



THE REPUBLIC OF UGANDA

# MINISTRY OF WATER AND ENVIRONMENT

## Water Utility Regulation Department

# STRATEGY FOR REGULATION OF WATER SERVICES IN UGANDA

July 2018

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# 1 Background

This strategy is built on the fundamental objective to ensure the separation of operations from regulation. The regulation of Water Services in the Ugandan water sector is invested in a Ministerial department and this strategy aims to ensure that regulatory oversight by this department is completely separated from operations support which was recently invested in the Urban Water Supply and Sewerage Department.

Critical to highlight is the fact that the two functions of regulation and support to operations have generally had a thin line which has impacted on performance of the sub-sector.

Water is a social and an economic good. The social element requires that all people have access to safe water supply and the economic component calls for efficient and reliable provision of water services to ensure sustainability and economic growth. In the same breadth, water services are monopolistic in nature and it is not possible for an individual to switch from one water service provider to another. Because of this, it is critical that consumers are protected through some form of regulation of the water service providers.

Faced with challenges of low water supply and sanitation coverage, poor systems management, inefficient operations, low sustainability of facilities and services and generally poor sector governance, Cabinet, under Minute 139 (CT 1997), directed the Ministry responsible for water to undertake reforms in the water sector to ensure that services are provided with increased performance and cost effectiveness and the burden on Government to provide these services gradually decreases while maintaining the Government's commitments to equitable and sustainable water sector services in the Country.

Following the Urban Water and Sanitation Reform Study, the Urban Water and Sanitation Sub-sector Reform Strategy 2001 was formulated which among others recommended the separation of implementation and service provision from regulation by establishing an Independent Regulatory Entity to enhance transparency and accountability and further improve performance in service provision. Under Minute 320 (CT 2003), Cabinet considered the Urban Water and Sanitation Sub-sector Reform Strategy and approved the implementation of the fundamental principles of reforms that would consist of among others the "Creation/establishment of an Independent Regulatory Entity for the Urban Water and Sanitation Sub-sector.

Furthermore, at its 1st meeting of the 3rd Water Policy Committee, it was strongly observed that water supply services being a natural monopoly, whereby competition among numerous service providers is not possible and to ensure that consumers get the best services and value for money, there was need for an Independent Regulatory Entity and that the creation of an Independent Regulatory Authority should be expedited.

Following extensive stakeholder consultations, consensus emerged that in the short term, the regulatory functions remain the responsibility of the Ministry of Water and Environment as per the Water Act, Cap 152, Section 45 to 48 and that a dedicated Regulation Unit is established under the Director's Office to carry out regulatory functions. The medium term is to strengthen the new Department and long term institutional arrangement is to establish an Independent Regulatory Authority. Currently the Regulation Department has 28 staff including regional staff and 3 of which are on permanent and pensionable terms. The department is responsible for regulating the National Water and Sewerage Corporation (NWSC) responsible for managing and providing water supply and sewerage services in 178 large urban centres including the Capital City of Kampala and 119 Water Authorities managing and providing water and sanitation services in the small towns including more than 1000 non-gazetted towns under the Umbrella Organisations responsible for supporting Operation and Maintenance in the Country.

It is therefore proposed that by strengthening the Water Utility Regulation Department (WURD) will lead to efficient and effective execution of the regulatory functions for the sector.

## **2 Purpose of the Strategy**

To share the strategies, priorities and approach to regulation of water services.  
To inform on the planned activities and expected outcomes of the Regulation Department.

## **3 Scope**

On the onset of the WURD, it is established that the scope (mandate) of the Department covers regulation of urban water and sanitation services in Small Towns and rural growth centers outside the jurisdiction of the gazetted water utilities, Water for Production and the Water Authorities that have been established as utilities (including NWSC).

## **4 Objectives**

The main objectives of water services regulation are to increase access to safe water supply and sewerage facilities and improve service provision in the sector.

- Provide a more transparent and predictable regime for the setting of tariffs
- Ensure better scrutiny of service levels and benchmarking of sector performance
- Provide better consumer protection, especially protection of vulnerable groups

- Provide a level playing field for the different service providers by promoting competition between the different service providers and provide long-term feasibility to investors considering investing in certain towns
- Provide fair and predictable dispute resolution mechanisms
- Develop an approach to regulating other market segments, such as informal water service providers, other town water supply systems or sanitation service providers.

