

PC28

**NI Water response to
'PC28 Draft Approach'
issued by the Utility Regulator
on 5 September 2025**

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Contents

1	INTRODUCTION.....	3
1.1	KEY MESSAGES	4
1.2	FORMAT OF THE RESPONSE.	5
2	THE UTILITY REGULATOR'S ROLE IN REGULATING NI WATER	6
2.1	UTILITY REGULATOR'S ROLE PROTECTING CONSUMERS.	6
2.2	ECONOMIC PRICE CONTROL REGULATION OF NI WATER.....	6
2.3	BENEFITS OF ECONOMIC REGULATION.	6
2.4	NI WATER PRICE CONTROL PROCESS.	6
2.5	ROLE OF STAKEHOLDERS IN PRICE CONTROL PROCESS.....	7
3	PC28 REGULATORY EXPECTATIONS AND THEMES.....	8
3.1	NI WATER'S PRICE CONTROL EVOLUTION.	8
3.2	PC28 APPROACH THEMES	9
4	PC28 APPROACH TO KEY BUILDING BLOCK AREAS	13
4.1	STRUCTURE AND FORM OF THE PRICE CONTROL.	13
4.2	SETTING THE PRICE CONTROL ALLOWANCE AND OUTPUTS	13
4.3	OUTPUTS AND OUTCOMES.....	14
4.4	CAPITAL BASE MAINTENANCE ASSESSMENT.....	15
4.5	SERVICEABILITY INDICATORS	16
4.6	CAPITAL ENHANCEMENT ASSESSMENT	17
4.7	OPEX ASSESSMENT	17
4.8	REAL PRICE EFFECTS (RPEs)	18
4.9	MANAGING CHANGE	18
4.10	MONITORING DELIVERY	19
4.11	FINANCIAL FRAMEWORK	19
4.12	INFLATIONARY MEASURE	20
4.13	DEPRECIATION AND INTERGENERATIONAL FAIRNESS.....	20
4.14	FINANCIAL SUSTAINABILITY	21
4.15	INFORMATION REQUIREMENTS.....	21
5	PC28 TIMETABLE AND CONSULTATION PROCESS	22

1 Introduction

NI Water welcomes the opportunity to respond to the Utility Regulator's PC28 Approach Consultation. We appreciate the Regulator's commitment to transparency, stakeholder engagement, and the development of a robust regulatory framework that supports the delivery of efficient and consumer-focused water and sewerage services.

We are preparing for PC28 at a time when water companies across the UK and Ireland are significantly scaling up their investment. Ofwat's PR24 Final Determinations set out a record £104 billion investment package for 2025–2030—double that of the previous period. Meanwhile, Scottish Water launched a consultation in February 2025 projecting annual investment needs of £2 billion through to 2050—a fivefold increase on current levels.

The contrast with the situation in Northern Ireland couldn't be more stark. Funding constraints which have severely impacted delivery of our PC21 plans are likely to persist. This presents our biggest single barrier to delivering our PC28 plan.

The Utility Regulator has clearly decided that the only way it can meet its legal obligations is to set a price control that has no regard to government funding availability. However, simply ignoring the reality of our funding model is not the solution and could undermine the credibility of the economic regulation process.

We all share the same objective to protect the interests of consumers today and in the future. That objective will only be achievable if NI Water is properly funded in line with the regulatory determination. As we embark on the next price control, now is the time for us to discuss how we avoid public sector spending constraints putting water and sewerage services at risk and NI Water falling further behind its GB comparator group.

1.1 Key messages

1.1.1 NI Water welcomes the opportunity to respond to the draft PC28 approach consultation. Our responses to the specific questions posed, along with general commentary on other aspects of the proposed approach are set out in the remainder of this response document. We have summarised key aspects of our response below

- **Licence modification.**

We are not supportive of proposals to modify our Licence to include PC28 output targets. NI Water has a strong track record of achieving targets when adequately funded—something the Utility Regulator has regularly acknowledged. The primary barrier to output delivery is insufficient funding. Making output delivery legally binding through Licence modification will not resolve this issue and may expose NI Water to financial penalties, further exacerbating funding shortfalls.

- **Assurance.**

We believe the proposed additional assurance steps—specifically, a Board assurance statement confirming adherence to the Utility Regulator's principles, alongside Department for Infrastructure (DfI) endorsement of the plan—are unworkable. A Business Plan that fully aligns with the Regulator's principles, particularly one that seeks to meet established needs, is likely to require a level of DEL funding that exceeds DfI's affordable funding scenario. Consequently, it may not be feasible for DfI to formally endorse a plan it cannot financially support.

