

Consultation on the updating Ofwat's Charging Rules

Introduction

The Vistry Group brings together the energy and talents of Bovis Homes, Linden Homes and the newly named Vistry Partnerships (formerly Galliford Try Partnerships).

Modern, forward-thinking, focused on delivering for our customers and clients – with a heritage we can trace back to 1885.

With developments from Northumberland to Cornwall and Cheshire to Norfolk, Vistry Group will be delivering around 12,000 private and affordable homes a year across the country.

That means Vistry immediately becomes one of the top five housebuilders in the UK by volume. A real powerhouse of a business, creating fantastic opportunities for our people, our customers, our clients, our contractors and our shareholders.

The Group was formed in January 2020 following the successful acquisition by Bovis Homes Group Plc from Galliford Try Plc of Linden Homes and their Partnerships & Regeneration businesses.

Vistry Partnerships is the Group's affordable homes and regeneration specialist. Working in close partnership with housing associations, local authorities and government agencies, it is one of the UK's leading providers of affordable housing and sustainable communities.

Consultation Response

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Applying the consultation response as	Housing Developer

Q1:	Do you agree with our proposed rule changes? Please offer alternatives if you think they would better achieve our intentions.
3.1	There is a new term referred to as ‘long run costs’, however we cannot see any definition as to what this exactly entails and ask Ofwat for further clarity and/or explanation to fully understand what is being proposed. Vistry do not recognise this term and see the potential for water and sewerage companies to potentially apply this term out of context or inappropriately without a supporting definition.
3.2	We do not believe the proposed changes will reduce the potential for confusion. Whilst the balance of charges continues to lack definition and remains ambiguous, likewise what constitutes cost reflective charging, confusion and charging disarray will prevail. Our view is that Ofwat must be more prescriptive in its management and control of water and sewerage company costs and charges.
3.2.1	Charging Publication Dates
	<p>Given that alignment, consistency, and transparency are some of the key fundamentals of business, we feel it would be beneficial if all of the above were aligned and published on the 1st of February.</p> <p>When costs and charges are published there also lies the opportunity to report on the variances between the incumbents forecast and actual rates to allow developers to understand cost variances and to allow an appreciation as to why charges have been revised accordingly.</p> <p>Transparency is key to understanding and is in line with Defra’s requirement for evidence-based transparent charging and should be published on the 1st of February along with schemes, arrangements, and wholesale costs.</p>
3.2.2	Publishing Statements of Significant Change
	Please see 3.2.1 response.
3.2.3	Cost Reflectivity
	<p>As noted previously, we feel that a clear definition of ‘long run costs’ and what this entails is needed to fully understand what is being proposed, and see the potential for water and sewerage companies to potentially apply this term out of context or inappropriately.</p> <p>It is important that clear definitions are provided to stop complexity and confusion associated with the charging rules/company charging arrangements that currently exists.</p> <p>We do agree that cost reflectivity is an important cornerstone to analysing service levels as well as the commercial variance between forecast and actual costs of works in both short- and long-term projects.</p> <p>Expectations were high that this consultation would, out of necessity, be informed by a relevant report prepared by SIA-Partners and would look “at the root cause for the variations in charges” and would be issued with this consultation, yet we have not seen a copy of this report.</p> <p>The recent Ofwat consultation on balance of charges noted the Frontier Economics Report which highlighted:</p>

