Blueprint for Water response: consultation on changes to PR24 price control deliverables

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This response is on behalf of Blueprint for Water, part of the nature and animal welfare coalition Wildlife and Countryside Link (Link).

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Blueprint for Water welcomes the opportunity to respond to this consultation on changes to PR24 price control deliverables.

It is essential for both consumer and environmental protection that there are strong mechanisms and safeguards in place when companies fail to deliver work and investment as planned. However, it is also important that applying these mechanisms does not result in unintended consequences such as environmental delivery stalling or being abandoned. This has clearly been the case in the past. Given the scale of the investment package in PR24, it is crucial that this balance is robustly and transparently managed.

Blueprint for Water is therefore supportive of Ofwat's proposals to apply the clawback mechanism in the subsequent AMP *if* more than 70% of allowed expenditure has been made, *and* where it is evident that the company will complete delivery in the next AMP, and to apply clawback and late delivery penalties now for schemes less than 70% spent, whilst instead ensuring funding for delivery in the next AMP. For further assurance, and particularly in the latter case, we suggest that Ofwat should consider and confirm further milestones as indication that the scheme has progressed substantially; for example, demonstration of complete design and procurement.

We are also supportive of proposals to incorporate a proportional change control process in PR24. The scale of the PR24 investment package, plus policy uncertainty during the PR24 planning period, means that some change is likely inevitable; the control process must ensure that this is proportionate, and that customers and the environment will receive equivalent or larger benefits than originally planned.

We would be pleased to discuss any of the points raised in this response further.

Questions

Q1: Do you agree with our proposed approach to applying non-delivery PCDs for schemes which have not been completed by the end of 2025-30 period but which companies are still required to deliver in the following price review period?

Blueprint for Water members strongly support the application of clawback mechanisms where companies have failed to deliver work as planned. This principle is a cornerstone of consumer and environmental protection. This is particularly significant in PR24 given the scale of investment involved, and the fast-approaching deadlines for legally-binding targets to restore waters to good status and to halt the decline of nature.

However, some stakeholders have raised concerns about the practice of clawing back funds in the event of non-delivery *combined with* the inability for companies to then secure replacement funding in subsequent AMPs, suggesting that under a continued privatised model this places companies in a 'doom loop' - particularly those who are already performing poorly - leaving a growing backlog of environmental delivery which is increasingly challenging to correct.

With no realisitic alternative to a privatised sector on the cards at present (apart from potentially in the case of Thames Water), whilst this combination of controls has the desired effect of financially penalising an underperforming company, it also has the unintended consequence of prolonging environmental harm. A proportionate approach would instead be one which rewards early delivery and penalises late delivery, without reducing the likelihood that presently-missed objectives will *at some point* still be met. Ofwat have recognised this risk, referred to in the consultation document as 'underfunding'.

As such, we agree with the principle of applying a clawback mechanism in a way which acts as a disincentive to late delivery but which does not also preclude ongoing and future delivery.

We agree with the proposal to apply a clawback mechanism in a different way depending upon how far progressed a relevant scheme is, disapplying the non-delivery PCD clawback and instead applying it in the subsequent AMP for schemes where at least 70% of the allowed expenditure has been made, and applying clawback but then re-providing the same level of funding in the next AMP in cases where spend is less than 70% made. When disapplying the non-delivery PCD, we suggest that Ofwat should consider and confirm further milestones as proxies for irreversibility; for example, demonstration of complete design, procurement and

mobilisation of scheme delivery. For schemes where spend is less than 70%, we suggest that re-provision in AMP9 should be conditional on further independent milestone verification – for example, that design is complete, that permits have been obtained, and contractor/s appointed.

We agree that the loss of an outperformance payment for earlier delivery may alone be insufficient incentive to ensure that companies strive to deliver on time, so would welcome a late delivery penalty also being applied in either of the above scenarios to ensure that companies are further disincentivised from delivering late.

However, we caveat the above support for the following reason. We understand that the justification for the two different approaches is one of financial control; it simply uses a method that, based upon level of spend, ensures that the company will see no advantage due to late delivery. It does not appear to distinguish between the two categories in terms of the *level* of disadvantage that it creates.

Where a company can show that 70% or more has already been spent in a scheme, with a credible plan to finish early in the next AMP, this demonstrates substantive progress. Residual delays often stem from external constraints, such as specialist contractor scarcity or adverse weather, so regulatory treatment should recognise progress while still discouraging late completion.

Where a budget is less than 70% spent, this suggests more systemic issues with project planning and delivery that the company has failed to recognise or to tackle; we suggest that the overall impact of the penalty in these cases should be greater than for companies where schemes are substantially nearer completion. We feel that this will provide a practical balance; disincentivising under-delivery, disincentivising significant under-delivery even more-so, but ensuring that the improvements desired by customers and required by the environment will ultimately still be delivered rather than abandoned.

