



The voice for water consumers
Llais defnyddwyr dŵr

**CCW's response to
Smarter Regulation and the Regulatory
landscape – a call for evidence**

Date: January 2024

1. Introduction

The Consumer Council for Water (CCW) is the statutory consumer organisation representing household and non-household water and sewerage consumers in England and Wales. We welcome the opportunity to provide a response to the Department for Business and Trade's call for evidence.

In our response we focus on what causes tension between the need for regulation to help businesses grow whilst securing secure good outcomes for consumers, and the need for regulators to carry out their statutory functions. We focus on the regulation of the water sector and how it affects consumers.

2. Consultation questions

Question 1: Based on your experience, do you think that UK regulators are supportive of the individual businesses they regulate in a way that appropriately balances considerations of consumers and other businesses within the sector more broadly?

Typically, regulators aim to strike a balance between protecting consumers' interests and ensuring a fair and competitive business environment. They often set standards, monitor compliance, and make decisions that impact the industry as a whole.

The effectiveness of regulators in achieving this balance can be a subject of debate. The water regulator, Ofwat, has a duty to protect consumers but also to ensure water companies can finance their functions. This means that supporting water companies in terms of ensuring they are financeable and efficient can clash with the need to ensure services are affordable and responsive to consumers' needs and expectations.

CCW's Water Matters tracking research shows that trust in water companies has declined in recent years¹ and is now at a 12 year low, as consumers become more concerned about high profile service failures, pollution and increasing bills during a time when the cost of living generally is higher.

Consumers also see financial outperformance (higher dividends, executive salaries and profits) as a failure of regulation to represent their interests. This means there is a risk that regulation can be seen to be supportive of businesses in a way that can be detrimental to consumers. Regulators have a challenge to redress this balance in the public perception.

Question 2: Please name the UK regulator(s) you engage with most frequently.

Ofwat, though we also engage with the Environment Agency (in England), Natural Resources Wales and the Drinking Water Inspectorate.

Question 3: What do you consider to be the most positive and/or negative aspect of how the UK regulators that you engage with operate?

Positive aspects:

¹ In 2022, trust in water companies fell to 7.21 – down from 7.33 in 2021 – to reach its lowest score since our monitoring began: see [here](#).

- Ofwat has made greater efforts in recent price reviews to help ensure evidence of consumer interests contributes positively to the industry, with stronger evidence from customer engagement to influence decisions on pricing, quality of service, investment and consumer protection.
- Ofwat are increasingly transparent in their regulatory processes, with more open communication contributing to a positive regulatory environment, though they could be more open about the reasons for decisions made in price determinations (see our answer to question 28) and their decisions over when to intervene, or not, in terms of enforcement. This can enhance trust among businesses and regulators.
- The regulatory framework has encouraged some innovation to help drive industry improvements, with the aim of benefiting businesses, consumers and the environment.
- There is a more collaborative approach between regulators and industry stakeholders leading to better-informed decisions and policies. An example of this is Ofwat and CCW's recent collaborative work on customer research to inform the 2024 price review and our 'Your Water Your Say' initiative, to help improve water company accountability with customers. We have also collaborated on research to find out from customers how customer orientated water companies are during incidents, such as water supply interruptions.

Negative aspects:

- Some aspects of regulation such as the price setting process, can be overly complex which can be challenging for stakeholders to engage with effectively.
- The five year cycle of price setting has a risk of short term decision making without sufficient consideration to long term strategic outcomes. Though Ofwat has in recent price reviews, placed greater emphasis on how five year price controls fit into strategic plans for the longer term.
- If regulations are too restrictive, it can stifle innovation and hinder the development and adoption of new technologies within the industry. This has been apparent in recent years as water companies can be resistant to using more new innovations such as nature based solutions to address pollutions at source. This can be because of the need to comply with stringent statutory or regulatory standards, so the appetite to carry some risk by using innovative ideas is reduced.
- Regulation in water has a risk of focussing more on ensuring companies are financeable rather than delivering the right outcome at an affordable price for consumers and the environment. This can be seen recently where some companies that consistently fail to achieve regulatory performance targets and have financing issues (Thames Water, Southern Water). Regulation that fails to tackle performance issues due to financing concerns could protect or enhance a company's ability to function at consumers' expense. This could erode public trust further. At a more macro level, we welcomed

Ofwat's comments at the EFRA committee on 12 December 2023² that it would regulate as it needed to do without being effectively restricted from taking proper action because of a parent company's financing position.

