

UNISON comments on Ofwat strategy consultation document

We welcome the opportunity to comment in this process. Overall we believe that the Ofwat strategy proposals are unlikely to bring about the significant changes in corporate practice which public opinion demands, and fail to specify adequately the obligations which a company enjoying a local monopoly has to its geographical community.

The companies have led the regulator a merry dance over many years. Righting this requires a very much more directional and assertive approach, prescribing both the outcomes required and the ways in which they should be delivered. In a parallel universe, or a previous era, Boards and executives might have had the sense of accountability to the public interest and to their local communities which could have enabled a light touch from the regulator. However, the evidence of recent years shows that this is a fantasy. Water companies are just companies, with no special mission. "Freedom" will lead to enhanced outcomes for their owners, concerned only with financial return – rather than for local communities, workers, and the environment. Clear vision and purpose from Ofwat is needed to deliver any other outcome.

There is also, throughout the document, a gap where the importance of the people who work in the water industry could be located. This means that overall, ways in which an effectively engaged workforce can contribute to delivering public policy objectives are missed.

p6-7 A shared vision for the sector

Developing a shared vision across the regulatory family is clearly an important endeavour. Expecting that the water companies will share the vision is not sound thinking, as it requires agreement of the vision between those who commission and require public benefit with people whose actual priority is profit. That is bound to mean compromise over the vision to accommodate commercial interests.

While we welcome the components of the proposed vision and expect that other stakeholders will also sign-up, in a sense they exist at a level of generality which makes them acceptable. It is in operationalising these and determining what they require companies to actually do that questions inevitably arise. Further, in the interaction between Ofwat and the executives of companies responsible to directors with no particular connection to either locality or workforce, there is a disconnection from the actual things valued by citizens from their local water company.

What is meant by excellence? There is clearly the baseline of safe water, on demand. We need not to lose sight of this being the provision of a utility. Beyond that, tying the measure to customer preference (described by you as "changing expectations") is problematic, as it may divert resource from the core task. And in any case, only some elements of customer preference have been prioritised by Ofwat in its regulatory activity. At Southern Water, Customer Services contact centre staff are being TUPEd to Capita and being made redundant if they don't move from Worthing to Rotherham. This will mean the loss of local knowledge, experience and dedication. Customers expect a localised service that truly understands their needs. This also used to mean that there was a sense of the circular economy which customers valued – the money they pay, which is really a tax rather than a

charge, then being paid to local workers, who spent it with local businesses. But this has no value within Ofwat's processes of assessment.

Stewardship in your definition has no connection to the particular place in which the company operates- it has been dematerialised and reified around abstract concepts. We would propose that it is defined in terms closer to the following: companies improve the environment in their area of operation; deliver for the communities they serve; improve the safety, security and resilience of water supplies in their local area; and contribute positively to their local economy. You could then apply clear metrics to these. We are also seeing a trend of increasing centralisation of activity by water companies, including setting up central organisations for triaging calls in normal conditions and for incident response. This does not work (though it is innovative), as the company responses to the "Beast from the East" showed last year. Not only do companies need to be properly regional in focus; they also need to be local in orientation, with decisions made at the appropriate level where expertise on plant, networks and water assets exists. This is particularly true in emergencies, or when weather related issues are faced by many people in different places at the same time, where optimal resource allocation is critical. The great lesson from the Beast from the East was that setting up a gold command actually prevented local managers and workers from carrying out those responses they knew to be necessary.

Value is, as frequently happens, confused with price. In practice, Ofwat has set itself the task of making water more affordable in PR19 by reducing the real cost of bills as real incomes are expected to rise. If there was compelling evidence that citizens identified the cost of water as their core concern then this would be justified - but there isn't. Ofwat has, rather, assumed that citizens generally share their world view as cosmopolitan rational maximisers of individual utility, unconnected to any particular place. Our members interact with citizens every day, talking about water, and they report that customers are much more concerned about leakage, the environment, and profits being taken out by shareholders. Water companies expected to reduce their prices will choose cutting numbers of staff over reducing the returns to their shareholders, but this will, as night follows day, impact on their ability to further reduce leakage. And if income is reducing - especially in fully metered areas where water saving is a key target - how can there be increased spend on the environment?

Challenges in achieving the vision

We share some of the analysis on the key challenges to achieving the vision and have the following thoughts:

Long-term water resources - Direct employees have a vested interest in conserving water in their local area. They also understand local communities best. For that reason, we ask that Ofwat does not take a neutral position on direct employment, and on the location of those employees; our experience is that localism of workforce is strongly valued by citizens.