## 5 Functions of the Water Utility Regulation Department (WURD)

The department is charged with regulating water supply and sewerage services for all piped schemes. This implies piped schemes in the urban sector, which include water supply and sewerage services provided by NWSC, and rural growth centres that have piped water systems and/or have a population of more than 500 people.

In addition, the department should determine the extent to which other market segments need to be regulated (such as informal service provision that benefits the poor) and coordinating with the regulators of sanitation services (such as town councils) to ensure that the expansion of sewerage and sanitation services is done in a coordinated manner that ensures adequate protection of human health and the environment.

The department will perform key economic regulation functions including: licensing/contracting of water service providers, tariff setting, quality regulation, competition and consumer protection.

- **Licensing/Contracting:** issue performance contracts to water supply and sewerage authorities (WSSAs). Contracts will include the terms and conditions that the contractors have to meet to provide water supply and sewerage services, performance targets and incentives or penalties applied to achieving the performance targets.
- **Tariffs:** receive and review tariff proposals from WSSAs and their respective service providers. Approve tariffs, balancing objectives of cost-recovery, efficiency, equity and affordability
- **Technical quality regulation:** collect and review service performances of water and sewerage service providers and benchmark and publish information on the service quality of water and sewerage service providers
- **Competition:** identify economically viable service areas and recommend variations to these areas on an on-going basis; resolve any dispute between different service providers, including with respect to bulk tariff issues and network access with a view to providing a level playing field for all types of providers

- **Customer protection:** receive and resolve consumer complaints, resolve disputes between consumers and service providers, develop customer management guidelines

## **Other functions:**

- develop standards and guidelines to be followed by service providers, such as for estimating tariff adjustments, corporate governance and customer handling
- disseminate information to customers regarding tariff increases and other relevant information about water and sewerage services
- provide advice to the Ministry of Water and Environment on relevant water supply and sewerage policies and regulations
- Collaborate with relevant central government agencies and local governments in order to coordinate the regulation of sewerage services with that of broader sanitation services (including emptying of on-site sanitation facilities, faecal sludge transport, management and reuse).
- Arbitrate on competitive water resource use, especially where the resource is limited or becoming unsustainable

### **5.1 Contracting**

Contracts are the main regulatory tool to be used by the department. The Contract includes the terms and conditions that the Water Authorities have to meet to provide water supply and sewerage services, including but not limited to:

- The service area to be served by the Water Authority
- Description of services to be provided to the population within the service area
- The period of the contract
- Rights and responsibilities of the Water Authority
- Performance targets
- Incentives and penalties applied to achieving the performance targets
- Proposed tariff structure, tariff adjustments formula and period
- Business planning and reporting requirements
- Customer management requirements
- Dispute resolution mechanisms.

Once a Performance Contract is granted, the department has the responsibility to monitor the Water Authority's compliance with the terms and conditions of the contract.

## **5.2 Tariff regulation**

The department is responsible for tariff regulation. This includes the responsibility to review and approve tariff proposals submitted by the Water Authorities. In reviewing and approving tariffs, the department aims to balance the objectives of cost recovery, efficiency, equity and affordability.

The department has developed tariff guidelines that include:

- The tariff objectives i.e. balancing cost recovery and efficiency, equity and affordability
- Tariff proposal submission and approval process
- How to calculate the tariffs and develop tariff structures
- Information to be submitted with the tariff proposal application
- The department's tariff review and analysis process, including public consultation provisions
- Tariff implementation and monitoring process.

## **5.3 Quality regulation and benchmarking**

The department collects and reviews service performances of the Water Authorities (through a series of established data capture mechanisms), benchmarks performance and publishes information on service quality and the performance of the Water Authorities.

Based on the service standards and performance targets in the contracts, the department should impose penalties and sanctions on W/As that do not meet the service standards or performance targets as per their contracts. The department provides advice to W/As who do not meet the service standards or performance targets on how to improve their service and move towards meeting the standards and targets.

Key performance indicators (KPIs) that are used by the department for benchmarking and for setting performance targets in the contracts include:

- Technical indicators:
  - Number of water and/or sewerage connections
  - Non-revenue water (NRW)
  - Hours of supply
  - Water quality / Water Safety Plans
- Financial indicators
  - Collection efficiency
  - Billed revenue (using Billing Systems)
  - Cost of production
- Service indicators:
  - Response time to customer complaints

- Response time to repair of technical problems
- Business and management indicators:
- Number of staff per 1000 connections
- Compliance to business planning and reporting requirements.

