



THE AMP4 CHANGE PROTOCOL

PRINCIPLES AND OUTLINE PROCEDURES FOR CONFIRMING CHANGES IN FUNDED IMPROVEMENT PROGRAMMES DURING THE AMP4 PERIOD (2005-10)

Office of Water Services

December 2004

Version 1 - Final Determination

THE AMP4 CHANGE PROTOCOL

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MD197

**TO ALL MANAGING DIRECTORS OF
WATER AND SEWERAGE COMPANIES
AND WATER ONLY COMPANIES**

2 December 2004

Dear Managing Director

AMP4 CHANGE PROTOCOL

I consulted formally with you and others on my draft AMP4 change protocol on 5 August (MD193). We are grateful for all the comments and suggestions we have received. We have now considered all the responses. We have been able to take on board a number of helpful suggestions and clarifications.

Our final determinations clarify in some detail our expectations for the improvements that you will be delivering over the next few years. We all hope that changes to these requirements will be at a minimum so that you can optimise your business around delivering all the requirements economically and efficiently. However we recognise that you do need clarity on how we expect you to deal with changes that will occur.

The attached AMP4 change protocol sets down the procedures Ofwat has established for dealing with changes to the funded improvement programmes for the period 2005-06 and 2009-10 (AMP4). Broadly, the protocol builds on the approaches to these issues that have evolved from inception of the new regulatory regime in 1989. The protocol is an Ofwat document setting down Ofwat's expectations as well as a reasonably straightforward structure for you to follow. The protocol does not cut across the roles and responsibilities of others in the regime be they Ministers, quality regulators, water companies or WaterVoice, but does provide a framework for dealing with change in an informed collaborative way that will enable progress to be made.

The protocol confirms our intentions on how changes will be taken into account, both at the next periodic review in 2009 and between April 2005 and September 2008, the last date for an interim determination application before the 2009 periodic review.

We have consulted widely on the protocol and I believe established a reasonable consensus on the processes and procedures set down. We shall carry out a review of the protocol in late 2006 to check whether it is working as intended. We shall update the protocol after this review if this is found necessary.

Yours sincerely

Philip Fletcher
Director General of Water Services
Enc.

THE AMP4 CHANGE PROTOCOL

A Objectives and outline

1. This paper sets down the principles and outline procedures for water companies to obtain confirmation and recognition in future price limits by Ofwat to any changes to the improvement programmes funded in price limits for the AMP4 period, 2005-06 to 2009-10 inclusive. The protocol is an evolution of similar arrangements established for the AMP2 and AMP3 periods¹ taking account of experience gained and the scope of the AMP4 improvement programmes. In general this protocol follows established policy with greater levels of transparency as to the **guiding principles** and sets out a number of **outline procedures** that cover likely types of changes.
2. Net additional costs arising from recognised changes can be reflected in revised price limits for the 2005-10 period, through an interim determination or in price limits for 2010 and beyond through the 'logging-up' or "logging-down" mechanisms. This change protocol complements the interim determination and logging up/down processes well established with the industry and replaces the protocol issued at the time of the 1999 determination of price limits.
3. Companies should presume that changes not following the principles set down in this protocol and confirmed through these procedures will not be recognised by Ofwat for the purposes of amending price limits at interim determinations and/or at the 2009 periodic review.
4. Section B defines the funded improvement programmes. Section C sets out the general principles underpinning the procedures. Section D sets down a series of outline procedures for dealing with a limited number of typical changes in general terms.
5. Section E provides some additional guidance on particular changes likely to be associated with quality enhancement issues both for drinking water quality and environmental improvements including water abstraction licence modifications, changes to continuous and intermittent discharge consents and extending sewerage systems. In each instance the issues are not exhaustive but Ofwat considers are sufficient to illustrate how other such issues will be reviewed.
6. Section F provides some additional guidance on some service improvement issues such as aesthetic, taste and odour improvements in drinking water quality, reductions in the sewage flooding of properties, and odour nuisance emanating from sewage treatment facilities. Issues around onerous planning requirements are also included in section F.
7. The final section G outlines briefly how the change protocol will be updated during the AMP4 period.

¹ AMP3 period - Ofwat's final determination - Appendix E (Nov 1999) and Stuart Hoggan's (DETR) letter to Martin Griffiths (EA) of 13 March 2001

B Improvement programmes funded in price limits

8. One of the key issues to resolve at each periodic review is the scale and pace of further improvements to the services provided by each water company. Ofwat has an ordered set of criteria that must be met before a proposed drinking water quality or environmental improvement is funded in price limits². Each proposed quality and environmental improvement must:

- be required by the quality regulators, and confirmed by Ministers, or be a new obligation under current primary or secondary legislation;
- deliver a measurable defined output (or environmental outcome), which is enforceable and will be enforced;
- have a clearly defined timetable and a due date for delivery in line with regulations or other legislation;
- have defined asset improvements, or changes to operational procedures to deliver the output; and
- have identified net additional costs - the proposed solution and its associated net additional costs must have been reviewed, where appropriate challenged and validated by the company's independent reporter.

9. For such other service improvements as measures to alleviate flooding from sewers where a company intends to seek an addition to its regulatory capital value, the first criterion above, and in some cases the third, are not relevant. In such cases the company will be expected to

- show a clear need for the proposed improvements validated by appropriate cost/benefit analysis and support from WaterVoice with some indication of a strong level of customer support generally.

10. Ministers (Secretary of State for Defra and Welsh Assembly Government) take the lead in giving guidance on the scope and timescale of improvements deemed necessary and appropriate in the areas of drinking water quality and environmental improvement (February 2004). The ministerial guidance for the 2004 price review was informed by the detailed proposals for improvements submitted by the appropriate quality regulators (Environment Agency (EA) (working with English Nature (EN) and the Countryside Council for Wales (CCW)) or Drinking Water Inspectorate (DWI)). The quality regulators prepared detailed schedules of improvements that were consistent with the ministerial guidance and guidelines on the phasing of the improvements over the period or gave technical support to company proposals where they were in line with ministerial guidance. Each water company considered the ministerial guidance, the above schedules and guidelines when it prepared its final business plan submission (April 2004).

