

# Bristol Water Challenge Panel

## Terms of Reference

Approved at the meeting of the Challenge Panel on 21 September 2016

### 1. Role

- 1.1. The Bristol Water Challenge Panel is an independent body that scrutinises and reports to Ofwat, the Bristol Water Board and its customers, on Bristol Water's wider engagement strategy with its customers and how this drives decision making in company performance and its future company business plans.
- 1.2. Ofwat defines the role of Customer Challenge Groups (CCGs) to "provide independent challenge to companies and provide independent assurance to us on: the quality of a company's customer engagement; and the degree to which this is reflected in its business plan"
- 1.3. As interested and expert stakeholders, the membership of the Challenge Panel will be well placed to consider the evidence of customers' views and the company's response. Wider consultation directly with customers will be achieved through representative pieces of customer research and open consultations. In carrying out its role, the Challenge Panel will compare the performance and plans of Bristol Water with that of other water companies and provide challenge to the company by using local, regional, national and international benchmarks in customer engagement.

### 2. Purpose

- 2.1 The primary purpose of the Challenge Panel is to act as an independent body to ensure that the customer voice remains at the heart of Bristol Water's decision making.
- 2.2. Ofwat states that "CCGs should focus on those issues that customer engagement is most likely to genuinely influence. We have provided more guidance on the issues that CCG reports should include and made it clear we do not expect CCGs to endorse a company's overall plan."
- 2.3. The Challenge Panel will provide independent reporting to Ofwat, the Bristol Water Board and the public on the performance of Bristol Water against its 2015-2020 Business Plans. It will do this by facilitating inclusive discussion in an open and transparent manner.
- 2.4. The Challenge Panel will challenge, comment and advise the company on its plans to educate, inform and consult its customers on the development of Bristol Water's 2020-2025 Business Plan. The panel's work will ensure that the outcomes and service levels customers expect from their water services are reflected in the company's plans as well as any incentives around delivering higher levels of service.

### 3. Activities

The work of the Challenge Panel falls into several main functions:

- 3.1. Delivery of the 2015-2020 Bristol Water Business Plan
  - Monitor and challenge Bristol Water's delivery of its performance commitments (and any associated penalties and rewards set by Ofwat), charges to customers and data assurance processes to ensure a proportionate and transparent approach that involves customers in service delivery. The performance commitments are compared with others in the water sector.
  - Understand and challenge the recovery of any underperformance and the use of any 'out performance' revenue from such mechanisms as incentives, outcome return on regulatory equity, etc.
  - Challenge, monitor and input into how Bristol Water communicates with its customers on performance, how it interprets the responses from customers, and how this is reflected in its long term strategy.
  - Provide an independent annual report to Ofwat, the Board of Bristol Water and the public on how Bristol Water has delivered against its performance commitments for the benefit of its customers.

- 3.2. Production of the 2020-2025 Bristol Water Business Plan
- Review, challenge and comment on the development of 2020-25 Business Plan in terms of representing the needs of both customers and the environment.
  - Monitor, challenge and input into Bristol Water's customer policies, its ongoing research/engagement programme with customers to provide a robust, balanced and proportionate evidence base across its diverse customer base.
  - Advise and challenge on the phasing of delivery of outcomes to maximise the affordability and acceptability of the overall business plan.
  - Engage and challenge longer-term views around risk and resilience.
  - Challenge regulatory compliance with regard to the environment from a customer perspective.
  - Challenge Bristol Water to work with other water companies in areas of overlap for the wider interest of the customers, the environment and water resources in the Bristol Water area.
  - Consider the trade-off between different levels of service and bill profiles; specific major schemes to improve service; to ensure the views of Bristol Water's customers are reflected in the business plan.
  - Incorporate the diverse range of objectives as set out in 'Ofwat's customer engagement policy statement and expectations for PR19'.
- 3.3. Business and Domestic retail markets
- Review and comment on the proposals for the possible Domestic retail market as they become available.
  - Review the communication with customers.
  - Respond to Ofwat (and other) consultations as appropriate.
  - Monitor Bristol Water risk assessment programme where it imposes on customer priorities and preferences.

#### 4. Membership

- 4.1. A Chair and Deputy Chair have been appointed to the group following a selection process. The Chair and Deputy Chair will each be paid a stipend.
- 4.2. Ofwat requires that CCG membership should reflect local circumstances and challenges and include a representative from the Consumer Council for Water (CCWater). Chairs should not represent particular organisations or groups of customers. The environmental and drinking water quality regulators should play a significant role informing CCG discussions and CCG reports should highlight any concerns raised about the ability of the proposed plan to meet statutory obligations.
- 4.3. The Challenge Panel will represent both Bristol Water's domestic and retail customers, with members invited from:
- CCWater
  - Local Authorities elected representatives
  - Natural England
  - Avon Wildlife Trust and/or other environmental charities.
  - Citizens Advice Bureau and/or other similar bodies dealing with vulnerable customers.
  - Environment Agency
  - Local Academia
  - Local Businesses
  - Other local customer representatives as appropriate

Independent members and charity organisations will be paid a day rate for attendance at meetings. All members will be reimbursed for reasonable expenses incurred in relation to their membership of the Challenge Panel.

