

CONSULTATION



**Competition in
the provision of
new water mains
and service pipes**

TABLE OF CONTENTS		PAGE
1	Purpose	2
2	Why self-lay is desirable	3
2.1	The need for guidance	3
3	Basis of guidance	4
4	Consultation	5
5	Next steps	8
6	Draft guidance on self-lay policies	9
6.1	Scope of self-lay	9
	- Policies for on-site and off-site provision	9
	- Design	10
	- Installing new water mains, service pipes and water meters, and connection to new and existing mains	11
	- Pressure testing and disinfection	13
	- Water sampling and quality testing	13
6.2	Water company criteria for approval of SLOs	13
6.3	Specifications for self-lay work	14
	- Methods of working	14
	- Materials	15
6.4	Levels of service water companies will provide to SLOs	16
6.5	Level of supervision and inspection	17
6.6	Charges made by water companies	18
	- Charges for design	18
	- Charges for materials	19
	- Charges for inspection and supervision	19
6.7	Payments by water companies to SLOs for self-laid assets	20
	Annex 1 – Overview of water companies’ self-lay policies	21
	Annex 2 – The position in gas and electricity	22-23
	Annex 3 – List of official consultees	24-26
	Annex 4 – Glossary of terms	27-28

1. PURPOSE

Since the introduction of the Competition Act 1998 ('the Act'), and previously under the Water Industry Act 1991, we have received complaints about water companies apparently exploiting their positions when negotiating with developers about providing new water mains and service pipes. In considering these, we have examined how we can facilitate effective competition. This would prevent water companies abusing any dominant position in this market, increase choice and ensure a better deal for customers.

Until recently the water companies have, in effect, controlled the whole of the water network, including laying new water mains and service pipes. They should still maintain the integrity and quality of the network but there is no reason why others should not be allowed to lay new water pipes. Most companies have already moved towards giving developers the option to do this work. This paper informs companies of the need to ensure their policies in this area are in line with best practice.

The Act came into effect on 1 March 2000. In broad terms, it prohibits agreements, decisions or concerted practices which may restrict competition and may affect trade within the UK (the Chapter I prohibition), and conduct which amounts to the abuse of a dominant position which may affect trade within the UK (the Chapter II prohibition). Further details about the prohibitions are contained in the Competition Act guidelines *The Major Provisions, The Chapter I Prohibition and The Chapter II Prohibition*¹. In February 2000 Ofwat and the Office of Fair Trading (OFT) published *The Competition Act 1998: The Application in the Water and Sewerage Sectors*. The guideline identifies specific circumstances in which the Director General of Water Services and the Director General of Fair Trading may apply their powers under the Act, to enforce the Chapter I and Chapter II prohibitions in the water and sewerage sectors (see paragraphs 4.44 to 4.52 of the guideline). These include providing infrastructure (water mains and service pipes) necessary to enable the provision of water services to new development.

This paper seeks views on developers, either themselves or through contractors, undertaking most of the work involved in installing new water mains and service pipes (referred to in this paper as self-lay) rather than using the water company. It sets out our view on the self-lay policies and practices that water companies should now have in place. We believe that water companies should allow developers to organise and undertake most of the work involved in installing new mains and service pipes.

Responses to this paper and final guidance will be published in early 2002. We will then ask water companies to review their self-lay policies in the light of that guidance.

¹ These publications are available on the Office of Fair Trading's web site at www.offt.gov.uk.

This paper does not cover sewers. This is because we believe there is already effective competition in this area. People are able to lay sewers themselves under section 104 of the Water Industry Act 1991 and this is supported by a self-lay policy in the form of Sewers for Adoption. Also, while sewerage companies can insist on making new connections to their existing public sewers under section 107 of the Water Industry Act 1991, they rarely do so.

2. WHY SELF-LAY IS DESIRABLE

Historically, developers have had to apply for a requisition under sections 41 to 44 of the Water Industry Act 1991 to arrange for water mains for domestic purposes to be connected². Developers have complained about the high level of charges by some water companies for design, main laying and overheads, and about the length of time taken to do the work.

Encouraging competition in the provision of new mains and service pipes will provide opportunities for water companies and developers. Developers will benefit by having a choice of either installing the infrastructure themselves or employing other self-lay organisations (“SLOs”)³. Developers will be able to plan the main laying and connection work to suit their own site programme. This will provide incentives for SLOs and water companies to improve their performance and calculate their charges on a more competitive basis. Water companies may themselves decide to compete for this work in both their own and other water companies’ areas, working to the same requirements as SLOs.

In connection with self-lay, developers have become interested in the option of multi-utility infrastructure provision. This is where one SLO installs all utility services to a site, sometimes in a single trench. This can lead to cost savings as a result of excavation and reinstatement being common for all services. It also minimises the risk of damage to existing infrastructure caused by excessive excavation.

2.1 The need for guidance

Most water companies have already moved towards giving developers the option to self-lay but we have received complaints against water companies from SLOs about:

- delays in providing details of their self-lay policies;
- delays in providing water system design and cost information;
- failure by a water company to implement its self-lay policy; and
- water companies’ charges for work connected with laying mains.

² Water companies have a duty to provide water mains that are sufficient for domestic purposes when required to do so by a notice (requisition), once financial conditions of compliance are satisfied and the places for connection with the main are determined.

