

WORSHIPFUL COMPANY OF WATER CONSERVATORS

RESPONSE TO THE DEPARTMENT OF BUSINESS & TRADE CONSULTATION ON THE GROWTH DUTY DRAFT STATUTORY GUIDANCE

3rd JANUARY 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 Department of Business and Trade (DBT) 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.

This consultation

3 During July-August 2023 the DBT consulted on the extension of the Growth Duty under the Deregulation Act 2015 to include Ofgem, Ofwat and Ofcom. The WCWC response is archived on its website.

https://www.waterconservators.org/wp-content/uploads/Ofwat-and-growth-09-08-2023.fin_.pdf

4 DBT Better Regulation Unit has now responded

<https://www.gov.uk/government/consultations/smarter-regulation-extending-the-growth-duty-to-ofgem-ofwat-and-ofcom>

and will be proceeding with this extension, presumably by further additions to the consequent The Economic Growth (Regulatory Functions) Order 2017 under the Deregulation Act 2015.

<https://www.legislation.gov.uk/ukxi/2017/267/article/2/made>

5 At the same time DBT Smarter Regulation Unit opened this consultation on the wider issues of guidance on the growth duty to which the WCWC is now responding.

<https://assets.publishing.service.gov.uk/media/655e18c45395a900124635f1/consultation-on-the-growth-duty-draft-statutory-guidance.pdf>

Current statutory guidance was issued in 2017

<https://www.gov.uk/government/publications/growth-duty>

6 This consultation is part of a wider set of reforms seeking to improve economic regulation. It is complementary to the parallel consultations:

By the Economic Regulation Unit, which has published a call for evidence on the economic regulation of the utilities sector

<https://assets.publishing.service.gov.uk/media/655dee93d03a8d000d07fe75/strengthening-the-economic-regulation-of-the-energy-water-and-telecoms-sectors.pdf>

and

By the Smarter Regulation Unit, the ‘Smarter Regulation Call for Evidence on the regulatory landscape’, where any responses relating to Ofgem, Ofwat and Ofcom will be considered alongside responses to this consultation.

<https://www.gov.uk/government/calls-for-evidence/smarter-regulation-and-the-regulatory-landscape> .

The Brexit Opportunities Unit is also involved.

7 The updated statutory guidance on the Growth Duty as a result of this consultation

“will outline seven key drivers of Smarter Regulation

- *Innovation*
- *Infrastructure and investment*
- *Competition*
- *Skills*
- *Efficiency and productivity*
- *Trade*
- *Environmental Sustainability*

And seven key behaviours of Smarter Regulation:

- *Pro-Innovation;*
- *Skilled and Capable;*
- *Business Aware;*
- *Proportionate, Efficient and Responsive;*
- *Collaborative;*
- *Internationally Aware, and;*
- *Consistent, Transparent and Accountable.*

The behaviours of Smarter Regulation are not intended to be exhaustive, and regulators may identify other valid factors for consideration in meeting the duty”.

8 The two consultations and the call for evidence have been issued separately and on examination are detailed facets of the same narrative and perhaps could have been better coordinated. **The WCWC has decided to respond to the three consultations as a set but in a way which enables each response to stand alone.** The responses are informed by the experiences of members of WCWC who have worked in and with regulators, principally Ofwat, the Environment Agency (EA) and Natural England (NE) and Natural Resources Wales (NRW) in the context of the thrust of the consultations. In the context of the regulatory landscape,

experience of working with the Drinking Water Inspectorate is also included. The insights provided to the broader landscape may be of some assistance in evaluating regulators in other sectors.

SUMMARY

9 This response is focussed on the water sector. The generation of these co-ordinated responses has presented a challenge in setting out headline points in context. So key suggestions and observations are highlighted in red to stand out but can be read in the context of an explanatory text, and without too much repetition in this Summary.

10 The Duty of Growth for water extends beyond the economic regulators, and, for example, the contributions of the EA and NE to water management are very different to that of Ofwat. Water is unique in having environmental regulators and an economic regulator sharing the front line in a high-profile sector. The roles of the EA and NE will have as much impact as that of Ofwat in post Brexit onshoring, as the WCWC has pointed out.