² Ofwat - Periodic review 2004 - Setting Water and Sewerage Price Limits For 2005-10: Framework and Approach (March 2003) - paragraph 6.20. page 83

11. Ofwat reviewed each company's submission, giving due regard to the guidance from Ministers, the views of the respective quality regulators, and the audit reports from the reporters to assess compliance of each proposed improvement with the criteria set out above. Initial judgements were made and included in our draft determinations published in August 2004. Ofwat reviewed the representations made by each company in September 2004. Ofwat paid due regard to the further guidance from Ministers and comments made by WaterVoice and other interested parties. Ofwat made final decisions on inclusion of the improvements and judgements as to the reasonable net additional costs to assume for the programme as a whole for each company.

12. Ofwat's final determination of price limits for the AMP4 period provides for the delivery by each water company of specific programmes of improvements - ***the funded improvement programmes***.

13. The output requirements for *each* improvement in these programmes were sent by Ofwat to each company in the documentation accompanying the draft and final determinations. These output requirements include:

- scheme specific outputs (mainly in the quality and environmental area);
- activity levels (drinking water quality distribution system undertakings and extent of metering programmes);
- aggregated improvement programmes (reduction in properties at risk of regular flooding from the sewerage system);
- achievement of security of supplies headroom requirements .

Note - this list is not exhaustive.

14. The relevant company-specific improvement programme information was shared with the respective quality regulators. Each company will summarise and publish its programme for the AMP4 period in its monitoring plan (March 2005). Ofwat will place the relevant summary information from its final determination in its library on completion of the review.

15. Each water company decides and implements the best means of delivery of the funded improvement programmes and reports annually to Ofwat on progress through its June return and to its customers through a mechanism to be agreed with its WaterVoice committee. The DWI and EA also track delivery of the improvements along with general compliance with regulations and consents. The two quality regulators also advise Ofwat on each company's progress. Appropriate regulatory action is considered by Ofwat if progress is slipping behind programme or if improvements in the funded programme are not delivered on time.

16. **Ofwat assesses successful delivery of the funded improvement programmes by delivering the expected outputs no later than the dates specified not by monies spent, nor as a general rule by reference to activities undertaken other than where these are part of a formal undertaking or set down in its determination.** This approach provides each water company with strong and proper incentives for it to deliver its funded improvement programme at minimum total cost.

C General principles

17. Experience to date suggests that during the implementation of funded improvement programmes there will be pressures to make changes to the outputs or their timing. These new or amended requirements can arise, for example, because of new obligations, better information, changing priorities or practical difficulties in delivery. This may lead to proposals for some projects being completed later than set down, alongside a wish to complete others to a faster timetable. New information may result in proposals to cancel funded improvements. Finally completely new improvements may become very desirable with pressure for these to be accommodated straightaway rather than waiting until the next five-year programme. The likelihood for some of these new requirements under certain statutory drivers is known at this stage. For example the Secretary of State has identified in her guidance the need for mechanisms to ensure delivery of any necessary further action under Habitats Directive and Rights of Way Act 2000 following the investigations included in the funded improvement programmes. The arrangements described here are in place to deal with any such necessary further action by water companies.

18. Ofwat has identified a number of general principles that influence its approach and the procedures it has set in place to deal with the changes that will occur.

- As far as practical to provide certainty, the funded improvement programmes should remain unchanged between reviews.
- Arm's length incentive-based regulation should be maintained.
- Companies at all times remain responsible for meeting their statutory and other obligations.
- Water and sewerage companies should not be expected to cross-subsidise other sectors. This incorporates the polluter pays principle.
- In addition, programmes delivered by water companies should represent value for money.

Where changes to the funded improvement are sought then:

- If this is the result of a relaxation in the assumed requirement sought by or accepted by a quality regulator then there should be a sharing of the benefits between the parties.
- For changes to be recognised in price limits prior agreement should be secured from Ofwat.
- Recognition will be subject to the triviality threshold but minor changes can be aggregated if associated with the same general obligation or related obligations.
- Similarly, changes in price limits between periodic reviews require the overall net additional costs / savings to exceed the materiality threshold and below this limit a water company must finance the impact of changes from within its own resources.

19. Each of these general principles is set out below together with a brief rationale and the implications for the approach that Ofwat has adopted.

20. **A presumption of no change.** One of the key objectives of the regulatory regime is to give each water company a clear and stable medium term view of the requirements placed upon it. This stable platform provides the company with the best climate to enable it to develop optimum solutions that are in both its and its customers best interests.

21. As part of the periodic review Ofwat sets out the outputs and requirements placed on each company. These outcomes are incorporated into the funded improvement programmes. Under the regulatory model the water company carries project risk whereas customers carry standard/requirement risk. Project risk includes whether the proposed solution under or over achieves the specific requirements and/or incurred costs are above or below those assumed in the funded improvement programmes. Standard/requirement risk includes changes in the output/outcome requirement either in terms of tighter or more relaxed standards and revisions to the expected delivery dates.

22. Changes to the standards/requirements generally result in increased costs either in terms of writing off costs already incurred or a reworking of the proposed integrated solution. In most instances even considering the possibility of changes involves pressure on delivery timetables and imposing actual changes can result in very substantial delays.

23. For these reasons there must be a **presumption of no change**. Those seeking changes in the funded improvement programmes need clear and compelling reasons to seek a change in the agreed programmes.

24. **Arm's length regulation.** Each company holds a licence under statute to provide the essential water and sewerage services in its area of supply. The company is responsible for delivery of the services and the means by which these are delivered. The water companies have a long and successful track record of delivery. Each company deserves and should expect minimal interference from its quality and economic regulators in its day to day activities and should be free to pursue its own policies without these being second-guessed by a regulator.

25. The regime assumes that regulators will adopt this arm's length approach, thus avoiding either seeking or being drawn into issues that are properly matters for the company's management. At its limit this approach avoids ambiguity on matters for which the company is accountable. Should a company fail to carry out its obligations, the appropriate regulations provide for enforcement/restorative action. Ofwat considers that the best long-term interests of customers are served by clarity as to where the responsibility for service provision lies, namely with the water company.

26. It follows from this principle that a company must have the freedom to make minor revisions to its priorities and programmes to address changing circumstances or situations as they arise. To require a referral to regulators at each or every one of these situations would be a recipe for delay and poor value for money. Of course a wise company will ensure that regulators and its WaterVoice committee, are kept informed of the minor revisions it is making to its programme and demonstrate that in aggregate the revisions are broadly neutral both in terms of overall delivery cost and equivalent value. In both instances annual confirmation of this from the company's reporter³ will assist in giving regulators confidence that a company is not abusing its freedom to operate to the detriment of its customers or the community.

27. To the extent that a company is able to achieve outcomes more efficiently than had been assumed in price limits, that is in its interest initially but ultimately of all its customers since the benefits will be passed on to them through the rolling incentive mechanism at a later review.