³ Self-lay organisations include developers who are capable of laying their own mains and service pipes, contractors laying mains on their behalf and multi-utility infrastructure providers.

SLOs have also expressed concern about the poor levels of service received from some water companies when undertaking self-lay works. Complainants believe that these are attempts by water companies to frustrate competition in this market.

To avoid the potential for infringing the Act companies should have clear and comprehensive self-lay policies that are freely available and consistent with the principles proposed in the guidance. We hope that more generally this paper will encourage constructive working relationships between water companies and SLOs.

3. BASIS OF GUIDANCE

We have comprehensively reviewed water companies' policies and procedures for self-lay. This began with an information request to 22 water companies in July 2000. We asked for information on their policies for laying water mains for developers themselves (requisitioned mains) and for allowing other organisations to lay water mains and service pipes within their areas (self-laid mains). The companies we contacted are listed in Annex 1, with an overview of the type of work water companies consider to be contestable (open to competition) and non-contestable (for which water companies should retain responsibility). We asked SLOs and some water companies for their views on these issues and took account of these in drafting this guidance.

Thirteen water companies submitted self lay policies, Anglian, United Utilities, Severn Trent, Thames, Bristol, Dee Valley, South East, Sutton and East Surrey, Yorkshire, South Staffordshire, Northumbrian, Southern, and Three Valleys. Only three companies, South West, Portsmouth and Bournemouth and West Hampshire, did not have self-lay policies. Other companies reported that their policies were in production. Generally, companies have welcomed self-lay and have worked with SLOs in developing their policies and processes.

The areas of main laying most commonly treated as contestable by water companies include:

- the design and installation of on-site mains and service pipes;
- the connection of service pipes to new mains;
- pressure testing and disinfection processes; and
- procurement of materials.

The areas most commonly considered by companies to be non-contestable are:

- connection of new mains to existing mains; and
- installation of off-site mains.

The aspects of the work that we consider to be contestable and non-contestable are discussed in section 6(i).

This guidance builds on examples of good practice in companies' self-lay policies. It covers the areas mentioned above and companies' charges to SLOs, payments for assets and the levels of service companies should provide.

We have taken account of advice from a consultant engineer with relevant experience of operational management in the water industry, including extension, renewal and renovation of water and sewerage infrastructure. We have also discussed self-lay with the Office of Gas and Electricity Markets (Ofgem), because many of the issues considered in developing competition in gas and electricity connections are relevant to water.

4. CONSULTATION

We have identified key principles that should underlie companies' self-lay policies. These principles are listed below and are also shown in italics in section 6. Views are invited on these principles and on the issues raised in this paper.

- *Water companies should have clear and publicly available self-lay policies that reflect the principles below.*
- *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.*
- *It is reasonable for water companies to retain the right to carry out off-site work to reinforce the existing network.*
- *Water companies should allow SLOs to design on-site systems. These should be submitted to water companies for approval before starting work.*
- *It is reasonable for water companies to retain the right to design off-site systems.*
- *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.*
- *Water companies should allow SLOs to install service pipes and water meters.*
- *Water companies should allow SLOs to connect service pipes to new mains (after the water company has filled them with water).*
- *It is reasonable for water companies to retain control of the timing of connections of service pipes to new mains.*

- *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.*
- *Water companies should allow SLOs to pressure test new mains under supervision and should allow them to carry out disinfection.*
- *It is reasonable for water companies to retain the right to undertake water sampling and quality testing.*
- *Water companies should have a clear and reasonable set of criteria against which SLOs can be assessed for appropriate skills and qualifications.*
- *SLOs should not be expected to meet higher standards than those contractors employed directly by water companies.*
- *Water companies should require an SLO to be competent only in those activities it proposes to carry out.*
- *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.*
- *Water companies should allow SLOs to procure materials themselves, so long as they comply with water companies' reasonable specifications and national standards.*
- *Where water companies require materials to be standardised, they should be able to justify this in relation to operational benefits.*
- *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.

- *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.*
- *Where work is carried out by the water company, charges to SLOs should reasonably reflect the costs of the work. 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.*

- *Developers should be able to compare companies' costs for installing mains with the costs of SLOs.*
- *Charges for approving designs should be no greater than the costs associated with checking internally produced designs, plus any reasonable administrative costs.*
- *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.

We also invite your comments on:

- *whether water companies should make compensation payments to SLOs for failure to meet published timescales;*
- *how you would like to see competition in new water connections developing; and*
- *the desirability of:*
 - *establishing levels of service that SLOs can expect to receive from water companies;*
 - *a single, national code for approving SLOs; and*
 - *a single, national self-lay policy.*

These issues are discussed in more detail in section 6.

Please mark your responses "self-lay" and send them, by 31 October 2001, to:

Elaine Chatham
 Competition Policy Team
 Office of Water Services
 Centre City Tower
 7 Hill Street
 Birmingham
 B5 4UA

or by fax to: 0121 625 1379

or by email to: elaine.chatham@ofwat.gsi.gov.uk.

If you wish to discuss any aspect of this paper, please contact Elaine Chatham, Competition Case Manager, on 0121 625 1390.

Unless otherwise requested, all responses will be placed in the Ofwat library and made available to the public.