	<p>"We understand that there is currently no agreed common definition of the balance of charges. Therefore, the concept of keeping the balance of charges broadly maintained is ambiguous, because it is not clear precisely what should be broadly maintained".</p> <p>Using a hands-off, principles-based approach has not worked and can be demonstrated by the massive charging cost variances that we are currently experiencing across England.</p>
3.2.4	Consistent Terminology
	<p>We strongly agree that consistent terminology is needed across all areas of the water and sewerage industry regulations for example, we feel definition is required for the term 'long run costs' as mentioned in section 3 of Table 1. There is some confusion as to what this means, and for developers to decide whether they agree with it or not a definition of the term must be clarified, moreover, we have raised the question to a number of incumbents and they also do not understand this new term.</p>
3.2.5	Using Worked Examples
	<p>While there is general agreement to use worked examples, we still feel there is ambiguity within some of the terminology (i.e. 'parent main' requires definition), and room for diagrams should be included in the worked examples for better understanding. The parameters outlined in appendix 3, table 1 need to be increased for larger developments. Major developers would consider a 200-plot development to be small, and therefore this parameter would be better suited to the very top end of medium developments. 500 would be a more realistic boundary for large developments. In addition to this, costs associated with the various site-specific permutations would assist to understand the breakdown of costings and the range of prices involved here.</p> <p>In addition, the narrative accompanying the term parent main refers to "<i>servicing 150 existing customers</i>". As "<i>customer</i>" is not included in the current schedule of terms and definitions does this relate to individual customers or individual dwellings? The difference in water demand between the two is considerable.</p>
3.2.6	Where to issue rules on infrastructure charges
	<p>We have no comments on these proposed amendments. Clarity on the origins and indeed a reason for these changes would be appreciated.</p>
3.2.7	Income offset and connecting to existing mains
	<p>During the last consultation, Frontier Economics recommended the removal of all income offsets which would significantly increase costs on all developments. While the response to the previous consultation has not yet been published, we feel that there should be a tangible acknowledgement by water and sewerage providers that the housebuilding industry creates and generates new business for water companies, as is experienced by developers currently in other areas of the utility industry, and the income offset is an important part of that recognition.</p> <p>Further clarity on definitions, why the income offset is changing, and the role of Environmental Credits and how they will play their part in the future would also be welcomed.</p>
3.2.8	Network reinforcement and NAVs
	<p>We feel clarity is required for the definitions and the costs incurred by NAVs. There is concern that as proposed will potentially disadvantage NAVs with additional costs incurred for network</p>

	<p>reinforcement, which will potentially detract from the tangible progress made by OFWAT in creating a vibrant and competitive marketplace as well as increasing market share for NAVs.</p> <p>NAV’s have already confirmed that if additional network reinforcement costs are applied by water and sewerage companies, as implied, it will be deemed a legitimate “<i>pass through cost</i>” to be paid by the developer. This is considered inequitable and creates further uncertainty that undermines competition from NAVs.</p> <p>In addition, how would water and sewerage companies possibly know when a NAV is likely to be appointed in advance of a formal licence application? Likewise, to what extent would a water and sewerage company be able to gauge the impact on its network(s) arising from a future NAV appointment? This proposal needs far more rigorous consideration and explanation given the potential impact on developer/house builder decisions, especially when considering and comparing the commercial aspects of alternative means of infrastructure procurement.</p>
<p>3.2.9</p>	<p>Quotes spanning different charging years.</p>
	<p>We are in agreement for the creation of this rule, providing this is managed consistently and transparently across the whole sector to cover the varying approaches currently experienced by our members across the UK. The option to pay upfront to avoid the yearly cost increases should be implemented by all water companies, and these increases regularly impact development viability and cash flow. Again, clarity on costs and spending in the form of an annual report showing forecast against actual spend will be key for the house building industry.</p>
<p>Q2.</p>	<p>Do you agree with our proposed changes in Appendices 1, 2 and 3?</p>
	<p>In addition, the worked examples are far too generalised and need to include much more detail, i.e., inclusive of a complete range of cost elements, and how they have been calculated/determined and collated. More importantly, the provision of supporting examples should be mandatory rather than remain discretionary. Furthermore, by providing an increased level of detail, inclusive of more specific information relating to metering arrangements and costs, allows for a more expedient and timely dispute resolution process involving the incumbent. Greater evidential transparency in cost structures and their component costs is essential and carries the potential to reduce reliance on the formal determination process for dispute resolution. By providing much improved cost granularity it allows developer customers to better understand and compare what competing options may be more commercially attractive, in addition to providing evidence that is so crucial to determining value for money.</p> <p>In considering the amended terms/definitions we would offer the following comments:</p> <ul style="list-style-type: none"> • Administration fees and supervision/inspection fees are entirely different – they require separate definition/explanation. • Barrier Pipe needs to be defined, together with the circumstances and ground conditions which require it to be specified. (This is an area where water companies not only apply impractical and subjective criteria, (even on greenfield sites) but it is also an area where the disparity in company costs is staggering for a product that has a solus water company defined specification, with material cost being the only difference. • Building Water – needs to be defined and likely costs stated. How this is to be delivered also needs to be explained, i.e., separate metered connection or utilisation of a future new home metered connection or just a flat fee. If flat fees are to be applied the

justification for such should be clearly presented. It should also reflect the move to off-site production and the declining use of on-site water for construction purposes, for example, off-site, pre-mixed cementitious products and materials.

