

By email

1 September 2021

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Statutory consultation on changes to our charging rules

This is Anglian Water's response to Ofwat's statutory consultation on updating the charging rules.

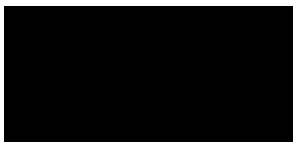
Anglian Water's purpose is to bring environmental and social prosperity to the region we serve. One of the ways we do this is by seeking to deliver the long-term goal from our Strategic Direction Statement to facilitate sustainable economic and housing growth. As such we have supported Defra's, and more recently Ofwat's, work on reforming developer charging.

We understand Ofwat's aim in introducing a charging rule relating to cost reflectivity and are supportive of principles-based regulation. We still believe the proposed charging rule could helpfully provide additional clarity on what is represented by the 'relevant service'. This would aid consistency across the industry, facilitate assurance processes within companies and increase transparency for customers. There is a risk that a high-level requirement that is open to interpretation will not drive consistency.

We have also proposed some additions and alterations to the definitions in the charging rules and terminology document that we believe will improve the clarity and application of these terms.

We welcome Ofwat's further consideration regarding infrastructure charges recovery. However, for any changes to be implemented effectively for 2022-23 it is vital that sight of the proposals is given in the coming weeks. We, and likely other companies, are planning to engage customers on our charges for 2022-23 in in the coming weeks and months.

Yours sincerely,



Alex Plant
Director of Strategy and Regulation



Annex 1 – points of detail

1. August 2021: Statutory consultation on changes to our charging rules

We understand Ofwat’s aim in introducing a charging rule relating to cost reflectivity and are supportive of principles-based regulation. We still believe the proposed charging rule could helpfully provide additional clarity on what is represented by the ‘relevant service’. This would aid consistency across the industry, facilitate assurance processes within companies and increase transparency for customers. There is a risk that a high-level requirement that is open to interpretation will not drive the consistency desired.

We would propose that the requirement is based on the following services individually, representing most of the activities for which the charging rules apply:

- Water main requisitions under section 41(1)
- Sewer requisitions under section 98(1), possibly aggregated with lateral drain requisitions under section 98(1A)
- Agreements for water main and communication pipe adoption under section 51A
- Agreements for sewer and lateral drain adoption under section 104
- Agreements for the provision of water infrastructure to a retailer under section 66D
- Agreements for the provision of sewerage infrastructure to a retailer under section 117E
- Diversion of pipes (water or sewerage) under section 185.

2. For consultation - draft Charging Rules for New Connection Services (English Undertakers)

Aside from the point above, we are generally comfortable with the implementation of the proposed rule changes. We have however spotted some minor typographical issues that may be helpful to resolve in the final rules.

- In some instances, new paragraphs are not numbered, e.g. new paragraph after paragraph 49.
- We note that the rear cover of the draft charging rules appears to be the front page of an unrelated document.

Interpretation & glossary

We believe the definition of communication pipe is too narrow. There are many examples when the communication pipe required under section 46 is not described by the new text, for example:

- where the property served is in a different street from the water main;
- where the property served is in an entirely different part of the street to the part where the water main is;
- where the only practicable position for the stop-cock is inside the bounds of the served property; or
- where the water main is not in a street at all.

We are not convinced that the proposed addition is necessary. If the addition is made we suggest that it is prefaced by 'In typical circumstances,'.

Developer Services is defined but then not referred to within the rules. We suggest this addition does not need to be made if it is not used in the rules.

As noted by Ofwat's recent work with Frontier Economic, the income offset is now a discount used to maintain the balance of charges and no longer relates to income received.¹ We suggest adding

Income Offset" has the meaning given in the Charges Scheme Rules means a sum of money, that may be offered by the undertaker, against the Infrastructure Charges, to maintain the balance of charges, the value of the discount is reflects previous in recognition of revenue likely to be received by the relevant undertaker in future years for the provision of

We believe the definition of Point of Connection could also be strengthened. We have had to supplement a similar definition in our Developer Charging Arrangements in two ways to prevent developers seeking to move requisition costs and charges into the socialised "pot" infrastructure charges.

The first is "disaggregation", in other words requisitioning infrastructure to a smaller part of the overall development. This is a tempting device for developers where the nearest part of the network comprises relatively small-diameter pipes, with large-diameter pipes further away. The small development size (on paper) gives the connecting infrastructure a smaller notional diameter so as to permit the closer connection. The infrastructure then required for the next part of the development then chooses a point of connection on the first part of the development. Network reinforcement (paid for by the generality of developers) is then required to accommodate this, when the developer in question would have paid for the whole scheme, had it included the whole development in the first place. Our supplemented wording is this: "The diameter of the notional requisitioned main for this purpose must be sized appropriately for a main supplying the whole of the development it might reasonably be expected to serve". We propose that this be added to the definition.

The second is where there is a fairly large development with existing network infrastructure on a number of sides, where the infrastructure on one side has plenty of capacity and another does not. The developer chooses a termination point for the requisitioned main falling closer to the poor capacity infrastructure than it is from the good capacity infrastructure, when it could equally choose the reverse. The result is that it is cheaper for the undertaker to provide new infrastructure, possibly right through the development in order to have a connection at the good capacity part of the existing network, paid for by the generality of developers. To deal with this device, we have included the following wording: "Lack of capacity in the existing network or water treatment works is not considered to fall within the definition of "impractical" for these purposes unless there is a potential connection point on a different water main that is equally close to the boundary of the development expected to be served".

¹ <https://www.ofwat.gov.uk/consultation/a-consultation-on-the-scope-and-balance-of-developer-charges-and-incentives/>

The use of the word “practical” is to be welcomed, but we feel it should go further than that. We propose that Ofwat consider the addition of “that reflects the principles of good network management” to the definition after point ii), to discourage the kind of gamesmanship that has particularly bad consequences, of which the above are examples.

3. For consultation - draft Common Terms and Worked Examples - English New Connection Rules

See comment above in relation to the definition of communication pipe.

In the common terms new appointment and variation (NAV) providers are defined but self-lay providers (SLP) are not. However, SLPs are included in the worked examples. We wonder whether they should be added for consistency.

The term Accredited Third Party is referred to a number of times but not defined. We believe this should be defined for completeness.

We note the admin fee makes reference to excluding site-based activities, but also references supervision and project management which we would expect to involve some activity on the site. We believe the final sentence of this definition should be removed.

We propose that the application fee also makes provision for hydraulic modelling.

Alternative point of connection is defined but point of connection is not. We believe it should be for clarity (note our points above about enhancing the definition of point of connection).

As part of developing a design we may visit the site and discuss plans and options with the customer. We request that provision for visiting the site be added to the definition of design fee.

The common terms could go further in relation to connection types. For example developer services functions sometime replace lead connections, split or enlarge existing connection. There are also different types of sewer connection, e.g. direct or indirect that could be added for completeness.

The definition of NAV could be simplified. The proposed definition refers to areas previously supplied by an incumbent but most NAVs are granted under the unserved criterion. We would suggest removing text after ‘water and/or sewerage services’ to simplify this definition.

We propose that a non-standard connection also include provision for capturing instances of a connection over certain distance. This could be kept generic as the current definition relates to size. We also define a non-standard connection as those over 100 metres from the nearest water main.

We believe that or an agent acting on their behalf should be added to the definition of Excavation by Water Companies for consistency with the definition of non-contestable work.

4. Connection charges for developer services in England, root cause analysis

We welcome the conclusion of Sia Partners work looking at connection charges for developer services in England. We will reflect on the conclusions as we develop our charges for 2022-23.