
south east water

Charging arrangements for
new connection services for
English companies:
comparative analysis and
consultation

South East Water response

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Pure know_how

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1. Introduction

South East Water welcomes, and understands the need for, analysis of Developer Services costs and companies charging arrangements.

Developer, SLP's and NAVs customers may have to navigate a number of company's charges, processes and documents and we understand that a more collaborative approach to terminology and methodology may be of benefit to our customers.

Our response lays out some of the issues facing the industry when trying to work towards a combined approach, it also states some of the factors that we think will impact costs for companies differently and therefore contribute to cost variances seen in the analysis.

We are committed to continuing our approach to supporting the facilitation of new emerging markets and to support our existing customers. We are keen to work with both Ofwat and Water UK to provide customers with a transparent and easy to use charging methodology and arrangement documents.

2. Questions and response

Q1: Do you agree with our proposal on common terminology and the way we propose to implement it? What do you think would be the impact of harmonising terminology for charges for new connection services?

We agree with a common terminology, but it would have to be developed at the same time as any common charging methodology as the latter will determine in part the terminology used and common definitions. Some of the definitions in the consultation document relate to a particular charging methodology and whether or not they are appropriate will depend on which common charging methodology will be adopted.

The terminology will be used by companies in their charging arrangements. Whether the standard terminology is appended to the charging rules or brought into effect in another way, the definitions will need to be drafted in such a way that they can easily be used in companies' charging documents and relative to other definitions. A number of changes would be required before the draft terminology set out in the consultation document could be used in companies' charging arrangements.

-The terminology should be developed to ensure, where appropriate, consistency between the definitions in legislation (mainly WIA91 and NRSWA91), relevant statutory instruments (where applicable) and charging rules. The same definitions should be used across the relevant documents where possible.

-As an initial approach, companies may be asked to include or develop a terminology in their next charging arrangements, this could be compared and help identify common terms and deviations and form the basis of the work to be carried out by a working group (subject to our comments in our responses to questions 7 and 8). This would have the advantage of starting with definitions that have been drafted for inclusion in charging arrangements.

We do agree that common terminology will be beneficial for our customers and may mean that dissimilarities between companies charging arrangement, and therefore charges, will be easier to decipher.

Q2: Do you agree with the definitions in the glossary (Appendix 1)? Please tell us what definitions you would amend, remove or add?

The draft terminology presented in the consultation document will need to be developed to address the comments made in our response to the first question.

We have included initial comments on some of the definitions in the table below:

TERMS AND DEFINITION	SEW COMMENTS
“Alternative point of connection” means a location on our water or sewerage network other than the point of connection.	As drafted the definition: <ul style="list-style-type: none"> refers to any location on the network rather than to a point of connection (i.e. the expressions "point of connection" and "location on the network" are signifiers that do not refer to the same signified). The definition works by contrast with the definition of "point of connection" (i.e. a primary point of connection) only in relation to water mains. In charging arrangements however, there may also be references to the point of connection of a service pipe to a

