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Trust in water

Enabling effective competition in the provision of new connections



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About this document

This document outlines the key areas of work Ofwat will be progressing during 2016 to enable effective competition in the provision of new connections. It also sets out a series of areas we are looking for water companies to take visible ownership of during 2016 in order to address potential barriers to competition in the new connections market.

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1. The new connections market

Providing new water connections is currently one of only a few areas of the sector where customers in England and Wales can choose their service provider. In this market suitably qualified [self-lay organisations](#) ('SLOs') or [new appointees](#) are able to compete with water companies to provide certain services.

On 28 September 2015 we published a consultation document '[Trust and confidence: self-lay provision of new connections](#)'. The primary purpose of our consultation was to seek views on the reasonableness of assurance terms a water company may offer when entering into a self-lay agreement with an SLO under section 51A of the [Water Industry Act 1991](#) ('the Act'). We have published a separate [Information Notice](#) setting out our general expectations on assurance terms.

Our consultation also sought views on other areas that might cause difficulty when organisations need to access water companies' non-contestable services in order to compete to provide new connections. The [responses we received to our consultation](#) identified a series of areas in which stakeholders felt the sector could make improvements in order to remove potential barriers to competition and enable more effective competition that can benefit customers.

2. Our approach

Our [vision](#) is to be a regulator that is:

- **outcomes-focused** – we focus on the things that really matter to customers, the environment and society now and in the future;
- **relationships-focused** – we want to see the sector stepping up, taking responsibility for its relationships, being open, honest, fair and transparent;
- **proportionate and targeted** – focusing our regulatory intervention where it is most needed, stepping in where necessary (and **only** where necessary) to protect customers; and
- **using the right tools from our available toolkit to achieve the best results** – we will use both our traditional tools as well as broader tools to shine a light on issues and provoke debate.

As set out in our consultation document, the water sector has made positive steps to take greater ownership of its relationship with the customers of developer services. These customers include both developers and organisations seeking to compete with water companies to provide new connections (such as SLOs and new appointees).

The sector's response to our challenge to agree and report on [levels of service for developer services](#) has demonstrated the real benefits our regulatory model can deliver. It has seen water companies working with their customers to understand and meet their needs, rather than looking for their regulator to prescribe solutions. The reporting has created significant reputational incentives that are driving improvements for service delivery to customers and enabling us to focus our intervention where it is most needed.

The responses to our consultation highlighted that there is more to do to improve customers' trust and confidence in water companies' provision of developer services. In particular, more work is needed to remove potential barriers to competition arising from how water companies deliver non-contestable services needed in order for another organisation to be able to compete to provide new connections.

Steps to address many of the potential barriers to competition identified by respondents to our consultation best sit with water companies themselves, either individually or working together and with their customers. There may, however, be

some steps it is appropriate for us to take the lead on, in particular to act as a “safety net” if a water company fails to meet its statutory obligations to its customers.

Below we set out the work we will be progressing in 2016 that will contribute to addressing the potential barriers to competition in new connections identified by the consultation responses. We also set out below where we hope to see water companies, both individually and collectively, stepping up to make improvements to address their customers’ concerns. Where we and customers do not see evidence of improvements, we will, where appropriate, consider which of our range of regulatory tools we might use to drive further improvements and tackle underperformance.

3. Areas for action

3.1 Levels of service

Since April 2015 water companies have published information about their performance in delivering a range of developer services. This has improved transparency on relative performance and driving improvements for customers. We consider that this approach can be built upon to further improve trust and confidence in the delivery of developer services. In particular there is value in including **more performance information about water companies' delivery of non-contestable services** that other organisations (such as SLOs and new appointees) rely on in order to be able to compete to provide new connections. This should provide such organisations with greater certainty about delivery and drive improvements. Ofwat will continue to use the levels of service reporting, alongside other information, to **focus our interventions to address areas of concerns and underperformance**.

3.2 Information on competitive options

We have previously published our expectations about how water companies provide information to customers. Water companies should provide information to customers which empowers them to secure the lowest possible bills and the best possible service. **We expect each water company to ensure the information it provides to its customers is consistent with its licence obligations and our information principles.** Our [information principles](#) are that information is: accurate, transparent, clear, accessible, timely and customer-led.

