

Ofwat Consultation

9th August 2017

Consultation on the Code for Adoption Agreements

Introduction

The Home Builders Federation (HBF) welcomes the opportunity to respond to this latest Ofwat consultation - "Codes for Adoption Agreements". Moreover, we are encouraged in the way Ofwat appear to have taken on board several of the comments and recommendations raised by the HBF in our response to the initial Ofwat Discussion Paper issued in September/October 2016.

The current proposals are likely to play a positive role when it comes to new housing delivery. Similarly, they should provide a more responsive and effective approach to the adoption of water and sewerage infrastructure. Ofwat need to be congratulated for providing a consultation that is positive in approach and one which has clearly reflected the needs of the developer customer.

As you are aware the HBF is the representative body for house builders in England and Wales. HBF's membership of more than 300 companies builds most of the market for sale homes completed in England and Wales, and encompasses private developers and Registered Providers. As the main trade association for the house building industry our members constitute one of the largest customers who will be affected by these proposals. As such, we trust that Ofwat will attach appropriate quantitative and qualitative weight to our response, in particular when making any decisions arising from this consultation.

Response(s) to Consultation Questions

1. Do you agree with our preferred approach in terms of the content and scope of our code? Please explain your answer.

We agree with Ofwat's preferred option 4.

The HBF played an active and effective role that subsequently led to Ofgem crystallising their present approach to new connections. A similar approach/direction by Ofwat is therefore welcomed.

We are also encouraged to see Ofwat taking a more proactive role when setting 'codes' for adoption agreements – this is in contrast to the arms-length approach that is very much in evidence when it comes to the new Charging Rules and Charging Arrangements. Moreover, allowing privatised Water and Sewerage Companies to take

the lead when setting terms and conditions that better serve their commercial interests, or by allowing them to formulate important policy/charges, is neither appropriate nor acceptable from a developer customer perspective.

**2. Do you agree with our proposed code of principles and their definitions?
Please explain your answer.**

Yes – we have no further comments to make under this heading.

3. Do you think our proposed minimum information and publication requirements are appropriate and sufficient?

Yes, we fully agree but one of the biggest challenges will be in trying to get a universal approach by all WaSCs and WoCs, especially when it comes to Self-lay providers (SLPs) and connection agreements.

4. Do you agree with our proposed approach of requiring companies to develop Sector Documents and Model Adoption Agreements in consultation with Developer Service Customers, according to a set of minimum requirements?

Absolutely - the HBF would be prepared to play an active role in this matter. Indeed, we believe this to be essential. Furthermore, this will be an opportunity to have a single, albeit generic series of minimum standards and requirements across the whole of the Water and Sewerage Sector and with minimal need for regional variation. Not only should this speed up the process but it will also facilitate easier, all-round performance monitoring.

5. Do you agree with our proposed minimum requirements? Please explain your answer.

Yes - and this can fall into a number of headings which we have listed below, (the list is not exhaustive):-

- Definitions
- Technical approvals – including minimum information requirements
- Financial terms and conditions including the calculation of supervision/inspection fees
- Inspection regime – to be clearly defined
- Prestart Meetings
- Construction Information, including the control and management of variations

- Bonding - if required and to include how exemptions from surety/bonding provision will be determined/applied
- Problems/issues that arise and how they will be addressed, including an expedited dispute resolution process
- Levels of service
- Definition of issues that lie outside of everybody's control

This list may not reflect all of the topics that need to be covered but going forward, we see it as being a helpful starting point.

6. Do you agree with our proposed approach to deviations? Please explain your answer.

In short, we generally agree with Ofwat's approach, save to say that we would like to see a series of 'codes' that keep deviations to the absolute minimum. There is considerable merit in taking the lead from the Electricity Sector where discussion and debate specific to the management of deviations was effectively resolved to the extent that it became a minor consideration.

The key to success is transparency and effective lines of communication leading to the progressive development of trust between all parties. Moreover, we would request that there should be a 'deviations register' so that they can be effectively audited. In turn, Ofwat would then be in a position to review what developers have been facing, undertake an analysis of the data and thereafter provide better informed adoption codes. This will meet the objective of ensuring there is transparency whilst also building trust.

7. Do you have any comments on our proposed approach to governing the initial approval of and subsequent changes to the Sector Documents and Model Adoption Agreements?

In general, we again agree with the proposals advanced by Ofwat. Moreover, the present proposals are starting to replicate what currently takes place in the Electricity Sector, in particular for ICP's – this is proving to be a success. Furthermore, the HBF sits as a customer observer on a 'management panel' where changes are discussed/agreed – going forward, this might a proposition that Ofwat may also wish to consider.

8. Do you consider the proposed timeline for submitting the Sector Documents and Model Adoption Agreements to us for approval to be realistic and achievable? If not, what would you consider to be a suitable timeline?

We feel that the timeline proposed is very ambitious and if this was the only change taking place in the Water and Sewerage Sector between now and March 2018 we would probably accept that it was just about achievable. However, we do not believe that this is the case as in our opinion the Charging Rules and more so the Charging Arrangements

carry a far greater degree of urgency. We would therefore suggest the following for consideration:

- Secure the relevant information from respective companies by May 2018
- Developer Services Customer consultation to take place after this date
- Look to have the 'codes' in place by September 2018 or no later than 1st January 2019

By taking this approach there are also a number of advantages, for example, what is being contemplated could run in parallel with the changes to Developers Services as part of the wider Market Reform proposals. Secondly and perhaps more importantly, it will provide the opportunity for the S104 SuDS adoption proposals (currently being considered by a Water UK Working Group) to be crystallised, consulted upon and reflected in the eventual adoption codes. In other words, by looking at matters holistically and working 'smarter' the prospect of unintended consequences is reduced and better use is made of limited resources.

9. Do you have any comments on the assurances the sector will be required to provide to us when submitting the Sector Documents and Model Adoption Agreements to us for approval?

The main issue will be the ability (and sufficient resources) for companies to consult with our members. It would be far more beneficial if there was one consultation for Water and one for Sewerage Agreements, rather than have multiple consultations necessitating individual responses. The current consultation intentions associated with the New Charging Arrangements will manifest at least 19 separate consultations and at differing times, each with a differing approach to charging/costs. This is far from helpful and it is quite clear from our discussions with individual WaSCs/WoCs that many are unlikely to use the Water UK web-site as a means of notifying when their consultations are available.

In summary, we agree with the three areas that are in the consultation.

10. Do you have any comments on our proposed transitional arrangements to enable companies to comply with the Sector Documents and Model Adoption Agreements?

As we have answered in question 8 the timelines are really tight. One of our main concerns would be the prospect of more onerous financial conditions being applied in the new agreements beyond those imposed at present.

On a positive note, there are opportunities where we could aim to make these Agreements far more customer friendly and responsive. Furthermore, if supported by enforceable levels of service accompanied by fiscal penalties for non-performance, not

only would this chime with the Energy Sector, but it would be an opportunity to move on from where we are now in recognition that it is not just housing completions that need to increase, but construction periods will also need to reduce. MMC will play an important and lasting role in the latter case and this will need to be recognised.

HBF London

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