The department has developed a format for reporting of KPIs. This is used by the WAs along with guidelines on how to calculate and/or record the KPIs. This ensures consistency of the KPIs used in the benchmarking analysis.

#### **5.4 Competition**

The department assists the government in ensuring that there is a level playing field for all types of service providers. The Department helps resolve disputes between different service providers with respect to tariff issues and network access.

The Department also supports the definition of service areas. It is responsible for identifying economically viable service areas and recommending variations of existing areas on an on-going basis. The possibility of introducing competition in the tendering of service areas to eligible service providers could be considered if Private Sector Participation (PSP) is endorsed for water services provision. With PSP, the department will support WAs in the tendering process.

#### **5.5 Customer protection**

The Department has developed guidelines on customer management that the water service providers must follow. The guidelines include:

- Procedure and means for lodging complaints to service providers
- Procedures for receiving and resolving customer complaints
- Procedures for resolving disputes between customers and service providers
- Procedures for lodging complaints to the department where the service provider has not resolved or responded to the initial complaint.

The department continuously publishes materials and develops strategies to improve customers' awareness of all matters related to water and sewerage services, including raising customers' awareness and understanding of the relationship between the tariffs they pay and the service levels they are receiving.

The department coordinates Water Watch Groups in developing ways to raise customer awareness of their rights and responsibilities in terms of water and sanitation.

In the quest to achieve financial sustainability, the water sector through Directorate of Water Development (DWD) has been pushing for water authorities to set water tariffs that meet Operation and Maintenance (O&M) costs for the various types of piped water supply systems.



However, the poor currently pays more per unit volume of water because of inability to afford either yard tap or house connections, lack of easy access and higher than acceptable charges levied by middlemen (kiosk/yard tap owners and water vendors). This translates into the poor buying water at a higher tariff.

In a bid to fulfil its obligations of protecting water consumers/users and ensuring that Water Supply and Sanitation Boards (WSSBs) and Private Operators (POs) provide efficient, affordable and sustainable water infrastructures and services; the Water Utility Regulation Department (WURD) intends to conduct a review and monitoring of the water tariff regime in the piped water supply systems to strengthen pro-poor provisions.

## **5.6 Other functions**

In addition to the above main functions, the WURD provides the following specific functions:

### **5.6.1 Development of operational guidelines**

In addition to the tariff guidelines, KPI reporting format, and customer management guidelines mentioned above, the department has developed other guidelines that assist service providers in improving their performance. These include:

- Minimum service levels guidelines – these describe the minimum service levels to be provided to customers.
- Corporate governance guidelines – guidelines on how to manage a successful water service provider business, including setting medium to long term strategies and targets
- Business planning guidelines – guidelines on how to prepare and develop business plans for short and medium terms, including financial projections and investment requirements
- Financial projection guidelines – guidelines on how to prepare and develop financial projections for water and sewerage operators, including the expected tariff adjustments, improvements in efficiencies etc.
- Accounting guidelines – provide a standardised way to accounting in the water and sewerage businesses, including financial reporting standards.
- Capital investment guidelines - ensure that investment prefeasibility and feasibility studies are done to establish the wisdom of the investment. Investments should be evaluated using the principles of life cycle costing and the impacts of major investments on both tariffs and service levels should be fully evaluated.

- Sanitation Regulation - the Ministry of Water and Environment has the mandate to plan for investments in public sanitation and sewerage services and promotion of hygiene and sanitation practices in urban areas and rural growth centres. This is enshrined in the MOU between Ministry of Health, Min. of Education and Sports and Min. of Water and Environment. Additionally, the water supply systems in small towns are managed by Private Operators under management contracts within small towns and municipal councils. Sanitation facilities are thus managed by the Town Councils and Municipal Authorities and individuals.
- Water Safety Plans - An appropriate body, usually the regulator or their designated agents, should review and approve water safety plans prepared by suppliers or Government agencies. This process is designed to ensure that the water safety plans developed are consistent with the water safety requirements articulated within the health-based targets.
- The Department (WURD) being a new Department under the Ministry of Water and Environment needs to carry out numerous communication and marketing services

These guidelines are aimed to provide service providers with a more streamlined way of doing business, and to allow the department to better monitor the performance of service providers.

