Dear John

Utility Regulator’s PC15 draft determination.


1. The Consumer Council is pleased to respond to the Utility Regulator’s (UR) consultation on its PC15 draft determination.

2. NI Water has made significant progress in closing the efficiency and performance gap with comparator companies since inception in 2007. Consumers need to see this continue. PC15 offers this opportunity.

3. The Consumer Council provides the following comment on the UR’s draft determination to continue its consultative development. We have met with the UR to discuss the draft determination and our views, most of
the detail of which is not repeated here. Should the UR require further detail we would be happy to provide this.

Consumer views and priorities

4. We welcome the collaborative development of PC15 that we believe has helped remove many of the obstacles experienced in previous price controls and resulted in a Business Plan and draft determination that are more closely aligned.

5. Over the PC15 period (2015 – 2021) many substantial challenges will be posed to the delivery of water and sewerage services. These will test alignment across both strategic and specific issues. The water stakeholders will need to continue to work closely to identify risks and weaknesses and develop plans for delivery so that consumer benefit is not reduced due to difficult circumstances.

6. For PC15 stakeholders have taken a more consumer focused approach, as outlined in NI Water’s Business Plan and the UR’s draft determination. This needs to continue to evolve within future regulatory periods to deliver further benefits for consumers.

7. The Consumer Council has previously stated its appreciation of the level of consumer engagement undertaken to inform the PC15 process. Good engagement was essential to putting the consumer at the centre of the price control. We met the UR in February 2012 to discuss our expectations of consumer engagement for PC15. The establishment of the consumer engagement oversight group (CEOG) facilitated delivery of this and provided parity to consumers’ views alongside water quality and environmental considerations in shaping PC15.

8. The consumer engagement undertaken for PC15 is a significant and hugely positive step. The CEOG group, process and approach worked well, with results being used to inform the Ministerial Social and Environmental Guidance, alter company strategy and specific programmes in NI Water’s Business Plan and influence the UR’s
considerations for its draft determination. A summary of CEOG’s findings was presented in the ‘Connecting with Consumers’ report.\(^1\) The water sector is leading the way across NI utilities in engaging with consumers to inform its decision making.

9. It is clear that consumers’ views have been considered by both NI Water and the UR in reaching its draft determination.

10. Do we feel that more use can be made of the CEOG work? – yes. We can continue to use the findings of CEOG alongside the intelligence NI Water receives on a daily basis through consumer contacts to deliver improvements and develop a robust understanding of the services consumers are receiving.

11. Could the methodology chosen by CEOG have been better aligned to the mechanics of NI Water’s asset and business planning? – yes, and this is something to look at as we assess CEOG’s work in due course and as NI Water develops future plans (see also paragraphs 32-34).

12. The benefits of putting the consumer first are being demonstrated through an improving NI Water and the services it delivers. We are glad to see the commitment made by NI Water to ongoing consumer engagement.\(^2\) This must also include the appropriate follow up work to ensure consumer priorities have been met.

13. CEOG found that most consumers are satisfied with the services provided by NI Water most of the time. They simply expect them to work and as long as they do consumers remain relatively neutral, rarely thinking about the services or how they are provided.

14. Consumers were mainly satisfied with the balance of investment and high level proposals contained in NI Water’s Business Plan. In the ‘Connecting with Consumers’ report we wrote:

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\(^1\) ‘Connecting with Consumers. A report on consumers’ priorities for water and sewerage services’. A Consumer Council summary report of the work of CEOG. www.consumercouncil.org.uk

\(^2\) ‘Our Strategy For NI Water’ NI Water’s commitment page 9.
“Returning to domestic consumers and business customers [...] has provided a level of assurance that NI Water’s plan for PC15 is putting programmes of work for improvement in place in the areas consumers want to see”, and the “research findings demonstrate that the strategic aims developed for the NI water sector broadly reflect consumers’ preferences. It is important that a clear line of sight is maintained through [...] the Utility Regulator’s determination for PC15 to show how consumer preferences have been addressed.”

**Affordability**

15. CEOG found that households and businesses made choices for investment with clear consideration of the potential cost, with one in two households not being willing to contribute any more, and businesses reluctant to pay more for service improvements. The CEOG work concluded that affordability must remain the central consideration of all stakeholders when making investment decisions.

16. We welcome and support the negative price limits and charges in the draft determination reducing customer bills and the level of household subsidy.