28. **Duty to comply with requirements.** Nothing in these guiding principles for handling changes from periodic review to periodic review can relieve a water company from its statutory duty to comply with all the legal requirements placed upon it. Statute and its licence provides a water company with routes to challenge decisions made by regulators or Ministers, that it considers to be inappropriate, against its interests or do not accord with its view of the law.

29. **Presumption of no (or reducing) cross subsidy from water customers to other sectors.** Water enterprises are in a privileged position of having a local monopoly and a regime that provides guarantees of appropriate levels of income over the medium term. Pressures are often placed on a water company to carry out additional works that either relieve other sectors from investing to meet their own obligations, or further extend the historical cross subsidies from water customers to others. Some cross subsidies have the force of law. For example a company is obliged to provide drinking water which meets the regulations even where polluters have damaged the quality of the raw water available (such polluters, where identified, can be prosecuted and sued for damages separately). But it is not the job of a water company or Ofwat to extend cross subsidies further. Economic theory and the polluter pays principle suggests a general presumption to reduce cross subsidies so that as near as possible the true costs are visited on those imposing such costs.

³ REPORTERS – these are independent technical experts appointed to audit the company's regulatory returns to Ofwat

30. In some instances, a temporary increase in cross-subsidies may be appropriate if this is directed at say research into innovative solutions that could then be used widely without cross-subsidies. Examples are the two land-management pilot schemes investigating the viability of improved control of agricultural diffuse pollution. Whilst some seed-corn funding for such initiatives is appropriate in water price limits Ofwat considers that permanent funding solutions should be found from other sources. In limited circumstances it may be appropriate to deal with matters through price limits. This could apply where there is a consensus between all the regulators and the water company concerned that the most efficient and economic way of securing permanently an outcome is to cross-subsidise a beneficial approach to the management of land which avoids the need for an expensive capital solution that would otherwise be required.

31. In applying this change protocol Ofwat will work from the presumption that the imposition of additional requirements should not involve extending cross subsidies from water companies to other sectors. Ofwat will expect a water company to draw to its attention any proposals which it (the company) believes involve additional cross subsidies. Ofwat will then be in a position to make such representations to the relevant planning authority or regulatory body as it considers appropriate.

32. Where Ofwat considers a proposed cross subsidy is disproportionate it will tell the company concerned who should then seek, through the appropriate channels, to prevent the imposition of the additional requirements. Ofwat will also notify the relevant regulator or authority. Examples of where Ofwat may raise concerns include; additional treatment proposals to mitigate the effects of diffuse pollution from agriculture on watercourses⁴ and any disproportionate planning gain requirements sought by local planning authorities in association with developments required for the continued delivery of essential public services (see ¶ 103). It is important that this challenge process does not lead to unnecessary delays in implementing the programme and a company should seek to resolve any challenge over a regulator's or planning authority proposal as swiftly as possible.

33. Where Ofwat has told the company of its concerns, acquiescence by the company to these pressures without appropriate challenge exposes it to the risk that any net additional costs assessed to be associated with the cross subsidy will not to be recognised by Ofwat in future price limits.

34. **Continuing presumption of value.** The high service levels achieved by water companies in recent years together with the overriding requirement of no deterioration in these services places a presumption that further improvements do represent value for money. Ofwat considers that this presumption underpins or is implied in all aspects of the funded improvement programme.

⁴ Additional treatment may be required in circumstances where the diffuse sources are also being tackled as part of our integrated twin track strategy. The appropriate quality regulator should have justified these changes in line with agreed and published guidelines. A challenge would be expected if there was doubt as to whether the guidelines had been followed.

35. In many instances an improvement arises from a clear statutory requirement. Often this will be notified by a quality regulator. Consistently with the guiding principal (duty to comply with requirements), failure to meet the statutory requirement will not be an option. But this does not absolve a company from fully exploring all appropriate choices. Where a company can identify such choices, it should assess, compare and submit to Ofwat the costs and benefits of each. There will be a requirement to provide an assessment of the benefits arising from the improvement so that the presumption of value can be tested. Before Ofwat allows funding for the requirement the company should also demonstrate that its specific proposals are the most cost-effective way of delivering compliance and provide a benefits assessment.

36. Where all the benefits can be assessed in monetary terms then the presumption of value requires that the benefits ensuing from the specific improvements are greater than the actual costs incurred in carrying out the improvement (i.e. the total net benefit to the total cost ratio is greater than unity). Where some of the benefits are real but cannot be valued then judgements made will need to be exposed fully. In a very limited number of instances there may be an overriding public interest to adopt a precautionary approach, which has the effect of increasing the total net benefit when testing whether the ratio is greater than unity.

37. In developing the funded improvement programmes assumptions have had to be made as to the value of specific improvements. During the implementation of the programmes new information may come to light that alters significantly the value perspective. This may arise as the general assessment carried out by the EA for the overall programme is reworked at a site specific or river reach level. Alternatively it may arise where the costs likely to be incurred in meeting the obligation substantially exceed that originally assumed. This new information could change either or both the numerator or denominator in the benefit/cost ratio thus exposing a question as to whether it is in society's interests to proceed to deliver the original requirement.

38. Where this occurs, the company should raise the issue with the appropriate quality regulator and Ofwat together with the new information cited as relevant to the value questions. Wherever possible the company should also identify steps that could be taken towards meeting the original improvement requirements that would meet the value criteria. The regulators will aim to deal with the issues raised expeditiously to minimise the risks of delays. Minimising delay will be particularly important where there is a risk of not meeting deadlines set down in an EU directive. Whilst the issues are being discussed and resolved with the appropriate regulators the company should put on hold works to deliver the existing requirements. Any subsequent delays in delivery of either the confirmed existing requirements or revised partial steps would not be classed as regulatory shortfalls by Ofwat, provided the company can be judged by Ofwat to have acted prudently and with integrity.

39. Where substantial parts of a particular funded improvements programme are in question following new information then, after discussions with the relevant quality regulator, Ofwat may wish to follow the United Utilities 2003 interim determination precedent by removing this part of the programme from the funded improvement programme. This would provide time to review the issues sensibly whilst recognising there is a presumption that some progress needs to be made in the programme area in the five year period provided it is consistent with the value criteria. Once resolved the revised requirements would be recognised by the Ofwat for funding in future price limits either through a subsequent interim determination or through the logging-up mechanism at the next periodic review.

