AUGUST 2024
WORSHIPFUL COMPANY OF WATER CONSERVATORS

RESPONSE TO THE OFWAT CONSULTATION ON ENVIRONMENTAL INCENTIVES COMMON FRAMEWORK

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 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 this consultation 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. Water efficiency is very much part of water conservation.

3 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 response contains background information to aid readers other than Ofwat.

4 For ease of reference in navigating this response the WCWC has used red text for the summary, The WCWC considers that the board substance of its submission answers all the questions. Hyperlinks are shown in grey throughout. References to previous submissions to consultations may be found on WCWC website

https://waterconservators.org/consultation-responses/

5 This document is a consultation on draft guidance for a common framework for environmental incentives to support sustainable new homes. It builds on the proposal outlined in its January 2024 conclusions document regarding environmental incentives to support sustainable new homes and has been informed by the outputs of the Environmental Incentives Working Group established by Ofwat in November 2023..Ofwat proposed changes to its charging rules to give effect to the common framework in its May 2024 consultations on Changing Ofwat's charging rules to further protect customers in the new developer services framework and draft Charging Rules for New Connection Services (English undertakers). Ofwat has updated its thinking in one respect - how to publish the common framework. Instead of adding it to the Common Terms and Worked Examples document, Ofwat proposed to publish the common framework separately. It is consulting on this proposal as part of this consultation. The consultation relates primarily to English water companies, for which Ofwat regulates developer charges through the new connection charging rules.

https://www.ofwat.gov.uk/wp-content/uploads/2024/07/Consultation-on-an-environmental-incentives-common-framework.pdf

SUMMARY

6 The WCWC supports the drive to reduce water consumption as expressed in its submission to the consultation on the Water Efficiency Fund in June 2024 .But it offers the suggestion that this highlights the fragmentation of policy and practice .It also demonstrates the detail into which economic regulations has evolved away from the simpler approaches envisaged in 1989, and once more advocates that a review of these after over thirty years of experience and accretion on small changes, the time is right for a review.

7 At the least, the whole regulatory framework (particularly Building and Water Fittings Regulations) for achieving water efficiency needs an urgent review and this approach based on fittings performance needs to be incorporated into that review to bring the consistency desired. Both sets of regulations have been in place for decades This Consultation does feel like' the cart is being put before the horse'. But until that review is completed these proposals are the best that can be achieved, bearing in mind the membership of the Working Group which provided advice (and the WaterHub report of April 2024). The Water Efficiency Roadmap does not feel like that it is now fit for purpose in this context and needs an urgent review to reduce household consumption.

8 The WCWC is therefore suggesting a 'sunset clause' in the implementation of these proposals. Given that the statutory targets are not really fit for purpose for individual properties, the nub of the matter is, therefore, what is the best way forward? To review the statutory targets and make them fitter for purpose, yet that would increase the cost to developers, or to continue with the current targets, which include Incentive Targets whereby some of the cost is borne by the water companies? The WCWC suggests that the former might be a better way forward

9 The elements of the proposals could form the basis of a template to be produced by a Water-LGA (Local Government Association) concordance. This would need a more structured approach as to where and how tighter local targets than the 100/l/h/d are applied. This could be achieved in several ways; for example, in local agreements between local authorities using powers under revised building regulations or could be part of a new Catchment Management Strategy in which the Environment Agency also plays a role.

10 The Framework must be coordinated better with any initiatives on behaviour changes envisaged by the Ofwat consultation on the Water Efficiency Fund (WEF). The WCWC therefore proposes a sunset clause; this will have a benefit of being a driver to revise the statutory framework. The WCWC is also of the opinion that the issue of universal metering, particularly smart metering, fits into the framework. Should it be left as a voluntary scheme? All new properties must have a meter fitted since 1989, so the issue of fitting meters to established properties becomes one for the WEF and not the Environmental Incentives Framework.

