



Fair Water Connections

An association seeking a fair deal in water supply provision

Response to Ofwat Consultation on the Development of a Developer Services Experience Incentive (D-MeX) – August 2017

Introduction and Overview

This response is made by Fair Water Connections (FWC) which is an association set-up to represent the interest of Self-Lay Providers (SLPs) who wish to ensure that there is fairness in the way competitive water connections are offered as an alternative to statutory water company provision. The performance of water company Developer Services sections is of paramount importance to our members because it directly impacts on their ability to provide services to their developer customers. We are therefore only responding to the D-MeX element of the wider Ofwat consultation.

Whilst encouraged that Ofwat have identified that the developer customer group needs focus we are calling for a complete focus rethink of what is being proposed for D-MeX.

This is because we believe that water companies will work to achieve good performance feedback in some customer sectors, and thereby secure the proposed 5% reward (which, for some companies, could be annually worth £1 million) whilst failing in other sectors, such as being open to competitive provision and timely delivery of the necessary non-contestable work needed for self-lay delivery. We also consider that it is imperative that other Ofwat initiatives, which have yet to facilitate the establishment of self-lay competition across all water company areas, are tied into D-MeX and thereby give developers the opportunity to benefit from connection competition.

We are therefore alarmed that the D-MeX proposals do not make openness to connection competition a primary requirement and that there is no apparent alignment in the D-MeX proposals with other Ofwat imposed requirements, such as meeting the information and publication stipulations set out in the Code for Adoption Agreements recently proposed by Ofwat. Because it happens in the Developer Services performance data Water UK publish we know that high volume low significance work (and, in our view, abuse of ‘allowable exceptions’) mask ongoing competition critical delivery failures. So, unless appropriate checks and balances are built into the D-MeX proposals, we sense it inevitable that we will end up (again as already happens with what Water UK publish) with a system designed by water companies to show them as performing but without ‘good service’ levels being delivered to our members (who are then not able to meet their developer customer expectations).

To illustrate our point some water companies, notwithstanding the need for Competition Act compliance and some 13 years after primary legislation came into effect specifying self-lay arrangements, currently have (according to Water UK data), effectively, no competitive connections work in their area. Although it is for the developers these companies serve to decide on how content they are with the service levels they receive we maintain that they are being denied the benefits that competitive provision brings and that developers should be far from satisfied with this

situation. Hence our view is that long overdue decisive action by Ofwat is needed to stimulate connection competition. This has happened in other utility sectors and our view is that it is now imperative that D-MeX be used to achieve this in water. Hence we regard it as paramount that water companies who have scant regard towards embracing competition should not be eligible, in any D-MeX proposal, to be rewarded for their Developer Services performance.

From our initial comments it will be apparent that we do not now favour placing any reliance on the quantitative measures water companies report. This is because they do not reflect our members experience and were set by water companies themselves without the level of customer engagement needed to determine importance and/or criticality.

A further concern we have about the proposals is that the D-MeX reward is based on Developer Services turnover (though quite what constitutes 'turnover' is not defined). But as higher volumes of independently provided connections will invariably reduce turnover it means that increasing competition will be a disincentive that needs to be countered. Another competition deterrent which could arise, should a survey based approach be selected, is that high self-lay volumes increases the number of customers which may make it more difficult for the companies with most competition, and the most customer engagement, to get better customer feedback than in other companies.

Our Proposals

Whilst recognising that a customer survey based approach could provide a high level steer there are issues, particularly with large developments, in determining who to question and how much of the complete delivery is within the direct experience of the respondent. This could be countered by identifying at each stage (which usually has a defined process exchange with the water company) a person who could subsequently be contacted for a survey. Separate, activity specific, surveys would then need to be done and the results consolidated which would be costly and we are not sure that the findings will provide the granularity necessary to accurately grade companies.

