

# United Utilities response to Ofwat's consultation on policy relating to highway drainage

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### 1 INTRODUCTION

In its consultation document, Ofwat has proposed that the following policy should apply to new appointees and variations (NAVs) in respect of highways drainage.

1. If a new appointee's site contains public roads (roads which have been or may be adopted) and those roads drain to the sewers of the existing appointee, it is likely to consider that it is reasonable for the bulk discharge price to include a contribution to the existing appointee's highway drainage costs.
2. If a new appointee's site contains public roads that do not drain to the public sewers of the existing appointee, or there are no public roads on the site, it is likely to consider that it is reasonable for the new appointee not to contribute to the highway drainage costs of the existing appointee.
3. The amount of highway drainage charges payable should be a matter for commercial negotiation between new appointees and existing appointees, on a case-by-case basis.
4. A bulk discharge price should as far as possible be cost reflective, which should include taking into account the existence of efficient and sustainable drainage solutions which may result in less highway drainage entering the public sewers of the existing appointee.

UUW is pleased to have the opportunity to respond to this consultation. Our comments in response to each of the questions listed in the consultation is provided below.

### 2 UUW COMMENTS ON PROPOSED POLICY ELEMENTS

**1: If a new appointee's site contains public roads (roads which have been or may be adopted) and those roads drain to the sewers of the existing appointee, we are likely to consider that it is reasonable for the bulk discharge price to include a contribution to the existing appointee's highway drainage costs.**

**2. If a new appointee's site contains public roads that do not drain to the public sewers of the existing appointee, or there are no public roads on the site, we are likely to consider that it is reasonable for the new appointee not to contribute to the highway drainage costs of the existing appointee.**

We consider that the appropriate basis on which an appointee should charge NAVs for drainage to the appointee's network should be the total size of the NAV's area which drains to the appointee's network, or – for metered connections – the total volume drained. In coming to this conclusion, we have given consideration to the following points:

- From the appointees perspective, the NAV's area is a single whole which either drains to their network (all or in part) or not. The mix of public roads, private roads and customer premises, does not result in any difference in cost to the appointee - only the size of area which drains to the appointee's network – or volume discharged - is relevant. We therefore do not support the

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proposal that charging for drainage services provided to NAVs should be determined by the relative quantities of private and public roads in the NAV's area.

- In particular, the relevant proportion of (and distinction between) public and private roads in the NAV's area does not appear relevant to the appointee's cost of providing a drainage service to a NAV, and is also not information that the appointee could reasonably be expected to collect and maintain, given that it pertains to the NAV's area. The only factor affecting the appointee's costs is whether the road has a surface water connection to the appointee's network and surface water volumes that drain to it. Given that the roads are not in the appointee's area, it seems simpler for the appointee to charge for providing a drainage connection to the NAV on the basis of the entire drainable area - roads and buildings - or - if the connection is metered – charge based on the total volume drained from the NAV's area into the appointee's network. It would then be for the NAV to pass highways drainage charges onto its customers.
- It is important to distinguish between the highway drainage charges applied within an appointee's area and charges applied by the appointee for providing a drainage service to a NAV.
  - Highway drainage charges are the means by which the cost of draining the public roads in an appointee's area is passed onto end user customers.
  - In the case of an existing appointee providing a drainage service to a NAV, neither the roads nor the end user customers reside in the existing appointee's area.
- As such, the appointee should just charge the NAV on the basis of the area - or the volume - being drained from the NAV's area into the appointee's network. In all respects, the make-up of the NAV's area (public roads, private roads, buildings etc.) is a charging issue for the NAV, not a charging issue for the appointee. The charging issue for the appointee is simply the amount of the NAV's area that drains to the appointee's network.
- Basing any charges (or deductions to charges) on “a contribution to the existing appointee's highway drainage costs” does not appear to represent the actual basis on which the charge is being raised. The NAV's area is not within the appointee's area and the NAV is not being asked to contribute towards the cost of the appointee's highways drainage costs. Rather, the NAV is being asked to pay the appointee for the service the appointee provides in draining the NAV's area. Given that highways drainage is a form of surface water drainage (i.e. surface water run-off from public roads) it may be simpler to either:
  - Meter the wastewater connection directly, hence any surface water or highways drainage would be recovered through metered sewerage charges; or
  - Apply a surface area based charge to the totality of the NAV's connected area – to both properties and roads (public and private) that drain to the appointee's network.
- We envisage that this may be more problematic for companies which do not have surface area based charges for surface water drainage
- We also note that there is currently uncertainty over whether or not the Open Water programme will conclude that highways drainage should be a separately chargeable service,

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or whether it will be rolled up into other charges. In the event that it opts for the latter, it is not at all clear how an appointee might 'not charge for highways drainage' if there is no separate charge for it in company's wholesale charging schemes.

### **3. The amount of highway drainage charges payable should be a matter for commercial negotiation between new appointees and existing appointees, on a case-by-case basis.**

Whilst we agree that this statement is technically correct, we consider that it should be clearly noted that it is customary to make use of the appointee's wholesale prices as a starting point for establishing the charge, and unless there is justification for the use of a site specific cost, the scope of any commercial negotiation is likely to be relatively limited.

### **4. A bulk discharge price should as far as possible be cost reflective, which should include taking into account the existence of efficient and sustainable drainage solutions which may result in less highway drainage entering the public sewers of the existing appointee.**

We agree with the principle of applying cost reflective charges.

UW charges for surface water drainage on the basis of the surface area connected. Absent a metered connection to the NAV, we consider that this is an appropriate basis on which to charge NAV's for all surface water drainage, whether from public roads, private roads, or customer premises within the NAV's area. As such, any areas not connected to the appointee's network would not form part of the drainable area being charged to the NAV.

In the case of sustainable drainage solutions, metering the outflow into the appointee's sewer system would reduce the likelihood of dispute over what is/isn't connected within the NAV's site, and the extent and impact of any alternative sustainable drainage solutions in place. However, metering the connection is not always going to be practicable. Where this is the case, it may be reasonable for a moderated surface area to be applied for charging purposes – e.g. to apply a percentage of the area drainable to the appointees network which is mitigated by sustainable drainage measures, depending on the effectiveness of the sustainable drainage measures in place.

We would note that this is part of a broader issue of reliably measuring surface water connectivity between two wholesalers. Between an appointee and an end user retail customer, the appointee has rights to measure connectivity of the customer's premises (i.e. the area of the site being drained to the appointee's network) for charging purposes. This right is less clear between a NAV and an existing appointee, unless such rights are agreed as part of the bulk supply contract.

Based on our experience of operating a site area based charging system for a number of years, we would observe that without the sewer connection being metered, it seems likely that measurement issues over the area drained to the appointee's network could be a matter for dispute, particularly given how this can evolve over time, either through better measurement, or by evolving disconnection of the NAV's area from the appointee's sewer network.

For each company, there will be different issues which arise in different circumstances given that there are many different approaches between companies both to allocating the costs of providing a highways drainage service, and charging for it.