

**WORSHIPFUL COMPANY OF WATER CONSERVATORS**  
**RESPONSE TO THE OFWAT CONSULTATION ON ITS WORK**  
**PROGRAMME FOR 2024-25**

**20th FEBURARY 2024**

**PROLOGUE**

1 The Worshipful Company of Water Conservators ('WCWC') is a City of London Livery Company focussed on the long-term health of our water resources and the broader environment. Our members include senior professionals from water, environmental and related industries and regulators, along with others who share our concern for water and the environment. Our experience and knowledge ranges from the complexities of environmental sciences, through the application of engineering to deliver the goals identified by those sciences, and the subsequent management of the assets created. The WCWC's purpose is *promoting a diverse and sustainable environment*.

2 The WCWC is responding to the consultation by the Ofwat because of its professional roles in water and climate change policy, mitigation and adaptation. It is a member of the City of London Livery Climate Action Group. Its principal interest is in contributing on the effectiveness of regulators in impacting on the water and environment sector. The WCWC is pleased to have had the opportunity to respond to the consultation and looks forward to being able to make further inputs as requested in the future.

**SUMMARY**

3 Ofwat is consulting on its work plan for 2024-25  
<https://www.ofwat.gov.uk/our-work-plan-for-2024-2025/>

4 The WCWC makes a number of comments on the proposed programme. The response by the WCWC to the recent set of consultations by the Department of Business and Trade (DBT), which can be found on the WCWC website, provides a 'prism' through which to focus its comments. The WCWC suggests that not enough attention is given to the initiatives by DBT.  
<https://www.waterconservators.org/consultation-responses-2/>

5 The WCWC suggests that more needs to be done about how data being created by ever expanding monitoring programmes needs to be collated, structured and published in wiser ways. It suggests that exploring a partnership with the Office of National Statistics (ONS) could be a specific additional task in 2024-25. This could be part of a wider, more intensive, programme of collaboration across the spectrum of issues on future water strategy.

6 The WCWC reports that the time has come for a radical review of the regulatory settlement, rather than the constant 'nibbling' of its content, including Licence conditions, and economic models and that a start on this must form part of the Programme.

7 The WCWC understands that whilst it is suggesting more activity, it is aware equally of the management mantra that it is not possible to do everything equally well; decisions have to be made on what are the most important issues and concentrate on them; that means spending less time on the less important issues. The WCWC also understands the issues of resources for Ofwat and the Environment Agency; the issues highlighted in this response emphasise the message that meaningful responses to the current criticisms must result in real measurable progress over the coming months.

## **KEY ELEMENTS OF THE PROGRAMME**

8 To aid readers of this response, the proposed milestones which are outlined in an Appendix of the Programme are:

### **Quarter 1**

Publish and lay our annual accounts 2023-24 before the UK Parliament and the Senedd to account for our work and expenditure during the year. This will also explain how we have contributed to delivering the strategic priorities and objectives set for us by the UK and Welsh Governments

Consult on what the innovation fund will look like in 2025-30

Launch the Water Breakthrough Challenge 5

Publish draft price review determinations for the period 2025-30

### **Quarter 2**

Consult on changes to our licensing process for new appointees (NAVs)

Publish our water company performance report

Launch the Water Discovery Challenge

Publish our decision on what the Innovation Fund will look like in 2025-30

Publish our updated climate change principles

### **Quarter 3**

Publish our assessment of companies' vulnerability strategies, and consult on new priority services register standards

Publish annual league tables on companies' service to their customers – the customer service measure of experience (C-MeX) to their residential customers, and developer services

measure of experience (D-MeX) to their developer customers

Publish our Monitoring financial resilience report

Publish final determinations for the period 2025-30

### **Quarter 4**

Publish final forward programme for 2025-26

Publish final Regulatory Accounting Guidelines 2024-25 to ensure that the annual performance report is prepared consistently and in line with our overall regulatory reporting framework

Complete our Regulator's Pioneer Fund project to better share data between Ofwat, the Environment Agency and the Drinking Water Inspectorate

Implementing the reform of the business retail Market Performance Framework

Consider the full business case for the Haweswater Aqueduct Resilience Programme and publish decision

## THE WCWC RESPONSE

9 The WCWC has already offered its suggestions on the what is required for water strategy in its responses to the three recent consultations by the Department of Business and Trade. The WCWC responded in depth to each of these in a co-ordinated fashion and also provided an overview (<https://www.waterconservators.org/consultation-responses-2/>). The whole topic is becoming increasingly complex and the WCWC has advocated several times the need for a ‘step back’ to review of all the initiatives. The WCWC produced a simple briefing note on its responses, which are given here as an Appendix. This may also be found on the WCWC website.