Question 4: Based on your experience or understanding of UK regulators, do you find it clear what the overall purpose and objectives of individual regulators are?

The fundamental jobs of the regulators in water are clear, however the devil is in the detail.

The biggest two issues are interpreting Government policy guidance into action and making trade-offs between priorities.

A current example of this in the water sector is in environmental policy. In February 2022, the government set requirements for Ofwat in the [government's strategic priorities](#). In July 2022, the Welsh Government issued its [strategic priorities](#) for Ofwat. Additional guidance for Ofwat and the water sector has also come through the Environment Act and Defra's [Storm Overflow Reduction Plan](#).

CCW believes that strategic priority statements need to be clearer about what takes precedent in terms of the outcomes the government wants - how the trade-offs should be made between those sometimes competing priorities. This would bring clarity and ensure the priorities are less open to interpretation.

As an example of a regulator being left to interpret guidance, Defra's Storm Overflow Reduction Plan states:

Storm overflows will not be permitted to discharge above an average of 10 rainfall events per year by 2050... This target must be achieved for at least 75% 'high priority sites' by 2035 and for 100% of 'high priority sites' by 2045.

[Ofwat](#) has interpreted this by requiring water companies to work towards an annual average of 20 spills per overflow per year by 2025. Using number of spills as the target risks water companies targeting easy-to-fix spill sites first rather than spills into high-priority sites.

CCW has told Ofwat we want to see an approach that focuses on tackling spills that cause the most harm to the environment. Our [research](#) shows that 65% of people want improvements that create healthy rivers. There is a risk that the current number-based target won't incentivise water companies to increase their understanding on when and how spills cause harm. The exception to this is in Wales, where [ministers](#) want to see investment prioritised to reduce harm to the environment.

Question 5: Within these overall objectives (as considered in the preceding question), do you find it clear what the specific statutory duties (i.e. required by legislation) of individual UK regulators are?

CCW believes that the balance between the responsibilities of regulators and of government is not always clear. Shifting priorities from government can make it difficult for water regulators to maintain consistent expectations.

² committees.parliament.uk/oral-evidence/13992/pdf/

For example, the UK government's strategic priorities for Ofwat state that Defra expects Ofwat to:

Encourage the increased use of catchment-wide, nature-based solutions and sustainable drainage schemes, where appropriate.

However, this guidance risks being undermined by the pressure on water companies to deliver the 20 storm overflow spills a year target set by Ofwat.

When scrutinising water companies' business plans, as part of our role in the 2024 Price Review process, CCW has seen evidence that nature-based solutions have been taken out of those plans in favour of building concrete tanks. Concrete assets are quicker to produce than sustainable drainage solutions which encourage nature and reduce the pressure on treatment processes.

From our soon to be published consumer research, CCW knows that customers do support the use of nature-based solutions. And with fewer than [half of people](#) in England and Wales trusting wastewater companies to protect the environment, it is unfortunate that a lack of clarity over priorities is affecting how some water companies plan to deliver the required outputs.

In our response to Ofwat on water companies' business plans, CCW will ask Ofwat to scrutinise the reasons behind the companies' choices on how they plan to reduce the number of storm overflow spills. We are also taking that challenge direct to the water companies.

Additionally, there is a lack of clarity about whether social policy falls into regulators' or government responsibility. As a result, we are seeing a lack of substantive progress to address affordability concerns. This is hurting consumers, especially as the cost-of-living crisis continues.

