

Ofwat
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By email: PR24@ofwat.gov.uk

22nd July 2021

Dear Ofwat,

PR24 and beyond: Creating tomorrow, together

Thank you for the opportunity to comment on your initial views on the framework for PR24 and future price reviews.

To assist the crafting of this response, the Bristol Water Challenge Panel has read the following documents:

- PR24 and Beyond: Creating tomorrow, together
- Appendix: Reflecting customers Preferences

Several members of the Challenge Panel attended the Consumer Council for Water (CCW) run workshop on PR24. The experience of customer representation during the challenge by Bristol Water to Ofwat regarding its Final Determination and the subsequent hearings with Ofwat and the Competition and Markets Authority (CMA) also informs our response.

Context

The Independent Customer Challenge Group (CCG) for Bristol Water is known as the Bristol Water Challenge Panel (Challenge Panel). It is important to emphasise that the Challenge Panel and all its members are independent from both Bristol Water and Ofwat. The Challenge Panel's members exhibit a range of the strengths, skills and expertise relevant to the roles it carries out.

We scrutinise the work of Bristol Water on behalf of customers to ensure that customer research conducted by Bristol Water is sufficient, robust, and clear for the purposes of business planning and customer satisfaction. Additionally, we scrutinise the delivery of the business plan and scrutinise the assurance reporting carried out by the company's independent assurer, currently Turner & Townsend.

All Challenge Panel members take very seriously their responsibility to scrutinise independently the company's customer engagement research framework, its implementation and analysis in order to obtain and represent the views and priorities of customers fully and comprehensively.

We publish annually a report on our activities during the year covering our various roles including:

- our membership and skills mix
- the subjects covered in our meetings and the actions resulting from them

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- the challenges we made, and the company's response to them
- our opinion on Bristol Water's performance against its Final Determination (as amended by the CMA) and its business plan targets
- our views on the company's customer engagement activities (eg, surveys, benchmarks, focus or customer panels and their use in the business plan, delivery or for other reasons)
- examples of good or poor performance by the company
- the status and plans for the Social Contract (Bristol Water's commitment to local communities and their priorities), and
- a statement of the Challenge Panel's focus for the upcoming year.

These Annual Reports are posted on the Bristol Water website for all to read.

Although the Challenge Panel relies on both Bristol Water and Ofwat in order to carry out our functions, we are customers of Bristol Water, and our authority comes from water regulation in England and Wales.

The Challenge Panel places great importance on the need for Bristol Water to build and maintain trust with its customers by providing clear, high-quality information on its service performance, on billing matters and on operational issues.

As part of the PR19 business plan submission, we were tasked with providing independent challenge to Bristol Water and with assuring Ofwat on the quality of the company's customer engagement and the degree to which this is reflected in the business plans. The Challenge Panel was pleased to assure Ofwat of the high quality of customer engagement evident in the Bristol Water business plan; a plan that focused on building trust, being transparent in its undertakings and inspiring confidence among its customers. The Challenge Panel was keen to ensure that the customer engagement strategy was rooted in the realities facing customers in both the short and longer term and Ofwat acknowledged the quality of the Challenge Panel's contributions to the business plan and its report to them of our work during the AMP.

In order to assist the Challenge Panel in carrying out its function and coming to these conclusions, we adhered to the duties and responsibilities set out by Ofwat in its "Customer engagement policy statement and expectations for PR19" published in May 2016, its publication "Delivering Water 2020: Our final methodology for the 2019 price review" from December 2017 and the Ofwat "Aide Memoire for Customer Challenge Groups" from March 2018. The extent of challenge made by the Challenge Panel exceeded the issues in the above documents as the strengths, skills and expertise of Challenge Panel members broadened, augmented and enriched its discussions and deliberations.

Significantly approximately 25% of challenges made by the Challenge Panel resulted in a change in the way Bristol Water carries out its business, either during the AMP or into PR24.

During the CMA hearings with Ofwat regarding the challenge by Bristol Water to the Final Determination, Ofwat stated that it had no disagreements with the work and outputs of the Challenge Panel.

6.1 General observations on the proposals

Context. The Challenge Panel is pleased that Ofwat '*recognises that this is the moment for fresh thinking and fresh approaches*' and has set out some proposals to achieve this objective.

