

Condition E: Prohibition on Undue Discrimination and Undue Preference and Information on Charges

1. This Condition applies in relation to charges:
 - (1) fixed by the Appointee under any such charges scheme as is referred to in section 76 (section 143 of 1991 Act), by which the Appointee fixes the charges to be paid for any water supply services provided by the Appointee in the course of carrying out its functions;
 - (2) for any water supply services provided by the Appointee in the course of carrying out its functions payable under any such agreement as is referred to in section 75 (section 142 of 1991 Act), which are in accordance with standard charges published or fixed by the Appointee;
 - (3) determined by agreement in respect of a supply of water for non-domestic purposes which are in accordance with standard charges published or fixed by the Appointee;
 - (4) for any water supply or sewerage services provided by the Appointee fixed under any such charges scheme made by the Appointee under section 31 of the 1973 Act as by virtue of paragraph 16(1) of Schedule 26 has effect on and after the transfer date as if it were a charges scheme made under section 76 (section 143 of 1991 Act), by the Appointee;
 - (5) for any water supply services provided by the Appointee in the course of carrying out its functions payable under any such agreement as is referred to in section 75 (section 142 of 1991 Act), which are not in accordance with standard charges published or fixed by the Appointee;
 - (6) determined by agreement in respect of a supply of water for non-domestic purposes which are not in accordance with standard charges published or fixed by the Appointee.

In this paragraph references to standard charges published or fixed by the Appointee are to such charges, whether published or fixed under a charges scheme or otherwise.

2. It shall be the duty of the Appointee in fixing or agreeing charges falling within any of sub-paragraphs 1(1) to 1(5) inclusive to ensure that no undue preference is shown to, and that there is no undue discrimination against, any class of customers or potential customers.
3. It shall be the duty of the Appointee in fixing or agreeing charges falling within either sub-paragraphs ~~1(1) to 1(4) inclusive~~ 1(5) or 1(6) to ensure that no undue preference is shown to, and that there is no undue discrimination against, any customer or potential customer, but so that nothing in this paragraph shall require the Appointee to have regard to any charges fixed or agreed by the Water Authority it prior to the transfer date.
4. The Appointee shall provide to the Director such Information as the Director may reasonably request in order to satisfy himself that the Appointee is complying with this Condition, it being acknowledged that Information with which the Director is furnished from time to time under Condition F may not be sufficient or relevant of itself for this purpose.
5. The Appointee shall provide to the Director such Information as the Director may from time to time reasonably request about the nature of any supply or service made or provided under any such agreement as is referred to in sub-paragraphs 1(5), and 1(6)

and the terms and conditions on which that supply or service is made or provided.

6. This Condition shall not apply:
- (1) to any such metering trials scheme as was made by the Appointee in accordance with section 4 of the Public Utility Transfers and Water Charges Act 1988 before the transfer date and which:
 - (a) was either in force immediately before the transfer date or is due to come into force after the transfer date; and
 - (b) continues in force, in accordance with paragraph 16 of Schedule 26, as a scheme made by the Appointee under section 76 (section 143 of 1991 Act);
 - (2) to so much of **any** such scheme as is made by the Appointee under section 76 (section 143 of 1991 Act); which is approved under the said section 4 and amends any such scheme as is referred to in sub-paragraph (1);
 - (3) so as to require the Appointee to contravene any local statutory provision;
 - (4) to any such terms or conditions as are determined by the Director or by the Secretary of State (or by a person appointed by either of them) under section 46 (section 55 & 56 of 1991 Act); or, as the case may be, under section 27 of the 1945 Act or so as to require the Appointee to have regard to any such terms or conditions;
 - (5) to any Water Infrastructure Charge the amount of which does not exceed the relevant amount specified in Condition C which applies from time to time for the purposes of Condition C; or
 - (6) to any terms and conditions on which any supply of water in bulk is given by the Appointee to another water undertaker.
7. The Appointee shall not be treated as having fixed or agreed charges for the purposes of paragraph 2 or 3 solely by reason that:
- (1) any charges scheme made by the Appointee under section 31 of the 1973 Act has effect on and after the transfer date by virtue of paragraph 16(1) of Schedule 26 as if it were a charges scheme made under section 76 (section 143 of 1991 Act); by the Appointee; or
 - (2) any agreement made or entered into by the Appointee prior to the transfer date continues in force after the transfer date.

For completeness, please note that the following corrections have also been made:

In paragraph 8 of the version of Condition E for Sutton & East Surrey Water plc:

“[...] Su**pp**ly Area which, on 1 September 1989, were served separately by the Appointee and by ~~the~~ **the** [...]”

In paragraph 8 of the version of Condition E for Dee Valley Water plc:

“[...] if the latter’s Appointment ~~has had~~ not been terminated [...]”