

# COMPETITION IN PROVIDING NEW WATER MAINS AND SERVICE PIPES - RESPONSES TO THE CONSULTATION

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# 1 FOREWORD

We published the consultation paper 'Competition in the provision of new water mains and service pipes' in August 2001. We sought views on developers undertaking the work involved in installing new water mains and service pipes (referred to as self-lay) rather than using the water company. We consulted on the self-lay policies and practices that water companies should have in place. We set out contestable (open to competition) and non-contestable (for which water companies should retain responsibility) areas of work.

We conclude that water companies should allow developers to organise and undertake most of the work involved in installing new water mains and service pipes. We have incorporated consultees' views into a set of principles that should underlie companies' self-lay policies. These are in our guidance to companies, 'Competition in providing new water mains and service pipes - guidance to water companies version 1.0'.

Our conclusions are set out below.

- Water companies should allow developers to organise and undertake most of the works involved in installing new water mains and service pipes.
- Water companies should have self-lay policies that are freely available and meet the principles in our guidance.
- All parties involved in self-lay should follow the industry's 'Principles of water supply hygiene' and associated technical guidance notes so that public health and drinking water quality are never compromised.
- Water companies have the final sanction over connections being made to their networks, to protect the quality and wholesomeness of supplies.
- We are establishing a self-lay advisory group of representatives of companies, self-lay organisations (SLOs) and other interested parties to provide a forum for facilitating competition in laying mains.

The technical and operational terms used in this document are explained in the glossary of terms (Annex 3).

# 2 EXECUTIVE SUMMARY

This paper summarises the views we received in response to our consultation. It explains how we have taken account of these in finalising our guidance. Version 1.0 of our guidance is published in conjunction with this paper. Fifty-two

organisations responded, as listed at Annex 1. Copies of the responses, except those marked 'confidential', are in our library.

Generally, respondents welcome our involvement in facilitating competition for laying new water mains and service pipes. They believe our guidance will help develop the multi-utility service laying market. This is where one SLO installs all utility services to a site, sometimes in a single trench. SLOs include developers who lay their own mains and service pipes, contractors laying these on their behalf, and multi-utility infrastructure providers.

Respondents support most of the principles for water companies' self-lay policies. Many emphasise the need to increase competition without compromising water companies' legal responsibilities. Our guidance recognises this.

We have reconsidered those principles respondents disagreed with. This has led us, for example, to change our view on allowing SLOs to install meters (see section 3.1.4.)

All respondents support national levels of service. Water companies must therefore include their levels of service in the revised self-lay policies they submit to us in July 2002. We will ask the advisory group's advice on establishing national levels of service for all non-contestable elements of the work.

Most respondents want a national process for approving SLOs and suggest either a scheme run by CORGI or Lloyd's Register. Another possibility is extending the approved contractor scheme aligned with the Water Supply (Water Fittings) Regulations. We will ask the advisory group's advice.

Respondents were asked about developing a single, national self-lay policy to replace individual policies. Most feel this is desirable but a lower priority than establishing national levels of service and a national scheme for approving SLOs.

We asked for views on how you would like competition in laying mains to develop. Respondents are largely content with our broad approach. Our future work is set out in section 4. If you wish to discuss any aspect of this paper, please contact Elaine Chatham, Competition Case Manager, on 0121 625 1390. Or email [enquiries@ofwat.gsi.gov.uk](mailto:enquiries@ofwat.gsi.gov.uk).

## **3 RESPONSES TO OUR CONSULTATION**

### **3.1 THE SCOPE OF SELF-LAY**

#### **3.1.1 The need for self-lay policies**

**Draft principle 1: Water companies should have clear and publicly available self-lay policies that reflect the principles below.**

**Respondents' views**

All respondents agree with our proposal subject to the following comments.

- Water companies and the Ofwat National Customer Council (ONCC) have concerns about water quality, public health, asset quality, customer service, and companies' legal responsibilities for water quality not being compromised by self-lay.
- Water UK agrees in general and thinks guidance should be simple, and confined to general principles.
- SLOs and developers welcome our involvement and are pleased we have defined contestable and non-contestable works. They stress the importance of good communication within water companies, and easy access to companies' self lay policies by placing them on the web site.
- The Office of Gas and Electricity Markets (Ofgem) is keen for competition in water connections to develop as rapidly as possible to facilitate competition in the multi-utility service laying market. Transco agrees with our proposal.
- Some respondents ask who should consider complaints about SLOs. These are outside Customer Service Committees' (CSCs) jurisdiction. ONCC suggests that Trading Standards should take these on. It also asks who adjudicates if a water company says a SLO's work is substandard. It suggests that the Institution of Civil Engineers (ICE) should deal with technical issues.

**Views on a single, national self-lay policy**

Around a third of respondents want a single, national self-lay policy to ensure consistency across companies. Water companies want regional variations recognised. SLOs consider that some current policies, procedures and definitions vary unnecessarily. However, establishing a national code is a lower priority for respondents than establishing national levels of service and a national scheme for approving SLOs. The Drinking Water Inspectorate (DWI) tacitly agrees as long as water quality is not impaired.

**Our conclusions**

We will reconsider the need for a single, national self-lay policy when we review our guidance in 2004.

### 3.1.2 Policies for on-site and off-site provision

**Draft principle 2: Water companies should allow SLOs to install on-site mains and off-site mains where SLOs have obtained the necessary easements and/or street authority approvals.**

#### Respondents' views

Respondents generally agree with this principle, but raise issues on off-site work. These are covered in the guidance.

#### Highways

Some companies and Water UK consider it impractical, and undesirable, for SLOs to lay in the highway because of the New Roads and Street Works Act (NRSWA) requirements. Most feel that SLOs must obtain their own permissions to lay in highways and be responsible for reinstatement.

#### Third party land

SLOs lack powers to enter third party land. Northumbrian Water said that SLOs should not threaten to use the water companies' requisitioning powers if they cannot agree an easement. Thames Water is not prepared to negotiate easements on behalf of SLOs as this would be time consuming and expensive. Severn Trent Water allows SLOs to install off-site mains once it has served notices under section 159 of the Water Industry Act 1991 (WIA91) and SLOs have obtained the necessary street authority approvals.

