

REGULATOR ACCOUNTABILITY

INCREASING THE ACCOUNTABILITY OF THE REGULATORS THROUGH STRONGER GOVERNANCE AND CLEARER DIVISION OF RESPONSIBILITY WOULD STRENGTHEN THE WATER SECTOR.

WHERE WE ARE

The current system of regulation in the water sector has evolved over time in response to changing societal priorities. This has expanded the investment needed and consequently the size of decisions the regulators need to make. At PR24 (the priced review in 2024) Ofwat's final determinations funded over £100 billion of investment.ⁱ

At the same time, Ofwat's approach has become increasingly technocratic, creating an ever more complex regulatory regime that has reduced focus on delivering against its duties as set out in [Section 2 of the Water Industry Act](#). It has itself identified the need to simplify its approach but has not done so significantly.ⁱⁱ

This complexity is compounded by the fact that non-executive Board members of the Water Services Regulation Authority (the Authority) – the governing body of Ofwat – are not always regulatory specialist and typically engage with Ofwat only a few days each month.ⁱⁱⁱ This limits the ability of the Authority to hold Ofwat accountable.

The change from the original model of regulation, where a Director General was responsible for decision making, to Boards having that power, was intended to improve decision making, and it has the potential to do so. But the increasing complexity of the sector combined with the impact of the first 'bonfire of the QUANGOs'^{iv} has led to poorly resourced Boards with very difficult jobs.

The Environment Agency (EA) faces a slightly different set of challenges. Successive budget cuts have left it under resourced. As a result, the EA focuses on a narrow set of environmental outputs sometimes to the detriment of wider environmental issues and customers. There appears to be limited scrutiny of the Environment Agency's role in contributing to the delivery of broader sectoral objectives.^v

Ofwat's and the EA's separate investigations into Wastewater compliance has highlighted some significant inconsistencies, for example different regulatory views on what is required to comply with the Urban Wastewater Treatment Regulations (UWWTR). As a result, a potentially significant gap exists between the requirements of environmental permits and regulatory guidelines (for example the SOAF) and what some regulators think is required to comply with the law.

This significantly undermines trust in the standards and guidelines which companies have previously been seeking to comply with. This creates a lack of clarity over what the required standards actually are and a disconnect between allowed funding (based on previously published guidelines) and the activity that companies actually have to undertake to remain compliant with the law.

The third sector regulator, the Drinking Water Inspectorate (DWI) has a strong record. Water companies consistently meet the stringent regulatory standards for drinking water, with 99.97% of samples complying with the regulatory standards in 2023.^{vi} But because of this there is less focus in the other regulators on drinking water quality, as we discuss in 'Regulating for the long-term: Long-term Planning in the Water Sector'.

The result is a system in which regulators are not best aligned - in their duties, their approaches, their treatment of key issues or their accountability.

WHERE WE WANT TO BE

An effective regulatory regime is one where each regulator has clear roles and responsibilities and where they work in partnership – defined in legislation, guidance and Strategic Policy Statements (SPSs). The regime also needs government to give a long-term,

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stable strategic steer to regulators – to ensure the regime delivers what the electorate need – without compromising the independence of regulators from political interference.

To achieve this, the mandate and strategic direction of all regulators needs to be set in a joined-up way, giving regard to the roles of other regulators. This will help create well-defined boundaries around decision making responsibility.

The regulators also need to be resourced appropriately – both in terms of delivery teams and through strong governing bodies – Boards and Ofwat’s Authority.

The regulatory framework needs to include checks and balances so that the regulators are held accountable for delivering what is required of them. Ad hoc reviews, like the Cunliffe review, are part of this, but there is also a crucial role for bodies such as the Office for Environmental Protection (OEP), the Competition and Markets Authority (CMA) and the courts. Regulated companies need to have a robust right of appeal so that regulatory decisions are always made in accordance with the evidence.

HOW DO WE GET THERE

Issue	Recommendation for
<p>Ofwat’s focus has shifted into the detail of a complex system of economic regulation. Strengthening Ofwat’s accountability for delivering its duties would deliver better outcomes for the sector.</p>	<p>Government: Strengthen the Water Services Regulation Authority – recruit full time regulatory specialists to the Authority who can provide stronger challenge to Ofwat.</p> <p>Government / CMA: Ensure the CMA appeal regime continues to allow water companies to challenge Ofwat decisions on the grounds of whether they are the best decisions, not just whether Ofwat has made an error.</p>
<p>Regulators are not well aligned</p>	<p>Government: Provide clarity on which regulators have responsibility for delivering and overseeing regulatory guidelines and permits. These should be sufficient to ensure companies are compliant with the law. And Ofwat’s approach to setting funding allowances should be consistent with these.</p> <p>Government: Set SPSs for all regulators that support a consistent approach and provide clarity of roles. These should clearly define the boundaries between regulators’ responsibilities.</p> <p>Government: Mandate that there should be some overlap in Board members between Ofwat, the EA and DWI. This could be achieved by the appointment of one or more independent specialists who sit on all the Boards.^{vii}</p>

IMPACT ON CUSTOMERS, THE ENVIRONMENT AND WIDER SOCIETY

Refocusing Ofwat on its duties through strengthening the Authority will result in better decision making and a stronger focus on delivering for customers, the environment and wider society. By ensuring some Board members are common across all water sector regulators, each Board will be able to better reflect the priorities for the sector in its decisions, further improving the regulators' effectiveness.

The existing complexity of the price review process and the scale of investment needed means it is important that there are checks on economic regulation, so price controls set reasonable expectations for water companies. It is therefore important to retain an effective appeal process to ensure a fair balance between investability, deliverability and affordability is achieved.

Setting SPSs for all sector regulators, as proposed by the Corry review^{viii} in its recommendation 2, would create a

tool for setting a common strategic direction and aligning ambition across regulators that could be kept relevant without further changes to legislation.

WAY FORWARD

The reforms announced by Defra in April 2025 included the introduction of SPSs for all regulators.^{ix} The expansion of this approach from only having an SPS for Ofwat in the water sector is to be welcomed and creates an opportunity to address some of the key issues.

Ofwat's non-executive Board members, the EA's Board and the DWI's Chief Inspector are appointed by the Secretary of State (SoS). It is therefore within the power of the SoS to appoint common Board members to Ofwat and the EA already. The arrangements for the DWI may need further consideration as it does not have a formal Board, but input from other regulators could be provided in a similar way.

No changes would be needed to implement our recommendation on retaining the CMA appeal process.

ⁱ See '[Our final determinations for the 2024 price review – Sector summary](#)', Ofwat, December 2024, p. 103.

ⁱⁱ See '[Our reflections on lessons learnt from PR19](#)', Ofwat, December 2020, pp. 5, 11, 99-107.

ⁱⁱⁱ See Board member profiles [Who we are - Ofwat](#).

^{iv} Quasi-Autonomous Non-Government Organisations. See '[More than 100 quangos axed by coalition, say ministers](#)', BBC News, August 2012.

^v Note, NWG operates in England; the equivalent regulator in Wales is Natural Resources Wales.

^{vi} See '[Letter to Minister England Public Supplies](#)', DWI, July 2024.

^{vii} In Wales, this would be a recommendation for the Welsh Government, with Natural Resources Wales (NRW) taking the places of the EA.

^{viii} See '[An independent review of Defra's regulatory landscape: foreword and executive summary](#)', Corry review, April 2025.

^{ix} See '[Major reforms to environmental regulation to boost growth and protect nature - GOV.UK](#)', Defra, April 2025.