11 So, as a tangential point to the consultation the WCWC recognises that its comprehensive strategic approach would result in some delay, and it suggests that momentum could be maintained, by accelerating the roll out of metering by facilitating compulsory fitting in defined geographical locations while still allowing current occupants to pay by rateable value if they wish. Metering would become compulsory on change of owner/occupant in line with current new build requirements.

12 The WCWC is disappointed by the view of Ofwat that implementation of the SuDS legislation under the Floods and Water Act of 2010 is unlikely. It has concerns that allowing the continuation of new build housing to discharge into combined sewers will exacerbate the CSO problems, it would be pleased to assist in developing a stripped-down interim alternative which would facilitate discharge of surface water into existing surface water sewers some way from the development and also allow new SuDS to discharge directly into water courses thus significantly reducing costs.

13 The WCWC repeats its suggestion for a closer strategic working between Water UK and the Local Government Association and the creation of a concordat,

14 And once more the issue of non-domestic consumption and the new growth duty for Ofwat needs attention and, as the WCWC has opined, a rethink on the statutory obligations of water companies to supply water to such premises.

15 The WCWC suggests that this whole topic needs to be addressed in the context of the work of the New Towns Task Force. Its long-term vision is to deliver largescale new communities of at least 10,000 new homes each, set out within 12 months.

CONTEXT OF THE PROPOSALS

The proposals

16 In England, water and wastewater companies are required by Ofwat to provide upfront charges for most new connection services. These charges are known as infrastructure charges and fund network reinforcement to meet the increased demand from new connections. The charges came into effect on April 1, 2022.

17 Many water companies currently offer developers discounts on their new connection charges for meeting certain standards of water efficiency or sustainable drainage. These are called environmental incentives. However, Ofwat states that the range of incentives on offer is wide, the levels of efficiency being incentivised are variable (and in some cases, relatively unambitious) and the principles and processes set by each company for agreeing incentives are, in many cases, unique to that company. To help the reader of this submission, an example is given of the scheme in United Utilities in Appendix 1.

18 To simplify the process for developers, to support wider uptake, Ofwat want to introduce a common framework for environmental incentives that is clear and consistent. It settled on a high-level framework for these in January 2024 and this

consultation sets out draft guidance. The key features of the draft Environmental Incentives Common Framework are:

• All water companies in England to offer at least one incentive for achieving water efficiency above the mandatory level, measured using the methodology presented in Table 1 of the Environmental Incentives Common Framework document (appendix 1 of the consultation).

• All water companies in England may choose to offer bespoke incentives. Bespoke incentives are environmental incentives relating to water efficiency and/or sustainable drainage which use alternative and/or supplementary approaches to meeting relevant qualifying criteria.

• Water companies to publish processes for paying incentives and gaining compliance.

• Incentive earning properties may be audited.

• All parties to collaborate to ensure the success of the scheme.

19 The WCWC notes the Ofwat decision in January 2024 that it would not include SuDS in the common framework from April 2025, but still encourage companies to offer incentives for specific SuDS as a bespoke incentive. This was because it wanted its approach to complement the implementation of Schedule 3 of the Flood and Water Management Act, which will make SuDS mandatory on new developments, before implementing a mandatory incentive for new developments to implement SuDS. It is not now clear whether Schedule 3 will be implemented, and we expect to revisit this issue as part of our ongoing work in this area. This is indeed very worrying and the WCWC has supported and indeed advocated the introduction of a mandatory system. Surely the continuation of local incentives would provide a justification for inclusion in the Framework. The WCWC stands ready to advise on any progression of SuDS.

20 The proposals also define a set of fittings standards to meet reduced consumption targets, and these are discussed subsequently.

