

# Code for Adoption Agreements

## Water sector documents: Change proposal (Ref 002)

<b>Modification proposal</b>	Appendix G to the water sector guidance - Levels of Service: Change of metric definition (S2/2B)
<b>Independent Water Adoption Panel Recommendation</b>	The Panel recommended rejecting the change proposal
<b>Decision</b>	Ofwat has rejected this change proposal
<b>Publication date</b>	11/01/2022
<b>Implementation date</b>	18/01/2022

## Background

On 29 June 2021, Southern Water submitted its change proposal to the Independent Water Adoption Panel (**the Panel**), with the Panel publishing the proposal on its website on the same day. The function of the Panel is to consider change proposals to the [water sector guidance and model water adoption agreement](#). These documents were developed by companies as required by the [Code for Adoption Agreements \(the Code\)](#) and came into effect in April 2020. A change proposal is defined in the Code as a proposed change to the sector guidance or the model adoption agreements.

Southern Water is requesting a change be made to the levels of service set out in Appendix G to the water sector guidance, which water companies comply with in the performance of activities related to the delivery of self-lay schemes. The proposal relates specifically to Self-Lay Provider (**SLP**) metric (SLPM) S2/2B (water company to provide design acceptance), and seeks to change the timing mechanism in the metric from 'chess clock' (i.e. the overall timescale for acceptance remains the same if the water company rejects a design and it is resubmitted) to 'restart' (i.e. the timescale will restart when a rejected design is then resubmitted).

The Panel considered the change proposal at its meetings on 27 July 2021 and 12 October 2021. As the proposer, Southern Water, was unavailable to attend the first meeting to discuss the proposal, the Panel decided that it required further information to fully consider the proposal. On 22 September 2021, we extended the deadline for the Panel to provide its recommendation on the proposal until 31 October 2021.

## The change proposal

Southern Water is requesting a change to SLPM S2/2B (water company to provide design acceptance). The timescale for this metric currently reads:

"Within 14 or 21 calendar days depending on the complexity (as above-see App E) provide formal design acceptance"

With the accompanying notes explaining:

"Within 14 or 21 calendar days depending on the complexity provide formal design acceptance. This is a start/stop "chess clock" metric and therefore the design acceptance will sit with the water company for no more than the number of days specified in the metric. Water company rejection of a design will not affect the overall timescale for acceptance. Only applicable where valid point of connection has been identified. Runs concurrently with SLPM S2/2a."

This means that the current metric requires a water company to undertake and complete the review of a water main designed by a SLP within 14 days of the design being submitted or 21 days for complex designs. This metric currently uses a stop/start 'chess clock' type mechanism. This means that in a situation where a water company considers that changes should be made to the proposed design in order to ensure compliance with the Design and Construction Specification (**DCS**) (Appendix D to the water sector guidance documents), the 14 or 21 day review period would be paused while the issues are addressed by the SLP. The clock would then restart upon the SLP resubmitting a revised design.

In its change proposal, Southern Water stated that where there is a need for the initial design submitted by the SLP to be resubmitted, the water company will be left with less time in which to assess the revised design. This could lead to the risk of a water company rushing the assessment of the revised design in order to meet the level of service deadline and in doing so approve designs that are not fully compliant with the DCS, increasing the potential for adverse impacts. Southern Water also considered that the current metric does not set a level playing field between water companies and SLPs, in that it effectively penalises water companies for trying to ensure designs are compliant with the DCS, and rewards SLPs who submit non-compliant designs through reimbursing their application fees. On the latter point, we note the minutes for the Panel's July meeting, which explains that some water companies have introduced a resubmission fee to try to address this issue.

Southern Water is proposing changing the metric from a "chess clock" metric to a "restart" metric. This would mean that in a situation where a water company considers that a design proposed by an SLP is not compliant with the DCS and requires the SLP to resubmit it, the 14 or 21 day review period would restart from the date the SLP resubmits the design.

## Consultation and assessment

In submitting its recommendation, the Panel confirmed that it met the Code requirement<sup>1</sup> to assess the change in terms of:

- the need for change, for example, is it a service improvement or is it needed to address a particular issue;
- consistency with the principles and objectives of the Code, and any relevant statutory requirements; and
- the impact of the change (be it positive and/or negative) on customers and on water and sewerage companies.

