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The voice for water consumers
Llais defnyddwyr dŵr

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FUTURE CONSUMER REPRESENTATION MODELS

A CCW discussion paper



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Introduction

CCW is the independent voice for water consumers in England and Wales. We believe that the decisions that companies and regulators make as part of the price review process must be informed by what customers want. Effective challenge by local representative groups plays an important role in holding companies to account and demonstrating to Ofwat that plans have been constructed with customers' priorities forming an integral part of the decision making process.

Customer Challenge Groups (CCGs) have been a fixture of the last two price reviews in the water industry. They were introduced in response to Ofwat's requirement for companies to have a body "to ensure that the company's business plan reflects a sound understanding and reasonable balance of customers' views..."¹

CCGs have delivered a number of benefits, particularly in the way they have helped shape companies' customer engagement programmes and pushed companies to reflect consumers' views in their business plans. Some CCGs also played a key role in helping companies get to grips with triangulation. The impact of CCGs in this respect has been somewhat unseen outside of the challenge logs included with most CCG reports. These vital roles will need to continue at future price reviews in whatever format is used.

We are committed to ensuring consumers get the best possible representation, and so in CCW's Lessons Learned From the 2019 Price Review² we promised to explore whether CCGs are needed at future price reviews, and what the right platform for company level scrutiny and challenge is.

Our view is that local representation is necessary, irrespective of the level of nationwide collaborative research undertaken at PR24. We think there are a number of different options for how to achieve this, but any chosen model must deliver for customers. It must produce outputs and achieve outcomes that are valued by both companies and Ofwat.

This discussion paper sets out a number of potential alternative models for the industry to consider. This paper is written based on certain expectations about what Ofwat will say in its High Level Design paper. For example, there is an assumption that there will be some degree of collaborative national research at PR24 and this has informed the proposed format of these groups.

CCW's preferred model is a Central Oversight Group (COG) to provide comparative information and analysis to local groups (including CCW's Water Mark and its information on Resilience, Vulnerability and Complaints). This should provide local groups with greater visibility of the performance to their company in relation to the rest of the industry. The COG would also have an importance role in challenging the development of the collaborative national research. We anticipate that there would be separate COGs for England and Wales.

CCW's Engaging Customers³ research recommended that companies make better use of informed research and expert customers when undertaking research for business planning, to make research and its outputs more meaningful. Local Consumer Panels would be a way of addressing this recommendation.

Consumer Panels should operate alongside a local Stakeholder Group. This would comprise local stakeholders who would challenge a company's engagement programme and ensure that the business plan clearly demonstrated how it had been shaped by consumers' views. CCW would be represented on local Stakeholder Groups.

In order to address some of the concerns raised about the independence and governance arrangements of CCGs at PR19 there should be a centralised funding of the COG and local stakeholder groups.



¹ Ofwat: Involving customers in price setting...August 2011

² CCW: Lessons Learned from the 2019 Price Review, October 2020

³ CCW: Engaging water customers for better consumer and business outcomes (Blue Marble), May 2020

Potential Models:

