

## CCW response to House of Lords' call for evidence for inquiry into UK regulators 30 November 2023

The Consumer Council for Water (CCW) is the independent voice for water consumers in England and Wales. Formed in 2005, we help customers resolve complaints against their Water Company or retailer, while providing free advice and support.

Last year CCW handled over 40,000 telephone calls from people needing support, advice and complaint escalation. Specifically, CCW handled over 13,000 customer complaints and enquiries in 2022-23. These are complaints that have reached an impasse with their water company, so customers turn to CCW for further escalation and support.

Last year, CCW also secured nearly a million pounds in compensation and financial redress for customers.

In addition to helping customers with their individual complaints, CCW exploits its statutory remit to ensure that issues that affect consumers are nipped in the bud and don't keep happening.

As an evidence-led organisation, CCW is proud of its research, which provides the detailed and robust evidence base that guides its work.

To fulfil its mission to ensure people are well-informed, treated fairly and have confidence in their water services, CCW acts as a powerful advocate for all water consumers, ensuring that their views and priorities are shaping key regulatory and policy-making decisions.

### 1. Are UK regulators being given a clear job to do?

Their fundamental jobs of the regulators in water are clear, however the devil is in the detail. The biggest two issues are interpreting 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 out what it wants Ofwat to do 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](#), for example.

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.

## **2. Is the right balance being struck between the responsibilities of regulators and those of the Government, particularly where there are political or distributional trade-offs that need to be resolved?**

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.

For example, the 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 Price Review 2024 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 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.

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.

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.

It is crucial that government makes clear who is responsible for social policy eg 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.

**3. Are regulators appropriately independent of government? Is the right balance being struck between strategic and political input from government and preserving the operational independence of the regulators?**

CCW believes that Ofwat is appropriately independent of government, although we recognise that there is strategic and political input from the UK and Welsh governments.

Ofwat has to make trade-offs – between investors; water companies; environmental and drinking water quality regulations; and customer protection. CCW is the only organisation dedicated to representing consumer views. So our role in the water sector is absolutely critical to champion the interests of consumers.

In our answer to question 5, we outline how CCW is helping to tackle problems in the water sector such as affordability and the retail water market in England.

**4. Does the Government provide too much or too little guidance to regulators in making decisions, particularly in deciding between different objectives and priorities?**

As the representative of the water consumer, CCW knows that customers have meaningful views on the outcomes they expect at price reviews and what the business plan packages should deliver overall.

**Taking customers into account**

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.

**5. Are the roles and remits of different regulators sufficiently discrete, or is there overlap and duplication?**

CCW believes that the separation of the regulators within the water sector is appropriate given their different roles.

The Drinking Water Inspectorate needs to be clearly separate – which it is - so there are no compromises over tap water quality. The Environment Agency (EA)/Natural Resources Wales (NRW) and Ofwat have different purposes and each agency has clear responsibilities. The EA/NRW need to be strong enough to ensure companies comply with their environmental obligations. There is, by design, a healthy tension between environmental

improvements set in the national environment programmes (EA/NRW's remits) and ensuring efficient costs are allowed in price reviews (Ofwat's remit).

The water sector also benefits hugely from having CCW - an organisation wholly dedicated to representing the consumer. Our [five-year review](#) of the retail water market could only have been delivered by a strong, independent, customer-facing organisation. Our recommendations make compelling points about what needs to change in the retail market in order for business customers to get the service they deserve.

CCW's independence from regulators meant we were able to deliver 2021's influential independent report on what needs to change in the water sector in order to end water poverty - our [Water Affordability Review](#). The Committee will already know that CCW has been calling for UK and Welsh governments to pass legislation to facilitate a new single social tariff across England and Wales. This would give everyone access to help based on the same eligibility criteria and provide them with consistent support. Creating one central funding pot across England and Wales would use a customer cross-subsidy to allow the eradication of water poverty at the 5% level.

## **6. How effectively do regulators co-operate with one another, and how could this be improved?**

Regulators co-operate via the UK Regulators Network, which has considered issues such as vulnerability and the cost of living. However, CCW feels 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.

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 [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. Next year, we will further expand the approach with assessments of how companies handled incidents from a consumer perspective eg

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](#)<sup>1</sup> 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.

**7. Do the UK's regulators have the necessary skills, capabilities and expertise internally to perform the roles they have been given? If they do not, how could this be improved?**

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.

**8. Who should hold the regulators accountable for their performance against their objectives? What is the appropriate role of Parliament in performing this scrutiny role?**

No response to this question.

**9. How should the Government and the regulators themselves facilitate appropriate scrutiny and accountability of regulators? Are regulators sufficiently transparent about their own performance?**

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' session 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

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<sup>1</sup> [Business Customer Complaints 2022-23 - CCW](#)

this way. CCW had been championing such a session, so we welcome this opportunity for people to hear from and directly challenge Ofwat.

**10. What mechanisms and metrics could be used to hold regulators accountable on a regular and ongoing basis and to judge whether a regulator is performing well?**

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.

**11. Do any of the UK's international comparators address the above questions particularly well? What lessons, if any, can the UK learn from other jurisdictions on these matters?**

No response to this question.

**Enquiries**

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