

## **Annex C Matters reserved to the Board of the Water Services Regulation Authority (Ofwat)**

The following matters are reserved to the Board for decision by the Board.

### **Ofwat policy**

(a) Approval of:

- Ofwat's strategy and forward programme;
- decisions on the draft and final determinations at price reviews and substantial effect determinations;
- decisions to make market investigation references to the Competition and Markets Authority;
- decisions to commence significant litigation (for the avoidance of doubt, this includes becoming a party to proceedings);
- decisions to appeal any significant judgment that has been given against Ofwat; and
- decisions on Ofwat's risk appetite (annually).

(b) Approval of decisions which raise new major issues of principle or are particularly sensitive. The following illustrative but not exhaustive list contains examples where relevant decisions will be reserved to Board (insofar as they raise new major issues of principle or are particularly sensitive)<sup>7</sup>:

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<sup>7</sup> On 16 July 2013 Board delegated making final decisions in strategic cases to the Casework Committee (please see Annex J for the Casework Committee's Terms of Reference), some of which might otherwise have been covered by this section (b), including for example final enforcement orders under WIA91, final decisions of infringement under the Competition Act 1998, and (in both cases) linked financial penalties. Paragraph 15 of the Casework Committee's Terms of Reference notes that, "For the avoidance of doubt, Board has delegated to the Committee any decision which might otherwise come to Board under Annex C, section (b) of the Board's Rules of Procedure, provided that decision falls within the remit of the Committee. However, that does not prejudice the Committee's discretion to voluntarily refer any such decision back to the Board, where the Committee deems that to be appropriate". Similarly on 12 February 2015 Board also delegated making certain relevant decisions to the Thames Tideway Tunnel Committee (please see Annex F for the Thames Tideway Tunnel Committee's Terms of Reference), some of which might otherwise have been covered by this section (b). However, paragraph 16 of the Thames Tideway Tunnel Committee's Terms of Reference mirrors paragraph 15 of the Casework Committee's Terms of Reference quoted above.

- the approach to draft and final determinations at price reviews and substantial effect determinations;
- significant enforcement action;
- the approach to and decisions on interim determinations;
- the approach to and decisions on appointment modification references to the Competition and Markets Authority;
- decisions to defend significant litigation;
- super complaints;
- the approval of charges schemes;
- recommendations to the Secretary of State about granting or terminating appointments;
- granting new appointments;
- granting and revoking water supply licences;
- modifications to a condition of appointment or water supply licence; and
- investigations into company performance.

## **Organisational issues**

Approval of:

- (c) The annual budget.
- (d) The annual report.
- (e) The annual accounts.

## **Management issues**

Approval of:

- (f) The appointment of the Chief Executive and the terms and conditions of service.
- (g) Any overall Office strategy regarding human resource policies and procedures.
- (h) Major changes to Ofwat's structure.
- (i) Strategic monitoring of Ofwat's health and safety policies.

## **Approval of contractual and other obligations with third parties.**

- (j) The principles underlying any contracts not in the ordinary course of business.
- (k) Any major capital projects above £200,000.

- (l) Material contracts in the ordinary course of business above £200,000, for example acquisition or disposal of fixed assets.
- (m) Any Memorandum of Understanding or formal agreement that Ofwat may enter into with a third party including those with a Government department or other UK regulatory body.

## **Corporate governance**

- (n) Approval of any changes to Ofwat's rules of procedure including this Annex and all Annexes (except Annex B) and any changes to the terms of reference of any Committee.
- (o) Formal annual reviews of the Board's own performance and that of its committees.

## **Communication**

- (p) Where time allows, approval of key messages in major external statements, responses or other significant communications, such as in response to a statement made by UK Ministers, Welsh Assembly Government or a report of a Select Committee.

## **Statutory**

- (q) Anything that by law is reserved to Ofwat's Board.