Option 1: Consumer Panel, with Stakeholder Group and Central Oversight Group

- Each company would have a Consumer Panel, made up of a representative cross-section of consumers. This should include both bill-payers and non-bill payers. These consumers would become more informed, expert consumers over time, as they understand more about the company's plans and more about how the water sector operates. The company would use the panel to test, in the most appropriate way to get meaningful views, consumer opinion on aspects of the business plan and long-term strategy.
- As the Panel increased its expertise over time, it could be used to gather an informed view on the more technical aspects of business plans that would not be meaningful for more uninformed consumers. The Consumer Panel would complement companies' own research and triangulation, alongside the national level research. Some companies have existing online panels that contribute to their ongoing engagement programmes. It is possible these could be adapted to fulfil the functions of the Consumer Panel, particularly given the innovations in carrying out more deliberative research online which has been necessitated by the Covid-19 pandemic
- Each company would also have a Stakeholder Panel, made up of local stakeholders that would appoint subject area experts to lead on issues within its remit. CCW would be a member of these groups. The Stakeholder Panel would be expected to comment on issues relating to: Consumer Engagement and Research; large investment programmes; common and bespoke performance commitments (PCs) and outcome delivery incentives (ODIs); vulnerability, affordability, environmental issues and future customers.
- The Stakeholder Panel would review the relevant elements of the company's business plan proposals in detail - challenging where necessary - and working independently from the company. Stakeholder Groups would be required to maintain a comprehensive challenge log, detailing the challenges made, the company responses and any disagreements among Stakeholder Group members.
- The Stakeholder Panel would issue its views of the company's business plan to Ofwat a month after plans are submitted, to ensure its report is comprehensive and not blind to last-minute alterations.
- The Central Oversight Group (COG) would include CCW alongside other stakeholders such as the Drinking Water Inspectorate (DWI), Environment Agency (EA), Defra, Welsh Government (WG) and Natural Resources Wales (NRW). It should also include experts in market research to help deliver the challenge to the collaborative nationwide research.
- The COG would:
 - Carry out comparative analysis of business plan proposals across all companies. Outputs from the COG would then be provided to the company-level Stakeholder Panels.
 - Challenge the development and delivery of national level customer research (e.g. willingness to pay (WTP), acceptability testing). The COG would not be involved in commissioning and running the central research; this would be done by a separate Steering Group.

- This model would allow greater scope for representative groups (in this case the Stakeholder & Consumer Panels and the COG) to examine and challenge more areas of the business plans and price determinations than the CCGs do currently, which we at CCW think would make it a more effective model than is currently in place.



Benefits

Independence. Funding for the Stakeholder & Consumer Panels and COG would be from a central pot with strong governance terms reinforcing their independence. Remuneration would be paid to Chairs, members of the consumer panel and subject area experts on the COG and Stakeholder Panels who were not members of government or local government affiliated organisations.

Centralised research. The centralised research would enable views to be gathered in line with best practice in a consistent and comparative way

Coordinated stakeholder input at national level. A consistent approach by the COG to all companies and Stakeholder Panels would reduce the scope for an inconsistent approach driven by regional differences.

More comparisons. The COG would be better able to compare and contrast company plans and historical performance and use this to inform local Stakeholder Panels' challenges.