South West Water suggests that we examine safeguards to landowners in the WIA91, and that SLOs comply with standards set out by us and Parliament.

Only water companies have compulsory access to land if developers fail to get easements. Connect Utilities Ltd suggests water companies appoint accredited SLOs as their contractors so they can benefit from water company land rights. Wessex Water's policy allows developers to become its legal contractors and use its land entry powers and statutory compensation provisions, subject to the developer demonstrating that easement negotiations have broken down.

#### Mains diversions and extensions

Several respondents mention mains diversions. Some water companies would let SLOs do some diversions, but most parties believe that diversions should be non-contestable.

Some SLOs and the Society of British Water and Waste Water Industries (SBWWI) believe that installing the new part of off-site diversions that connect to a new site should be contestable, because existing customers will not be

affected. But this might exclude sites where they cannot get permission to enter third party land.

SLOs wish to construct network extensions where a single pipe is laid from the existing network, but will serve only new customers.

### Reinstatement

SLOs and developers experience no reinstatement problems after self-laying sewers and do not understand why this is a problem with laying mains. Some ask us to clarify responsibility for reinstatement at different times.

### **Our conclusions**

We have divided this principle into on-site and off-site work, separating the latter into highway and third party land. We note the possible difficulties with off-site working and our principle is that water companies should allow SLOs to install off-site services only where they have obtained the necessary permissions. SLOs must obtain these permissions and comply with them. We will not insist that water companies assign their land entry powers to SLOs. However, we have no objection to approaches like Wessex Water's, where companies are happy to do this.

Where SLOs have the necessary permissions, water companies should allow them to construct the new part of main diversions, unless there are engineering reasons for water companies retaining responsibility, or risks to existing customers.

We have extended the principle to cover network extensions to the site. Competent SLOs should be able to do these where no existing customers are affected.

Usually, the organisation obtaining the licence to work in the road is responsible for reinstatement. However, if responsibility for reinstatement transfers to the water company when it 'adopts' (takes over ownership of) the asset, water companies might require a form of security from the relevant SLO to cover liability for defects. (Security is covered further in section 3.8 of this document and in section 4 of the guidance document.) It is reasonable for companies to ask SLOs to transfer any easements and street works permissions to them as part of the adoption process, as they are responsible for future maintenance.

We have powers to deal with complaints about water companies' work on third party land because they have compulsory pipe laying powers. SLOs do not. SLOs are responsible for upholding the agreements they reach with landowners and authorities.

**Draft principle 3. It is reasonable for water companies to retain the right to**

**carry out off-site work to reinforce the existing network.**

### **Respondents' views**

Generally, respondents agree with this principle.

SLOs feel strongly, however, that the process for requiring reinforcement must be transparent, and that charges should be reasonable and shared amongst whoever benefits from the increased capacity. Wilcon Homes suggests that water companies must justify the need for reinforcement. If water companies pass on reinforcement costs retrospectively they must keep a register of works.

Most water companies agree. Wessex Water will consider allowing SLOs to reinforce the network provided it makes the final connection or supervises the SLO.

SBWWI and Centrica suggest that reinforcement required as part of a new contestable network should be contestable. By contrast, several water companies suggest extending this principle to include diverting existing mains, which should be non-contestable because the work affects existing customers. We have covered diversions under draft principle 2 above.

### **Our conclusions**

We have not changed this principle, but have revised our guidance in response to comments made.

### **3.1.3 Design**

**Draft principle 4. Water companies should allow SLOs to design on-site systems. These should be submitted to water companies for approval before work starts.**

### **Respondents' views**

Respondents generally support this principle.

Several companies mention their requirement for ground analyses for brownfield sites and contaminated land. Some believe SLOs may not understand soil analyses so water companies should retain the right to design on-site mains for contaminated land. Companies say the process must allow for re-design if ground conditions do not allow work to proceed to the original design.

Three Valleys Water thinks it would be more efficient for water companies to provide developers, rather than SLOs, with designs. Centrica comments that if several SLOs submit designs for the same contract, they will all be charged for approval. This could be expensive and inhibit competition. It suggests the developer should ask the water company for a design during the initial stage of a

new development. The developer would send this design to SLOs, who can tender on the basis of this information. This would reduce water companies' administrative costs and the time spent on this aspect of work.

Although SLOs, CECA and SBWWI agree with the principle, they want water companies to operate a chargeable design service. They said companies should include clear guidance notes on design in their specifications. They would like water companies to explain their reasons for rejecting designs.

Where water companies identify a need for reinforcement during the design stage, SLOs comment that they want to be informed and given appropriate details within an agreed timescale. This will enable SLOs to reassess the economics of the scheme.

### **Our conclusions**

In the light of respondents' comments we have changed the principle by adding "in accordance with water companies' reasonable specifications" to the first sentence. We have changed the second sentence to "water companies must approve designs before work starts".

**Draft principle 5. It is reasonable for water companies to retain the right to design off-site systems.**

### **Respondents' views**

Respondents generally agree with this principle. ScottishPower agrees that designing reinforcement requirements should be non-contestable, but designing network extensions to a site can be contestable. The Gas Transportation Company disagrees with this principle in the light of its experience of the gas network.

Water companies want SLOs to give them adequate notice of mains they need to design. Wessex Water would consider allowing SLOs to design off-site, where they have the appropriate easements and approvals. Cambridge Water will allow SLOs to design simple off-site systems although the company does not define what a 'simple' system might be.

### **Our conclusions**

Off-site mains are complex to design. This is because of the need for correct network hydraulics and the need to consider underground obstructions such as infrastructure for other services. We have not changed this principle.

**Draft principle 6. Water companies should co-operate with SLOs in the provision of information. For example on the location of other utility companies' services, to facilitate SLOs in carrying out works.**

## **Respondents' views**

Most respondents agree with the first sentence, but not the second.

