



SES Water
London Road
Redhill, Surrey,
RH1 1LJ
Telephone: 01737 772000
Facsimile: 01737 766807
Website: www.seswater.co.uk
Email: contactus@seswater.co.uk

8 June 2018

Change of Control
Ofwat
Centre City Tower
7 Hill Street
Birmingham, B5 4UA

By Email Only

Dear Ofwat

Consultation on licence changes related to change of control

Thank you for the opportunity to comment on the wider impact for water companies of the proposed changes to Thames Water's licence.

We welcome the constructive approach you are taking to develop licence changes, including this consultation, the workshop held on 31 May and the timeline set out in Rachel Fletcher's letter of 13 April. We welcome in particular the proposal to issue consultations on the Board Leadership, Transparency and Governance Principles and on how putting customers at the heart of company decision making might be reflected in licence conditions in June and September respectively – to be followed up by the normal consultations on the actual wording of licence changes. We note, from the workshop held on 31 May that you are still exploring a range of initial thoughts for both consultations. We consider the approach you propose a helpful and measured way of approaching changes to the regime which require consideration of both principles and the implications of particular wording choices.

We therefore wish to reserve our position on many of the more generally applicable changes proposed in this consultation on changes to the licence of Thames Water (and the parallel consultation on changes to the licence of Portsmouth Water). It is inevitable that we should have reservations on the proposed condition to enshrine compliance with the Board Leadership, Transparency and Governance Principles in the licence when the wider implications of doing so have not been fully consulted on. We provide some initial comments on this in Appendix 1 and await your fuller consultation due in June.

In addition, we look forward to working with you on the proposed 'customer at the heart' licence condition to find a workable and efficient solution. The workshop on 31 May was, again, helpful in opening the dialogue on this.

In appendix 1 we provide our response to the questions posed. Please get in touch with Joanna Campbell [REDACTED] if you would like to discuss any aspect of our response in more detail.



Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Chadwick', with a large loop at the start and a horizontal line at the end.

John Chadwick
Regulation Director

Appendix 1 – response to consultation questions

Q1: What are your views on the introduction of notification requirements on change of control into the licence information requirements?

We accept the principle of requiring notification of changes of control being notified to Ofwat but would wish to consider the implications of licence changes to effect this.

Q2: What are your views on the proposed obligation to provide us with information?

We agree with the inclusion of this obligation on the basis that it formalises the current approach in which licensees provide the information requested and that the term “reasonably require for the purposes of its assessment” is included as proposed.

Q3: What are your views on the information that may be helpful for our assessment of change of control?

We have no comments on the list of possible information but we expect Ofwat to take a proportionate approach and abide by the statement to only ask for information that it may “reasonably require”.

Q4: What are your views on the proposed obligation to require the Appointee to comply with any direction from Ofwat to enforce an Ultimate Controller’s undertaking?

Given the existing requirement to have a legally enforceable undertaking we have no objection to the inclusion of a requirement to enforce the undertaking.

Q5: What are your views on bringing all the licences up to the same standards, including introducing a requirement to meet the Board Leadership, Transparency and Governance principles?

We agree that we, and all water companies, need to meet the highest standards of governance and leadership. We would however be concerned if a requirement was enshrined in the licence that restricted our ability to meet these highest standards in a way that most efficiently addressed our customers’ expectations. For example, our Chairman is not listed as independent as he was nominated by a shareholder on its acquisition of the Company. This is considered to be of no detriment to the appropriate functioning of the Board and is explained in our Annual Report each year.

Our current thinking is that we would support the proposed licence amendment if the Board Leadership, Transparency and Governance Principles followed the UK corporate governance principles in providing for the ‘comply or explain’ approach which provides for the flexibility referenced above. We welcome reference to inclusion of such an approach in the slides presented at the 31 May workshop.

We welcome the inclusion of a route to challenge any amendment to the Board Leadership, Transparency and Governance Principles through reference to the Competition and Market’s Authority. This is an essential requirement if compliance is to be a licence requirement. We look

forward to further dialogue on the development of amendments to the principles due out later this month. Our main concern currently is how the principles will get the balance right between ensuring that best practice corporate governance is followed while not placing significant additional burden on companies which ultimately increases our cost to operate.

We have reviewed the proposed amendments to Thames Water's licence and have no additional comments. We have not reviewed any additional standards that may be included in other appointee's licences that you tend to introduce to all.

Q6: Are there aspects of the most up to date provisions which you think we need to revisit or amend?

We have no further comments on the proposed licence amendments.

Q7: What are your views on how the ring fencing conditions need to be further strengthened? In particular, in relation to:

- a) Maintaining an appropriate credit rating and how and when the lockup conditions are triggered?**
- b) Whether there needs to be a more explicit requirement to inform us of particular events affecting the Appointee?**
- c) Managing potential conflicts of interest where there are cross-shareholdings?**
- d) Safeguarding the autonomy of the Appointee?**
- e) Any other issues?**

We consider that the current ring fencing conditions are appropriate and operate as intended.

Q8 to Q12 related to Thames Water

We do not consider it appropriate to comment on these questions.