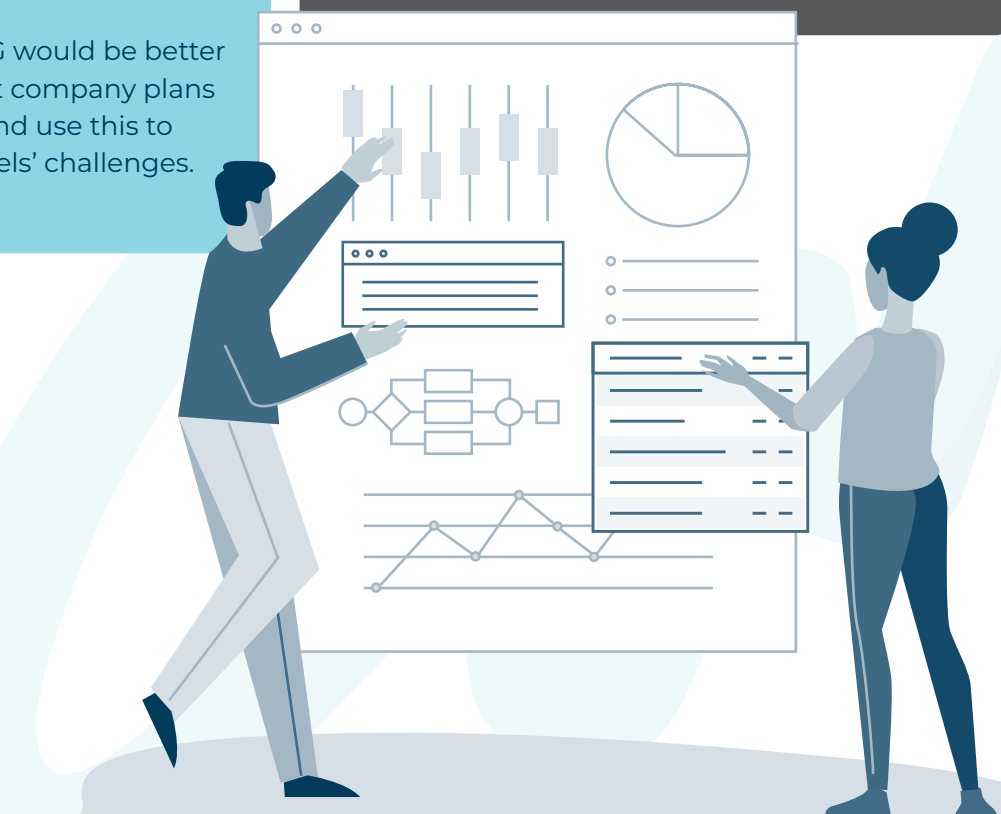


Drawbacks

Resources. Potentially demanding time commitment for those parties involved in Stakeholder Panels and COG.

Regulatory pushback. Giving the expert groups and COG greater ability to influence business plans and Ofwat's decision-making could reduce Ofwat's influence at price reviews. However strong, credible and effective challenge at an earlier stage in the process should result in less need for Ofwat to make interventions late on in the process

'Capture' of local panels. As companies would run the local Stakeholder & Consumer Panels, they run the risk of capture or confirmation bias. To mitigate this, there would need to be clear guidance on the governance of the groups from Ofwat.



Potential Models:

Option 2: 'Good Practice' CCGs

- This model would follow the current CCG format, but would look to evolve it by adopting good practice identified at PR19. For this to be successful, Ofwat would need to be clear about the degree to which it valued - and used - the work of each company CCG.
- Under this model, each company would have its own CCG, with membership reflecting representative customer and stakeholder groups. Ofwat should require each group to have subject area sub-groups that cover the key elements of the business plan on which it expects CCGs to provide comment.
- CCGs would review companies' business plan proposals, challenging where necessary, and would work independently from the company. The CCG would record every challenge, and company response, in a challenge log that would form part of the CCG Report.
- In order for this model to succeed, Ofwat should publish CCG guidance well in advance of PR24 and be more prescriptive about the level of expertise it expects each CCG to have. The regulator must be clear about how it intends to use the views of the CCGs and the areas it expects them to focus on. The weight that Ofwat has given the views of CCGs in its decision-making should also be made clear when determinations are published.



Benefits

Tried and tested. The CCG system has been in place and refined over two price reviews, both of which have delivered outcomes that customers have supported, in the main. Keeping and improving the current approach allows for an evolution of a system that is proven to deliver (at least to some degree) and avoids the uncertainty of opting for a completely untested approach.

Company commitment. Companies seem to support the CCG model and have devoted time and resources to them. This has led to a strengthening of the consumer voice in the price review process. Abandoning the model risks reducing consumer influence on the outcome.

Expert analysis. CCGs are able to challenge company proposals effectively with analysis from area experts. However, this is dependent on appointing the right members. If a CCG model is adopted for PR24, Ofwat should mandate the skills that the group needs to have.



Drawbacks

Resources. Substantial time commitment is required from CCG members. This commitment needs to be explicit in the recruitment phase to prevent drop-outs and reduce the risk of the majority of work falling to just a few members. Reducing, or making clearer, the expected scope of CCGs could also help to address this.

Limited expertise. CCGs can lack access to expertise in some areas, particularly if they attempt to tackle too much of the business plan or the recruitment of members leads to gaps in knowledge or members with little or no water industry experience. This may be the result of a lack of clear guidance from Ofwat – the regulator must be clear what it expects the group to do. This was particularly true of research experts at PR19. CCW found it difficult to identify more than a handful of research experts involved in CCGs when looking for contributions to the Blue Marble Engaging Water customers project

Capture of customer panel. New guidance is needed to strengthen the independence of groups. This should cover remuneration (paid centrally rather than via companies) and administration (appointment of secretariat/report writer) to prevent capture, or the appearance of capture, by companies.