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The Challenge Panel supports Ofwat in its aims stated above for PR24. *'We think that means: an increasing **focus on the long term; delivering greater environmental and social value; reflecting a clearer understanding of customers and communities; and driving improvements through efficiency and innovation.** These proposed goals reflect the outcomes that we want to achieve for customers and the environment. They interlink with and complement each other, and the price review must deliver on them all'.*

As a sector, the last AMP provided a number of regulatory challenges, not least because four of the 17 water companies referred their Final Determinations to the CMA. Some problems possibly could have been avoided had Ofwat provided the industry with clearer requirements and definitions to companies as well as standardising guidance such as the aide memoire which defined its expectations of CCGs.

There have been discussions on the cost and consistency of customer research, particularly as there are only a few research companies that carry out the type of research needed and their findings, analysis and interpretation across the different water companies varies. Proposals for collaborative research, as well as standardised research, provide opportunities to address some of these inconsistencies. However, it should be recognised that the analysis of research differs from interpretation; interpretation is influenced by a range of local differences. While nationally commissioned collaborative research will form the basis for locally commissioned research, the interpretation of customer views on issues such as willingness to pay and acceptability are likely to diverge. Whether national research will save money spent by the water sector on local research overall is yet to be determined.

Vision. While the document states clear aims for PR24, it lacks a unifying vision of where the sector is heading, either in the short-term (ie the next AMP) or in the longer-term. Ofwat has consulted on its vision and we are unclear about its conclusions, its mission or its values.

In the response by the Challenge Panel to Ofwat's Vision 2050, we underlined the lack of ambition within the water sector regarding issues such as achieving net zero by 2030, tripling the rate of leakage reduction (it should be noted that Bristol Water's position as at the frontier for leakage reduction was accepted by the CMA), prevention of billions of plastic bottles creating waste and litter (an initiative first promoted by Bristol Water) and bill affordability. We wrote that the document fell short in its assessment of climate change, of water as a scarce resource and of the country's need to strategically address avoidance, mitigation and adaptation strategies arising from climate change.

We find it very difficult, therefore, to assess the effectiveness of the structures Ofwat proposes to establish for its collaborative and standardised customer research. We note the formation of a Steering Group, Advisory Group and Delivery Group comprised of water companies, civil servants from the regulators, Citizen's Advice and customer experts to set the direction of collaborative research, challenge on behalf of customers and deliver the practical aspects of the collaborative research. However, the setting of a direction without an explicit vision, mission and strategy could be seen as rather hollow. Such a course of action makes identifying and uniting around shared values, if not difficult, then unlikely. Despite the definition of the Groups, there is the potential for delivery to be the key focus and that engineering solutions such as reservoirs, regulatory control or imposed strictures (including prescribed nationally constituted groups) could dominate the research framework, its research briefs, analysis and interpretation.

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Furthermore, we note the composition of these Groups is primarily drawn from the water companies, regulators and experts. We are concerned that the lack of visionaries, campaigners and disrupters will further push the research in a particular direction. It could be inferred that the proposed ending of independent CCGs is linked to a drive towards central control where innovation, new and different ways of addressing the key issues Ofwat describes, where regulatory challenge is all but eliminated. The inclusion of consumer-focused bodies is interesting but does not necessarily overcome the problem described above. Consumer-focused bodies often focus more on cost – a short-term matter that can be addressed through affordability or vulnerable strategies – than on a transformation, whether complete or incremental, from short-term to long-term benefit where urgent and wide-reaching action is required to address climate and environmental changes. Their focus on the production of performance league tables may also obscure local differences in demographics, geography or deprivation that are difficult to quantify and may not necessarily express the breadth of any given matter. They can, however, bring into the picture helpful comparisons across industrial sectors and highlight customer-facing opportunities to improve customer service.

Comments on question 6.2 from the discussion paper: collaborative customer engagement research

The Challenge Panel welcomes the proposal of collaborative and standardised research. Ofwat has offered reassurance that sufficient samples from each of the water companies will enable the research to inform local decisions and to provide the basis for local research on, say delivery matters. In theory it sounds plausible.

