



Paul Stewart
Utility Regulator
Queens House
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25 April 2023

Dear Paul

Consultation on the approach to the PC21 mid-term review
Our reference: PD200103245

We are pleased to respond to the Utility Regulator's (UR) consultation on its approach to the PC21 mid-term review (MTR).

We support the MTR. As explained in our response to the PC21 draft determination we see it as a timely opportunity to review and recalibrate NI Water's targets and revenues, and to facilitate any necessary changes.

We agree with the UR's plans to take a proportionate approach to the MTR, and that the review's scope should be limited to areas where it can provide benefit or is necessary. Accordingly, we support the position to not reopen the financial determination to reconsider return on capital, operational cost efficiency and capital cost efficiency.

We welcome UR's approach to work with stakeholders to ensure NI Water delivers the best package of outputs within the funding allocation, and the commitment that the MTR should be as open, transparent and collaborative as possible. We remain committed to play our part fully in the MTR process.

To aid this collaborative approach we thought it would be useful to note the main areas of MTR interest for the Consumer Council, and where we expect to be involved in discussions on review and any alterations:

- The impact of changes in funding, or significant budgetary pressures, on output delivery and the K-Factors previously set.
- Consideration of the outcome of the work completed on scope certainty and the associated impact on the prioritised list of outputs.
- Investment programme changes required due to emerging needs and pressures.



- Consideration of capital maintenance funding levels and serviceability to check whether assets are being maintained and the PC21 final determination assessments remain valid.
- A review of delivery against the development outputs to determine whether elements of funding for the second half of the period should be approved, and whether NI Water's capability and techniques are being developed sufficiently to support more robust business planning for PC27.
- The review of existing consumer measures, and consideration of the incorporation of new consumer measures and targets developed and agreed through the CM/SAT stakeholder group.
- A review of the target performance bands set for water quality and environmental compliance performance measures, and understanding of how performance could impact on other service areas.
- Opportunities for implementing any innovative and sustainable solutions proven in the early part of PC21.

Consumer priorities

When considering the above we will continue, as we did for the PC21 business planning and determination process, to check that the balance of investment, outputs and associated costs meet the priorities of consumers.

Our 2023/24 work programme includes research of householders' views of NI Water using a methodology allowing for comparison to England and Wales. Many benefits have been informed and facilitated through comparative analysis to GB water and sewerage companies. While we have greatly improved our collective understanding of consumers' views and satisfaction with the services provided by NI Water, we have less data on Northern Ireland consumers' views comparable to England and Wales. We aim to have the research results in time for NI Water's submission in September 2023 and we will use these to inform our response. We will share the research results with UR.

Investment costs and tariff adjustments

Given the Public Expenditure (PE) budget uncertainty we understand the impracticalities of setting specific alternative budget scenarios at this time for the MTR. As the PE budget situation becomes clearer, NI Water's batches of projects requiring greater scope are delivered, and cost pressures above inflation are better understood, certainty on scenarios of options will be needed. This scenario planning must include clarity on the impacts to consumers.

With many moving parts in the MTR this clarity on deferred and substituted projects, alterations in project costs, and changes in delivery of benefits to consumers will be required for all stakeholders to allow for agreement of changes. The proposals for investment

information and projects set out at paragraphs 3.45 to 3.50 are welcome, as is UR's plan to get the Reporter to review a sample of NI Water projects that required greater scope certainty. We would ask that UR confirms that the Reporter's review findings will be available with the MTR consultation report.

We continue to support the principle of maintaining base maintenance allowances to ensure there is no overall deterioration in existing levels of service, and UR's plan to continue to apply this in the MTR. We also expect the continuation of the established principle of prioritising drinking water investment.

We are mindful of NI Water's notification that base maintenance costs have risen significantly. The impact of this and the additional pressures it will place on the enhancement budget will require careful consideration by the water stakeholder group.

UR notes the possibility of some or all increased power costs impacting tariffs. Given the scale of tariff increases that full pass through of power costs would drive, we would be very concerned about the impacts on affordability. We appreciate agreement of further subsidy from the Department for Infrastructure is outside the remit of the PC21 MTR but would note our concerns at this early stage.

We would welcome engagement with UR on its considerations for a mechanism to be introduced to apply corrections in power costs (paragraph 3.57) and how this would differ from existing regulatory tools. When supporting the retention of a revenue adjusted price cap for PC21 we noted among its advantages the allowing for timely tariff adjustments. Over recovered revenues could be returned to consumers annually in reset charges, whilst adjustments for under recovery could be phased over a half or full price control period. The possibilities for phasing or spreading the impacts of short term but severe power cost increases should form part of our considerations in the MTR, along with any additional mechanism.

The MTR draft approach understandably makes comment on the handling of inflationary cost pressures. In our response to the PC21 draft determination we called for a move from RPI to CPI for PC27. As the draft MTR approach notes, the work for PC27 will commence at the start of 2024. The PC21 MTR would seem an appropriate place to commit to this change, allowing time for the required adjustments and Licence condition changes to be made.

PC21 outputs

For the MTR review of PC21 outputs we welcome the proposed scope and approaches to service level outputs, serviceability, general activities, and nominated and development outputs.

On consumer measures, the CM/SAT group is making good progress in its review of the three consumer measures NPS, FPOCR and unwanted contacts. Changes are expected in both the methodology and targets for these measures for the second half of PC21 and leading into PC27.

UR notes it does not anticipate setting mid-term review targets relating to consumer vulnerability (paragraph 3.83). The PC21 final determination (FD) including timetabled proposals for the development and setting of individualised targets for NI Water (see FD paragraph 3.45). We understand that discussions on consumer vulnerability since the FD have moved towards the development of UR's Best Practice Framework (BPF). At the time of the FD publication the BPF was expected in 2021/22. The final consultative phase of the BPF is now expected in 2023. The setting of targets is a requirement of the FD and the PC21 Social and Environmental Guidance, and proposals for their delivery and alignment with the BPF should be made in the MTR.

NI Water's latest Codes of Practice were launched in October 2022. Alongside improvements in structure, appearance and explanatory text to provide transparency about the standard of services consumers can expect to receive, they include improved service promises. There is less transparency of NI Water's performance against the promises contained within the Codes. The monitoring and reporting of performance against the Codes' promises is an area we would like to explore with UR and NI Water. The MTR report provides an opportunity to comment on this as a development output for the second half of PC21 and into PC27.

Clarity and consideration

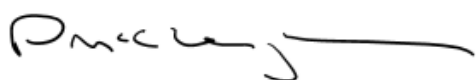
The PC21 FD provided a clear plan, supported by the main water stakeholders, to drive improvements in NI Water and our water and sewerage services. As the MTR progresses there will be a need for UR to maintain transparency and clarity of understanding over possible alterations to the PC21 programme, and the impacts on revenues and outcomes for the remainder of PC21 and into PC27.

In our response to the PC21 draft determination we noted our concern about the short period for sufficient stakeholder review, scrutiny and consultation between NI Water's MTR submission in September 2023 and UR publishing its report in December 2023. This concern has been eased somewhat with the clarification that UR's December 2023 report will be a draft for consultation.

As UR notes, established groups and processes exist for alterations and managed changes. Given the quantum of expected PE pressures and potential impacts on PC21 FD outcomes, we would find it of additional benefit if UR could provide in the final MTR approach document more information on its plans for engagement with stakeholders to provide the required clarity and seek agreement within the MTR timetable.

We look forward to continued engagement with UR throughout the PC21 MTR.

Yours sincerely



Peter McClenaghan

Director of Infrastructure and Sustainability