

# New appointment and variation applications – a statement of our process

## About this document

New appointments and variations allow companies to offer water, sewerage or water and sewerage services to a specific geographic area instead of the existing appointee<sup>1</sup>. As a result, developers and large non-household customers can choose their supplier for these services and enjoy the benefits of a more competitive market.

This document sets out our process for handling and assessing applications for new appointments and variations. It provides information to companies wishing to make an application for a new appointment or variation, including how existing appointees and applicants should interact with each other during this process.

Please note that we now use the term ‘new appointments and variations’ instead of ‘inset appointments’. This reflects the fact that successful applicants become new appointees, subject to the same duties and obligations as more established companies.

Throughout this document, we use the term new appointments to refer to new appointments and variations as appropriate, unless otherwise specified.

This document should be read alongside ‘[New appointments and variations – a statement of our policy](#)’. This sets out our final policy for new appointments and variations.

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<sup>1</sup> An ‘existing appointee’ is the statutory water and/or sewerage company for a geographical area.

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## 1. Introduction

Most customers in England and Wales currently receive their water and sewerage services from the 21 appointed monopoly water and sewerage and water only companies. These suppliers are the statutory appointees.

A new appointment or variation involves one company replacing another as the appointee for a specific geographic area. Under certain criteria, it allows some customers to choose a different supplier.

- A **new appointment** occurs when we appoint a company to provide water and sewerage services, water only or sewerage only services for a specific geographic area.
- A **variation** occurs when an existing appointed company asks us to vary its appointment so that it can change the areas to which it provides services.

We publish a register of the new appointments we have granted on our [website](#).

Figure 1 below illustrates a new appointee's area of appointment in relation to that of the existing appointee.

**Figure 1 Example of the geographic relationship between new appointees and existing appointees**



Source: Ofwat

We may grant a new appointment in cases where:

- an area does not contain any premises that receive services from an appointed water or sewerage company (it is 'unserved');
- a customer who uses (or is likely to use) at least 50 million litres of water a year (in England) or 250 million litres of water a year (in Wales) at each of its premises and wants to change their supplier in respect of those premises (a 'large user'); or
- the existing appointed company agrees to transfer part of its area to a different company (by 'consent').

Chapter 3 sets out each of these criteria in more detail.

As interest in new appointments has increased, applicants have asked us to go beyond our 1999 guidance and say more about:

- how we will assess their applications;
- who takes decisions about their proposals; and
- when we require different pieces of information.

Other stakeholders have also asked us to clarify aspects of our approach and their role in the assessment. In this document, we have sought to provide answers to many of those questions.

This document considers the process we will apply with regard to applications for new appointments. It sets out:

- how to apply for a new appointment (including the information we require applicants to provide and the competencies they must demonstrate);
- how we will assess applications using the information we receive;
- an explanation of each stage of the application process and the key issues associated with this (including timescales); and
- the interactions usually required between applicants and existing appointees during the application process (including the timescales in which we expect existing appointees to respond to applicants' requests for information).

A separate document explains our [policy](#) on which we assess applications for new appointments. It sets out:

- the criteria under which an application for a new appointment may be made;
- the principles we will use to assess applications; and
- our position on some key issues.

## 2. Overview of the application process

The application process is outlined below. The timings are in working days unless otherwise stated. Please note that the consultation stage is defined in the Water Industry Act 1991 (WIA91) as at least 28 **calendar** days.

Stage	Indicative timing	Key stages and applications
1	Applicant's discretion	<b>Pre-application</b>
		<ul style="list-style-type: none"> <li>Preliminary discussions between applicant, Ofwat and other key stakeholders (Environment Agency, Drinking Water Inspectorate and Consumer Council for Water).</li> <li>Applicant to begin negotiations with existing appointee for bulk supply/discharge agreement (if applicable).</li> <li>Applicant commissions independent adviser to produce report on site status (if applicable).</li> </ul>
2	Up to 15 days	<b>Application submissions and pre-assessment</b>
		<ul style="list-style-type: none"> <li>Ofwat to confirm receipt of application and check completeness.</li> <li>Applicant serves application notices on relevant stakeholders and publishes them on its website and in local and national newspapers.</li> </ul>
3	Up to 40 days	<b>Ofwat begins assessment of application in line with its policy principles</b>
		Approval from Environment Agency and Drinking Water Inspectorate
		Applicant to provide details of bulk supply/discharge price and non-price terms to Ofwat (if applicable)
4	Up to 15 days	<b>Recommendation to Ofwat Board Committee</b>
5	At least 28 calendar days	<b>Public consultation</b>
		Applicant to conclude negotiations with existing appointee for bulk supply/discharge terms and provide Ofwat with copies of signed agreements (if applicable).
6	Up to 10 days	<b>Board Committee final decision</b>
<b>TOTAL</b>	Up to 110 days	<b>Appointment is granted or refused</b>

### 3. Qualifying criteria for a new appointment

This chapter sets out the three criteria under which we are able to grant a new appointment. We cannot grant an application that does not fall under any of these criteria.

Applicants must make sure that the proposed area of appointment ('the site') in question meets one or more of the qualifying criteria. They must also state in their application the criterion under which they are applying. If an applicant believes that the site may qualify under more than one of the criteria, it must state which of the three criteria have been met and explain how.

Details of the information that we require for an application submitted under each of these criteria is set out in chapter 6, and the policy principles outlining how one qualifies under each criteria are set out in our statement of policy.

#### 3.1 The unserved criterion

Most applications for new appointments have been made under the unserved criterion.

Under section 36 of the WIA91, we can grant a new appointment under the unserved criterion if none of the premises in the proposed appointment area are:

- supplied with water by means of a connection with a distribution main of the existing water undertaker (in the case of an application to supply water); or
- drained by means of a public sewer or lateral drain of the existing sewerage undertaker (in the case of an application to discharge sewage)<sup>2</sup>.

Anyone submitting an application for a new appointment under the unserved criterion should, where appropriate, include a report from an independent professional adviser that verifies the status of the site. But, if the unserved status of a site is not in dispute, it may be sufficient for an applicant to provide us with factual details of the site, accompanied by a signed letter from the existing appointee confirming its view that the site is unserved.

The onus is on the applicant to satisfy us that the unserved criterion has been met. If an incumbent company disputes that a site is unserved there is an onus on that company to provide us with relevant information to substantiate its position. We

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<sup>2</sup> The terms 'drain', 'lateral drain', 'sewer', and 'public sewer' are defined in section 219 of the WIA91.

would expect any company that claimed to serve a site to be able to provide evidence in support of its claim.

We consider this issue separately for both water and sewerage services. It is possible that an application can be made under this criterion for either service, but at the same time be served for the other.

To help us assess if a site is served or unserved, we may visit it or talk with third parties who are familiar with the site.

We would not consider it reasonable for an existing appointee to stop or slow negotiations with an applicant if there are doubts about the unserved nature of a site.