40. A water company should recognise that this principle does not remove its project risk. The principle only applies where new information demonstrates that the appropriate value criteria are no longer met. The burden of proof rests with the company to prove any case on higher than expected costs. Involvement and scrutiny by the reporter will be required to inform regulatory decisions in this area. On the benefits side the company will need to apply a recognised assessment technique, again robustly. The company is advised to seek recognition by the regulators of its assessment technique if it intends to use a method different to the EA's Benefit Assessment Guidance. The focus should be on direct use benefits and specific project dis-benefits associated with construction activity and future operation of the assets. Care needs to be applied when quantifying non-use benefits to ensure they relate solely to the project under consideration. Ofwat considers that non-use benefits are in most circumstances more appropriate for assessing an overall programme area's benefits rather than an individual improvement.

41. Incentives to minimise requirements through a sharing of benefits arising from a relaxation of set standards by a quality regulator. In many instances the quality regulator has made assumptions on both interpretation of the particular directive requirements and the risks of the proposed output under or overshooting the obligations in coming to a decision on the consent requirements to be used by a water company in preparing its plans. The funded improvement programmes provides for compliance with the appropriate directives based generally on these assumptions. In the past we have provided a positive incentive for the quality regulator to revisit these assumptions where on further investigation a more relaxed consent might well deliver the environmental objective. Of course this would require collaboration by both the quality regulator and the company. Each party needs to have incentives to look for these savings. This can be achieved by ensuring that each of the parties benefits from finding these flexibilities.

42. We would expect most of these initiatives to be scheme or driver specific and for the process to be ring-fenced to the service involved - water or sewerage. We propose to retain the apportionment of benefits established in our 1994 determination, namely a three way split between further quality/environmental improvements, customers and the company.

43. The first and major portion of the net financial benefits that accrue directly from the relaxation (40%) would be available to provide for further discretionary quality/environmental improvements decided solely by the quality regulator. Whilst there would be no formal requirement for these improvements to undergo cost benefit assessment Ofwat does expect that value would still be demonstrated since the costs will be borne by customers. The second portion (30%) would be available to provide for improvements in service levels to customers or as a rebate on bills or to offset potential further increases arising from interim determinations following discussions on the options with the local WaterVoice committee. The balance of 30% would be available to the company to use as it saw fit in the same way as normal out-performance of regulatory assumptions.

44. A sharing of benefits in this way provides incentives for all local parties to make a determined effort to find areas where a marginal or significant relaxation in required standard or consent would be possible yet still ensure delivery of compliance with EU directives and/or the overall objective.

45. **Approval prior to commitment to ensure recognition.** Where circumstances or situations change that require more than a minor revision to the funded improvement programme then there is a presumption that the water company will seek approval/confirmation from the relevant quality regulator and Ofwat prior to making any commitment to a revised output. This is a change to the practice in earlier periods when a basket of changes tended to be put before Ofwat as part of an interim determination application or logging up claim at the subsequent periodic review.

46. Timely confirmation in principle by Ofwat will minimise delay but this requires a water company to provide Ofwat with the information needed (including, where appropriate a report from its reporter) to make such a decision. Ofwat will aim to respond to a request for approval/confirmation within six working weeks of receipt. Provided the company can demonstrate the associated costs have been reviewed and validated by the Reporter, such approval/confirmation will normally include a decision on relevant costs, after taking into account the findings of the Reporter and any comparative information available at that time. Where this is not possible or practical then Ofwat will inform the company and other parties of the timetable it is working to. In these circumstances, Ofwat will set down the reasons for any delay and whether it is limiting any decision just to matters of principle and leaving decisions on the relevant net additional costs to a subsequent interim determination or 2009 periodic review.

47. If an early decision on reasonable net additional costs is sought and Ofwat is in a position to make this decision then the company will be afforded an opportunity to make representations on Ofwat's draft cost decision. Ofwat's final decision on costs applicable to the change will be carried forward unchanged into any subsequent price setting - interim determination or logging-up at the 2009 periodic review. It is always open to the company concerned, if it considers that Ofwat's determination is unreasonable to have all matters referred to the Competition Commission for a fresh determination.

48. Without a confirmation in principle Ofwat will assume that the company does not want the revised output recognised specifically in future price limits, either at an interim determination or through logging up. Regulatory approval in principle prior to commitment will ensure recognition of the reasonable net additional costs at subsequent price setting.

49. **Triviality and aggregation of changes.** Ofwat has a long established policy, in line with each company's licence, of ignoring trivial changes for the purposes of amending price limits. This policy also helps to ensure we maintain an arm's length stance relative to the company and do not get drawn into seeking to assess the cost implications of every minor change (up or down).

50. Our triviality criterion is related to company size since the net effect of the cost assessment is to make an appropriate adjustment to a price limit. The triviality criterion remains at +/-1% of the relevant service turnover (water or sewerage) of the company in the previous financial year to that which the assessment is made. If the simple sum of the net additional costs or savings associated with the change up to the next pricing period exceed the triviality criterion then it will be considered further. However, if the simple sum of the costs or savings arising from the change is less than or equal to the +/-1% criterion then the change will be deemed to be minor and not considered further.

51. The triviality criterion has relevance to decisions on whether there is a need for detailed benefit assessments. In general these assessments would only be justified for proposed changes to the funded programmes that exceed the triviality criterion.

52. In many instances a change in policy or other new circumstances affects a number of a company's installations. The change at each installation may only impose a low level of additional costs – say below the triviality criterion, however, in aggregate the full impact of the change in policy/circumstance could be above the criterion. In these circumstances we will continue the current practice of aggregating changes associated with a specific change in circumstance or driver of the funded improvement programme for the purposes of testing against the triviality criterion and if above this level consider the aggregate change for funding in future price limits.

53. In all instances the final assessment against the triviality criterion will use Ofwat's view of the reasonable net additional costs/savings directly associated with the specific changes in circumstance. Our judgements on the reasonable net additional costs will be derived from the company's submission, taking account of the findings of the reporter and comparisons made by us on the costs incurred by other companies.

54. **Companies to finance changes up to the materiality threshold.** Each water company's licence provides a mechanism for it (or Ofwat) to seek a change in the price limits between reviews where the overall net additional costs (or savings) of the non-trivial changes exceed the materiality threshold. There is an established practice on how Ofwat will carry out interim determinations and of course a company has a right of appeal to the Competition Commission if it disagrees with Ofwat's determination. The materiality threshold and its arithmetic are set out in each company's licence. The degree of risk this leaves with the company is reflected in its cost of capital.