10 The WCWC does not offer an any comment on the detail of the ongoing routine programme per se, but does observe that the in several places the reference should be to 2024-25 milestones and priorities not 2023-24. It does recognise that there are several opportunities to contribute in more detail during the year, such as on the innovation fund for 2025-30. Many of the issues, which the WCWC highlights below, will need to have seen demonstrable progress in the coming year, which is likely to feature ‘dirty water’ issues’ very prominently.

11 The WCWC suggests that there that there needs to be more effort in preparing for the long-term metamorphosis in the contribution of Ofwat to the way water is managed. For example, what will be the implications of a greater shift towards catchment management and what role will Ofwat play in resolving the fragmented initiatives on phosphate in rivers which range from a universal requirement to remove phosphate from sewage effluents, the implications of nutrient neutrality in property development and the ongoing debate about the ‘Farming Rules for Water’ (with the potential demise of the cessation of the use of treated sewage sludge as an agricultural soil conditioner, as biosolids and the consequent possibility of more incineration of sewage sludge)?

<https://deframedia.blog.gov.uk/2022/06/21/inaccurate-coverage-on-the-farming-rules-for-water/>

### Being ‘wise’ in managing water

12 The WCWC observes that the matters addressed in the Work Programme conflate a range of many aspects ranging, for example, from clarity of understanding what compliance with legal requirements will be regarding the collection and collation and reporting of data, investment innovation and the consequences of private investment and water company remuneration packages. That conflation sits in an environment now dominated by politics and the media. In its response to the parallel consultation of monitoring charges by the Environment Agency (EA) the WCWC warns of the dangers of the ‘mediafication’ and ‘weaponisation’ of data

<https://consult.environment-agency.gov.uk/environment-and-business/ea-charge-proposals-for-epr-water-quality/>

The WCWC response will be found on the Company website.

13 Wisdom in modern management is defined as the completion of knowledge management in which data are collated as information, then contextualised as knowledge and applied

beneficially. The WCWC suggests that this approach is sorely needed in the debates about the future of water management.

<https://civilservice.blog.gov.uk/2021/07/27/power-of-collective-wisdom/>

14 The WCWC seeks to provide a space in which ‘water wisdom’ can evolve and it hopes that the Ofwat will also address these issues from this perspective in what is likely to be an intense year of interest in the sector. With so much data being collected now, and with the intention of more to come, such as the implementation of the requirements of S82 of the Environment Act, this is becoming more urgent. And the WCWC suggests that the section of the Work Programme on monitoring does not reflect that urgency.

### **Being ‘wise’ in monitoring**

15 An example of the need to get the presentation of knowledge correct is that of sewage effluent compliance reporting and the WCWC contribution to this is highlighted in its response to the parallel consultation by the Environment Agency on changes to sewage effluent monitoring programmes and the consequent changes to charges changes. The insights of this compliance reporting, along with that arising from flow monitoring, will drive many aspects in the future such as investment priorities and accountability of water company staff.

16 Another example is the knowledge arising from monitoring of combined storm overflows (CSOs) and the need to convert this into ‘wisdom’ rather than just languishing in data vaults. Water Companies have indicated that all CSOs have now been fitted with event duration monitors, yet an analysis of the 2020 operational data suggests that they are operational for less than 90% of the time. Indeed, only one company, Thames Water, has published its data in real time on the web. The Environment Agency and Ofwat need to collaborate to produce a properly audited assessment of what percentage of “completed” monitors are actually working reliably, and how many are still incomplete or not working. The WCWC accepts that whilst the information produced may be uncomfortable, the whole purpose is to be transparent about which CSOs are operating outside their consent and getting this right must contribute to rebuilding public trust. How will Ofwat contribute to this?

17 The future ‘direction of travel’ outlined in the responses to DBT empathise the need for much greater collaboration between all the arms of government including regulators and the WCWC suggests that there is a danger that reporting on some key issues may ‘fall between the cracks.’

18 Amongst many examples, the first cited by the WCWC which follows on from the example of monitoring of CSOs, is that of prevention of sewer blockages which contribute to discharges from CSOs and cause sanitary litter in the environment and flooding of properties. Such blockages occur in part due to irresponsible disposal of used sanitary products in toilets. Defra has already consulted twice on the banning of single use plastic wet wipes and the WCWC has suggested that the solution to the problem is more-wide ranging than just such a ban, and it has not been alone in saying this. So what progress is going to be made on this? Equally the water companies have wider responsibilities, including consumer education, sewer maintenance, and there needs to provide better data on what frequency of sewer flushing is planned and what this has delivered, for example.