We accept that there may be changes in the nature of an application, for example if an area of a proposed site is excluded from the proposed area of appointment. If there is a significant change in the characteristics of an application, we will require the applicant to submit a new application for that particular site. The application process will then restart.

### **3.2 The large user criterion**

Under this criterion, a company may apply for a new appointment to serve premises that are, or are likely to be, supplied with at least 50 million litres of water in England (or 250 million litres in Wales), in any 12-month period and the customer concerned consents to the appointment. The same threshold levels apply to new appointments for sewerage services, in terms of the volume of water supplied, not the amount of effluent discharged.

The onus is on the applicant to demonstrate that the customer(s) on the site do or are likely to use volumes of water at least equal to the relevant threshold. Any evidence of actual usage over time (if it exists), including the consumption profile, will be important for our assessment. If the application is based on likely future consumption, then the applicant must set out the future expected usage levels and profiles for the relevant customer(s) and provide evidence in support of this.

### **3.3 The consent criterion**

This applies when an existing appointee consents to transfer a specific part of its supply area to another appointee. The 'other' appointee could be a new entrant or an

existing appointee, whose existing area of appointment could be varied to include this additional area.

The consent criterion gives existing appointees the opportunity to avoid incurring significant costs to serve a site when another company may be able to serve it at lower cost.

We will only grant a new appointment under this criterion if consent is unambiguous. The onus is on the applicant to provide evidence of the unambiguous consent of the existing appointee for the new appointment.

## 4. How long will the application process take?

We have based the timescales for the application process on our past experience of the process. We have also used feedback from previous applicants and existing appointees that have been involved in the process.

In most cases, we expect the application process to take up to **110 working days in total**. This includes the minimum 28-calendar day public consultation period, which is a legal requirement. We aim to reach a decision on whether or not to grant an application in at least 80% of all applications within the total 110-day timescale set out in chapter 2.

The process may take less time in very straightforward cases (for example, if the application is under the consent criterion and there are no household customers on the site). But it may take longer if:

- we require more clarification or information from an applicant;
- the application raises new or complex issues; or
- more time is needed for the public consultation.

We will only ‘start the clock’ on an application once we consider that we have a complete application. We have set out indicative timings for each stage of the application process (see page 5). These may vary for each application.

Other things being equal, applicants can reduce the time taken to process their applications by:

- being familiar with our policy and process;
- providing sufficient information of high quality and a high degree of clarity as part of their application to enable us to conduct our assessment;
- making sure they understand what is required in any requests from us for clarification or further information;
- proactively providing us with any updated information relevant to their application;
- providing the Environment Agency and the Drinking Water Inspectorate (DWI) with sufficient information of high quality and clarity; and
- discussing with us any points of policy or process where applications lack clarity.

**Please note that the legal timescales set out in this document are in calendar days. Unless otherwise stated all other timescales are in working days.**

## 4.1 Stopping the clock on an application

We can ‘stop the clock’ on our assessment of an application if:

- we cannot make progress because of factors beyond our control or outside the scope of the application; or
- our ability to progress the application depends on action by an applicant.

If we do this, we will contact applicants and tell them we have done so.

We will also explain to applicants why we have suspended the process and what they must do so that we can restart it. We may set out a deadline for the applicant to provide us with the information requested or take the action required. If the applicant misses the deadline, we may prioritise other applications resulting in our assessment taking longer than 110 days.

### Examples of reasons why we may stop the clock

- An applicant fails to serve a notice under section 8(2) of the WIA91 on the relevant parties stating that it has applied for a new appointment.
- An applicant needs to take action following representations received by us during the public consultation period.
- We need further information from an applicant in response to a third party query.
- An applicant has not given the DWI or the Environment Agency enough information for them to support an application.
- An applicant is considering whether to withdraw its application and tells us this is the case.
- We need further information from an applicant to proceed with our assessment.

Once we are able to do so, we will resume the process from the point at which it stopped. We will inform the applicant in writing and tell them we have done so. Stopping the clock is a last resort. We assess different parts of an application in parallel as far as is possible in order to progress an application.

Stopping the clock on an application is not the same as rejecting an application. The process for rejecting applications is set out in chapter 7.

The onus is on the applicant to tell us and the existing appointee as soon as possible if any information in relation to its application changes so that we can decide if such a change has a material impact on the application and take account of it as appropriate. This could include, for example if the:

- planning permission granted is different to what was included in the application;
- phasing of the development in question changes;
- terms of bulk agreements change; or
- if connections are needed earlier/later than originally stated.

## 4.2 Prioritisation

We have limited resources available to assess applications. This means that we may have to prioritise which applications we progress. Using the criteria set out below will help us to ensure that our resources are deployed most efficiently.

### **When prioritising applications, we will take the following into account**

- The date by which water and/or sewerage services are needed on the site and where services are needed sooner than others.
- Whether there are customers on the site.
- Whether an applicant has submitted an application in sufficient time to allow a proper assessment. Applicants should not expect to have their applications prioritised by submitting them close to the date at which services will be needed on the site, nor should they expect a revised application to be prioritised in the same circumstances.
- The strategic importance of the site in achieving Ofwat's strategic goals. We will consider giving greater priority to sites which are strategically important. For example, if we were to receive two applications at the same time - one to supply a site using a bulk supply and bulk sewerage services from the existing appointee, and the second to supply a site using the entrant's own resources and on-site, innovative sustainable drainage solutions – we may prioritise the latter.
- Whether an applicant has several applications being assessed at the same time, we may discuss with them how to prioritise the applications.

### **4.3 Determination of bulk supply and discharge terms and prices**

Any new appointee that lacks its own water source or treatment works will need to purchase supplies of these services ('bulk supplies') from the existing supplier. This will enable it to supply its own customers.

If an applicant is unable to agree the terms of a bulk supply with an existing supplier, it may ask us to determine the terms of a bulk supply or discharge agreement.

If we decide to make a determination, we will carry out the necessary work to reach our conclusion while continuing with our assessment of the application. But there may be cases in which it is necessary for us to suspend our assessment of an application until we have made our determination.

Alongside this document, we have published our [policy on bulk pricing](#).

## 5. Pre-application submission

### 5.1 Discussing the proposal

Before granting any new appointment, we must be satisfied that applicants fully understand the duties expected of appointed water or sewerage service providers. So, it is beneficial to the applicant if we have the opportunity to discuss what this means before it submits an application to us.

Our [policy statement for new appointments](#) sets out the principles on which we base our assessment of individual applications. Applicants should familiarise themselves with these principles before submitting an application.

The applicant is responsible for making sure that it can satisfy the requirements set out in this document. Failure to do so will result in us either ‘stopping the clock’ on the application or rejecting it altogether. It is also the applicant’s responsibility to tell us as soon as possible if any new information is received that could have a material impact on the application.

