

A high-speed photograph of a water splash against a clear blue sky. The water is captured in mid-air, creating a series of droplets and a large, dynamic splash at the bottom. The overall color palette is various shades of blue.

# SOCIAL CONTRACT FOR WATER: EVOLUTION OR REVOLUTION?

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# FOREWORD

by Mel Karam  
Bristol Water CEO

Bristol Water has been serving the customers of Bristol and surrounding areas for over 170 years. It was founded as a private company with a strong social purpose and ambitious plans to reduce disease and poverty through access to safe drinking water.

Since our founding, society has seen many changes. Some challenges are the same, such as inequality of wealth and protecting public health, but some challenges such as climate change, access to a quality local environment, education and societal wellbeing have become increasingly important over time.

I am proud to be leading the company through another era of evolution and change, a company that reflects that society will continue to change, even if its fundamental purpose stays the same. Today there are greater expectations that companies, especially those providing essential public services will go beyond basic expectations and be trusted by all to make a wider contribution to society, alongside delivering fair returns for investors. To do this, companies and their Boards need to be transparent and accountable for their role in society, with a clear social purpose.

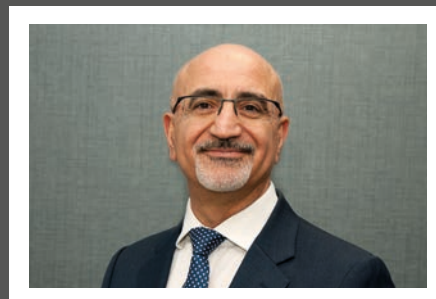
I am delighted to have recently published our social contract, which sets out our framework to deliver our social purpose. Through this social contract we have set out a mechanism for customer, stakeholder and employee engagement to inform how we deliver our wider contribution to society, with examples of the partnerships and initiatives that will build trust for the long term.

Our approach will continue to evolve as we work with our customers, employees, stakeholders and other organisations. As a local community focused company, we have to work with others to deliver for society.

As part of this ambition, we have worked with ICS to produce this thought-provoking document to challenge ourselves and others to help test and shape our social contract.

We want to hear from you. You can get in contact with us at [StrategyAndRegulation@bristolwater.co.uk](mailto:StrategyAndRegulation@bristolwater.co.uk), or join the conversation on twitter using [#hydrosocialcontract](https://twitter.com/hydrosocialcontract).

Mel Karam  
CEO, Bristol Water





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# INTRODUCTION

Water is one of life's essentials. And while it can be viewed as a 'free' and ample resource, collective organisation, treatment and distribution is required to ensure water is both available when and where it is needed and safe to drink.

Over the past 200 years collective actions, supported by Acts of Parliament, have delivered a water industry which has evolved and continues to evolve to meet the growing needs of our populations, while also playing an important role in protecting the water environment.

As suppliers of essential services water companies have always had to meet high and rising expectations of trust and legitimacy set by customers, stakeholders and of course more recently regulators.

## **How should water companies continue to fulfil these expectations?**

In this paper we explore meeting these challenges through the lens of a social contract. We consider the origins of the social contract and how the idea of a social contract can once again be brought to the fore in the water industry - as a framework for sustaining trust and legitimacy in water companies who have been entrusted by society with the challenge of providing this essential for life service.



CAMBRIDGE DICTIONARY

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SOCIAL CONTRACT:  
“AN AGREEMENT AMONG THE MEMBERS OF A  
SOCIETY OR BETWEEN A SOCIETY AND ITS RULERS  
ABOUT THE RIGHTS AND DUTIES OF EACH”



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# WHAT IS A SOCIAL CONTRACT?

## WHERE DOES THE IDEA OF A SOCIAL CONTRACT COME FROM?

The idea of a social contract can be traced back to the Greek philosopher Socrates. The modern idea of a social contract between “citizens” and “rulers” is to be found in the later work of enlightenment philosophers such as Hobbes, Locke and Rousseau.<sup>1</sup>

In its earliest forms the social contract described a transfer of some rights (such as the right to vigilante justice) from individual citizens to their government, who by providing fair law and order services would protect the remaining rights of the citizens to life and property. In other words, the social contract is the means by which individuals join together to form civil society.

