

August 2018

Trust in water

# Code for adoption agreements for water and sewerage companies operating wholly or mainly in England

# **Code for adoption agreements**

**(for Water and Sewerage Companies  
operating wholly or mainly in England)**

Issued by the Water Services Regulation Authority under  
section 51CA and section 105ZC of the Water Industry Act  
1991

Coming into effect on 13 November 2017

## Version control

Version no.	Date of issue	Reason for change	Section(s) affected
V2.0	August 2018	<p>(a) The deadline for submitting the water sector guidance and model water adoption agreement was changed from 1 October 2018 to 7 January 2019.</p> <p>(b) Paragraph 3.7.2 was amended to remove the reference to A1B1.1 (which was incorrect) and replace it with reference to B1.1 (which is correct).</p>	<p>Paragraph B1.1</p> <p>Paragraph 3.7.2</p>

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## Explanatory note

### Background and approach

Ofwat is required by sections 51A and 105ZC WIA91 to issue codes with respect to the agreements that Water and Sewerage Companies<sup>1</sup> enter into in order to adopt infrastructure for new connections, where that infrastructure has been provided by other parties. This document is the Code issued by Ofwat under sections 51CA and 105ZC WIA91.

Under sections 51CA and 105ZC WIA91, the codes, amongst other matters, may include:

- The procedures Water and Sewerage Companies follow to make, vary or terminate Water Adoption Agreements and Sewerage Adoption Agreements;
- The circumstances in which it is, or is not appropriate for work to be done by a person other than a Water or Sewerage Company;
- The terms and conditions of an adoption agreement; and/or
- The principles for determining the terms and conditions that should be incorporated into an adoption agreement.

Prior to the statutory obligation being placed on Ofwat to develop these codes, there were a number of sector initiatives to develop and maintain sector codes of practice in relation to adoption agreements, and model adoption agreements for both water and sewerage infrastructure.

Ofwat considers that Water and Sewerage Companies, Developers and Self-lay Providers are best placed to develop Sector Guidance and Model Adoption Agreements and has, therefore, elected to build on existing sectoral initiatives. This Code, therefore, places an enforceable obligation on Water and Sewerage Companies whose areas of appointment are wholly or mainly in England, to (a) develop, in collaboration with Customers, drafts of Sector Guidance and Model Adoption Agreements which are subject to approval by Ofwat; and (b) maintain the Ofwat approved Sector Guidance and Model Adoption Agreements, in collaboration with Customers, and which are subject to further approval by Ofwat.

The Code sets out principles that must be adhered to in the development, maintenance and application of the Sector Guidance and Model Adoption

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<sup>1</sup> Please note capitalised terms are defined in [Appendix A](#)

Agreements (and any drafts of those documents) and sets minimum requirements for inclusion in these documents.

Under this Code, Water and Sewerage Companies are expected to follow the Sector Guidance and Model Adoption Agreements, only deviating from them in certain specified circumstances. This Code provides a high-level framework for any deviations.

## Structure of the Code

The Code is structured into five main parts:

1. **Introduction:** this deals with the interpretation of the Code; the purpose of the Code; and the application of the Code.
2. **The Code principles:** which provide the over-arching framework for this Code including the development, maintenance and application of the arrangements under the Code.
3. **General obligations:** on Water and Sewerage Companies to develop and maintain Sector Guidance and Model Adoption Agreements to govern the adoption of water and sewerage infrastructure. This part also provides a governance framework for the Sector Guidance and Model Adoption Agreements, and places requirements on Water and Sewerage Companies to publish the Sector Guidance, Model Adoption Agreements and any company-specific arrangements relating to the adoption of infrastructure.
4. **Information and publication requirements:** in order to notify their Customers of the procedures for adopting infrastructure, this sets out what the Water Companies and Sewerage Companies must publish on their websites or on a central sector website.
5. **Company obligations to comply with the Sector Guidance and Model Adoption Agreements:** this sets out the expectations on Water and Sewerage Companies to follow and comply with the Water Sector Guidance; the Sewerage Sector Guidance; the Model Water Adoption Agreement; and the Model Sewerage Adoption Agreement developed by the sector according to the requirements of this Code. This part also provides a framework for deviating from the Sector Guidance and Model Adoption Agreements in certain circumstances.

## **1. Introduction**

### **1.1 Definitions and interpretation of the Code**

- 1.1.1 Capitalised terms used in this Code are defined in [Appendix A](#).
- 1.1.2 Provisions dealing with the interpretation of this Code are in [Appendix A](#).

### **1.2 Purpose of the Code**

1.2.1 Ofwat is required, under section 51A WIA91, to issue a code in respect of agreements to adopt water mains or service pipes at a future date. Ofwat is also required, under section 105ZC WIA91, to issue a code in respect of agreements to adopt sewers, drains or sewage disposal works at a future date. This document is the Code issued by Ofwat under sections 51CA and 105ZC WIA91. It applies to Water and Sewerage Companies whose areas of appointment are wholly or mainly in England.