To help avoid these issues, prospective applicants should contact us as early as possible before submitting their application. We can then discuss whether a meeting at the pre-application stage would be helpful. This is likely to be the case if an applicant has little experience of new appointments, or where the application is likely to be complex.

We will ask the applicant to provide us in advance with a comprehensive explanation of its proposal to supply a particular site. If it is appropriate, we will also ask the applicant to provide us with a full explanation of its business model. In particular, we will do this if the applicant is new to the industry.

We will treat all enquiries as confidential, unless the applicant tells us otherwise. If we receive a request to disclose the information under the Freedom of Information Act 2000 (FoIA), we will take full account of the applicant’s request for confidentiality, but we cannot give an assurance that we can maintain confidentiality in all circumstances.

Applicants must also contact CCWater, the DWI and Environment Agency at the pre-application submission stage.

The DWI will clarify the duties an applicant will have in order to provide a safe and clean supply of water. Before meeting the DWI, applicants should read [‘Guidance on](#)

the regulatory responsibilities associated with inset appointments for public water supplies', which is available on the DWI's website.

Applicants must contact the Environment Agency if they need a permit to abstract and/or discharge water/wastewater at the site they have applied for. Outline terms for these permits should be agreed with the Environment Agency before the application is made. The Environment Agency will also have an interest in the applicant's approach to:

- surface water drainage;
- sewerage system maintenance;
- flood risk management;
- incident management;
- water resources management and drought planning; and
- any proposals the applicant has in relation to water efficiency at the site.

Also, CCWater can give an applicant further information as to how new appointees are expected to serve their customers (see section 5.3).

We discuss the roles of each of these organisations in more detail in chapter 7.

## **5.2 Bulk supply or discharge negotiations**

Before submitting an application, applicants should begin negotiations with the existing appointee if they need bulk supply and/or bulk sewerage services.

The amount the applicant pays for these services is likely to be a significant proportion of its costs of supplying the site. So, it is important that we know the price that the applicant will – or expects to – pay. We may use a reasonable estimate of a price in assessing an application in cases where the costs have not been agreed (or determined). We may also make the final application conditional on the agreed (or determined) prices not being materially different to those estimated. Applicants must keep us informed of progress with bulk services negotiations during our assessment of their application.

Under sections 40, 40A and 110A of the WIA91, we can make a determination if the applicant and the existing appointee cannot agree the terms of an agreement (or become unhappy with terms that have already been agreed). We cannot do this unless we are satisfied that the existing appointee and the applicant have failed to agree terms, and unless we have been asked to do so.

Before considering whether we will determine terms, we will ask the party that has requested the determination to provide information and evidence demonstrating how they have attempted to reach agreement and the reasons for the failure to do so. We will not begin a determination until we have received a clear statement of the terms they seek and why they consider those terms to be reasonable in the circumstances.

Where we decide to make a determination, we will consider the circumstances of the case in the light of our bulk pricing guidance.

### **5.3 Customer engagement**

There may be instances where an application is submitted to supply a site at which there are already customers. For example, there may be customers on a site that receives a private supply, or the application could be for a large user with an existing supply. If customers are already receiving a service, applicants must put in place measures to ensure that there is no disruption to those customers when their supplier changes, should we decide to allow them to serve the site.

It is essential that customers' interests are protected and they are kept informed about any proposed changes to the provision of their water and sewerage services. They should receive clear information appropriate to their needs and be told who they can contact to discuss any queries.

The need to communicate clearly also applies to customers who may be moving to a new build site and who may not be aware that they are to have a new service provider. As far as possible, applicants should identify and communicate with their prospective customers. We expect to receive evidence of how the applicant has and proposes to do this as part of its application.

One way of doing this is for the applicant to meet CCWater before submitting an application, to discuss the best way to communicate with customers. Effective communication with customers may entail an extended public consultation (that is, longer than the legally-required 28 calendar days) and/or through public meetings. The applicant and existing appointee must also communicate with each other effectively to ensure that the customers experience a seamless transfer.

We will not grant an application where there are existing customers unless we are satisfied that the applicant has put appropriate transitional arrangements in place.

## **5.4 Independent confirmation of site status**

An applicant wishing to submit an application under the unserved criterion may need to commission an independent report which provides an assessment of the status of the site.

The adviser producing the report should ensure that the report submitted conforms to our [terms of reference for site assessment reports](#), which we have published alongside this document.

## 6. Submitting an application

This chapter explains how to apply for a new appointment. We also encourage applicants to refer to the [new appointments section](#) of our website.

Applications should be sent to:

Case Management Office  
Markets and Economics Division  
Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA

Email: [casemanagementoffice@ofwat.gsi.gov.uk](mailto:casemanagementoffice@ofwat.gsi.gov.uk)

Throughout this chapter, we refer to applicants submitting ‘copies’ to us of various parts of their application. We can receive these electronically (as Microsoft Word and Excel documents or in other formats by agreement). Applicants must also be willing to provide hard copies of documents if we ask them to do so.

### 6.1 Information requirements

Applicants should provide information in their applications that is accurate and not misleading. In addition, if any of the information provided should change during the course of the application process, this must be notified to us as soon as possible (see section 4.1 above). If the applicant provides false or misleading statements, forecasts or assumptions, action may be taken under s207 of the WIA91 (which makes it a criminal offence to furnish false information in an application) or the decision to appoint may be revoked. Applicants are required to submit a declaration that the information in their application is accurate (see section 6.1.1 below).

We have categorised our information requirements for applications into the following three areas.

- Information to be provided with every application (‘applicant, site and proposal details’).
- Information required depending on the qualifying criteria under which the application has been made (‘qualifying criteria support information’).
- Information required to assess an application (‘assessment information’).

### 6.1.1 Applicant, site and proposal details

#### Applicant contact details

- The name of the person(s) responsible for the application, their position, a contact phone number, fax number and email address.
- The company premises address, including phone number, fax number and email address.

#### Site details

- The name and location of the proposed site(s) to which the application relates.
- The name and address of the existing appointee(s) in whose area(s) the site is situated.
- Maps that show the site boundary clearly and accurately. This should include an A3 colour Ordinance Survey map of the location surrounding the site that shows it clearly in relation to nearby towns and villages.