The Environment Agency is a member of the Challenge Panel and is represented by Jeremy Bailey, National River Basin Management Service, National Operations. As a contributor to the Panel and its overall aims and outcomes the function of the Environment Agency as the statutory regulator and enforcing authority in respect of Bristol Water Company remains unaffected and it will continue to take all regulatory measures, as appropriate, under any circumstances, in accordance with its published guidance and policies.

- 4.4. The Challenge Panel will ensure that Bristol Water consults all sections of the company's customer base, including minority Ethnic groups, vulnerable and hard to reach customers.
- 4.5. Challenge Panel Members are responsible for fully participating in delivering the work of the challenge panel. Members are expected to attend all the meetings or send an appropriate substitute or provide input in advance if unable to attend. All members are welcome to attend any sub-group meeting. Topic specialists will be invited to attend meetings at the discretion of the Chair to aid the members in their understanding of that topic.
- 4.6. Independent non-executive members of the Bristol Water Board are welcome to attend any meeting of the Challenge Panel or its sub group.

## 5. Meetings

### 5.1. Frequency

- Meetings of the Challenge Panel with Bristol Water will be held at approximately three monthly intervals, with a minimum of four meetings per calendar year. Additional Challenge Panel meetings will be arranged as appropriate depending upon the workload.
- Private meetings of the Challenge Panel without Bristol Water will be held at the beginning and end of each regular meeting. Additional private meetings of the Challenge Panel will be arranged as required.
- Between meetings, the Challenge Panel will be provided with information updates and/or asked for input by email.
- Bristol Water will provide telephone conference facilities for the use by members between the routine meetings to discuss urgent items as required.

### 5.2. Sub Groups

- The Challenge Panel may establish ad hoc sub-groups or task and finish groups to consider specific topics where it is considered by the membership to be beneficial to fulfilling the purpose of the panel.
- Each sub-group will usually be chaired by the Deputy Chair, its terms of reference will be set by the main Challenge Panel and meeting dates agreed with the Chair.
- Sub-groups will provide feedback to the next Challenge Panel meeting, including their recommendation for discussion by the main Challenge Panel. Decision making authority remains with the Challenge Panel.

### 5.3. Support and Administration

- Secretariat services will be provided to the Challenge Panel to enable the Challenge Panel to fulfil its role and functions in an independent manner.
- The agenda and papers (including the written results of actions from the previous meeting) for each meeting will be uploaded to a website hosted by Bristol Water, not less than five working days before each meeting. Members of the group will be provided with access to the website, and will be expected to have read all papers before the meeting.
- Minutes of the meeting will be taken and a draft checked by the Chair before being distributed no later than two weeks after each meeting.
- Confidential items will be duly marked in the Minutes for member's information and redaction.
- Bristol Water will provide a regular update on matters concerning the Challenge Panel work areas.
- Challenge Panel welcomes Bristol Water informing us about specific topics with a wider set of 'interested' third parties in preparation for our deliberations.

### 5.4. Agendas

The Chair, in consultation with Bristol Water, will determine meeting agendas. Standard items will normally include:

- Private sessions
- Minutes and matters arising from previous meetings
- Review of the Challenge Log outstanding items
- Quarterly update on the delivery of performance commitments
- Update of ongoing customer research and engagement
- Feedback from sub-groups

### 5.5. Meeting Evaluation

In its presentations to the Challenge Panel, the members would expect Bristol Water to report against the following four criteria:

- How it is customer led
  - Impact on customers
  - How it relates to Best Practice and Innovation within the industry
  - Ethical Issues, eg differing 'willingness to pay' methods, intergenerational concerns, etc.
- Informal scoring of Bristol Water's presentations will be carried out as well as of the Challenge Panel's own performance at the meeting.

## 6. Governance

6.1. Ofwat states that "To build trust and legitimacy we would like to see an increased focus - by companies and the CCGs themselves - on CCG governance and funding process transparency."

### 6.2. Chair and Deputy Chair

- The Chair and Deputy Chair have been appointed following an open interview process.
- The role of the Chair and Deputy Chair is to encourage full, frank and inclusive debate, identify areas of consensus, summarise differences and distil possible solutions emerging or needing to be investigated further.
- The roles will be sufficiently independent from Bristol Water to be able to ensure they can challenge effectively, to give proportionate assurance to both Ofwat and Bristol Water customers.
- The Chair and Deputy Chair should ensure that they act independently of any affiliations with other bodies, such as parent organisations, and oversee the group in an objective manner.
- The Chair will have regular meetings with an independent non-executive member of the Bristol Water Board to provide feedback and assurance.