5. NEXT STEPS

We will publish a paper early in the new year, summarising responses to this consultation and setting out final guidance to water companies on self-lay, including our reasoning. We will provide feedback on the desirability of establishing levels of service that SLOs can expect to receive from water companies and on the benefits of a single, national self-lay policy and a national code for approving SLOs.

All water companies should have a self-lay policy. This should be kept under review and existing policies should be revised in the light of our final guidance and companies' own experiences. We will ask all water companies to submit their revised policies for review in March 2002.

To assist SLOs operating in different water company areas it would be helpful for companies to adopt a common framework for their policies. We think that the structure of this guidance could provide such a framework.

6. DRAFT GUIDANCE ON SELF-LAY POLICIES

Water companies should have written policies on self-lay that provide clear guidance to SLOs on the process for laying water mains and service pipes. These should also set out the requirements they expect SLOs to meet when completing work in their area. The policies should be easily available to all contractors seeking to become SLOs. Provision of this information should be supported by an administrative system that enables queries and applications to be processed quickly and effectively.

Water companies should incorporate in their policies reliable mechanisms to help ensure that self-laid mains and service pipes meet reasonable standards. This will also help to safeguard water quality and security of supply.

The process for starting a self-lay project is likely to be as follows. A developer may ask the water company for estimates for laying mains and services to a site and for related works (requisition). They may also ask several SLOs to tender for a multi-utility lay contract (self-lay). A SLO may need the water company to provide a water supply design, requirements for reinforcing the network and details of related charges to enable it to send a tender to the developer. The developer will then decide whether to ask the water company to do the work or award the contract to a SLO.

To help this competitive process, we have established a set of principles that water companies' self-lay policies should cover. These are set out in italics under the respective headings below.

6.1 Scope of self-lay

This section sets out the categories of work connected with providing new water mains and services that we believe are contestable and non-contestable, based on a review of water companies' self-lay policies. Contestable works are those that we believe should be open to competition and therefore may be carried out by a SLO in line with water companies' self-lay policies. Non-contestable works are those activities where we believe it is reasonable for water companies to retain sole responsibility, although companies may open these works to competition if they choose.

Policies for on-site and off-site provision

Principle: 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.

Principle: It is reasonable for water companies to retain the right to carry out off-site work to reinforce the existing network.

On-site work is that which is carried out on land owned by developers. Off-site work is that which is carried out on the public highway or on land owned by third parties.

All 13 companies that provided their self-lay policies, said they will allow on-site works. However, only six specifically said that they allow off-site installation. These were Southern, United Utilities, Severn Trent, Bristol, South Staffordshire, and Three Valleys. Three of these companies, Severn Trent, Three Valleys and United Utilities, say that it is the developer's responsibility to organise easements. Both Yorkshire and Northumbrian state that off-site works are allowable in principle, although there can be difficulties with local authorities not granting permission for SLOs to undertake work and in organising easements. Easements are legal rights of access over third party land.

Responsibility for all self-laid mains and service pipes stays with SLOs until completion of the site. Water companies then take over responsibility for these assets, provided they meet their specifications. We believe that where SLOs can obtain the necessary easements and/or street authority approvals, water companies should allow them to install off-site water mains. When laying off-site sewers the SLO signs an agreement with the water company before starting any work. This states that the SLO will obtain appropriate rights to work on the highway and on third party land and that it will provide appropriate easements. Water companies should operate similar procedures for allowing SLOs to lay off-site water mains.

However, some water companies are concerned about allowing SLOs to complete off-site work in the highway because responsibility for reinstatement stays with the organisation approved by the street authority. Water companies are concerned that street authorities would expect them to fix any problems if an SLO went out of business. We would welcome views on how to overcome this. The same issue would arise when developers lay off-site sewers for subsequent adoption by water companies although we are not aware that this is a problem.

Sometimes work is required on the existing network because of the extra burden that new water customers place on it. This might include, for example, replacing an existing main with a larger one. We consider that water companies should retain the right to carry out work to reinforce the existing network, given that they own these assets and have detailed knowledge of factors including their condition and capacity.

Design

Principle: Water companies should allow SLOs to design on-site systems. These should be submitted to water companies for approval before starting work.

Principle: It is reasonable for water companies to retain the right to design off-site systems.

Principle: 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 work.

Six of the 13 companies that submitted self-lay policies allow SLOs to complete the basic water supply design. They are Severn Trent, Southern, Northumbrian, United Utilities, Sutton and East Surrey, and Three Valleys.

We see no reason why SLOs should not complete basic water supply designs, provided they follow guidance issued by the water company and the design is submitted for the company's final approval. Water companies should retain the rights to approve designs since these will have a fundamental impact on their supply systems. Self-lay work should not start until the company has approved the design. Water companies should therefore work to clear and reasonable timescales for approving designs and these are discussed in the section on Levels of Service further on in the paper.

Off-site mains are usually more complex to design. This is because of the need for correct network hydraulics and because account needs to be taken of underground obstructions such as infrastructure for other services. On this basis, it may be reasonable for a water company to complete the hydraulic design for off-site mains. In any case, the developer may not have access to a network modelling function to find out the conditions for which the main is being designed. Parties other than the water company are unlikely to want the expense of the necessary software.