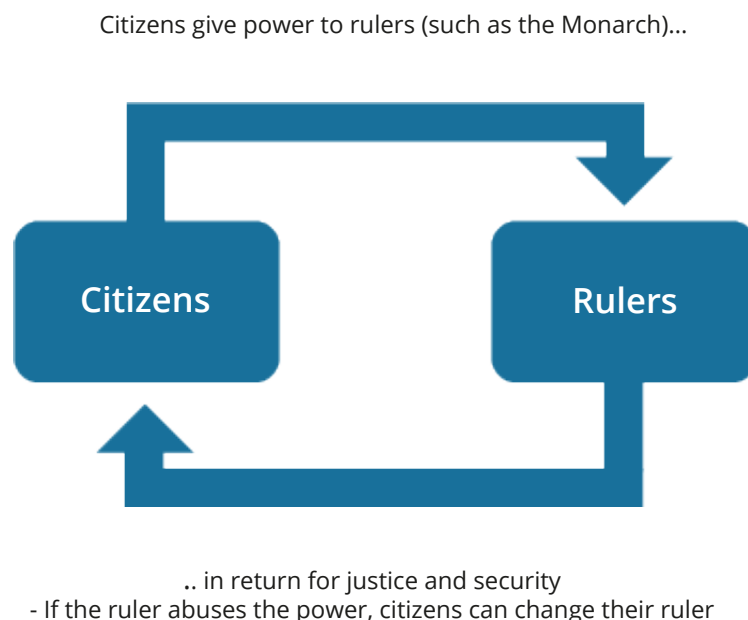


Figure 1: The Social Contract

<sup>1</sup> Hobbes, Thomas. Leviathan. 1651; Locke, John Second Treatise on Government. 1689; Rousseau, Jean-Jacques. The Social Contract or Principles of Political Right. 1762.

Another way of interpreting these ideas is that by undertaking actions that recognise an agreed set of rules that all parties willingly abide by, then all in society are better off.

Checks and balances are important to the social contract. Rulers require the consent of citizens to exercise power and if that power is abused then citizens can withdraw this consent and change ruler. Periodic elections of democratic governments derive from this core idea.

However, what if there are no simple means to change ruler or to evolve the social contract over time as society evolves? This gives rise to the potential for revolution rather than evolution and all the associated disruption to civil society that may bring.<sup>2</sup>

## THE SOCIAL CONTRACT FOR WATER

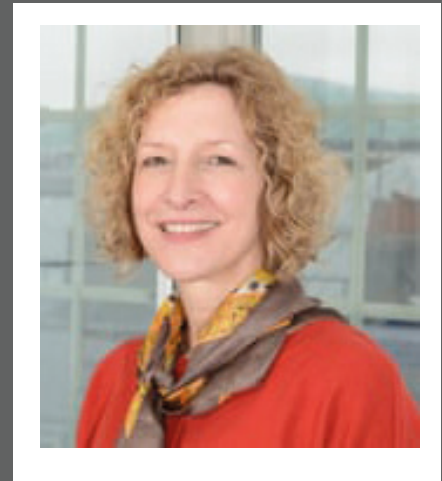
So how does the enlightenment philosophy of a social contract apply to the provision of clean, safe drinking water?

As we have noted clean water is vital for life and is more efficiently and effectively managed at the community rather than the individual level to ensure a basic human right as well as need is met.<sup>3</sup>

This requires co-ordination of both purpose and means - a form of social contract between citizens and the provider of water services with rights and responsibilities on both sides. And importantly, the enlightenment notions of consent, mutual well-being and trust are the bed-rocks to make this all work in society's interests.

Recognition that the relationship between users and producers of water services needs to be seen differently is something Ofwat as well as some water companies are now highlighting. For example, Rachel Fletcher, Ofwat CEO, said to the Observer, "It does not chime with people that the relationship between them and their water supplier is transactional".