Finally, we comment on these proposals in the context of continued policy developments stemming from the Cunliffe review; as such, we welcome the opportunity for these controls and flexibilities to collectively secure enhanced environmental outcomes, but beyond these we remain supportive of wider changes that will see a more substantial shift in the way that the water sector is regulated in future, moving us away from the failures of the past.

Q2: Do you agree with our proposal to introduce a proportionate change control process for PCDs in PR24 and our proposed approach to this process?

Given the much larger nature of the PR24 settlement compared to previous Price Reviews, and the policy uncertainties at the time of planning, we accept that it is inevitable that some changes to schemes may be required.

Further, some changes to schemes may be *desirable*, particularly where companies identify ways of securing enhanced environmental outcomes compared to those envisaged from the approved scheme. As such we welcome the establishment of a change control process which is proportionate. It should facilitate beneficial changes and resist detrimental ones, and should keep the overall volume of changes manageable, forcing companies to prioritise the most important ones. We agree that this most likely applies to PCDs that are scheme-specific and bespoke.

Having said that, we note that Ofwat had already recognised that in the case of PCDs where the tracked output is 'number of schemes / actions', existing flexibilities that allow schemes to be swapped in and out could see material reductions in scope across the programme, which does not protect customers. Further clarity on how this risk will be assessed for key environmental delivery such as the WFD PCD would be welcome.

We suggest that any requested changes must pass key tests, including:

- A no detriment test, with regard to both customers and the environment.
- An equivalent or greater benefit test, on a quantified basis.
- A no net risk transferred to later AMPs test.

A further option for managing risk could be to cap cumulative scope changes per PCD without escalated approval – for example, 20% of the total allowed cost, or 15% of output volume.

We strongly welcome that the process for considering changes in the scope of work will require the company to demonstrate that customers and the environment will receive equivalent or larger benefits than originally planned, not including cost savings. This eliminates the risk of companies seeking to bring forward changes which will lower customer bills but which will deliver reduced levels of environmental protection. Evidence packs should be provided to demonstrate that customers and the environment will receive equivalent and/or larger net benefits.

Q3: We welcome views on our proposed approach to assurance, including:

• Should we set a percentage of schemes which should be assessed in detail by the assurer?

We suggest that assurance should be based not solely on a percentage of schemes but should also consider the financial value and environmental significance of the schemes.

• Should there be criteria for which schemes are assessed in detail, e.g. random selection, or identification of high profile vs. high risk?

We would welcome a combination approach, based on random selection to start with (to ensure that companies do not neglect the quality of schemes considered lower profile etc.) but then ensuring that a representative selection of schemes of high environmental importance are also included, if not already selected by random.

• Should stakeholders be invited to highlight assets of particular concern for scheme level assurance?

Yes, we feel this would aid with improving transparency and trust. Example schemes under particular themes could also be selected by Ofwat in response to known stakeholder interests; for example, schemes that are relevant to the protection of chalk streams.

• Should we introduce requirements for transparency. For example, should all assessments, or those that have gone through assurance be published?

Yes. All assessments should be published on company websites so that interested stakeholders have access to them.

Q4: We welcome views on our proposed approach to non-delivery PCD clawback and cost sharing, including:

• Our proposed approach to clawback and allocation.

Non-delivery amounts should be returned to customers in the benefitting area, and re-provision ringfenced for the same schemes in AMP9.

We welcome Ofwat's assertion that they will claw back further allowances if there is indication that cost-sharing arrangements are leading to customers paying twice.

• The appropriateness of cost sharing.

Symmetric sharing should be applied for efficient under/overspend only where outputs and benefits are fully delivered. Where outputs are not delivered, no sharing should be applied to shortfalls, with the cost burden falling solely on companies.

• The approach if assurance is deemed inadequate.

Clawback should be escalated on a precautionary basis, should require independent reassurance, and include temporary restriction of change-control approvals.

Q5: We welcome views on our proposals for additional flexibility for the storm overflows PCD.

We welcome the establishment of Storm Overflow assurance requirements to set out what flexibilities and safeguards exist within the PCD, and in particular are pleased to see the inclusion of surface water management as a consideration within the Best Value assessment.

Q6: Do you agree with our proposed approach where the company can use IED funding for STC rationalisation up-to its maximum IED allowance once the company has exceeded its bioresources base allowances and any remaining rationalisation costs above the combined IED plus bioresources base allowances will be subject to a 50:50 (overspend: underspend) cost sharing rate?

We agree with the proposed approach in principle, subject to safeguards being in place.

The use of IED funding for STC rationalization should be permitted up to the IED allowance once the bioresources base allowance is exceeded, with any remaining costs shared at a 50:50 rate.

Guardrails should be in place, including:

- No double recovery across bioresources/IED budget pots.

- Compliance and environmental outcome equivalence must be evidenced.
- A cap should be in place on the share of the programme that can be reclassified – for example, no more than 10% - to deter misuse. Misuse could include companies swapping a number of projects to avoid penalties without delivering better outcomes, for example.

For questions or further information please contact:
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- Angling Trust
- Friends of the Earth
- The Wildlife Trusts