Utility companies are increasingly co-operating in order to develop an accurate database of each other's services. It is necessary to know about the existing services before undertaking off-site design and we consider it unlikely that developers or contractors will have such databases.

However, more generally, access to information in itself should not be a reason for water companies preventing SLOs from carrying out works. Water companies should seek to co-operate with SLOs when they receive requests for information.

Installing new water mains, service pipes and meters, and connection to new and existing mains

Principle: Water companies should allow SLOs to install service pipes and water meters.

Principle: Water companies should allow SLOs to connect service pipes to new water mains (after the water company has filled them with water).

Principle: It is reasonable for water companies to retain control of the timing of connections of service pipes to new mains.

Principle: 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.

Installation of service pipes and meters

While information in the self-lay policies we received from the companies is not comprehensive, it appears that they all allow the SLO to install water mains and service pipes.

We consider it is reasonable for water companies to allow SLOs to install water meters on new connections when laying service pipes. This can increase efficiencies. It may be reasonable for water companies to specify the type of water meters to be used. See section 6(iii) on materials.

It appears that currently only Bristol allows SLOs to install meters. Water companies may be reluctant to allow SLOs to install meters because they may have problems obtaining details from SLOs of the meter number serving each property. We think this can be overcome by water companies requiring satisfactory information from SLOs before taking over responsibility for self-laid assets.

Connection of service pipes to new mains

Generally the policies in this area are unclear. It appears that four of the eleven companies mentioned above allow SLOs to connect the service pipes to the new, self-laid mains. But this is only after the water company has approved the work, filled the mains with water and checked that the work complies with the relevant regulations. These companies, United Utilities, Southern, Yorkshire and Bristol, outline a fairly straightforward process where the company inspects the work before allowing the SLO to complete the connection.

This work should be carried out when properties are due to be inhabited. This is because there is a risk that the water will stagnate in the pipes if connections are made well in advance of occupation. It may therefore be reasonable for water companies to retain control of the timing of these connections.

Giving developers a choice of employing SLOs or using the water company to make connections should reduce the number of connection charge disputes referred to Ofwat.

Connection of mains and service pipes to existing mains

Most companies do not allow SLOs to make connections to existing mains. Only South Staffordshire does, unless this involves cutting out a section of the existing system.

In view of the companies' obligations to their existing customers and since SLOs have no knowledge of the condition of the existing mains, we consider it is reasonable for this work to be completed by companies.

Pressure testing and disinfection

Principle: Water companies should allow SLOs to pressure test new mains under supervision and should allow them to carry out disinfection.

After installation of the new mains a pressure test is carried out, the pipes are disinfected and the water is sampled and analysed. If the samples do not meet the quality standards, disinfection is repeated until they do. It appears that at least six companies allow the SLO to undertake pressure testing and disinfection, with most of the 13 companies allowing the SLO to undertake at least one of these tasks. Most companies that do not allow the SLO to do any part of this work will charge for this service. Charges for non-contestable services are considered in section 6 (vi).

There appears to be no reason why an approved SLO should not carry out pressure testing and disinfection. The process for approving SLOs to carry out the works should cover this. This is referred to in section 6 (ii) below.

Water sampling and quality testing

Principle: It is reasonable for water companies to retain the right to undertake water sampling and quality testing.

Most companies insist on carrying out quality sampling and arranging for the water quality tests. We consider that this is reasonable because they are ultimately responsible for the quality of the supply. A water company's final inspection, sampling and quality testing should detect any pressure or disinfection failings.

6.2 Water company criteria for approval of SLOs

Principle: Water companies should have a clear and reasonable set of criteria against which SLOs can be assessed for appropriate skills and qualifications.

Principle: SLOs should not be expected to meet higher standards than those contractors employed directly by water companies.

Principle: Water companies should require an SLO to be competent only in those activities the SLO proposes to carry out.

We consider it is reasonable for water companies to assess the competence of a SLO but the requirements on SLOs should not be greater than those the company imposes on its own contractors. Approval of the SLOs for carrying out the works will depend on the level of skills and experience of the SLO's

workforce. Some water companies that currently have a self-lay policy have a clear and reasonable set of criteria that SLOs and their workforce must meet. In general, SLOs should be experienced and qualified in the areas relevant to the works being undertaken. These principles should also apply to any staff sub-contracted to SLOs.

SLOs may be capable of carrying out most but not all of the work to the standards and specifications set by the company. In such cases water companies should allow SLOs to carry out those works for which they are competent and to purchase the services of the water company or an appropriate alternative (subject to the approval of the water company) for the remaining work. Three Valleys provides clear guidance on the operation of its policy where an SLO can choose to use the water company's services for some activities.

Companies are encouraged to take a flexible attitude towards contractors who have a proven track record within another company's area. Conversely, where there is a demonstrably poor or problematic track record, this could reasonably indicate that the SLO is not suitable to undertake particular works.

The approval criteria should include a suitable level of hygiene training and the requirement that each SLO employee should be medically screened for water transmittable diseases, to avoid the risk of contaminating water supplies. Satisfactory assessment is needed to work on potable water mains and pipes. This is sometimes known as 'blue card' certification.