17. Any increase in bills is regrettable and will receive a negative customer reaction. We understand why unmeasured charges will increase and support the UR in its efforts to minimise this and to smooth the impact over the PC15 period.

18. We support the ongoing metering programme to reduce the number of unmeasured customers which will further lessen the impact of the bill increase.

19. Similar to the smoothing of the increased charges for unmeasured bills the UR should consider smoothing the K factor for trade effluent to lessen the potential impact of the +5.74 per cent increase in year one.
Outputs and consumer benefit

20. The Consumer Council is supportive of the UR’s draft determination in terms of the range of minimum outcome/service commitments set out. The package of outcomes is in the main reflective of consumers’ priorities and preferences.

21. For the CEOG research we explained to all participants that as a minimum NI Water’s services would be maintained at their current level. This promise of no deterioration or retrograde service delivery must be kept.

22. We support the new output measures proposed by NI Water and included in the draft determination.

23. We note that no output measure has been included for sewer flooding to external areas. We believe one should be included. We asked about external sewer flooding in the CEOG research; consumers linked reducing the risk of internal flooding with reducing external flooding and it is an important indicator of company performance.

24. Measures for sewer failure and sewer blockages should also be considered as indicators of sewer condition and maintenance requirement/response (to complement the output for sewers replaced or relined)\(^3\).

25. The agreed outputs have yet to be translated into service promises in NI Water’s approved Codes of Practice. Given the output improvements proposed in the draft determination and NI Water’s commitment to put the customer first we expect to see an enhanced set of Codes developed with improved and enhanced promises from NI Water.

Profile of consumer benefit

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\(^3\) See also bullet point five, page 39 UR draft determination main report.
26. In some areas output accelerates towards the later years of PC15, for example water mains activity, sewerage activity, low pressure and sewer flooding. We understand that adequate planning is essential for effective and efficient investment but would request a review of the profile of such outputs to ensure consumer benefit is being delivered as soon as possible in the PC15 programme.  

27. We are aware that NI Water has questions over the target for sewage pollution incidents (low). We will look to both the UR and the Northern Ireland Environment Agency (NIEA) for assurances that the pollution incident targets set in PC15 are correct and being complied with.

**OPA & consumer experience**

28. We agree with the continued use of OPA for PC15.\(^4\) We support the UR’s increased final OPA score of 236 and the adjustment in the OPA profile to remove the negative step from 2014/15 to 2015/16.

29. We welcome the development of a customer satisfaction measure and KPI, including separate measures for domestic and non-domestic consumers to deliver ‘actionable data’, and the introduction of new customer measures for customer contacts, first point of contact resolution and repeat contacts. The Consumer Council looks forward to continuing the work of the CM/CSAT working group and believes that these new performance measures will provide robust consumer based evidence to drive further improvements to services and value for money for paying customers.

30. NI Water has explained that its new Customer Billing and Contacts (CBC) contract awarded in August 2014 carries many more customer-focused service level agreements (SLA) outside of the suite of DGs used for regulatory reporting and KPIs for business reporting.\(^6\) Like the UR we

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\(^4\) This becomes increasingly important given the anticipated pressures on available public expenditure finances.  
\(^5\) The work of the CM/CSAT group may alter the customer service elements of the OPA. 
\(^6\) NI Water PC15 Business Plan, Chapter 4 page 21.
look forward to learning more about these SLAs in the CBC contract and the scope for enhancement over the seven year contract period.

**Increased visibility and understandable impacts**

31. To keep the clear line of sight between complex company programmes of work, the PC15 determination and delivery for consumers we particularly welcome and support the UR’s call for greater visibility of NI Water’s plans in certain areas and agree that this would be beneficial. We would make specific comment on three areas:

- **Consumer views and investment prioritisation**

32. The links between consumer views and investment prioritisation has proved difficult to articulate at times during PC15. As the draft determination makes clear, greater visibility of company plans to further incorporate and ‘hardwire’ consumer preferences and willingness to contribute into the planning and decision process would be welcome.

33. This is beginning to happen in NI Water and we are aware of:

- The work NI Water is doing on its water mains rehab programme to build consumer preferences and willingness to contribute into its prioritisation methodology. But we are also aware of DG3 requirements not yet being incorporated.

- The use of complaint data on sewer blockages to inform base maintenance.

- The customer forum and customer journey work to focus on problems and solutions from the consumers’ perspective.

- Improved call centre diagnostics to identify problems as reported by the consumer alongside enhanced information flow from engineers to the

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7 UR draft determination main report section 3.8
8 UR draft determination Annex F
call centre – directly informing the company of the services being delivered in real time.