55. Where a company cannot seek an interim determination or where it decides not to seek such a determination then the reasonable net additional capital costs/savings associated with recognised non-trivial changes are reflected in future price limits through Ofwat's **logging up/down procedures**. These procedures only finance from the start of the next pricing period the reasonable net additional costs arising from recognised changes and make no allowance for a company's financing costs up to this date.
56. In the past a limited number of companies have been said to have delayed making progress with required improvements that were not included in the funded improvement programmes until an interim determination was triggered. They have persuaded the appropriate quality regulator not to impose the requirement citing the lack of financing as the reason for non-co-operation.
57. Ofwat considers this practice would be contrary to how the licence is assumed to operate. Each company's price limits assumes a cost of capital that reflects business risk. One of these risks is the potential need to finance progress on required changes for the balance of the pricing period unless or until the scale of the changes enables it to seek an interim determination.
58. However, the underlying assumption is that new quality obligations should not be imposed so as to take effect any earlier than is strictly necessary and if it is practical without breaching an EU directive deadline, to defer them so that they can be included in the next periodic review, then this should be done. In the event that a compliance date within AMP4 is required then the relevant parties should seek to agree the most practical and economic timetable for agreement. Failing such an agreement then these matters should be dealt with as contentious changes.

D Five outline procedures

59. In this section we set out five outline procedures as a guide to both water companies and quality regulators as to how the principles set out in section C should be implemented in practice. These outlines are not exhaustive or prescriptive in the sense that an actual circumstance around a proposed change will differ from the outlines.

60. No timescales have been prescribed for each of the steps in the outline procedures but it is incumbent on each party to expedite decisions and avoid unnecessary delay. As a general rule Ofwat would expect the party triggering the change to set down its expectations of the timetable at the start and for those involved to either confirm agreement or set down their own requirements. This should enable a revised timetable to be set and followed.

61. The five outlines are:

- (1) Minor change procedure - generally where the changes are less than the triviality threshold and are proposed to be managed in a cost neutral way.
- (2) Benefit sharing procedure.
- (3) Non-contentious quality change procedure.
- (4) Contentious quality changes.
- (5) Service enhancement change procedure.

62. **Minor Change Procedure.** As set down earlier a company must have the freedom to make minor revisions to its priorities and programmes to address changing circumstances or situations as they arise. Ofwat's expectations are that in aggregate these changes will be cost neutral with delays being offset by accelerations elsewhere in the relevant service's funded improvement programme (water or sewerage). Without these offsets Ofwat will deal with delays as shortfalls. Typical examples could involve handling significant delays in the proposed delivery of a defined output caused by refusal of planning permissions and this being offset by accelerating other outputs in the same area of the improvement programme. Where planning delays mean project completions beyond a statutory date associated with an EU directive then the EA will still issue permits and report progress in accordance with the statutory deadline.

63. We would expect the water company to:

- Step 1 - Prepare a short summary of the reasons for the proposed change and its implications for the delivery of the funded output together with proposals as what other funded outputs could be brought forward to compensate for the change in a broadly cost neutral way.
- Step 2 - Discuss the proposed changes to the funded improvement programme with the relevant quality regulator (drinking water quality - DWI, environmental improvements - EA/EN/CCW, service enhancements – Ofwat).
- Step 3 - If requested by the relevant regulator commission a brief audit of the proposal by the company's reporter with his/her findings shared between the parties.

Step 4 - Implement the changes.

Step 5 - Notify Ofwat of the changes made to the funded improvement programmes. This can be via a continuous process to reduce peak workloads but must take place at least annually so that progress against the revised funded programme can be assessed and reported on by the relevant regulator. The overall position will be reflected in the company's June return on the previous financial year as well as its annual update on progress to its WaterVoice committee.

64. Under this procedure the company should provide some evidence of the relevant regulator's approval to the proposed change. If this evidence is not available then as a minimum the company will need to show that it has sought approval and provided sufficient time for its proposals to be considered by the relevant regulator (say three months). In the absence of this evidence the use of this minor change procedure is inappropriate.

65. **Benefit Sharing Procedure.** Both the water company and its quality regulators have incentives to revisit the requirements assumed in the funded improvement programme at particular locations to see if there is a relaxation in requirements that would deliver compliance at lower cost. Typical examples could involve reducing flows to full treatment at coastal sewage treatment works, the level of storage at combined sewer overflows or revisions to the balance of abstractions to enable blending of treated waters rather than extra treatment to deal with nitrate contamination of raw waters.

66. Under this procedure we would expect the water company and its regulators to:

Step 1 - Review the funded improvement programme to identify the potential for a relaxation at particular locations.

Step 2 - Where there is potential commission a more detailed study by the company and the relevant local regulator to work up formal proposals and the anticipated cost savings that would accrue from the changes. In most instances it is expected that WaterVoice should be kept informed of these studies.

Step 3 - Commission a brief audit of proposal by the company's reporter with his/her findings shared between the parties (including WaterVoice in most instances).

Step 4 - Prepare an agreed short summary of the proposal including the net financial benefits and the impact on risks into the future. The relevant local quality regulators and WaterVoice to be consulted on how the respective proportions are to be used.

Step 5 - Implement the changes.

Step 6 - Notify Ofwat of the agreed changes so that these can be recorded as such on our funded improvement programmes and carried forward correctly into price setting at the next periodic review. This must take place at least annually and preferably in the lead up to submission of its

June return so that progress against the revised funded programme can be assessed and reported on by the relevant regulator.

67. The water company and its regulators are advised to keep Defra/WAG, Ofwat and its WaterVoice committee informed of developments under this procedure. If either Defra/WAG or Ofwat raise objections to the proposed changes this would trigger a need for a reappraisal with implementation put on hold until such time as the objection is withdrawn.

68. **Quality change procedure.** Every effort is made to define requirements as part of the funded improvement programmes. However, there will be some areas where delivery of compliance with an existing legal requirement cannot be defined in sufficient detail in time to be included in the package. Also new requirements could arise from new EU directives or decisions by Ministers in the light of the outcomes of infraction proceedings taken by the European Commission. When the requirements become clear and if urgent, they need to be accommodated in the water company's programme of works. In many instances the new requirement will not be contentious but this does not remove the need for formal endorsement of the change by the appropriate standard setter.

69. A typical example of using this change procedure could involve incorporating the changes to discharge permits following unambiguous findings by the quality regulator that the cause of non-compliance with a requirement is a water company's discharge, and that all parties agree the appropriate solution rests with action by the company.