1.2.2 The purpose of the Code is to:

- (a) enable the timely provision and adoption of new water and sewerage infrastructure required to enable housing growth;
- (b) enable customer focused delivery of the services Customers require when entering into adoption agreements;
- (c) facilitate Customers entering into Water Adoption Agreements and Sewerage Adoption Agreements;
- (d) drive efficiency and effectiveness of processes, reducing the time and costs incurred by all parties entering into adoption agreements;
- (e) protect End-user Customers by preventing the adoption of sub-standard infrastructure; and
- (f) enable effective competition in the provision of new connections.

1.2.3 The Code seeks to achieve this by prescribing:

- (a) principles to be applied by Water and Sewerage Companies in developing and maintaining:
  - (i) standard procedures for entering into, varying and terminating Water Adoption Agreements and Sewerage Adoption Agreements; and

- (ii) terms and conditions to be included in Water Adoption Agreements and Sewerage Adoption Agreements;
- (b) minimum requirements to be included in:
  - (i) standard procedures for entering into, varying and terminating Water Adoption Agreements and Sewerage Adoption Agreements; and
  - (ii) all Water Adoption Agreements and Sewerage Adoption Agreements.
- (c) a governance framework for the Sector Guidance and Model Adoption Agreements; and
- (d) requirements on Water and Sewerage Companies to publish:
  - (i) the Sector Guidance;
  - (ii) the Model Adoption Agreements; and
  - (iii) any company-specific arrangements relating to the adoption on infrastructure.

### **1.3 Application of the Code**

- 1.3.1 The Code binds all Water and Sewerage Companies whose areas of appointment are wholly or mainly in England.
- 1.3.2 From time to time, Ofwat will review and revise this Code as required by section 51CA(10) and section 105ZC(9) WIA91.
- 1.3.3 Where revisions to the Code are not minor or urgent, as defined by section 51CC(1) and section 105ZE(1) WIA91, Ofwat will consult about any revisions to this Code as required under section 51CB(1) and section 105ZD(1) WIA91.



## 2. Code principles

Regard must be given, by Water and Sewerage Companies, to the following principles when interpreting this Code and in the development, maintenance and application of the arrangements under this Code.

Principle	Proposed definition
Customer focussed	<p>Arrangements under the Code must balance the interests of Water and Sewerage Companies, Customers and End-user Customers, and set out how the Water or Sewerage Company will:</p> <ul style="list-style-type: none"> <li>• seek to deliver the services Customers need, in the timescales they require;</li> <li>• be Customer focussed and promote the participation of Customers in the development and maintenance of those arrangements;</li> <li>• recognise the different types of Customer Water and Sewerage companies may need to engage with under these arrangements; and</li> <li>• be flexible to opportunities to innovate or provide better service.</li> </ul>
Fair and proportionate	<p>Without compromising End-User Customer's safety, arrangements under the Code must be proportionate in relation to the costs and risks faced by the Water or Sewerage Company on the one hand and the Customer on the other. The arrangements should also be fair and reasonable in terms of who holds the balance of risk.</p> <p>Additionally, the arrangements under the Code must:</p> <ul style="list-style-type: none"> <li>• be fit for purpose (and provide for regular review so they remain fit for purpose);</li> <li>• not be unnecessarily complex; and</li> <li>• not unfairly discriminate between Customers.</li> </ul>
Clear, complete and current	<p>Arrangements under the Code must comply with Ofwat's <a href="#">Information Principles</a>.</p>
Level playing field	<p>Arrangements under the Code must:</p> <ul style="list-style-type: none"> <li>• provide a framework that will enable effective competition where parties can compete with the Water or Sewerage Company to provide new connections services;</li> <li>• minimise as far as practicable the number and type of services and activities that fall within the scope of Non-contestable services;</li> <li>• Require that the Water or Sewerage Company provides Non-contestable services to all relevant parties on an equivalent basis as it provides the same services for its own business; and</li> <li>• make clear Customers' options so they can make an informed choice about who they could get to provide the new connections services they require, for example where they need to use the local Water Company or Sewerage Company and where they can use an alternative provider.</li> </ul>

Efficiency	Arrangements under the Code must promote efficient and effective processes for entering into adoption agreements and to achieve adoption.
Predictability and transparency	Arrangements under the Code must be predictable and transparent and provide Customers with sufficient certainty as to what they can expect at each step in the process of entering into adoption agreements, for example, through standardisation of approach across the sector. Any changes to the arrangements under the Code (including company-specific practices) should be adequately signposted to Customers in advance of the change.
Encourage innovation	Arrangements under this Code should encourage innovation and not unduly prevent opportunities for innovation that could deliver a better service for Customers, mindful of the associated costs.
Resilience and sustainability	Arrangements under the Code must have regard to the efficient use of resources and the long-term resilience of Water Companies' supply systems and Sewerage Companies' sewerage systems as regards environmental pressures, population growth and changes in consumer behaviour.