To compound the ability to construct meaningful surveys there look to only be limited practitioners, outside of companies themselves, who have sufficient knowledge of the water connections delivery processes (an illustration, to us, of this being demonstrated by the inadequate sector understanding of the auditors responsible for the recent audit Water UK commissioned into company performance data). So we are left with querying whether there are sufficient independent resources available to construct the necessary surveys and are unsure how Ofwat can be confident that a customer response based approach will provide meaningful feedback which is adequate to justify the envisaged level of reward payments.

Instead we believe that customer satisfaction should be logged by the number of complaints that each company receives with the stimulus to register a complaint being the reward of a meaningful compensation payment. Such Guaranteed Standards schemes work in many other sectors and has recently resulted in a very significant change in the behaviour of electricity companies towards independent connection provision. Hence we regard it as now essential that Ofwat uses the opportunity afforded by D-MeX to introduce such a scheme covering new water connections. Compliance should not be an issue as companies already demonstrate nearly full compliance (according to the data Water UK publish). This currently shows performance at 97.5% for water and 99.2% for sewerage.

A further advantage of a Guaranteed Standards based approach is that it provides a much needed opportunity for water companies to meaningfully commit themselves to delivering the standards and principles which Ofwat, developers and SLPs have always required, but so seldom received. If water companies were made to instigate such an approach it would become an enabler of development which ultimately is to the benefit of all.

Ofwat could also use D-MeX as an opportunity to stimulate companies to locally resolve disputes rather than leaving customers with having to escalate them to Ofwat. This would benefit Ofwat casework resources as it would reduce Ofwat workload and, should, make companies more responsive to local customer issues.

Our proposals look to Ofwat for some 'joined up thinking' across their various sections as, to us, it is perverse that companies could be in receipt of substantial bonuses whilst, in addition to failing to facilitate open competition, not being fully compliant against either:-

- a) The new Ofwat Charging Rules; or,
- b) Information Notes and Codes issued by the Casework Section

Hence, as Ofgem has made happen in the energy connection sectors, we are looking to Ofwat (assuming that companies do not volunteer to do it themselves) to create incentive mechanisms which only financially reward companies when their engagement leads to high quality outcomes, i.e. industry best practice, which benefits all stakeholders. So we urge Ofwat to now introduce incentives which penalise quantifiable failure rather than give substantive reward payments based on subjective views about what is being delivered. Our view being that complaints should only form one element of the D-MeX system and how companies serve each customer group and responsiveness to competition need to factor in the reward mechanism. Putting this into place should also separately consider the 'wholesale' and 'retail' activities performed by Developer Services sections and ensure that failure in one area has a direct impact and cannot be masked by low work volumes.

Linked to consideration of 'wholesale' activities, including non-contestable works, there is also a need to capture the experiences of potential customers (such as those who cannot work through the company procedures to secure independent connections work) to ensure that failure to be open to competition significantly lowers any incentive reward. We are proposing that this is done by making low competitive workloads restrict allowable maximum reward levels.

Summary

We cannot see that the survey approach (i.e. Option 1, which is favoured by Ofwat) would give Developer Services customers confidence that reporting their experiences will lead to changes in water company behaviour, and responsiveness. It may also, if not well designed (and there is not much time for testing and development), drive behaviour to achieve financial rewards rather than improve customer service.

Hence we call for Ofwat to abandon this approach and instead use the 5% mechanism they are expecting AMP19 to fund to:-

- a) bring about a Guaranteed Standards Scheme for Developer Services customers; and,
- b) ensure that openness towards competition is rewarded.

We are therefore pushing Ofwat to go beyond their Option 4 and for there to be a national scheme against which it will be possible to compare the relative performance of each company. (Note, along with discounting Option 1 we also discount the proposed Options 2 and 3 as not addressing the issues we highlight throughout this response).