70. Under this procedure we would expect the relevant local quality regulator and water company to:

Step 1 - Prepare and submit to Ofwat and Defra/WAG an agreed outline submission setting down the reason for the proposed change(s) and the relationship to existing EU or domestic legal requirements to enable them to confirm that the proposed changes are not contentious. (Local quality regulator in the lead.)

Step 2 - Extend the agreed submission to include: (Water company lead.)

- the basis for the identified solution, and its cost effectiveness, contrasted with a full consideration of alternatives including non-water industry actions (if appropriate);
- the proposed improvements scheme(s) and reasonably detailed specifications or details of changes to the previous specification;
- the results of a brief review as to whether and what other outputs in the funded improvement programme could be deleted, delayed or postponed into the AMP5 programme without jeopardising compliance dates linked to EU directive deadlines, to accommodate the proposed changes (the views of Defra/WAG would need to inform this review);
- the estimated costs and benefits of the proposed improvements or changes to improvement schemes (using the approach to assessing

both costs and benefits agreed in advance with Defra/WAG after consultation with Ofwat);

- the audit report from the company's reporter validating the cost estimates and commenting on the benefit assessments;
- the impact of the proposed changes on both price limits and average bills for the water company's customers (including confirmation from Ofwat that these are valid assumptions) and;
- any representations made by WaterVoice and/or customers about the proposed change.

Step 3 - Upon receipt of the full submission Defra/WAG will review the position and confirm and/or indicate whether the proposals are or are not in line with established policy. Defra/WAG will write formally to Ofwat copied to the other parties setting out its decision, with reasons on the proposal.

Step 4 - If the proposal is endorsed fully by Defra/WAG then Ofwat will confirm to all parties that the proposed change will be recognised as a formal revision to the required improvement programme. This confirmation provides the water company with the assurance that the reasonable net additional costs arising from the confirmed changes can be reflected in future price limits either through the logging-up mechanism or through an interim determination.

Step 5 - The local quality regulator will impose the requirement and the water company will implement and deliver the new requirement by the date set down. Delivery of the new requirement will be monitored in the normal way using the June return and its associated reports from the quality regulators. The company will also wish to keep WaterVoice informed of changes through the annual updates of the Monitoring Plan.

Step 6 - The water company will include the change in an interim determination application or its logging-up claim at the 2009 periodic review.

71. It is expected that this procedure will be used for non-trivial changes, with the aggregation of smaller changes associated with a single policy shift, provided these total above the triviality threshold.

72. Use of this procedure implies that both the regulator(s) and the water company are in general agreement about the need and justification for the change and the proposed solution. Any divergence of views on the costs or benefits should be set down clearly in both the outline and full submissions. If there is not this general agreement then every effort should be made to resolve the divergence of views and thus avoid a formal dispute. If matters cannot be resolved and points at issue are substantive then the proposed change should not be pursued through this procedure, as it would be contentious. If the points at issue are not substantive then it is hoped that progress can be made, recording the disputed points and proceeding with the lower cost solution or option under consideration.

73. In both step 1 and 3 there is an option for Defra/WAG or more particularly Ofwat to take a view that the proposal is contentious. This would then require the following procedure.

74. **Contentious quality changes.** There will be occasions when either the water company or Ofwat does not accept the need for or justification of a proposed change being sought by a quality regulator. Hopefully these will be few and far between as has been the experience of the last 15 years. The approach set out below is, in Ofwat's view, a clarification of the process used since 1990 and updated to take account of additional Government advice in 2001 (see ¶1).

75. For contentious changes Ofwat will require evidence that the water company has taken the appropriate means of challenging the imposition of the requirement and/or its timetable before it is able to seek remuneration for reasonable net additional costs incurred in meeting the requirement. In most instances this evidence will derive from the discussions held between the company and relevant regulator at both regional and national level. If necessary, advice might need to be sought from Defra/WAG on outstanding issues relating to the interpretation of policy.

76. In some instances the changes are so contentious that formal appeals are both necessary and appropriate. Statute provides several means by which a water company can challenge the imposition of a requirement. These would include, for example, an appeal to the Secretary of State under section 91 or the Water Resources Act which, in most cases, would be heard by the Planning Inspectorate on the Secretary of State's behalf. These formal appeal processes should be seen as the last resort.

77. The contentious change procedure should not be used to challenge clear and unambiguous statutory requirements. But it may apply where the means of achieving such requirements is open to question. An example of a contentious change could involve requiring a water company meet the costs of higher consents that result directly or indirectly from a quality regulator's decision not to pursue upstream polluters. Other examples might include;

- the imposition of consent conditions that are considered disproportionate;
- requirements for storage at intermittent discharges that are considered excessive to achieve the required improvement in the quality of the receiving watercourse;
- the proposed imposition of minimum design requirements and/or operational practices that are considered unnecessary and restrict the freedom of a water company to manage its own affairs within the law.

78. Past experience has shown that dealing with contentious issues can be time-consuming and can absorb considerable resources. Ofwat and the quality regulators will seek as far as possible to minimise the regulatory burden in this area and also work to avoid delayed decisions. Ofwat and the quality regulator will wish to resolve issues that might otherwise put the company in a "piggy-in-the-middle" position. If the company identifies such circumstances then Ofwat and the relevant regulator would use their best endeavours to negotiate a timely resolution to the dispute.

79. But if the various parties identify major irresolvable issues, then it is important to establish a clear process for their early resolution. Ofwat would expect the following:

Step 1 - Either the water company or Ofwat following the outline submission of a proposed change under the previous procedure to notify the quality regulator that it considers the change to be contentious. This notice should also be copied to Defra/WAG and Ofwat so that their views on policy issues exposed can be obtained.

- At this stage Defra/WAG or Ofwat may wish to opine on the policy issues and whether they agree that the proposed change is contentious.

Step 2 - The quality regulator would review the position and decide whether to proceed with its proposal or withdraw it in an attempt to find a non-contentious proposal that could be supported by all parties.

Step 3 - If the quality regulator proceeds with its original proposal and it is still considered contentious then the water company should challenge the new requirement. This could take many forms such as; a discharge consent appeal or by seeking full compensation for the loss of an abstraction licence.

Step 4 - The quality regulator will continue not to enforce the proposed change until the matters have been resolved through the due processes.

Step 5 - At least annually each water company should report to Ofwat on all contentious quality changes in play at that time. The company will also wish to keep WaterVoice informed of the position on contentious quality changes through supplements to annual updates to the Monitoring Plan.