### 6.3. Members

- Members will be required to formally approve the Challenge Panel Terms of Reference.
- A work programme and protocol will be agreed with members of the group.

### 6.4. Role of Ofwat

Ofwat has stated that:

- "We will enable, inform and incentivise good quality customer engagement that puts customers at the heart of decision making. In keeping with our statutory duties and strategy, we will step in if required."
- "We will continue to provide clarity on our expectations regarding good quality customer engagement at PR19, including the roles that we, companies and CCGs have in delivering this."
- "We will host regular workshops with CCG chairs to facilitate the sharing of information, knowledge and good practice and help foster more CCG collaboration."
- "We confirm our commitment to publish early indications on the weighted average cost of capital and outcome return on regulatory equity"

## 7. Outputs

7.1. The principal published output will be the Challenge Panel's Independent report to Ofwat and the public to accompany Bristol Water's 2020 Business Plan. This report is expected to be published in September 2018.

7.2. Other published outputs of the Challenge Panel will be:

- Minutes of all main and sub group meetings.
- Annual report on the delivery of Bristol Water's commitments to its customers.
- Annual report on the operation of the Challenge Panel during the previous year.
- The Challenge Panel will submit a second independent report if Bristol Water does not achieve 'enhanced' status as a result of Ofwat's Risk Based Review of PR19 Business Plans.

## 8. Review of Terms of Reference

The Terms of Reference for the Challenge Panel shall be reviewed and agreed by the membership from time to time, including a formal review in light of any further information published in the Ofwat Methodology due to be published in December 2017.

## Appendix 1: Non-exhaustive list of issues for CCG reports to include:

- Has the company developed a genuine understanding of its customers' priorities, needs and requirements - and where appropriate customer valuations - drawing on a robust, balanced and proportionate evidence base? Has the company engaged with customers on the issues that really matter to them?
- Where appropriate, has the company engaged with its customers on a genuine and realistic range of options? For example, in relation to a need to rebalance supply and demand, this might include increasing its own capacity, purchasing water from another company or demand management options. Where appropriate, has the company considered how customers could help co-create and co-deliver solutions to underlying challenges?
- Has customer engagement been an on-going, two-way and transparent process, where companies are informing their customers as well as soliciting feedback from them?
- Has the company effectively engaged with and understood the needs and requirements of different customers, including those in circumstances that make them vulnerable? Has the company considered the most effective methods for engaging different customers, including those that are hard to reach?
- Has the company effectively engaged with its customers on longer term issues, including resilience, impacts on future bills and longer-term affordability? Does the business plan adequately consider and appropriately reflect the potential needs and requirements of future customers? Wherever appropriate, has the company engaged with its customers on the long-term resilience of its systems and services to customers?
- Has the company effectively informed and engaged with customers on its current levels of performance and how does this compare to other companies in a way customers could be expected to understand?
- Has the evidence and information obtained from customers (including through the company's day-to-day contacts with customers) genuinely driven and informed the development of the business plan to benefit current and future customers? What trade-offs (for example between different customers) have been identified and how has the company proposed to deal with these?

## Appendix 2: Enabling Independence of the Challenge Panel

The governance that enables the independence of the Challenge Panel consists of:

- An independent Chair and Deputy, appointed through a rigorous and robust process involving a representative concerned with vulnerable customers, CCWater and regulator Environment Agency.
- The maintenance of good relationships with the regulators of Bristol Water, Bristol Water (including with an independent non-executive director, chief executive officer, chairperson and executive staff), interested stakeholder bodies (including Water UK, CCWater) and the chairpersons of customer challenge groups across England and Wales.
- A broadly based panel capable of challenging customer engagement through its representation of customers drawn from, or composed of urban and rural businesses, young people, vulnerable people, people of minority ethnicity, local government authorities, environmental concerns, and more.
- The panel itself is inducted and informed on issues affecting the business, its performance and its business planning and can:
  - Represent and provide challenge from the range of views among the customer-base.
  - Challenge and inform customer research proposals and interpretations.
  - Scrutinise performance, proposals and innovations proposed by Bristol Water.
- The panel will maintain a Challenge Log of issues it has raised and the resolution of such issues. This will be published with our final report.
- The panel evaluates its performance, and that of Bristol Water, based on whether it is customer focused, the interests and concerns of the customer lead the items on the agenda, ethical issues (such as willingness to pay, inter-generational costs) feature during the meetings, reference to best practice and other comparative data.
- Reports of the Challenge Panel are available through the website of Bristol Water, signposted through Ofwat and accessible through internet search engines.