### **3. General obligations on Water and Sewerage Companies**

#### **3.1 Obligation to develop draft Sector Guidance**

3.1.1 Subject to [Appendix B](#) (Transitional arrangements), Water and Sewerage Companies must develop and maintain in accordance with the principles in the Code, and following consultation with Customers:

- (a) draft Water Sector Guidance setting out standard procedures for entering into, varying and terminating Water Adoption Agreements; and
- (b) draft Sewerage Sector Guidance setting out standard procedures for entering into, varying and terminating Sewerage Adoption Agreements.

3.1.2 The draft Water Sector Guidance and the draft Sewerage Sector Guidance, as a minimum, must set out the processes Water and Sewerage Companies must follow for making, varying or terminating Adoption Agreements, including in relation to:

- (a) Pre-development enquiries including point of connection or discharge applications.
- (b) Submission and approval of applications for adoption agreements where an appropriate third party is designing the infrastructure to be adopted.
- (c) Submission and assessment of applications for adoption agreements where the Water or Sewerage Company is requested to design the infrastructure to be adopted.
- (d) The requirements of the construction process for the infrastructure to be adopted, including testing and commissioning of the built assets.
- (e) The determination of any maintenance period for the constructed assets.
- (f) Completing the Vesting process and providing the Customer with the final signed Adoption Agreement.
- (g) Dispute resolution. The dispute resolution process must provide for the resolution of disputes concerning the Water Sector Guidance and the Sewerage Sector Guidance:
  - (i) as a first step, by way of a complaints process. There must be clear named points of escalation for each party to the relevant agreement and their contact details; and
  - (ii) as a second step, through mediation.

3.1.3 The draft Water Sector Guidance and draft Sewerage Sector Guidance, as a minimum, must also include:

- (a) In respect of the procedures identified in paragraph 3.1.2, the minimum levels of service a Customer can expect to receive in respect of each procedure, both in terms of time and quality of the service.
- (b) Appropriate Customer redress if a Water or Sewerage Company fails to meet the minimum levels of service.
- (c) The minimum information requirements of each party at each stage of each procedure, and which may include template forms if necessary.
- (d) Reporting requirements concerning the levels of service required of Water and Sewerage Companies under paragraph 3.1.3(a), including standard definitions and the frequency of reporting required.
- (e) High-level information about any sector accreditation schemes, including where further information can be obtained.
- (f) An explanation of what works are Contestable, what level of competency is required to carry out those works, and the circumstances where competent persons and organisations may subcontract the work and the conditions attached to those arrangements.
- (g) Design and construction guidance for all aspects of Contestable works to be adopted, which is compliant with all relevant statutory requirements.
- (h) The general conditions and precautions that the party carrying out the works is required to follow when working near assets owned by a Water Company or a Sewerage Company.
- (i) Details of the circumstances in which local practices specific to each Water Company or Sewerage Company (such as local operational practices or local design guidance) are permitted.
- (j) A governance process that complies with paragraph 3.8 for changes to the Sector Guidance and the Model Adoption Agreement.

## **3.2 Obligation to produce a recommendation on the Sector Guidance**

3.2.1 Water Companies must work together in order to produce a recommendation to Ofwat concerning the draft Water Sector Guidance and Sewerage Companies must work together in order to produce a recommendation to Ofwat concerning the draft Sewerage Sector Guidance. Each recommendation must set out, in writing:

- (a) whether Customers have been consulted, providing examples to evidence the extent of their involvement;
  - (b) whether the draft Sector Guidance reflects broad consensus of opinion amongst Customers and the Water Companies or Sewerage Companies as applicable. Where this is not the case the recommendation must set out where those parties have differing views and the reasons for following one view over an alternative view; and
  - (c) confirmation that there has been compliance with this Code in producing the draft Sector Guidance.
- 3.2.2 Where possible, the draft Sector Guidance must reflect broad consensus of opinion amongst Customers and Water Companies or Sewerage Companies as applicable.
- 3.2.3 The Water Companies and the Sewerage Companies must submit the draft Sector Guidance together with their recommendations to Ofwat, in accordance with the timeframes set out at [Appendix B](#).
- 3.2.4 Ofwat will make the final decision as to the content of the Sector Guidance, having, where appropriate, consulted the relevant persons set out in sections 51CB and 105ZD WIA91. If Ofwat does not agree with a recommendation received under paragraph 3.2.1, that reflected broad consensus between Customers and Water and Sewerage Companies, Ofwat will ask for the further views of Customers and Water and Sewerage Companies prior to finalising the Sector Guidance.

### **3.3 Obligation with regard to local practices**

- 3.3.1 Water Companies and Sewerage Companies must inform Customers about any proposed local practices, referred to at paragraph 3.1.3(i), and give Customers an opportunity to comment on those local practices before they are implemented. Any local practices must be justified under the principles of this Code and must be permitted by the Sector Guidance.