An example of this can be seen from water companies' research to test their 2025-30 business plans for customer affordability. In the context of proposals to increase bills by an average of 26% before inflation (rising to 38% based on inflation forecasts), only 16% of customers found the proposals affordable.

Bill payers - and the public in general – are in favour of some form of redistribution of bill costs to support people in fuel and water poverty through the introduction of a consistent and comprehensive social tariff across England and Wales funded from a common pot.

All water companies currently offer their customers a social tariff. There is also the WaterSure scheme to help certain consumers in vulnerable circumstances. As of November 2023, over a million people are using a social tariff from their water company. And nearly a quarter of a million people are benefiting from WaterSure. However, this is presently an inconsistent 'postcode lottery' range of affordability support, which is why we advocate for a new single consistent affordability scheme.

It is crucial that government makes clear who is responsible for social policy e.g. on support. Many utility providers and charities believe it should be a wider government responsibility due to the overarching societal, technical and fairness considerations involved. So we would like to see government set out what they want to see and then instruct the relevant regulators to make it happen – and soon.

Question 6: Do you think that the statutory duties (i.e. required by legislation) imposed on UK regulators:

- 1. Cover the right issues?**
- 2. Are clearly stated in relevant statute, including where supplemented by relevant guidance?; and**
- 3. Are sufficiently consistent across regulators, where this is relevant?**

Ofwat's statutory duties are clear and are underpinned by statutory direction set by Defra in the UK and Welsh Governments.

However, these duties can compete with each other., as our responses to questions 3 and 4 set out, the need to balance companies' financeability can sometimes contradict the need to protect consumers' interests and this a balance or trade off that can be a challenge for Ofwat to achieve.

At the highest level the duties are clear, however as per our response to question 4 there could be a more strategic steer or guidance on trading off priorities for example, investment decisions in price reviews.

Question 7: As set out above, UK regulators have a remit that is set through legislation and guidance. Which of the below do you consider best applies?

- 1. Regulators always act within the scope of their remit;**
- 2. Regulators go beyond their remit in a way that may negatively impact the outcomes that they are required to deliver; or**
- 3. Regulators go beyond their remit in a way that supports the outcomes they are required to deliver.**

In CCW's experience, point 1 is most relevant. While Ofwat consistently acts within the scope of its statutory/legislative remit, it does have duties within its remit that can collide as set out above.

Question 8: Do you often have to engage multiple UK regulators on the same issue or area?

Yes. CCW engages with both Ofwat and the environmental regulators in England and Wales, and the Drinking Water Inspectorate, on cross-cutting issues that affect consumers particularly during price reviews.

Question 9: Do you consider that UK regulators collaborate effectively with each other and their international counterparts?

Regulators co-operate via the UK Regulators Network, which has considered issues such as vulnerability and the cost of living. However, we think the UKRN could be more transparent in its discussions and share intelligence more widely. UKRN does not automatically involve consumer organisations, and we believe that would improve its work as it can miss out on specialist consumer input.

In long-term water resources planning, we have seen the water sector regulators working more closely together through Regulators' Alliance for Progressing Infrastructure Development ([RAPID](#)) and in doing so avoiding some of the tensions that previously existed. Similarly, during the first round of the Drainage Wastewater Management Plans (DWMPs), regulators benefitted from much closer collaboration while still observing their own remits.

Because people in England and Wales cannot change their water provider, it is critical that there is a strong consumer voice to inform and challenge the regulators. This is provided by CCW. Through working closely with others in the sector, including the regulators, CCW can ensure that consumers' needs and priorities are not lost amongst the often louder, and better funded, interest groups in the sector.

CCW is not a regulator, but we work closely with Ofwat on customer-focused policy areas such as the [Customer Focused Licence Condition](#), for which we co-designed the customer principles. This is a good example of constructive joint working.