Furthermore, NI Water is one of the only regulated utilities in which the Reporter has a formal role assuring the regulatory business plan. If our Board is now being asked to provide assurance directly, the extent and scope of the Reporter's role should be considered.

- **Change and uncertainty.**

We want to develop a Business Plan for PC28 that delivers what is needed and is aligned with the Utility Regulator's key principles. However, in the likely event that we are not adequately funded there is a risk that the plan becomes undeliverable and irrelevant. Being able to adjust outputs to align with funding – while not ideal – helps reduce this risk. We are therefore concerned that proposals to remove the MoU / CWA and amend the Change Control Protocol makes it impossible for NI Water to own delivery of its plan.

While we welcome the Utility Regulator's proposals around a Real Price Effect (RPE) reopener, we believe it should not be limited to power prices. Furthermore, we believe any change in input prices resulting in a material change in costs should also be reflected in an 'in-period' adjustment to price limits.

- **Opex benchmarking.**

We believe that econometric benchmarking models developed in PC21 are largely robust and continue to remain suitable for assessing opex efficiency. However, normalisation of unprecedented volatility in power prices, caused by the energy price crisis in PC21, will require careful consideration to ensure continued robustness of the models.

- **Capital Maintenance econometric models.**

Our early assessment shows that water and sewerage capital maintenance econometric models perform much worse than the equivalent models at PC21 and are no longer fit for purpose. Furthermore, we note the recent Independent Water Commission review of the sector in England and Wales, led by Sir Jon Cunliffe, which found that there were significant problems in placing excessive reliance on econometric modelling, especially in relation to capital expenditure. We therefore strongly recommend using an alternative approach to assessing capital maintenance needs for PC28.

- **Tariff Affordability.**

We acknowledge the Utility Regulator's initial view that they expect an above-zero tariff rise (in real terms) for PC28. NI Water believe this is a realistic assessment which is driven in part by material increases in energy prices and market driven increase in borrowing costs, both of which are outside NI Water control.

- **Timeline**

The Utility Regulator has delayed the publication of the draft PC28 approach and the outline information requirements. We understand that final information requirements will now be published in January 2026 — more than one month later than indicated in this document. We therefore request that the Business Plan submission date is moved to the end of November 2026 to accommodate these delays.

Furthermore, the proposed consultation period for the Draft Determination (i.e. 3 June 2027 - 9 September 2027) overlaps with the summer holiday period and doesn't align with NI Water Boards meetings. We therefore request that the deadline for our Draft Determination response is extended to the end of September 2027.

1.2 Format of the Response.

- 1.2.1 The format of our response follows the layout of the draft Approach document to enable easy cross reference between the two documents.

2 The Utility Regulator's role in regulating NI Water

2.1 Utility Regulator's role protecting consumers.

- 2.1.1 In this section of the consultation document the Utility Regulator's sets out its primary duties namely - to protect the consumer, ensure NI Water carries out its functions and ensure the NI Water is able to properly finance those functions.
- 2.1.2 We all share the same objective to protect the interests of consumers today and in the future. Our funding model represents the biggest single barrier to achieving that objective. As we embark on the next price control, now is the time for us to discuss how we avoid public sector spending constraints putting water and sewerage services at risk and NI Water falling further behind its GB comparator group.

2.2 Economic price control regulation of NI Water.

- 2.2.1 NI Water is supportive of establishing a strong regulatory contract which strikes an appropriate balance between outcomes that are clearly defined and allowing NI Water the flexibility it needs to deliver them in the most effective way.
- 2.2.2 We want to develop a Business Plan for PC28 that delivers what is needed and is aligned with the Utility Regulator's key principles. However, in the likely event that we are not adequately funded there is a risk that the plan becomes undeliverable and irrelevant. Being able to adjust outputs to align with funding – while not ideal – helps reduce this risk. We are therefore concerned that proposals to remove the MoU / CWA and amend the Change Control Protocol makes it impossible for NI Water to own delivery of its plan.

2.3 Benefits of economic regulation.

- 2.3.1 NI Water welcomes the Utility Regulator's acknowledgement of the significant efficiency improvements that we have delivered to date.
- 2.3.2 In relation to the role of the Reporter, we agree they provide an 'additional level of scrutiny and assurance'. NI Water is one of the only regulated utilities in which the Reporter has a formal role assuring the regulatory business plan. If our Board is now being asked to provide assurance directly, the extent and scope of the Reporter's role should be considered.

2.4 NI Water price control process.

- 2.4.1 We would take this opportunity to acknowledge the positive engagement to date on key aspects of PC28 approach with the Utility Regulator.