11 The WCWC suggests that the uniqueness of such a high profile requires further integrated guidance on the duty of growth in the water sector articulating the harmonised responsibilities of the regulators. What is envisaged for Ofwat in this consultation should be part of that. This is needed urgently and should be joint guidance from DBT and Defra. It is justified by the magnitude of the investments needed.

12 The WCWC repeats that the missing pieces of this mosaic of consultations are references to the impacts of planning and development control by local authorities and the Department of Levelling Up, Housing and Communities (DLUHC) must be involved as well to issue variations to the Planning Framework. In spite of good intentions by water companies and by Ofwat, planning restrictions can hinder major projects as the controversies on major water supply and storage schemes demonstrate. Equally if planning permission is given for industrial and retail development this inevitably brings obligations for water companies to provide associated domestic water services which may cause some challenges over which they have restricted control. If the DBT agrees with the suggestion of an overview of the relationship of growth and the environment, the WCWC suggests that the DLUHC should also be involved in order to issue revisions to the planning framework.

13 The WCWC understands that there are drivers and behaviours in the Growth Duty common to the three utility sectors and that it is convenient for DBT, and makes common sense, to articulate these together in statutory guidance. In that sense the WCWC supports the revision of the guidance. These revisions will be applicable however the guidance on the growth duty is packaged. WCWC comments on some of these.

14 Growth must not be seen as an end in its own right, it must be part of a strategy meeting objectives defined in wider goals, such as sustainable water services and environment. In the case of water management, it must form part of a national water strategy advocated by the WCWC. Growth should be a goal which includes happiness, wellbeing, fulfilment, etc. rather than just financial measurements. The WCWC suggests that there has not been sufficient consensus on what the overall role of water is in this balance and this highlights the suggestion that it would be useful if water management was separated out from the debates about all regulators or all utilities.

15 The WCWC suggests that the best way of embracing an integrated approach to the Duty of Growth is to place it in the context of a national water strategy and to make it smarter by an urgent review of the price setting processes to reflect over thirty years of experience. The WCWC suggests that smart regulation of water must therefore include:

- 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.
- Integration of all the Growth Duties of all the regulators in the water sector, with separate guidance.
- Closer working of all relevant government departments and Defra arms-length bodies.
- A reduction of fragmentation of policy and practice.
- Creation of a national consensus on water.
- A ‘once in a life time’ review of the price review and determination processes probably 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. This would embrace the principles of smart regulation.
- Attention to many specific issues which need resolution ; the submission on the strengthening of economic regulation identified one such issue which can be resolved within the concept of the Growth Duty and that is the very high profile of the regulation of connections of foul and surface waters to sewers ; it supports the proposed implementation of the Schedule 3 of the Flood and Water Act 2010 and suggests a review of S 106 of the Water Industry Act 1991.It looks forward to contributing to further consultations on these matters.
- Economic growth being environmentally sustainable.
- In the simplest of descriptions ... the guidance for an integrated Growth Duty for all water regulators (emerging from one consultation) contributes in part to the strengthening of the role of Ofwat (the other consultation) which is part of a smarter regulatory landscape for all water regulators (emerging from the call for evidence) as expressed through a national water strategy.

LANDSCAPE OF THE CONSULTATIONS

16 The WCWC comments that there is a substantial series of relevant recent and ongoing consultations. At the same time the House of Lords Industry and Regulators Committee called for evidence in its inquiry into independence and accountability of UK regulators. <https://committees.parliament.uk/call-for-evidence/3260> to which the WCWC has responded. https://www.waterconservators.org/wp-content/uploads/HoL-Regulation-Dec-9-2023_2.pdf

17 This is not the first time that evidence has been collected on the water regulatory landscape. As explained earlier, the DBT has already consulted on the extension of the growth duty, under the Deregulation Act 2015, to Ofwat on which the WCWC responded in

August 2023. https://www.waterconservators.org/wp-content/uploads/Ofwat-and-growth-09-08-2023.fin_.pdf