Water companies said they should not provide information about other utility services and SLOs should check details with other utility providers. Developers should have on-site information and SLOs should get information about other utilities' infrastructure in the highway when they obtain street works approvals. Water UK shared this view.

SLOs and others believe water companies should provide water network information on their web sites, in the same way that Transco gives details on the gas network. The DWI does not agree for security reasons.

Water companies ask us to cover consultation with the Fire Authority. Water companies need to assess the potential impact of proposed fire hydrants on the network. This is covered under principle 8 of the guidance.

## **Our conclusions**

We have deleted the second part of this principle. For security reasons it is not appropriate for companies to put details of their networks on the internet.

### **3.1.4 Installing new water mains, service pipes and meters, and connecting to new and existing mains**

<b>Draft principle 7. Water companies should allow SLOs to install service pipes and water meters.</b>
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## **Respondents' views**

Everybody agrees that SLOs should be able to install service pipes and meter boxes, but there were mixed views about SLOs installing water meters.

Many water companies express reservations about SLOs installing meters – such as the difficulty of collecting adequate detail about the properties connected, including initial meter readings.

Companies offer suggestions about how these problems might be overcome. For example, taking over responsibility for services should be conditional on the provision of accurate billing data and information. Developers could be liable for any difference between the meter reading at the time of installation and the reading on property occupation. A system for compensating the water company if a SLO fails to provide timely billing data could be developed.

Bristol Water currently allows SLOs to install meters, but it has experienced problems and says it may reverse this policy. Most problems were with internal metering, in particular installing and positioning the pipes and connecting the

meter. Although Severn Trent Water allows SLOs to install internal meters, it avoids some of the difficulties reported by other companies by obtaining the meter details itself during the visit to check installation.

Most SLOs agree with the proposal, as do the CECA and the SBWWI. They believe companies giving clear specifications for meter provision and instructions on the type and timing of information required will overcome potential billing problems.

Ofgem believes meter fitting should be open to SLOs.

### **Our conclusions**

In response to the comments, we have separated the principles for service pipes and water meters. We have added “to reasonable water company specifications” for service pipes.

We have changed our view on meter installation. Companies should allow SLOs to install meter boxes. However, we will not insist that SLOs are allowed to install meters. We recognise that efficiency and the service offered to developers could be improved if SLOs do this work, but we need to be confident that companies’ billing information is not compromised. We know that this will disappoint SLOs. We will review this in 2004. In the meantime, we will discuss with water companies the safeguards and administrative processes required to allow this work to be contestable.

<b>Draft principle 8. Water companies should allow SLOs to connect service pipes to new mains (after the water company has filled them with water).</b>
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The HBF, most SLOs, the SBWWI and the CECA agree with our proposal. Water companies have mixed views.

Some water companies agree with the proposal subject to safeguards to public health (including operative health clearance), indemnities to cover liability, and SLO competence to disinfect and install the fittings used to connect service pipes in accordance with the Water Regulations.

Cambridge Water prefers dry connections, and allows SLOs to make connections before they are filled with water and connected to the system. South West Water notes that leaks will remain hidden if trenches are back filled before pipes are filled with water.

Ten water companies and Water UK disagree. They disagree because they are responsible for quality and bear the risk of prosecution or enforcement for failures. The DWI notes that the risk of prosecution only applies to the supply of

water unfit for human consumption. Unwholesomeness is dealt with by enforcement.

The DWI considers that water companies must retain the right to refuse to allow connections to the existing system if they consider water quality may be compromised. It also emphasises the need for compliance with the Water Supply (Water Fittings) Regulations before final connections are made. Other organisations want more consultation with the DWI about responsibility for public health and water quality.

ONCC supports our proposal, as long as connection is close to the time of occupation, to minimise the risk of water stagnation in the pipes.

Several respondents call for us to clarify 'new' and 'existing' mains. We were also asked to confirm definitions of 'main' and 'service pipe'. This is because different water companies use different definitions.

### **Our conclusions**

We have not changed this principle. We believe that appropriate procedures and specifications can overcome companies' concerns. However, by exception, companies may be justified in refusing connections to the existing system if they consider water quality may be compromised. For example, if the Water Regulations have not been complied with.

We have refined our definition of 'new' and 'existing' mains in the guidance document and the glossary. 'Main' and 'service pipe' are defined in the glossary.

**Draft principle 9. It is reasonable for water companies to retain control of the timing of connections of service pipes to new mains.**

There was general agreement to this proposal. A number of SLOs note the potential for water companies to abuse this control and stress that it must not delay project completion. They want companies to agree timings in advance to reduce the potential for delays.

### **Our conclusions**

We have not changed this principle. Companies should ensure that the connection procedures are the same as those in operation for their own contractors and must not place SLOs at an advantage or disadvantage by operating different timing criteria.

**Draft principle 10. It is reasonable for water companies to retain the right to connect new mains to existing mains and to connect service pipes directly to existing mains.**

Most respondents agree to this principle.

SLOs said that companies should consider opening this work to competition later. Mowlem Energy suggested that SLOs should be able to install service connections on existing mains unless water companies could identify specific engineering difficulties to disallow this. Other organisations asked for more consultation with the DWI on responsibility for public health and water quality needs. However, the HBF and ONCC support our proposal.

The DWI said that work to connect new installations and ongoing changes to flow patterns must not create conditions that could disturb sediments in existing mains. Water companies should be able to refuse these connections until they are satisfied there are no quality implications. Water companies do not make supplies available until the requirements of the Water Supply (Water Fittings) Regulations are met. Annex 2 of our guidance summarises the background to these Regulations. It is essential that there is no contamination of the public water supply system by backflow.

### **Our conclusions**

We have not changed this principle.

#### **3.1.5 Pressure testing and disinfection**

**Draft principle 11. Water companies should allow SLOs to pressure test new mains under supervision and should allow them to carry out disinfection.**

### **Respondents' views**

Most respondents agree to our draft principle, subject to safeguards to the water supply being met. For water companies this means SLOs must be approved to do this work and comply with the companies' specifications and hygiene codes. Several say they should supervise SLOs and issue certificates of compliance. They believe random audits should be mandatory. Water UK accepts our proposal. ONCC agree, provided that the DWI is satisfied at all times.