Statutory Targets for Water Consumption

21 The concept of a statutory targets is rather complex. As a general principle, in the simplest of concepts of achieving policy goals, there are two routes:

- Set statutory targets with ‘policing’ and penalties for non-compliance
- Set voluntary targets with economic incentives to achieve goals
- These can be rendered more complex with the addition of the additional complexity of Mandatory and Voluntary Codes of Practice

22 And normally in the economic regulation of water companies, there has been a fundamental tenet, particularly in these times of the cost of living crisis and the

impact of increased investment in water infrastructure that including the costs of over performance for statutory targets is not included as a principle unless there are specific specified reasons to do so.

23 It is worth reminding the reader what the mandatory targets for water efficiency are. Rigorous commitments and defined targets were expressed in government plans: In February 2023 set out consumption targets in the Environment Improvement Plan https://www.gov.uk/government/publications/environmental-improvement-plan

Updated in April 2023 https://www.gov.uk/government/publications/plan-for-water-our-integrated-plan-for-delivering-clean-and-plentiful-water/plan-for-water-our-integrated-plan-for-delivering-clean-and-plentiful-water

24 The Environmental Targets (Water) (England) Regulations 2023 set targets for the reduction of potable water supplied by water undertakers in England. The volume supplied per day per head of population be must at least 20% lower than the 2019-2020 baseline by 31 March 2038. This has been set based on a trajectory to achieve per capita consumption (PCC) of 110 l/h/d, 50% reduction in leakage and a 15% reduction in business demand by 2050. The glidepath is such that the estimated target for 31 March 2038 is based on a PCC of 122 l/h/d, leakage reduced by 37% and business demand reduced by 9%.

25 The Water Fitting Regulations of 1999 were never intended to deal with water consumption or leakage as a primary purpose. To quote from Anglian Water *'In order to protect your water supply from contamination, it is important that your fixtures and fittings are correctly installed and in a good state of repair. The Water Supply (Water Fittings) Regulations 1999 set out national requirements for the design, materials, installation and maintenance of plumbing systems, water fittings and water-using appliances. As a business, it is your legal duty to ensure your systems satisfy these requirements.*

The purpose of these regulations is to protect your drinking water supply from contamination and prevent inefficient use of water or incorrect measurement of it. The regulations apply in England and Wales to all plumbing systems, water fittings and equipment supplied, or to be supplied, with water from the public water supply. This applies to systems in all types of premises'. Water Companies and the regulators and the WCWC submitted an extensive review of the current situation. The regulation 5 sets out technical specifications of fittings (the review of which was proposed in June 2023 by Defra) yet there is no overall consumption target. These proposals extend the envelope of fitting performance

26 These regulations go in concert with the Building Regulations. Local Authorities have responsibilities to ensure that the infrastructure within new buildings for water supplies are fit for purpose The Building Regulations Approved Document G: 'Sanitation, hot water safety and water efficiency' came into force in April 2010. Together with the Code for Sustainable Homes, it ensures a reduction in water use, sets standards for water quality and promotes the safety of hot water systems. The levels currently found in Building Regulations are 125 l/p/d and 110 l/p/d (in specific circumstances), but these may be lowered in the future. Local authorities may

impose tighter targets. The WCWC have advocated several times a review of the Building Regulations for a diversity of reasons. So, there is not a cross match of Building Regulations and Environmental Targets

27 Part G of the building regulations is divided into six parts, covering sanitation, hot water safety and water efficiency. Part G2 of the building regulations (Part G2) is about water efficiency. It currently only offers a methodology for measuring water efficiency via a 'fittings approach' to the standards of 125 and 110 litres/person/day. Ofwat states '*In our January 2024 conclusions we explained that we wanted to maintain the use of a fittings approach for measuring efficiency but required a standard for measuring efficiency below the 110 l/p/d level'.* Ofwat was advised by an Environmental Incentives Working Group. A key output of the EIWG was providing a methodology for a fittings approach, for levels of efficiency below the 110 l/p/d level.