### **3.4 Obligation to develop Model Adoption Agreements**

- 3.4.1 Subject to [Appendix B](#) (Transitional arrangements), Water and Sewerage Companies must develop and maintain in accordance with the principles in the Code, and following consultation with Customers:

- (a) a draft Model Water Adoption Agreement that covers the adoption of all water infrastructure that can be subject to an adoption agreement under section 51A WIA91; and
- (b) a draft model Sewerage Adoption Agreement that covers the adoption of all sewerage infrastructure that can be subject to an adoption agreement under section 104 WIA91.

3.4.2 As a minimum the draft Model Adoption Agreements must include:

- (a) A schedule of the design and technical requirements for the Contestable works that will be constructed under the agreement and which will be specific to each site.
- (b) References to the minimum levels of service contained in the relevant Sector Guidance developed pursuant to paragraph 3.1.3(a) of this Code.
- (c) A means of clearly identifying when relevant assets will Vest in the relevant Water Company or Sewerage Company and what steps are necessary to achieve adoption with the aim of achieving adoption as soon as reasonably practicable.
- (d) Processes for varying and terminating the agreement by relevant parties to the agreement.
- (e) A dispute resolution process which provides for the resolution of disputes under the agreement:
  - (i) as a first step, by way of a complaints process. There must be clear named points of escalation for each party to the agreement and their contact details; and
  - (ii) as a second step, through mediation.
- (f) Named points of contact for each party in relation to the day to day operations and contract management, specific to each site.

3.4.3 Where possible, the draft Model Adoption Agreements must reflect consensus of opinion amongst Customers and the Water Companies or Sewerage Companies as applicable.

## **3.5 Assurance terms in Model Water Adoption Agreements**

3.5.1 Paragraphs 3.5.2 to 3.5.7 of this Code set out Ofwat's general expectations about the assurance terms that a Water Company may seek in a Water Adoption Agreement entered into under section 51A WIA91. On the coming

into effect of this Code, Ofwat's Information Notice 16/06<sup>2</sup>, which contains guidance about assurance terms, is formally withdrawn.

- 3.5.2 With specific regard to assurance terms, the terms of a Water Adoption Agreement may require the relevant party to:
- (a) demonstrate it is suitably competent to provide the proposed self-laid works, for example by means of [WIRS Accreditation](#);
  - (a) be subject to contractual obligations to meet the Water Company's design and construction standards when providing self-laid works; and
  - (b) be subject to contractual obligations to remedy any defects arising with the self-laid works within a defined liability period.
- 3.5.3 Beyond these requirements, any additional assurance terms must be:
- (a) reflective of the accreditation schemes, where applicable, that are developed and recognised by the sector;
  - (b) transparent and must set out clearly the rationale for any differences in the application of assurance terms;
  - (c) reflective of, and proportionate to, identifiable costs and risks the Water Company faces in adopting the infrastructure; and
  - (d) reasonable in terms of who holds the balance of risks.
- 3.5.4 A Water Company must not offer assurance terms that require relevant parties to undergo 'control point' supervision or inspection visits that would require the Water Company's approval before the party can progress works except where a Water Company has robust evidence to demonstrate that such additional assurance terms are required (**Special Circumstances**).
- 3.5.5 In Special Circumstances the terms could give the Water Company the right to carry out supervision and/or inspection visits in defined circumstances, setting out who bears responsibility for the costs of such visits.
- 3.5.6 A Water Company must not offer assurance terms that enable a Water Company to hold a defects liability retention payment except where a Water Company has robust evidence to demonstrate that this is required.
- 3.5.7 A Water Company may require different terms from different Self-Lay Providers or Developers bearing in mind that Water Companies must comply

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<sup>2</sup> Information Notice 16/06 can be accessed [here](#).

with competition law in all circumstances. Water Companies must have robust evidence and a transparent rationale for applying any additional or different requirements.

### **3.6 Assurance terms in Model Sewerage Adoption Agreements**

- 3.6.1 Paragraphs 3.6.2 to 3.6.4 of this Code set out Ofwat's general expectations about the assurance terms that a Sewerage Company may seek in a Sewerage Adoption Agreement entered into under section 104 WIA91.
- 3.6.2 With specific regard to assurance terms, the terms of a Sewerage Adoption Agreement may require the relevant party to:
- (a) demonstrate it is suitably competent to provide the proposed works for example, to carry out the connection to a public sewer;
  - (b) be subject to contractual obligations to meet the Sewerage Company's design and construction standards when providing infrastructure to be adopted; and
  - (c) be subject to contractual obligations to remedy any defects arising with the self-laid works within a defined liability period.
- 3.6.3 Beyond these requirements, any additional assurance terms must be:
- (a) transparent and must set out clearly the rationale for any differences in their application;
  - (b) reflective of and proportionate to identifiable costs and risks the Sewerage Company faces in adopting the infrastructure; and
  - (c) reasonable in terms of who holds the balance of risks.
- 3.6.4 Nothing in this Code prevents or requires a Sewerage Company from requesting a defects liability bond from a relevant party.
- 3.6.5 A Sewerage Company may require different terms from different Self-Lay Providers or Developers bearing in mind that Sewerage Companies must comply with competition law in all circumstances. Sewerage Companies must have robust evidence and a transparent rationale for applying any additional or different requirements.