The implication is of something deeper and Ofwat is now talking about this deeper relationship between customers and water companies in terms of a **social contract**.



Rachel Fletcher sets out her vision for a social contract.<sup>4</sup>  
The Observer, 15th Dec 2018

<sup>2</sup> For further insights into the philosophical basis for the social contract we recommend a read of <https://www.bristolwater.co.uk/social-contract-theory>

<sup>3</sup> Access to clean water and sanitation as intrinsic human rights (rather than commodities to be bought and sold) is enshrined in the United Nations Sustainable Development Goals.

See for example: <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

<sup>4</sup> Rachel Fletcher sets out her vision for a social contract

<https://www.theguardian.com/business/2018/dec/15/rachel-fletcher-ofwat-set-new-course-for-water-utilities-regulator>

# THE WATER INDUSTRY IS EVOLVING

We would argue that elements of a social contract have always shaped the water industry: how it is structured and how it is operated - but not always with full visibility to all parties.

The social contract for water in the UK has also not remained static over time. It has changed and adapted over time in line with changes in society. Many of the changes have been evolutionary (e.g. changes to rules and regulations), but on occasion more revolutionary (such as changes to ownership).

## 01 IN THE BEGINNING

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During the 19th century a variety of private companies and undertakings were formed, often channelling private enterprise and innovation for public good. Citizens conferred rights on these companies, often via Acts of Parliament, alongside which, two Public Health Acts in 1848 and 1875 increased the responsibility of local authorities to improve access to water supply and sanitation to fill the gaps in universal access.<sup>5</sup>

## 02 MOVING ON...

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The responsibility of local authorities for water services continued to expand in the 20th century and the 1945 Water Act established the Waterworks Code, setting out standards across the industry and encouraging amalgamations and mergers. This approach peaked in 1973 with the formation of ten publicly-owned regional water authorities along river basin lines alongside the 29 privately owned statutory water companies such as Bristol Water.

## 03 PRIVATISATION AND TODAY

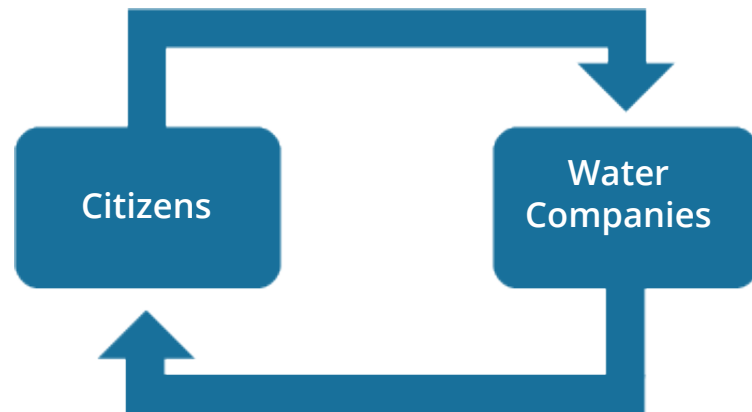
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The biggest recent re-definition of the social contract for water occurred in 1989 with the privatisation of the ten regional water authorities. The Water Industry Act of 1991 consolidated the regime and set out the duties of the companies and the new economic regulator, Ofwat. Despite some evolution to the duties of the regulator and companies over time the fundamental settlement has remained in place.

<sup>5</sup> An early example was Bristol Water Works, created by an Act of Parliament in 1846 as a private enterprise with Social Good at the heart of its purpose, to bring clean water to the city of Bristol to improve public health and eradicate disease and poverty.



Customers give their rights to manage the water supply system (perhaps rather than taking a bucket and catching rain)...



... companies charge bills and provide services - and in doing so ensure shared water resources are protected for the common good.

There are also roles for other parties in enacting and enforcing the current social contract - such as Ofwat, EA, DWI, Investors, MPs, consumer representatives etc

Figure 2: The current social contract for water

In the 30 years since this last shift in the social contract in water there has been the inevitable ebb and flow in what has been deemed most important to customers/citizens. From an initial focus on efficiency, investment and environmental protection has evolved an increased prominence for social priorities like affordability and protection of the vulnerable, longer-term planning and resilience to factors like climate change. At the same time ownership structures in some cases have evolved to be more opaque.