34. We see the above as evidence of a willingness and commitment from NI Water to continually strengthen the link between feedback it receives from consumers and improve the services they deliver.

• Flooding

35. At the end of PC15 124 homes will remain at risk of sewer flooding. Reducing the risk of sewer flooding has been consistently identified as a priority for consumers across PC10, PC13 and again for PC15. NI Water’s Business Plan proposed investing £19m to alleviate the risk of flooding at 62 homes. We had hoped to see more investment and further reductions from the DG5 register given the continued prioritisation of internal flooding by consumers. In the absence of funded projects for the required strategic drainage solutions we look forward to seeing the steps NI Water can take to mitigate the risk as requested by UR, alongside the work on storm water separation to reduce other flood risk.

• Hotspots

36. When service problems occur they tend to be localised. Consumers expect these ‘hot spots’ to be identified, prioritised and addressed by NI Water. Clarity on how NI Water will deliver against these three steps will help understanding of how service improvements will be delivered to consumers over PC15.

37. The targeting of hotspots links to the need for understandable local explanation of the impacts. As part of CEOG work we went back to consumers with NI Water’s headline PC15 Business Plan ideas. The proposals got overall support but while acknowledging NI Water’s intention to improve services, households and businesses wanted more detailed information on specific targets and actions that will be taken to
improve services in their locality.

38. Whatever the final determination sets as NI Water’s required revenue for PC15 it will represent a substantial investment of consumers’ money. We need to be able to explain what this level of spend will achieve and why in certain areas it will do nothing more than maintain the status quo. Our preference is for clear local service level outputs that show the impact of investment on the service experienced.

**Education**

39. CEOG clearly identified consumer desire for greater education and information on both water efficiency and the safe disposal of items in the toilet or drain. This ran across domestic and non-domestic consumers.

40. We support the plans for education during PC15 - 176 school visits and 57 events attended per year - but note the measures are for activity only and agree with the UR that more information is needed from the company on how these campaigns will be designed and assessed.\(^9\)

41. We would encourage NI Water to continue to develop effective partnerships to deliver education messages and promote positive consumer behaviour.\(^10\)

**Operating expenditure**

42. The draft determination clearly outlines the advances made and sustainable savings delivered through greater operating efficiency in PC10 and PC13. It is not the Consumer Council’s position to determine the correct percentage of operational efficiency to be delivered over PC15, indeed to do so would risk duplicating the UR’s role.

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\(^9\) UR draft determination Annex F page 27. CEOG recommended that ‘NI Water should review its current pro-active communication and education programmes to enable better targeted educational programmes as part of PC15’. (CEOG recommendation 8)

\(^10\) ‘Connecting with Consumers’ recommendation 7 – “NI Water should endeavour to form appropriate partnerships to promote water efficiency and increase the uptake and installation of water efficiency devices promoting the shared benefits (such as programmes for energy efficiency installation).”
43. We have consistently called for challenging, ambitious and realistic targets to be set for NI Water. Overall we are encouraged by and support the UR in rigorously challenging the operating spend of NI Water. We have heard the concerns of NI Water that the additional opex efficiencies proposed in the draft determination risks the company being stretched ‘too tight’ and we are aware of the questions NI Water has raised against the calculation of operating expenditure as set out in the draft determination.

44. The final determination will need to find the balance between affordability and risk to service delivery. Too great a weighting to either is not in the short or long term interest of the consumer. The period between draft and final determination will allow for this detailed work to be undertaken.

**Capital investment**

45. The development and presentation of a draft capital submission allowed for greater understanding of what could and couldn’t be delivered through PC15.

46. NI Water sets out that it could efficiently invest £1.4bn during the PC15 period. This is substantially above the £990m (£842m COPI adjusted) constrained budget allocated. While we welcome that NI Water has project appraisals developed should additional funding become available such a total increase in investment could potentially increase tariffs by 25 per cent. We would need to see clear evidence of the service improvements that would be delivered and would question the affordability of such an increase over the PC15 period.

47. As with operational efficiencies we are aware of the questions NI Water has raised and the additional information provided in the calculation of the scope and pace of efficiency against the capital programme. The final determination should include clear responses to these additional factors.
48. The efficiency challenge proposed by UR releases £59.4m of additional enhancement outputs without outlining where the extra outputs will be delivered. NI Water’s PC15 Business Plan noted the preference for any additional capital to go towards base maintenance and wastewater enhancement.\textsuperscript{11} Given consumers’ prioritisation and willingness to contribute to reduce internal flooding our preference is for ‘additional’ capital to go towards reducing the risk of sewer flooding. If alternative routing is proposed we will require evidence to explain this alternate use with clear explanation of the benefit to consumers.

