

Response to Ofwat's Consultation May 2020 - Innovation funding and competition: further consultation on design and implementation

Organisation: UK Water Industry Research (UKWIR) on behalf of the Water Sector Innovation Strategy Steering Group

UKWIR has been positively shaping the UK water industry's future for over 25 years. We facilitate, manage & deliver a strategic programme of research projects for our water company members to address the key challenges they face. We do this by providing leadership in shaping the future water research agenda.

We have been working with our members* to help them with the creation of a Water Sector Innovation Strategy. The steering group that oversees this work wished to submit a joint response to the consultation. We have worked with the group to produce this response, which is in addition to their individual company responses. We hope it will be helpful in giving a high-level summary of the many points of consensus.

If you would like to discuss any aspects of this combined water company response in more detail please contact [REDACTED]

[REDACTED]
[REDACTED]

24th June 2020

**see appendix for list of UKWIR member companies supporting this response*

Q1: Do you agree with our proposed default arrangements for managing IPR and royalties? Do you think these arrangements work for different types of projects and activities (e.g. new technology vs. process innovation, roll-out activities etc.)?

This is an important element to get right for any project as it is often the 'rate determining step' which can impact on project commencement.

The European Research Area Guidelines on Intellectual Property (IP) Management[1], which set out the three main elements of an effective system to protect and exploit IP, are particularly helpful.

https://ec.europa.eu/research/innovation-union/pdf/international_cooperation_guidelines_erac_kt_group.pdf

We support the proposed differentiation between Background and Foreground IPR, and the proposed treatment of background IPR. It would be helpful for arrangements to be expanded to cover 'royalty-free, irrevocable, perpetual, for internal business use and further research, including rights to a sub-licence'. The sub-licence aspect is particularly important to enable companies to further enhance or roll out project outputs.

We agree that royalties earned by water company partners should be shared with customers in proportion to the project funding drawn from the innovation competition.

Potential project partners may have a different view of the proposed arrangements, with smaller scale innovators in particular seeing them as a potential barrier.

The arrangements proposed should work for the majority of projects and activities but there will always be exceptions to the rule that will need further consideration.

Q2: What alternative arrangements should we be considering for IPR/ royalties?

The Intellectual Property Expert Group strongly recommend against the concept of jointly owned IPR, and consider that there are a number of alternative and better approaches, including one party owning and licensing the IPR, a portfolio of intellectual property which is shared based on vested interests and a "patent pool" arrangement with an administrator.

Consideration needs to be given to royalties earned by those partnering with the water companies on projects to ensure that proportions returned to water company customers do not become a disincentive to their participation. Some guidance on alternative arrangements such as royalty caps or time limits would be welcome. Arrangements must be clear before projects start.

The planned 'one stop shop' may need to be able to provide guidance on these matters.

If a 'not for profit' Governance Body was set up, perhaps limited by guarantee, it could retain the IPR value, and return this into the fund so that it will become self-funding over time (several AMPs).

Q3: Do you agree with the principle that data generated through the innovation competition should be open by default?

We support the general principle that data generated through the innovation competition should be open by default, however, in certain cases this may not be possible or desirable if the data is sensitive in nature (e.g. relates to critical assets, is personal or commercially sensitive).

An open data strategy needs to be developed, with a clear triage process and a secure data sharing platform. This should be a key feature of any Water Centre of Excellence.

Thought should be given to data sharing at the project proposal stage, with partners outlining what is possible and acceptable in their bids. Funding may be required to align, cleanse or anonymise the required datasets and to provide user friendly access to datasets once established.

Q4: Do you agree with our proposed approach and that we should consider alternative arrangements beyond company contributions?

We support the proposed approach in principle, any opportunity to increase the amount of funding available to enable innovation to progress is welcome and should be considered. Many organisations have successfully collaborated on and co-funded water industry research through the years resulting in shared learning, understanding and use of outputs.

If the additional funding were to come from commercial organisations then this could potentially complicate the IPR and royalty arrangements. It would also need to be conducted in an open and fair way to ensure no special advantage is given to any one company or organisation. Any innovation partnerships or procurement would have to be compliant with the Utility Contract Regulations 2016.

Leveraged funding should not be a prerequisite for success, but it could be a factor in determining which proposals are selected to progress.

Other in-kind contributions should also be recognised such as access to facilities, skilled or knowledgeable personnel, materials and consumables, travel and expenses and background IPR.

Q5: Do you agree that a guideline minimum company contribution of 10% is appropriate in this context?

We are not responding to this question, please refer to our members' responses.

Q6: Do you agree with the overarching approach we set out here?

We support the intent to retain flexibility to ensure an unintended bias towards certain types of projects is not created. Projects should be selected on their own merits in line with the chosen assessment framework.

There may, however, be a need in certain years to seek innovative solutions to specific challenges being experienced by the sector at that time. We agree that the Water Sector Innovation Strategy should help to guide this by identifying gaps and needs.

We would suggest that mechanisms are put in place to judge the current value of projects that are not completed within the AMP period, so that longer term innovation and early TRL projects are properly considered.

Q7: What are your views on introducing separate, proportionate, arrangements for small-scale projects? How might we define small-scale projects for the purposes of the innovation competition?

We agree that proportionate arrangements should be in place for small-scale projects. Whilst it is important that such projects are given appropriate scrutiny, they should not be subject to disproportionate governance or administration. Monitoring and reporting should be 'light touch'. The application process must be user friendly, clear and simple.

Any system developed could also support bids for enabling work required to help companies implement the innovative solutions created.

Small scale projects could be defined by factors such as; the amount of delivery resources required, their short duration or the amount of funding requested.