The experience of the last 30 years confirms that societal expectations do change, and society's needs also evolve and this in turn motivates the question:

**Thirty years on since the last major re-definition of the social contract – is it time for another review? Is it time to re-shape the social contract for water? And does it require an evolution, or a revolution?**

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# MAKING THE CASE FOR EVOLUTION

## **So, what have the last 30 years brought in the water sector?**

The broad picture is one of reasonably content customers, with good levels of trust and customer satisfaction and high levels of acceptability of bills and service levels across the industry. But customers know little about how water companies operate in practice, and it is not difficult to find public discomfort about the potential for water companies to make *unfair* profits. Trust seems to be based on the basis of no reason not to do so!

There is a sense that the current social contract has been dislocated by some water companies driving financial performance through engineering balance sheets rather than delivering excellent services,<sup>6</sup> and the question to pose is whether water companies have lost their social purpose?

There is at the same time an important back-cloth to these current concerns within the water industry. For example, the British Academy report “The Future of the Corporation” distils recent academic work on reforming business for the 21st Century. Key themes are developed around clear public purpose, the alignment of public and corporate purpose and the very essence of business as being about providing solutions to societal problems.

**The British Academy work identifies an urgent need for reform. It focusses on corporate purpose and trust and - of particular interest to water companies - identifies a moral duty for corporations providing public services in the absence of competition to not only be trustworthy, but to bear the costs of so being.<sup>7</sup>**

6 The recent criticisms around financial engineering are well rehearsed and distilled in Michael Gove, Environment Secretary A water industry that works for everyone” Speech to Water UK City Conference, 1st March 2018  
<https://www.gov.uk/government/speeches/a-water-industry-that-works-for-everyone>  
7 <https://www.thebritishacademy.ac.uk/publications/reforming-business-21st-century-framework-future-corporation>

## WIDER POLICY CONTEXT

A number of projects such as The Big Innovation Centre's 'The Purposeful Company' and the British Academy's 'Future of the Corporation' have recently begun to address concerns about the role of corporations in society head on.

The Purposeful Company report gathers evidence showing 'that companies with a declared purpose, adhered to by leadership teams and well understood by their stakeholders, perform better on key metrics'.

The British Academy Future of the Corporation programme draws together academics and business leaders to consider the current state and future prospects of business, laying the foundation for radical reform of the concept of the firm.



“Corporations were originally established with clear public purposes. It is only over the last half century that corporate purpose has come to be equated solely with profit. This has been damaging for corporations' role in society, trust in business and the impact that business has had on the environment, inequality and social cohesion. In addition, globalisation and technological advances are exacerbating problems of regulatory lag.”

Reforming Business for the 21st Century, p8

“The notion that regulation and taxation are sufficient to align the interests of business with society is no longer tenable. .... regulation is required that encourages companies which perform significant social functions to incorporate public purposes in their corporate purposes.”

Reforming Business for the 21st Century, p11

“The purpose of the corporation is the reason it exists, what it seeks to do and what it aspires to become. The purpose of the corporation is to produce profitable solutions for the problems of people and planet. In the process it produces profits. But the purpose of business is not to produce profits per se, nor to profit from producing problems for people and planet.”

Reforming Business for the 21st Century, p24



This evidence of a significant re-thinking about what the purpose of business actually is aligns with a clear sense that societal expectations of **all** companies have changed.

As changes in society appear to be accelerating, institutions (including water companies) need to consider if now is the time for revolution, rather than just evolution, in their social contract.

There are both push and pull factors that are driving water companies' interest in reshaping their social contracts at the moment.