We note that CCW, whose track record of conducting national research on water issues, is included in the proposed structure for collaborative research, which is welcomed.

In addition to the points set out in the various consultation documents produced by Ofwat and referenced above, the Challenge Panel would welcome collaborative research in the following areas:

- Clear and common definition of customer segmentation. For example, Bristol Water has segmented its customer base using descriptive categories such as ‘Thirsty Empty Nesters’, ‘Young Urban Renters’, ‘Safely Affluent’ or ‘Comfortable Families’ and assigned characteristics about their water use, employment status, bill payment habits and discretionary and disposable income.
- Clear understanding of and common measurement of vulnerability, affordability and poverty.
- Customer service measures (and definitions) and service level agreements.
- Triangulation. While Bristol Water used academic research to define triangulation, and used this methodology for the analysis of its customer engagement findings, Ofwat queried its validity due to “a lack of adoption of industry best practice”. We note that Bristol Water refuted this claim at the time (following the publication of the Initial Assessment of Business Plans) and that its economic consultants confirmed the company’s approach as being consistent with published best practice guidance. Thus, we consider that the term ‘triangulation’ can be used in a number of ways and the pros and cons of each could be tested for the water sector.
- Framing of context for long-term customer views on environmental matters, service levels, etc. Without a clearly articulated vision for the sector, it will be difficult to set the right direction for it.

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- Outcome delivery incentive rates, eg. exploring how customers value improvements or deteriorations to service, and using this as a starting point to set ODI rates. The interesting points will come when national research is used locally. Customers will be influenced by a number of drivers, such as personal experience with a burst or other catastrophe, their views on environmental issues, their political considerations on taxation and levelling up, and other motivations.
- Incentive caps for performance commitments, eg based on extent of improvements desired and customer tolerance of price increases. The above comments from the customer's perspective also apply.

We note that Ofwat has not set out how it will determine the nationally imposed performance commitments and which performance commitments will no longer form part of regulation. An explanation of the process would be helpful.

We would like more information on how Ofwat will use the national research at local level in a transparent way and how local scrutiny and challenges are being considered in this process, particularly as algorithms and modelling from a top down or bottom up direction could possibly arrive at different points.

Comments on question 6.4 from the discussion paper: customer challenge of business plans

We note the plans outlined in chapter 6.2.3 of the discussion paper, namely:

"We do not plan to mandate, as we did in PR14 and PR19, that each company should have a customer challenge group that delivered a customer challenge role and provided assurance to us on the quality and use of each company's customer engagement. Instead, we suggest each company is to put in place challenge and assurance solutions for customer engagement that meet its specific needs and ambitions.

"Many companies, but not all, have indicated to us that they plan to continue the independent group that performed the PR19 customer challenge group role: in many instances this is to ensure ongoing customer challenge of company delivery of existing commitments to customers. Under our proposals, each company has freedom to maintain its CCG, where they find it helpful for focusing on, and working with, customers, as part of their day to day business outside the price review."

Whilst we cannot speak for other CCGs, the Challenge Panel would like to take this opportunity to underline the importance of CCGs in the price review; our role is as much about our dialogue with the regulator as it is about our challenge to the company. We note that Ofwat has not demonstrated how they used the CCGs inputs at PR19 and why the system no longer seems appropriate in water regulation.

Following the publication of this discussion paper and following preliminary discussions with Bristol Water staff over Ofwat's proposals described above, we are encouraged that the company has signalled its intention to continue an approach regarding the role of the Challenge Panel, which would be similar to the PR19 arrangements.

We would however urge Ofwat to reconsider its plans not to mandate that each company should have a CCG that delivered a formal customer challenge role as part of the business planning process. We are concerned that the proposed approach risks the quality of independent review from

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representatives of the local community and risks our expertise being circumvented when Ofwat considers the quality of company business plan submissions. Our role is to act as a champion for the customers of Bristol Water and to make sure that the company understands what customers expect from their water company. This should, in our view, be formally recognised in the business plan process.