#### Proposal details

- A declaration that the information provided in the application is accurate. (See Appendix 1 for a template). It should be signed by a person holding a senior position with knowledge of the content of the information provided with the application, such as a:
  - Director;
  - Company Secretary;
  - Chief Executive; or
  - Other officer of the company or corporation.
- A copy of an application notice, as required under section 8(2) of the WIA91.
- The names and addresses of the recipients of the application notice.
- The date the applicant would like the new appointment to take effect and an explanation of why the appointment is needed by this date.
- Details of the services provided at the site (that is, whether the application is for water services, sewerage services, or both).
- The charges that the applicant proposes to apply to customers.
- Known or expected number of customers on the site.
- Known or expected group of customers on the site (for example, numbers of household or non-household, metered or unmetered), including a breakdown by property mix (for example, two-bedroom flat, three-bedroom detached house, hospital, university building).
- Expected or forecast levels of consumption and demand for services at the site including plans for reducing consumption as set out in Defra's 'Future Water' strategy.
- A customer engagement plan (where a site is already, or will before the appointment date, be occupied by customers) to demonstrate how the applicant proposes to ensure a seamless transfer for those customers. This should include how the applicant and the existing appointee will communicate with each other about customer transfers (if applicable).
- A plan to demonstrate how customers moving on to a new build site will be made aware that they are to be supplied by a new water and/or sewerage supplier.
- Evidence to show how applicants will identify and communicate with their prospective customers.
- A 'contingency' plan showing how any customers already on the site will continue to be served if the applicant fails to obtain an appointment or how customers about to move into new houses will be served in that circumstance.
- Details of any planning permission sought for the site (if applicable) and whether this has been granted (if so copies of the planning permission should be included).
- Details of the resources with which an applicant intends to serve its customers.

- Details of surface water drainage arrangements.

**Applications based on the applicant's own resources for the provision of water and/or sewerage services**

- Evidence to show that the applicant has access to its own resources (such as an abstraction licence or discharge consent).
- Details of any assets that are to be used for to provide services, including who is responsible for and who owns those assets, and any other uses to which they are put.

**Applications based on purchasing bulk services (supply and/or discharge) from an existing appointee**

- Details of the company from which any bulk services will be purchased.
- Details of the (price and non-price) terms the applicant expects to receive for any bulk services and the basis for this expectation (or terms agreed and a copy of any agreement, if available).

### **6.1.2 Qualifying criteria supporting information**

If the applicant considers that the site it has applied to serve may qualify under more than one of the qualifying criteria, it should make clear in its application under which criteria it is applying. This should include information on which other criteria may apply and why. It is the applicant's responsibility to demonstrate that the site in question meets the relevant criteria.

We have set out below some examples of supporting information that may be useful in demonstrating compliance with the different criteria.

#### **Unserviced criterion**

- Details of whether the site is currently occupied and if so how the site is supplied, by whom and for how long it has been so supplied.
- A letter of support endorsing the application (if applicable) from the developer(s) that owns the site.
- A report in line with our terms of reference provided by an independent adviser, including an assessment of the site's status and the views of the applicant and the existing appointee.
- Confirmation of which stage in the planning process the site is at. This should include details of any conditions attached to planning permission.
- Evidence from any investigation into existing water and sewerage infrastructure on the site carried out on behalf of the developer.
- Historical site layout including the location of all buildings, including gutted or demolished buildings and details of planned demolition.
- Details of any asset database of the private drainage which has historically drained the site.
- Results of any recent site investigations which confirm or otherwise the location of private drainage on the site.
- Results of any dye tracing, connectivity surveys or CCTV surveys to the private drainage system.

#### **Large user criterion**

- A letter of consent from the customer at the site endorsing the application.
- Where it exists, evidence of actual yearly consumption over the previous five years, including the consumption profile (for example, copies of previous bills). Where evidence of actual consumption does not exist or is not relevant to future expected consumption, the applicant must set out the future expected consumption levels and profiles for the relevant customers and provide evidence in support of this.

#### **Consent criterion**

- A letter of consent from the existing appointee consenting to the application and to the variation of its area of appointment corresponding to the applicant's application.
- Details of why the variation should be granted.

### **6.1.3 Assessment information**

We will assess each application according to the principles set out in our [policy statement](#).

Policy principle 1 (new appointees should be recognised as wholesale customers of and competitors to existing appointees) and policy principle 2 (assessing applications on site-by-site and company-wide basis) govern the way in which we approach our assessment of applications (rather than the specific tests we apply).

The specific principles against which we will assess applications and for which applicants must submit information to us are:

- making sure that customers are no worse off (principle 3);

- financial viability (principle 4); and
- operational viability (principle 5).

### **Policy principle 3 – making sure customers are no worse off**

To allow us to assess whether customers are no worse off, the applicant should provide us with the following information:

#### **Codes of practice:**

- Code of Practice for Domestic Customers. (This does not necessarily have to be in the form of a single document – some companies choose instead to produce a series of leaflets that collectively form their customer code. In this case, we would ask that applicants state clearly which documents they wish us to consider as part of our assessment.)
- Code of Practice on Debt.
- Code of Practice on Leakage.

Accompanying each Code of Practice should be a comparison of how the policies and standards within each Code match or exceed those provided by the existing appointee. Any areas where policies may differ (particularly where services offered could be seen to be lower than those of the relevant appointee, for example, fewer payment options or more limited leakage detection/repair schemes) should be highlighted clearly and an explanation provided to justify the differences.

If there will be non-household customers on the site, we also require a comparison of how proposed policies and standards for non-household customers match or exceed those provided by the existing appointee.

We have a checklist available that applicants can use to develop their Codes of Practice. This is available on request.

#### **Statement of proposed service levels**

##### **Minimum service standards:**

- An explanation of the obligations on appointees under the guaranteed standards scheme (GSS) regulations. This should include details of how the applicant will deliver each of the standards set out in the GSS regulations, and an explanation of the processes that will be in place to meet the GSS regulations. This should be reviewed for and provided with each new variation application, to ensure processes remain appropriate for the increased number of customers. If the applicant already serves customers on other sites, it may wish to explain this by reference to how it currently delivers these standards on those other sites.
- Details of the company standards and payment levels offered above the minimum

required in the GSS regulations, and how each of these compare with those set out by the existing appointee.

**Customer service levels:**

- A description of the levels of service proposed for each level of service indicator (DG indicator) and the Service Incentive Mechanism (SIM), including how they will be delivered. This should be reviewed for and provided with each new variation application, to ensure processes remain appropriate for the increased number of customers. It should include, for example:
  - an explanation of processes that the company has in place to meet the levels of service for each indicator;
  - details of any systems in place to handle customer complaints, and for billing and revenue collection; and
  - information on processes to handle emergency operations.
- Where we consider applications for variations from existing appointees, we will require evidence that the appointee will deliver at least the same planned levels of service to all their customers regardless of location.

**Charges scheme:**

- A full Charges Scheme, which describes and sets out how each class of customer on the site (described under ‘proposal details’) will be charged.
- Details of any charges proposed that are not consistent with charges that the existing appointee charges, including an explanation of why this is the case.
- Details of provisions in place to augment the Charges Scheme submitted with relevant tariffs if new customers came on to the site.

