

## CUSTOMER ENGAGEMENT IN THE STRATEGIC REVIEW OF CHARGES FOR 2027-2033

### TRI-PARTITE Memorandum of Understanding

among

**THE WATER INDUSTRY COMMISSION FOR SCOTLAND**, a body corporate established under section 1 of the Water Industry (Scotland) Act 2002 (the "2002 Act") and having its principal office at First Floor, Moray House, Forthside Way, Stirling FK8 1QZ (the "Commission");

**CONSUMER SCOTLAND**, an independent statutory body established to improve outcomes for current and future consumers, established under the Consumer Scotland Act 2020 and having its principal office at Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD ("Consumer Scotland"); and

**SCOTTISH WATER**, a body corporate established under section 20 of the 2002 Act and having its head office at The Bridge, 6 Buchanan Gate, Stepps, Glasgow, Scotland G33 6FB ("Scottish Water").

### 1. Background

- 1.1 Scottish Water is a public sector body, classified as a public corporation of a trading nature, answerable to the Scottish Parliament through Scottish Ministers. It is publicly owned, commercially run and independently regulated. This ownership model allows any surplus generated to be reinvested in the provision of services to its customers.
- 1.2 The Strategic Review of Charges is the process undertaken by the Commission<sup>1</sup> – the independent economic regulator of Scottish Water – to determine the charges payable by Scottish Water's customers for the next regulatory period. The Strategic Review of Charges ("SRC") for 2027-33 will be the sixth undertaken in the Scottish water industry.
- 1.3 The Commission is required to exercise its function to ensure that (a) Scottish Water make use of its resources to achieve the objectives set for it by Scottish Ministers ("Ministerial Objectives") at the lowest reasonable overall cost and (b) so far as is consistent with (a), any charges scheme made by Scottish Water gives effect to the statement of policy regarding charges issued by the Scottish Ministers in respect of the Review Period (the "Statement of Policy").
- 1.4 The Scottish Ministers must, before setting the Ministerial Objectives or issuing the Statement of Policy, consult Consumer Scotland.
- 1.5 Consumer Scotland was founded in April 2022 following the Consumer Scotland Act 2020. It is the new statutory, independent body for consumers in Scotland, and has a general function of providing consumer advocacy and advice to reduce harm, increase confidence and increase the extent to which consumer matters are considered.
- 1.6 Section 21 of the Consumer Scotland Act 2020 has introduced a duty ("the consumer duty") which Scottish Water and the Commission must take account of and evidence, on an annual basis, their clear focus on providing the best possible service and outcomes for consumers (as users of public services). The Consumer Duty aims to put consumer interests at the heart of strategic decision-making and will therefore apply to the SRC27 process.
- 1.7 The Commission has received the Commissioning Letter from the Cabinet Secretary for Wellbeing Economy, Net Zero and Energy requesting it to undertake a Strategic Review of Charges in respect of the 2027 - 2033 Review Period (the "SRC27").
- 1.8 The Parties agree that their shared purpose in SRC27 is to fulfil the requirement set out in the Commissioning Letter that "consumers, communities and the environment are placed at the heart of this Review." The Parties acknowledge that Scottish Water refers to 'customers' and Consumer Scotland to 'consumers' (for specific reasons) and in this document both words are used where appropriate.
- 1.9 The Commission must, before determining maximum amounts of charges, invite representations on a draft of its Determination<sup>2</sup> from Scottish Ministers, Scottish Water and Consumer Scotland. Ministers also expect that customers are engaged throughout this process and that the Draft Determination commands customers' support.

<sup>1</sup> Under Part 3 of the Water Industry (Scotland) Act 2002

<sup>2</sup> The Determination is the Commission's view of the maximum amount that Scottish Water can charge its customers during the forthcoming regulatory period.

- 1.10 The Parties to this *Memorandum of Understanding* have held discussions on the Principles for Customer Engagement and Pillars of Work for SRC27 and how these will be achieved.

