

# RTPI evidence to the National Infrastructure Commission on the future of regulation

*April 2019*

The National Infrastructure Commission is investigating whether changes might be necessary to the existing regulatory framework, to facilitate future investment needs in infrastructure focusing on energy, telecoms and water, while promoting competition and innovation and meeting the needs of both current and future consumers. The Commission's perspective is long term, covering the next 30 years.

Recent changes to national policy have placed a greater emphasis on strategic infrastructure planning, and the emergence of combined authorities and other strategic partnerships between local authorities offer new opportunities to achieve this. Planners are well-placed to lead on this agenda, and integrate infrastructure into wider place-making objectives. However, our members face significant challenges navigating through the complex and often fragmented systems which relate to its governance, planning, financing and delivery. This coordinating role is also constrained in places by a lack of resourcing of local authority planning departments.

We therefore welcome the focus on utility regulation by the Commission, and hope that it leads to greater integration between different infrastructure sectors in support of sustainable development. The RTPI is simultaneously conducting its own research on the barriers to integrated infrastructure planning across England and Scotland<sup>1</sup>, and on planning for smart energy<sup>2</sup>. Some of our emerging findings are reflected in the evidence below, and we would be pleased to share further details with the Commission.

The Commission should recognise that the planning systems in Scotland and Wales are going through periods of significant change. The Welsh Government is placing a renewed emphasis on cooperation through the emerging National Development Framework, assuming new decision-making powers for development proposals on energy and water infrastructure, and have a growing interest in coordinating telecommunications infrastructure. Meanwhile, the Scottish Planning Bill contains provisions for an infrastructure levy, and the government has established an Infrastructure Commission and Infrastructure Delivery Group to improve coordination between infrastructure providers and the planning system. The devolved nations should be fully engaged with this review, and able to develop their own policies and initiatives.

---

<sup>1</sup> See: [rtpi.org.uk/integratedinfrastructure](http://rtpi.org.uk/integratedinfrastructure)

<sup>2</sup> See: [rtpi.org.uk/climatechange](http://rtpi.org.uk/climatechange)



## 1. Where has the economic regulation of water, energy or telecoms systematically failed or succeeded to:

- a. facilitate future investment needs
- b. promote competition and innovation
- c. meet the needs of both current and future consumers

### and what do you see as the most important improvements that could be made to the UK's system of economic regulation?

One of the key improvements that could be made to the regulatory system is to require sufficient provision for growth. The regulatory framework and price control mechanisms are perceived to prevent utility companies from making strategic investments in infrastructure ahead of demand, due to the challenges of recovering costs for underutilised or stranded assets if expected levels of demand do not materialise. As such, utility companies tend to limit consideration to development schemes with a high degree of planning certainty.

This can lead to a piecemeal approach to the delivery of infrastructure, and long negotiations between developers and utility companies if a single developer is required to pay for the reinforcement of an entire network. If delays then undermine the delivery of the local plan, it creates a self-fulfilling cycle in which utility companies are less inclined to plan on the basis of local authority growth forecasts, and rely on their own assessments instead.

The regulation of utilities and performance criteria should therefore be improved to better align infrastructure delivery with growth, going beyond the existing general requirements on the regulators to 'meet the needs of a growing population'. Government could incorporate sub-regional growth plans into the guidance issued to regulators in advance of price control periods, and place an obligation on utility companies to engage early and proactively in the local and strategic plan-making process. While some utility companies do already engage on such a basis, a stronger obligation would help to create a more level playing field across the country and improve coordination *between* infrastructure sectors to inform plan-making. This should be supported with enhanced spatial planning expertise within the regulators and utility companies.

Closer working with planning authorities should also include socio-economic impact assessment, to ensure that programmes of utility investment are genuinely inclusive, delivering equitable access to infrastructure services and incentives.

Government and the regulators should also clarify the circumstances under which utility companies can invest ahead of need, and consider new mechanisms to help mitigate the financial risks. It has been suggested that Tax Increment Financing or Strategic



Infrastructure Tariffs could provide guarantees for public infrastructure projects which enable large-scale developments to come forward, incentivising up-front delivery<sup>3</sup>.

More broadly, the Commission could investigate the benefits and costs of aligning planning timescales between utility companies, local authorities and other relevant stakeholders. This should be explored at a strategic scale, such as river catchments for water infrastructure.

## **2. The National Infrastructure Assessment outlined a number of changes and challenges in infrastructure to 2050 (e.g. the move to fibre in telecoms, decarbonisation in energy and the need for long term resilience in the water sector). How might the scope, functions or activities of economic regulators need to adapt in light of future challenges?**

The current regulatory structure must oversee a rapid transition to a flexible and decarbonised heat and electricity network, which meets the requirements of the Climate Change Act 2008. Here, Ofgem should work closely with local and combined authorities to oversee the equitable rollout of electric vehicle charging and smart grid infrastructure, tailored to local needs. Regulation should also be extended to include district heat networks, with the same provisions made to ensure investment can take place ahead of demand, such as when planning for new settlements.

Furthermore, Ofgem should ensure that network operators are maximising opportunities to roll out energy efficiency solutions to consumers, which can reduce or delay the need for capital-intensive infrastructure upgrades.

Ofwat has made good progress in urging water companies to collaborate on solutions to common challenges, such as water efficiency and leakage, and placing greater emphasis on network resilience. These should be strengthened and expanded in subsequent price review periods, and align with the emerging emphasis from government on achieving net environmental gains.

Ofwat should also work with water companies to ensure that sustainable drainage systems are prioritised for new developments in all but exceptional circumstances, with the multifunctional benefits recognised and accounted for in decision-making and investment.

## **3. How might the increasing availability of data impact regulation in future? Can data increase the pace at which regulation responds to change, enabling innovation?**

The Greater London Authority and Greater Manchester combined authority have already made good progress in encouraging utility companies to share data via digital mapping applications<sup>4</sup>. This is a valuable step towards more joined up decision-making, and the

---

<sup>3</sup> See: Bircham Dyson Bell, 2018. *Identifying barriers to delivery of strategic infrastructure governed by regulatory framework*. Available from: [englandseconomicheartland.com/Documents/Utilities%20full%20report.pdf](http://englandseconomicheartland.com/Documents/Utilities%20full%20report.pdf)

<sup>4</sup> See: [maps.london.gov.uk/ima](http://maps.london.gov.uk/ima) and [mappinggm.org.uk/gmodin](http://mappinggm.org.uk/gmodin)



**RTPI**

Royal Town Planning Institute

regulators should work with government departments, the relevant catapults, strategic authorities and utility companies to develop data standards and sharing protocols which support the development of similar platforms across the country.

Better data sharing protocols should form part of a broader framework to drive enhanced cooperation between the regulators, utility companies, planning authorities, local enterprise partnerships, sub-national transport bodies and other key stakeholders engaged in the interface between planning and infrastructure. This could be achieved through the creation of sub-regional Infrastructure Delivery Boards across functional strategic areas, such as already exists in London. This would help to ensure that all relevant stakeholders are involved when commissioning feasibility studies for new infrastructure, planning for major regeneration and new settlements, and administering national infrastructure funds.