**Policy principle 4 – financial viability**

**Financial viability risk**

To allow us to carry out our assessment of financial viability, the applicant should provide us with the following information:

- A comprehensive business case and an explanation of that business case, both at a company level for the new appointments business as a whole and for providing water and/or sewerage to the particular site. This should identify costs and revenues, business risks and risk management.
- Evidence to demonstrate that the applicant has sufficient financial resources to meet its obligations as an appointee, such as a Parent Company Guarantee (PCG) or bond.
- A completed pro-forma financial spreadsheet (available upon request) and related supporting information to demonstrate financial viability. All assumptions underpinning any calculations should be fully explained, documented and supported or, if we indicate that the applicant’s own spreadsheet model is satisfactory, an electronic copy of its own Microsoft Excel spreadsheet (if it further supports the application and further explains the business model adopted in comparison to our pro-forma).
- The financial projections provided as part of each application, which must be based on central estimates of revenues and costs. Applications must include commentary detailing

the source of both the inputs to our pro-forma and additional inputs to any other spreadsheet models provided. The financial projections and the assumptions underpinning them must be consistent with the rest of the application.

- A sensitivity analysis of the business case. Applicants should consider and identify those variables to which their plan is most sensitive. The sensitivity analysis should demonstrate the effect that changes in these variables would have on the financial position of the proposal. For example, variables could include:
  - the eligibility for large user tariffs;
  - consumption levels;
  - under-occupancy;
  - bad debt; and
  - the build-rate of sites.
- An assessment of the financial risks faced by the proposal (this should be linked to the sensitivity analysis). This should include an explanation on how the applicant would deal with those risks.
- Evidence to show how any initial capital investment is to be financed including what assets are being financed by this capital investment, the amounts involved and the sources of finance.

**The list below sets out some of the items we will consider when we assess financial viability risk. It is not exhaustive.**

- Likely level of bulk charges from the existing appointee and the existing appointee's equivalent end-user charges.
- Level of financing costs (including debt repayments and dividends).
- Assumed level of leakage.
- Estimated levels of profit.
- Level of bad debt.
- Occupancy per household property.
- Consumption for each household and non-household property.
- Number of unoccupied properties.
- The level of revenues from household and non-household customers and the nature of the non-household customers.
- The level of an applicant's financial security.
- The existence of a customer discount on the charges of the existing appointee.
- The likelihood that not all properties will be constructed.

### **Policy principle 5 – operational viability**

To demonstrate to us that applicants have the competencies required to technically and operationally be able to fulfil the functions of an appointed water company, they should provide us with:

- a brief history, including details of any knowledge and/or experience in relation to the water and sewerage sectors;
- an explanation of any relationships the applicant has with existing appointees, such as connections to their networks and contractual arrangements;
- a list of the staff the applicant employs, including senior managers' and directors' CVs;
- an explanation of the corporate structure of the group of which the applicant is a part;
- a copy of the applicant's organisational structure;
- a description of how the applicant proposes to fulfil the functions of an appointee including obligations under the WIA91; and

- a description (if applicable), including evidence, of how any infrastructure required at the site will be or has been laid to industry standards (for example, by contractors accredited under the Water Industry Registration Scheme).

### **Use of sub-contractors**

If the applicant intends to contract out some or all of its day-to-day activities it should submit details of those to whom it intends to contract these activities including:

- the company name and contact details;
- a list of staff employed by the sub-contractor in relation to the work to be carried out for the applicant;
- the contract itself including how it has been procured;
- an explanation of the third party's previous experience of the water and/or sewerage sectors; and
- a service level agreement between the applicant and the sub-contracted party.

### **Other regulators**

Applicants must contact the DWI and the Environment Agency at the pre-application stage. We will ask for evidence that the applicant has contacted DWI and the Environment Agency as part of its application.

### **DWI requirements**

To demonstrate to the DWI that applicants have the competency to supply water through a supply system they should provide a risk assessment report in line with regulations 27 and 28 of [The Water Supply \(Water Quality\) Regulations 2000 \(Amendment\) Regulations 2007](#) which is to be submitted directly to the DWI.

### **Environment Agency requirements**

Applicants should discuss with the Environment Agency if they need consent to abstract and/or discharge at the site they have applied to supply. The outline terms of any abstraction licence or discharge consents should be agreed before an application is made. The Environment Agency will also have an interest in the applicant's approach to surface water drainage, flood risk management, incident management, water resources management and drought planning as well as any proposals the applicant has in relation to water efficiency at the site.

## 7. Assessing applications

This chapter explains what we do when we receive an application. We aim to provide information and guidance that ensures a transparent and efficient process for all parties.

### 7.1 Pre-assessment (within 15 working days)

We will acknowledge that we have received an application in writing. We then check that an applicant has provided us with the information we require to assess the application fully.

We will not accept the application if information is missing or is insufficient. We will aim to let the applicant know if there is a problem within **five working days** of receiving the application.

If the applicant has provided us with the information we require to proceed, we ‘start the clock’ and begin the application process. This is the point at which the 15-day period for pre-assessment begins.

#### 7.1.1 Notices

The applicant must publish a notice under section 8(2) of the WIA91 that it has applied for a new appointment. It must do this within **14 calendar days** of submitting the application. This notice must be served upon:

- the existing appointee in which the proposed application area sits;
- the Environment Agency; and
- all local authorities whose areas include any part of the proposed application area.

We request that applicants also publish the notice on their own websites. This is to ensure as many interested parties are made aware of the application as possible.

If household customers already occupy the site that is the subject of the application, the applicant must notify these customers of their potential change in supplier at the application stage. The applicant must take whatever steps we consider necessary to do this on a case-by-case basis. This could involve:

- placing an advertisement in a local paper;

- holding residents' association or community meetings; and/or
- writing individually to those customers who may be affected.

The applicant must let us know once the necessary steps have been taken. If a notice was published, it should provide us with a copy so that we can publish it on our own website, along with details of:

- the area(s) that the application is for;
- the existing appointee for that area; and
- the developer (and its contact details) that has chosen the applicant to supply the site (if applicable and if the developer consents).

We will consider publishing the details of developers (with their consent):

- if we consider that this will help those in a position to choose a new supplier through the new appointments framework to make better informed choices;
- where customers are already present on a site; or
- where potential customers are known.

### **7.1.2 Environment Agency involvement**

As well as serving a notice on the Environment Agency as required by section 8(2) of the WIA91, we also request that applicants submit a brief summary of their application to the regional director or appropriate regional contact of the relevant [Environment Agency](#) office. The summary should include:

- the number of household and non-household properties on the site including details of property mix;
- forecast annual consumption;
- the site location;
- details of existing appointees;
- whether bulk services or own resources will be used to serve customers;
- where the applicant intends to use its own resources, details of these, including any abstraction or discharge permits;
- plans to produce a water resources management and drought plan;
- details of sewerage arrangements (where the applicant is proposing to provide sewage treatment facilities the Environment Agency will need further details);
- any water quality sensitivities or known problems with existing sewerage capacity;
- proposals for surface water drainage;
- arrangements for dealing with incidents and emergencies;

- details of any innovative or water efficiency measures proposed at the site. This may include sustainable drainage systems or grey-water recycling; and
- details of metering and leakage goals, measures and plans for the site.

