

Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

By e:mail to charging@ofwat.gov.uk

15th September 2020

Dear Sirs,

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RE: Charging Arrangements for New Connection Services for English Companies
(Comparative Analysis and Consultation)

This is a combined response from two Engineering Consultancy Practices operating in England and Wales and who can demonstrate 90-years of cumulative experience specific to the design, construction and procurement of water and sewerage infrastructure for a range of building typologies.

Both Technical Development Services (TDS) and WA Consultancy (WAC) are retained by several Developer/House Builder Clients, together with Planning and Engineering Consultants to provide advice and guidance on water and sewerage infrastructure provision, especially at the crucial land acquisition due diligence stage and beyond. In addition, WAC acts as an Expert Witness on sewerage/drainage matters whilst TDS includes an experienced and long-established self-lay business.

For simplicity, WAC has agreed to consolidate the comments from both consultancies, in addition to those from respective Clients, and to submit a combined response to the Ofwat consultation. Importantly, our response includes a recently published Independent Report, jointly prepared by TDS and WAC, the content of which is a material consideration for this consultation. Moreover, as the 'report' is predicated on fact-based evidence and information that is already in the public domain we would expect it to be fully acknowledged and referenced by Ofwat and to remain un-redacted.

From March 2015 to 30th June 2020, WAC was retained by the HBF, in addition to TDS, as one of two senior engineering consultants, with a specific remit to represent the HBF, and its members, in addition to other Clients, on a range of technical matters, inclusive of the reforms taking place in the Water & Sewerage Sector.

There is a certain irony about this consultation in that it is effectively a belated attempt by Ofwat to address the shortcomings of the sector reforms they first introduced in April 2018. Many of the deficiencies identified in this consultation were raised by both consultants, together with other house builder representatives, throughout the series of Task and Finish Groups established by Defra in 2015.

Moreover, many of the issues identified have been repeatedly raised during the Charging Rule/Charging Arrangement meetings involving Ofwat, Water UK, and House Builder representatives. Frustratingly, crucial, and important Developer Customer feedback has continued to be ignored that is until Ofwat issued its May 2020 consultation.

The statement on page 2 of the consultation crystallises many of the concerns raised by respective consultancies, and others, throughout the 5 years of engagement with Defra, Ofwat and Water UK:

“Since publishing the rules, we have received feedback that the differences between companies’ arrangements can be confusing and that the difference in levels of charges are so marked that they are unlikely to be a function of cost alone. Such problems may undermine the key principles of our rules, including that the charges are predictable, transparent and fair”.

That said, having to wait nearly 2 years from the date of the consultation to see potential changes to current charging arrangements is anathema to effective and responsive investigation/intervention. Moreover, the current consultation still does not address several key issues – as articulated in this response and in the accompanying Independent Report.

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 connections?

Reliance on common terminology is essential if we are to combat the continued omission and/or variation in definitions by other bodies and organisations who have little understanding of the development process. Likewise, the existence of long-accepted definitions applied by other statutory bodies and Developers respectively, together with workable appreciation of Developer Customer needs and expectations.

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

In short – no. The Glossary at A1 of the consultation is a prime example that supports our response to question 1. Typically, the definition of ‘carriageway’ fails to reflect that carriageway construction often features permeable paving as part of the LPA/LLFA approved surface water drainage strategy. However, following at least one WaSCs departure from the Water UK, and Ofwat approved design and construction guidance, the Company in question is now refusing to adopt sewerage infrastructure located under permeable paving, even when the road is to be adopted under S38 of the HA 1980. No valid legal and/or engineering explanation having been given.

A second sewerage company is refusing to accept geo-cellular storage/attenuation infrastructure despite surface water drainage infrastructure meeting the required definition of a ‘sewer’ and the associated product meeting the requisite material compliance and adoption requirements. The consequences of both approaches perpetuate confusion whilst be debilitating and costly for the Developer. This is articulated in far more detail in the Report provided.

Regrettably, the schedule of definitions provided constitutes a litany that is either deficient in critical detail or completely wrong. As an example of the former, over what period is the revenue from new customers to be factored into the calculation of income offsets – evidence held identifies an irrational and divergent approach across

all companies. Regarding a latter we ceased constructing concrete footpaths decades ago.

The only way to resolve the issue is to better engage with the full range of Developer Customers, listen to what they say and recognise the experience they bring to matters under consideration that have a direct bearing on the development process.

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?

From the outset respective consultancies advocated worked examples that reflected costs and charges prior to 1st April 2018 compared against the costs/charges after this date. This simple exercise, using live site data, would have identified what the change in cost would be. Moreover, it would have provided informed evidence that would have gone a long way in meeting the objectives of providing, trust, confidence, and predictability of future charges. We continue to advocate such an evidence-based approach.

Q4 – Q8

In terms of the remaining questions, the attached Independent Report provides a detailed response, but the true test is whether Ofwat will take such important comments on board or continue to ignore qualitative and quantitative evidence-based Developer Community feedback and recommendations.

Our primary concern, as articulated in the attached report, is the continued and controlling influence Water UK appear to have when it comes to key issues that should really be the subject of effective investigation and management by a totally independent, experienced and impartial body.

Yours sincerely

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R Farrow
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