18 In June 2022 the House of Lords Industry and Regulators Committee held an inquiry into Ofwat powers <https://www.waterconservators.org/wp-content/uploads/H-of-Lords.pdf>

In March 2023 it published a report entitled 'The affluent and the effluent: cleaning up failures in water and sewage regulation'
<https://publications.parliament.uk/pa/ld5803/ldselect/ldindreg/166/16602.htm>

There was a follow up inquiry into Ofwat in the summer of 2023 with a final report in September 2023. The committee's main conclusions and recommendations were:

- *“The government and Ofwat must set “stretching targets” to reduce storm overflows across the water network.*
- *Ofwat and the Environment Agency “must go further” to hold water companies to account for environmental pollution through penalties and prosecution.*
- *Ofwat has “failed to ensure companies invest sufficiently” in water infrastructure, instead “choosing to keep bills low” at the expense of investment.*
- *Water companies have been “overly focused on maximising financial returns” at the expense of operational performance and protecting the environment.*
- *Ofwat should ensure that water company executives cannot receive substantial bonuses if their companies have missed performance and pollution targets.”*

(<https://lordslibrary.parliament.uk/cleaning-up-failures-in-water-and-sewage-regulation-industry-and-regulators-committee-report>)

19 There have been numerous consultations by Ofwat on the evolution of its role and powers to regulate the water industry, for example in putting customers first during November 2023 to which the WCWC has responded. <https://www.waterconservators.org/wp-content/uploads/Ofwat-customer-first-a.pdf>

20 These consultations pose some complex questions which require detailed responses. The WCWC has contributed in several ways on the role of Ofwat and on regulation. **It suggests that consideration needs to be given to the weight of consultation processes in order to avoid consultation fatigue. At the moment the processes seem fragmented.** The issues of economic regulation in the water, energy and telecoms sectors will be different but share some common principles. The role of Ofwat, which has featured more than that of the other ALBs in Defra is that the issue of growth in the water sector is much more intimately involved with the role of the EA and NE than with the other utility regulators.

21 The fragmentation of consultation reflects the fragmentation of policy making and practice in water management regulation. **The WCWC has advocated the introduction of an integrated national water strategy** which would overarch all the contributions of the regulators including those for the environment, which paradoxically have a growth duty at present, which Ofwat does not, for example (but planned to be added). Indeed, not only should such an approach

bring together all the arms-length bodies (ALBs) in the water sector, but in extending to embrace growth it should bring together relevant government departments such as DBT and Defra (which is not mentioned much in this consultation and is the principal sponsoring department). **The WCWC suggests that role of water in growth should be considered as an integrated entity for guidance, and that this should be separated out from guidance on the regulation of energy and telecoms. Then this should form part of the national water strategy.**

22 The WCWC repeats that the missing pieces of this mosaic of consultations are references to the impacts of planning and development control by local authorities and the need for intervention of the DLUHC. In spite of good intentions by water companies and by Ofwat planning restrictions can hinder major projects as the controversies on major water supply and storage schemes demonstrate. If the DBT agrees with the suggestion of an overview of the relationship of growth and the environment, **the WCWC suggests that the DLUHC should also be involved in order to provide revisions to the planning framework.**

KEY POINTS FOR THE SMARTER REGULATION TEAM IN THE DEPARTMENT

Current designations and guidance for the Growth Duty with respect to water

23 The list of prescribed regulators and the statutory guidance for them were issued in 2017. As described earlier it is proposed to add Ofwat to that list and to update the guidance on the growth duty *“The principal change proposed by this consultation follows recommendations from the McLean Pro-innovation Regulation of Technologies Review to refine the definition of ‘growth’ to clarify sustainable growth and aligns the statutory guidance with the regulatory principles in the Financial Services and Markets Act 2023 which calls for ‘the desirability of sustainable growth in the economy of the United Kingdom in the medium or long term.’ The Government believes this change will provide clarity to regulators and businesses as to the type of growth sought under the growth duty and will reassure concerns that the growth duty would legitimise unsustainable growth at the expense of longer term sustainable economic growth”*.