The Environment Agency needs this information so that it can assess any issues that may arise from the granting of the application (such as any water efficiency issues or if the site is in a water-scarce area).

Applicants should be aware of the statutory requirements of appointees to produce and regularly review water resources management plans and drought plans.

### **7.1.3 Site status**

Once we have received an application under the unserved criterion, we share the relevant reports on the site's status with the existing appointee(s). Depending on the existing appointee's response, we may need to seek further information at this point.

When we are satisfied that a site is unserved, we will notify the applicant and the existing appointee.

## **7.2 Assessment (within 40 working days)**

We assess each application in line with the principles set out in chapter 4 of our [policy statement](#). Principles 1 and 2 are the overarching policy principles that govern how we assess new appointment applications. The other principles provide the basis for tests we use in assessing applications.

### **7.2.1 Making sure customers are no worse off (principle 3)**

We assess both the proposed price and the levels of service that applicants plan to offer their customers. We then decide if the application offers a standard that ensures that the applicant's customers will be no worse off than they would have been receiving their supplies from the existing appointee.

As part of our assessment, we also assess the impact granting a new appointment has on the bills of an existing appointee's customers.

### **Charges schemes**

Before granting a new appointment, we need to understand what an applicant proposes to charge customers on the site. This information should be contained

within the applicant's charges scheme, which we approve. Once we have approved an appointee's charges, customers must be charged in accordance with it. The applicant must send a copy of its draft charges scheme to CCWater, in accordance with Ofwat's requirements for new appointees' charges schemes set out in [RD 12/09](#).

We compare the charges the applicant proposes with the equivalent charges that customers would have paid to the existing appointee. If the applicant has stated that it proposes to offer a discount on the existing appointee's charges, we check if this is the case by studying the financial spreadsheet.

We then check that the policies that are contained within the applicant's charges scheme are at least as good for customers as those of the existing appointee (for example, rebates offered or how frequently meters are read). We also check that any policies contained within an applicant's proposed charges scheme are relevant to the particular site. For example, applicants should not include details of trade effluent charges if they do not provide this service.

We will check each applicant's charges scheme for consistency with the rest of the information the applicant submits as part of its application.

We do not need to have approved an applicant's charges scheme before consulting on a proposal to grant its application. But in order to consult, we must be confident that we could approve the applicant's charges scheme before we grant the application. It will then come into effect from the date a new appointment is granted.

Further information on [charges schemes](#) can be found on our website.

## **Codes of Practice**

Every appointee is required to have Codes of Practice that we approve for:

- customers;
- debt; and
- leakage.

These must be prepared and submitted to us within two months of the granting of a new appointment, unless there are household customers living on the site in which case we will not grant the appointment until we have approved the new appointee's Codes of Practice. Similarly, for subsequent variations to an appointment, an approved Code must be in place before we grant the variation.

We do not need to have approved the applicant's Codes of Practice before consulting on a proposal to grant its application. But in order to consult, we must be confident that the applicant is likely to have its Codes of Practice approved before we grant the application.

We compare the applicant's Codes of Practice with those of the existing appointee. In doing this, we check whether:

- each Code includes all the necessary information;
- the applicant's policies and standards set out within these Codes comply with legal and licence requirements;
- each Code satisfies our 'no worse off' principle; and
- the Codes are consistent with the rest of the information submitted (for example, the applicant's charges schemes).

We share the applicant's proposed Codes of Practice with CCWater and ask for its views on these during our assessment of the application.

**Examples of policies we look at when assessing Codes of Practice and when comparing these with the existing appointee's policies:**

- level of assistance offered for supply pipe repairs;
- response times (for example, for sewer flooding or water quality incidents);
- level of payment and other enhancements to the GSS;
- range of bill payment options;
- services for special assistance customers;
- contact options;
- complaint procedures;
- opening hours; and
- help for customers in debt (for example, charitable trusts).

Further information that may help applicants comply with our requirements relating to Codes of Practice includes:

- [Ofwat's debt guidelines](#).
- [Ofwat's special assistance guidelines](#).
- [Ofwat's sewer flooding practical assistance and financial assistance guidelines](#).
- [GSS Regulations](#) and licence condition Q.
- Licence conditions G, H and I.
- [MD 152, annex A](#) (regarding 'Timing and methods of payments' and 'Vulnerable customers').
- Relevant provisions under the WIA91, as amended.

## **Customer service standards and service levels**

In line with our ‘no worse off’ principle, we must be satisfied that customers on the site will benefit from service level offerings that are at least as good as those that the existing appointee provides.

Applicants must demonstrate that they understand their legal obligation to meet the minimum customer service standards set out in the GSS regulations. We assess how applicants propose to deliver each standard and to monitor compliance.

For any non-statutory standards and customer service policies, applicants should check the existing appointee’s Codes of Practice, customer charter and other customer literature for information on the existing appointee’s standards and policies. This is to demonstrate that its planned company standards and policies are at least as good as that of the existing appointee. We will check to make sure this is the case.

## **Service incentive mechanism**

We introduced the SIM as a regulatory measure in April 2010. It is designed to encourage existing appointees to improve the quality of service they provide. It measures the consumer experience through the use of quantitative and qualitative measures.

When granting a new appointment, we must be satisfied that the experience of the new appointee’s customers will be as good as or better than the experience of customers of the existing appointee. We acknowledge that applicants with small existing customer bases will be unable to demonstrate performance against the qualitative measures because of insufficient sample sizes. But we must be satisfied that appropriate systems and processes are in place to deliver the customer service proposed. And we may ask for and take account of information that can reasonably be provided about their actual performance.

## **CCWater principles**

We also consider CCWater’s views on an application when we carry out our assessment. CCWater has developed a set of principles that it considers we should apply to every application for a new appointment. These are set out below.

**CCWater has asked us to verify that:**

- all of Ofwat’s application criteria have been met;
- the applicant can demonstrate that it will provide services and prices to customers that meet, and ideally better those of the current water company;
- the applicant can demonstrate a robust and workable code of practice, including a procedure for satisfactorily resolving complaints, which is in line with what is expected of other water companies;
- the applicant can demonstrate how it will communicate with customers and make them aware of how they can contact the company;
- the applicant can demonstrate how they will identify and protect vulnerable customers; and
- the applicant, once it starts supplying customers, will commit to liaising with CCWater to ensure best practice in customer service delivery, and attending CCWater Committee meetings.

We check the extent to which these principles have been met as part of our assessment of an applicant’s Codes of Practice.

### **7.2.2 Financial viability (principle 4)**

We will not grant a new appointment unless we are satisfied that the new appointee will be financially viable. Under section 2(2)(b) of the WIA91, we have a legal duty to ensure that efficient companies can finance their functions.