Some companies have chosen to pass responsibility for approval of SLOs to developers. The developer is then contractually liable for employing appropriately skilled SLOs to meet the water company's self-lay specifications. We think that both approaches are acceptable.

Several SLOs have said that slightly different requirements of water companies sometimes leads them to unnecessary re-train their workforce. This mainly concerns water companies' health and safety requirements. Your views are invited on whether there would be any benefits in the industry agreeing a single national code for approving SLOs. We are not sure how easy this would be to establish and administer and whether there are sufficient benefits available to justify such a code.

6.3 Specifications for self-lay work

Methods of working

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

The work involved in the provision of mains and service connections involves many separate tasks that need to be carried out by operatives with relevant

skills and experience. Materials and methods of working should be consistent with national standards, such as those specified by the Committee on Products and Processes for use in Public Water Supply in relation to water fittings. Since water companies will have the final liability in the event of any problems, we think it is appropriate for them to have the final approval of any standards and specifications in operation in their area. However, such standards should not be unnecessarily onerous and should be no more demanding than those the company applies to its own contractors.

The general requirements and specifications for all types of civil engineering construction works, including the provision of water mains and service pipes, are represented at a national level in the Civil Engineering Specification for the Water Industry (CESWI). CESWI has been developed over many years with the co-operation of the water industry and it is a nationally applicable document.

Most self-lay policies use various editions of the CESWI as the basic reference document for the work. Several companies have compiled clauses to supplement CESWI to make sure that their own requirements are satisfied. Most companies also refer to other publications, for example those by the Highways Authorities and Utilities Committee (HUAC) and National Joint Utilities Group (NJUG). Company hygiene codes and codes for work near underground services or overhead power lines are also referred to.

Where specifications are individualised in respect of materials and methods of working, resulting in a requirement to work differently in different water areas, this may discourage SLOs from undertaking works. For example, SLOs working for one water company may have to change their working practices in order to comply with a different water company's specifications. While several SLOs have stated that operating in this way is not unmanageable, we invite your views on whether it would be helpful for the industry to agree a single, national specification for self-lay work in the future. We are not sure, however, that there would be substantial benefits in establishing such a code. Instead, the structure and content of our final guidance to companies on self-lay policies could provide an adequate level of commonality.

Materials

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

Principle: Where water companies require materials to be standardised, they should be able to justify this in relation to operational benefits.

Companies set out, in detail in some cases, the materials that should be used to carry out the work. Some companies also say which suppliers SLOs should use. Three companies, Anglian, South Staffordshire and Three Valleys, insist on supplying the materials. In some circumstances, where

there is a benefit in standardising types of fittings, we believe it is reasonable for water companies to specify the use of certain products. Where companies believe that there are localised reasons for using certain types of materials, for example on brown field sites, they should be able to justify this in relation to operational benefits.

Where, for the reason stated above, companies retain final approval on the materials to be used, they should not be prescriptive about suppliers. In general, there is no reason why SLOs should not have a choice of supplier, provided that they supply materials that meet reasonable water company specifications. Water companies may choose to provide lists of approved suppliers, as many already do. Everybody on such a list should be selected on the basis of objective, transparent and non-discriminatory criteria. Also, SLOs should be able to use a new supplier who can demonstrate compliance with the relevant criteria.

6.4 Levels of service water companies will provide to SLOs

Principle: 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.

None of the companies have set out the service levels SLOs can expect to receive from them throughout the self-lay process, although some outline the administrative process and include timescales for certain parts of the work.

Sutton and East Surrey promises to provide design information within 20 days of receiving a request. Thames states that it will issue a completed design, site specific specification and quotation within six weeks of receiving the fully completed application form, advance payment and copies of the certification associated with approving the SLO for work. Other timescales referred to are usually set by law, in the Water Industry Act 1991, for the connection of mains and service pipes under a requisition agreement. In practice, this timetable is ineffective since it relies on the companies reaching a 'relevant day'⁴ in the proceedings before the targets are triggered.

Complaints about delays experienced during requisitioned projects always refer to problems encountered before the 'relevant day' is met, so we believe it is inappropriate for water companies to base service levels for self-lay on the statutory timescales.

⁴ The relevant day is the day after whichever is the latter of the following: the day financial conditions of compliance are satisfied; the day the places for connection with the main are determined.

All water companies should have reasonable service levels and timescales for the whole of the self-lay process. These service levels should clearly set out the criteria and timescales for approving work completed by SLOs. An SLO should have a clear set of objectives to achieve in order to meet the company's criteria for taking over responsibility for a self-laid main.

Water companies should identify the key stages and associated response times in their revised self-lay. As a general rule, SLOs should receive a definitive response to enquiries within ten working days. Where this is not possible or where further information is required from the SLO water companies should respond to this effect within five working days of the initial enquiry.

These timescales should begin when SLOs have provided all the information and made all necessary arrangements required by the company at that stage. Water companies should make clear to SLOs what they need from the SLO before they can take action.

Water companies will need to implement any targets and processes to create and maintain a level playing field. For example, SLOs who have to rely on the water company for some of the work, should not be disadvantaged by timescales that are longer than those where the water company carries out all the work.

In order to meet their target timescales, water companies should consider how they could streamline procedures. For example, Anglian offers developers the option of assigning any Anglian charges for services to an account. Rather than paying for individual water service connections in advance, they can call off connections and pay for them afterwards. Systems such as this improve the process of applying for and completing connection work.