24 The WCWC has already outlined some suggestions in respect of water conservation and the Growth Duty in its response to the earlier consultation on the addition of Ofwat to the prescribed schedule. It notes that the principal environmental regulators ie the EA, NE and the Marine Management Organisation already prescribed, have non statutory reporting duties e.g., in the Environment Agency Annual Report.

<https://www.gov.uk/government/publications/regulating-for-people-the-environment-and-growth>

Suggestion for separate integrated guidance on the growth duty in the water sector

25 The WCWC understands that there are drivers and behaviours in the Growth Duty common to the three utility sectors, and that it is convenient for DBT, and makes common sense, to articulate these together in Statutory Guidance. The WCWC supports the revision of the Guidance. It comments on some of these.

26 The Duty of Growth for water extends beyond the economic regulators, and, for example, the contributions of the EA and NE to water management are very different to that of Ofwat. Water is unique in having environmental regulators and an economic regulator sharing the front line in a high-profile sector. At present, the Growth Duty for water involves the roles of

the EA and NE (with Ofwat due to be added), yet the consultation on strengthening the economic regulation of utilities specifically excludes them; and because the EA and NE are covered by the current Growth Duty, they are covered not by this consultation, rather by the call for evidence on the regulatory landscape. The roles of the EA and NE will have as much impact as that of Ofwat in post Brexit onshoring, as the WCWC has pointed out, and consideration should be given also to the role of the Office of Environment Protection.

27 The WCWC supports any initiative to make regulation smarter. The WCWC supports the revision of the guidance but suggests that the uniqueness of the high profile and future demands on water management require further separate guidance on the duty growth in the water sector articulating the harmonised responsibilities of the regulators. This is needed urgently and should be joint guidance from DBT and Defra and will need further consultation.

28 In preparing the set of three submissions to the DBT the WCWC has been reminded of the role of several other regulators in the water sector. These include the water companies themselves as regulators of water fittings and trade effluents, local authorities as regulators of private water supplies (all under the Water Industry Act 1991), the Drinking Water Inspectorate, SUDS approving bodies (in future) and local flood risk management authorities. (<https://www.gov.uk/government/collections/flood-and-coastal-erosion-risk-management-authorities>)

The DBT will need to make a decision on how many, and which, regulators should be involved in the joint guidance on the water sector relationship of growth and the water environment. Any collaboration should take place as soon as possible, even though the statutory effects for Ofwat may not come in until the PR29 process starts, but this would be a matter for legal experts to sort out. Innovation - both legal and technical - should not be ignored in this process.

Context

29 Growth must not be seen as an end in its own right, it must be part of a strategy meeting defined wider defined goals such as sustainable water services and environment. In the case of water management, it must form part of a national water strategy advocated by the WCWC.

The cost of water services

30 After some thirty years of execution of the current role of Ofwat and the concomitant water company licence conditions, the WCWC has suggested that there should be a major review to re-streamline the price review and determination processes for water services, rather than the constant nibbling which happens at present. This streamlining must include any revision of the growth duty. It poses the question: are the current processes the smartest way of managing the economic regulations processes at a time of very substantial increases in demands for investment, rising public expectations and intense media and political scrutiny?

Growth and the environment

31 Growth and the environment is of particular concern to the WCWC. The whole matter of economic growth and the social benefits that it brings, must be balanced by those of ever

more limited resources for a growing population (at least until mid-century). Growth should be a goal which includes happiness, wellbeing, fulfilment, etc. rather than just financial measurements. The WCWC suggests that there has not been sufficient consensus on what the overall role of water is in this balance and this highlights the suggestion that it would be useful if water management was separated out from the debates about all regulators or all utilities. Growth in the role of water in a surgent economy must form part of the national water strategy advocated several times by the WCWC. This is addressed below in the response of the WCWC on the driver 'environmental sustainability'. **A better connection to the Water Plan is needed now.**