Operational resilience - Employees are also an asset, with their knowledge and experience, high-functioning teams etc. Unions and staff councils enhance this value through improving employee engagement through information exchange and consultation with the management who control operations and make business decisions. Long-serving operational employees are around much longer than CEOs, CFOs and directors (typically 3 to 5 years?) so really have more of a stake in the water companies they work for. We

therefore propose that Ofwat discuss business plans and future directions with lower-level workers and their representatives (unions and staff councils), rather than simply having a semi-transparent relationship with senior executives.

Customers' changing expectations - The automation and increased use of machine learning and artificial intelligence that increasingly underpins the so-called digital revolution, will lead to many changes in the jobs available, the kind of work to be done and the levels of staffing needed. This will cause additional disruption for employees, running counter to sustainability - unless there is an emphasis on retraining existing staff to do the new kinds of work rather than redundancy followed by external hiring. The stress on "innovation" as a virtue unconnected to the outcome of innovation is a serious weakness in Ofwat's approach; it suggests an ideological rather than outcomes-based framework.

Legitimacy - UNISON agrees that some water companies are more focused on making money for their owners and managers than delivering for customers, society and the environment; this continues. Often the lower level workers are penalised in terms of reward, whilst directors earn hugely disproportionate salaries, bonuses and pension benefits. We do not believe that any water company truly addresses this in their AMP7 business plan. Acting ethically and in the interests of society means dealing with their workforce compassionately and fairly - treating them as people with their own feelings and aspirations, rather than objects that can be discarded at will and another bought from the labour market. There is sometimes more emphasis on recycling plastics and eliminating single-use than on upskilling staff and ensuring their continued employment through change.

Affordability - Many water company employees, especially those employed in contact centres and facilities-related jobs (reception, cleaning, catering) are so poorly paid (often Living Wage or even below that, especially if the service has been outsourced) that they have to resort to using food banks. If two parents are both working in lower-paid water jobs, then during the summer holidays one person's entire take home pay may have to go on childcare. Water companies should be playing a role in local economies as exemplars of good practice, in return for their local monopoly; and Ofwat has a role in requiring this.

p10-11 Ofwat's role and policy context

Whilst Ofwat must currently act in accordance with the strategic priorities and objective statements set out by the UK and Welsh Governments, this does open the possibility for strategic volatility as priorities changed by Ministerial preference. The "looking upwards" orientation also means that when there is a mismatch between Ministerial priorities and those of citizens, the Ministerial perspective wins out. Lastly, the legislation under which Ofwat operates does not directly refer to the workers who are the real people who implement compliance on the ground and in contact centres - so it is perhaps unsurprising that Ofwat's emerging strategy is currently weak in its appreciation of these key stakeholders. We suggest that Ofwat should be campaigning for a greater level of independence and for the ability to treat public priorities as more significant than Government guidance.

p12-13 Overview of Ofwat's emerging strategy

UNISON agrees that some of what Ofwat believes has worked in the past should be evolved, and that most importantly there need to be important shifts in what Ofwat does and the way that Ofwat works. Putting right what has gone wrong in the water industry requires

an engaged, prescriptive, demanding regulator, unafraid to take on companies which do not deliver adequately.

p14-15 Retain and evolve

An allowed return on the assets of the regulated company

UNISON members see in their jobs that the continued extraction of profit by water companies is usually through sweating the assets until they are on the verge of failure (and holding down the wages of their operational employees and increasing the amount of work each has to undertake - human assets). To be clear - these are wastewater treatment works and water works, and their associated collection, discharge and distribution networks - key parts of the national infrastructure. This should not be open to commercial exploitation.

The move to using CPI rather than RPI as the measure of inflation in the formula on which the allowed return is based is also counterproductive (see below).

Outcome based incentives, reset every five years

The effect of rewarding good performers (usually those who have not underinvested in the maintenance and renewal of assets in the past) and penalising the underperformers (usually who need to be able to spend more to bring their assets back up to scratch) is unlikely to achieve a nationwide level of consistent high quality infrastructure. It also puts more pressure on underachieving companies to slim down their workforce and keep annual cost of living pay rises at below the real rate of inflation as it affects water industry employees' purchasing ability (closer to RPI than CPI). This reinforces a cycle of decline for the worse-performing companies.

