of water and sanitation delivery;

- establishing a regime for regulating water supply services; and

- enactment of a new Water Law which creates a legislative framework for water resources management and supersedes outdated water-related legislation.

- promoting active stakeholder participation in the management of planning, construction, ownership, operation and maintenance of community water supply and sanitation schemes.

**Through which new laws will WASH institutional reforms be introduced?**

Much of the needed institutional reform will be through enacting or amending new laws. The Electricity and Water Regulatory Commission Act was enacted in 2011. In addition, a further three pieces of legislation have been drafted for enactment by Parliament, including the National Water Resources Management Bill, the amended Guma Valley Water Company Bill and the amended Sierra Leone Water Company (SALWACO) Bill.

**What should we know about the new institutions being created?**

*Electricity and Water Regulatory Commission (EWRC)*

Both the National Energy Policy and the National Water and Sanitation Policy highlighted the need for economic regulation of service delivery in their respective sectors. Both policies recognise that achieving sustainable service delivery is only possible if utilities can recover their lifetime recurrent costs through tariffs and fees, and that therefore utilities must be regulated to ensure that such charges to the consumer are fair, and that there is scope for competition between providers. In order to regulate, there needs to be legislation, hence the Electricity and Water Regulatory Commission Act. The Act provides a clear mandate for the utility regulator, the Electricity and Water Regulatory Commission (EWRC), to regulate electricity, water supply and sewerage services. The Act gives clear guidance on the staffing structure, administrative arrangements and budget.

The reason the Government of Sierra Leone opted to set up a multi-sector regulator, dealing with both electricity and water supply, was because of the advantages of economies of scale, cost efficiency, and resistance to sector ‘capture’. These advantages are especially strong in smaller states and developing countries.

<table>
<thead>
<tr>
<th>Roles of the EWRC</th>
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<tr>
<td>In relation to water delivery, the EWRC is tasked to:</td>
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<td>- issue, renew, amend, revoke or cancel licenses;</td>
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monitor licence compliance;
- provide guidelines for the provision of water services;
- protect the interests of consumers and providers of water services;
- monitor standards of performance; and
- promote fair competition among providers in the provision of services.

A key aspect of the EWRC functions is to regulate water rates in utility-managed areas, such as Freetown, Bo, Kenema, Makeni and other urban centres. The rates are to be determined taking into account the efficient costs of providing the services.

The EWRC will be independent in its decision-making but will operate within the requirements of the National Water and Sanitation Policy and the Energy Policy.

**National Water Resources Management Agency**

The Water (Control and Supply) Act of 1963 has been the main legislative enactment guiding sector activity, but it is outdated and does not account for more recent changes in WASH policy. The 1963 Act was enacted to “provide for the control of natural water supplies and to regulate the supply of water to the public”, with little focus on drinking water supply. Furthermore, there was no agency or national authority responsible for overseeing the country’s water resources.

The NWSP (2010) stated the intent to establish a national authority for managing water resources with functions spanning research, monitoring, assessment, protection and conservation, and planning. The NWSP also stated the Government’s intention to staff the authority with competent, skilled professionals and to adequately assign finance to the management of the nation’s water resources. Accordingly, the creation of the National Water Resources Management (NWRM) Agency is taking place.

The Bill distinguishes between water resource stewardship (which is a function of government) and service provision (which may be public, private, or cooperative). Establishing the NWRM Agency will ensure the sustainability of the resource thus allowing the service providers to concentrate on the core mandate of providing safe drinking water for the people.

The Bill clarifies the functions of the NWRM Agency, i.e. being responsible for the regulation and management of water resources and the co-ordination of relevant government policies. The Bill also describes the objectives, functions and composition of newly created Water Basin Management Boards and Catchment Water Management Committees.

**What about the transformation of existing entities?**
Guma Valley Water Company (GVWC)

The existing rights of the Guma Valley Water Company are laid out in The Guma Valley Water Ordinance (1961). This is a colonial Ordinance commissioning the Guma Valley Water Company to construct an impounding reservoir on the Guma River and to make provisions with regard to the supply of water for public and private purpose. The Ordinance gave the company the right to use$^1$ the waters of the River Guma and tributaries for the construction of the dam. The Ordinance gave the company power to levy water rates and charges. The Ordinance was a one-off specific law for purposes of the abstraction, impoundment and construction of the Guma Valley water works. The Ordinance gave sweeping powers to the company - they were in charge of water resource management, regulation, setting of water tariffs and levies, as well as being responsible for the delivery of water supply.

The Ordinance is outdated due to the enactment of the Electricity and Water Regulatory Commission (EWRC) Act and the proposed National Water Resources Management (NWRM) Bill, which have, in effect, removed the Guma Valley Water Company’s roles of regulation and resource management. Therefore, the principle purpose of the Guma Valley Water Company Amendment Bill is to repeal and replace the Guma Valley Water Company Ordinance 1961 in order to streamline its operations and make its provisions consistent with the existing legislative framework for the water sector. The main thrust of this enactment is to create a vibrant and efficient water supply company to expand and improve the supply of water within Freetown and surrounding areas.