Comparability. CCGs work in silos and suffered at PR19 from a lack of industry comparators by which to judge their company plans – Non-Disclosure Agreements even prevented members who sat on multiple CCGs from drawing on their own limited comparators.

Remit. Ofwat must be clear about how it wants CCGs to work and the areas of company plans they should analyse. Members can then be recruited with this in mind. While many CCGs were keen to expand their remit and address large parts of company plans this risks stretching resources too thin, particularly if Ofwat pays little attention to the CCGs views in these areas.



Potential Models:

Option 3: 'Good Practice' CCGs with National CCG

- Each company would have its own CCG as described above. In addition, there would be a national CCG for England and a separate national CCG for Wales.
- The National CCGs should include representatives from CCW, DWI, EA, NRW, Defra and WG among others. Ofwat should look to give National CCGs the ability to request and publish information, and to make recommendations in order to ensure their credibility. Company CCG chairs should also be members - whether full or associate - of the appropriate National CCG, to ensure a two-way flow of information.



Benefits

Comparability. The National CCGs would have oversight of the work of all company CCGs. As such, they would be in a position to identify outliers early in the process and alert the relevant company CCG. This would allow more informed, credible challenge to the company.

Influence. The National CCGs could considerably increase the influence of customers' voices in the price review process if they include appropriate expertise and this is harnessed properly.

Expertise. A national body could expect to attract subject experts that may have been out of reach of some or all of the company CCGs.



Drawbacks

Workload. Overseeing the outputs of all the company CCGs has the potential to create an enormous workload for the National CCGs. Careful thought about how this would be managed and the overall remit of the National CCGs would need to be considered

Imbalance. Creating influential National CCGs could have the effect of lessening the importance of the company CCG in the eyes of both Ofwat and the companies.

"National CCGs would have oversight of the work of all company CCGs... This would allow more informed, credible challenge to the company."



Potential Models:

Option 4: Single Central Oversight Group (with no local challenge groups)

As described above, the Central Oversight Group (COG) would be in charge of challenging and scrutinising any collaborative nationwide research. The COG would challenge the Collaborative Research Steering Group to ensure that outputs from this work was provided to companies and Ofwat in a timely manner in order to companies and Ofwat to shape business plans and the regulator's determinations.

Companies would continue to do their own research to cover specific investment proposals and bespoke performance commitments not captured by the centralised research. The COG would adopt a monitoring role to ensure that the research followed best practice guidelines.

Companies would liaise with EA, DWI and CCW directly about environmental, water quality and customer engagement issues with the COG chairing quadripartite meetings to discuss trade-offs.

The COG would be responsible for gathering views from wider industry stakeholders and would feed this into all companies. This would reduce the burden on stakeholders, while ensuring that all water companies receive the same consistent information instead of the current regional differences.



Benefits

Independence. The COG would be funded from a central pot rather than direct from companies.

Centralised research. The centralised research would enable views to be gathered in line with best practice and in a consistent and comparative way.

Coordinated stakeholder input. The COG would get views from industry stakeholders, which would reduce the burden on individual companies doing this. It would also result in companies receiving consistent information, reducing the scope for inconsistencies currently driven by regional differences.

The consumer expert. The COG's purpose would be solely to act as the consumer advocate, so there should be no self-interest driven by either individual or organisational perspectives.

Comparisons. A single COG would be better able to compare and contrast company plans and historical performance across the industry.



Drawbacks

Resourcing.

i. People – the COG would need to have requisite staff both in terms of skill set and numbers to be able to perform the role envisaged, especially if it was an existing entity whose remit had been extended, e.g. CCW

ii. Budget – the COG would need to be funded from a central pot. If it was an existing entity, this would need agreement of additional budget or the scope of the work for that organisation would need to change. Rules would need to be established on how companies and other stakeholders contribute to the central pot.