Long Term Water Strategy (LTWS)

2.4.2 It is nearly ten years since the LTWS was first published and it has not been updated since then. It was DfI's intention that formal reviews of the LTWS would be carried out every six years and that informal reviews would also be undertaken every three years. These reviews were to ensure the LTWS reflected:

- Changes in government policy.
- Future funding availability.
- Rate of implementation of the Strategy; and
- The effectiveness of policies that have been delivered.

2.4.3 The absence of these reviews increases the risk that the LTWS has become outdated and less relevant. We also note that last annual report for Sustainable Water published was for 2022/23.

Social and Environmental Guidance (S&EG).

2.4.4 DfI's S&EG sets out the key policy priorities that both NI Water and the Utility Regulator must have regard to when developing and determining a plan for PC28. We understand the draft PC28 S&EG is unlikely to be published until the end of February 2026 - just one month before NI Water is due to submit its Outline Capital Submission (OCS). There is a risk that the investment plan set out in the OCS does not fully align with DfI's policy priorities.

2.5 Role of stakeholders in price control process.

2.5.1 We look forward to working with all stakeholders in agreeing the PC28 Programme of work and ensuring the PC28 price control process builds on lessons learned in previous price controls.

3 PC28 regulatory expectations and themes

3.1 NI Water's price control evolution.

- 3.1.1 We acknowledge the constructive engagement between the Utility Regulator and NI Water on the approach to the PC21 extension year (i.e. 2027/28). We welcome the Utility Regulator's early confirmation of price limits for that year and we will continue to engage with the Utility Regulator to agree the remaining outstanding matters as soon as possible.

Challenges and opportunities for PC28.

- 3.1.2 We agree that the list of issues presented in the document represents many of the challenges that will have to be considered, however it is disappointing that the challenges created by our current governance and funding model – arguably our greatest challenge- is not highlighted.
- 3.1.3 A primary constraint on the price control will be the level of funding available to NI Water from public expenditure (PE). As the Utility Regulator has already noted, PE funding gaps are likely to continue into PC28. This presents our biggest single barrier to delivering our plan and has the potential to undermine the Price Control process,

Climate change.

- 3.1.4 NI Water fully recognises the growing impact of climate change on water and wastewater services. The increasing frequency and severity of extreme weather events, including intense rainfall and storms, is placing significant pressure on our infrastructure—particularly combined sewer systems that manage both foul and surface water.
- 3.1.5 We are committed to building resilience into our operations and infrastructure and endeavour to ensure these issues are a high priority consideration within our PC28 business cases. However, it is important to emphasise that our ability to respond effectively to climate change is directly linked to the level of funding we receive. Our capacity to deliver climate resilience and sustainability is contingent on receiving appropriate and timely investment. Without it, the risk of service disruption and environmental harm increases.
- 3.1.6 We are proud of the progress made to date, including investment in renewable energy, energy recovery technologies, electric vehicles, and sustainable land management. However, we recognise that climate change is a long-term challenge that requires a structured and strategic response.
- 3.1.7 NI Water has now begun work on developing a Climate Transition Plan. This plan will set out the practical steps, investment requirements and timelines needed to meet

our net zero commitments. It will also assess climate risks such as rising temperatures and increased rainfall to our infrastructure and operations, and identify adaptation measures to improve resilience—particularly in relation to wastewater systems that are increasingly impacted by extreme weather events. Work is also underway to update NI Water's net zero baseline to more accurately reflect wastewater process emissions and to include land-related emissions/sequestration.

Compliance reform.

- 3.1.8 We agree that new policy and legislative requirements coming into effect before and possibly during the PC28 period have the potential to cause further challenges for NI Water. We welcome acknowledgement by the Utility Regulator that their introduction may put additional pressure on both opex and capex budgets during the price control. NI Water will continue to work closely with NIEA and other stakeholders to ensure that our plan fully reflects the impact of these changes.

PPP contract ending.

- 3.1.9 We note the Utility Regulator's expectations that NI Water takes a leadership role developing the bioresources market. We would point out that this is ultimately a policy decision led by DAERA and the Department for the Economy with support from DfI and NI Water.

PC28 regulatory principles.

- 3.1.10 We are supportive of developing a plan that is based on need, however our ability to deliver is ultimately determined by the level of funding we receive from Government. When funding falls short of the levels deemed necessary by the Utility Regulator, trade-offs must be made. The price control needs to support NI Water in making such trade-offs. We are therefore concerned that the Utility Regulator's intends to remove the Memorandum of Understanding / Consequent Written Agreement (MoU/CWA) and amend the Change Control Protocol (CCP).
- 3.1.11 We acknowledge the Utility Regulator's initial view that they expect affordability to mean an above-zero tariff rise (in real terms) for PC28. NI Water believes this is a realistic assessment which is driven in part by material increases in energy prices and market-driven increases in borrowing costs - both of which are outside NI Water control.