Additionally we also regard it as essential that Ofwat uses the introduction of D-MeX to link together various regulatory threads, in particular the requirements set out in the new Charging Rules and the proposed Code for Adoption Agreements. This is because we know that many of the principle requirements in the proposed Code, such as the provision of information about customer choices, are not being fulfilled and believe that what all sections within Ofwat are defining as 'key requirements' will only come about through appropriately incentivising companies to deliver.

[Note – this appears to be what Ofgem is doing in their recently announced “consultation on penalties for the distribution network operators under the Incentive on Connections Engagement”].

To illustrate the various elements we regard as key to any D-MeX scoring we appended our initial thoughts about the sort of balanced scorecard arrangements that is needed for our proposal.

We believe that the mechanism to support our proposals could be quickly piloted and headline scores published, even if the financial incentive may have to wait until 2020. Given the importance to our membership of a well-constructed D-MeX mechanism we will assist Ofwat work through the development and piloting that we envisage will now be necessary. This will draw on the experience of our membership as knowledgeable practitioners, many with experience in companies and in the independent sector.

Follow Up Queries

Any questions/queries that arise from this response should be made to:-

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Appendix A – Fair Water Connections Preliminary Balanced Score-Card Proposals

| Activity/Area | Scoring Mechanism | Weighting |
|--|--|-----------|
| Openness to Competition | Achieved by being within 20% of the upper quartile, across all companies) of the proportion of connections independently provided | 25% |
| Satisfy Information to customer requirements | As specified by Ofwat (in their Code for Adoption Agreements and elsewhere). Independently assessed against a pre-issued checklist | 10% |
| Locally resolved Complaints | Performance lowered by the number of complaints that get referred to Ofwat for resolution (i.e. go beyond local settlement) | 15% |
| Guaranteed Standards Performance | Based on number of claims paid for non-delivery. | 50% |

Should performance in any area be below 50% the maximum reward should be halved (i.e. be based on 2.5% of turnover rather than 5%).

Appendix B – Indicative Self-Lay Work Volumes for 2016-17

The following table has been produced based on data published for all companies by Water UK for the 2016-17 year.

As there appear to be a number of anomalies in the Water UK data it is accepted that this is an indicative analysis, though one that aligns with the experiences of FWC members.

The comparison is between self-lay workloads and in-house mains provision is based on the proportion of self-lay applications/agreement acceptances against in-house mains construction jobs. The analysis is for mainlaying jobs, where the larger sites (i.e. more connections per scheme) are the most likely to be done through self-lay provision, it under represents the total number of connections competitively provided. But whilst it under represents the total number of connections competitively provided it does highlight where workloads are particularly low.

| Company | Proportion of work done through self-lay | Number of connections (from PR14 data) for 2016-17 |
|-------------------------------------|--|--|
| United Utilities | 34.5% | 15680 |
| South Staffs (incl Cambridge) | 33.1% | 3970 |
| Severn Trent | 31.5% | 19000 |
| Dwr Cymru | 28.6% | 6670 |
| Bristol | 26.6% | 5480 |
| Dee Valley | 26.3% | 930 |
| Yorkshire | 25.2% | 16720 |
| Anglian | 24.8% | 18160 |
| Thames | 22.5% | 20000 (est) |
| Affinity | 17.5% | 8570 |
| Wessex | 15.2% | 5480 |
| Northumbrian (incl Essex & Suffolk) | 7.9% | 10920 |
| Portsmouth | 3.9% | 2160 |
| South West | 3.0% | 6690 |
| South East | 1.7% | 8670 |
| Southern | 0.7% | 7740 |
| Sutton & East Surrey | 0.0% | 2370 |
| Bournemouth | 0.0% | 1310 |

Commentary on above data

It is recognised that self-lay first got established in the North West (United Utilities area) some 15 years ago and, since then, has been slowly taken up by developers further south.

Companies that stand out as not enticing self-lay competition in their areas are all in the South East. The analysis showing that, in particular, nearly all connections in both Southern Water and South East Water (even though each of these companies themselves connects around 5% of all new developments across England and Wales) are done by the companies themselves.