	<p>water main and it is recommended to ensure that this is taken into account (e.g. the definition could include a distinction: (i) in respect of a water main [definition for water main] and in respect of service connection [definition for water connection.] or (ii) two definitions could be used (a) main point of connections and (b) service pipe point of connection could be used.</p>
<p>“Carriageway” means tarmac covered ground.</p>	<p>The definition:</p> <ul style="list-style-type: none"> • does not distinguish carriageway from footpath. • Is not based on the relevant criteria. The purpose of this and related expressions is to distinguish between different types of surfaces/locations for which works of a different nature are required. • For carriageways: <ul style="list-style-type: none"> ○ There will be a hard surface that will need to be broken / removed and reinstated ○ There will be a need for traffic management as by definition there is passage of vehicles on a carriageway (see definition of the Highways Act 1980 and contrast with the wider definition of highway in that same act) • The surface of a carriageway may not always be tarmac and the hard surface material is not the necessarily the relevant criteria that should be used to articulate the definition of carriageway. • Unless an exception is justified in a particular context definitions should be consistent with terms defined in legislation (and any deviation should be expressly stated and explained)
<p>“Charging Rules” means the Charging Rules for New Connection Services (English Undertakers) issued under sections 51CD, 105ZF and 144ZA of the Act.</p>	<p>The definition is correct, but charging arrangements are likely to refer where appropriate to the relevant charging rules (for example when explaining the interaction between new connection charges and infrastructure charges):</p> <ul style="list-style-type: none"> • New connection charging rules • Charges scheme rules (for infrastructure charges) <p>Charging arrangements may also where appropriate refer to the wholesale charging rules. As such a generic term “charging rules” may be of limited use in charging arrangements.</p>
<p>“Communication Pipe” means any part of a Service Pipe which a water undertaker could be, or have been, required to lay under section 46 of the Water Industry Act 1991. It consists of a pipe laid from an existing or newly laid Water Main to the boundary of a property, including a meter housing and stop valve.</p>	<p>The definition needs to be amended to clearly indicate that the additional words in red are only an illustration of the most common case. As currently drafted the definition suggests that this is always the case, but sections 45 - 46 contemplates a wider range of service pipes configurations. There is therefore an apparent inconsistency between the first and second sentences of the definition.</p>
<p>“Diversion Charges” means the charges imposed by that undertaker pursuant to section 185(5) of the Water Industry Act 1991.</p>	<p>No comment.</p>
<p>“Domestic premises” means any premises used wholly or partly as a dwelling or intended for such use.</p>	<p>The purpose for which a definition of domestic premises would be used in the charging arrangements is unclear. The operating concepts that could be relevant to premises are "household" or "non-</p>

	<p>household". In addition "household premises" does not have the same meaning as "domestic premises".</p> <p>The concept of "domestic purposes" as defined in section 218 WIA91 is obviously relevant to new connection services but it does not follow from a supply for "domestic purposes" that premises are "domestic premises".</p> <p>"Domestic premises" is not a concept that is used in the WIA91 at all or in relation to new connection duties.</p> <p>The definition proposed is similar to that in the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008/594 but is used in these regulations for purposes unrelated to the provision of new connections.</p>
<p>"Existing main" means a main that was in operation before development commenced.</p>	<p>The concept is used in charging arrangements for examples when defining contestable/non-contestable works.</p> <p>However, the definition proposed would need to be considered in context as the definition assumes that the relevant date for determining what is or is not existing is the date of the development which may or may not be true depending on the context.</p>
<p>"Footpath (Footway)" means a concrete covered surface.</p>	<p>This concept is used to distinguish between different types of surfaces/location that result in different types of works being required (and therefore different costs), however, whether the surface is cement or any other specific material is not the relevant criteria.</p> <p>A footway/footpath will be a hard surface requiring breaking /removal and reinstatement but which does not require traffic management. Please see similar comment in relation to carriageway above.</p>
<p>"House" means any building or part of a building that is occupied as a private dwelling house or which, if unoccupied, is likely to be so occupied and, accordingly, includes a flat.</p>	<p>The definition itself is similar to that in the WIA91.</p> <p>Although "house" may be used in charging arrangements, in most cases it would be preferable to refer to premises.</p>
<p>"Income Offset" means a sum of money offset against the charges that would otherwise be applied for the provision of a Sewer or Water Main in recognition of revenue likely to be received by the relevant undertaker in future years for the provision of:</p> <ul style="list-style-type: none"> i. supplies of water to premises connected to the new Water Main; or ii. sewerage services to premises connected to the new Sewer, <p>and "Income Offsetting" shall be construed accordingly.</p>	<p>The definition differs from the definition in the latest version of the charges scheme rules (27.03.2020) which should be used instead.</p>
<p>"Infrastructure Charge" means the charges described in section 146(2) of the Water Industry Act 1991. That is, a charge paid by the developer to the water company when a property is connected to the company's water supply or sewer for the first time which contributes to wider network reinforcement to meet the increased demand arising from the new connections.</p>	<p>It would be preferable to use the definition set out in the charges scheme rules.</p>