80. Where appropriate, decisions by the appropriate appellate bodies will help set precedents in case law, which will avoid the need for subsequent appeals on the same policy issues.

81. **Service enhancement change procedure.** As with quality enhancements every effort is made to define the service enhancements part of the funded improvement programmes. However, there will be some areas where there is insufficient justification for proposed enhancement in a company's business plan for them to be included in the price limit package. Such justification could be forthcoming in time and if the company believes there is an urgent need to make further progress then it could use this procedure to ensure funding in future price limits.

82. Typical examples could involve resolving further problems arising from flooding from sewer where the cost/benefit justification has been made out. Alternatively a water company may wish to make further progress reducing the problems of odour at sewage treatment works or seek to pursue additional selective metering following a successful application for water scarce area status.

83. Under this procedure we would expect the water company to:

Step 1 - Prepare and submit to Ofwat and WaterVoice an outline submission setting down the reason for the proposed change(s) to enable both of them to confirm that the proposed changes are non-contentious.

Step 2 - Extend the submission to include:

- the proposed improvements;
- the estimated costs and benefits of the proposed improvements or changes to improvement schemes (using the approach to assessing both costs and benefits agreed in advance with Ofwat);
- the audit report from the company's reporter validating the cost estimates;
- the impact of the proposed changes on both price limits and average bills for the water company's customers; and
- clarification of the level of support for the proposed changes from WaterVoice and some evidence of customers willingness to pay (where the 2004 periodic review research is used it must be clear that this is still valid).

Step 3 - Upon receipt of the full submission Ofwat will review the position and confirm to the company and the local WaterVoice whether it will recognise the proposed change(s) as a formal revision to the required improvement programme. This confirmation provides the water company with the assurance that the reasonable net additional costs arising from the confirmed changes can be reflected in future price limits. Generally the Ofwat decision will limit the recognition to just the logging-up mechanism as to do otherwise reduces the incentives on a company to plan robustly for the future in its periodic review submissions.

Step 4 - The water company will implement and deliver the new service enhancements by the dates set down. Delivery of the new requirement will be monitored in the normal way using the June return and the annual updates of progress to its WaterVoice committee.

84. It is expected that this procedure will be used for non-trivial changes, with the aggregation of smaller changes associated with a single policy shift provide these total above the triviality threshold.

85. Use of this procedure implies that both the water company and WaterVoice are in agreement about the need and justification for the change and the proposed solution. If WaterVoice are not prepared to support the change then it is unlikely that Ofwat will confirm the changes sought by the company.

86. As with the quality enhancement changes any divergence of views between the company and WaterVoice on the costs or benefits should be set down clearly in both the outline and full submissions.

E Additional Guidance on Quality Enhancement Issues

87. In this section additional guidance is provided on some of the issues that are likely to arise during the AMP4. In many instances this additional guidance confirms the earlier position on these issues. The issues covered are:

- water abstraction licence changes;
- reappraisal schemes;
- sewage treatment works flow consents; and
- section 101A first time sewerage applications

88. **Water abstraction licence modifications.** To ensure equal treatment between all abstractors, Ministers have stated in their final guidance that the statutory compensation route should be followed by the EA. This uses the process set out in sections 52-54 of the Water Resources Act 1991.

89. The funded improvement programme does provide for a large number of investigations of the environmental impact of water abstractions by water companies. The findings from these studies may lead the quality regulators to conclude that a water abstraction licence requires revocation or amendment. When the licence is revoked or amended, the affected water company will be able to seek compensation from the EA for the costs it incurs in finding replacement water; any disputes on the level of compensation will be resolved by the Lands Tribunal. The compensation paid by the EA is likely to be recovered through increases in water abstraction charges for all abstractors.

90. Non-trivial increases in water abstraction fees arising from EA and/or Lands Tribunal compensation decisions has been included by Ofwat as part of a notified item such that the reasonable net additional costs would be eligible for inclusion in an interim determination. This route would be open to all affected water companies, not just the company receiving compensation.

91. **Reappraisal schemes.** Where an environmental improvement initiative has been omitted from the final determination because the evidence presented in a company's business plan has shown that the scheme(s) offer very poor value for money, further justification will be required before its inclusion in the funded improvement programme. It is expected that the company and local quality regulator will reappraise initiatives in the early years of the price limit period, using approaches consistent with the requirements set down in this protocol, with consultation on the results prior to seeking decisions as to whether to proceed or not. Ofwat would expect the company to ensure that the relevant WaterVoice committee is included in this consultation. It is expected that these case by case reappraisals will:

- ensure that the appropriate solutions are identified, together with estimated net additional costs;

- identify and quantify the benefits arising from the proposals (generally following the benefit assessment guidance approach or a specific study) and contrasting this with the earlier benefit analysis.

92. **Sewage treatment works flow consents.** A considerable number of sewage treatment works operate at above formally consented flows but within the determinand requirements. In many instances the formal consented flows were based on estimates which have been shown to be in error once flow measuring started in earnest. These issues are complicated in some instances by real growth in sewage volumes. In some cases, companies may have anticipated similar issues in the future as a consequence of expected growth in flows. Generally no provision will have been made in price limits for capital works associated with proposed changes in discharge consents to limit pollution loads to the product of consented flows and consented determinand concentrations where the individual works currently meet the requirements of the UWWTD. It is expected that proposed tighter consents arising from dealing with non-compliance with old flow consents found to be in error would need to be justified on cost benefit grounds.

93. Similarly, where growth in flow is expected in future, no provision will have been made in price limits for capital works associated with future tightening of determinand concentrations to limit total pollution loads to the product of currently consented flows and determinand concentrations. It is expected that future tightening of consents would need to be justified by reference to the established environmental quality standards in the receiving water, rather than through a simple pro rata reduction in determinand concentrations.

94. Similar considerations should apply if works are shown to be non-compliant with flow to full treatment requirements but river water quality objectives are met. In these circumstances the consent should be rationalised in line with works performance unless an increase in flow to full treatment can be justified in terms of a statutory environmental requirement and on cost benefit grounds.

95. Consent changes not following these general considerations are likely to be considered a contentious change.

96. **Section 101A first time sewerage schemes.** Judgements will have been made in a company's business plan on a programme of first-time sewerage schemes, based on recent trends of work associated with this long-standing obligation. Generally as the section 101A duty is long-standing, the risks of over and under-estimating the likely impact in the AMP4 period rest with the company. Ofwat will expect a company to manage new high priority applications by revising priorities within its assumed programme and postponing equivalent lower priority work into the AMP5 period using the minor change procedure to keep all relevant parties informed of progress.

