

**WORSHIPFUL COMPANY OF WATER CONSERVATORS
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

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The Worshipful Company of Water Conservators ('WCWC') is a City of London Livery Company, see footnote below. 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 and these, in turn, contain hyperlinks to the myriad 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 Ofcom, 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. And 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 be central 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, EA and NE to explain the reasons 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 rather than 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.

The WCWC is ready to share the experiences of its members in supporting DBT.

Footnote

The Worshipful Company of Water Conservators 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*.