Thames Water disagrees with SLOs disinfecting because it believes the company is criminally liable for any quality failures. The DWI confirms the company will be liable but it is not a criminal liability. At least four companies already allow SLOs to carry out this work - Severn Trent Water, Bristol Water, South East Water, and Sutton and East Surrey Water.

Yorkshire Water disagrees with the principle. It does not want SLOs to disinfect and pressure test. It noted that disinfection goes with quality testing, so splitting

these activities would require effective planning to carry them out together. Some SLOs reiterated this point.

Most SLOs and the HBF agree, subject to reasonable charges. SLOs note that they need to know how to interpret results. They want annual validation of their competencies rather than onerous supervision.

The DWI comments that all new mains must be suitably disinfected and tested.

## **Our conclusions**

Respondents' comments give us no cause to change the content of this principle, although it now specifically mentions swabbing.

In response to Yorkshire Water's comments, we did not intend to change the sequence of any element of work. The principle does not specify that pressure testing and disinfection should be done together.

### **3.1.6 Water sampling and quality testing**

<b>Draft principle 12. It is reasonable for water companies to retain the right to undertake water sampling and quality testing.</b>
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## **Respondents' views**

Most respondents agree with our proposal.

Water companies generally think this is essential, although Cambridge Water and South East Water are willing to let SLOs sample and quality test in their presence. A certificate of conformity is essential. Several SLOs say that water companies' charges should be reasonable if they are to retain the right to do this work.

Several SLOs suggest that water companies should let them use approved external laboratories to sample and test, as a competitive alternative. Others suggest there could be a national specification for testing, and SLOs that meet this could be allowed to quality test, with companies reviewing random samples and auditing as necessary. The DWI says it would require an acceptable level of analytical quality control to be applied to any testing not carried out by a Drinking Water Testing Specification accredited laboratory.

One SLO stressed the need for water companies to meet enforceable standards of service to ensure work is not delayed by having to wait for them to sample.

## **Our conclusions**

We have not changed this principle. Water companies are legally liable for water quality failures and should retain responsibility for this final quality control. Water

companies have the ultimate sanction over when a new main or service connection is made live.

## **3.2 WATER COMPANY CRITERIA FOR APPROVING SLOs**

**Draft principle 13. Water companies should have a clear and reasonable set of criteria against which SLOs can be assessed for appropriate skills and qualifications.**

### **Respondents' views**

Respondents generally support the proposal.

Most water companies and Water UK agree. South West Water is working towards ISO9001 (a quality management system) and expects SLOs to do the same. Southern Water feels that it could never fully pass the SLO approval process to developers, because of its water quality obligations, but it suggests that developers could use its self-lay documentation to assess SLOs.

Yorkshire Water feels that approving SLOs indicates only a likelihood of compliance but will not guarantee it and prefers to supervise SLOs instead. Respondents generally feel it vital for water companies to monitor SLOs and for substandard SLOs to be disapproved.

Some SLOs, developers and consultants, although agreeing, say that water companies setting their own standards for approving SLOs is not the best basis for competition. They suggest that we, with DWI, set the assessment criteria.

The DWI wants the final guidance to refer to approved contractors, as defined in the Water Supply (Water Fittings) Regulations 1999.

### **Views on national approval of SLOs**

Several companies, most SLOs, the DWI and Ofgem want national standards and a central process for approving SLOs in the longer term. This should include recognised training schemes. A registration scheme similar to those for gas and electricity was favoured, run by an independent body such as Lloyd's Register. ONCC supports our proposals, but warned that water companies approving SLOs may suppress competition. It suggested a CORGI-style scheme would stop this and achieve nation-wide consistency.

Developers believe a national standard would allow SLOs to operate more easily across different geographic areas.

### **Our conclusions**

We have not changed this principle. Water companies should continue to assess SLOs, or allow developers to do so, using their own criteria.

We agree that a national scheme for independently accrediting SLOs is needed. We will be asking the advisory group how to establish this. Several organisations have already expressed an interest in running a scheme. The contractor approval scheme aligned with the Water Supply (Water Fittings) Regulations is explained at Annex 2 of the guidance document. The DWI believes it is possible to extend this scheme to cover approval of SLOs.

**Draft principle 14. SLOs should not be expected to meet higher standards than those contractors employed directly by water companies.**

### **Respondents' views**

Most water companies agree with this proposal. All SLOs, the CECA and the SBWWI agree.

### **Our conclusions**

We have not changed this principle.

**Draft principle 15. Water companies should require a SLO to be competent only in those activities it proposes to carry out.**

### **Respondents' views**

Respondents generally agree.

Some water companies suggest that the guidance should define SLOs' responsibilities as these are often blurred with those of developers, resulting in all parties denying responsibility for a given role.

Companies feel it desirable for SLOs to be competent in all core aspects of water distribution. This includes main and service laying, connections, understanding material selection and basic hydraulics.

South East Water comments that additional contractors will be required to pick up the remaining less profitable elements that SLOs do not wish to do. It said this may benefit developers but can lead to higher company costs, which are inevitably passed on to customers in higher bills.

### **Our conclusions**

We have changed this principle, adding that it is reasonable for water companies to require SLOs to be competent in the basis elements of self-lay work. This includes main and service laying, connections, understanding material selection

and basic hydraulics.

Water companies' procedures must set out clearly the different parties' responsibilities for each aspect of work.

In the situation described by South East Water, it is reasonable for the water company to recover reasonable additional costs from the developer.

### **3.3 SPECIFICATIONS FOR SELF-LAY WORK**

**Draft principle 16. Water companies should have clear and publicly available specifications on methods of working and the type of materials to be used. But they should not insist that a particular manufacturer's materials are used.**

**Draft principle 17. Water companies should allow SLOs to procure materials themselves, so long as they comply with water companies' reasonable specifications and national standards.**

**Draft principle 18. Where water companies require materials to be standardised, they should be able to justify this in relation to operational benefits.**

#### **Respondents' views**

There was general agreement to these principles.