## **2. Purpose & Aim**

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- 2.1 The purpose of this *Memorandum of Understanding* is to set out the agreed Principles for Customer Engagement and Pillars of Work for SRC27 and detail how these should be enacted to make sure that the Parties respective statutory duties and obligations relating to customers/consumers will be met.
- 2.2 In SRC15 and SRC21 the innovative Customer Forum model was adopted to bring the voice of customers into the review. The Forum was a body appointed to agree the Business Plan (SRC15) and the Strategic Plan (SRC21) with Scottish Water, on behalf of customers, before the Commission made its Final Determination.
- 2.3 In SRC27 the Parties have agreed to build on this approach, retaining an independent group to challenge Scottish Water as it develops its Business Plan. The model for SRC27 will further introduce a direct customer role, whereby a deliberative methodology will be used so "the Commission can demonstrate that Final Determination commands consumers'<sup>3</sup> support"<sup>45</sup>.
- 2.4 The Parties have agreed four Principles for Customer Engagement in SRC27: Empowerment, Legitimacy, Collaboration and Independent Challenge. These Principles will be embedded within the three pillars of work: Evidence, Challenge and Confirmation to ensure that customers will be at the heart of SRC27 period. This structure is set out in the diagram attached as an appendix to this *Memorandum of Understanding*.
- 2.5 The Evidence Pillar will establish customers' views on issues relating to the Business Plan through a co-ordinated and co-designed programme of research and analysis (see section 4 below).
- 2.6 The Challenge Pillar will require the existing Independent Customer Group (ICG) to use evidence to challenge Scottish Water to put customers' needs and expectations at the heart of its Business Plan. To facilitate this role Scottish Water and Consumer Scotland will agree a Special Terms of Reference for the ICG for SRC27. This will include a set of new asks of the ICG (in addition to their ongoing independent challenge role for Scottish Water) to help fulfil the expectation that both Scottish Water's Business Plan and the Commission's Determination will command customers' support.
- 2.7 The Confirmation Pillar will ask customers' whether the Final Business Plan commands their support, in turn supporting the Commission to meet Ministers' expectations that the Final Determination will command customers' support. The Parties have agreed that longitudinal deliberative research will be commissioned for this purpose, with the activity being co-designed with sector stakeholders.
- 2.8 The Parties may periodically review the Principles for Customer Engagement and Pillars of Work for SRC27 and make amendments as deemed necessary by all Parties.
- 2.9 The Parties may escalate any necessary issues to be resolved by their Chief Executives.

## **3. Principles**

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- 3.1 The Parties have agreed four Principles for Customer Engagement in SRC27: Empowerment, Credibility, Collaboration and Independent Challenge.
- 3.2 **Empowerment:** Customers and Communities will be empowered through:
- 3.2.1 Ministers' expectation that the Draft Determination commands customers' support;
- 3.2.2 The Commission's expectation that Scottish Water take ownership of its business plan and charges, and that both command the support of its customers and communities;
- 3.2.3 Consumer Scotland fulfilling its statutory consumer advocacy role and its remit in relation to the Draft Determination of water charges; and

<sup>3</sup> Scottish Water will read 'consumers' to mean customers

<sup>4</sup> From the Commission Letter of the Strategic Review of Charges

<sup>5</sup> The Parties will interpret this to include that customers should broadly support Scottish Water's Business Plan

- 3.2.4 The Parties to this *Memorandum of Understanding* will work together to enact these principles.
- 3.3 **Legitimacy:**
- 3.3.1 Customer research will be credible, well designed, comprehensive, robust, unbiased, inclusive and independent and follow best practice to provide best value;
- 3.3.2 Scottish Water's Business Plan will visibly reflect customer views, providing a clear rationale as to the decisions that Scottish Water has taken in relation to incorporating customers' views and preferences; and
- 3.3.3 To build upon previous strategic reviews a longitudinal, deliberative approach will be used to understand strategic prioritisation and acceptability of the final Business Plan.
- 3.4 **Collaboration:**
- 3.4.1 Water sector stakeholders will work within the principles of Ethical Based Regulation (EBR) and Outcome Based Collaborative Regulation (OBCR) in relation to customer engagement;
- 3.4.2 Research will be coordinated to ensure credibility (utilising the existing Customer Research Coordination Group);
- 3.4.3 Roles and responsibilities will be clear and transparent; and
- 3.4.4 Co-designed research is key to build on the success of this approach in SRC21.
- 3.5 **Independent Challenge:**
- 3.5.1 Scottish Water will be challenged to demonstrate that plans are reflective of customer expectations through an independent group;
- 3.5.2 Challenges will be evidence based, identifying where gaps in the evidence base exist;
- 3.5.3 Challenge will be realistic and balanced; and
- 3.5.4 The group must have a structure and remit that ensures its independence from Scottish Water.