Ofwat invites views on the desirability of establishing levels of service that SLOs can expect to receive from water companies. In the gas industry, Transco has published standards of service for providing information about connections. They also pay compensation for failing to meet these. We invite your views on our proposal that water companies should make compensation payments when they fail to meet published targets.

6.5 Level of supervision and inspection

Principle: Water companies should clearly explain at the start of a self-lay project the level of supervision and inspection required and the associated charges.

Where water main and service pipe installation is opened up to competition, companies may retain control of the supervision and inspection of work. This allows them to make sure that quality standards and security of supply are maintained. However, many developers have complained about the lack of information from companies on their requirements, and timescales for

inspections and supervision during the works. This information is essential in order for SLOs to plan their work efficiently.

Water companies should identify the inspection and supervisory requirements of developments at the beginning of the work. This includes outlining clearly the criteria that developers should meet before any inspections are carried out. Three Valleys already states that 'construction issues' will have been established as a matter of course when the company reviews the contractors' design and specification proposals. This is an appropriate stage to clarify supervisory and inspection requirements.

Supervisory requirements may differ across developments. For example more inspection and supervision may be needed on larger sites. This includes sites that are phased or on brown-field or contaminated sites where special materials or different working practices apply. Issues relating to the cost of supervision and inspection are outlined at 6 (vi) below.

6.6 Charges made by water companies

Principle: Where work is carried out by the water company, charges to SLOs should reasonably reflect the costs of the work. 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.

Principle: Developers should be able to compare companies' costs for installing mains with the costs of SLOs.

Principle: Charges for approving designs should be no greater than the costs associated with checking internally produced designs, plus any reasonable administrative costs.

Developers have found it difficult to obtain a breakdown of the costs incurred by water companies in carrying out works associated with laying mains. They have also found it difficult to obtain companies estimated costs before the work is done. Water companies should make available all the information necessary to enable SLOs to calculate the full costs of the work and measure the benefit of undertaking the works themselves. Water companies' charges should be related to actual costs. They should not include unsupported large overheads that bear little relation to actual costs incurred. Charges for design, materials, inspection and supervision are referred to separately below.

Charges for design

United Utilities makes the same charge for approving an SLO's design as it does for doing the whole of the design work itself. The company says this is because the work is similar in extent. However, in situations such as this, there is no financial incentive for the SLO to use a separate design provider. There is a need to clearly identify the costs to the company of producing and

approving designs. Charges for approving designs should be no greater than the costs associated with checking internally produced designs, plus any reasonable administrative costs. If charges for design bear no relation to the actual cost of such work, such a charging mechanism could be seen as anti-competitive.

Charges for materials

Two companies, Severn Trent and Three Valleys, state that they will supply the materials free of charge (although neither company will replace the materials free of charge if these are lost or damaged). It is suggested in section 6(iii) above that where an SLO has to pay for materials, they should be allowed a choice of suppliers. SLOs should have this choice whether or not they are charged for materials by the water company.

Charges for inspection and supervision

Water companies will want to undertake a basic level of supervision and inspection until the SLO has established itself as an effective operator. Where the SLO has already established a good working relationship with the company, the company may reduce the level of inspection and supervision. The costs of this may fall as a result.

Few companies were explicit about charges for supervision and inspection in their self-lay policies. South Staffordshire Water makes a fixed charge per day for supervision. Severn Trent makes a charge that is based on a fixed cost and a cost per metre. Sutton and East Surrey charges on an hourly basis. Other companies state that the costs of supervision and testing etc are included in any "commuted sum" contribution requested from SLOs. Water companies might reasonably request a contribution from SLOs towards reinforcement of the existing network, where this is justified. The need for reinforcement is discussed in section 6(i).

Charges for supervision and inspection may vary according to the conditions of particular sites and developments. On average, costs per metre may be higher for shorter lengths of main or on larger sites where the completion of the works has been phased over a period of time. This is because there are fewer opportunities for economies of scale.

In general, the main principle for calculating charges should be that they bear a reasonable relation to the costs incurred. Companies should be able to demonstrate this, providing cost breakdowns as requested. A charge based on a percentage of overall costs is unlikely to meet this requirement, especially in situations where the overall costs increase but the level of individual costs, such as those for supervision and inspection, remains low.

6.7 Payments by water companies to SLOs for self-laid assets

Principle: 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.

Where developers requisition new mains for domestic purposes under section 43 of the Water Industry Act 1991 they can meet the costs by payments over 12 years (the “relevant deficit” payments). Calculation of the payments must take account of future income to the water company from the new customers. In practice, developers often find it convenient to make a single payment (the “commuted sum”) which is agreed between the water company and the developer. Either way, because of the allowance for future income, developers do not generally meet the water company’s full costs of meeting the requisition.

We consider that, when they ‘take over’ assets that could be requisitioned, but are provided by SLOs, water companies should make a payment in recognition that those assets will generate income. Unless this happens, SLOs will not be able to compete with the water companies for the provision of those assets, because the latter’s charges for the requisitioned pipes would be reduced by the off-set described in the previous paragraph. That is an unfair advantage to the water company. It would be removed by a payment to the SLO that is consistent with the allowance the company would make in a commuted sum charge, had the work been requisitioned.