### **3.7 Obligation to produce recommendations concerning Model Adoption Agreements**

- 3.7.1 Water Companies must work together in order to produce a recommendation to Ofwat concerning a Model Water Adoption Agreement and Sewerage Companies must work together in order to produce a recommendation to Ofwat concerning a Model Sewerage Adoption Agreement. Each recommendation must set out, in writing:
- (a) whether Customers have been consulted, providing examples to evidence the extent of their involvement;
  - (b) whether the draft Model Adoption Agreement reflects broad consensus of opinion amongst Customers and the Water Companies or Sewerage Companies as applicable. Where this is not the case the recommendation must set out where those parties have differing views and the reasons for following one view over an alternative view; and
  - (c) confirmation that the draft Model Adoption Agreement complies with this Code.
- 3.7.2 The Water Companies and the Sewerage Companies must submit the draft Model Adoption Agreements together with their recommendations to Ofwat, in accordance with the timeframe at [Appendix B](#), paragraph [B1.1](#).
- 3.7.3 Ofwat will make the final decision as to the content of the Model Adoption Agreements having consulted, where appropriate, the relevant persons set out in sections 51CB and 105ZD WIA91. If Ofwat does not agree with a recommendation received under paragraph 3.7.1 that reflects the broad consensus of Customers and Water or Sewerage Companies, Ofwat will ask for the further views of Customers and Water and Sewerage Companies prior to finalising the Model Adoption Agreements.

### **3.8 Governance for recommending changes to the Sector Guidance and Model Adoption Agreements**

- 3.8.1 Water and Sewerage Companies must work together with their Customers, and in line with the principles of this Code, in order to set up two panels. One panel must be established to consider Change Proposals to the Water Sector Guidance and the Water Adoption Agreement and one panel must be established to consider Change Proposals to the Sewerage Sector Guidance and the Sewerage Adoption Agreement.

- 3.8.2 Within 30 working days of Ofwat approving the Sector Guidance and the Model Adoption Agreements, Water and Sewerage Companies must:
- (a) constitute each panel; and
  - (b) agree the process for undertaking panel business (including setting out what constitutes quorum).
- 3.8.3 Each panel must be comprised of an equal number of individual panel members from each of the following two categories:
- (a) Water and Sewerage Companies (as applicable); and
  - (b) Customers.
- 3.8.4 Where there is a sector-recognised accreditation scheme the relevant panel must include a representative from the scheme's advisory panel (**Scheme Representative**). The Scheme Representative's role will be advisory only and will not include the ability to vote on any Change Proposals.
- 3.8.5 Each panel member can choose a nominated alternate panel member to represent them at panel meetings.
- 3.8.6 Where a panel member is not present at a panel meeting, his/her alternate panel member will be entitled to attend that meeting and to exercise and discharge all the functions, powers and duties of his/her appointor at that meeting.
- 3.8.7 Each panel member may, by notice in writing to the panel, remove or replace the person appointed from time to time by that panel member as his/her alternate.
- 3.8.8 Unless the context otherwise requires, any reference in this Code to a panel member shall be construed as including a reference to that panel member's alternate.
- 3.8.9 Each panel member shall be entitled to attend, and to speak and vote at, every meeting of the panel. Voting can be undertaken outside the meeting via email to the panel.
- 3.8.10 Any interested party can submit a Change Proposal, in writing, to the appropriate panel for consideration. The purpose of a Change Proposal is to enable the relevant Sector Guidance and Model Adoption Agreements to

better meet the principles of this Code. As set out in 3.8.11(c), each Change Proposal must contain reasons for the proposal and details of its expected benefit and/or impact on Customers and Water and Sewerage Companies.

3.8.11 In carrying out its duties, each panel must:

- (a) Meet at least twice a year and consider what necessary or beneficial changes are needed to the Sector Guidance and Model Adoption Agreements.
- (b) Publish all Change Proposals on a central sector website at least 10 working days ahead of a panel meeting, notifying all interested parties, and allowing interested parties to provide comments to the panel on those proposals.
- (c) Assess all changes in terms of:
  - (i) the need for the change, for example, is it a service improvement or is it needed to address a particular issue;
  - (ii) consistency with the principles and objectives of this Code, and any relevant statutory requirements; and
  - (iii) the impact of the change (be it positive and/or negative) on Customers and on Water and Sewerage Companies.
- (d) Consider how much notice Customers and Water and Sewerage Companies may reasonably require to be able to meet any new requirements, which may not be less than 20 calendar days.
- (e) Ensure that changes do not have retrospective effect.
- (f) Have regard to Information Notices, orders and determinations issued by Ofwat, and consider whether consequential amendments to the Sector Guidance and Model Adoption Agreements are required as a result.
- (g) Consult Customers, Water and Sewerage Companies and other interested parties including parties which the panel may reasonably seek guidance from, for example, the Drinking Water Inspectorate, and the Environment Agency.
- (h) Where possible, reflect the consensus of opinion of panel members when the panel recommends making any changes to the Sector Guidance or the Model Adoption Agreements.