### **5.6.2 Advice to Minister**

The department is responsible for advising the Minister of the Ministry of Water and Environment on matters relevant to water supply and sewerage policies and regulation. It regularly updates stakeholders on the performance of the water authorities and their respective service providers, and informs on the progress the sector makes in terms of achieving long term policy targets.

### **5.6.3 Coordination and collaboration**

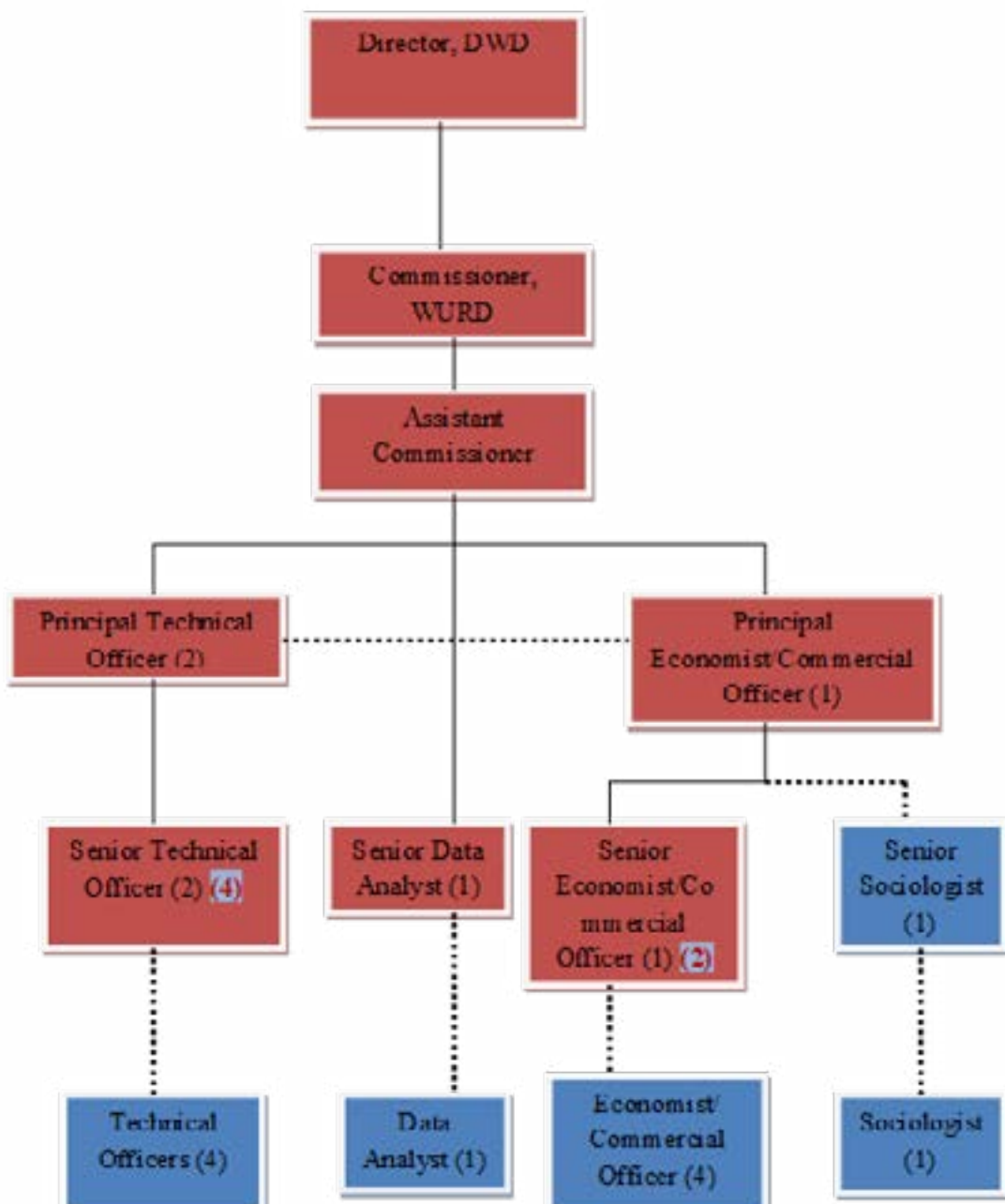
The department collaborates with relevant agencies and local governments in order to coordinate the regulation of water and sewerage services, especially concerning sewerage services that have broader sanitation services implications. It also coordinates with other Ministries and government institutions in terms of regulation of water quality and environmental matters.