#### 4. **Pillar 1: Evidence**

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- 4.1 The Evidence Pillar will establish customers' views on issues relating to the Business Plan through a co-ordinated programme of customer research and analysis. This evidence base will be core to the development of Scottish Water's Business Plan.
- 4.2 The Parties will agree on the overall programme of research for SRC27, and in doing so they will engage with the Customer Research Coordination Group (CRCG).
- 4.3 The Parties commit to the efficient co-design of research requirements to help ensure that a high-quality programme of research that meets the needs of all Parties underpins the SRC process, contributing to best value. It is envisaged that co-design will be an active and collaborative process, with the Parties able to contribute at all stages. All Parties acknowledge the need to be pragmatic and cooperative given the short timescales they are operating in. Scottish Water will procure research to support development of their Business Plan, and Consumer Scotland will procure the longitudinal deliberative research that runs throughout the SRC process and culminates in the Confirmation Pillar.
- 4.4 By utilising internal expertise and engaging professional research agencies, Scottish Water and Consumer Scotland will ensure customer research is well-designed, robust, unbiased, inclusive and independent, following relevant professional codes of conduct (such as the Market Research Society code of conduct) to provide best value.
- 4.5 The Customer Research Coordination Group (CRCG), and its predecessor the Research Coordination Group, has provided a forum to facilitate coordination and collaboration among water sector stakeholders in Scotland on research designed to promote understanding, and provide an evidence base, of customer and communities' needs and aspirations. The Parties envisage that the CRCG will evolve to help facilitate the strategic alignment and co-design of research requirements and to seek collaborative input into research design and materials. The parties agree to review the Terms of Reference for this group to reflect this. The Chair of the Independent Customer Group will continue to chair the CRCG, and administrative support will be provided by Scottish Water. Scottish Water and Consumer Scotland will provide the CRCG with research advice and expertise.

- 4.6 The CRCG may also be utilised to discuss the outcomes of research. This does not affect the responsibility and right of Parties to this agreement to reach independent views on the interpretation of research findings.
- 4.7 Deliberative research (see Pillar 3: Confirmation) will engage a group of customers for the duration of the SRC and be a core element of Evidence. This deliberative research will play a key role in providing evidence that Scottish Water's Final Business Plan commands customer support.

## **5. Pillar 2: Independent Challenge**

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- 5.1 All Parties recognise the benefit of independent challenge following the success of the Customer Forum in playing a formal role in facilitating effective customer engagement within SRC15 and SRC21.
- 5.2 The Customer Forum's role in SRC21 officially came to an end with the publication of the Commission's Draft Determination. However, Scottish Water committed in its Strategic Plan to ensuring an active, independent customer perspective on the services it provides and its work to achieve the objectives set out in its Strategic Plan and the Water Sector Vision. Scottish Water's Board therefore established the Independent Customer Group. Hosted by Scottish Water (it would not be legally constituted as a 'public body'), it would be operationally independent. The group would be formally recognised and valued by Scottish Water's Board, as providing independent input and constructive challenge, free from any perception of 'organisational capture'.
- 5.3 The Parties have agreed that independent, evidence-based challenge to Scottish Water should be the second pillar of work to put customers at the heart of SRC27, and that this role should be carried out by a group tasked with understanding customer interests and representing these.
- 5.4 The ICG will fulfil the independent challenge pillar of work. Utilising its experience and expertise, the ICG will draw upon evidence to challenge Scottish Water's understanding and incorporation of customers' needs and expectations in its Business Plan.
- 5.5 Scottish Water and Consumer Scotland will agree a Special Terms of Reference for the ICG for SRC27. This will be an additional to, and operationally separated from, its 'Business as Usual' role.
- 5.6 Specific governance requirements relating to the appointment of members, accountability and the operation of the ICG will be reflected in the Special Terms of Reference. The ICG will operate transparently and will report to the Boards of Scottish Water and Consumer Scotland on its independent role in SRC27, as set out in the Special Terms of Reference. It is expected that the additional requirements of the ICG under the Special Terms of Reference will cease in December 2026, this will allow for a period of reflection and to collate lessons learned to help inform the subsequent review.
- 5.7 ICG's 'Business as Usual' role and remit to provide challenge and counsel to Scottish Water on operational and transformational activities will continue throughout the SRC period, although priority will always be given to Special Terms of Reference and the role requirement needed for the SRC.
- 5.8 Scottish Water and Consumer Scotland will continue to review the current skillset and makeup of the ICG to identify any gaps in knowledge or expertise needed for the SRC. The Parties will seek to appointment new member(s) to the ICG with experience of the non-household sector and/or with experience as a business-end-user customer. Any new appointments to the ICG during SRC27 will be made with the agreement of Scottish Water, Consumer Scotland and the Chair of the ICG.
- 5.9 Every 6 months the Chair of the ICG will provide a written report for inclusion in Scottish Water's Performance and Prospects Report to provide visibility on the scale and impact of ICG's activity on Scottish Water's strategic planning. The Chair of the ICG will meet with the Chair of Scottish Water's Board and the Consumer Scotland Board at key stages in the SRC, on a minimum of three occasions during the process. Scottish Water will look to increase engagement between the ICG and Scottish Water's Board as part of its wider SRC engagement programme.
- 5.10 The ICG will increase the visibility of its work, to sector stakeholders, on its activities relating to the SRC. The ICG will operate transparently and will provide regular updates to Scottish Water