We also collaborate with Ofwat on insight, for example our recent joint incident [research](#) into water supply interruptions in the South East Water area. We did this work to understand customer experiences and how companies could improve their response to interruptions to the water supply. By working in partnership like this, we can collectively be more effective through producing impactful insight and avoid any potential duplication.

CCW is bringing back our in-depth complaint and debt assessments, where we go into water companies to carry out a deep-dive review. This will give us a first-hand view of how companies are dealing with their customers. In 2024, we will further expand the approach with assessments of how companies handled incidents from a consumer perspective e.g. disruption in water supply. As the independent consumer body, we are the only organisation to do this kind of work on behalf of consumers. We will share our insights and findings with Ofwat and water companies to encourage improvements to customers' experience.

CCW will also be providing evidence to Ofwat to help the regulator assess whether companies are complying with the new [Customer Licence Condition](#). This evidence will include CCW's recommendations from the complaints and debt assessments; our Water Mark performance tool; our annual tracker of customers' views - [Water Matters](#); as well as our [complaint data](#)³ and research insight.

CCW also shares softer intelligence, for example our view on water companies' culture, with Ofwat to help it build a rounded picture of a company's performance. We would like to see that happening between regulators as well.

Question 10: Where you engage with multiple UK regulators, do you find it clear which regulator is responsible for a specific issue or area, and how regulator mandates interact?

Yes. Ofwat, the environmental regulators and the Drinking Water Inspectorate have roles that are specific and clear.

³ [Business Customer Complaints 2022-23 - CCW](#)

Question 11: Do you consider there to be under regulated areas of the economy, or gaps in regulatory responsibility between UK regulators?

CCW's remit is water and wastewater services, which means we cannot comment on other areas of the economy.

Question 12: Do you consider that guidance issued by UK regulatory bodies makes the regulatory system clearer and easier to understand?

Ofwat's regulatory guidance is generally intended to provide clarity and direction to regulated entities, making the regulatory system more understandable.

Generally Ofwat's guidance is clear and easy to understand for an informed audience. However, wider stakeholders who see Ofwat's guidance can sometimes find it complex and hard to navigate, so Ofwat need to address a wider pool of stakeholders with its guidance.

Question 13: Do you find UK regulators to be agile and responsive to new and emerging issues?

Regulators sometimes recognise issues quicker than they act on them, or are pushed into action by the Government or media pressure.

Given the reduction in public trust in the water sector, Ofwat and other regulators need to show they are agile and adaptive to changing public expectations for issues such as sewage pollution, climate change adaptation, and concerns about corporate behaviours like high dividends and high executive remuneration.

Public trust has been damaged by concerns that some owners have run water companies as a financial asset, rather than an essential public service provider.

Ofwat needs to adapt accordingly and look at the benefits to wider society, including health, economic and environmental benefits, that companies can create through their core services, and take actions to pre-empt and address emerging public concerns before they become systemic.

Question 14: What factors do you think work for and against UK regulators' ability to respond sufficiently rapidly?

Ofwat's ability to respond rapidly to emerging issues or changing circumstances can be influenced by:

- Proactive monitoring and research: Regular monitoring of industry trends, technological advancements, and potential risks enables regulators to anticipate issues and respond proactively. Customer research, complaints trends and performance data produced by CCW shows evidence of changing consumer opinions and issues.
- Stakeholder collaboration: Effective collaboration with industry stakeholders, including businesses, consumer groups, and other relevant parties, can provide regulators with valuable insights and facilitate a collective response.

- Flexible Regulatory Frameworks: Regulatory frameworks that allow for flexibility and adaptation to changing circumstances enable regulators to adjust policies and rules as needed.
- Resource Allocation: Sufficient resources, both in terms of staffing and budget, contribute to the regulators' ability to respond rapidly. A well-funded and adequately staffed regulatory body is better equipped to handle emerging issues.