Currently, it appears that only United Utilities, Northumbrian, Severn Trent, Yorkshire, South Staffordshire and Three Valleys make ‘take over’ payments, although some other water companies do so indirectly by, for example, not charging for inspection, supervision etc. Other companies may operate similar policies but the information from their submissions was not clear. In the interests of transparency, SLOs should always be able to understand the amount of every such ‘payment’ and how it is calculated.

ANNEX 1 - OVERVIEW OF WATER COMPANIES' SELF-LAY POLICIES - RECEIVED AUGUST 2000

Company	Self-lay policy?	Contestable work on site					
		Design	Installing mains and service pipes*	Connecting new mains to existing mains	Connecting service pipes to new mains	Pressure testing	Disinfection
Anglian	√	-	√	X	X	√	√
Bournemouth	X	-	-	-	-	-	-
Bristol	√	X	√	X	√	√	X
Cambridge	X Allows self-lay to Anglian policy	-	-	-	-	-	-
Dee Valley	√	X	√	X	X	√	√
Folkestone	X In production	-	-	-	-	-	-
Northumbrian	√	√	√	X	X	√	√
Portsmouth	X	-	-	-	-	-	-
Severn Trent	√	√	√	X	√	√	√
South East	√	X	√	X	X	X	√
Southern	√ Draft received	√	√	X	√	√	√
South Staffordshire	√ Draft received	X	√	√ Unless it involves cutting into existing main	X	X	X
South West	X	-	-	-	-	-	-
Sutton & East Surrey	√	√	√	X	X	X	√
Tendring Hundred	X Responded favourably to single request for self-lay	-	-	-	-	-	-
Thames	√ High level guidance note	X	√	X	X	√	X
Three Valleys	√ Draft received	√	√	Possibly, under supervision	Possibly, under supervision	√	√
Welsh	X In production	-	-	-	-	-	-
Wessex	X In production	-	-	-	-	-	-
United Utilities	√	√	√	X	√	-	-
Yorkshire	√ Draft received	X	√	X	√	X	X

Key - no self-lay policy/no information provided/information not clear
 * It appears that only Bristol will allow SLOs to install water meters during work to install new mains and service pipes. Information provided by the other water companies was unclear or they do not allow SLOs to install water meters.

Notes

- Ofwat did not request information from Mid Kent because a high volume of information had already been sought from this company about other related matters.
- North Surrey provided no response to Ofwat's request for information but shares Three Valley's self-lay policy.

ANNEX 2 THE POSITION IN GAS AND ELECTRICITY

Electricity and gas connections, like those for water, may include extensions to the main network as well as service connections. The Utilities Act 2000 will separate the supply and distribution businesses of the Public Electricity Suppliers (PESs), whose functions referred to below will transfer to distribution network operators. Following its July 2000 decision paper *Competition in Electricity Connections*, the Office of Gas and Electricity markets (Ofgem) established a steering group to implement its proposals for extending competition through agreement with group members (including PESs).

Ofgem considers that, as a minimum, the contestable aspects of electricity connection work are new connection design; procurement and provision of connections assets; construction of the new connection; reporting of assets on site; energisation of new connections; and inspecting, monitoring and testing of new connections installations although the PES will retain the right to inspect any third parties' work on its network. Work undertaken by all connection businesses is subject to certain minimum standards. The Ofgem steering group has agreed that PESs should make available their standard specification for wires and cables to any third party working in their area. This will facilitate adoption of the constructed assets by the PES. The group will also consider how best to ensure that innovation in design/materials is not stifled. Ofgem is working with the industry to develop a single, industry-wide contractor accredited registration scheme in order to rationalise the existing PES policies on connections. The registration scheme will enable third parties to undertake work in all PES areas and ensure that the third party does not have to duplicate registration with all PESs. The scheme also enables a PES to be satisfied that third parties working on its network are suitably competent.

As well as introducing competition to connections on new housing estates Ofgem is also introducing competition to streetlighting connections. Initially the group proposes that third parties will be able to carry out live working on streetlighting connections in order to complete transfers and disconnections (this is live working that does not involve final connection to the main). When the registration scheme is introduced full live working on the main will be a practical proposition. Ofgem has proposed that this should no longer be treated as a non-contestable activity, as significant cost savings may be achieved by enabling third parties to carry out such work at the same time as undertaking other connections activities. Where works are in private land, PESs are required to ensure that their statutory rights in respect of powers 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. In addition PESs must ensure that they do not discriminate in the provision of quotations and other information to any affiliated connections businesses in competition with independent third party connection providers.

In gas, most aspects of work required by the customer from the point of connection on the network to the meter are contestable. Non-Transco Public Gas Transporters wishing to lay new gas infrastructure must apply for a system extension licence. 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 in the final quarter of this year. Trials allowing registered independent connection providers to make final connections to the relevant gas main are currently underway and Ofgem is aiming to open up this area of work to competition by the final quarter of 2001. Transco has published standards of service for providing quotations for connections and pays compensation for failure to meet specified targets.

Ofgem recently published a report on its *Review of competition in gas and electricity connections*, which outlines respondents' views on the state of competition in gas and electricity connections, which explains these issues in more detail. Views were also expressed about the deregulation of water connections and the actions of some water companies constituting barriers to SLOs providing a comprehensive multi-utility service.