and Consumer Scotland on meeting topics and the outcomes of its discussions with Scottish Water for publication on their respective websites.

- 5.11 The ICG will produce an Assurance Report which will be published alongside Scottish Water's Business Plan. The ICG will maintain a log of its challenges to Scottish Water and the responses it receives, this can be made available to Scottish Water and Consumer Scotland throughout the process. The ICG will publish the challenge log alongside their assurance report at the end of the process to demonstrate the impact of the Group and highlight what remains.
- 5.12 The ICG will be expected to work collaboratively with stakeholders in the water sector, including through the refreshed Customer Research Co-ordination Group, which it chairs. Scottish Water and Consumer Scotland will provide the ICG with full access to its customer research and analysis to broaden the ICG's evidence base to allow it to fulfil its role.
- 5.13 Scottish Water's Customer & Community Test and Learn meeting will be re-established with the Commission, Consumer Scotland and ICG as invited attendees. This additional meeting will allow the informal sharing of information on how we are using customer and community views to shape decision making.
- 5.14 All parties will work to enable the ICG to be effective.

## **6. Pillar 3: Confirmation**

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- 6.1 The Confirmation Pillar is a significant innovation for SRC27, introducing a direct customer input on whether Scottish Water's Final Business Plan commands their support. This will help demonstrate to Ministers that the Final Determination commands customers' support.
- 6.2 Deliberative research will be run throughout the SRC process, seeking robust insight into customers' views to inform the development of the Business Plan. The confirmation stage follows this and will ask whether the Final Business Plan commands customers' support.
- 6.3 A particular focus of the deliberative research will be on the choices necessary for Scottish Water to make appropriate progress towards its Long-Term Strategy in the SRC27 period, and the charging profile required to achieve that progress.
- 6.4 All Parties note that achieving high quality outcomes from the deliberative research will require significant investment of time from each of them for co-design and delivery of the project. They mutually agree to provide that capacity.

## **7. Resources**

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- 7.1 The Parties agree that they shall meet the full staff costs of the individual members from their own organisations tasked with delivering the provisions contained as part of this Memorandum of Understanding. At this stage Parties do not anticipate the need for a financial budget.

## **8. Legal effect**

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- 8.1 Nothing contained in this document, and no action taken by the Parties pursuant to this *Memorandum of Understanding*, shall be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee.
- 8.2 None of the Parties has, nor may it represent that it has, any authority to act or make any commitments on the other Parties' behalf or otherwise bind the other Parties in any way without the prior collective agreement of all Parties.
- 8.3 Nothing in this document shall be construed as limiting or restricting the ability of any of the Parties to exercise any powers or functions conferred on it by or under any enactment, or to perform any duty (including a duty to exercise discretion) imposed on it in relation to any such power or function.