### **3.9 Obligation to produce a recommendation on a Change Proposal**

- 3.9.1 When a Change Proposal is received, the relevant panel must make a recommendation to Ofwat concerning that proposal. Each recommendation must set out, in writing:
- (a) What the recommended change is and the area that the recommended change will affect.
  - (b) Whether the change has been assessed in terms of:
    - (i) the need for change, for example is it a service improvement or is it needed to address a particular issue;
    - (ii) consistency with the principles and objectives of this Code, and any relevant statutory requirements; and
    - (iii) the impact of the change (be it positive and/or negative) on Customers and on Water and Sewerage Companies.
  - (c) Whether interested parties including Customers have been consulted, providing examples to evidence this.
  - (d) Whether changes should or should not be made to the Sector Guidance or the Model Adoption Agreements and the reasons why changes should or should not be made.
  - (e) A suggestion of when recommended changes should be effective from.
  - (f) Whether the recommendation reflects consensus of opinion of panel members. Where the recommendation does not reflect consensus of opinion the panel must set out the differing views of its members and the reasons for following one view over an alternative view. If the Scheme Representative does not agree with a recommendation, the views of the Scheme Representative must also be set out.
- 3.9.2 Each panel must submit their recommendations to Ofwat no later than 3 calendar months after publishing the relevant Change Proposal in accordance with paragraph 3.8.11(b).
- 3.9.3 Each panel must publish each recommendation (as submitted to Ofwat) on a central sector website.
- 3.9.4 Ofwat will review the recommendation for consistency with the principles of this Code and will make the final decision as to which changes should be made to the Sector Guidance and the Model Adoption Agreements having consulted, where appropriate, the relevant persons set out in sections 51CB

and 105ZD WIA91. Ofwat may ask for further views of panel members prior to modifying the Sector Guidance or the Model Adoption Agreements where a proposed modification is contrary to the consensus of the panel.

## 4. Information and publication requirements

- 4.1 Subject to [Appendix B](#) (Transitional Arrangements), Water Companies and Sewerage Companies must publicise the procedures for making, varying and terminating Adoption Agreements, including by clearly publishing on their websites or a central sector website:
- (a) The delivery options available to a Customer for the new connections infrastructure they require, including self-lay, requisition from the Water or Sewerage Company, or the use of New Appointees.
  - (b) The most recent version of the Sector Guidance approved by Ofwat under paragraph 3.2.4 of the Code, drawing attention to any recent revisions to the Sector Guidance.
  - (c) Information about any local practices which are permitted by the Sector Guidance, clearly setting out how the local practice differs from the Sector Guidance or the terms of the Model Adoption Agreements.
  - (d) The most recent version of the Model Adoption Agreements approved by Ofwat under paragraph 3.7.3 of this Code and details of which parties are required to enter into those agreements, drawing attention to any recent revisions to the Model Adoption Agreements.
  - (e) All forms that a Customer may reasonably require in order to complete the construction and adoption of the relevant infrastructure, including application forms.
  - (f) Details of the circumstances where the Water Company or Sewerage Company requires greater input into the design of Contestable works beyond that specified in the Sector Guidance.
  - (g) Details of the circumstances where the Water Company or Sewerage Company takes a wider view of contestability than that defined in the relevant Sector Guidance, and any additional requirements that the party constructing the works may need to meet to be able to deliver the expanded definition.
  - (h) A report that complies with any reporting requirements in respect of service levels which are set out in the Sectoral Guidance and referred to in paragraph 3.1.3(d) of this Code.
  - (i) An annual report setting out any agreed deviations from the Sectoral Guidance or the Model Adoption Agreements, for the preceding twelve month period (from 1 April – 31 March). The annual report must, as a minimum, include details of the number of deviation agreements entered into under paragraphs 5.1.2 and 5.2.2 of this Code; the nature and categories of deviations agreed; and any other detail as may be specified by Ofwat from time to time.

- (j) Information about the Water Company's or Sewerage Company's complaints process including timescales.
- (k) Named contact information for queries.

Where the company has published the information on a central sector website, the company's own website must provide clear and sufficient signposting to where the information can be found.

- 4.2 All information provided to Customers must comply with Ofwat's [Information Principles](#).