Q8: Do you agree with our proposal for ensuring roll-out is at the heart of the innovation competition? How might we reward both leaders and fast followers in this space?

We agree that implementation of project outputs should be a key consideration of the innovation competition. Project partners should give this due consideration and include details in their bids. A comprehensive Implementation or Exploitation Plan should be agreed before project inception wherever possible. If not possible then a phased approach for early stage projects where significant development is required may be more relevant to ensure projects consider roll out at an appropriate time.

Leading companies should be rewarded for actively enabling others to follow fast. An alternative to rewarding fast followers could be to use the enabling fund to support companies to implement the innovations developed.

Incentivising fast following could also give rise to unintended consequences, for example, by giving an unfair advantage to one supplier's product over a competitor's product.

Q9: What practical arrangements should we introduce to ensure adequate ring-fencing of the innovation funding?

We are not responding to this question, please refer to our members' responses.

Q10: Do you think the proposed innovation challenge approach will help better enable partnerships and collaboration between companies and third-parties, in particular smaller innovators? Are there alternative approaches we should be considering? How can we make sure this approach works in practice?

We agree that partnerships and collaboration are a key enabler for effective innovation. The Innovation Strategy supports this principle and will consider alternative ways of working to better enable this. It is important that the fund attracts interest from organisations not already working with the water sector and from smaller innovators.

The proposed Innovation in Water Challenge could be helpful in engaging smaller innovators. It may attract a large number of proposals and thought needs to be given as to how these would be assessed to allow only those with the most potential to progress to the pitching process. It may help for there to be a clear focus or need defined for the call. Proposal assessment could require significant effort and resources and would need a clear assessment framework and feedback process. Some of the water companies have run 'Dragon's Den' style competitions themselves and learnt valuable lessons from them which they would be prepared to share.

To encourage smaller innovators to participate they will need to see a clear framework in place with the correct funding and procurement structure to support their business development strategies. Ensuring a balanced focus on technology development and reporting is important. Any reporting method for successful projects would need to be 'light touch'.

Q11: Do you agree with our proposed approach to returning funds to customers? Are there any other circumstances, not considered here, under which we might consider returning funding to customers?

We are not responding to this question, please refer to our members' responses.

Q12: Do you agree with our proposed approach for managing interactions with the price review?

We are not responding to this question, please refer to our members' responses.

We do recognise the importance of the one-stop-shop activities Ofwat propose in this section and we would like to collaborate on these due to the cross-over/alignment with the Water Centre of Excellence proposal.

Q13: Do you agree with our proposed amendments to the principles? Are any further amendments to the principles required to reflect our approach to outstanding policy issues outlined in this document?

It is important that the principles supporting the Innovation Fund are clear, fair and proportionate. We are pleased to see the amount of consideration that has gone into them and that they are open to amendment. We welcome their wider consultation to ensure that they are co-created with, and supported by, those who will need to engage with and abide by them.

In particular we have not responded to the proposed position on risk sharing, and the introduction of a minimum 10% contribution from companies. Please refer to our members' individual consultation responses for their views on these proposed amendments. These reflect the different business models that are in place (and need to be taken into consideration).

Q14: Do you agree with our proposed focus, major strategic themes and overall approach for the competition?

We agree with the proposed focus and major strategic themes, it is good to see that they align with those in the Water Sector Innovation Strategy. Focus should also be given to supporting the "green" recovery which is considered vital to help the UK recover from the economic downturn caused by the coronavirus pandemic.

Please refer to our members' responses for their views on the overall approach to the competition.

Q15: What is the appropriate split of available funding between the Innovation in Water Challenge, the main competition and enabling activities?

It would be helpful to have additional clarification on what sort of projects would be welcome in the three fund areas, and additionally, what constitutes an 'enabling activity' and what the process will be for receiving bids/proposals for such activities.

It is important that the best projects are progressed, whichever fund they are submitted to. To achieve this there may need to be some flexibility in the proposed funding splits rather than allocate funding to less worthy projects.

Q16: What are your views on the feasibility of running all three types of activities in the pilot year, and on the proposed timings in Annex 3?

The time and resources required to finalise the Water Sector Innovation Strategy, discuss project ideas, form partnerships, produce project bids, and then for Ofwat and the expert panel to assess them, should not be underestimated.

Some projects may not be able to fully progress until enabling infrastructure is in place. This may require projects supported under the enabling fund to start ahead of those in the other two funds. We believe that the early establishment of some key elements of the Water Centre of Excellence is a vital enabling activity, for the main competition in particular.

Q17: Do you agree with our proposed approach to key implementation considerations outlined here?

We agree with the proposed approach in principle and look forward to seeing further details on the specific elements as they develop.

We note the expectation that the water companies should develop a joint framework setting out how to measure and understand innovation. We are giving this more thought and we will be bringing forward proposals for discussion with Ofwat over the summer.

We would suggest that each of the water companies are represented on the proposed expert panel as this would help to raise awareness and facilitate buy-in to proposals at an early stage. We appreciate they would need to declare any conflict of interest and not score any proposals they were directly involved with. It would also be useful for the Environmental Regulators to be involved with the panel, so they also receive early sight of proposals and can raise any pertinent points for consideration.

***Appendix – list of UKWIR member companies**

Affinity Water
Anglian Water
Bristol Water
Dŵr Cymru Welsh Water
Hafren Dyfrdwy
Northern Ireland Water
Northumbrian Water
Portsmouth Water
Scottish Water
SES Water
South East Water
South Staffs Water
Severn Trent Water
Southern Water
South West Water
Thames Water
United Utilities
Wessex Water
Yorkshire Water