
Company monitoring framework – Bristol Water re-categorisation

Summary

The company monitoring framework is a tool we use to challenge all companies to provide robust information for customers and stakeholders that they can have confidence in. We expect companies to be transparent with customers and stakeholders about the data assurance they put in place.

By information, we mean more than just data. We expect companies to explain their information and performance in a way which is relevant to their customers and other stakeholders, and provides appropriate context. Having information which is easy to understand and navigate provides transparency and helps everyone build trust and confidence in water.

Where companies have met the high standards customers and other stakeholders expect, they will have discretion to put in place assurance to give confidence about their performance. Through the company monitoring framework, we will step in where companies do not provide the standard of information that customers and other stakeholders expect.

This document sets out our decision to move Bristol Water from the “targeted” to the “prescribed” category on our company monitoring framework. Our [final position on the company monitoring framework](#) sets out how companies move between categories over time.

We informed Bristol Water of our intention in early November and challenged Bristol Water to provide us with a plan for how they will meet the requirements of a “prescribed” company.

Bristol Water, like all appointed water companies, must act in a manner best calculated to ensure that it has adequate financial resources and facilities, and

management resources to carry out its regulated activities¹. We have asked Bristol Water to provide assurance that they are able to meet this licence condition, having regard to the company's current circumstances and the recent CMA determination. This will help customers and other stakeholders, including Ofwat, have confidence that Bristol Water will be able to deliver for its customers in a resilient way over the rest of this control period.

They have now done this - and we have [published this plan and assurance](#) alongside this decision document.

1. Company monitoring framework

The [company monitoring framework](#) is a tool we use to challenge all companies to provide robust information for customers and stakeholders that they can have confidence in. We expect companies to be transparent with customers and stakeholders about the data assurance they put in place.

By information, we mean more than just data. We expect companies to explain their information and performance in a way which is relevant to their customers and other stakeholders, and provides appropriate context. Having information which is easy to understand and navigate provides transparency and helps everyone build trust and confidence in water.

Where companies have met the high standards customers and other stakeholders expect, they will have discretion to put in place assurance to give confidence about their performance. Through the company monitoring framework, we will step in where companies do not provide the standard of information that customers and other stakeholders expect.

We said that:

‘A company will move down from... targeted to prescribed assurance if its behaviour leads to a reduction in the trust and confidence stakeholders can place in it... The move down could be immediate where appropriate, but otherwise would be in the autumn each year.’

¹[Bristol Water Instrument of Appointment, F6A.1](#)

In the company monitoring framework, we set out examples of behaviour for which we would take action.

A company will move from self to targeted assurance categories, or targeted to prescribed assurance categories, if its behaviour leads to a reduction in the trust and confidence customers can place in it. In considering this, we would take into account the individual circumstances of the issue involved. A self assurance company could either be moved to the targeted or prescribed category depending on the significance and number of the issues involved.

Examples of such issues are as follows.

- A company does not report accurate and reliable information and:
 - fails to address the issue in a timely manner once identified; and/or
 - fails to engage appropriately with stakeholders taking into account the materiality of the error and its significance to customers; and/or
 - the issue relates to information that is significant to customers and is long standing, but its assurance processes have not identified the error.
- A company that does not meet its performance commitments, or otherwise is at risk of not meeting statutory obligations, and fails to engage appropriately with stakeholders by:
 - failing to be transparent that there is an issue; and/or
 - not providing a clear explanation of the performance issue; and/or
 - not providing an explanation of how it will address the issues in the best interests of customers.
- Ofwat opens a strategic case that involves potential compliance issues with existing obligations or otherwise there are a material number of open cases or cases closed within the last two years involving the company. This does not include cases that have been delayed but where the company has provided timely and co-operative responses. This in itself would only move a company to the targeted category.
- Where a company's response to a case is poor and/or the company is not co-operative and the findings are adverse to the company. If this involved a strategic case or a number of cases, it could lead to a movement straight to the prescribed category.

- A company has not demonstrated compliance with the code it has put in place to meet our principles for Board leadership, transparency and governance.
- When we introduce rules about charges, if we give direction to a company we consider is not acting as required by the rules.
- Stakeholders highlight significant problems with a company's assurance processes, or a company fails to respond appropriately to comments on its assurance plans, or it does not demonstrate it has adequately identified and exposed areas as part of the risks, strengths and weaknesses exercise.

In December 2014, we assessed companies and assigned each of them to one of three categories:

- Companies that, apart from the base requirements that apply to all companies, have discretion to deliver self assurance in relation to the additional assurance arrangements they put in place.
- Companies that have not consistently met the high standards that customers and other stakeholders expect will be subject to targeted assurance requirements, that will be prescriptive, to ensure that the assurance arrangements they put in place are sufficient to protect customers.
- Companies that have not provided us with sufficient confidence about their ability to deliver, monitor and report performance, will have prescribed assurance requirements for all information that the company is required to publish, in order to protect customers.

We considered, amongst other things:

- the overall quality of companies' PR14 business plans; and
- the adequacy of companies' subsequent assurance over PR14 business plan revisions, and quality of supporting data.

2. Assessment of Bristol Water

Our assessment of Bristol Water in December 2014 placed it in the 'targeted' category. We published our assessment in February 2015, which stated that for assurance and data submissions:

'We note that there were some material issues associated with assurance and data submissions in the broader PR14 process. In particular, we did not consider Bristol Water had provided sufficient transparency in the assurance it had provided in relation to its

wholesale water costs where there was a significant gap between our assessment and the company's cost assessment claims... As noted in the final determination, we have still not been able to accept Bristol Water's evidence and assurance on a large portion of its wholesale cost claims.'