- Communication Pipe/Service Connection/Supply Pipe– we have long advocated the inclusion of a simple diagram that defines each component (and its cost) from a connection to the distribution main to the stop cock in each premise. This simple diagram can be adapted by each company to define what is required and relative to each aspect of the legislation. Likewise, what is/is not non-contestable, together with the required metering specification/arrangement and who is/can be responsible for providing each element of the work. Metering arrangements are a particular grey area, likewise the wide disparity in costs associated with such.
- Design Fee – how are we to know design fees are cost reflective? Are the various cost headings and actual related costs, including the make-up thereof, to be included/disclosed? We see no reason why this should not be the case.
- Developer Customer - this needs wider definition.
- Diversion – needs to be defined but also recognition that; (a) some companies allow for a contribution to the cost of diversion based on the established principle of the developer providing asset betterment, or (b) the presence of lift and shift clauses in formal easements that require the water or sewerage company to bear the full diversion cost. As a sub-definition, lift and shift clauses need to be recognised and defined. Several companies are engaged in asset replacement programmes involving asbestos cement pipes/watermains given their questionable integrity and potential compromises to public health. Surely, in such circumstances, the developer contribution should be minimal?
- Footpaths can also incorporate vehicle crossings and grass service verges – this needs to be recognised
- Infrastructure Credits – this needs to be better defined to remove the arbitrary criteria that is applied by certain WaSCs/WoCs, typically, Yorkshire Water, who do not recognise IC credits on sites that have had a former use and connected to YWL water and sewerage assets.
- Network Reinforcement – shouldn't this be included?
- Point of Connection – in the context of foul sewer connections especially this definition needs to be carefully considered to ensure it does not undermine established case law relating to the absolute right to connect to the public sewerage system, irrespective of the size of the receiving foul sewer.
- Sustainable Drainage Incentive – how is a cost reflective deduction determined? Moreover, these reductions should be mandatory not discretionary and secured by way of clearly defined, specific criteria. How will this deduction be treated alongside sewerage infrastructure charges, i.e., a 50% reduction in the sewerage IC if there is no surface water discharge to sewer? Greater clarity of definition and applicability is required.
- 'Upsizing' and what this constitutes and how it is to be funded requires definition.
- Water Efficiency Incentive – the current range of incentives is from £0 to a nominal amount and accompanied by a differing and somewhat subjective range of water use

	<p>targets. Why not standardise this across all companies but more importantly, define how it is to be achieved, taking cognisance of the low water use requirement in defined water stress areas. (Water stress area perhaps needs its own definition). Moreover, some water companies ask for verification of water use before committing to a deduction – procedurally, how is this to be managed given developers have no control over post-occupation per capita water consumption.</p> <ul style="list-style-type: none"> • Small Company – reference is made to such but how is it defined, i.e., turnover?
<p>Q3.</p>	<p>We seek your views on our clarification of the five-year rule. In particular, we would like to know of any potential implications for charges and customers' bills from companies following our interpretation.</p>
	<p>How infrastructure charges and in consequence infrastructure capex has been determined remains a matter of some concern, especially that portion of infrastructure charges allocated to network reinforcement. Water and sewerage company expenditure on infrastructure is considerable – what we do not know is precisely what infrastructure, and the value thereof, is actually attributed to new residential development.</p> <p>This is particularly pertinent for the industry at a time where house building is battling with the increasing costs of nutrient mitigation schemes which we feel is a direct result of a lack of investment by water and sewerage companies in long term strategic investment. It is worth noting that as outlined in Sections 37 & 94 of the Water Industry Act 1991, it is the statutory duty of the water and sewerage providers, to implement procedures to regulate and provide sufficient mitigation measures to deal with both the future network reinforcement and environmental challenges within the jurisdiction of the water and sewerage company.</p> <p>There was a suggestion that an annual reconciliation of infrastructure charges and subsequent disclosure by each water and sewerage company would take place, but this has not happened. Moreover, there has been no comfort that the infrastructure payments made since April 2018 (and before) have been invested in infrastructure projects that are exclusively related to new residential development.</p>

Positive, beneficial reform and an opportunity to input into the discussion through consultation is always welcome. Through the proposed revision of its charging rules, Ofwat is well positioned to ensure water and sewerage companies disclose far more detailed, cost-related evidence and information.

We trust that you find our submission helpful and constructive. In the event that you may have any follow-up questions please do not hesitate to contact the respondent.

Craig Ferrans MCIAT - Group Technical Director

Vistry Group

