



Department  
for Environment  
Food & Rural Affairs

Policy paper

# Independent commission on the water sector regulatory system: terms of reference

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**Applies to England and Wales**

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# Vision

Water is essential to society. Our ambition is to create a climate resilient and secure water sector that continues to have world-leading drinking water quality and delivers on our government's priorities for public health, enjoyment of our waters, the natural environment, economic growth and food security.

The pressures on the system are increasing in the face of climate change, population growth, the crisis in nature, and the need to deliver economic growth. The water sector faces multiple challenges and resolving these will require transformative change and involve trade-offs, such as the need to ensure affordability whilst securing the investment needed to achieve better customer outcomes and deliver clean rivers, lakes and seas.

The regulatory framework for water has emerged in a piecemeal way since privatisation, resulting in a fragmented system. Concerns about pollution of our waterways, pressures on the water supply, bill increases, protection for vulnerable customers, the sector's financial and infrastructural resilience, and ability to attract investment are all symptomatic of the broader need for change.

To deliver a system fit for the future we need to ensure there is a clear vision for what we want the water sector to deliver, a clear long-term plan to secure delivery, and an effective system for balancing trade-offs between different outcomes. We want to deliver an ambitious, long-term approach to resetting the water sector, in a new partnership between government, regulators, water companies, customers, and all those who enjoy our waters and work to protect our environment.

A reset of the water sector must consider the regulatory framework, the regulators and the incentives that govern the water industry model and strategic water planning. It should create the conditions needed in the private regulated model to attract the investment required to improve environmental performance, bring more accountability, rebuild public trust and confidence, and secure a resilient, innovative water sector and framework that will work for decades to come.

The sector should become one of growth and opportunity, which will restore our rivers, lakes and seas to good health, deliver a resilient and efficient water supply in the face of a changing climate, and ultimately ensure that the water sector works for customers and the environment.

Our waterways cross borders and water is a complex and highly sensitive aspect of the devolution settlement in Wales, which will need to be considered when developing future arrangements. The UK government and Welsh Government are committed to working closely together to tackle

shared problems. There will need to be a consensus for action, and this includes where distinctive solutions are needed in England and in Wales.

The Secretary of State for the Environment, Food and Rural Affairs, the Deputy First Minister for Wales and Cabinet Secretary for Climate Change and Rural Affairs have asked the department to work with the chair of a new independent commission, Jon Cunliffe, to come up with a set of recommendations to reform the water sector regulatory system to deliver the necessary reset of the water sector in England and Wales.

These terms of reference have been endorsed across all relevant departments in both the UK government and Welsh Government.

## Objectives of the commission

The commission should make recommendations to the UK government and Welsh Government to ensure that the water sector regulatory framework delivers the following outcomes:

1. Ensure the water industry has clear objectives for future outcomes and a long-term vision to support best value delivery of environmental, public health, customer and economic outcomes.
2. Ensure there is a strategic spatial planning approach to the management of water across sectors of the economy, tackling pollution and managing pressures on the water environment and supply at a catchment, regional and national scale. This approach should recognise the cross-border challenges that water can present.
3. Ensure the water industry regulatory framework delivers long-term stability and enables the privatised water industry to attract investment, maintain resilient finances and contribute to economic growth.
4. Rationalise and clarify requirements on water companies to achieve better environmental, customer, economic and financial outcomes.
5. Ensure water industry regulators are effective, have a clear purpose and are empowered to hold water companies to account, with a 'firm but fair' approach and earned autonomy for companies that perform well. It should consider transparency, predictability and accountability of regulatory decisions and performance. It should also clarify regulators' relationships with Parliament and both the UK government and Welsh Government, and consider how the regulators interact, including across borders.
6. Improve the industry's delivery capacity, including the supply chain and consideration of how to drive innovation.
7. Protect the interests of consumers, including vulnerable and non-residential customers, and ensure affordability. Companies' governance

and decisions should be honest, transparent and fair, in order to deliver outcomes and value both for the environment and consumers. They should take account of the interests of customers, the public, and those who interact with and enjoy the water environment, and help to rebuild public trust in the water sector.

8. Ensure water companies are operationally, as well as financially, resilient and that they can deliver resilient and secure infrastructure within agreed timeframes and maintain it for the long term. This should include anticipating and investing to provide for future changes such as planned development and climate change.

