

## **NI Water Costs Apportionment Investigation Q and As**

### **Q. Why was NI Water investigated?**

**A. The Utility Regulator protects consumers through the exercise of a number of legal powers. NI Water's licence to operate requires it to assist the regulator by providing financial and technical information. This information is vital to enable the regulator to make sure that NI Water complies with its licence in an effective and efficient manner.**

**On 22 February it became publicly known that planning assumptions made by NI Water regarding the number of domestic and non-domestic customers were inaccurate. As a consequence, more revenue was required from water charges to domestic customers than had been expected and less revenue was due from water charges to non-domestic customers.**

**It subsequently became clear that NI Water had been aware of this cost apportionment issue before 22 February but had failed to notify the regulator. Indeed it was aware of the issue at the time it submitted a range of financial information on 31 January, and had failed to make the regulator aware of the problem.**

**The regulator announced on 8 April its intention to investigate this issue.**

### **Q. Who carried out the investigation?**

**A. The investigation was carried out by an internal Utility Regulator team under the supervision of our non-executive board Audit Committee, and assisted by external forensic input by Grant Thornton UK LLP.**

### **Q. What did the investigation involve?**

**A. The objectives of the investigation were to determine the chronology of events, identify issues and make recommendations on the release of information in late February by NI Water relating to its costs and tariffs. Specifically, the investigation focused on the collection of information in order to inform considerations around whether or not NI Water breached its licence.**

The investigation focused on events during the October 2007 to February 2008 period and in particular NI Water's communications on the matter.

**Q. What did the investigation find out?**

A. The investigation has not found dishonesty or a conspiracy to conceal information. However, it has identified significant concerns in several areas of NI Water's operation regarding: (1) the quality of customer data and assumptions, (2) corporate governance standards, (3) communications with the regulator, (4) interaction with stakeholders, and (5) the financial effect of mitigation measures. The report concluded that there were serious shortfalls in areas of management at NI Water, and significant weaknesses in NI Water's systems of planning and governance procedures. The investigation found enough evidence to point to a prima facie breach of licence by NI Water.

**Q. What has the Utility Regulator asked NI Water to do?**

A. The regulator has ordered NI Water to immediately commit to an action plan to address deficiencies uncovered by the investigation. The action plan commitments relate to areas including: (a) an upfront approach, drawing attention to known data and assumption shortfalls with an accompanying action plan, (b) an action plan to address internal governance shortfalls, (c) open, transparent and timely communications with the Utility Regulator, (d) full and comprehensive engagement with the Utility Regulator in order to address outstanding areas of concern.

Additionally, the Utility Regulator has also indicated that its Board will consider in the autumn, whether, as a matter of law, NI Water has breached its licence. If a breach has occurred this may lead to an enforcement order imposing commitments on the water company. Alternatively, the water company may offer to convert commitments into legally binding obligations.

**Q. If NI Water has breached its licence why isn't the company being fined?**

While punishment of a company is sometimes appropriate, that is less likely here as this issue has already led to senior management changes. In addition, the investigation has not exposed any dishonesty or conspiracy to conceal information. However, decisions on fines will be taken in the autumn if the Utility Regulator board makes a formal finding of licence breach.

**Q. If NI Water fails to do what it says it will do, will the Utility Regulator fine the water company?**

The re-apportionment issue together with our investigation have evidenced internal problems in NI Water. The water company has agreed to commit to implementing an action plan to improve deficiencies identified by our investigation. If the company fails to implement its agreed commitments, the Utility Regulator may make further use of legal powers, including fines.

**Q. Will this still mean that consumers will have to pay more than anticipated in water charges?**

In 2008-9, the impact of inaccurate allocation data was mitigated through a number of measures, but the future impact is not yet clear. The Utility Regulator is working with NI Water and other stakeholders to assess the impact in future years and how this can be best managed for all customer groups.

**Q. What is being done to make sure something like this never happens again?**

The company has committed to a more open relationship with the regulator. This should ensure that future data issues are addressed in a more transparent manner. The company has also committed to work to improve its data quality.

However, we recognise that during the commercialisation of a former government activity, data weaknesses are likely to come to light. The Utility Regulator considers that the partial dividend waiver proposed by the Independent Water Review Panel should be used to build financial reserves so that NI Water can handle issues like this without immediate impacts on consumers.