Companies say that for operational reasons it may be necessary to specify types or manufacturers of materials (ie standardised materials), especially for meters and associated fittings. Dee Valley Water comments that standardisation is preferable when managing spares inventories, especially for smaller companies. Companies should be allowed to refuse materials they have previously found to be unsatisfactory. Northumbrian Water suggests that water companies should justify to SLOs their refusal of SLOs' proposals to use certain materials, rather than justifying standards for all materials in advance. South East Water is open minded about using new products.

Most water companies agree SLOs should be able to procure materials. Some are concerned that giving SLOs free choice might prejudice water companies' operational effectiveness, efficiency and whole life asset management. Several companies note that providing free materials ensures that SLOs use standard fittings. Some companies want to supply meters themselves. The ICE also thinks water companies should provide water meters. There are also concerns that bulk discounts would be eroded as water companies procure fewer materials. Wilcon Homes wants water companies to pass on bulk discounts to

SLOs where they supply materials, subject to an administration fee.

ONCC generally agrees, but thinks water companies may have good reasons to standardise materials. It noted that non-standard materials might lead to more maintenance and therefore bill increases. It suggested that companies should specify the meter type, particularly if they use advanced metering technology.

SLOs generally support our views. They understand the need to standardise materials but without excessive additional costs to the party who is paying.

The DWI emphasised that specifications must refer to the need for all materials coming into contact with drinking water to meet the requirements of regulation 25 of the Water Supply (Water Quality) Regulations. Refer to Annex 2 of the guidance document for more information on these Regulations.

Water companies, SLOs and ONCC all said that SLOs should demonstrate an auditable supply chain.

### **Our conclusions**

We have deleted the second sentence of draft principle 16 to recognise water companies' concerns about operational effectiveness, efficiency and whole life asset management.

We have not changed principle 17. We have elaborated principle 18 to include justification on efficiency grounds.

## **3.4 SERVICES WATER COMPANIES WILL PROVIDE TO SLOs**

<p><b>Draft principle 19. Water companies should publish clear and reasonable timescales for separate elements of main laying work that they carry out when providing new water infrastructure. These should apply consistently whether or not a SLO is involved. The published timescales should set out what SLOs must do in order for the water company to complete its part.</b></p>
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### **Respondents' views**

Respondents generally agree with our views.

Most water companies agree, but say performance targets should apply to SLOs too. Yorkshire Water suggests using statutory timetables. It says that accommodating self-lay within existing requisition procedures would provide a basis for compensating customers when water mains are not provided within published timescales. Companies and the ICE say timescales must include the impact of land access notices and Fire Service requirements. SLOs want to consult directly with Fire Authorities.

SLOs and developers generally agree with us. Mowlem Energy comments that companies' service levels should be such that SLOs can quote and work within the same timescales as water companies. The service standards companies provide to SLOs should be the same as those provided to their term contractors. ScottishPower feels the time taken by water companies to carry out works is unacceptable but does not believe that standards of service will change until companies are obliged to meet timescales.

ONCC agrees with our proposal. It suggests that company levels of service for self-lay should follow the style of the Guaranteed Standards Scheme (GSS), with targets for responding to queries, providing quotes for work, inspecting and completing final connections. It said we should minimise the administrative burden on water companies.

### **Views on national levels of service and compensation**

We invited views on whether national levels of service were desirable. We also asked whether water companies should pay compensation to SLOs when they fail to meet published targets.

Most people want fair procedures to be established. Ideas for agreeing national levels of service include the drafting of a code of practice by Water UK - in consultation with us - for water companies' service provision to developers and SLOs. Others want us to apply similar standards of service to Transco's. Ofgem would like standards of service across every aspect of non-contestable work, with financial penalties for failure to meet them.

Respondents think that compensation payments should be introduced once companies have established and tested their standards of service for each element of the self-lay process. Several companies think compensation for failing to meet levels of service would be harmful and create barriers between all parties. Water companies feel they should be compensated for abortive site visits requested by SLOs.

### **Our conclusions**

We have not changed this principle.

Other timescales referred to for connecting mains and service pipes under a requisition agreement are usually set by law, in the WIA91. In practice, this timetable is ineffective since it relies on the companies reaching a 'relevant day' in the proceedings before the targets are triggered. Because complaints about delays during requisitioned projects usually refer to problems encountered before the 'relevant day' is met, it is not sufficient to base service levels for self-lay on the statutory timescales.

We will be asking water companies to submit their revised self-lay policies in July 2002 and these must include their levels of service. We will consider these across the industry, working with the advisory group as necessary. If appropriate, we will make recommendations to the companies in revised guidance. We will liaise with individual companies where their levels of service are wholly unacceptable.

Following this, we will ask the advisory group to establish clear, measurable, national levels of service for all non-contestable work. We will consider the Transco/Ofgem model and the GSS as possible bases for these. The group will also consider introducing compensation payments for failure to meet service standards. This work is summarised in section 4 on future work.

### **3.5 LEVEL OF SUPERVISION AND INSPECTION**

<p><b>Draft principle 20. Water companies should clearly set out at the start of a self-lay project, the level of supervision and inspection required and the associated charges.</b></p>
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#### **Respondents' views**

There was general agreement to this principle.

Most water companies agree. Several advocate a mandatory meeting with the SLO before work starts. Others say the self-lay guidance must state which organisation does what and when.

Dee Valley Water prefers a scale of charges because cost will vary with, for example, SLO competence and ground conditions. United Utilities includes costs in a percentage overhead and applies these consistently regardless of how many inspections are needed. Several companies say that charging methods must be flexible to allow for changes in plans or the costs of abortive visits.

Companies emphasise that they should have the right to insist on inspection. United Utilities does not supervise but advocates a regime of audit and inspection with the water company present at critical parts of the work, like disinfection, if it is not contractually tied to the SLO. Severn Trent Water says that supervision might increase if SLOs do not tell them enough information about the process.