## **6 Key Focus Areas (2018 – 2021)**

- 1) Establish 6 Regional Utilities (RU)
- 2) Maintain a sound regulatory system (coherent and credible for Water services regulation)

- 3) Increase Commercial Orientation of Utilities (safeguard from political intervention)
- 4) Supporting financial sustainability of water service areas (Collection efficiency, NRW reduction, etc)
- 5) Ensure Better Service Quality for rural water services and Water for Production.
- 6) Promote services to the poor; network expansion, targeted subsidies, affordable tariffs
- 7) Publish Performance trends

## 7 Organisational Structure of the Regulation Department



## 8 Table 1: Summary of WURD Strategy

STRATEGY FOR ENSURING FUNCTIONALITY OF THE WATER UTILITY REGULATION DEPARTMENT (WURD)						
REGULATORY FUNCTION	GOAL / OBJECTIVE	TASKS	Activities	Tool	Additional Requirements	Responsible
01. CONTRACTING	Predictable dispute resolution	POLICY REVIEW AND SERVICE STANDARDS	<ul style="list-style-type: none"> <li>Consultative meetings for reviewing Performance Contracts. (Currently 116 Gazetted Areas. Assuming 5 areas per UO =5*6=30 Areas (6 PCs) with UOs. 86 PC directly signed with WAS. 92 PCs in total supervised by WURD).</li> <li>Dispute resolution meetings</li> </ul>	Performance Contracts, Minimum Levels Guidelines, Target Setting Procedure, Sanctions and reward catalogue,	Define separate service standards for large and small towns Corporate Governance Guidelines	
		GAZETTING	<ul style="list-style-type: none"> <li>Due diligence visits</li> <li>Conducting pre-gazette mobilisation meetings.</li> <li>Publishing of gazetted towns in National gazette</li> <li>Ensure list of gazetted Water Authorities &amp; POs is kept up to date.</li> </ul>	Gazetting Guidelines Dispute management procedures, Technical Commissioning Checklist		
02. TARIFF REGULATION Balancing cost recovery and efficiency, equity and affordability	Ensuring transparency and predictable regime for tariff setting.	NWSC REVIEW	<ul style="list-style-type: none"> <li>Review application for tariff adjustment</li> <li>Make recommendations to Minister on tariff adjustments</li> <li>Participate in NWSC Tariff Indexation Process</li> <li>Monitor Compliance with approved tariffs</li> </ul>			

**STRATEGY FOR ENSURING FUNCTIONALITY OF THE WATER UTILITY REGULATION DEPARTMENT (WURD)**

REGULATORY FUNCTION	GOAL / OBJECTIVE	TASKS	Activities	Tool	Additional Requirements	Responsible
		REGIONAL UTILITIES PLUS SMALL TOWNS TARIFF REVIEW (BUSINESS PLANNING)	<ul style="list-style-type: none"> <li>Updating of Business planning tool.</li> <li>Support tariff setting i.e. receive and review completed BPT.</li> <li>Submission of Tariff Proposals for Ministerial approval.</li> <li>Disseminating approved tariffs to towns.</li> </ul>	Business Planning Guidelines including planning cycle, Tariff setting procedure		
		EQUITY: PRO POOR	<ul style="list-style-type: none"> <li>Participate in design review process</li> <li>Ensure access to the poor through affordable tariffs, targeted subsidies etc.</li> <li>Develop guidelines for implementation of AWVP.</li> <li>Documenting good practices for pro-poor services provision.</li> </ul>	Pro-Poor Strategy	Pro-poor Strategy Implementation Guidelines	
		CONDITIONAL GRANT ALLOCATION	<ul style="list-style-type: none"> <li>Submission of the release advise to MoFPED.</li> <li>Review of progress reports.</li> <li>Preparation of bi annual conditional grant progress.</li> <li>Determination of subsidy allocation.</li> <li>Conducting field visits.</li> <li>Review Grant guidelines/criteria</li> </ul>		Financial Projection Guidelines, Capital Investment Guidelines  Criteria to be guided by both UWSSD and WURD	

STRATEGY FOR ENSURING FUNCTIONALITY OF THE WATER UTILITY REGULATION DEPARTMENT (WURD)