Regulatory capture. Arguably, a single COG has a greater risk of being too close to Ofwat than multiple CCGs. This risk is mitigated if the organisation already exists and has a demonstrable track record of arm's length dealing with companies and regulators.

Distance: A single COG covering England and Wales is likely to be more distant from the companies it is challenging than a local challenge group would be.

Complexity and scope: A single COG would involve a significant amount of responsibility for handling information and delivering outputs to companies in a timely manner. This would create substantial risk to the PR24 process if it did not run efficiently and effectively.



"The Panel would have a much wider remit than CCGs and would consider all issues within its field of expertise - research, finance, affordability, vulnerability, construction, design etc. The Executive Panel would also provide independent challenge to Ofwat..."



Potential Models:

Option 5: Intensive Executive Panel review

This option is a departure from the other options in the paper, which suggest alterations to the already familiar consumer representation models that have been in place at previous price reviews.

Under the Executive Panel model, each water company would develop its business plan in conjunction with relevant stakeholders such as CCW, EA, DWI and others. This engagement would not be in the form of CCGs, but through regular and ongoing liaison meetings. A company would undertake its own customer research, and be expected to liaise closely with CCW, who would provide challenge. This would inform the development of the company's business plan.

In addition to this, there would be an Executive Panel to provide oversight. This would be independent and funded from a central pot of money. The Panel would include experts in relevant fields such as research, affordability, vulnerability, finance and construction. There would be a central pool of experts appointed to undertake detailed analysis of individual company proposals.

Instead of liaising with companies throughout the price review process, the Executive Panel would undertake intensive reviews of the issues within its remit at key milestones – i.e. at the start of the process, once the business plan is submitted, and at the draft determinations stage.

The Panel would have a much wider remit than CCGs and would consider all issues within its field of expertise - research, finance, affordability, vulnerability, construction, design etc. The Executive Panel would also provide independent challenge to Ofwat (which currently does not exist for some aspects of business planning until or unless there is an appeal to the Competition and Markets Authority).



Benefits

Independence. The Executive Panel would not be employed or funded by the company and would have a remit to challenge Ofwat. As such, its responsibility would be to customers, not companies or the regulator.

Expertise. The expected skills and expertise employed by the Executive Panel would allow greater scrutiny to be applied, both to company plans and the guidance of the regulator.

Resources. The review process would be intensive for much shorter, planned periods of time, rather than on an ongoing basis. The time commitment would therefore be a lot less for the panel compared to CCG members.

Company influence. Members of the Executive Panel would be specialists in their field, and would be independent of the company so would be much less likely to be unduly influenced by companies. Meeting less frequently would also avoid the risk of this.



Drawbacks

Contact. The infrequency of its activity may lead to the Executive Panel having less overall influence on the business plan. A lot of the influence from CCGs at PR19 was in the design of the plan and therefore not visible to others.

Wider representation. Stakeholders who sat on some CCGs (e.g. CBI, CAB etc.) may find opportunities to input into the price review more limited

Stakeholder group. A criticism of CCGs is that they are stakeholder - not customer - groups. There is still a chance that this could remain a criticism of any Executive Panel, although customer views would be sought from company research, and through ongoing liaison with CCW.

Conclusion

This paper is intended as a follow-up to the debate about the future of challenge groups that was raised in CCW's PR19 Lessons Learned report and by Ofwat in its Reflecting Customer Preferences and High Level Design papers.

There are questions about whether the current CCG model is the most effective way to ensure consumers are represented throughout the price review process. We have suggested some alternatives that seek to either improve the current model or introduce different approaches to the roles of consumer representation and stakeholder engagement in the price review process. Determining the most beneficial way forward will require establishing what it is these groups are intended to do: represent consumers or stakeholders and what level of assurance, covering what aspects of price setting they will be expected to deliver. The balance of national collaborative research with local company specific research will also be a key determining factor on how these models evolve.

We welcome comments from the sector on the potential models outlined in this paper, or any alternatives. Please send any views to Regulationpolicy@ccwater.org.uk.



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