3.2 PC28 approach themes

Valuing customers.

- 3.2.1 We welcome acknowledgement of the opex efficiency improvements made by NI Water to date. The PC21 period will see NI Water deliver further efficiency improvements. We look forward to building on this and continuing to engage with our

key external stakeholders, including the Consumer Council for Northern Ireland (CCNI), to ensure we understand and reflect customers' views

Owning delivery.

- 3.2.2 NI Water is already engaging with stakeholders as we begin to develop our plan. The plan will of course reflect consumer views at its heart however uncertainty over funding casts a shadow on our ability to deliver what customers need.
- 3.2.3 We want to develop a Business Plan for PC28 that delivers what is needed and is aligned with the Utility Regulator's key principles. However, in the likely event that we are not adequately funded there is a risk that the plan becomes undeliverable and irrelevant. Being able to adjust outputs to align with funding – while not ideal – helps reduce this risk. We are therefore concerned that proposals to remove the MoU / CWA and amend the Change Control Protocol makes it impossible for NI Water to own delivery of its plan.
- 3.2.4 We note the Utility Regulator's expectation that NI Water will produce a public facing document that 'forecasts the likely impact on prices and subsidy from the planned levels of consumer services for the PC28 period on its website'.

Assurance.

Consultation Question 1 - We are seeking stakeholder views on assurance.

- 3.2.5 The Utility Regulator is proposing that the NI Water Board should submit an Assurance Statement alongside its PC28 Business Plan, confirming it aligns with the Utility Regulator's regulatory principles and approach. Additionally, the Utility Regulator expects that the Department for Infrastructure (DfI), as shareholder, will endorse any Business Plan submitted by NI Water.
- 3.2.6 We believe these two requirements are incompatible. A Business Plan that fully reflects the Utility Regulator's principles—particularly one that seeks to meet established needs—is likely to require a level of DEL funding that exceeds DfI's affordable funding scenario. As such, it may not be feasible for DfI to formally agree to a plan that it cannot financially support.
- 3.2.7 Furthermore, while the approach document cites examples of other regulatory sectors where Board assurance is given, we understand that NI Water is one of the only regulated utilities in which the Reporter has a formal role assuring the regulatory business plan. If our Board is now being asked to provide assurance directly, the extent and scope of the Reporter's role should be considered.

3.2.8 While NI Water seeks to emulate best practice corporate governance arrangements as set out in the 'UK Corporate Governance Code', it should be noted that the our commercial freedoms are restricted by the constraints of the public expenditure system and the provisions set down in the Partnership Agreement (Please note that the Partnership Agreement has replaced the Management Statement and Finance Memorandum - MSFM). Consequently, NI Water is not able to comply with all aspects of the UK Corporate Governance Code, nor is it required to.

Long term planning safeguarding for the future.

3.2.9 We are committed to ensuring that our plan aligns with wider government policy and legislative frameworks, such as the Climate Change Act, DAERA Climate Action Plan and NI Climate Change Adaptation Programme.

3.2.10 We have now commenced work on a Climate Transition Plan, which will provide a detailed roadmap for how we will decarbonise our operations and adapt to the impacts of climate change which feeds into our long-term climate change strategy. This plan will include:

- Emissions reduction pathways,
- Investment requirements,
- Risk assessments, and
- Adaptation measures aligned with the latest climate science.

3.2.11 NI Water is an active member of the public body Climate Action Network which provides a forum for collaboration and knowledge sharing across government departments and public bodies. Through this group, we are contributing to the development of consistent approaches to climate risk assessment, emissions reporting and adaptation planning.

3.2.12 We also regularly engage with DAERA, DfI, NIEA and other key stakeholders to ensure that our climate-related activities are integrated with broader environmental and economic strategies.

Flexibility for uncertainty and change.

3.2.13 We welcome the Utility Regulator's emphasis on the need for the price control to be flexible and able to deal with uncertainty. We have set out our views in more detail in section 4.9 of our response.

Regulatory clarity and simplification.

3.2.14 NI Water welcomes the Utility Regulator's intention to keep the regulatory burden to a minimum. We believe openness and transparency are essential to helping others better understand our sector and how we are performing. We have previously proposed changes to the annual performance reporting framework to ensure closer

alignment with Ofwat's approach. We look forward to engaging further with the Utility Regulator to share our views on this matter.