## **9. Termination**

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- 9.1 Any Party can opt to terminate their participation in this Memorandum of Understanding at any time given prior notice of 30 calendar days to the other Parties.
- 9.2 Subject to Clause 8.1, it is anticipated that this Memorandum of Understanding shall remain in place until the Commission publishes its Final Determination (Oct 2006). Thereafter the Parties may terminate this Memorandum of Understanding.
- 9.3 In the event of termination under clause 8.1 or 8.2, the Parties shall co-operate to ensure that activities undertaken in accordance with this Memorandum of Understanding are effectively

wound down. This shall include, but not be limited to, ensuring that all information, analysis and any records generated or held by the Parties as part of this *Memorandum of Understanding* are retained and accessible to the Parties and that any reviews of the work can be completed effectively.

- 9.4 Any termination of this Memorandum of Understanding will not bear impact upon the enduring 'Business as Usual' Terms of Reference of the ICG and CRCG.

## 10. Freedom of information

- 10.1 The Parties acknowledge that they may be required to disclose information in compliance with the Freedom of Information (Scotland) Act 2002 and/or the Environmental Information (Scotland) Regulations 2004 (the "Legislation") where they are subject to it, or any other law, and/or as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure. In such event, the Parties agree that the decision of the Party who has been requested to disclose such information (the "Disclosing Party") shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms.
- 10.2 When disclosing such information, it is recognised and agreed by the Parties that the Disclosing Party is unable to impose any restriction upon the information that it provides and that disclosure may be required without prior consultation with the other Parties to this Memorandum of Understanding. Such disclosure shall not be treated as a breach of this Memorandum of Understanding.
- 10.3 The Parties acknowledge that the Disclosing Party may be obliged under the Legislation to disclose information without consulting any of the other Parties and shall be responsible for determining at its absolute discretion whether any information held by it is exempt from disclosure in accordance with the provisions of the Legislation or is to be disclosed in response to a request for information.

## 11. Governing Law

- 11.1 This Memorandum of Understanding shall be governed by and construed in accordance with the laws of Scotland and each of the Parties hereto submit to the exclusive jurisdiction of the Scottish Court.

## 12. Provisional Timeline

- 12.1 The following table sets out the timeline for the Pillars of Work. This reflects the best estimates of timescales available to the Parties at the time of agreeing this MOU.

Activity	Party	Proposed timescales
Agree Principles and Memorandum of Understanding	All	August 2024
SRC27 Methodology consultation opens	WICS	14 August 2024
ICG begin operating under Special Terms of Reference	ICG	1 September 2024
Final SRC27 Methodology published	WICS	12 December 2024
Draft Long-Term Strategy consultation opens	SW	January 2025
Initial deliberative research report available	CS	March 2025 tbc
Final Long-Term Strategy published	SW	May 2025
CS phase 1 deliberative research report: strategic needs	CS	May 2025
Draft Business Plan	SW	12 June 2025
Interim Assurance Report reflecting on the inclusion of customer views and priorities	ICG	July 2025
CS comments on draft Business Plan including phase 2 deliberative research		28 August 2025
WICS provide comments on Draft Business Plan	WICS	28 August 2025
Final Business Plan	SW	26 February 2026
Assurance Report reflecting on the inclusion of customer views and priorities	ICG	Feb/March 2026

CS comments on Final Business Plan including phase 3 deliberative research: customer acceptability	CS	May 2026
Draft Determination consultation	WICS	30 June 2026
Representations on Draft Determination	SW	September 2026
Final Determination published	WICS	29 October 2026
Review of customer engagement in the SRC process	All	December 2026

IN WITNESS WHEREOF these presents consisting of this and the 6 preceding pages have been subscribed as follows:

EXECUTED for and on behalf of THE WATER  
INDUSTRY COMMISSION FOR SCOTLAND  
at Edinburgh

on 1st Nov 26

by DAVID SATTI

its authorised signatory in the presence of this  
witness:

Witness M. Horsley

Full name MOLLY HORSLEY

Address EDINBURGH



Authorised signatory

EXECUTED for and on behalf of CONSUMER  
SCOTLAND at Edinburgh

on 1st November 2024

by [Signature]

its authorised signatory in the presence of this  
witness:

Witness M. Horsley

Full name MOLLY HORSLEY

Address EDINBURGH



Authorised signatory

EXECUTED for and on behalf of SCOTTISH WATER  
at Edinburgh

on 11/1/2024

by Alex Rae

its authorised signatory in the presence of this  
witness:

Witness M. Horsley

Full name MOLLY HORSLEY

Address EDINBURGH



Authorised signatory