- The pull factor - empirical evidence in the Purposeful Company Report shows there are benefits both for companies and the communities that they serve.
- And the push factor - if water companies do not take a lead, they may find society withdrawing their consent to the current contract and any redefinition occurring without them (e.g. revolution could occur through policies like re-nationalisation of the water & sewerage companies notwithstanding mixed evidence of customer support).<sup>8</sup>

### **So, where does the water industry need to get to?**

A re-shaped social contract will allow citizens and communities to confidently say that 'this enterprise works for me'. This requires mechanisms and processes in place (which include purpose, governance and community engagement) that allow customers to see they have the power to enforce the social contract with water companies.

The transparency provided by an explicit social contract setting out the rights and responsibilities of all parties can only help to nudge trust and legitimacy in the right direction. Something along the lines of:

**We (Company X) will manage the local water supply system for the benefit of society in exchange for a fair return.**

This would clearly need to be defined in partnership with communities, not simply presented to them, as consent needs to be at the very heart of any social contract between customers and companies.

All this requires transparency and ongoing engagement with communities to re-define and evolve the current social contract and the associated mechanisms and processes to empower and embed it (and enable it to be evolved further over time).

**Which brings us to implementation.  
What do companies need to be thinking about doing?**

<sup>8</sup> For example in recent Bristol Water research with customers nationalisation of the water industry was the lowest rated option (19%). Retention of the current model with some form of explicit social contract was the highest rated option (31%)

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# TOWARDS AN EVOLVING SOCIAL CONTRACT

## WHAT COULD A NEW SOCIAL CONTRACT FOR WATER LOOK LIKE?

At its core this contract serves as a framework through which trust and legitimacy in water companies is maintained and enhanced.

**This means that the re-shaped social contract for water requires the following central aims:**

### 01 SOCIETAL WELL-BEING

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Societal well-being – re-invigorating the social purpose of water companies would recognise that societal well-being is what water companies “do”.

### 02 PARTICIPATION

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Actively promoting customer, stakeholder and employee participation in decision-making.

### 03 STEWARDSHIP

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Acting as stewards or custodians of water systems and facilities is not a new consideration for a water company. But valuing stewardship of community assets and resources as part of its social purpose would be.

### 04 TRANSPARENCY

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Enabling all parties to be clear on their rights and responsibilities under the social contract. This also emphasises what freedoms all parties willingly give up as part of the social contract and what benefits are provided in return. In this way the social contract becomes a mechanism which is two-way rather than a one-sided set of obligations or expectations.

There are various models that companies can draw on in this re-shaping – the Purposeful Company, the Benefit Corporation, the British Academy Reforming Business for the 21st Century work as well as the benefits of mutuals, Community Interest Companies and other possible models.