SLOs agree with the principle but emphasise that waiting for companies to inspect must not cause delays. There should be a clear timetable. There must be clear criteria for accepting SLOs, with a third party appeal mechanism. An independent register of approved SLOs (see section 3.2) and a national level of

supervision mean supervision and inspection can be kept to a minimum, lowering costs. Excessive supervision might stifle competition.

DWI reserves the right to subject SLOs to the same level of random unannounced audit as the water companies.

The HBF emphasises the importance of this principle, saying that companies' requirements must be reasonable, reflect industry standards and could be linked to the accreditation process.

### **Our conclusions**

We have not changed this principle. We support a meeting between the water company and the SLO before work starts, where levels of supervision and inspection are clarified.

We will ask the advisory group to advise us on appropriate levels of supervision, in conjunction with establishing a national SLO accreditation scheme.

## **3.6 CHARGES MADE BY WATER COMPANIES**

**Draft principle 21. Where work is carried out by the water company, charges to SLOs should reasonably reflect the costs of the work undertaken. Cost breakdowns should be provided to SLOs to demonstrate this. This should include charges for reinforcing the existing network, supervision, inspection, quality sampling, pressure testing etc, as appropriate.**

**Draft principle 22. Developers should be able to compare companies' costs for installing mains with the costs of SLOs.**

### **Respondents' views**

Respondents generally agree with our proposal.

Most companies agree. Several say that cost breakdowns must be simple, to reduce the administrative burden on them. Companies feel it would be reasonable for them to recover the costs of providing quotations and cost breakdowns from SLOs (not customers). United Utilities consider a cost breakdown would be unnecessary if the total charge was reasonable. United Utilities currently charges for non-contestable work on small installations as a percentage of the scheme value but says that site-specific estimates may be necessary for larger works.

Thames Water would not provide a cost breakdown of charges for contestable

elements of work. It says the breakdown should show only the amount and general methodologies for non-contestable elements, not the direct calculations involved. Other companies say that if they publish competitive estimates, SLOs must do the same. Several say that only a developer should be able to request cost breakdowns, otherwise the SLO will be able to compare its competitors' costs. Water companies should not have to disclose market sensitive information.

SLOs, developers and others generally agree with us. The CECA says water companies must provide cost breakdowns to developers, not to SLOs. Several want published, fixed, or at least indicative, charges for each service.

SLOs would like breakdowns to be split into contestable and non-contestable elements, with the components of charges and allocation of administrative costs standardised nationally. All costs making up commuted sums and requisition charges should be shown in the breakdown. SLOs would like a single, common charging method based on a fixed charge and a variable element per metre of main.

Where mains reinforcement is required, water companies should provide flow analysis so that SLOs can judge whether their charges are reasonable. Mains reinforcement is discussed in section 3.1.2.

### **Our conclusions**

We have replaced draft principles 21 and 22 with principles setting out the non-contestable charges that should be published and the requirement to show separately the costs of any reinforcement work. We agree that water companies should show separately the costs of contestable and non-contestable work.

It is reasonable for companies to recover from SLOs their costs for providing quotations.

We will ask the advisory group to consider the need for a template for showing cost breakdowns of non-contestable work.

<p><b>Draft principle 23. Charges for approving designs should be no greater than the costs associated with checking internally produced designs, plus any reasonable administrative costs.</b></p>
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### **Respondents' views**

Although several water companies agree, most respondents disagree because they believe that charges for design approval should reflect actual costs.

Companies doubt that the costs of checking designs produced by a SLO would be lower than the costs of producing a design in-house. For example, if SLOs do

not meet their standards, companies may have to carry out extra checks, resulting in additional costs. Similarly, when companies assess the impact of the new systems on their existing network, this may lead to additional work that could increase costs.

Some SLOs suggested design approval charges should be standard, published in the quotation and on company web sites. The HBF agrees that it may be possible to determine a protocol, but costs may vary across regions.

### **Our conclusions**

We have deleted this principle from the guidance. All water companies' charges for non-contestable work should reflect actual costs, provided these are reasonable.

## **3.7 PAYMENTS BY WATER COMPANIES TO SLOs FOR SELF-LAID ASSETS**

**Draft principle 24. Water companies should pay an asset-value to SLOs when they take over responsibility for self-laid water mains. The amount should be consistent with the allowance the company makes in commuted sum charges to developers.**

### **Respondents' views**

There was general agreement to this principle, but there are differing views about the basis for calculating the payment. Only two water companies, Thames Water and Southern Water, did not agree that a payment should be made.

Several other companies had reservations. Sutton and East Surrey Water suggested payments in kind, such as free materials or not charging for inspections, as suitable alternatives to cash payments. Companies also asked about consistency with our policy for dealing with the costs of new development at periodic reviews.

Several respondents comment that if payments are to be made for self-laid water assets, should there also be payment for self-laid sewers?

SLOs, developers and others comment that because water companies calculate commuted sum charges differently, there would not be a consistent basis for calculating payments for assets. SLOs believe we should provide guidance on the method for calculating the amount of the payment.

### **Our conclusions**

We have not changed this principle. We recognise that water companies calculate commuted sums in different ways. We will consider issuing guidance on calculating commuted sums.

As far as we know, companies make no payments for self-laid sewers. The absence of an asset payment has not constrained the development of the market in sewerage infrastructure provision. We have received no complaints. So we propose to focus on the question of payments for self-laid water mains.

## **3.8 ADOPTION OF SELF-LAID ASSETS**

### **Respondents' views**

Several water companies ask us to cover the adoption process in our guidance. Thames Water sees a need for additional legislation on adoption. We have asked the Department for the Environment, Food and Rural Affairs (DEFRA) to legislate for this in a Water Bill, by placing an obligation on water companies to adopt self-laid water mains, consistent with the provision for adoption of sewers in section 104 WIA91.