3.2.15 We have set out our thoughts in our responses to the remaining 16 consultation questions in section 4 of this document.

4 PC28 approach to key building block areas

4.1 Structure and form of the price control.

Consultation Question 2 - We are seeking stakeholder views on the structure, form and duration of PC28, which should be considered in conjunction with the mechanisms under consideration for uncertainty and change.

- 4.1.1 NI Water supports the proposal that PC28 will cover a 5-year period. We believe a shorter price control period is appropriate especially given the level of funding uncertainty and the impact this has on our ability to plan. We note the Utility Regulator is also proposing to remove the Mid-Term Review (MTR). The MTR was an important 'change management' feature of previous price controls and provided protection to both NI Water and our paying customers. If it is to be removed in PC28 a suitable alternative uncertainty mechanism needs to be introduced in its place.
- 4.1.2 We agree that the PC28 approach can best be described as a 'Revenue Adjusted Price Cap'. Under the current regime, if an over or under recovery of revenue occurs in a price control period, an adjustment may be made to price limits in the subsequent period. While this approach offers protection for both the company and the customer, and helps mitigate tariff volatility, we believe there is scope to enhance its agility. We have shared our proposals with the Utility Regulator and look forward to continued engagement on this matter.
- 4.1.3 We also welcome the Utility Regulator's proposals for a Real Price Effect (RPE) reopener; however we believe it should not be limited to power prices. Furthermore, we believe any change in input prices resulting in a material change in costs should also be reflected in an 'in-period' adjustment to price limits. (see section 4.8).

4.2 Setting the price control allowance and outputs

Consultation Question 3 - We are seeking stakeholder views on our appropriate approach to the preparation of the Business Plan, which aims to minimise regulatory burden whilst encouraging NI Water to provide a robust and comprehensive evidence base.

- 4.2.1 We agree there may be uncertainty over the level of need for some projects. We therefore welcome the Utility Regulator's requirement for less detailed business cases for any scope-uncertain projects.
- 4.2.2 Additionally, we acknowledge that the level of funding may be significantly lower than the aggregated value of projects to address the Utility Regulator's full regulatory

principles. We will endeavour to assure that the highest priority projects, hence those most likely to have funding, will have enough detail to be designated into the Utility Regulator's "Certain Investment" category.

4.2.3 As part of our cost intelligence improvements for PC28 projects we are planning to incorporate a cost certainty methodology to include an allowance/risk for all projects covering all levels of certainty. This new methodology revolves around a standard questionnaire for all projects to define the level of certainty. We look forward to discussing our methodology with the Cost Assessment Working Group in due course.

4.2.4 Finally, we agree it will take multiple price controls to address all established needs. Risks arising will be considered as part of our overall plan.

4.3 Outputs and outcomes

Consultation Question 4 - We are seeking stakeholder views on our approach to outputs and performance commitments.

4.3.1 NI Water welcomes the Utility Regulator's continued emphasis on sustainable delivery and the integration of climate change considerations into the PC28 framework. We agree that rising consumer expectations, evolving environmental standards, and the impacts of climate change require new ways of working and long-term strategic planning.

4.3.2 The best solutions to these emerging challenges will not come from NI Water alone. We support the move towards integrated, catchment-based approaches that involve collaboration with a wide range of stakeholders, including government departments, regulators, communities, and the voluntary sector. Shared outcomes and shared risk are essential to delivering sustainable improvements in water and wastewater services.

4.3.3 However, we must be clear, our ability to deliver on climate resilience and sustainability is directly linked to the level and timing of investment we receive. While we are committed to efficiency and innovation, the scale of investment required to meet statutory obligations, improve environmental outcomes, and respond to climate change is significant. Without sufficient and sustained funding, our ability to deliver integrated, sustainable solutions will be constrained, and the risks to service delivery and environmental compliance will increase.

4.3.4 We will continue to engage with DAERA, the Department for the Economy, NIEA, and other stakeholders to ensure our plans reflect shared priorities and are practical and cost-effective. We also intend to build on the development outputs from PC21 and

propose new ones where further work is needed to develop holistic solutions for future price control periods.