There are some factors that work against regulators ability to respond rapidly:

- Excessive bureaucratic processes, complex approval procedures, and red tape can slow down regulatory decision-making. An example of this is the five yearly price review process which can be overly complex and hard to engage with for some stakeholders.
- Unwillingness to admit failures. Don't defend or protect the current system if it's clear that it's now not working.
- Overly prescriptive regulations: Regulations that are too detailed or prescriptive may limit the flexibility of regulators, making it difficult to respond quickly to unforeseen circumstances. For example, in water, highly detailed approaches to setting allowed costs for investment could inadvertently stifle innovation and flexibility.
- Political interference: Political considerations and interference in regulatory matters can introduce delays and hinder the ability of regulators to act independently and swiftly. An example of this is where Governments have called on the water industry to fund infrastructure improvements that may not necessarily reflect the priorities for service improvements wanted by the public.
- Inadequate information sharing: If there is a lack of effective information-sharing between regulators and relevant stakeholders, regulators may miss critical insights that could inform rapid responses.

Question 15: Do you consider the processes that UK regulators have in place allow them to make decisions in an appropriate time frame?

Mostly, but not always Ofwat does make some regulatory decisions in a timely basis (e.g. price determinations). However, there are examples where decision making is slow, such as on code change requests for the non-household retail market. Also formal investigations into possible regulatory non-compliance can be very lengthy.

We have identified several factors present in water regulation that can hinder or delay decisions:

- If regulatory matters involve complex technical, legal, or financial issues, the decision-making process may naturally take more time.
- Excessive bureaucracy, including cumbersome approval processes, can slow down decision-making within regulatory bodies. For example, the process for making changes regulatory codes to protect customers in the non-household retail market.

- Regulatory decisions may be delayed if they face legal challenges, appeals, or disputes.
- Lack of effective prioritisation to reallocate resources to address the problem in hand.
- Political considerations and interference in regulatory matters can introduce delays in decision-making.
- Insufficient transparency in the decision-making process may lead to mistrust and delays as stakeholders seek more information or clarification.

Question 16: In the sector(s) that you operate in, do you think there are specific improvements that UK regulators and / or the Government could make to facilitate a more agile implementation of rules and regulations?

Areas of improvement regulators and/or Government should consider are:

- Having established timelines for regulatory processes can encourage timely decision-making and provide clarity to stakeholders. There needs to be clear points where consumer representatives can make representations during that decision-making.
- Streamlined and efficient regulatory processes, including price reviews, can contribute to faster decision-making. This would be particularly appropriate for the way changes to the codes governing the non-household retail market are considered and reviewed, which is currently very cumbersome.
- Regular communication and collaboration with industry stakeholders can enhance understanding and contribute to more informed and quicker decisions.

Question 17: Do you think UK regulators have the appropriate mix of skills to deliver their objectives? And Question 18: Do you think UK regulators are appropriately resourced to discharge their duties?

In response to both questions, the cyclical nature of price reviews means that workload demands are not consistent. When conducting price reviews, Ofwat hires consultants (a “Delivery Partner”) at a significant cost to assist with the analysis of business plans. The Delivery Partner costs at PR24 are [over £8 million](#), which is greater than the entire annual budget of CCW.

CCW would be interested to see a cost benefit analysis of this practice in comparison with using that same money to hire in-house staff for the duration of the five-year period. The use of consultants, alongside staff turnover, poses a risk to corporate memory. Given the long-term nature of the water sector, coupled with the risk that customers could pay twice for services promised but not delivered, corporate memory is of vital importance.

Question 19: Do you think existing processes enable UK regulators to test new regulatory reform proposals?

Ofwat’s ability to test new regulatory reform proposals can depend on the institutional culture within the regulator to be flexible and open to change and reform.