## **5. Company obligations to comply with Sector Guidance and Model Adoption Agreements**

### **5.1 Obligation to comply with Sector Guidance**

- 5.1.1 Subject to paragraph 5.1.2, Water Companies and Sewerage Companies must comply with the Water Sector Guidance and the Sewerage Sector Guidance, as applicable, and as approved by Ofwat under paragraph 3.2.4 of this Code.
- 5.1.2 Water Companies and Sewerage Companies may only deviate from the Sector Guidance by written agreement with the Customer and where the deviation is justified under the principles of this Code. The written agreement of the parties to the adoption agreement must set out the reasons for the deviation.
- 5.1.3 Where the Water Sector Guidance or the Sewerage Sector Guidance is deviated from, the Water Company or Sewerage Company, as applicable, must:
- (a) ensure it continues to comply with the principles of the Code at all times; and
  - (b) consider whether the relevant Sector Guidance should be revised as a result, and raise a Change Proposal as appropriate.
- 5.1.4 With regard to the definition of Contestable works within the Water Sector Guidance and the Sewerage Sector Guidance, a Water Company or a Sewerage Company, as applicable, may only adopt a narrower definition of Contestable works in exceptional circumstances and where it has evidence that the nature of the work and site-specific circumstances are such that the risk of damage to the Company's other assets and interruption or risks of supplies to End-user Customers would be unacceptable.
- 5.1.5 A Water or Sewerage Company may expand its definition of Contestable works where:
- (a) it is satisfied that it can continue to manage its obligations and risks; and
  - (b) it is satisfied that the persons delivering the work are able to carry out the work to the required standard.



## **5.2 Obligation to comply with the Model Adoption Agreements**

- 5.2.1 Subject to paragraph 5.2.2, Water Companies and Sewerage Companies must use the Model Water Adoption Agreement or Model Sewerage Adoption Agreement, as applicable, and as agreed by Ofwat under paragraph 3.7.3 of this Code, to govern the construction and subsequent adoption of self-laid infrastructure.
- 5.2.2 A Water or Sewerage Company may only deviate from the Model Adoption Agreements, by written agreement with the Customer, and where the deviation is justified under the principles of this Code. Where there is a deviation from the Model Adoption Agreements, the alternative terms and conditions must comply with the principles of the Code and the written agreement of the parties to the adoption agreement must set out the reasons for the deviation.

## Appendix A: Definitions and interpretation

### Definitions

Definitions	
Term	Definition
Change Proposal	A proposed change to the Sector Guidance or the Model Adoption Agreements.
Code	Means this Code for Adoption Agreements unless otherwise stated.
Contestable	Services and/or works that can be provided either by the relevant Water or Sewerage Company or by an alternative provider. This may include works outside the physical boundary of the Development site.
Customer	A customer of the Water or Sewerage Companies' developer services at any point in the process to adopt infrastructure from the point of application for an adoption agreement to the completion of that agreement. This does not include the End-user Customer but may include Developers and Self-lay Providers.
End-user Customer	The owner or occupier of premises who receives a supply of water or sewerage services from a relevant Water or Sewerage Company or Licensed Retailer. For the purposes of this Code, this does not include Developers, Self-lay Providers or Licensed Retailers.
Developer	Any person or company which is responsible for a Development.
Development	Premises on which there are buildings, or on which there will be buildings when proposals made by any person for the erection of any buildings are carried out, and which require connection with, or modification of, existing water or sewerage infrastructure.
Information Principles	Means the information principles published by Ofwat from time to time. The current information principles were published under Information Notice <a href="#">13/04</a> and can be found <a href="#">here</a> .
Information Notice	Notices issued by Ofwat that alert stakeholders to a change in the way Ofwat regulates.
Licensed Retailers	Holder of a water supply and/or sewerage licence with a retail authorisation under sections 17A and 17BA WIA91.
Model Adoption Agreements	Means (a) both the Model Sewerage Adoption Agreement and the Model Water Adoption Agreement or (b) either of the Model Sewerage Adoption Agreement or the Model Water Adoption Agreement as fits the context.
Model Water Adoption Agreement	The Model Water Adoption Agreement approved by Ofwat in accordance with this Code.
Model Sewerage Adoption Agreement	The Model Sewerage Adoption Agreement approved by Ofwat in accordance with this Code.

<b>Definitions</b>	
<b>Term</b>	<b>Definition</b>
New Appointee	A company that has successfully applied for an appointment to replace the existing water and or sewerage company at a particular site.
Non-contestable	Services that only the relevant Water or Sewerage Company (or an agent acting on their behalf) can provide.
Ofwat	The Water Services Regulation Authority.
Scheme Representative	Has the meaning given in paragraph 3.8.4 of this Code.
Sector Guidance	Means (i) both the Sewerage Sector Guidance and the Water Sector Guidance or (ii) either of the Sewerage Sector Guidance or the Water Sector Guidance as fits the context.
Self-lay Provider	An entity that is engaged in the construction of Contestable infrastructure on behalf of a Developer.
Sewerage Adoption Agreement	An agreement under section 104 WIA91 for the construction of sewerage infrastructure by a Customer, and the transfer of ownership of the assets to a relevant Sewerage Company.
Sewerage Company	A company appointed to be a sewerage undertaker under section 6 WIA91. A Sewerage Company is the monopoly sewerage wholesale provider for its relevant geographic area. This includes New Appointees.
Sewerage Sector Guidance	The Sewerage Sector Guidance approved by Ofwat under paragraph 3.2.4 of this Code.
WA14	The Water Act 2014.
WIA91	The Water Industry Act 1991.
Water Adoption Agreement	An agreement under section 51A WIA91 for the construction of water infrastructure by a Customer, and the transfer of ownership of the assets to a relevant Water Company.
Water Company	A company appointed to be water undertaker under section 6 WIA91. A Water Company is the monopoly water wholesale provider for its relevant geographic area. This includes New Appointees.
Water Sector Guidance	The Water Sector Guidance approved by Ofwat under paragraph 3.2.4 of this Code.
WIRS Accreditation	The accreditation scheme, currently operated by <a href="#">Lloyd's Register Group</a> , on behalf of the water sector, which assesses Self-lay Providers' ability to carry out specified Contestable works, and accredits successful parties.
Vests or Vesting	Conferring ownership of the relevant assets on the Water Company or Sewerage Company.