ANNEX 3 LIST OF OFFICIAL CONSULTEES

Other Government Departments

Department of the Environment, Food and Rural Affairs
National Assembly for Wales
Water Industry Commissioner for Scotland

Water Companies

Water and sewerage companies
Water companies
Water UK

Quality Regulators and Environmentalists

Council for the Protection of Rural England
Council for the Protection of Rural Wales
Countryside Agency
Countryside Council for Wales
Country Land and Business Association
Drinking Water Inspectorate
English Nature
Environment Agency
Friends of the Earth
Institute of Hydrology
National Farmers' Union
Royal Horticultural Society
Royal Society for the Protection of Birds
Surfers Against Sewage
UK Round Table on Sustainable Development

Other Regulators

Civil Aviation Authority
Health and Safety Executive
Independent Television Commission
Office for the Regulation of Electricity and Gas (Northern Ireland)
Office of Fair Trading
Office of Gas and Electricity Markets
Office of Telecommunications
Office of the Rail Regulator
Postal Commission

Developers, self-lay organisations, consultants

Barratt Homes
Birmingham Utility Solutions
Bradgate Development Services Ltd
Bryant Homes Technical Services Ltd
Eco European Limited
Furness Green Partnership
Hannon Associates
Infrastructure & Energy Consultancy
Integrated Services & Utilities Ltd

McClean Homes
McNicholas Plc
MMS Consulting
Mowlem Energy
NSB Consulting Ltd
Premier Energy Services Ltd
Primeshade Contracts Ltd
Rice Homes
Sandwood Builders & Contractors
Scottish Power
Technical & Development Services
Thomas Bermingham Contractors Ltd
Trench Technology & Training Ltd
Try Homes Limited
Wilcon Homes
Wimpey Homes
UK Water and Waste Management Ltd
Utility Connections Engineering Ltd
Water Environmental & Resource Management
24seven

Trade Bodies

British Plastics Federation
British Water
Chartered Institute of Water & Environmental Management
Clay Pipe Development Association
Federation of Master Builders
House Builders Federation
Institute of Civil Engineers
Institute of Plumbing
National Federation of Building Trades Employers
Sewer Renovation Federation
Society of British Water Industries

Reporters and Auditors

Water companies' Reporters and Auditors

Organisations Representing Customer Interests

Age Concern England
Association of British Chambers of Commerce
Chartered Institute of Purchasing and Supply
Chemical Industries Association
Child Poverty Action Group
Confederation of British Industry
Confederation of British Industry, Wales
Consumers Association
Food and Drink Federation
Help the Aged
Institute of Directors
Major Energy Users Council

Money Advice Association
National Association of Citizens Advice Bureaux
National Campaign for Water Justice
National Consumer Council
National Council for One Parent Families
National Federation of Consumer Groups
National Federation of Small Businesses
National Federation of Women's Institutes
National Union of Residents Associations
Ofwat Customer Service Committees
Public Utilities Access Forum
Save the Children Fund
Utility Buyers Forum
Waterwatch
Welsh Consumer Council

Trade Unions

Trade Union Congress
UNISON

Other interested parties

Boots
Central Buying Consortium
Ineos Chlor Limited
LAGUR
North East Purchasing Organisation
CBWT
CIPS

Members of Parliament

Associate Parliamentary Water Group
Liberal Democrat Spokesman on the Environment
Shadow Secretary Environment, Food and Rural Affairs

Local Government Organisations

Local Government Association
National Association of Local Councils
Welsh Local Government Association

ANNEX 4 GLOSSARY OF TERMS

Brown-field site

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

Commuted sum

A single payment by a developer to a water company for 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

Water is treated with, for example, small amounts of chlorine to ensure that it complies with water quality regulations.

Easement

Legal right of way over another person's property, which may cover the laying of pipes.

Multi-utility infrastructure provision

This is where one self-lay organisation installs all utility services to a site, sometimes in a single trench. This can lead to cost savings as a result of excavation and reinstatement being common for all services

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.

Reinstatement

Work to restore a surface to its original condition. For example, resurfacing a road after work to lay water mains.

Relevant deficit payments

Where developers requisition new mains for domestic purposes under sections 41 to 44 of the Water Industry Act 1991, they may meet the costs by payments over 12 years (the "relevant deficit" payments), calculated under section 43.

Requisition

Water companies have a duty to provide water mains that are sufficient for domestic purposes when required to do so by a notice (requisition) under sections 41 to 44 of the Water Industry Act 1991, once financial conditions of compliance are satisfied and the places for connection with the main are determined.

Self-lay

Work involved with installing new water mains and service pipes undertaken by developers or their contractors, rather than the water company.

Self-lay organisations (SLOs)

These include developers who are capable of laying their own mains and service pipes, contractors laying mains on their behalf and multi-utility infrastructure providers.

Service pipes

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



Office of Water Services
Centre City Tower
7 Hill Street, Birmingham B5 4UA
Telephone: 0121 625 1300
Fax: 0121 625 1400
Website - <http://www.ofwat.gov.uk>
e-mail - enquiries@ofwat.gsi.gov.uk

Published August 2001
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