So, before we grant an appointment, we need to be satisfied that the appointee will have continued access to sufficient resources to fulfil its duties and obligations. We consider the availability of external finance, finance provided by the applicant’s group and any financial security or guarantees that may be in place to protect the applicant’s customers if it is granted a new appointment. Our policy statement sets out the principles we will apply when assessing financial viability.

**Examples of when proposals could be at high risk of being non-viable**

- Sites where a high proportion of revenues are dependent on a small number of customers (for example commercial developments).
- Small developments where estimated consumption is at a level whereby the applicant does not qualify for large user discounts.

We assess the financial viability risk associated with a proposal to supply a site, by looking at the company as a whole and by looking at each site in its own right. We do this using our judgement based on the specific characteristics of each proposal and the underlying business model of the applicant.

We do not define minimum levels of return (for example a certain gross profit margin). To do so, would have the effect of creating a 'hurdle' rate. This would not give a true indication of the financial viability of the proposal, as this would also depend on the:

- assumptions underlying the calculation;
- specific proposal put forward; and
- business model that the applicant has chosen.

When assessing the financial viability of a particular application, we consider:

- the robustness of any underlying assumptions used in calculations (such as bad debt);
- the consumption, leakage and profit margin achieved;
- the cash position of the applicant;
- the robustness of the applicant's balance sheet;
- the ability of the applicant to remunerate providers of finance; and
- how sensitive the applicant's proposal is to any risks described (for example, the risk of under-occupancy), including how the applicant proposes to handle those risks.

The financial projections must be based on realistic estimates of revenues and costs. We check to see if the applicant's financial projections and the assumptions underpinning them are consistent with the rest of the application.

We will also consider other information available to us, such as forecast consumption, when we assess the robustness of the applicant's financial assumptions. This is in line with our policy statement.

### **7.2.3 Operational viability (principle 5)**

An applicant must demonstrate to us that it will be technically and operationally able to fulfil the functions of a water only or a water and sewerage company. This section sets out how we assess this.

We have not set prescriptive criteria for our assessment of operational viability as the relevant criteria will vary from case to case. Our assessment is based largely on whether the applicant has demonstrated to us that it understands the obligations and expectations on new appointees fully and has put in place measures to meet these requirements.

Before granting an appointment, we must be satisfied that the applicant has sufficient relevant experience (such as access to staff that have knowledge or experience) of operating in the water and sewerage sectors to carry out its duties as an appointee. It is the applicant's responsibility to demonstrate this to us.

When assessing the operational viability of an applicant, we will look for:

- evidence that the applicant understands the obligations on appointees in the water and sewerage sectors and is capable of meeting these obligations;
- any previous experience the applicant has of operating in the water and sewerage sectors;
- any previous experience that the applicant's senior staff have of working in the water and sewerage sectors; and
- experience that the applicant and/or its senior staff have that is relevant to the water and sewerage sectors.

### **Use of sub-contractors**

A new appointee may contract out some or all of its day-to-day activities, but cannot contract out its responsibilities. As the service provider to the site, it remains responsible for satisfying all of its obligations.

If an applicant intends contracting out certain activities, before granting the application, we must be satisfied that the applicant will engage in an open and fair procurement process. We need to be satisfied that its customers will not be disadvantaged through the selection of an inefficient service provider. It is the applicant's responsibility to demonstrate to us that its procurement process will be open and fair.

We also expect the applicant to provide assurance that any sub-contractors it proposes to use have the appropriate knowledge and experience relevant to the services they will carry out.

If we grant an appointment, the applicant must trade at arm's length and make sure that there is no cross-subsidisation in transactions between its appointed business on the one hand, and associate companies and its non-appointed business on the other. This is a requirement of regulatory accounting guideline 5 ([RAG 5](#)), which relates to transfer pricing in the water and sewerage sectors.

## **Infrastructure standards**

We must have assurances from the applicant that any infrastructure laid on a site that it applies to serve is laid in accordance with UKWIR's standards for the water and sewerage sectors.

## **Conditions of appointment**

All appointees are subject to similar conditions of appointment, which govern how they will be regulated. Because we regulate companies in a proportionate way, we may decide to suspend some of these conditions for new appointees until we consider that they are of a sufficient scale or have other characteristics that warrant having them applied.

During the assessment stage, and before we consult on any proposal to grant an appointment, we discuss with the applicant which conditions of appointment, if any, will be suspended, and discuss the triggers that will activate those suspended conditions.

## **DWI approval**

The DWI will tell us once it is content for us to progress an application to the recommendation and consultation stages. It is a DWI requirement that an applicant cannot supply water to customers unless it has submitted a satisfactory risk assessment report to the DWI. The DWI will confirm to us whether it has this report once we have concluded our assessment. We will not progress an application until we have received this confirmation from the DWI.

## **Environment Agency approval**

Like the DWI, the Environment Agency will also tell us once it is content for us to progress an application to the recommendation and consultation stages. We will not progress an application until we receive this notification. The Environment Agency has an interest in the applicant's approach to surface water drainage, sewerage system maintenance, flood risk management, incident management, water resources management and drought planning as well as any proposals the applicant has in relation to water efficiency at the site. It will also need to be satisfied that the applicant has access to water supply and sewerage disposal.

The Environment Agency will also confirm if it has granted any applications for consents to abstract and/or discharge at the site.

### **7.3 Rejecting an application**

We will only grant a new appointment if we are satisfied that the application conforms to our policy principles. If we are not satisfied, we will reject it.

We may decide to reject an application before or after we have consulted on a proposal to grant the appointment. If we do this, we will set out the reasons for our decision in writing to the applicant. If we reject an application after we have consulted on a proposal to grant the appointment, we will issue a public decision document on our website.

Having an application rejected does not prevent the applicant from applying again for the same or any other site. If the applicant submits a revised application, we treat it as a new one. But the applicant must make it clear in the revised application how it has addressed the reasons for the earlier rejection. We will not accept the revised application if the applicant does not do this.

## 8. Interactions between applicants and existing appointees

This chapter describes the interactions that need to take place between applicants and existing appointees to allow the former to complete and submit full applications for new appointments. It also suggests timescales within which we consider it reasonable to expect existing appointees to respond to requests from applicants.

We expect applicants and existing appointees to agree commercial terms in a timely, professional and constructive way.

Existing appointees must not delay their negotiations with applicants for new appointments (for example, because of their views on the unserved nature of a site). Given their unique position in the market and the information base that this provides, we expect appointees to negotiate in good faith and to comply with all of their obligations and duties, including those arising from competition law.

If existing appointees do not provide the information that applicants need to progress their applications within timescales that we consider to be reasonable, we will request the information from the existing appointees ourselves.

### 8.1 Unserved status of sites

If an independent adviser is required to complete a site status report, it will need to contact the existing appointee to check whether it owns any water, foul sewerage and surface water drainage assets on the site. Applicants should provide the adviser with a letter of authority, so that the existing appointees can share this information. They should respond to the adviser's request within **15 working days**.