<p>“Long length” refers to the length of the new water pipe required between the private supply pipe (at the property boundary) and the point of connection, where the length is 4 metres or more and can be in different surface types, e.g. 4 metres in the road, 4 metres in unmade ground.</p>	<p>This definition is specific to a particular charging methodology and cannot be presumed to be applicable to all companies until a common charging methodology has been defined.</p> <p>Please refer to our general comment above on the need to consider the common terminology together with a common charging methodology.</p>
<p>“NAV” New appointment and variations provide water and/or sewerage services to customers in an area previously served by the incumbent monopoly provider. A new appointment is made when Ofwat appoints a company for the first time to provide services for specific geographic area. A variation is where an existing appointment is varied to extend the areas served.</p>	<p>The definition should be revised:</p> <ul style="list-style-type: none"> • Grammatically: an appointment or variation cannot provide a supply but a new appointee can. • The process would be more accurately described by saying that a new undertaker (the appointee) replaces the existing undertaker in a given area. • The explanation of a new appointment, could be interpreted as meaning that there was no undertaker appointed for the specific geographic area. It would be more accurate to state that a new appointee is appointed as the water undertaker for a specific geographic area which is removed from the area of the previous undertaker. • Similarly the explanation relating to variation only considers part of the effect of the new appointment in that the area of an undertaker (the new appointee) is extended and the area of the previous undertaker is reduced.
<p>“New Connection Services” is the collective term for New Water Mains, New Sewers, Service Connections, Lateral Drains, Waste Connections and Diversions.</p>	<p>Charging arrangements will tend to refer to each service to describe the charges specific for that service, but there may be some use cases for a generic definition.</p> <p>It would be more appropriate for the definition to refer to the relevant works and services e.g.:</p> <p>“New Connection Services” is the collective term for works and services relating to the provision of New Water Mains, New Sewers, Service Connections, Lateral Drains, Waste Connections and Diversions.</p> <p>The terms capitalised which are used in that definition would also need to be defined (to the extent not already defined in charging rules).</p> <p>There would also need to be consistency about the use of capitalised terms within definition across all the definitions proposed.</p>
<p>“No excavation” These charges apply where we do not undertake any excavation, backfilling or reinstatement, for example, where the trench has been pre-excavated by you to our standards.</p>	<p>An alternative definition could be as follows:</p> <p>“No excavation”: means, where used to qualify a charge for new connection services, that that charge applies where the undertaker does not carry out any excavation, backfilling or reinstatement works (for example where a trench has been pre-excavated by a person other than the undertaker to the relevant standards).</p> <p>Please refer to our general comment above on the need to consider the common terminology together with a common charging methodology.</p>