We categorised Bristol Water as 'amber' on this criterion and so categorised them as 'targeted' overall. During the price review, we engaged Bristol Water on the significant gap between our assessment and the company's cost assessment claims – but in our view, the company did not provide significant new evidence or analysis to justify their claims.

We do not intend to re-open this assessment. Instead, this section highlights the new evidence and rationale behind our decision to re-categorise Bristol Water.

On 4 March 2015, we referred Bristol Water's appeal against their price determination to the CMA. In their final determination, the CMA identified its own concerns with information received from Bristol Water:

'Finally, we note that on more than one occasion and despite a number of requests from us we were unable to obtain sufficient information from Bristol Water to justify important elements of its plan and its costs. We also identified areas of Bristol Water's business plan where we expected Bristol Water to have a better understanding of its own costs. We note the price control review began formally in December 2013, following Ofwat's extensive consultation on its proposed methodology, with the submission to Ofwat of Bristol Water's draft business plan. (At that stage, Bristol Water was already expected to have undertaken extensive consultation and analysis in support of its plan.) No doubt Bristol Water will reflect on the process and the significant costs involved. In our view, Bristol Water (and any other licensee disputing a decision made by Ofwat) needs to reflect how it can more effectively assist both Ofwat and, if ultimately necessary, the CMA in their respective determinations.'²

² Final CMA report - Bristol Water plc A reference under section 12(3)(a) of the Water Industry Act 1991

We also note that the CMA’s engineering consultants, Aqua Consultants, had some concerns about the information on forecast wholesale costs submitted by Bristol Water in their business plan.

We identified similar concerns throughout the process – for example, Bristol Water shared their analysis (carried out by Oxera) late in the process (and delayed from their expected timetable), giving us little opportunity to carry out our own analysis.

We have decided to re-categorise Bristol Water as ‘prescribed’ because:

1. Bristol Water has not reported accurate and reliable information on forecast wholesale costs. This issue relates to information that is highly significant to customers and the company has failed to address the issue in a timely manner once identified – Ofwat has raised these issues multiple times since December 2013, and the CMA have now independently made similar criticisms in October 2015. In our view, Bristol Water has not responded to these criticisms.
2. Bristol Water has not responded with ‘sufficient information to justify important elements of [Bristol Water’s] plan and its costs’ in the CMA’s view. The CMA commented specifically on the difficulties with provision of accurate and reliable information.
3. The CMA has highlighted significant problems with the company’s assurance process in respect of its forecast wholesale costs. We consider the CMA to be a relevant stakeholder.

These three points are consistent with the examples of behaviours set out in **section 1** above that would lead us to re-categorise the company.

We informed Bristol Water of our concerns in the context of re-categorising Bristol Water in early November and challenged Bristol Water to provide us with a plan for how they will meet the requirements of a “prescribed” company. We asked the company to include how they would embed the results from their assurance work into their business and how they would engage with their stakeholders. This should also make it clear what work they would do to move out of the “prescribed” category, and how they would assess their progress.

In addition to this, Bristol Water, like all appointed water companies, must act in a manner best calculated to ensure that it has adequate financial resources and

facilities, and management resources to carry out its regulated activities³. We asked Bristol Water to provide assurance that they are able to meet this condition in their licence, having regard in particular to the recent CMA determination. This can help customers and other stakeholders, including Ofwat, have confidence that Bristol Water will be able to deliver for its customers in a resilient way over the rest of this control period.

We gave Bristol Water until 11 December 2015 to provide both the restated assurances under condition F6A1 of their licence⁴, and their assurance plan in line with the requirements of the “prescribed” category on our company monitoring framework. Bristol Water has provided this - and we have [published this plan](#) alongside this decision document.

3. Next steps

Companies, in conversations with their customers and other stakeholders, are best placed to identify where the risks, strengths and weaknesses arise in providing information that stakeholders want and can have confidence in.

“Targeted” and “prescribed” companies are required to carry out an exercise to consider these aspects in order to target areas to improve – considering both data assurance and how companies provide assurance to customers more generally.

“Targeted” companies must then publish draft assurance plans for those targeted areas, and engage with stakeholders before it publishes final assurance plans.

Companies in the prescribed category will also carry out a risks, strengths and weaknesses exercise with their stakeholders. But prescribed companies must also incorporate independent external assurance as part of their assurance plans – and must do this for all areas, not just the targeted areas.

³[Bristol Water Instrument of Appointment, F6A.1](#)

⁴ Under Bristol Water’s licence condition F6A.1 Bristol must at all times act in the manner best calculated to ensure that it has adequate (a) financial resources and facilities, (b) management resources, and (c) systems of planning and internal control to enable it to secure the carrying out of its regulated activities including the investment programme necessary to fulfil its obligations under its appointment.

Prescribed companies must then publish all of their assurance plans on their website ahead of reporting.

We [have published Bristol Water's plan](#) to meet the requirements of the “prescribed” category alongside this document. We expect them to consult with their customers on their draft assurance plan in February 2016.

We have said that we will re-assess all companies against our company monitoring framework in November 2016. But in our [final position](#), we said that companies in the prescribed category will remain in that category for a minimum period and would move to targeted assurance before moving to self-assurance. In practice, this means that the earliest opportunity for Bristol Water to move to targeted assurance will be our subsequent assessment in November 2017.

Ofwat
December 2015