- 4.3.5 We note the views of the CM/SAT that there hasn't been a material change in consumer views and agree there is no need to commission external research. NI Water has developed a comprehensive consumer engagement framework which allows us to monitor consumer views and identify areas where improvements are needed. Use of this framework will ensure the consumer voice is at the heart of our PC28 plan.
- 4.3.6 We agree the current suite of output and outcome targets provide an adequate basis for monitoring the services and levels of performance which we must deliver. We will of course consider if any changes are needed and put forward new or amended outputs for PC28 as part of our Business Plan submission.
- 4.3.7 We note the Utility Regulator's proposals to consider the introduction of Guaranteed Standards of Service (GSS) and Overall Standards of Service (OSS). As set out in our response to consultation 5 below, we would question the practicality of their introductions in light of ongoing funding uncertainty.
- 4.3.8 Finally, we agree that all statutory obligations should be equally binding, however in a funding gap scenario output prioritisation is a practical necessity as trade-offs have to be made in order to live within our budget allocation. NI Water firmly believes it should not be for them alone to decide what can and can't be delivered.

Consultation Question 5 - We are seeking stakeholder views on the principle of inclusion of outputs within the licence, and wider PC28 price control framework decisions, including the pros and cons of doing so.

- 4.3.9 We are not supportive of the proposals to modify our Licence to include PC28 output targets. NI Water has always prioritised output delivery and has a strong track record of achieving targets when adequately funded—something the Utility Regulator has regularly acknowledged. A primary barrier to output delivery is insufficient funding. Making output delivery legally binding through Licence modification will not resolve this issue and may expose NI Water to financial penalties, further exacerbating funding shortfalls.

4.4 Capital Base Maintenance assessment

Consultation Question 6 – We are seeking stakeholder views on an appropriate approach to capital base maintenance, specifically the use of comparative benchmarking potentially along with other methods to assess the base maintenance

allowance and efficiency challenge.

4.4.1 We strongly believe that an alternative approach will be needed for determining capital maintenance allowances at PC28. Our early assessment shows that water and sewerage capital maintenance econometric models perform much worse than the equivalent models at PC21 and are no longer fit for purpose. Furthermore, we note the recent Independent Water Commission review of the sector in England and Wales, led by Sir Jon Cunliffe, found that there were significant problems in placing excessive reliance on econometric modelling, especially in relation to capital expenditure.

4.4.2 The following Commission's findings are particularly relevant to the approach to cost assessment for PC28.

- The Commission found that Ofwat "relied too heavily on a data driven, econometric approach, and has not taken sufficient account of company-specific conditions and challenges".
- The Commission emphasised the limits of econometric approaches to determining cost allowances, for example stating that "there are fundamental limits to how precise and accurate a benchmarking framework and econometric tools can be".
- The Commission noted evidence that companies had not received sufficient funding to maintain their assets, in part due to Ofwat's approach to the price review process.

4.4.3 NI Water will continue to develop its bottom-up approach to identify the right level of asset maintenance investment which balances the risk to long-term service delivery with the cost to consumers. We look forward to sharing this approach with the Utility Regulator through the Costs Assessment Working Group.

4.5 Serviceability Indicators

Consultation Question 7 – We are seeking stakeholder views on our approach to serviceability indicators.

4.5.1 NI Water welcomes the opportunity to put forward new or amended serviceability and performance indicators for PC28. This will include greater consideration of the operational capability of our assets. We will engage with stakeholders on any new or amended indicators prior to the Business Plan submission.

4.6 Capital Enhancement assessment

Consultation Question 8 – We are seeking stakeholder views on our approach to assessing investment for capital enhancement.

- 4.6.1 NI Water agrees that our capital enhancement needs should reflect our individual priorities and costs and are therefore unique. As such, a benchmarking approach is impractical. We believe the Utility Regulator's proposed bottom up assessment is a sensible approach.

4.7 Opex assessment

Consultation Question 9 – We are seeking stakeholder views on our approach to assessing NI Water's opex and determining the appropriate efficiency challenge.

- 4.7.1 We are supportive of the approach outlined by the Utility Regulator which seeks to ensure our baseline expenditure is an "...assessment of the true opex cost of providing water and sewerage services in the base year." NI Water will ensure our PC28 'baseline' is calculated so as to provide a reasonable calculation of our ongoing opex need. In particular, we will need to consider whether 'cost cuts' made in order align with reduced RDEL funding allocation in 2025/26 should be reinstated in our PC28 baseline.
- 4.7.2 We will consider claims for new opex arising out of changes to our operating environment including new legal standards relating to climate, the environment and beyond.
- 4.7.3 We welcome the collaborative approach adopted by the Utility Regulator to date and fully support continued sharing of emerging thinking and evidence to avoid duplication of our resources.

Consultation Question 10 – We are seeking stakeholder views on assessing the efficiency gap, specifically (a) whether the econometric approach remains appropriate, (b) any proposed changes (including the time period for the modelling) to the treatment of econometric modelling, and, (c) whether there is any other analysis on the efficiency gap that may provide useful insight.