19 Carrying on with the issue of sewer overflows, in the detail of the way forward suggested by WCWC to the DBT in its recent submissions, reference is made to the need to address the

issues of rights of connection to sewers and the introduction of Statutory Sustainable Urban Drainage Systems (SUDS). The WCWC looks forward to consultations on these matters by whichever Department is deemed to take the lead. Progress on its implementation, will depend on how future reporting will be managed. This lies outside Ofwat's remit, and the WCWC suggests that exploring the possibility of an independent role for the Office of National Statistics as a working partner could form part of the Ofwat programme

### **Investment debates**

20 No one is in any doubt about the huge investments needed to meet current aspirations and the consequent impact on charges. The WCWC submission to the DBT highlighted the confrontation of the two worlds of operation and funding of water services and the WCWC suggests that more is needed to promote understanding of this. The way forward suggested by the WCWC addressed aspects of this and the need for a radical review of the economic settlement. The WCWC suggests that the Work Programme needs to give this higher priority.

21 The Programme milestones indicate that Ofwat wishes to proceed with licencing arrangements for New Appointees (NAVs). In its response to the consultations by the DBT, the WCWC set out its suggestions on NAVs; whilst it welcomed initiatives for innovation in investment it warned that these should not put operational performance and compliance at risk. The WCWC notes that there will be further consultation on this and looks forward to it. It hopes that the responses to the DBT consultation will be taken into account.

22 In terms of monitoring the WCWC observes that, for example, there is no formal regulatory reporting mechanism on progress and little real cost data for the Thames Tideway Tunnel, which is due for completion by 2025. There is a need to publish meaningful progress reports so that proper post appraisal can be undertaken and this should be a specific task in 2024-25.

23 There have been reports of important projects being declared "complete" when they did not function to the design standards. The highest profile example is perhaps the Beckton desalination plant, but there may well be others. The WCWC suggests a moratorium whereby water companies can report these situations and then repair them at their own cost, but with a guarantee that for schemes properly reported by the end of 2024 there will be no prosecutions, although financial penalties to cover unwarranted costs to customers may remain appropriate.

24 The WCWC believes that in view of the very public criticism levelled at regulators as well as water utilities, it would be prudent for regulators to identify specific topics where they will undertake to produce improvement over the final 12 months of the current 2020-25 AMP period.

### **Collaboration**

25 This submission and that to the DBT highlights the need for much greater collaboration between the policy makers and regulators. The WCWC also observes that many of the issues which are vexing public opinion are not just a function of the relationship between Ofwat and the Water Companies. The WCWC agrees with the Programme statement '**It's time to act together to improve life through water**' suggesting that this needs to be more prominent in the milestones; the Regulator's Pioneer Fund should be just a start.

## **Working with the DBT**

26 The attention of the WCWC is focussed particularly on Appendix 2 Reducing Regulatory Burdens. Within this there is a statement ‘*We will continue to monitor any wider developments or changes to requirements placed on regulators. For example, the government has [set out its intention](#) to extend the Growth Duty under Section 108 of the Deregulation Act 2015 to Ofgem, Ofwat and Ofcom. As any changes in this area come forward, we will carefully consider the implications for our work.*’

27 The WCWC would like to point out that the recent set of three consultations by the Department of Business and Trade is much more comprehensive than this.

## **APPENDIX**

### **HIGH LEVEL BRIEF ON ITS RESPONSES TO THE DEPARTMENT OF BUSINESS AND TRADE ON REGULATION OF THE WATER SECTOR**

#### **PLAN FOR TOMORROW, LEARN FROM THE PAST, ACT IN THE PRESENT**

#### **How the water sector can support a growing economy**

**19<sup>th</sup> JANUARY 2024**

The Worshipful Company of Water Conservators (WCWC) is a City of London Livery Company. It has been invited to comment on a series of consultation documents introduced by the Department for Business and Trade (DBT) on regulation of Utilities including the water sector

This contribution highlights the increasing influence of the DBT on the regulation of the water sector and the responses by the WCWC to consultations during the latter part of 2023. It is a complex topic and there are many aspects which cannot be covered by this contribution; readers are encouraged to read the responses, which are vested in the WCWC website (<https://www.waterconservators.org/consultation-responses-2/>) and these, in turn, contain hyperlinks to the relevant documents including the consultations.