If the existing appointee disputes the unserved status of a site, it must explain fully why it considers the site to be served. It must also seek to understand the applicant's view that it is not and to provide evidence as appropriate. We expect the existing appointee to continue timely and constructive negotiations with the applicant. We will not accept an appointee's doubts about the unserved nature of a site as a valid reason for refusal to negotiate.

Ultimately, the decision whether to grant an application made under the unserved criterion rests with Ofwat.

## 8.2 Network information

If an applicant requires a bulk supply of water and/or a connection to a company's assets for discharge purposes, it should contact the existing appointee for the site to obtain:

- details of the point (or multiple points) of connection (POC) for the provision of water and/or sewerage services;
- the cost of providing POCs;
- the design and cost of any network reinforcement required;
- the minimum and maximum water pressures available to the site; and
- a formal offer of price and non-price terms for a bulk supply/discharge agreement.

We consider it reasonable to expect existing appointees to pass on this information to applicants within **20 working days** of receiving the initial request.

If existing appointees believe their work needed to meet the network information timeframe will exceed 20 days, they must inform us and the applicant as early in the process as is possible with reasons for believing the 20 day timeframe may not be met.

In return, the applicant should provide the existing appointee with:

- accurate site location and boundary details; and
- known or forecast demand and/or discharge rates.

## 8.3 Risk assessments

To enable the applicant to submit a satisfactory risk assessment to the DWI, it will need information from the existing appointee on, among other things, its drinking water safety plans. This is a requirement under the [Water Supply \(Water Quality\) Regulations](#). We cannot grant an application until the DWI has received a satisfactory risk assessment.

We consider it reasonable to expect existing appointees to return the requested risk assessment information to applicants within **15 working days** of receiving an information request from an applicant.

## 8.4 Infrastructure standards

Existing appointees may need information from an applicant about the infrastructure that has been laid at its site. This is to assess if it meets the required standards if the existing appointee is required to adopt the infrastructure. As an example, the information required may include:

- any environmental and engineering assessments that have been carried out; and
- evidence that the pipeline material, design and construction complies with all relevant statutory and industry standards.

Some existing appointees have raised concerns that the standard of infrastructure at new appointees' sites does not meet the required standards. We consider that, in general, it would be unreasonable for existing appointees not to take over responsibility for infrastructure that had been laid in accordance with standards for the water and sewerage sectors.

## 9. Withdrawing an application

An applicant may decide to withdraw its application at any time before the new appointment has been granted. The applicant must inform us in writing if it wishes to do this. We will then confirm in writing that we are no longer considering the application.

If an applicant is thinking of withdrawing an application, we may agree to stop the clock on the application and wait for their final decision.

### **Previous applications have been withdrawn because:**

- the applicant has lost the support of the developer that owns the site (and the developer decides to select the existing appointee or an alternative applicant);
- an application has been made under the unserved criterion, but water and/or sewerage services are required at the site before an appointment can be granted;
- an application has been made under the unserved criterion, but the site is verified as already served; or
- we decided not to consult on a proposal and rather than re-submitting a revised application, the applicant chooses to withdraw its application.

## 10. Granting a new appointment

### 10.1 Recommendation to Ofwat Board Committee (within 15 working days)

The Ofwat Board has delegated authority to make decisions on applications for new appointments to a committee of the Board. The [terms of reference](#) for this committee are available on our website.

The committee must decide whether to consult on a proposal to grant a new appointment. It considers evidence, analysis and a recommendation from Ofwat's Executive. If the committee decides to consult, we inform the applicant in writing. The application then progresses to a public consultation.

If the committee decides not to consult, we will inform the applicant in writing, explaining the committee's reasons for its decision.

We prefer to consult on proposals to grant appointments on an unconditional basis. But there may be occasions where we consult on our intention to grant a new appointment subject to certain conditions. In such cases, we must be satisfied that those conditions are likely to be met (for example, we must be satisfied that the applicant's Codes of Practice are likely to be approved before we grant the application).

### 10.2 Resubmitting an application

If the committee decides not to consult, then the applicant may resubmit its application. We will not accept the resubmitted application unless the applicant can demonstrate that it has addressed the reasons we gave for the committee's decision not to consult. It must also include an explanation of how it considers it has done so within its revised application. We will start the process again if an applicant submits a revised application. Because we will already have an understanding of the application, it may take us less time to progress it.

### **10.3 Public consultation (at least 28 calendar days)**

If the committee decides to consult on a new appointment, then we will do so for **at least 28 calendar days**. This period is usually sufficient, but in certain circumstances we may decide to consult for a longer period.

For example, we may extend the consultation period if:

- it includes public holidays (either in England or Wales);
- customers occupy the site;
- an application is unusually complex; or
- there is significant third party interest.

We will announce the consultation on our website. This will explain why we intend to grant an appointment and give details of the proposal including a map of the site. It will also include details about how to respond to the consultation. The committee will consider all representations submitted in response to the consultation as part of its final decision on whether to grant.

### **10.4 Final decision on granting a new appointment (within 10 working days)**

At the end of the consultation period, the committee will consider all material issues raised during the consultation process. It will also consider a recommendation from Ofwat's Executive as to whether or not to grant the new appointment.

If the committee decides to grant the appointment, the appointment or variation document will be signed by our Chief Executive (or her delegated representative) and this will be sent to the applicant. We also vary the appointment of the existing appointee. We will serve notice in writing that we have granted a new appointment on:

- the former appointee(s) in which the granted area was previously located;
- the Environment Agency; and
- all local authorities whose areas include any part of the granted area.

We will also publish an announcement on our website that we have granted a new appointment. We will support this with a decision document that explains our reasons for granting the new appointment.

If the committee decides not to grant the appointment, we will write to the applicant advising it of this decision and we will issue a public document on our website explaining the reasons for it.

We will publish the consultation responses we receive on our website unless they are commercially confidential or there are reasons of public interest for not doing so. Respondents must make clear to us in their response if they do not want it (or any part of it) to be published, and explain why. Even if we do not publish responses, respondents should be aware that we may still need to disclose them under the Freedom of Information Act, 2000.

## **11. Reviewing the process**

We will keep our policy and process under review and ensure that we take account of changes in wider UK and Welsh Assembly Government policy, legislation, and our experience. In particular, we will take account of the development of markets in the water and sewerage sectors over time. We will also review our policy and process statement in light of the wider review we are carrying out on how we regulate the sectors in the future.

We currently expect to review our policy and process on new appointments in 2014.

## Appendix 1: Template declaration of accuracy

This declaration is made on behalf of the applicant.

To the best of my knowledge and belief I confirm that the information provided as part of this application is true and accurate.

I confirm that should there be any material change in the information provided as part of this application whilst the application is being considered, this will be brought to Ofwat's attention as soon as reasonably practical and in any event before a decision in respect of the application is made by Ofwat.

SIGNED.....  
PRINT NAME.....  
POSITION HELD.....  
DATE.....



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