RESPONSES ON SOME DRIVERS AND BEHAVIOURS

32 The WCWC is supportive of the key drivers and behaviours which would be applicable no matter how the duties are packaged in the guidance. In short, the WCWC cannot provide all the detailed experiences that it has to hand, it would make this submission too long, but is willing to share them in due course. **For now, it addresses matters of immediate interest; it suggests that regulators should learn from the past, plan for the future but act in the present.**

Driver and behaviour: innovation

33 Innovation is relevant to all aspects of management, not just technology. So, for example in moving from 'customer service' to 'customer care' organisational and skills innovation is required. The WCWC reminds the DBT that there has been significant innovation in all aspects of regulation delivery and water service provision over the last 50 years since regionalisation of water services. Fundamentally the safety and quality of the water service products - clean drinking water and clean environmental waters - is paramount and no risks must arise from technical innovation. Caution and innovation should not conflict, they should act together. The WCWC is cooperating with other bodies in preparing a review of innovation in the water sector over the last 50 years and will highlight where it thinks things have gone well and where they not have not gone so well.

34 Innovation proposals - both internal and external - should require a formal business case stating what the proposal will deliver if successful and this in turn must set out measurable quantifiable benefits and costs. This will provide a clear basis on which to carry out post appraisal of such projects. The benefits of technology standardisation cannot be ignored. Innovation enables standardisation to evolve constantly.

35 In recognising that innovation is much broader than technology, the WCWC suggests to DBT and Defra that the innovation in procurement will play a role in future (as outlined in the WCWC's submission to the consultation on strengthening the economic regulation of utilities). **The WCWC agrees that New Appointment Variations (Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 projects etc) might be a vehicle to deal with issues such as the provision of reservoirs. The example of the Tideway Tunnel is interesting and helpful. WCWC urges caution until there are some outturn results rather than desktop projections; at present it is not possible to identify the down sides that may be present as was unfortunately the case with various PFI initiatives** (Tunnel<https://www.tideway.london/corporate-info/procurement/>).

36 In the submission to the Call for Evidence the WCWC refers to the value of technical innovation contributing to the efficient husbandry of resources. For example the use of

drones for environmental inspections will probably be more effective in many situations than manual inspections and will probably be cheaper.

[Flying high! Using drones to collect evidence of illegal waste sites - Creating a better place \(blog.gov.uk\)](#)

Driver and behaviours: skills

37 The WCWC is mindful of the Government initiatives on front line skills and is very supportive of the new Institute of Technical Skills and Strategy hosted by Nottingham University

<https://www.nottingham.ac.uk/news/institute-of-technical-skills-and-strategy>

and the Department of Education ALB Institute of Apprenticeships and Technical Education <https://www.instituteforapprenticeships.org/>.

38 The WCWC is of a view that these institutes must address the issue of ‘smart regulatory’ awareness as part of the core competencies taught and required.

39 The WCWC has strong links to the professional institutions and teaching institutions. It is very much of the view that the matters addressed by these three consultations must be addressed in the initial and continuing professional development; and this must include commitment to ethical behaviour, which then iterates to the matter of organisational behaviours, be it in regulator or regulated bodies.

Driver: resources and funding

40 In the submission on the regulatory landscape the WCWC has highlighted the need for regulators to be funded properly to discharge their duties and makes some suggestions as to the steps which might be taken. The WCWC suggests therefore that the statutory guidance must refer to the issues of adequate resources.

Driver: environmental sustainability

41 The WCWC is of the view that developing policies should cover all aspects of a circular ecology and circular economy, particularly in the areas of carbon, water, material resources including waste, the natural world and the atmosphere. The objective being to move humankind’s impact back towards being in balance with the natural cycles of our planet.

42 Delivering the best sustainable development and environment outcomes requires consideration and understanding of the complexity and interconnectedness of these natural cycles. The WCWC suggests that expert task forces of scientist, engineers and economists are set up to advise the regulator on how best to achieve sustainable development and environment outcomes for the water sector. This chimes with the observations, in the submission in the call for evidence on the regulatory landscape, for national committees to rekindle consensus, including Royal Commissions.

43 These task forces should consider the best sustainable development and environment outcomes bearing in the need to priorities long term economic growth over short term returns. They should also develop time-based road maps of how the development policies can be to achieved.