REGULATORY FUNCTION	GOAL / OBJECTIVE	TASKS	Activities	Tool	Additional Requirements	Responsible
	Regulation of other market segments e.g. Informal service providers, other town water suppliers, also sanitation service providers	<b>MONITORING OF UNREGULATED MARKETS</b>	<ul style="list-style-type: none"> <li>Inform planning, policy review and investment decisions.</li> </ul>			
03. TECHNICAL AND SERVICE QUALITY REGULATION AND BENCHMARKING	Scrutiny for service levels and benchmarking of sector performance	<b>COMPLIANCE MONITORING</b>	<p><b>NWSC Large Towns</b></p> <ul style="list-style-type: none"> <li>Check Compliance with PC targets</li> <li>Spot Checks to Areas (Field verification of reports)</li> <li>End of Year PC review</li> </ul> <p><b>REGIONAL UTILITIES / Small Towns</b></p> <ul style="list-style-type: none"> <li>Set targets in line with Third Schedule of each PC.</li> <li>Check Compliance with PC targets: review of quarterly reports.</li> <li>Spot Checks to WAs (Field verification of reports.</li> <li>End of Year PC review</li> <li>Monitoring implementation of approved tariffs.</li> </ul>	UPMIS Reporting Tool		
		<b>DATA SYNTHESIS, ANALYSIS AND REPORTING</b>	<ul style="list-style-type: none"> <li>Ensure regular reporting by WAs</li> <li>Receive, compile and analyse quarterly performance data.</li> <li>Feedback to WAs on performance.</li> <li>Prepare benchmarking report on WAs (annual publication)</li> <li>Public awareness on performance of service providers.</li> </ul>	Sector Performance Report	<p>Define parameters per category of WA</p> <p>Seek endorsement of publication</p> <p>Accounting Guidelines</p>	

STRATEGY FOR ENSURING FUNCTIONALITY OF THE WATER UTILITY REGULATION DEPARTMENT (WURD)

REGULATORY FUNCTION	GOAL / OBJECTIVE	TASKS	Activities	Tool	Additional Requirements	Responsible
		MANAGEMENT AUDITS	<ul style="list-style-type: none"> <li>Prepare TORs for Management audit consultancy.</li> <li>Prepare TORs for Technical audit consultancy.</li> <li>Management Audit</li> <li>Technical Audit</li> </ul>	Audit procedure	Protocol for benchmarking and publishing benchmarking information	
04. COMPETITION	Promotion of competition and ensuring feasibility for investment/investors	SUPPORTING OF PROCUREMENT OF PWOs	<ul style="list-style-type: none"> <li>Pre-Qualification of POs</li> <li>Review Standard bidding documents for POs.</li> <li>Participating in Evaluation of POs.</li> </ul>	PPDA		
05. CUSTOMER PROTECTION	Customer Protection especially for vulnerable groups	CUSTOMER SATISFACTION	<ul style="list-style-type: none"> <li>Keep Customer Survey tool updated</li> <li>Conduct Customer Satisfaction Survey (Large + Small Towns)</li> <li>Arbitrate in recurrent customer complaints.</li> </ul>	Customer Survey Tools (update continuously)	Customer Service Charter	
06. DEPARTMENT ADMINISTRATION		BUDGETING AND SECTOR REPORTING	<ul style="list-style-type: none"> <li>Preparation of workplans and outputs (quarterly and annual).</li> </ul>	OBT Tool		
		STAFF CAPACITY ENHANCEMENT	<ul style="list-style-type: none"> <li>Orientation of RRU staff, at least once every 6 months</li> <li>Orientation of HQ Staff</li> <li>Staff Capacity assessment.</li> <li>Design and implement a WURD CD plan to bridge the gaps.</li> <li>Streamline roles WURD vs UWSSD (1 joint meeting per quarter)</li> <li>Staff training in specific fields of regulation</li> </ul>	Capacity Development Strategy	Capacity Needs Assessment Tool WURD CD Plan	



## 9 Table 2: Monitoring and Evaluation Framework

SAMPLE MONITORING AND EVALUATION (M&E) FRAMEWORK FOR THE WURD

Objective (What we have set out to achieve?)	Intervention (How shall we achieve the set objective)	Expected Output (The result after intervention)	Indicator of Output (How will the output be measured?)	Risks/ Assumptions (Inhibitors to achieving expected results)
Predictability of regulatory environment				
Transparent and predictable tariff setting regime				
Regulation of other market segments (informal service providers, sanitation providers)				
Scrutiny for service levels and benchmarking of sector performance				
Promotion of positive competition in the sector				
Customer protection especially for vulnerable groups				
Functioning of regional departmental Units				