## THE REFRESHED SOCIAL CONTRACT

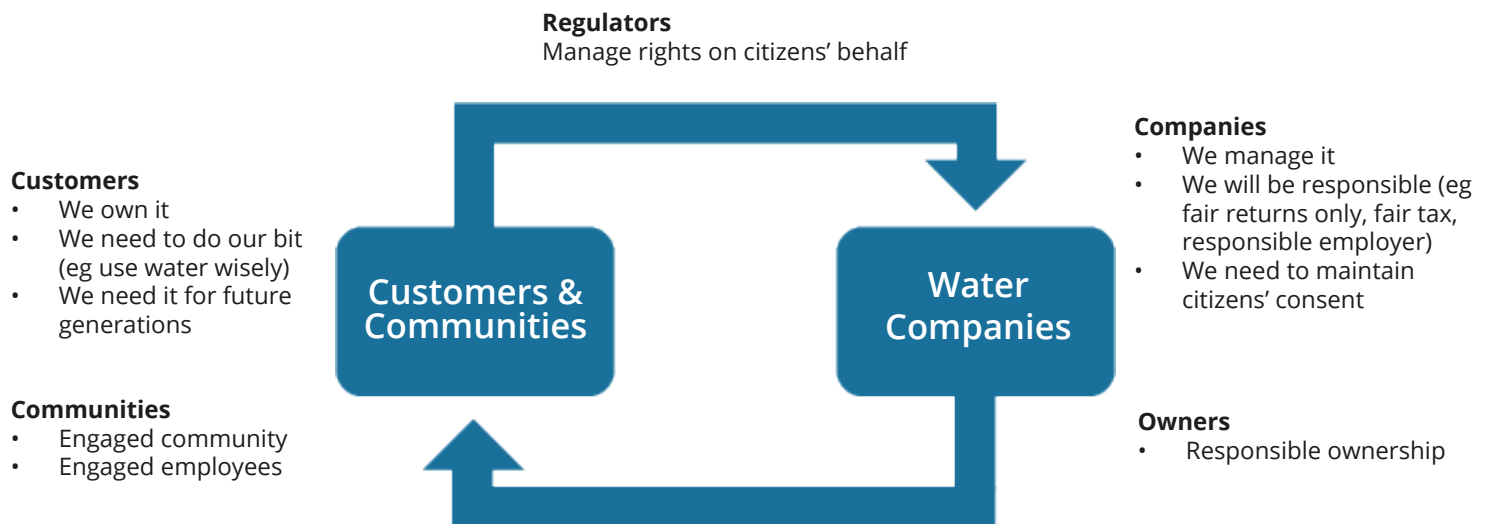


Figure 3: The refreshed Social Contract

## WHAT WOULD IT MEAN FOR STAKEHOLDERS?



### Customers

Under an evolving approach to the social contract customers (as citizens) would still delegate significant authority to existing statutory bodies such as Ofwat, EA and the DWI, as well as water companies.

## The New Social Contract adds:



### Governance opportunities

Customer representation at Board level.

Potential further roles such as 'anchor'/preference shareholders or membership organisations.



### Participation

Continuing to increase current engagement through local democracy, citizens jury, and representative panels.

With the purpose of building a shared connection and understanding of how society wants local water services to be provided. See as an example the Bristol Green Capital Partnership, which is a partnership involving over 800 organisations in the Bristol area, including Bristol Water.



## AND FOR OTHER STAKEHOLDERS



### Employees

Commit to live the values to deliver the company's purpose for society.

A clear process for how the Board connects with the employees who represent the company, its culture and its values.

Company is a responsible employer who pays fairly, invests in people and provides apprenticeships, etc.



### The Wider Community

Provides independent non-executive directors.

Engages in initiatives that benefit the communities.

And in return the company works for the benefit of the wider community through activities such as supporting local businesses in small ways that can make a big difference to society.



### The Environment

Taking full account of the companies' impact on the environment, undertaking natural capital accounting and driving improvements in partnership with environmental stakeholders.



### Investors

In return for the privilege of owning the assets on behalf of society, investors need to commit to responsible ownership and financial management.



### Regulators

Regulators are there to overcome co-ordination and monopoly power challenges. The need to work to ensure companies make returns from delivering for customers, society and the environment, to provide incentives to align companies with society and to undertake an enforcement role to ensure fairness.



### The Water Company

As part of the social contract the company receives the rights to operate the assets and manage the local supply system on behalf of the community. This needs to be rooted in the shared connections between customers and companies as part of the water society.

Companies need to commit to taking acceptable pay/returns; charging fair bills; providing excellent service; and delivering for the community.

Companies could also review alternative models to identify actions they can take, e.g.

- The Community Interest Company (CICs) model - which provides principles that can be adopted more widely by water companies:
  - Clarity of purpose – CICs have to pass a public interest test
  - Asset lock – CICs cannot make transfers at less than market value
  - Dividend limits – CICs need regulatory assent to pay dividends
- The Public Benefit model - Given that most of a water company's activities are not in a competitive market and water is so vital to the communities being served, water is different and water companies have a duty to be trustworthy and to bear any consequent cost.

# CASE STUDY - BRISTOL WATER AND THE BRISTOL GREEN CAPITAL PARTNERSHIP



Bristol Water's social contract provides a framework for the views of stakeholders to feed into how it delivers its social purpose and makes this challenge one which is shared with the wider business community. An example of how this will be achieved in practice is through working with the Bristol Green Capital Partnership (BGCP).

