

Wessex Water Services Limited Response to:

Direct Procurement for customers:

Statutory Consultation on proposed changes to the conditions of appointment of five water and sewerage companies.

Thank you for the opportunity to respond to this statutory consultation.

The July proposals and subsequent further November updates provided in this consultation address or partially address the issues we have raised to date. At this stage we have no material comments.

However, as noted in our previous consultation response, we recognise the importance of observing and learning from the experience of the first DPC projects as they progress. We do think there is value in there being a process of briefing out on-going lessons learned from these projects.

While this consultation does not request comments on the Briefing Note, we include our response to the July consultation for completeness.

1. Do you have any comments on the Briefing Note?

We do not believe that the Briefing Note has significantly changed since the February consultation. Our original comments are included here, and we particularly believe that our request under item (d) below for assurance that additional guidance will be provided on specific topics is confirmed. As stated in the previous response, updating of such guidance will allow us all to learn from real DPC projects and allow future projects to run even more smoothly.

Whilst it is key to have a clear process in place including the various stages at which further information/consent is required and the role which each Ofwat and the Appointees will have to fulfil in that respect, there are a number of uncertainties and concerns which will need to be clarified and addressed:

- (a) This process should fit in with the procurement timetable generally and ensure that there is no undue delay which could potentially impact on the success of the procurement or have other financial consequences. It is not clear how this will be managed by Ofwat.*
- (b) How Ofwat's withholding of its consent (or making it partial or conditional) at the various stage of the process will impact on the project, its funding and ultimately the customers. Ofwat will need to provide assurances to avoid any negative effects.*
- (c) The briefing note states that whilst Ofwat is not mandating that information or assurance is externally assured in all circumstances, Ofwat may require reports from an independent technical adviser through the life of the DPC procurement process and the CAP Agreement. This requirement is reflected in the proposed amendments to the licence. This raises several concerns including requirement to fit in with the overall procurement process timetable (as set out above) and costs of such engagement. We feel that such appointment should be linked to clear stages in the process and would only apply in specific circumstances (to be determined);*

- (d) Assurance and the CAP Agreement. Ofwat states that it will consider publishing additional guidance with respect to specific topics (change in control, disputes, design risk, pricing and indexation, revenue reopeners, termination etc.) to assist Appointees in developing their CAP Agreements. We would like assurances that this will be provided as this will in turn ensure a smoother procurement/consent process as well as consistency for all CAP procurement;
- (e) The briefing note states that if it is required for procurement of the DPC delivered project Ofwat may also make available a draft version of its intended DPC Allowed Revenue Direction. This will be informed by the draft CAP Agreement and will be subject to amendment and adjustment. It should be made clear in which circumstance this would not be required (on the basis that it is likely to affect the pricing evaluation for instance). Amendment and adjustment would also need to be fair, based on the offer received following the procurement process and based on the evaluation previously put in place.