



## Licence Reform meeting 26 January 2012

### 1. Purpose:

- Discuss simplification of licence conditions
- Outline plans to address recommendations 6 and 7 of the Ofwat review, around standards of service for landowners and developers
- Propose a way forward
- Explore next steps for engagement with companies and other stakeholders

### 2. Simplification

#### Approach

- Responses from attendees were positive, agreeing that the time is ripe to modernise the licence, that we should work in conjunction with the companies on this and that there is scope to sensibly reorder the licence .

#### Categorising licence changes

- It was suggested that proposed changes could be split into three categories – simplification, substantive changes that companies are aware of and generally support, and substantive changes that need further discussion. It will be useful to clarify where different changes sit as we take the work forward.
- In terms of changes that companies are aware of and generally support, if Ofwat's final Regulatory Compliance proposals (due in March) recommend the approach to Reporters that is described in the consultation, making that change would fall into this category.
- Changes such as addressing Ofwat review recommendations 6 and 7 (as discussed later) are not purely simplification, and will require more time to understand and agree. Companies' boards will need to understand and agree changes.

#### Structure of the licence

- When the working group first met, and looked in detail at certain conditions, they found it necessary to alter some content – it did not work simply to delete or move content between conditions.
- One suggestion was that the order of conditions could be changed, to e.g. locate the condition regarding provision of information (Condition M) adjacent to the condition regarding accounts and accounting information (Condition F).

Ofwat noted that the order in Slide 9 reflects the current A – S order, and no decisions have been made about ordering or naming the proposed new conditions.

- One suggestion was that Condition L could be seen as redundant, having been taken over by events and captured by the information powers in Condition M. Ofwat's response was that its starting point is that it imposes substantive obligations and so could only be removed if companies agree it should be.
- The question of the continued need for Condition Q ('Interruptions in supply because of drought') was raised, as Ofwat has powers in that area without specific provisions. Another attendee questioned whether charges (Part II of Condition B) and changes to price limits between price reviews (Parts IV – VI of Condition B) would be simpler in the same condition or separate.

### 3. Ofwat review recommendations 6 and 7

These notes summarise key themes - further detailed comments on the recommendations can be found in Appendix 1.

#### Licence requirement

- As part of the presentation Ofwat noted that a licence condition was the best way to address recommendations 6 and 7 of the Ofwat review, as attendee asked what led Ofwat to think this. A licence condition is necessary to make sure companies adhere to the code.
- In terms of the content of the licence condition, Ofwat envisaged it would require companies to *comply* with a national code, as opposed to *having* one.
- One suggestion was that, as the current GSS [guaranteed standards scheme] is not supported by a licence condition, Ofwat could review the current GSS and add this element to it. Ofwat noted that the GSS regulations are statutory instruments – the GSS is rooted in statute and there is a different statutory process for amending the GSS to that for amending licence conditions. The down side of a statutory instrument is that the wording is rigid and has to be followed to the letter. It would be simpler to make minor changes to a licence condition or code than to a statutory instrument.

#### Developing the code

- It was suggested that the industry could need the code before deciding what the licence condition would contain – if stakeholders cannot agree a code, then how can the industry have a licence condition that enforces it?
- It was noted that a single national code could be lengthy, but Ofwat believed that it would be the best option.

- It was suggested that the two parallel pieces of work on simplifying the licences and Ofwat recommendations six and seven could require two different sets of people on the working groups.
- The need for joint working with the industry and developers was raised, once Ofwat and companies have a proposal to share.

#### **4. Next steps**

- Ofwat noted that it welcomes volunteers to be involved in working groups, and would be grateful if people could register interest with [Paul Valentine](#).

## Appendix 1 – Detailed comments on proposed approach to addressing recommendations 6 and 7

- The model of the access to land framework was put forward by one attendee – this does not provide specific penalties like GSS, but uses terms such as ‘just and fair.’ It is still statutory, with clear financial penalties, but companies do not have to record every failure.
- In relation to GSS, there was an assumption that redress would be automatic – however, there would need to be a relatively simple dispute resolution process where companies and other parties were involved, with regulatory intervention required.
- Note was made of the Ofgem standards – they contain a wide range of timescales, but some are subject to the agreement of the parties involved, and therefore there is flexibility.
- One attendee noted their experience of distribution sites, and Ofgem’s introduction of standards on point of entry connection. The framework in energy guarantees when payments will be made in specific cases.
- One commercial argument is that if the industry reaches a set of guaranteed standards, Ofwat should be mindful not to be too tight and ambitious, and should be more lax than they might wish, as this is a competitive area - timescales are a competitive edge for developers.
- Ofwat were asked whether, when a developer lodges a complaint, does Ofwat then point the developer in the direction of other potential suppliers (such as new appointments)? Ofwat’s response was that they point developers in the direction of best practice, but relying on that does not seem to be working.
- It is difficult to get all cases to fit within a specific timescale – the compliance process chart could end up looking very complicated.
- General issues are around communication and service failures, and interpretations of guidance. Clarity is going to be seen as a main benefit of this process – interpretation is a large area of dispute.
- One suggestion was that, as a bare minimum, when applications are submitted, it is possible to capture e.g. how quickly a company responds, organisation of payment terms etc. The industry needs to be nudged with generic key milestones, but each site has its own issues.