- 4.7.4 We believe that econometric benchmarking models developed in PC21 remain largely robust and are suitable for assessing opex efficiency, a view we expressed at our first Cost Assessment Working Group. However, normalisation of unprecedented volatility in power prices, caused by the energy price crisis in PC21, will require careful consideration to ensure continued robustness of the models.

- 4.7.5 As part of our approach to normalising power we are considering a number of options. These include, but may not be limited to: excluding certain years data; revisiting the historical sample period used; and applying a modelling adjustment to reflect differences in hedged day ahead costs between the two markets. We look forward to continued engagement with the Utility Regulator to agree a reasonable approach to ensure the models remains robust.
- 4.7.6 Whilst we believe the difference in energy hedging represents the largest issue with the existing models, we may give consideration to other variables if they improve the statistically performance of the models.

4.8 Real Price Effects (RPEs)

Consultation Question 11 - We are seeking stakeholder views on our approach to Real Price Effects.

- 4.8.1 We are supportive of the Utility Regulator's proposal to allow an ex-post adjustment for Real Price Effects throughout the PC28 period. We agree that the recent escalation of energy costs and NI Water's inability to hedge will require a different approach for PC28.
- 4.8.2 While we welcome the Utility Regulator's proposals regarding a Real Price Effect (RPE) reopener, we believe it should not be limited to power prices. Furthermore, we believe any change in input prices resulting in a material change in costs should also be reflected in an 'in-period' adjustment to price limits.
- 4.8.3 We would welcome the opportunity to discuss this further at our Cost Assessment Working Groups.

4.9 Managing change

Consultation Question 12 - We are seeking stakeholder views on UR's proposed approach to uncertainty mechanisms.

- 4.9.1 We welcome the Utility Regulator's emphasis on the need for the Price Control to be more adaptable and better able to deal with change. As highlighted in section 2.1 of this response, we are concerned that the removal of the MoU and CWA, and the changes to the CCP creates significant delivery and reputational risks for NI Water. Paragraph 1.14 of the draft approach document acknowledges that the current funding gap is likely to continue into PC28. This inevitably mean NI Water is unable to achieve targets and deliver outputs which assume no such gaps. When funding falls short of the levels deemed necessary by the Utility Regulator, delivery trade-offs must be made. The price control needs to support NI Water in making such trade-offs.

4.9.2 NI Water is clear that in the event of funding constraints, where decisions have to be taken, it is not solely a matter for NI Water to decide what can and what can't be delivered.

4.9.3 While we welcome the Utility Regulator's proposals around a Real Price Effect (RPE) reopener, we believe it should not be limited to power prices. Furthermore, we believe any change in input prices resulting in a material change in costs should also be reflected in an 'in-period' adjustment to price limits.

4.10 Monitoring delivery

Consultation Question 13 - We are seeking stakeholder views on the continuation of annual reporting and performance monitoring.

4.10.1 We are broadly supportive of the Utility Regulator's approach. We have previously highlighted ways in which annual performance reporting could be improved and better aligned with that used by Ofwat. We look forward to sharing our thoughts on this with the Utility Regulator

4.10.2 The last Cost and Performance Report (C&PR), covering the 2021/22 financial year, was published on 8 September 2023. While we agree with Utility Regulator's proposals to retain the Cost and Performance Report (C&PR), we believe it must be published within 6 months of Year End.

4.11 Financial framework

Consultation Question 14 - We are seeking stakeholder views on whether we retain the standard financial approach or move to a CICO approach.

4.11.1 We understand that the Utility Regulator's proposal to move to a Cash in Cash out (CICO) approach only relates to the recovery of finance costs. We note Question 16 of the consultation asks for our views on an appropriate approach to regulatory depreciation which is not a cash expense. Therefore, for PC28, the approach might be better described as a hybrid comprising cash and non-cash elements.

4.11.2 NI Water agrees CICO has merit with respect to financing costs, as it reflects the reality of Public Expenditure rules and avoids the illusion of financial independence - NI Water isn't fully financially autonomous like companies in England and Wales. It is a simpler approach, providing transparency around how much subsidy and customer charge is required each year.

4.11.3 We also note in reviewing the approach document's illustration of the CICO approach (figure 3.3), reference to a dividend was notably absent. NI Water currently pays an

annual dividend to its shareholder to reflect their equity investment. It is not clear if the Utility Regulator intended for NI Water to consider removal of a dividend payment as part of the CICO approach, as modelled by Scottish Water.