28 In June 2023 Defra held a meeting to discuss updating the Regulations and the WCWC submitted an extensive review of the current situation. In that submission the WCWC repeated its observations in earlier consultation responses, that there are many areas of interaction between Water Companies and Local Authorities There was a debate in the formulation of the 1999 Regulations as to whether or not the Regulator should be a Water Company or Local Authority and it was decided that it should be the former. The WCWC is not suggesting that this decision should be revisited. It is likely that the Water Companies and Local Authorities would resist a change for different practical reasons. But, taking into account the wide range of interfaces, the WCWC suggests that the Review of the technical functioning of the 1999 Regulations should be set in the context of streamlining legislation in which both Water Companies and Local Authorities have roles. At least, the WCWC suggests that the time has come for there to be a more structured national concordat between the two sectors, led possibly by the Local Government Association and Water UK in order to deliver the Water Plan most effectively. And this should be a delivery mechanism for the Roadmap to Water Efficiency

29 The focus of the Water Fittings Regulations has evolved to give greater prominence to leakage and, hence, 'leaky loos' and the focus of this Review. A good deal of the water lost by customers appears to be in the private pipes (supply pipes) carrying water from the distribution system to premises and the regulation of these losses is dealt with separately under the 1991 Water Industry Act. 13 So the WCWC poses the following questions: Is there a need to streamline the execution of regulations relating to water use efficacy and efficiency? Do we carry on as at present? However, we move forward there will be more than one regulator involved, so how can we satisfy the government's wish to simplify regulation? It is unlikely that either the water or local government sectors would agree to any change for various practical reasons. The WCWC suggests that the time is now right to include a more structured approach to the way that the sectors work together, possibly led by a concordat between the Local Government Association and Water UK. And this should be a delivery mechanism for the Roadmap to Water Efficiency.

30 The concordat would agree a series of framework for joint delivery between the sectors and would hence address some of the angst expressed in this Consultation about the diversity of practices. However, there does not appear to be progress on

the concordat, although the suggestion was well received. There does not appear to be any progress on the review of the Water Fittings Regulations as suggested. In this Ofwat consultation there is a suggestion that this might come in due course.

31 The water consumption targets are set as average values, and this makes the application to individual properties more difficult. There is a mismatch between Building regulations and Environmental Target Regulations. It may be necessary to apply tighter targets in new properties to balance the higher consumption of older properties to achieve the Environmental Targets and there may be a need to set tighter targets in water stressed areas and it might be of economic benefit to set building targets tighter in preference to the cost of providing new sources.

32 Ofwat sees the way forward as achieving goals by fittings approach and gives a table produced, with the advice of the EIWG, with levels of consumption control ranging from a baseline of 110l/h/d as per the Building Regulations to 90/l/h/d to 80l/h/d ,and lower, achieved by increasing demands on the water fittings (such as the inclusion of Enhanced effectiveness of flush WC (including Air assist) + Enhanced spray (including Air boost) shower. The United Utilities scheme has a baseline of 100/l/h/d.

33 It is of note that this harmonises with 'Water Ready. A report to inform HM Government's roadmap for water efficient new homes' by the Future Homes Hub in April 2024.

https://irp.cdn-website.com/bdbb2d99/files/uploaded/Water%20Ready_A%20report%20to%20inform%20HM%20Government-s%20roadmap%20for%20water%20efficient%20new%20homes.pdf

34 Given that the statutory targets are not really fit for purpose for individual properties, the nub of the matter is, therefore, what is the best way forward. To review the statutory targets and make them fitter for purpose, but that would increase the cost to developers, or to continue with the current targets, but include Incentive Targets in which some of the cost is borne by the water companies? The WCWC suggests that the former might be a better way forward.

35 The elements of the proposals could form the basis of a template to be produced by a Water LGA concordance. This would need a more structured approach as to where and how tighter local targets than the 100/l/h/d are applied. This could be achieved in several ways. For example, in local agreements between local authorities using powers under revised building regulations or could be part of a new Catchment Management Strategy in which the Environment Agency also plays a role.