**Performance tramlines**

49. We support the setting of tramlines for performance monitoring. We welcome the clarity provided that lower tramlines for serviceability assessment are not to be taken as a limit for performance improvement.\textsuperscript{12} As upper tramlines are normally set higher than the current level of performance, it must be made equally clear that while this allows for some variability in performance it must not be taken as acceptance of declining service delivery to consumers.

**Financial aspects**

- COPI

50. We welcome the UR’s review of the management of capital inflation risk and the use of COPI. Given the potential impact of inflation on the service received by the NI consumer we see the benefit in examining more closely the potential to develop a local price effect model for NI. This would be consistent with other regulatory areas where bespoke NI solutions have been developed. This would also allow for greater recognition of NI Water’s role in the NI construction industry.

\textsuperscript{11} NI Water PC15 Business Plan Executive Summary.
\textsuperscript{12} UR PC15 draft determination annex G page 7
51. We agree with the proposal for a mid-term review in PC15. We agree that the scope of the mid-term review should be limited to avoid a mini price control, reducing regulatory burden whilst maintaining the company’s focus on delivery over the entire PC15 period. We support the UR’s proposals for the mid-term review being the only opportunity to reopen the financial determination; to introduce new outputs and measures; and for items to be included and excluded. Given the flexibility the mid-point review allows it may be necessary to review this list leading into the time of review.

52. We also support and encourage NI Water to use the mid-point review to introduce innovative and sustainable solutions developed over the first period of PC15.

53. The overall materiality threshold of +/-£3m (2012/13 prices) seems an appropriate trigger level before there is consideration of a reallocation of risk to the consumer given the scale and duration of the PC15 plan. Consumers should be protected against or compensated for a failure to deliver outputs, either directly in the price cap during a period or in the subsequent period. The mid-point review offers a further opportunity to deliver this protection.

54. To help balance the asymmetry of risk between the consumer and the company that may be caused through the mid-term review we see it as providing an ideal opportunity to check delivery against consumer priorities, to re-test the validity of these priorities and if required re-prioritise; providing a degree of regulatory agility and helping to mitigate the risks inherent in foreseeing future consumer needs.

55. The impact on relative water costs of the UR increasing NI Water’s Regulatory Capital Value (RCV) is offset by the UR’s strong efficiency.
targets. There will be less scope for similar reductions in future price controls. Dependent on the outcome of the current review of NI Water’s governance structure, funding arrangements and business model fundamental questions may remain to be examined around the level of the RCV. These policy decisions go beyond the remit of the UR but it is with these questions in mind that the Consumer Council as in previous price controls considers that the RCV is not yet a fixed policy assumption.

**Concern over reduced public expenditure**

56. The six year PC15 period offers the stability and the long term strategic planning and investment decision making that is required in the provision of such a vital and essential public service as water and sewerage. We share the concern that reduced availability of public expenditure will expose NI Water to significant risk that could compromise its ability to deliver the agreed outputs and hamper the efficient delivery of agreed programmes with an as yet unknown impact on service delivery to consumers.

57. It is important that NI Water delivers the outputs that it will be remunerated for through PC15. This is the implied contract between the company and consumers. Accordingly, it is important that NI Water can secure the finance it requires to deliver those outputs.

58. As a Government owned service provider NI Water will be subject to government imposed financing constraints. Any alteration to Government funding must recognise that a proposed £89.4m has been taken out of NI Water’s revenue already through the price control process.

59. The allocation of financing must not result in the consumer, either as direct bill payer or taxpayer, paying twice. We include within this view NI Water’s concerns over relevant items for transformation costs and their funding and management through the Memorandum of Understanding and Consequent Written Agreement. As per the UR’s draft
determination we would support NI Water through public expenditure bids to support ‘invest to save’ proposals.

60. The Consumer Council considers it important that NI Water has a reasonable degree of flexibility in its funding, which can be necessary for the efficient management of the company’s operations and its investment programme. We agree with the UR that while being monitored closely, NI Water should not be micro-managed.

If you wish to discuss the above in more detail, please contact Graham Smith, Interim Head of Water graham.smith@consumercouncil.org.uk

Yours sincerely

[Signature]

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