There are some potential barriers that place Ofwat at risk of effectively testing regulatory reform proposals:

- If regulatory processes are rigid and resistant to change, there may not be the flexibility required to effectively adapt to economic, technological or societal changes.
- Inadequate data and information may hinder regulators from conducting meaningful tests or impact assessments of new regulatory proposals.
- Resistance to change from stakeholders or within the regulator itself can slow down the testing and implementation of new regulatory reforms.
- If regulators are primarily focused on short-term goals, they may be less inclined to invest time and resources in testing and refining longer-term regulatory reforms.

Stakeholder engagement, industry consultations, and public feedback mechanisms should be used ahead of regulatory reform to gain insights into how regulators involve various parties in the testing of new regulatory initiatives, and the effects of reform on stakeholders and the public generally.

An example of this can be seen presently in how Ofwat are working with CCW and some companies to introduce introducing new innovative water tariff trials across the sector.

Question 20: Do you consider UK regulators to be proportionate in the measures they take, e.g. in applying regulations or responding to emerging issues?

Generally Ofwat's regulatory actions, price decisions and enforcement are proportionate and meaningful to the scale and type of loss experienced by citizens, businesses or the environment, though as highlighted in our response to Q15, some of its decision making processes are lengthy, particularly concerning regulatory non-compliance, code changes or enforcement.

We support the use of restorative justice where enforcement actions provide remedial actions or recompense to those who have been affected by a regulated body's failure(s), to act as an effective deterrent to others.

Any review of the range of regulatory measures should take into account:

- The range of tools and regulatory decisions being used, rather than all interventions having the same result (although in some cases this may be appropriate).
- Meaningful engagement with stakeholders, including consumers, to understand their perspectives on what a proportionate response would be to different issues.

Question 21: In making decisions that involve risk, which of the below do you consider most accurate?

1. UK regulators are too risk averse in their decision making
2. UK regulators achieve the right balance of risk in their decision making

3. UK regulators allow for too much risk in their decision making

In our experience regulating the water sector falls between points 1 and 2, depending on the issue.

The Environment Agency (EA) can be risk averse if it seems to be unwilling to accept a level of risk in allowing more innovative solutions to deliver environmental improvements through nature based solutions, though this is driven by timings and standards set in legislation. We see some regions of the EA being more willing to talk to water companies about new innovative solutions and accepting a risk of failure, but don't see evidence of that happening in other regions.

Question 22: Do you consider that individual UK regulators have the appropriate level of discretion when taking decisions that involve risk?

The appropriateness of regulators' discretion in decision-making involving risk can be subjective and may depend on the nature of the risks involved. Factors such as transparency, accountability, and the ability to adapt to changing circumstances are crucial in evaluating the effectiveness of regulatory discretion.

Public debate, stakeholder engagement, and periodic assessments of regulatory effectiveness contribute to ongoing discussions about the appropriate level of discretion regulators should have.

Question 23: If you are a business or consumer, how does the approach that UK regulators take to risk impact your own decision-making?

Consumers' decision making and perspective of the water sector can be impacted by regulation through:

- Transparency. Consumers' perspective of the level of service they receive from water companies and wider environmental issues such as the quality of rivers and bathing waters can be impacted by how well regulators tackle these issues and how transparent they are in reporting them.
- Customers in the water non-household retail market have a choice of retailer, and their decisions on what they want from this choice can be influenced by how well the market is regulated. For example, how retailers are regulated in terms of the level of customer credit they hold (particularly due to overcharging) which we are addressing through requests to change the codes regulated the market.

Question 24: UK regulators often need to balance delivery across a range of different legislative duties or regulatory requirements, some of which may involve trade-offs. Do you consider that they balance these trade-offs effectively and transparently?

Our response to Q5 sets out our concern that the balance between the responsibilities of regulators and of government is not always clear, leading to trade-offs that may not deliver public expectations.

Question 25: If you are a UK regulator, are there specific areas where you consider it would be beneficial to seek further steer or guidance from the Government?

This question is not applicable to CCW.

Question 26: In general, do you consider the approach that UK regulators take to requests for information to be proportionate to any burden they may impose on you?

Yes.