<p>“On-Site” works carried out or proposed to be carried out within the site boundary.</p>	<p>Any definition of "on-site" should be consistent with the definition of Site Specific and Site Specific Works in the new connection charging rules. The proposed definition is not and:</p> <ul style="list-style-type: none"> • either it should be amended to match the definition of Site Specific and Site Specific Works • Or the expression Site Specific and Site Specific Works should be used instead of On-site.
<p>“Off-Site” works carried out or proposed to be carried out outside the site boundary.</p>	<p>The definition needs to be consistent with the definition of "on-site" (and with the definition of Site Specific and Site Specific Works in the new connection charging rules).</p>
<p>“Point of connection” means the nearest practical location where the existing water main or sewer is the same size or larger than the new connecting main or sewer.</p>	<p>See comment on alternative point of connection above.</p>
<p>“Requisition Charge” means charges that will be imposed by that undertaker for work carried out by it in accordance with the duties imposed by section 41(1) (provision of requisitioned Water Main) and section 98(1) (provision of requisitioned public sewer) of the Water Industry Act 1991. That is, a charge set by the water company for the provision of the new water main or public sewer (a requisition) to recover the costs reasonably incurred in providing them.</p>	<p>The definition would need to be adapted for use in charging arrangements (i.e. it would not refer to "each undertaker" and "that undertaker").</p> <p>It would be preferable to make it clear in the definition itself that the works and services relating to the provision of a water main (or sewer) are not strictly limited to the provision of a water main.</p> <p>This could be done for example as follows: "That is, a charge set by a water company for the provision of the new water main or public sewer and associated infrastructure to recover the costs reasonably incurred in providing them.</p> <p>Note: This definition would be consistent with paragraph 23 of the new connection charging rules, but it does not address the issues caused by sections 41(2A) and 98(2B) WIA91 and therefore does not cover water mains (or sewers) not provided pursuant to the duties referred to in the definition.</p>
<p>“Self-Lay” the laying of water pipes and associated infrastructure in accordance with section 51a of the Act.</p>	<p>No comment.</p>
<p>“Self-lay provider” An accredited operative who can lay the pipework for a new water main or sewer rather the infrastructure being laid by the water company. The water company will take over responsibility for self-laid pipes that meet the terms of its agreement.</p>	<p>We suggest to use the same definition as in the June 2020 Water UK sector guidance for consistency across related documents.</p>
<p>“Service Connection” means the construction of the pipe between the supply pipe of the premises and the public water main which is provided under section 45 and 46 of the Act.</p>	<p>Considering that it is proposed to define "communication pipe" it would be easier to use that definition in the definition of "service connection" contrasting "communication pipe" and "supply pipe" which it is also proposed to define. Consistency with the provisions of section 45 ad 46 WIA91 would also need to be considered.</p>

<p>“Short length” refers to the length of the new water pipe required between the private supply pipe (at the property boundary) and the point of connection, where the length is less than 4 metres.</p>	<p>This definition is specific to a particular charging methodology and cannot be presumed to be relevant to all companies until a common charging methodology has been defined.</p> <p>Please refer to our general comment above on the need to consider the common terminology together with a common charging methodology.</p>
<p>“Supply pipe” means the part of the service pipe that is not the communication pipe.</p>	<p>No comment.</p>
<p>“Unmade ground (verge)” refers to ground which does not have a surface. For example, unmade ground may feature grass and topsoil.</p>	<p>This definition assumes that unmade ground and verge are used interchangeably which is not the case in our charging arrangements.</p> <p>This definition is therefore specific to a particular charging methodology and cannot be presumed to be relevant to all companies until a common charging methodology has been defined.</p> <p>Please refer to our general comment above on the need to consider the common terminology together with a common charging methodology.</p>

Presentation of charges – clear worked examples help customers understand how they apply different scenarios, in particular by showing the services included in the calculation of costs under each scenario and the unit cost of those services. We propose to improve practice in this area through our annual information notice “Expectations, assurance and information requirements for water company charges”. We have set out scenarios for typical service packages in the 2020/21 requirements and propose to set out more explicit expectations on how companies present them, disaggregated by service and unit cost for the 2021/22 charging arrangements.

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Q3: Do you agree with the proposal to set out explicit expectations on the presentation of worked examples? What do you think would be the right level of detail required?

We agree that additional worked examples may help provide some clarity for customers. It may be useful to ask for customer feedback (from different customer types) on examples they would like to see i.e. apart from the standard site examples, are there any other scenarios, such as bulk supplies, internal meters, separations of supply etc.

In order for companies to understand the detail that may be required, it would be necessary for Ofwat to release proposed examples as early as possible and consult to ensure there is no issue with providing the detail specified by Ofwat. For example, the level granularity that can be provided may be dictated by the build-up of company’s contractor rates and that may take time to address, if, in fact, it can be.

Analysis of charges - we have found large variations in both the level of charges and the way in which companies have set out individual services.

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Q4: Please highlight any substantive areas of our analysis you think are missing or could be improved?

Although the analysis goes some way to lay out the variances between companies, there needs to be some further detail to put it into context. Our comments in Q.5 lay out some of the reasons that may be contributing to the cost variances seen in the scenarios. In order for the analysis to be more meaningful, some of the factors listed may need to be clarified. For example, we think more detail on the recovery of overheads and how costs

are allocated would be useful. The size of teams, what activities are delivered in house (apart from the physical delivery of the work) and the type of contract companies have with their delivery partners can help paint a clearer picture of the costs companies charge.