In relation to new connections, how and what information water companies provide can be critical to helping developers understand where and how they could choose their service provider. It can also better enable access to and delivery of the non-contestable services that water companies must provide in order for other organisations to compete to provide new connections, thereby removing a potential barrier to competition.

3.3 Charging

Following the provisions in the [Water Act 2014](#) and guidance from the Department for Environment, Food and Rural Affairs (Defra), **we will be developing new charging rules for new connections in 2016**, with a view to them coming into effect for the 2016-17 charging year. The impacts of charging on effective

competition will need to be a key consideration in Ofwat's development of the rules and water companies' subsequent development of their charges to customers.

Ahead of those changes, the potential impact of charging on effective competition remains an important factor for water companies to consider under the current charging arrangements for new connections. As with information provision, **it is good practice for water companies' quotations and charges to be transparent and customer-focused**. In particular this is key to ensuring customers understand where they have choice (for example, by identifying which activities and costs are contestable and which are non-contestable) and enabling customers to exercise that choice should they wish to (for example, by providing "convertible quotations" that allow customers to accept the non-contestable parts on the same terms should they choose to use another provider for contestable services).

3.4 Operational processes

There is currently significant variation between water companies' operational processes and requirements for self-laid works, including what services water companies consider to be non-contestable. Whilst water companies have collectively developed a [code of practice for self-lay](#), most retain a company-specific addendum to this detailing their different practices and requirements. Responses to our consultation highlighted that customers find such variations frustrating and often unclear. Responses also expressed concerns that some water companies' operational processes are burdensome and result in unnecessary "control points", whereby an SLO must reply on inputs from the water company in order to progress its own works.

We consider there is significant **scope for water companies to harmonise their operational processes and requirements for self-lay**, such that differences between them become the exception rather than the norm. In doing this there are opportunities to build on existing good practice in the sector to simplify processes; to remove unnecessary "control points" that might be potential barriers to competition; and to consider whether the sector's [accreditation scheme](#) remains fit for purpose.

The Water Act 2014 made provision that Ofwat must issue a **code in respect of self-lay agreements** entered into under section 51A of the Act. This code may include provision for the procedures for making, varying or terminating a section 51A agreement. During 2016 Ofwat will work with stakeholders to scope the potential content for the code.

3.5 Competition law

Water companies are responsible for managing their own compliance with competition law. Where contestable services relate to and rely on non-contestable services (as they do in the market for new connections), water companies should fully consider and manage their competition law compliance, in terms of how they provide non-contestable services to their competitors. Reflecting concerns raised by respondents to our consultation, **water companies may wish to consider how they might transparently demonstrate to their customers how they are ensuring a level playing field for the new connections market** in order to improve trust and confidence in this area.

By summer 2016 **Ofwat will publish guidance for the water sector on competition law** to encourage the sector to better understand and think through the implications of markets for water companies' obligations under UK and EU competition law. Reflecting concerns raised by responses to our consultation, **Ofwat will also work with the sector to think through potential areas of risk and/or customer concern about competition law that arise from a water company's decision to outsource some of its developer services to a third party "term contractor"**.

4. More information

[Self-lay provision of new connections](#), web page, Ofwat

[New appointees](#), web page, Ofwat

[Improving services for customers on new connections](#), Information Notice 14/16

[Providing new connections](#), web page, Ofwat

[Charging for new connections](#), web page, Ofwat

[Trust and confidence: self-lay provision of new connections](#), consultation document and summary of responses

[Water Industry Registration Scheme \(WIRS\)](#), Lloyds Register

[Water Industry Act 1991](#), legislation.gov.uk

[Department of Environment, Food and Rural Affairs](#), web page, Defra

[Formal investigation under Competition Act 1998 concerning the price and non-price terms Bristol Water applies when providing services to self-lay organisations](#), web-page, Ofwat archive

[Empowering water and sewerage customers through information](#), Information Notice 13/04, Ofwat archive