Referring back to the role and composition for the Groups leading all aspects of the proposed collaborative research, a great value is that local CCGs can harness the innovation, creativity and energy of artists, marketers, campaigners, farmers, consumer specialists, public health, academic, local government, environmental and regulatory interests to examine, refine and present integrated perspectives that influence customer engagement research. This additional input delivers value across the board, from customer engagement and behavioural change to company assurance and performance monitoring. To lose this enlarged and more representative perspective to the regulatory environment that CCGs bring, particularly given the long-term pressing issues facing the sector and humanity as a whole, could be perilous.

The question for Ofwat regarding the differences in, for example, valuations placed on given outcomes, could well be replicated when standardised research conducted locally is carried out. As in regional foods or accents, local differences are inherent in what constitutes regionalism and, in terms of trust and transparency, to attempt to eliminate this through centralised, monocultural means will be obvious to consumers. For example, the area covered by Bristol Water has a strong heritage in environmentalism which, at the most recent election, has translated into the election of many more Green Party candidates and environmentalists in local authorities served by Bristol Water than previously. Such a movement may well translate into research regarding trade-offs or acceptability. By way of example, the Challenge Panel managed to achieve a considerable consensus on local environmental issues and their likely cost to the company. Customer acceptability for this initiative was over 85%. Had the process advocated by Professor Littlechild been agreed and local negotiations were in place, then the package could have been implemented by Bristol Water. The resultant bill increase would not have been the lowest achievable, but the package was not only workable, but also benefited the environment. Sadly, national requirements of both Ofwat and CCW meant that local interests were overridden and the environment suffered accordingly. Strong and perhaps vocal local views will almost certainly be explicit in matters such as the transfer of water resources between regions and the weighting of importance for issues such as sewage overflows to water courses, beach pollution and the balance of water abstraction allowed on water courses.

The ability to focus challenge and scrutiny into the boardroom can be transformative (as seen by a quarter of our Challenge Panel's challenges changing the way the business operates in the short-term or in the next AMP) and places customer issues directly in front of the Board and shareholder directors. In the way that CCG findings supported corporate business plans, as in the case of four companies at odds with Ofwat's Final Determination, speaks volumes about how the algorithms of modelling can arrive at unexpected and implausible results. Seen centrally, these appear to be anomalies that must be rationalised and eradicated, but viewed locally fulfil the wishes, preferences, perspectives and demands of local people and their local situations, considering trade-offs between cutting costs or increasing benefit for local priorities.

The proposal for Ofwat to remove CCGs from the regulatory process of business planning, assurance and performance delivery could be interpreted as an act of distancing itself from the views and wishes of local people. It affects not just the dialogue between CCG, company and regulator, it disables the customer's route to scrutinise and influence the regulator and the regulatory system up to and including challenges to the CMA. The removal of this power could be seen as being a retrograde decision.

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Comments on question 6.5 from the discussion paper: minimum standards

Having put forward a case to retain CCGs in the regulatory process, there are certain minimum standards that could well be established. For example, Ofwat may wish to participate in the recruitment process of CCG chairs, to reassure itself of the calibre of such individuals to carry out the processes required to provide independent assurance of customer engagement and its translation into the business plan, in-period performance delivery and assurance. Periodic observations and participation in CCG meetings and one-to-one meetings with Chairs across the AMP could provide assurance. The ability to remove a non-performing Chair could also be included as a remedy to poor performance. An investment by Ofwat in such a system would be far less expensive than the formation of the proposed Advisory and Delivery Groups and would flag up any points of conflict or ineffectiveness.

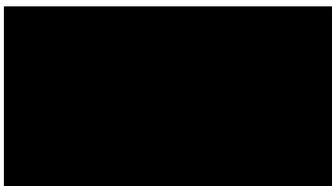
Guidance on triangulation has been referred to above.

CCGs have little power to request information on corporate training plans, financial and investment matters and asset management. Each of these areas impact on performance delivery and business planning. Guidelines, aide memoires or other support for CCGs could be helpful. We suggest that the Weighted Average Cost of Capital may be a matter for national research and that the experience and know-how of CCW may be useful here.

In closing, we look forward to the results of this consultation and hope that points made in our response can positively influence the outcome of the consultation.

On behalf of the Bristol Water Challenge Panel.

Your sincerely



Mrs Peaches Golding OBE CStJ

Independent Chair

22 July 2021