In considering the proposal, the Panel has:

- discussed the proposal at two meetings;
- listened to representations from Southern Water at its meeting on 12 October 2021; and
- submitted the proposal to the Water UK Levels of Service Sub-Group for comment, however, none were received.

## Panel recommendation

The Panel recommended that the change proposal be rejected. The Panel considered that while this issue has been problematic for Southern Water, it did not consider that the issue is widespread enough across the industry to merit a change to the Code. This is on the basis that the other water company representatives on the Panel did not consider this to be an issue for their companies, and SLP and developer representatives likewise did not consider the issue to be on a large scale.

The Panel also noted that there are opportunities to rectify issues in designs during the construction process, so even if issues are identified later in the process, they can still be rectified.

The Panel considered that a change to the process that reset the clock every time a revised design was submitted could result in additional delays for end-user customers. As the Panel

---

<sup>1</sup> See paragraph 3.8.11 of the Code.

did not have evidence that this was a widespread issue in the industry, it did not consider that the potential benefits outweighed the potential impact on end-user customers.

The Code Panel also noted that there may be opportunities for the metric to be improved through the Water UK levels of service sub-group. However, as this was not part of this specific change proposal, it did not consider this further.

## **Our decision and reasons**

We have considered the above issues, and all the supporting documentation provided to us by the Panel, and have decided to reject the change proposal.

We agree that the current wording of SLPM S2/2B has the potential to cause issues for water companies. If the proposed design for a development has to go through multiple iterations of design due to flaws in the design submitted by an SLP, the water company may have insufficient time to review and approve it within the metric timeframe, resulting in the water company failing to meet the levels of service. However, we do not consider this to go against the level playing field principle in the Code, which is focussed on enabling alternative providers to compete with water companies to provide new connection services. Moreover, we consider that the likelihood of this problem occurring can be mitigated by the water company's approach to engagement with the SLP, including ensuring any bespoke requirements in the DCS are clear, and providing specific feedback to enable the SLP to resubmit the design in accordance with the DCS.

As set out in the Panel's recommendation, no evidence has been provided to suggest other water companies consider this a problem in practice. We also note, and agree, with the Panel's concern that the proposed solution could adversely impact end-user customers by introducing delays into the process if the time in which the design should be reviewed is reset each time a new design is submitted.

In coming to our decision, we have also considered the email Southern Water sent the Panel on the day of its meeting on 12 October 2021, in which the company highlighted a potential inconsistency with the levels of service in the [sewerage sector guidance](#). The Panel has not set out any analysis of this in its recommendation. In summary, Southern Water's email highlighted that the levels of service in the sewerage sector guidance sets out a similar metric (SAM 2/2) requiring companies to carry out a design review of an application within 28 days, which includes the timeframe to meet a linked metric setting a 7-day triage step to review the application for completeness. This linked 7-day triage metric (SAM 2/1) operates on a reset basis.

We do not agree there is a material inconsistency between the metrics in the sewerage sector guidance and the water sector guidance. SAM 2/1 corresponds with SLPM S2/1a which sets 5 calendar days for the water company to review an application for completeness and

return it to the SLP if it is incomplete. Like SAM 2/1, the timeframe for delivery of SLPM S2/1a is on a reset basis. There is no provision in SAM 2/2 for the timeframe to restart if the application is required to be resubmitted for any reason other than that additional or missing information has been requested under SAM 2/1 (i.e. it will not restart in the event the design is otherwise deficient). In light of this, we do not agree with Southern Water's view that under the sewerage sector levels of service, if the design is non-compliant, the timescale starts again. Rather, we consider that the relevant metrics in the sewerage sector guidance broadly align with the relevant metrics in the water sector guidance.

As a result, and taking account of the Code principles in particular the customer focussed principle and the fair and proportionate principle, we consider that it is preferable to retain the existing level of service metric definition for SLPM S2/2B.

### **Decision notice**

In accordance with paragraph 3.9.4 of the Code Ofwat rejects this change proposal.

**Emily Bulman**  
**Director, Markets and Charging**