Question 27: Do you ever receive duplicative requests for information from the same or multiple UK regulators? (i.e., requests asking for essentially the same information)?

No.

Question 28: Do you consider that UK regulators have in place the right governance structures to deliver the best outcomes? If not, how can they be improved?

Broadly yes, as Ofwat is independent, is generally transparent in its reporting on decision-making and performance, and engages with its stakeholders.

We would like to see more clarity in its decision-making processes to show more details on how and why certain decisions are made in price determinations and enforcement (e.g. how consumer evidence has been taken into account in decisions and how Ofwat weights different factors in its decision making process).

This added clarity would allow stakeholders such as CCW a better understanding of the justification for Ofwat's decisions.

Question 29: Do you consider that UK regulators use digital systems in their interactions with you in an efficient fashion? (E.g. data transfer or other digitised methods)?

Yes.

Question 30: Do UK regulators sufficiently communicate the processes they follow to make decisions?

1. Yes
2. No
3. N/A

Broadly yes, but there are some exceptions, for example the need for earlier clarity in price determinations decisions, as set out in our responses to Q28.

Question 31: Are you provided sufficient opportunity to input into decision making by UK regulators processes (e.g., via consultations, workshops etc.)? If not, how would you suggest improving the process?

CCW is provided with opportunities via direct meetings, consultations, workshops and other interactions. However, it is not always clear how our input has been used to shape decisions, or if our evidence or recommendations is dismissed why this has occurred.

In recent years, Ofwat has more looked to work in partnership with CCW to inform or help with its decision making for example on licence condition reviews and guidance to companies in how to test their business plans for customer affordability and acceptability.

Question 32: Do you consider the processes that UK regulators follow deliver reasonable outcomes?

Generally, but not always. For example, price determinations by Ofwat are intended to deliver customer priorities, statutory requirements and investment to enable the delivery of reliable services.

In some cases, it is debatable whether sufficient investment or price protection was achieved given evidence of some companies' failures in recent years, or where in the past companies have easily outperformed regulatory financial assumptions.

Question 33: Do you think UK regulators treat those that they regulate consistently?

There is consistency but within the context of regulation being proportionate to the size of a company and how well it has performed in delivering services to consumers efficiently.

A consistently good performing company may lead to less regulatory scrutiny than for a poorly performing company.

Question 34: As a business, do you think the process to challenge a UK regulator you interact with is sufficiently clear, robust and fair?

CCW has opportunities to challenge Ofwat on its approach to regulation through formal and informal interactions, but it's less clear on how our input is considered and used in its decision making.

Question 35: What steps, if any, do you think could be taken to further improve the effectiveness and clarity of the reviews and appeals processes?

Consumer bodies such as CCW serve as advocates for the interests of consumers, so allowing consumer bodies to raise appeals would ensure that consumer perspectives are considered in the regulatory and competition enforcement processes.

Permitting consumer bodies to appeal certain decisions to the competition authority would also add an additional layer of accountability to regulatory decisions. It allows for independent review and ensures that decisions are consistent with the broader public interest.

The cost of appealing a decision at the CMA would mean that the issues raised by a consumer body would be material. It would be not cost effective for a consumer body to risk the costs of an appeal for minor issues. It is very unlikely that granting appeals by consumer bodies would result in a multitude of appeals.

Question 36: In your experience, have UK regulators that you interact with delivered on their stated objectives in that interaction?

Ofwat interacts with CCW on a range of issue on a daily basis. Generally it does deliver its stated objectives in these interactions, but as we explain in our response to Q28, greater clarity in the resulting decisions would be welcome.

Question 37: Do you think UK regulator performance reporting is proportionate, objective and transparent?

Ofwat reports in its performance each year in an annual report and accounts, which includes a description of the work they carry out during the year to fulfil its statutory responsibilities.

We would like Ofwat to present its key information, decisions, and performance in a way that is as accessible as possible. Given that [trust in the water sector](#) is at a 12-year low, regulators must not only be transparent - they must also work hard to demonstrate how they are open to public scrutiny.