Behaviour Change

36 What the consultation does not recognise is that the Environmental Incentives are part of a much broader framework. It does not recognise that once new homes are occupied achieving goals is dependent on the behaviours of consumers. This was the focus of an Ofwat consultation on the Water Efficiency Fund aimed at a national

approach to changing those behaviours to which the WCWC responded. And it also included a proposal for a Water Efficiency Lab to promote innovation, which would include fittings. That consultation did not make any correlation to Environmental Incentives as indeed this consultation does not refer to the fund. It seems to the WCWC that any National Water efficiency Campaign must make that corelation.

37 In its response to the consultation on the Water Efficiency Fund, the WCWC notes that the focus of the consultation is behavioural change; the origins of the science of this was in 2008 by Thaler and Sunstein - the progenitors of the notion of 'nudging' to achieve societal goals. The concept of nudging to change behaviours was first elaborated by them as defining a nudge as any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives. To count as a mere nudge, the intervention must be easy and cheap to avoid. Nudges are not mandates. Putting the fruit at eye level counts as a nudge. Banning junk food does not.

https://www.princeton.edu/~tleonard/reviews/nudge key part of the WCWC

38 So, with this insight any drive to increase water efficiency, either by individuals in households or by organisations for non-household (NHH) consumption, has to have two steps:

- Create the choice architecture which favours water efficiency, and
- Campaign to raise awareness of the benefits of the right choices.

39 In this context the WCWC has identified central government and supporting organisations which have a role to play in creating the right architectural framework, for example DEFRA on water efficiency labelling, metering, water fittings (and Water Regulations UK), dual supplies and a wider communications campaign, Department of Levelling Up, Housing and Communities (DLUHC) on building regulations, Department of Business and Trade (DBT) on smart regulation, Ofwat itself on tariff innovation, WaterSafe for reliable plumbers, local authorities on building controls, Integrated Pollution Prevention and Control (IPPC) and Trading Standards, the Environment Agency on coordinating initiatives with non-household uses of water and IPPC. Who will do what? Does Ofwat consider that WEC will have a role in the architecture, if not, who is going to pull together contributors outlined above? Will Water UK have a role to play in that or should there be a national water efficiency steering group coordinating efforts rather than the current silo approaches, a theme which the WCWC has suggested repeatedly across the water management spectrum?

40 The scenario which could emerge might be that the water companies and the entity emerging from WEF as the CDB, nudge people within this framework by conducting a campaign to persuade customers to save water. The balance of the national and local messages is likely to vary from region to region according to water stress. Indeed, a further question is does the WEC provide the national message framework for water companies to use, or does it do some messaging itself and that

will be a key part of its remit and affect its budget and the skills of its employees and CDB board members?

41 It seems as if the proposals for the Environmental Incentives Framework are a key part of the 'nudge architecture in order to encourage customers to make the right choices.

An overview comment

42 All of this suggests that the Water Efficiency Roadmap needs an urgent review in the context of reducing household consumption. The WCWC has already pointed out that the Environmental Incentives still have to accompanied with behavioural change initiatives. There needs to be an understanding of the best ways forward for the reduction of higher consumption in existing properties. The onus for meeting the Environmental Targets cannot rest only on new developments.

43 And this raises issues which the WCWC identified in its response to the consultation on WEF. There is a technical and economic advantage in metering, but great political sensitivity; and associated with this is the question which acceptable tariff structure will best meet the achievement of 110l/h/d? Even within the WCWC there is a variety of views on the benefits of rising block/falling block tariffs around the fulcrum of 100/l/h/d. The WCWC suggests that Ofwat should launch a consultation on this part of a reviewed Roadmap. The WCWC suggests that the way forward is on the basis of strategic pieces being viewed not in their own right as this consultation seems to be, but as part of a bigger picture.