- 4.11.4 As part of our consideration of a CICO approach to financing costs, NI Water will engage with the Department to understand their preference, as shareholder, on payment of a dividend.

4.12 Inflationary measure

Consultation Question 15 - We are seeking stakeholder views on UR's decision to move the inflationary measure from RPI to CPIH, commencing at the start of PC28.

- 4.12.1 In principle, NI Water accepts the Utility Regulator's rationale to move from an RPI-linked to a CPIH-linked measure of inflation at the beginning of PC28. However, it is important to ensure NI Water is not disadvantaged by the move.

- 4.12.2 The Utility Regulator must therefore ensure that Real Price Effects (RPEs) are calculated relative to the new measure of inflation to ensure no impact to NI Water or consumers. As already noted by CEPA in annex B of the approach document, 'Other' costs currently do not get an ex-ante RPE allowance therefore moving to CPIH for this material category of expenditure would essentially result in a further efficiency challenge in PC28. The Utility Regulator should take this into account when considering NI Water's efficiency challenge in the round (both in terms of the benchmark used for catch-up efficiency and the appropriate assumption for achievable productivity growth) which will ensure the approach remains fair and consistent.

- 4.12.3 Historically, RPI has been used to uplift the Regulatory Capital Value (RCV). A shift to CPIH will require a one-off adjustment to protect from value loss. We welcome further discussion on this point.

4.13 Depreciation and Intergenerational fairness

Consultation Question 16 - We are seeking stakeholder views on the proposed approach to depreciation for PC28.

- 4.13.1 In preparation for PC28, and to address concerns raised in PC21 over inter-generational fairness, NI Water carried out a comprehensive review on how best to treat non-infrastructure capital recovery. This review encompassed key regulatory principles as well as affordability for customers. An in-depth review of the options considered and conclusions reached were presented to the Utility Regulator and their advisors for consideration.

4.13.2 We believe that the best option is to calculate depreciation based on the written-down value of the opening RCV and subsequent additions. This ensures the profile of charges match the underlying NI Water asset values. We welcome the Utility Regulator's initial view that they are minded to agree on this approach as the best solution.

4.13.3 We recognise that further evidence will need to be provided on PC28 modelled costs before the Utility Regulator can confirm the approach. A comprehensive breakdown of modelled costs will therefore be provided following completion of the Outline Capital Submission when forecasted assets categories are known. We look forward to continued collaboration with the Utility Regulator on this issue.

4.14 Financial sustainability

Consultation Question 17 - We are seeking stakeholder views on the proposal to step away from assessing financeability metrics as part of PC28. We are interested in whether stakeholders have any simple suggestions for alternative approaches for assessing financial sustainability.

4.14.1 NI Water agrees with the Utility Regulator's assessment that current ratios are typically developed to ensure a regulated company can attract investment and service its debt and that NI Water's funding model could bring into question the applicability of these metrics. However, rather than abandoning financeability metrics, Utility Regulator could expand upon the existing metrics or adapt them to its public funding context, focusing on metrics like liquidity, capital adequacy, and delivery risk.

4.14.2 Even though NI Water doesn't operate under the same commercial model as private water companies in England and Wales, financeability metrics allow for performance comparison and offer a structured way to demonstrate responsible stewardship of public money.

4.15 Information requirements

4.15.1 We welcome the indication that the Information Requirements developed for PC21 will be used as the basis for the PC28 Information Requirements. We agree that there is a need to maintain continuity and simplicity.

5 PC28 timetable and consultation process

- 5.1.1 DfI's Social and Environmental Guidance sets out the key policy priorities that both NI Water and the Utility Regulator must have regard to when developing and determining a plan for PC28. We understand the draft PC28 S&EG is unlikely to be published until the end of February 2026, just one month before NI Water is due to submit its Outline Capital Submission (OCS). There is a risk that the investment plan set out in the OCS does not fully align with DfI's policy priorities.
- 5.1.2 The Utility Regulator has delayed the publication of the draft PC28 approach and the outline information requirements. We understand that final information requirements will now be published in January 2026 — more than one month later than indicated in this document.
- 5.1.3 These delays reduce the time available to complete the Business Plan. We therefore request that the Business Plan submission date (12 November 2026) be moved to the end of November 2026.
- 5.1.4 Furthermore, the proposed consultation period for the draft determination — 3 June 2027 to 9 September 2027 — overlaps with the summer holiday period and doesn't align with NI Water Boards meetings (NI Water Board does not meet in August and the September Board meeting is planned for the end of that month). We therefore request that the deadline for our Draft Determination response (currently 9 September 2027) be extended to the end of September 2027.