Financial resilience and board leadership

UNISON agrees that Boards have an important governance role. We see an urgent need for employee and customer representation at Board level to be a regulatory requirement. Independence of Board members is of no value for citizens where the Board are drawn from a narrow caste of finance professionals, energy market veterans and people of a consultancy background. These all share a set of damaging common assumptions on the absolute desirability of delivery through competitive markets with private sector, profit-maximising market participants, assumptions they do not even know they have, so deep rooted are they. That's how we've got into this mess – having the same cast on the stage, but making the show more visible, isn't likely to deliver anything of tangible benefit. As we have commented in our response to Ofwat's consultation on governance, a muscular, prescriptive approach to Board composition, practice and processes is required. Self-regulation, as they say, is to regulation as self-love is to love.

Markets, trading and competition

Markets and trading do not in themselves drive innovation or lower costs in the water industry (unless at the expense of customer service and environmental protection). Ofwat need to examine the evidence of what marketization and competition have led to in the water sector and elsewhere. The competition within the non-household retail sector, such as it is, has been a clear failure, not delivering customer benefits and generating very much higher levels of customer complaints, while also creating a substantial opportunity cost by requiring

an engagement with a market from many hundreds of thousands of customers. To say that markets are 'maturing' is just obfuscation. Call it what it is, a failed experiment that Ofwat is too embarrassed to call off, because that would admit that it was a faith-based intervention.

In the energy sector, after the good years where we were self-sufficient at the end of the gas pipe with no real way to export much, the opposite now applies and the consequences of market disintegration are becoming much more evident. More than 5 million customer complaints a year; provider after provider going bust and their customers being handed on to other firms in a mockery of choice; and no way to achieve public benefits without huge payments to companies for capacity or new energy provision, which press up bills. We are genuinely baffled that in some respects Ofwat treats the energy market as a model for emulation rather than a cautionary warning of what needs to be avoided.

It is UNISON's view that approaches other than marketization are likely to work much better for customers, society and the key public service workers who actually run this part of our national infrastructure.

Customer engagement

Companies need to not only have customers at their heart, but employees as well. Water Companies need to genuinely implement the ICE Regulations (plus the associated Acas guidance) and engage in meaningful consultation with their employees as well as customers. Retrospective scrutiny of decisions that have already been made by the companies is manifestly insufficient; to succeed in the massive transformation that they need to undergo to be fully fit for purpose, water companies need the full engagement and buy-in of their staff.

Creating a better future

We agree with the long-term focus here. In particular, with the regulator setting the expectation, which the companies are required to respond to. We would see that prescription rather than outcomes-focus is more likely to deliver real results. Outcomes-focus tends to lead to companies pursuing esoteric, theory-suggests market solutions rather than tangible infrastructure, especially as they know that Ofwat has had a bit of a weakness for these. If this is got right, it could have a transformational impact in requiring a focus beyond individual AMP periods.

Driving transformation change

Change is not of itself either positive or negative; we note with some concern that it seems to be given a moral and ethical weight as a desirable thing, perhaps because of an unacknowledged deep-set belief that history is progressive. This perhaps falls into the category of "unknown knows", beliefs that are so ingrained that they are not even acknowledged as beliefs, against which a regulator needs to guard.

We have a certain scepticism about "customer relationships" as the source of meaningful insight into the requirements of communities. Firstly, while all use water, only some define themselves as customers and seek a customer relationship, and these are not necessarily representative. So basing strategy on them will give rise to slanted priorities. Secondly, although all water companies engaged in a consultation process with users in PR19, subsequently Ofwat has rejected results which diverged from its idea that the key thing was

to lower prices paid by customers. So it has not been treated as a meaningful thing except where it supports the Ofwat world-view. On the other hand, meaningful conclusions drawn from properly conducted citizen research are always valuable.

Encouraging private enterprises to create public value

Good luck with that. Ofwat is swimming against the tide here. We realise of course that you are forced to play the cards you are dealt, but Ofwat could usefully set out repeatedly and in public why it is that the private company, set up to maximise owner return, and public policy objectives actually have inherent competing imperatives, especially where those companies are owned by people with no connection at all to the locality or country.

In the present arrangements, we do see that the bully pulpit is a useful mechanism. Furthermore, identifying more clearly a model of what an effective locally-focused enterprise that focuses on public value - and then requiring that to be implemented - could be extremely valuable. From our perspective that would include: local employment; local procurement and payment of at least the Living Wage Foundation living wage, including to all contractors, as well as improvements against baselines to the local environment.