44 Bearing in mind the complexity of this subject the WCWC supports enhancing capacities and capabilities on sustainability within the regulatory environment but urges a note of caution in translating this into project cost management. There are models of sustainability in engineering which the WCWC suggests needs to be assessed in taking this growth duty forward.

45 The economic benefits of a project can be destroyed by cost overruns in part created by the expenditure on social and environmental sustainability objectives well outside the envisioned scope of the original project. This has to be balanced with what the community at large wants and must be addressed in the initial stages of project planning in which the regulators need to be more cautious about allowing expenditure outside the agreed project to increase water charges for all customers in order to benefit those local to the project. This is at the heart of the current debate about affordability in the forthcoming years when so much extra expenditure on water services is forecast.

46 As articulated earlier, growth enabled by the water sector must form part of a national water strategy.

Behaviours: integration and collaboration

47 There is a fine balance between economic growth and sustainable environmental husbandry. The WCWC expects that any growth should be environmentally sustainable as indeed will be reflected in the guidance.

48 The WCWC has advocated several times there is a need for an integrated national water strategy and articulated above the need for an integrated growth duty in the water sector above. This will require collaboration.

49 Industrial and retail growth must be an integral part of that strategy; these issues were explored in WCWC's previous submissions. As an example, there is a drive towards the green hydrogen economy and, if water resources are factored into that growth, it is more likely that such plans will be located in estuarial or coastal situations. What will be the water resources implications of the proposed battery giga-factory in Somerset? There are also growing concerns about the rising water consumption of the cooling units in data processing centres. So, the drive to 'on shore' industries must take account of the environmental impacts, including water usage. In this context it is possible that the growth duties of the environmental regulators will be even more important than the extension of the growth duty to Ofwat.

50 There is growing recognition that as far as water resources and water quality are concerned, sustainable land management is also important. Particularly if there is a drive to 'on-shore' food production. In the Defra water plan, it is made clear that catchment-based management will be a key engine to drive the plan forward; and an extension of a sustainable growth duty to whatever emerges as a future statutory model will be very helpful. In fact, whilst growth is implicit in the Defra water plan, it does not really address the regulation of entities outside the sphere of influence of Ofwat, for example by the EA and NE.

51 The WCWC has already suggested a number of times, as have many other parties, that the planning process is often the impediment. The controversies over reservoirs highlight this. There is often conflict between housing development and environment protection, as the

controversies over nutrient neutrality also highlight. Sustainable growth, with respect to water, must involve the DLUHC, as outlined earlier. The WCWC has advocated in this trio of submissions that the departments should cooperate across Government and with Defra on which entities should be embraced by the growth duty under the Deregulation Act 2015.

52 As the WCWC observes above there are a number of government departments involved which can lead to fragmentation of policy. The WCWC repeats its suggestion that an overarching multi departmental national water strategy (led by Defra), is needed to complement the water plan and this should embrace the existing and extended growth duties.

The WCWC has suggested that, as a consequence of that plan, there should be greater collaboration between the environmental regulatory parties: it now suggests that the two planning departments should be added to that caucus. It has already suggested that there must be greater coordination between local government and the water services sector by partnering between Water UK and the Local Government Association. And so 'collaborative' is a very important growth behaviour and it would helpful if that collaboration could be articulated more clearly and effectively.

Behaviour: proportionate, efficient and responsive customer care

53 Collaboration means that the relationship between regulated and regulator is supportive but does not condone inappropriate behaviour. The behaviours outlined by consultation do not address customer orientation especially as a behaviour expected of a regulator with the people and bodies regulated and this is a matter not just for this response but also in that for the consultation of regulators in general.

54 This is encapsulated in the concepts of customer service. This is a rather dated concept, as modern business goes well beyond this into customer care, indeed, into customer delight <https://www.taskus.com/insights/customer-care-beyond-customer-service>.

