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By email: UREGNI_Water_Responses@uregni.gov.uk

Dear Rita

The Consumer Council's response to the Utility Regulator's proposed Approach to PC28 (Price Control for Water and Sewerage Services)

The Consumer Council for Northern Ireland welcomes the opportunity to respond to the Utility Regulator's consultation on its approach to PC28. We have set out our comments below, following the order of issues as set out in the approach document.

1. The role of the Consumer Council

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (NI) Order 1984 ('The Order')¹. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.

Alongside our statutory obligations under The Order, the Water and Sewerage Services (Northern Ireland) Order 2006² confers certain functions on the Consumer Council regarding:

- The interests of consumers in relation to the supply of water to premises by water undertakers.
- The provision of sewerage services by sewerage undertakers.

¹ General Consumer Council (Northern Ireland) Order 1984

² Water and Sewerage Services (Northern Ireland) Order 2006

- Consumer matters, that is any matter connected with “the interests of consumers”.

2. PC21, PC28 and budgetary pressures

The Consumer Council’s aim for the Northern Ireland water and wastewater sector is that water and sewerage services are fair, affordable and sustainable. In 2020, the Consumer Council welcomed PC21 as an ambitious plan which included significant investment for wastewater infrastructure.

NI Water provides an essential public service to households and businesses. It is well-documented that NI Water needs sustained and long-term investment to improve and replace its aging wastewater infrastructure. Investing in climate change adaptation and mitigation measures strengthens NI Water’s ability to deal with the impacts of severe weather events and flooding. Anticipated legislative reforms to improve environmental standards will also require additional investment.

The Utility Regulator is now projecting a funding gap in capital expenditure (capex) of around 18% by the end of PC21. We have seen reduced investment and difficult decisions having to be made by NI Water because of budgetary constraints caused by public funding pressures. Major capital investment for sewerage and wastewater infrastructure has been postponed indefinitely. Against a growing backlog of work and ongoing budgetary pressures, PC28 is now being determined.

3. PC28 Regulatory Principles

The Consumer Council supports the Utility Regulator’s overall approach to PC28 and its collaborative way of working with stakeholders to achieve the best outputs for consumers. We agree with the Utility Regulator’s key principles as set out at paragraphs 2.37-2.38 of the draft approach document.

It is important that there is transparency to consumers on the investment challenges which NI Water faces and the potential impact of constrained funding on the company’s ability to meet legislative standards, including those relating to drinking water quality and wastewater treatment. The major regulatory challenges facing NI Water also means that it is vital for the company to continue to build on the work it has done over previous price controls, to understand the views of customers and ensure these are factored into key decision-making.

4. PC28 Approach Themes

The Consumer Council supports the key themes underpinning the Utility Regulator’s approach to PC28. We recognize the significant work that NI Water has undertaken on customer engagement and understanding the needs of different customers in Northern Ireland. This includes the work undertaken in 2022 in conjunction with the Consumer Council on improving service promises to customers in the revised Codes of Practice.

NI Water's Codes of Practice contain service promises to consumers. We highlighted in the PC21 Mid Term Review (MTR) our concern in relation to the measurement of NI Water's performance against these aims and promises. As anticipated by the Utility Regulator in its PC21 final determination (MTR) paragraph 3.22, this will form part of our engagement with CM/SAT as part of PC28.

The Consumer Council agrees with the Utility Regulator's proposal to seek a Board Assurance Statement from NI Water to the effect that the business plan aligns with the regulatory principles and approach. We believe such a step would improve regulatory oversight in this jurisdiction and align the Utility Regulator with its UK counterparts (Ofwat and the Water Industry Commission for Scotland).

The Consumer Council supports the Utility Regulator in using PC28 to deliver 'an efficient, consumer-focused package of outputs'. One of the key themes underpinning the Utility Regulator's approach is that of valuing consumers. The Consumer Council will be testing these themes and assessing proposed outputs using its consumer principles (section 5 below) as a framework for PC28.