44 As tangential point to the consultation ,the WCWC recognises that its overall comprehensive approach would result in some delay; it suggests that momentum could be maintained, by accelerating the roll out of metering by facilitating compulsory fitting in defined geographical locations while still allowing current occupants to pay by rateable value if they wish. Metering would become compulsory on change of owner/occupant in line with current new build requirements.

Foot note

45 As this submission was being signed off, the WCWC became aware of the Consultation by the Ministry of Housing , Communities and Local Government the new name for the DLUHC on a review of the Planning Framework. It will comment separately, but that Consultation will be relevant to this Consultation. The WCWC is pleased that this review is taking place, it has long advocated it. However the first reaction is that this is yet another example of the 'silo' approach and demonstrates the need for more 'joined up' government.

Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK (www.gov.uk)

APPENDIX

UNITED UTILITIES ENVIRONMENTAL INCENTIVES SCHEME

https://www.unitedutilities.com/builders-developers/your-development/environmental-incentives-scheme/

Our environmental incentives scheme aims to help you achieve a high standard of water efficiency performance and encourage the use of sustainable drainage systems.

You may be eligible for our environmental incentives scheme if your development meets the criteria as set out below and in our terms and conditions.

Criteria

The environmental incentive scheme is only applicable to schemes quoted on 2024/2025 charges, some supporting evidence will be required at the point of application and further evidence demonstrating compliance with the criteria must be provided after the property is complete and prior to being sold. Details can be found in the incentives and evidence required section below.

The incentives will be paid per qualifying plot, as defined in our terms and conditions, and will be paid to the developer.

All devices are to be sourced and fitted by the Developer/SLP.

We have introduced a tiered approach to our environmental incentives scheme.

- You must achieve all of tier 1 to be eligible for tier 2*.
- To be eligible for tier 3 you must have achieved all of tier 1, and the water re-use and at least one of the no surface water connection and or permeable surfaces from tier 2.

*__Apartments__ – as individual apartments do not have their own roof it would not be possible for each apartment to achieve the tier 1 wastewater incentive (water butt, raised rain planter or rain garden), therefore we would not prevent apartments from progressing to tier 2 without the tier 1 wastewater.

*__Houses__ – as individual houses each have their own roofs, they would be able to achieve the tier 1 wastewater incentive and therefore would need to achieve the tier 1 water and wastewater incentive to be able to progress to tier 2. For tier 1 wastewater, each house would need to have their own downpipe connected to a water butt, raised rain planter or rain garden.

Incentive	2024/2025 Incentive £
To be eligible for the Environmental Incentives Scheme a water meter must be installed on the property, failure to do so will mean the plot is ineligible for any incentive.	

Incentive	2024/2025 Incentive £
A leak check must be completed showing there is no leak at the premises to be eligible for the environmental incentives scheme.	
Tier 1	
Water Property is built to a design consumption rate of 100 litres per person per day or less **plus** Installation of a flow regulator which limits the flow to 14 litres per minute *(flow regulator is to be sourced and fitted by the Developer/SLP)*	£272
Wastewater Installation of a water butt or raised rain planter with a capacity of at least 200 litres connected to the properties main roof drainage, or Rain garden the size of 2% - 4% of the properties main roof that drains to the rain garden.	£20
Tier 2	
Water re-use Installation of **rainwater harvesting** system with a capacity of at least 1,000 litres as the primary water source for all toilets, as a minimum, within the property or Installation of **grey water re-use system** with a capacity of at least 225 litres as the primary water source for all toilets, as a minimum, within the property	£400
No surface water connection – Where the property has no direct or indirect connection for surface water drainage to our sewers	£288
Permeable surfaces Installation of permeable surfaces to the properties driveway/parking areas	£150
Tier 3	
Water offsetting – We will carry out 6 audits of existing properties for each new build property that is applying for tier 3, and where we can, fix leaks, install water savings devices or install a water meter. The water savings from doing this should offset the demand from the new build property.	Cost to the Developer £553 plus VAT Incentive paid £664