Thames Water says that the SLO is appointed by the developer as a pipe laying contractor and at no stage does the SLO own the assets. The company adopts the assets from the developer. South Staffordshire Water favours an agreement with defined responsibilities between it, the developer and the SLO. It prefers developers as its point of contact. However, United Utilities deals directly with the SLO.

Other companies raise concerns about responsibilities to customers, such as the duty to supply, if the main is not adopted. We were also asked about responsibilities during the transitional period when a site is incomplete, but some properties are already connected. SLOs, developers and ONCC also want us to clarify the transfer of responsibility for new pipework.

Mid Kent Water says it would be unreasonable for the water company to incur costs as a result of a failure or omission by a SLO. United Utilities suggested the developer should be responsible if the SLO ceases to trade. It also says that SLOs should retain liability for their work for a reasonable period after water companies have adopted assets. SLOs express similar views. Several suggest a maintenance period for the reinstatement of around 12 months, as for sewers.

Water UK suggests that agreements might include clauses on specification, obtaining easements, compliance with the New Roads and Street Works Act (NRSWA) and payment of a bond against default/ceasing trading. Water UK also suggests that water companies cannot be required to take over

responsibility for mains until these clauses are met.

### **Our conclusions**

We have included an additional principle in our guidance to cover adoption.

Liabilities are discussed in section 4.2 of our guidance.

## **4 FUTURE WORK**

We have set out the issues we will consider further and these are summarised below.

- We will consider issuing guidance to water companies on calculating commuted sums.
- We have asked water companies to submit their revised self-lay policies to us in July 2002. Their policies should reflect our guidance. We will provide feedback as necessary.
- We are establishing a self-lay advisory group to provide a forum for facilitating competition in laying mains. The group will include a balanced representation of the various parties interested in laying mains. The group will bring emerging issues to our attention, and will advise us on future work. We will ask the group to do the following:
  - Advise us on national levels of service for each component of non-contestable work.
  - Work with us to establish a national scheme for approving SLOs. This will include considering appropriate levels of supervision. We will discuss this with Lloyd's Register, CORGI, and other parties interested in taking this forward. We will explore the DWI's suggestion of expanding the Water Regulations' approved contractor scheme. Ofgem have already established similar schemes for gas and electricity. We will ask about their experiences.
  - Consider the need for a cost breakdown template for water companies to use when providing details of charges to developers.
- In the longer term we will ask the self-lay advisory group to consider a national self-lay policy.

- We will consider undertaking an industry survey in 2003 to review progress in the self-lay market.
- We will review our guidance, including reconsidering whether the remaining non-contestable elements of work can be opened to competition. This includes discussing with the industry, and other regulators, the safeguards and administrative processes necessary to make meter fitting contestable. We will consult on proposed changes in 2004.

# **ANNEX 1 LIST OF RESPONDENTS**

## **Water companies**

Anglian Water Services Ltd  
Northumbrian Water Ltd  
Severn Trent Water Ltd  
Southern Water Services Ltd  
South West Water Limited  
Thames Water Utilities Ltd  
United Utilities plc  
Dŵr Cymru (Welsh Water)  
Wessex Water Services Limited  
Yorkshire Water Services Limited  
Bristol Water plc  
Bournemouth and West Hampshire Water plc  
Cambridge Water plc  
Dee Valley Water plc  
Folkestone and Dover Water Services Limited  
Mid Kent Water plc  
Portsmouth Water plc  
South East Water  
South Staffordshire Water plc  
Sutton and East Surrey Water plc  
Tendring Hundred Water Services Ltd  
Three Valleys Water plc  
Water UK

## **Quality regulators and environmentalists**

Drinking Water Inspectorate

## **Other regulators**

Office of Gas and Electricity Markets

## **Developers, self-lay organisations, consultants**

Bradgate Development Services Ltd\*  
Centrica plc  
Connect Utilities Ltd  
Eco-European Ltd  
Gas Transportation Company Ltd  
JPA Multi-Utilities  
Linkwork Ltd  
Mowlem Energy Ltd

NRSWA Ltd  
PDI (Utilities Design and Management) Ltd\*  
Pipeline Developments Ltd  
Premier Energy Services Ltd  
Sandwood Builders and Contractors  
ScottishPower (Manweb)  
Thomas Bermingham Contractors Ltd  
Wilcon Homes Ltd  
Yorkshire Electricity\*

**Trade bodies**

Civil Engineering Contracts Association (CECA)  
Construction Confederation (CC)  
House Builders Federation (HBF)  
Institution of Civil Engineers (ICE)  
Society for British Water and Wastewater Industries (SBWWI)

**Organisations representing customer interests**

Ofwat National Customer Council (ONCC) on behalf of the ten Customer Service Committees  
Utilities Buyers Forum

**Other interested parties**

NuWater Ltd  
Transco plc

\* These responses are not in our library as the organisations wished them to remain confidential.

## **ANNEX 2 THE POSITION IN GAS AND ELECTRICITY**

### **Electricity**

The Utilities Act 2000 separated the supply and distribution businesses of the Public Electricity Suppliers (PESs), whose distribution functions have been transferred to distribution licence holders (DLHs). Following its July 2000 decision paper 'Competition in Electricity Connections', Ofgem established a steering group to implement its proposals for extending competition through consultation with group members (including DLHs).

Ofgem considers that the only areas of work which should remain non-contestable (the work only undertaken by the DLH) should be:

- determining the point of connection;
- the use of statutory wayleaves; and
- at this time, upstream reinforcement and diversionary work.

Pending experience of other competitive processes introduced by the group the live connections to the existing DLH off-site network would also remain non-contestable. All other areas of work should become contestable including live working.

The group is also working to develop an industry-wide national registration scheme. This will let third parties undertake all contestable work in all DLH areas and ensure they do not have to register with each DLH. The scheme will serve to satisfy the DLHs that the third parties working on their networks are competent.

The group has also produced a technical framework document which outlines common design, installation, materials, administration and safety procedures. It will be supplemented by area-specific, technical appendices by each DLH. The framework document and appendices will facilitate adoption of the independently constructed assets by the DLHs. They will retain the right to inspect these assets. (The group has concentrated initially on introducing competition to connections on new housing estates.)