5. Consumer Principles

The Consumer Council uses eight guiding principles to assess where the consumer interest lies, and develop and communicate our policies, interventions and support. They provide an agreed framework through which we approach regulatory and policy work and ensure we apply a consistent approach across statutory and non-statutory functions, and in our engagement with consumers and stakeholders.



Figure 1: the Consumer Council's Eight Consumer Principles

The consumer principles serve to protect consumers, setting out minimum standards expected from markets when delivering products or services in Northern Ireland.

They frame our policy position and approach to addressing emerging detriment and resolving consumer disputes with industry, offering a straightforward checklist to analyse and validate outcomes, in particular amongst vulnerable consumer groups.

6. Key Building Blocks

(i) Structure, form and duration

The Consumer Council was supportive of the Revenue Adjusted Price Cap for PC21 and we continue to be so for PC28. We remain of the view that it is best placed to deliver most of the benefits of a revenue cap but with greater tariff stability and predictability.

The Independent Water Commission (the Cunliffe review) recommended retaining five-year price review cycles for setting water bills and company revenues but believed infrastructure investment planning should be conducted on a 5/10/25 year basis³. On balance, the Consumer Council supports a five-year price control period for the reasons set out in paragraph 3.11 of the draft approach document.

With a shorter price control period for PC28 compared to PC21, we are also open to the Utility Regulator's proposal not to hold a Mid-Term Review. We recognise that the Mid-Term Review was a high regulatory burden for NI Water. The Consumer Council supports a proportionate approach which balances the need to avoid an overly burdensome process with effective mechanisms in place to address uncertainty and change. We have commented further at section 11 below, 'Managing Change'.

(ii) Price Control Allowances and Outputs

The Utility Regulator has stated its intention to continue the approach taken in PC21 on business cases for 'scope-uncertain' and 'scope-certain' projects. The Consumer Council supports NI Water taking a proportionate approach to business planning for PC28.

Like our approach to PC21, when considering business planning and the determination process for PC28, the Consumer Council will be assessing that the balance of investment, outputs and associated costs meet the priorities of consumers.

The Consumer Council welcomes the Utility Regulator's aim to engage fully with stakeholders to ensure that consumer priorities for water and sewerage services are met. We believe that during PC21 the Consumer Measures and Satisfaction (CM/SAT) working group has proven to be an effective forum in identifying and

³ [Independent Water Commission – Final Report](#) (21 July 2025)

developing consumer related outputs. We support the continuation of this approach for PC28.

We will be guided in our work by the findings from our 2024 research 'Consumer views on water' which found that provision of drinking water to their household was, on average, most likely to have been considered the policy area to which NI Water should give highest priority⁴. This was followed by provision of sewerage services, environmental protection relating to water, then climate change issues relating to water and sewerage services. Increased resilience in the water supply system is important to consumers who tell us that the provision of drinking water to their homes is the main priority for NI Water. We believe these priorities are also reflected in the outcomes summarised at paragraph 3.35 of the draft approach.

The Consumer Council welcomes the Utility Regulator's proposal to conduct research on standards of service in relation to Guaranteed Standards of Service (GSS) and Overall Standards of Service (OSS). As highlighted in the draft approach, GSS are in place for electricity and gas customers in Northern Ireland. The Consumer Council views greater alignment for water customers in this jurisdiction as a positive step. Indeed, the UK Government has introduced legislation requiring water companies (England and Wales) to increase compensation rates for GSS for the first time in 25 years, alongside other improvements to the regime for customers.

Given the impact, direct and indirect, that a new GSS/OSS regime will have on consumers, the Consumer Council looks forward to further engagement with the Utility Regulator to help shape its focus, delivery and outcomes.

(iii) Licence

The Consumer Council supports the Utility Regulator's proposal to review NI Water's licence to ensure it reflects current regulatory best practice. As part of its work in this area, the Utility Regulator has invited views on including PC28 outputs within NI Water's licence. The outputs would become legally binding and if in breach, NI Water could incur a financial penalty.