## Scope and delivery of the commission

The scope will be limited to the water industry in England and Wales and the strategic planning framework under the Water Framework Directive and River Basin Management Plans to ensure the effectiveness of strategic water planning across sectors. Where housing, planning, agriculture and drainage interlink with strategic planning for the water system, these are in scope.

In relation to Wales, the commission will work, and make recommendations, within the context of the framework provided by the Wellbeing of Future Generations Act 2015 and the sustainable management of natural resources and set out in the Environment (Wales) Act 2016. The approach must also be consistent with Wales's decarbonisation pathway defined in the Welsh Carbon Budgets and related targets, as well as the progress of the draft Wales Environment and Governance Bill.

The approach must also be consistent with the UK Carbon Budget framework, as set out in the 2008 Climate Change Act, and consider alignment with net zero objectives, including the reduction of greenhouse gas emissions associated with wastewater treatment processes.

The commission should have regard to how the water sector regulatory system provides the certainty around the provision of water infrastructure needed to underpin development plans, housing growth and sustainable development, while strategically protecting and enhancing the environment. This should include how regulation and planning for water infrastructure and for residential and commercial development can work together more effectively to anticipate and invest to provide for future growth, to quickly resolve and prevent issues where water and wastewater capacity constraints may otherwise inhibit necessary development (such as through their impact on requirements for water and nutrient neutrality).

To ensure the scope is manageable, the commission is not being asked to consider the specific regulatory approach to non-water industry related regulation, for example those for flooding and agriculture and wider planning reforms. The commission should consider them only in the context of their interactions with strategic planning for water through the Water Framework Directive Regulations and catchment approaches to managing water. This should include enabling the greater use of nature-based solutions where these represent good value for money.

The government and regulators will continue to take action to drive the much-needed improvements that are already in progress, and engage with issues outside the commission's direct scope and will work collaboratively with the commission to avoid duplication. There may be a need in some areas to take more urgent action on areas within scope of the commission (for example, on sustainable drainage in England and social tariffs), and the government and regulators will have ongoing legal obligations, essential operational business, implementation of existing policy and other situations that may arise and may touch on the work of the commission. In these situations, ministers will engage constructively with the commission to ensure these will not impact its development of recommendations.

The commission's review will be forward looking. To ensure a stable investment climate, the commission will not make recommendations that impact the live Price Review 24 process.

The commission will focus on reforms that improve the privatised regulated model. The UK government has already confirmed that nationalisation of the water sector will not be in scope, due to the high costs associated with this option, the lack of evidence that it would lead to improvements, and the delays it would cause in achieving better outcomes for consumers and the environment. In covering Wales, the commission will review the particular model in Wales where the largest water company operates a not-for-dividend model with no shareholders.

The commission's recommendations must be practical and deliverable. The commission should make a broad assessment of the benefits of reform alongside costs to government, billpayers and the broader fiscal outlook, though it is not expected to engage in detailed cost-benefit analysis. It should have regard to cross-cutting legal frameworks, including devolution, legal protections for human rights, and the subsidy control regime and the environmental principles.

The commission will focus on the strategic framework of the water sector and on the sector as a whole. It will not make recommendations specific to any individual water companies.

# Approach and deliverables

The end product of the commission will be a report to government by Q2 2025 with recommendations to the Secretary of State and Welsh ministers to reform the water sector regulatory framework. Following the commission's conclusion, the UK government and Welsh Government will consider and respond to the commission's recommendations.

The review will include broad stakeholder engagement. In particular, the chair will invite views from an advisory group of nominated experts, covering areas including the environment, public health, consumers, investors, engineering and economics. The chair will also seek views from wider groups of stakeholders, including environmental campaigners, consumer groups, farmers, water companies and regulators involved in the water sector (Ofwat, Drinking Water Inspectorate, Environment Agency, Natural Resources Wales). Other relevant organisations such as Natural England, local government and the Consumer Council for Water will be proactively included in stakeholder engagement. The commission will also publish a general call for evidence to bring in a broad range of views.

The Secretary of State has appointed Jon Cunliffe as independent chair of the commission. The chair will be responsible for directing the work, ensuring that it meets the terms of reference, and ensuring the evidence and views of both the advisory panel and the public feed into the commission's work.

The chair and advisory group will be supported by a Defra secretariat.

The commission will also have regard to parallel work, including reviews, taking place across government.

## Timing

The review will report by Q2 2025. The UK government and Welsh Government will respond and consult on proposals they intend to take forward.