Q5: What do you think are the reasons for the differences in the charging levels? Do you think these differences are a problem? Please provide evidence to support your views where possible.

Without details of the how companies have built their charges it is difficult to determine the precise nature of the variances. We have detailed below some factors that may impact companies' charges differently, some of these may need to be included in any further analysis to ensure that comparisons can be understood:

- Third Party costs, for example Kent Lane Rental has a significant impact on offsite connections, not all companies will have the same restrictions or costs.
- Overhead recovery – size of team, how different elements of work are delivered (i.e. in house or outsourced).
- Contract rates – How are contractor rates built? Agreed composite rates rather individually built up rates?
- Type of contract delivery – is the Developer Services contract stand alone or part of a wider scope of work, e.g. reactive maintenance –economies of scope and scale
- Regional difference – Size of the area, location in the country and type of land mix (i.e. mainly rural or mainly urban)
- Mix of work/process – what type of work mix do companies have? For example do companies carry out more offsite work than onsite work? If they have a high rate of NAV and self-lay has this impacted the cost of the connections they do carry out?
- Type of Water Company WOC/WaSC – are there any economies in delivering new connection activity for companies that are if you are both the Wwater and Sewagesewerage undertaker?

Cost reflectivity principle – we consider that the difference in the levels of charges are so marked that they are unlikely to be a function of cost along. Such problems may undermine the key principles of our rules, including that the charges are predictable, transparent and fair. While we expect charges to reflect costs, we feel our charging rules could have more explicit requirements to this effect. We propose to introduce a more explicit cost reflectivity principle in the charging rules, likely to be from 2022/23.

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Q6: Do you agree with our proposal to modify the Charging Rules for New Connections Services to explicitly include cost-reflectivity in the general principles? What other measures, if any, could be put in place to provide greater assurance that water companies' charges are cost reflective?

We agree that charges should be cost reflective. The consultation document also comments that particular contract rates structures (in the contract between the undertaker and its contractor) that achieve value for money may achieve different degrees of cost reflectivity at the level of specific works or charges. We believe this should be considered as part of the work on any common charging methodology. An assessment should be made to understand the impact more specific requirements on cost reflectivity (and specifically at what level of detail) would have on the overall level of charges. If more specific requirements were to require changes to contract rates in order to comply with charging rules, companies should be given the time to revise their contracts. This process would also need to be considered in the context of procurement rules. If changes to contracts and rates with a

contractors were substantial such that they would result in a “new contract”, this would require retendering which would have an impact on the timetable.

Industry collaboration – can be an effective way to deliver more consistent and clear methodologies for the benefit of customers. We propose that a working group on New Connection Charges is established to improve consistency in terminology and presentation of charging arrangements to develop common charging methodologies, to be led by Water UK.

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Q7: What do you think are the benefits and disbenefits of having a common charging methodologies? Do you think companies should adopt a common methodology?

We refer to the response presented by Water UK to questions 7.

Q8: Do you agree with the high-level scope of the proposed New Connection Charges working group? Please tell us your views on the proposed working group, including whether Ofwat should make the work mandatory, for example through a change to the new connection rules.

We refer to the response presented by Water UK to questions 7 and 8 above.

-The harmonisation that Ofwat is promoting, combined with the other existing initiatives, may create favourable conditions for higher levels of activity by SLPs and NAVs that operate nationally on the new connections markets. ~~However, this~~ This can only be achieved if an appropriate regulatory framework is first put in place.

If the decision was made to move forward with the development of a common charging methodology, this framework should mandate both the development and the use of any common charging methodology. An advisory common charging methodology would fail to protect companies against competition law risks. We also believe putting in place an appropriate regulatory framework is justified as the nature of the work proposed by Ofwat is the development of detailed market rules relating to charging.

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-We would like additional clarity on what Ofwat envisages to include in the scope of the work for the harmonisation of "off-site" charges. It is difficult to comments without further information on what this would entail.

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