Making outputs legally binding can strengthen accountability for the benefit of the consumer. The risk of incurring a financial penalty can motivate a company to deliver a specific outcome. As stated in section 2 of our response, water companies provide an essential public service. Inserting specific commitments in the licence can be a recognition of their public importance with the potential consequence of regulatory enforcement.

The Cunliffe review, however also recognized that problems can arise when regulatory tools are not properly coordinated. This can result in overly complex

⁴ [Consumer views on water – Consumer Council research report](#) (May 2024)

regulatory frameworks which lack transparency and create confusion for companies and consumers.

We note that the Utility Regulator will be further examining Ofwat's approach and we look forward to engaging further with the Utility Regulator in relation to this work. The Consumer Council believes when considering the appropriateness of potential outputs for inclusion, consideration should also be given to the wider statutory framework within which NI Water operates and the legal obligations it must meet.

7. Capital Investment

We continue to support the principle of maintaining base maintenance allowances to ensure there is no overall deterioration in existing levels of service. We also expect the continuation of the established principle of prioritising drinking water investment.

We note the intention to apply the same serviceability indicators for PC21 to PC28. If any new serviceability indicators are put forward by NI Water, we would expect further engagement with the Consumer Council on these during the price control process.

The PC21 final determination provided a clear plan to drive improvements in our water and sewerage services. We appreciate that NI Water's assessment of maintenance investment will be particularly challenging for PC28 due to the growing backlog in the capital enhancement programme caused by the public funding constraints.

We strongly support the approach set out at Annex A (paragraph 2.5) of the draft approach document that NI Water should demonstrate how it has considered the views of consumers in its plan for asset maintenance. Where decisions are made not to invest now, it is important that consumers understand the impact this may have on future levels of service and on future customers.

It is essential that NI Water, the Department for Infrastructure (DfI) and the Utility Regulator continue to provide transparency to consumers and the statutory consumer body regarding the impacts of constrained investment in Northern Ireland's water and sewerage infrastructure.

8. Operating Costs and Efficiency Challenge

We agree with the Utility Regulator's overall approach to assessing operational costs and efficiency subject to the following points: -

- *Adjustments to NI Water baseline opex* – we believe this should include claims for new opex arising out of changes in **both directions** to the company's operating environment. For example, the efficient costs of new

legal standards or treatment standards should be included, but any reductions in costs should also be considered.

- *Relative efficiency gap* – the catch-up challenge should take account of unique operating factors not included in the models that both adversely **and favourably** impact operating costs. For example, if there are some aspects of NI Water's operations that make it easier to capture, transport, treat or dispose of water/wastewater then this should also be considered.
- *Frontier shift (productivity)* – where poorer performing water companies can observe technological improvements already implemented by better performing companies, they should be expected to adopt them and improve their efficiency faster than companies that are at the efficiency frontier and seeking out new productivity improvements.
- *Real price effects* – this should also take account of differences in prices and price movements **between Northern Ireland and the rest of UK**. For example, where energy prices in Northern Ireland are not expected to move in line with energy prices in GB (either higher or lower) then this should be considered

On relative efficiency gap and energy costs (paras 3.96-3.103), we believe that the econometric analysis should focus on the most recent evidence to estimate the efficiency gap including the new year's data as they become available. Historic data is unlikely to provide much information about NI Water's current opex efficiency. As the impact of energy cost spikes risks skewing the data, we would also suggest that those years are given lower weighting in the econometric analysis.

9. Real Price Effects

The Consumer Council supports the Utility Regulator's suggestion to have a PC28 mechanism which deals with uncertain energy costs which have arisen in-period. In determining the appropriate mechanism, we would ask that the Regulator considers the effect of any such measure on NI Water's incentives to purchase energy costs as efficiently as possible. In this regard, we would suggest two elements:

- There is a partial pass through (we would suggest 50%) of unexpected in-period energy costs changes – this would lower NI Water's exposure to these costs, while at the same time retaining some incentive to purchase energy efficiently.
- There is an ex-post review to assess the efficiency of NI Water's energy purchase decisions during PC28.