## Interpretation

In this Code:

- (a) Words denoting persons include individuals and bodies corporate, partnerships, unincorporated associations and other bodies;
- (b) References to 'writing' or 'written' includes emails;
- (c) References to the Code or any other document are to this Code or that document as amended, replaced or extended from time to time in accordance with the requirements of this Code or that document (as the case may be);
- (d) A reference to any body is:
  - (i) if that body (statutory or otherwise) is replaced by another organisation, deemed to refer to that replacement organisation; and
  - (ii) if that body (statutory or otherwise) ceases to exist, deemed to refer to that organisation which most substantially serves the same purposes as the original body;
- (e) A reference to a statute or statutory provision must, unless otherwise stated, be construed as including:
  - (i) a reference to any orders, regulations and subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) made from time to time under the statute or statutory provision; and
  - (ii) a reference to that statute, statutory provision or subordinate legislation as may be modified or replaced from time to time;
- (f) References to a person must, except where the context requires otherwise, include its successors in title and permitted assignees;
- (g) Any words or expressions used in the WIA91 or WA14 have, unless the contrary intention appears, the same meaning when used in the Code; and
- (h) In the Code, the words 'other', 'includes', 'including' and 'for example' do not limit the generality of any preceding words, and any words which follow them

must not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

## **Appendix B: Transitional arrangements**

### **Development and approval of the first Sector Guidance and Model Adoption Agreements**

- B1.1 Water Companies must develop and submit to Ofwat for review and approval by 7 January 2019<sup>3</sup>:
- the first draft Water Sector Guidance;
  - the first draft Model Water Adoption Agreement; and
  - a recommendation regarding the draft Water Sector Guidance and the draft Model Water Adoption agreement pursuant to paragraphs 3.2 and 3.7 above.
- B1.2 Sewerage Companies must develop and submit to Ofwat for review and approval by 1 April 2019:
- the first draft Sewerage Sector Guidance;
  - the first draft Model Sewerage Adoption Agreement; and
  - a recommendation regarding the draft Sewerage Sector Guidance and the draft Model Sewerage Adoption Agreement pursuant to paragraphs 3.2 and 3.7 above.
- B1.3 Prior to the dates referred to in B1.1 and B1.2 above, Water and Sewerage Companies may request an extension to those dates. Any such request must be accompanied by an explanation of why an extension is required and how an extension is in the Customers' interests.

### **Application of the Sector Guidance and Model Adoption Agreements**

- B1.4 The Sector Guidance and Model Adoption Agreements will apply to all new pre-development enquiries and applications for Water Adoption Agreements and Sewerage Adoption Agreements from a date specified by Ofwat, which

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<sup>3</sup> This date was changed from 1 October 2018 to 7 January 2019. Please see Information Notice 18/16 for further details.

may not be earlier than 30 days after Ofwat has approved the relevant Sector Guidance and Model Adoption Agreements.

- B1.5 Where an application for a Water Adoption Agreement or a Sewerage Adoption Agreement has been submitted to a Water Company or a Sewerage Company before the date specified by Ofwat under paragraph B1.4, the Customer may agree with the Water Company or Sewerage Company to follow the new Sector Guidance and Model Adoption Agreements.

### **Customer redress for failure to meet minimum levels of service**

- B1.6 From 2 April 2018, Water and Sewerage Companies must provide Customers with appropriate redress if they fail to meet minimum levels of service that they publically report against.

### **Information and publication requirements**

- B1.7 Water and Sewerage Companies' obligations to comply with the information and publication requirements set out in paragraph 4 of the Code will apply from the date specified by Ofwat under paragraph B1.4.
- B1.8 From 15 January 2018, until the date specified by Ofwat under paragraph B1.4, Water and Sewerage Companies must publicise any current procedures for making, varying or terminating adoption agreements including by clearly publishing on their websites or a central sector website:
- a. The delivery options available to Customers for the new connections infrastructure they require, including self-lay, requisition from the Water or Sewerage Company, or the use of New Appointees.
  - b. Any current procedural guidance, model adoption agreements, or forms a Customer is required to complete for the construction and adoption of the relevant infrastructure, including application forms.
  - c. Any current levels of service that Water and Sewerage Companies publically report against, and details of redress to Customers for failure to meet those existing levels of service.

- d. Information about the Water Company's or Sewerage Company's complaints process including timescales.
- e. Named contact information for queries.



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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