97. A company may decide or be required to carry out an additional scheme(s) as well as those assumed in the funded improvement programmes. In making this decision it needs to be aware that Ofwat's policy is to assume that additions to the section 101A programme are not a relevant change in circumstance for the purpose of interim determinations. However, Ofwat's policy is to allow the reasonable net additional costs of meeting additional schemes to be logged-up since the revenue from the newly connected customers will be taken account of in the 2009 periodic review.

F Additional guidance on service enhancement and miscellaneous issues

98. In this section additional guidance is provided on some of the issues that are likely to arise during AMP4. In many instances this additional guidance confirms the earlier position on these issues. The issues covered are:

- aesthetic, taste and odour drinking water improvements
- further reductions in flooding from sewers
- planning requirements; and
- additional sewage treatment works odour nuisance alleviation

99. **Aesthetic, taste and odour drinking water improvements.** Judgements will have been made in a company's business plan, following discussions with DWI and its WaterVoice committee on a programme of service enhancements to its drinking water associated with solving or reducing local problems with aesthetic, taste and odour quality. DWI formal support is a precondition for inclusion of a project in the funded improvement programme. Generally the risks of over and under-estimating the need for such enhancements in the AMP4 period rest with the company. Ofwat will expect a company to manage new high priority improvements by revising priorities within its assumed programme and postponing equivalent lower priority work into the AMP5 period using the minor change procedure to keep all relevant parties informed of progress.

100. A company may decide or even be required to carry out an additional enhancement schemes as well as those assumed in the funded improvement programmes. In making this decision it needs to be aware that Ofwat's policy is to assume that such additions are not a relevant change in circumstance for the purpose of interim determinations. However, a company may wish to use the service enhancement change procedure to obtain a decision from Ofwat on whether it will allow the reasonable net additional costs of the additional schemes to be logged-up at the 2009 periodic review.

101. **Further reductions in flooding from sewers.** Judgements will have been made in a company's business plan, following discussions with its WaterVoice committee on programmes to solve or reduce known local problems associated with flooding from sewers and likely new problems. In many instances the proposed programmes were based on priority ranking rather than a formal cost-benefit appraisal. Ofwat, in its determinations has sought improved cost/benefit analysis by companies to confirm the improvements being delivered do meet a presumption of value.

102. A company may decide to carry out additional schemes to reduce the risk of flooding from sewers (internal and external) over and above those assumed in the funded improvement programmes. In making this decision it needs to be aware that Ofwat's AMP4 policy is to assume that such additions are not a relevant change in circumstance for the purpose of interim determinations. This is a change from the policy in AMP3 where Ofwat did accept increased and accelerated sewer flooding programmes in some interim determinations. The change in policy results from all companies now having had sufficient time to develop robust programmes in their business plans and the increased

scope of the improvements included in the funded programmes. However, a company may wish to use the service enhancement change procedure to obtain a decision from Ofwat on whether it will allow the reasonable net additional costs of the additional schemes it consider should be logged-up at the 2009 periodic review. In doing so a company will need to carry out robust cost/benefit work to demonstrate that the additions do represent value for money and they are indeed additions to what has been included in the funded programmes.

103. **Planning requirements.** It is for the water company, as applicant, and the local planning authority working within planning law and guidance to seek to reach an appropriate solution to a particular requirement. The water company should allow adequate time for resolution of planning issues so that required completion dates are met. However, water customers should not be asked to finance the consequences of excessive and unreasonable requirements sought by planning authorities, whether in terms of location, design or planning gain requirements going beyond Government planning guidance on such issues.

104. The assumptions in final determinations are based on reasonable solutions that do reflect local circumstances but do not reflect excessively stringent planning requirements.

105. If a planning authority seeks to impose a disproportionate requirement on a proposed development then the water company should draw this to Ofwat's attention, together with information on both its proposals and those of the authority. The company may wish to invite Ofwat to make representations to the planning authority or Government as appropriate.

106. If the planning authority then imposes a disproportionate requirement then the company has two options. The company could decide to accept the requirements or appeal to the Secretary of State. If a company chose the first option, Ofwat would assume that the company has decided to absorb the net additional costs and so waive any possibility of having these costs recognised for the purpose of interim determinations or for logging-up.

107. If a company appealed the planning authority decision, then the reasonable net additional costs associated with the final decision by the Secretary of State would be recognised by Ofwat. The company would be required to substantiate the net additional costs and demonstrate that it had made appropriate representations in the course of their appeal

108. **Additional sewage treatment works odour nuisance alleviation.** Judgements will have been made in a company's business plan for a programme of odour nuisance improvements at sewage treatment works, based on its assessment of recent problems. In most instances Ofwat's determination provides for a more limited programme focussing on particularly malodorous parts of sewage treatment works as part of its judgement of needs to maintain long-term serviceability.

109. Odour nuisance from sewage treatment works has had greater prominence in recent years. However, there are no new obligations in this area that would pass the normal interpretation of a relevant change of circumstance. A code of best practice is being

developed by the industry in association with Ofwat and Defra. It is anticipated that the code will be implemented during the AMP4 period.

110. As avoidance of statutory nuisance is a long-standing obligation the risks of over and under-estimating the likely impact in the AMP4 period rest with the company. Ofwat will expect a company to deal with new nuisance problems by revising priorities within its capital maintenance programme.

111. However, a company may wish to use the change procedure to obtain a decision from Ofwat on whether it will allow the reasonable net additional costs of additional odour nuisance alleviation schemes to be logged-up at the 2009 periodic review. In doing so a company will need to demonstrate the urgency and its reasoning why the scheme(s) cannot be accommodated in its capital maintenance programme. A company will also need to demonstrate support from the relevant WaterVoice committee for any alleviation scheme and to provide evidence of local opinion research.

G Updating the AMP4 change protocol

112. The AMP4 change protocol forms part of documents underpinning Ofwat's final determination of price limits for the 2005-10 period in early December 2004. Ofwat will carry out a short review of the operation of the protocol in late 2006, seeking views from companies, quality regulators and other directly involved parties at that time. The review in late 2006 will enable Ofwat to consider whether changes need to be made to the protocol. Ofwat will publish the findings of its review and any updated version of the protocol in March 2007.

113. Notwithstanding the formal review in 2006 the protocol may be updated from time to time. The current version of the protocol will be available on Ofwat's website.

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