As part of the 2024 Price Review process, Ofwat will be holding its first 'Your Water Your Say' sessions in summer 2024, where the public can field questions to Ofwat in an open meeting. This will be the first time the water regulator has directly engaged with the public in this way. CCW will be facilitating these sessions, and we welcome this opportunity for people to hear from and directly challenge Ofwat.

Question 38: Do you think UK regulators report on the right set of criteria and metrics to monitor their performance and ensure accountability?

There could be greater transparency from Ofwat with criteria and metrics that gives the public greater insight into how well regulation is serving customers' interests.

Given customer trust in the water sector is [at a 12-year low](#), regulators could be assessed by measuring customer trust as a proxy measure of the overall performance and culture of the regulator. CCW assesses customer trust in water companies annually in our tracker Water Matters, this could be expanded to test trust of other key organisations in the water sector.

It is important that change happens at pace, especially where known problems exist. We would like to see more performance metrics on the time taken for changes to be implemented. For example, Ofwat should introduce a performance metric on how long it takes to implement a code change in the business retail market. CCW has concerns - outlined in our five-year review of the retail water market - about how long Ofwat takes to implement a Customer Protection Code of Practice change once an application has been submitted. Currently there is no time limit set on how long Ofwat takes to assess and decide on proposed changes. We believe this should happen within six months to allow service to business customers to improve.

Question 39: If you could suggest a single reform to improve how UK regulators operate, what would it be?

CCW wants governments to give stronger direction to Ofwat to ensure companies base their five-year business plans more firmly on customer views.

Scrutinising the current business plans, we find that some companies have really considered customers' views throughout the process. Others appear to have used customers' views only to justify the plans they already had. CCW has reported to Ofwat on the quality of water companies' customer engagement and will let companies know our view. Looking towards future price reviews CCW will be reflecting on lessons from PR24 to understand how direction can be further strengthened.

Question 40: Are there any examples of international approaches to regulation that you think set best practice that UK regulators could learn from?

No response to this question.

Question 41: What is the best designed regulation you face, and why?

CCW only works with regulators in the water sector so cannot answer this question.

Question 42: Are there any further points you would raise about regulation, including the functioning of the regulatory system or any recommendations you have on the stock of regulations from the Government which should be removed or reformed and modernised?

Nothing to add to our recommendation in the response to Q39.

Question 43: In what capacity do you interact with UK regulators or regulated businesses? (Please select the most appropriate option that represents you, and respond according to your primary responsibilities)

- Regulated entity (i.e. business)
- Consumer
- Regulator
- Academic or think tank
- Other

Statutory consumer representative body.

Question 44: If you are a business, how many employees do you have?

- Not Applicable – not a business
- 1 – 9 employees
- 10 – 49 employees
- 50 – 99 employees
- 100 – 499 employees
- 500+ employees

50 to 100.

Question 45: Please name the Sector(s) that you operate in - you may wish to reference [Standard Industrial Classifications](#)

Water supply and sewerage

Question 46: If you are a regulated business, how much as a percentage of turnover does demonstrating compliance with regulation cost your business?

- **Not Applicable**
- **Less than 1% of turnover**
- **1 to 5% of turnover**
- **More than 5% and up to 10% of turnover**
- **Over 10% of turnover**

This question is not appropriate to CCW.

Question 47: What is your name, or the name of your organisation?

Consumer Council for Water

Question 48: What is your e-mail address (optional response)?

steven.hobbs@ccwater.org.uk

Question 49: We usually publish a summary of all responses, but sometimes we are asked to publish the individual responses too. Would you be happy for your response to be published in full?

Yes.

Enquiries

Enquiries about this consultation should be addressed to:

Steve Hobbs

Senior Policy Manager

CCW

Email: steven.hobbs@ccwater.org.uk

Telephone: 07768 175 006

October 2021