Ofgem is also introducing competition to streetlighting connections. Initially, the group has developed proposals for a 'one stop shop' which has two parts. The first is 'rent a jointer', which enables local authorities or their agents to hire a DLH jointer at an hourly rate to carry out live work on the existing main and associated cables. The second allows approved third parties to carry out live working on streetlighting connections to complete transfers and disconnections (this does not involve final connection to the main). A trial of the 'rent a jointer' process has shown benefits in terms of financial savings and other efficiencies.

Where works are on private land, DLHs are required to ensure that their statutory rights of access are exercised on a non-discriminatory basis between their own connections businesses, directly employed contractors and third party connection businesses as far as this is practical and legal. DLHs must not discriminate in providing quotations and other information to any affiliated connections businesses in competition with independent third party connection providers. The group has developed standards of performance for DLHs to meet for providing quotations and other connection services. They incur a financial penalty for non-compliance.

## **Gas**

In gas, most work is contestable. Only reinforcement, final connection and diversionary works are not. Trials allowing independent connection providers to make final connections to the relevant gas main are underway. These are due to be completed by May 2002, when work becomes nationally contestable.

Transco has published standards of service for providing quotations for connections and pays compensation for failure to meet specified targets.

The Utilities Act 2000 allows Independent Gas Transporters (IGTS) to hold national licences. Currently, companies other than Transco lay around 60% of new housing infrastructure.

Competition in gas connections is to be supported by a contractor registration scheme that aims to create national standards of competency for independent connection providers. This scheme should be implemented during 2002.

## **Publications**

Ofgem undertook industry surveys in December 2000 and February 2002 to review competition in gas and electricity connections. The outcome of the first survey was published in its 'Report on the review of competition in gas and electricity connections' in May 2001.

Ofgem published 'Competition in connections to electricity distribution systems - an update document' in December 2001, which details the work of the steering groups to develop competition.

Further information can be found on the Ofgem web site at [www.ofgem.gov.uk](http://www.ofgem.gov.uk).

## **ANNEX 3 GLOSSARY OF TERMS**

### **Adoption**

We recognise that there is no statutory provision in the WIA91 for water companies to adopt self-laid water mains. We use the term adoption to refer to water companies taking over responsibility for self-laid assets. SLOs and water companies already use this term.

### **Brownfield site**

A site that has previously been built upon (as opposed to a greenfield site that has never been built upon).

### **Commuted sum**

A single payment that is made by a developer to a water company for laying new water mains. This is paid as an alternative to relevant deficit payments (see below). This is sometimes also referred to as a lump-sum contribution or non-refundable contribution.

### **Contestable**

Open to competition.

### **Developers**

Those who organise the purchase of land, construction of new buildings and their sale.

### **Disinfection**

The process of treating water with, for example, small amounts of chlorine to ensure that it complies with water quality regulations.

### **Dry connections**

Dry connections are when service pipes are connected to new mains before they have been filled with water.

### **Easement**

A legal right of way over another person's property, which may cover the laying of pipes in that land.

### **Extensions to the network**

A single pipe that is laid from the existing network to serve new customers.

### **Existing mains/existing network**

The parts of the system already in place before a SLO starts installing pipes. These will include off-site and on-site pipework, some of which may supply existing customers.

### **Guaranteed Standards Scheme (GSS)**

Customers are entitled to guaranteed standards of service from the water companies for some aspects of their service. Water companies have to pay compensation to customers if they fail to meet these standards. None of the guaranteed standards apply directly to any of the situations under discussion in this paper.

**Live main**

A main connected to the water network and filled with water.

**Multi-utility infrastructure provision**

This is where one self-lay organisation installs all utility services to a site, (which could include gas, electricity, water and telecommunications) sometimes in a single trench.

**New main**

A main laid by the same SLO as part of the same development.

**Non-contestable**

Not open to competition.

**Off-site**

In the public highway or in land owned by people other than developers.

**On-site**

Land owned by developers.

**Pressure testing**

Testing to make sure that the pressure of water in newly laid pipes is neither too high nor too low.

**Reinstatement**

Work carried out to restore the surface of the ground to its original condition. For example, resurfacing a road after work to lay water mains.

**Relevant day**

The day following either i) the day on which the financial conditions of compliance are satisfied, or ii) the day on which the water company agrees the places for connecting water pipes to its existing main or network.

**Relevant deficit payments**

Where developers requisition new mains for domestic purposes under sections 41 to 44 of the Water Industry Act 1991, they may pay for these over 12 years (the “relevant deficit” payments). The payments are calculated under section 43.

**Requisition**

Water companies must provide water mains that are sufficient for domestic

purposes when required to do so by a notice under sections 41 to 44 of the Water Industry Act 1991. This is known as a requisition. Water companies must provide the mains once the financial conditions of compliance are satisfied and the company has agreed the places for connecting the new pipes to its existing main/network.

### **Self-lay**

Where developers, or their contractors, install new water mains and service pipes instead of asking the water company to do the work.

### **Self-lay organisations (SLOs)**

These include developers who can lay their own mains and service pipes, contractors laying mains for the developers, and multi-utility infrastructure providers.

### **Service pipes**

A pipe supplying water from a water main to any premises (whether in the highway or in private land).

### **Swabbing**

A process to clear mains of dirt and materials before they are filled with water.

### **The Water Supply (Water Quality) Regulations 1989 and subsequent amendments**

These Regulations specify the standards used to define wholesomeness of drinking water and also specify, under regulation 25, the requirements for using approved substances and products. The DWI enforces the Regulations.

### **The Water Supply (Water Fittings) Regulations 1999**

These Regulations replaced the Water Byelaws in England and Wales and are enforced by the water companies.

### **Upsizing mains**

When a water company decides to lay a larger main than is needed to supply a new development. This might be because the company considers that the demand for water will increase in the future.

### **Wet connections**

Wet connections are when service pipes are connected to new mains after they have been filled with water.