The DBT is seeking to strengthen the role of the water sector in the resurgence of the UK economy and to ensure that its regulation is ‘smart’. The WCWC makes many suggestions in its responses, but at their heart is the suggestion, repeated persistently and consistently, for an integrated approach to regulation of the water sector around a national water strategy. Its suggestions are summarised at the end of this contribution

In 2017 The Economic Growth (Regulatory Functions) Order was made under the Deregulation Act 2015. This set out the regulatory functions and the regulators to which it applied, including the Environment Agency, Natural England and the Marine Management Organisation. And Statutory Guidance on the Duty of Growth was issued at the same time

In the summer of 2023 DBT consulted on extending this Duty of Growth to Ofwat, Ofgem and Ofcom. The WCWC responded by pointing out that that this needed to be mirrored by an extension of the obligations of water companies to provide water supplies to industrial

premises, subject the power of refusal and the right of appeal. It also pointed out that if water is to play a more prominent role in a resurgent economy, then there will be many demands for water outside the bailiwick of water companies and Ofwat.

After the Autumn Statement, there was an announcement in November by DBT that the Growth Duty would be extended to include Ofwat (along with Ofgem and Ofgem, although in this case the interest of the WCWC is focussed on Ofwat) and of two consultations, the first on updating the Statutory Guidance on the Growth Duty, and, second, on the strengthening of economic regulation by Ofwat, Ofgem and Ofcom. At the same time, it called for evidence on the regulatory landscape. The WCWC responded to all three with a focus on water, but in a way which linked the responses together as a set.

Whilst the WCWC supports the overall intentions, it expressed concerns that the increasing complexity of regulation in the water sector could be counterintuitive to the objectives. Whilst it understands the value of having common principles for the economic regulators, it would seem to make more sense to have integrated responsibilities for all the parties involved in water regulation. The WCWC suggests that there needs to be a great deal more collaboration, even of government departments. It also expresses some concerns that, with the huge demands for investments in the water company assets and the search for innovative investment models, operational integrity of the services must not be compromised.

The WCWC is aware of the numerous negative stories about the water sector carried in the media and the enormous amount of capital investment required going forward. The scale of requirements is such that it cannot be achieved over one or two regulatory periods and planning for 25 years or more is required. In all of this it is important to remember that it is cost which is driving the increase in prices. The public may attach higher value to water, and as long as this value is higher than cost it will be acceptable. But value does not drive prices and there will always be limits to what price the customers will be prepared to pay.

The WCWC notes that there was no discussion about affordability in the concepts of smart regulation and tariff innovation should be addressed as a consequence of these consultations. The WCWC suggests that the DBT must play a central role in enabling society to accept this shift in cost and charges and they must prepare the strongest possible business case in partnership with Ofwat plus the companies, the Environment Agency and Natural England to explain the reasons for this to the public and to Government.

In the submissions the WCWC outlined how smart regulation could be applied to the water sector:

- Develop a national water strategy, and do so urgently.
- Create a national consensus on water including how it can be an effective and safe enabler of a resurgent economy.
- Rebuild public trust by being clearer about the objectives and consequences of delivery plans; this would include a review of the resources available to the regulators and to ensure that the economic regulatory processes embed the principles of trust and customer care.

- Apply a simpler, clearer ‘line of sight’ between the source of investment and the practical application of that investment with optimum return to investors and fair charges to customers. This must form part of the economic regulatory process.
- Accept that innovation in investment must not compromise operational integrity.
- Integration of all the growth duties of all the regulators in the water sector, with separate guidance.
- Establish a closer working of all relevant government departments, particularly DBT, Defra and the Department of Levelling Up, Housing, and Communities (DLUPHC) and Defra arms-length bodies.
- Reduce of the fragmentation of policy and practice.
- Redefine the Ofwat price review and determination processes. Instead of the current approach of ‘piece-meal’ changes, the WCWC suggests that this should be ready for 2029, implementing the lessons of almost 35 years of experience and acceptance of the economic and financial consequences of all the current demands for improvements to water services whilst embracing the principles of smart regulation as set out here, but preserve the principles of commercial viability. The WCWC suggests that any strengthening of the regulatory process must include extended powers for Ofwat to investigate and regulate the financial structures of the holding companies, all of their subsidiaries and their licenced subsidiary water companies. And would include an extension of the Purpose of the water companies. This will contribute to the rebuilding of public trust but must be done in ways which do not discourage investment.
- Attend to many specific issues which need resolution within this context.
- Recognise more explicitly that economic growth must be environmentally sustainable and incorporate the principles of Natural Capital.
- Plan for the future, learn from the past, act in the present.