BGCP is a unique partnership of more than 850 member organisations who have all committed to working towards a sustainable city with a high-quality of life for all. Recognising the benefits of working together to achieve common goals which contribute to the wellbeing of society and the environment, Bristol Water has recently become a supporting member of the Partnership.

The benefits of this partnership approach were demonstrated at a local social contract launch event, at a BGCP 'green mingle'. The event was well-attended by a wide range of local stakeholders who generated a large number of new ideas on potential opportunities to work together to achieve common goals which contribute to the wellbeing of society.

A particular area of focus for these local partnerships in the future is to achieve joined up thinking and delivery on programmes relating to resource efficiency, which will contribute to resilient supplies of water and energy and reduced waste production in the future.

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# THE KEY STEPS

## WE SEE THREE CORE PHASES TO FULLY EMBED THESE IDEAS:

### 1 - MODERNISING GOVERNANCE FOR THE EVOLVING SOCIAL CONTRACT

This is the first step and involves embedding the social contract into the governance of water companies. Actions to consider include:

- Amending the Articles of Association to include a clear statement of purpose & duties to deliver on this.
- Refreshing how the business is governed.
- Reviewing how business is financed & owned to ensure long term investors with interests aligned to those of the community the company serves.

### 2 – BUILDING THE SHARED CONNECTION WITH SOCIETY

Step two involves deeper embedding local communities into company processes to enable them to hold companies to account and to really shape activities. A social contract requires consent and so opens myriad avenues for engagement to build trust and legitimacy and ensure that activities are really driving the most benefit for the whole of society.

Local customer and community engagement is absolutely vital to defining the social contract, which may differ region to region, depending on local priorities. National standards and regulators provide a baseline level of customer protection but cannot and should not replace the relationships that companies need to have with the local communities that they serve and are part of.

### 3 - DECISION MAKING FOR THE LONG TERM

The final step is to really embed the social contract into the company's strategic decision-making for the long-term - which in turn informs and shapes day-to-day operations on an ongoing basis. This requires:

- Setting a culture that enlivens the social contract by empowering frontline employees to take decisions that benefit society (fixing that problem, even if it isn't strictly legally the company's responsibility).
- Reviewing business processes and measures to ensure that benefits to society are not only taken into account in decision making, but are actively sought out and generated.



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# EVOLUTION OVER REVOLUTION?

Like the fabled UK constitution, the social contract that the water companies have with their customers and wider society is currently implicit rather than explicit.

And a focus on the nature of this social contract helps to make clear that trust and legitimacy are not necessarily borne from answers to questions like “who should own water companies?”

The social contract between customer and company has to be rooted in a clear and transparent understanding of what water companies are in business to do (their purpose), who it is “they work for” (their citizens) and how they go about meeting society’s expectations (their social contract). These are the factors that can solidify an enduring public consent for water companies.

These are the questions that have motivated the directions that, for example, Bristol Water are taking to develop and re-shape their social contract with the local populations they have served for over 170 years. The emerging evidence is that customers will value these new directions which are local in their focus, bottom up in their design and evolutionary in their intent.

All this comes together to make it an opportune moment to consider whether there is a role for a more formalised social contract between water companies and the communities that they serve, what such a contract might look like and what challenges companies might face in implementing one.

Water companies as rulers in respect of how our water services are delivered perhaps require at key moments a reminder that with great power comes great responsibility. And it is through the clarity of a new and refreshed social contract that such great responsibility could be fulfilled.

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## WHAT BRISTOL WATER CUSTOMERS ARE SAYING ABOUT THEIR SOCIAL CONTRACT...

“It’s nice you are doing this because you want to and not because you have to”

“(The social contract) sounds great, sounds like something customers would like and appreciate”

“I think today has been brilliant. I feel valued as a Bristol Water customer”

“This is how we differentiate a good company from an excellent company”

### FOR MORE INFORMATION...

<https://www.bristolwater.co.uk/about-us/social-contract/>

<https://www.bristolwater.co.uk/wp-content/uploads/2019/01/Bristol-Water-our-purpose-and-social-contract-to-build-trust-beyond-water.pdf>



# THANK YOU

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