The Sierra Leone Water (SALWACO) Company

The SALWACO Act of 2001 gave the Sierra Leone Water Company (SALWACO) the responsibility for water supply services in a number of urban areas including Bo, Kenema, Koidu, Makeni, Kabala and the International Airport at Lungi. The delivery of services to these areas was to be undertaken on a commercial basis, implying that sufficient revenues needed to be generated in order to meet the company’s outgoings. This was a challenge given that most of the facilities had broken down. Therefore SALWACO relied heavily on annual Government subsidies.

The NWSP (2010) extends SALWACO’s responsibility to supply water services to rural areas and all urban areas (except Freetown). Given the challenges that the company already faced in the delivery of water supply services, this additional responsibility is daunting. This change also contradicts the policy of decentralisation. As part of decentralisation many (rural) water supply schemes have been transferred from the M[E]WR to District Councils. Many of the schemes are undergoing rehabilitation but Councils and communities need considerable support - technical, managerial and financial - to ensure their sustainable functioning.

$^1$ collect, intercept, impound, take, use, divert, appropriate
It is this support role which is being assigned to SALWACO through the SALWACO Amendment Bill. The Bill will repeal and replace the existing Sierra Leone Water Company Act, 2001 and streamline the managerial role of the company with regard to urban water supply facilities, and support role of the company in rural and community water supply and related sanitation services.

**SALWACO will support rural communities and small towns as follows:**

- Building capacity and providing technical support to District Councils in the design, planning, and construction of WASH projects
- Prescribing standards and guidelines for WASH services in rural and small town communities, and supporting the District Councils to ensure compliance by the suppliers of the services
- Encouraging private sector participation in the provision of WASH services in the districts
- Assisting and co-ordinating with NGOs and other service providers in the development and provision of WASH services in the country.

It is envisaged that a resourceful and efficient company will be able to provide improved water delivery in the specified urban areas as well as facilitate access to reliable water supply and sanitation services for rural and small town populations.

**Finally, how is the Ministry of Water Resources transforming?**

The new Ministry of Water Resources will fulfil policy and sector leadership functions. The old MEWR Water Supply Division will become obsolete and in its place there will be a new technical Water Directorate. The Directorate will provide effective technical and back-up support to local councils and the broader WASH sector.

While the MWR and the Ministry of Health and Sanitation are the WASH sector leaders, they do not directly supervise the regulatory agencies and the service delivery agencies. Instead, they set the policy framework within which all sector actors must operate. The reason is that regulators need independence from external supervision in order to ensure fairness and objectiveness in their operations, while public and private service delivery should not be subject to government management if they are to be commercially viable.

In 2012 the importance for systematic water point mapping was formally noted and an Addendum was added to the 2012/13 Manpower Budget for the establishment of a WASH Information Management Unit. This Unit forms part of the MWR and will carry out urgent and critical functions in water point mapping and WASH data.
Recruitment is underway with appointments for Director and Deputy Director of Water and some senior and mid-level level posts already filled.

The MWR’s structure:

- Follows the functional analysis methodology of the Management and Function Review of 2009 and uses its recommendations as a starting point
- Updates and adapts the structure in line with the National Water and Sanitation Policy (NWSP)
- Highlights the technical character of the Ministry through a strong technical Directorate that can lead water sector policy and coordination
- Conforms to the Constitution of Sierra Leone and the statutory frameworks for the Civil Service and Public Financial Management
- Places legal and environmental advice (recommended as necessary by the PSRU) as high level advisory roles drawing on technical expertise within the units
- Institutionalises Water Point Mapping (and future WASH data mapping) within the Ministry – vital for sustainability, policy, planning, and emergency response
Minister of Water Resources

Deputy Minister of Water Resources

Permanent Secretary

Legal and Environmental Advisors
- Management Support (headed by Deputy Secretary)
- Financial Management
- HR management
- Information and Records Management
- Facilities and Logistical Management
- Communications

Internal Audit (also reports to MoFED)
- Water Directorate (headed by Director of Water)
- Policy, Research and Planning
- Water Resources
- Urban Water and Sewerage
- Rural Water and Environmental Sanitation
- Monitoring and Evaluation Unit
- WASH Information Management Unit

**Figure** Error! No text of specified style in document. 1 - Ministry of Water Resources - Organisation Chart
### Sector functions and involved ministries, departments and agencies

#### WASH Function and the Ministries, Departments and Agencies involved

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<thead>
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<th>Policy Functions</th>
<th>Ministry of Water Resources (sector lead on water supply through new Water Directorate)</th>
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<td>Ministry of Health and Sanitation (Sector lead on sanitation and hygiene through Environmental Sanitation Unit)</td>
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<td>Other Ministries stated in NWSP whose mandates entail consideration of WASH</td>
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<th>Coordinating, Supervision, and Performance Monitoring Functions</th>
<th>Ministry of Water Resources</th>
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<td>Ministry of Health and Sanitation</td>
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<td>Local Councils</td>
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<th>Regulatory Functions</th>
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<td>Electricity and Water Regulatory Commission</td>
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<td>Private sector</td>
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<td>Community Based Organisations</td>
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Support Functions (WASH specific) such as information systems, staff supply and training, finance, facilitating community engagement

- Academia and other training service providers
- Statistics Sierra Leone
- Central Management Agencies of Government (Ministry of Finance and Economic Development, Public Service Commission, Local Government Service Commission, Office of the President)
- Donors and Non Governmental Organisations
- Traditional Authorities