10. External Assurance

We support the Utility Regulator's plans to use the Reporter to provide external assurance and expertise as set out in paragraphs 3.87 (capital enhancement

assessment) and 3.115-3.117 (external assurance) of the draft approach document. We would ask that the Reporter's findings will be available with the PC28 Draft Determination.

11. Managing Change

As we stated at section 6(i) above, the Consumer Council supports a proportionate approach to managing uncertainty and change including on price shocks (e.g. energy costs). We look forward to engaging further with the Utility Regulator on an appropriate mechanism which is robust and flexible, alongside maintaining transparency and sufficient levels of stakeholder engagement.

We expect, however that issues such as the threshold level for triggering the uncertainty mechanism, remit, ability to deal with different uncertainties at the same/different times and how consumers' interests are represented and protected throughout will be relevant and require further engagement with stakeholders.

The Consumer Council supports the Utility Regulator's position that any uncertainty mechanism including the Change Control Process (CCP) cannot be used to reduce outputs due to reduced funding levels.

12. Monitoring Delivery

The Consumer Council welcomes the Utility Regulator's plan to continue existing monitoring requirements (paragraphs 3.129-3.131), and annual Cost and Performance Reports (paragraph 3.132). NI Water is providing an essential service, and we believe consistency and regularity around monitoring and reporting requirements is crucial for consumers and stakeholders.

Members of the public and businesses are increasingly engaged on issues around water, wastewater infrastructure and pollution to the water environment. Regular and effective monitoring of NI Water's delivery helps ensure that company behaviour remains focused on consumer priorities throughout the price control period.

13. Finance Framework

(i) Standard Financial Approach v Cash In Cash Out

The draft approach document proposes a key change from a traditional building block approach to Cash-in Cash-out (CICO). The two approaches are set out clearly in the consultation document. The building block approach is more forward-looking and accounts for long term recovery of assets. CICO focuses on actual financing needs in the short term and does not smooth revenues over the life of the assets.

There are several benefits with the CICO model. There is the practicality aspect because it is easier and more objective to calculate. For example, the CICO approach does not require the Regulator to estimate the weighted average cost of capital. There is liquidity focus because the CICO ensures that utilities can pay their

bills and remain solvent even when they have significant investment funding requirements in advance of receiving the revenue to fund those investments. CICO also has flexibility as it can be easily adjusted for different periods or used in transitional settings.

The potential drawbacks of CICO include intergenerational equity⁵, less stability and weaker efficiency incentives. On stability, tariffs can fluctuate over time if financing costs change a lot.⁶ Unlike the building block model, CICO does not encourage long run cost efficiency and investment planning as strongly.

On balance, the Consumer Council would be supportive of the CICO model. We understand the arguments for a CICO approach when regulating a public body like NI Water rather than debt. We also recognise that it is an easier and less subjective approach to apply. We would, however express some caution with the CICO approach where there are significant fluctuations in investment over time (stability). This can lead to bills unhelpfully increasing and decreasing to fund changes in spend over charging periods.

(ii) Inflationary Measure

We support the Utility Regulator's position on moving to CPIH at the beginning of the price control period. CPIH is the ONS's preferred and most comprehensive measure of consumer price inflation. The ONS is currently working on developing a CPI index focused on Northern Ireland⁷. While not sufficiently developed for PC28, we believe it would be worth considering as part of the next price control (beyond PC28).

We look forward to continued engagement with the Utility Regulator on setting PC28.

Yours sincerely



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⁵ Future customers may bear more or less of today's costs than a 'fairer' allocation across time that more closely tied the assets customers are benefitting from to the bills that they pay.

⁶ For example, if there are significant investment programmes that fund long-lived assets.

⁷ ONS '[Developing a Northern Ireland Consumer Prices Index – October 2024](#)'