

Information notice

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ofwat

This is a formal document that alerts our stakeholders to a change in the way that we regulate the water sector in England and Wales.

Assurance terms in self-lay agreements entered into under section 51A of the Water Industry Act 1991

This information notice sets out our general expectations about the assurance terms a water company may seek in a self-lay agreement entered into under section 51A of the [Water Industry Act 1991](#) ('the Act').

Background

Providing new water connections is currently one of only a few areas of the sector where customers¹ in England and Wales can choose their service provider. In this market suitably qualified [self-lay organisations](#) ('SLOs') are able to complete with water companies to provide certain services.

When an SLO provides new connections it must enter into a self-lay agreement with the relevant water company under section 51A of the Act. This agreement requires the water company to take on ownership of the infrastructure before it is used to provide a water supply to end-users.

We currently have powers under section 51B of the Act to consider appeals made to us about the terms on which a water company

offers to enter into a self-lay agreement under section 51A. We decide such appeals on a case-by-case basis, in light of the Act and taking into account the evidence provided to us by the parties to the dispute.

We are sometimes asked to consider a section 51B appeal about the terms a water company has offered in a self-lay agreement in order to satisfy itself about the quality of the self-laid assets it will be taking ownership of. The general expectations we set out in this information notice represent our starting position when considering such appeals. There may be cases where there are justifiable grounds for moving away from our general expectations in light of the facts of an individual case.

We finalised our general expectations after considering the responses we received to our

¹ A customer might be an end user of water services or a developer

public consultation, 'Trust and confidence: self-lay provision of new connections'.

Reasonable assurance terms

In respect of the terms offered by a water company within a self-lay agreement entered into under section 51A of the Act, we consider:

It is reasonable for the terms of a self-lay agreement to require an SLO to:

Demonstrate it is suitably competent to provide the proposed self-laid works, for example by means of WIRS accreditation

Be subject to contractual obligations to meet the water company's design and construction standards when providing the self-laid works

Be subject to contractual obligations to remedy any defects arising with the self-laid works within a defined liability period

Beyond these requirements we consider:

Any additional assurance terms should be:

Reflective of the accreditation schemes that are developed and recognised by the sector

Transparent and available for all SLOs to access and understand the rationale for, including the reasons for any differences in their application

Reflective of and proportionate to identifiable costs and/or risks the water company faces

Reasonable in terms of who holds the balance of risk

As a result of these general expectations, unless there is robust evidence to demonstrate the need for additional assurances, we would not generally expect water companies to be offering terms that:

- require SLOs to undergo "control point" supervision and inspection visits that would require water company approval before the SLO could progress its works; or
- enable a water company to hold a defects liability retention payment

We recognise a water company may sometimes consider that it needs to inspect an SLO's work. We would expect this to be the exception rather than the norm. The approach outlined above enables a water company to offer terms requiring supervision and/or inspection visits where there is robust evidence to demonstrate a particular risk these are needed to help mitigate. In such circumstances the terms could give the water company the right to carry out supervision and/or inspection visits in defined circumstances (with the responsibility and costs for such visits sitting with the SLO), or at other times at the water company's cost.

Our general expectations allow for a water company to require different terms of different SLOs should it wish to. Water companies are responsible for their own compliance with competition law and this is a factor a water company will need to consider if it requires

additional and/or different assurances from different SLOs. This underlines the importance of water companies having robust evidence and a transparent rationale for applying any additional or different requirements. We will not

be providing a framework to guide where and how water companies might apply different terms, since this should reflect how individual water companies manage their own obligations and risks.

More information

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

[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

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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