What does this mean in terms of smarter regulation? First, it is evident that the community at large is losing trust in regulations, regulators and the behaviour of regulated bodies. The WCWC observes, without comment, the focus on bodies in the water sector and other sectors such as education, building and maintaining trust in regulation is crucial but in a way which avoids cynical ridicule.

55 In the context of this consultation the WCWC suggests that the guidance needs to be more explicit on customer care. First the execution the growth duty should ensure that this must contain the requirement that the regulated bodies discharge their obligations in a way which is focussed on customers. It also means that a regulator must deal with the regulated bodies in a way which treats them as customers to be cared for. Ofwat has proposed a change in the licence conditions for water companies to put customers first. The WCWC has responded. <https://www.waterconservators.org/wp-content/uploads/Ofwat-customer-first-a.pdf>.

QUESTIONS AT THE END OF THE CONSULTATION

56 The WCWC offers a comment that the whole initiative on smarter regulation is starting to create a complexity in its own right which can be difficult to interpret in the context of the water sector. If the suggestion of standalone guidance on the water sector is accepted, it

would be very useful to have an explanation on how the two worlds, articulated for smarter regulation and for better water services, merge.

[Smarter regulation to grow the economy - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Better Regulation Framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

The text offered above provides deeper insights to the answers given below.

Overarching:

Q1 “The draft revised guidance sets out economic growth as ‘Sustainable Economic Growth’. This is in line with the recommendations of the McLean report and the Financial Services and Markets Act. Do you have any views on this definition of economic growth?”

Response: It must embrace the sustainable husbandry of the environment.

Q2 “The draft revised guidance outlines that economic growth has a number of different drivers and behaviours and describes some, but does not attempt to provide an exhaustive list. In this way, is the revised guidance clear on the Government’s expectations of regulators on meeting the Growth Duty? “

Response: Customer care missing

Integrated guidance focussed solely on the water sector is needed urgently.

Q3 “Do you have any examples of behaviour that encapsulate the application of the Growth Duty that the guidance would benefit from using as case studies?”

No comment

Q4 “Is there anything you think the draft revised guidance should or should not reflect?”

Response: As articulated - separate integrated guidance on the water sector.

Reporting:

Q1 “Do you consider that the Government should commence the statutory reporting requirement of the Growth Duty in Section 110A of the Deregulation Act 2015?”

Response: This seems counter to the principles of smarter regulation; better to enliven non statutory reporting and if that fails in due course have the power to introduce statutory reporting. Keep in simple.

Q2 “The consultation document sets out a high-level alternative approach for non-statutory reporting. Would this approach deliver improved outcomes compared to the statutory requirement? Would this approach ensure suitable levels of transparency and accountability? Do you have any other comments?”

Response: See above.

Q3 “Considering the plurality of regulators and regulated sectors, which metrics would be effective for regulators to report against, to enable a comparative assessment of their application of the Growth Duty?”

Response: For the water sector, ultimately delivery of water resources and services to support a surgent economy within the regulated costs. Perhaps developing metrics around the water price review processes as a start. Part of an integrated strategy for water.

Regulatory Agility:

Q1 “Would the International Fast Track outlined in this consultation help to improve the speed of regulatory decision making? What would you expect the impacts of such a process to be?”

Response: Not relevant for the water sector

Q2 “What is your view on the proposed Targets for Regulatory Approvals as outlined within this consultation document? What impact would you see from the enactment of this?”

Response: An explanation from DBT on the relevance to the water sector would be helpful. Although the WCWC advocates an integrated Growth Duty, in the detailed application to each regulator it will mean different things and this would be articulated in separate standalone guidance for the water sector.

Q3 “What is your view on the proposed Productivity lock as outlined in this consultation document? What impact would you see from enactment of this?”

Response: Same as above.

Monitoring

“In your view what would be the best way to monitor the regulatory application of the Growth Duty? Who would best undertake this role? What would be the most effective comparative metrics to assess performance against the Growth Duty?”

Response: Best developed in the context of the standalone integrated guidance for the water sector.

Other:

“Do you have anything else you would like to raise that is relevant to this consultation?”

Response: To reiterate finally the urgent need for integrated strategy and Guidance in the water sector.

