

By email

1 February 2023

Dear Regulatory Directors

## Supporting an effective self-lay market: Accreditation and operative mobility

I am writing to you regarding the accreditation arrangements currently in place for self-lay providers (**SLPs**) and your company's own contractors and staff. You will remember that we wrote to you in [August 2021](#) on this issue and, since then, companies have collectively (through the accreditation working group) been working towards finding a solution to alleviate the issues that SLPs have been experiencing.

In this letter I set out our assessment of the progress that companies have been making on this issue including the options put forward by the accreditation working group. I am asking companies to **write to me by 15 March 2023** setting out their current position.

### Companies' proposals for resolving SLPs' concerns

In response to our August 2021 letter companies set up an accreditation working group to consider the issues we raised<sup>1</sup>. The working group's initial scope was to consider in more detail the accreditation variances and to establish both quick wins (in terms of operative mobility) and longer-term solutions. Unfortunately, the working group's initial outputs were not acceptable to SLPs and, as such, the working group sent a questionnaire to companies and SLPs to better understand the issues being experienced.

Having reviewed the outputs from the questionnaire, we were pleased that we see that some companies are either (a) already using WIRS accredited contractors whose operatives are Network Construction Operations (**NCO**) qualified or (b) working towards using operatives that are NCO qualified. This is really encouraging and demonstrates a clear commitment to the developer services market. We were, however, disappointed to see that some companies do not appear to be moving in this direction.

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<sup>1</sup> Members of the working group were from Affinity Water, Anglian Water, Portsmouth Water, Severn Trent and Hafren Dyfrdwy, South Staffs Water, South West Water and United Utilities.

Following the questionnaire, the working group developed the following options for addressing the issues SLPs are experiencing:

Option	Description
Option 1	Maintain status quo/no industry action.
Option 2	A letter to confirm the experience of operatives moving from water companies (to SLPs) with a 3–6-month deferral to being Network Construction Operations ( <b>NCO</b> ) qualified.
Option 3	Extend the current 3-month deferral period for operatives moving from water companies (to SLPs) to being NCO qualified to a default 6 months (no letter).
Option 4	Seek an amendment to the NCO qualification to only include critical activities including jointing of pipes, main laying, and connections.
Option 5	All water companies commit to all operatives working on developer services contracts to complete the NCO qualification.

The accreditation working group subsequently informed us that the above options were discussed by companies at the New Connections Committee in October 2022, with companies collectively deciding that their preferred option was option 3. As set out above, this option is to extend the current deferral period, for operatives moving from water companies to SLPs to being NCO qualified, to a default 6 months (with no letter).

The working group informed us that there was some discussion on option 5 (all operatives being NCO qualified) including an acknowledgement that it would create a level playing field. There was no collective agreement to this option. The main objection put forward for option 5 was that it is not realistic due to the cost and time required to re-negotiate existing supplier contracts – some of which cover a wide range of services and not just the provision of mains and services.

## Ofwat assessment of companies' proposals

We have reviewed the options put forward by the accreditation working group. We see a level playing field on accreditation as being an important element in supporting effective markets. The need for each company to support effective markets in developer services will be heightened from April 2025. This is because, as we set out in our appendix 3 of our PR24 [final methodology](#), we are removing water site-specific developer services from the price control.

As companies have noted, option 5 would level the playing field and would also ensure alignment with other energy sectors such as the gas sector. In addition, it would provide a long-term solution to the issues that SLPs are experiencing whereas the current option that

companies have opted for is only offering SLPs a short-term solution. We acknowledge companies' concerns that fully implementing option 5 could potentially require the renegotiation of existing contracts. While this may be a short-term concern, this does not prevent option 5 being a long-term solution.

We are aware that some companies have previously explained that whilst they do not require their operatives to be NCO qualified, they have their own training for operatives that is broadly equivalent. Whilst we can see this is the case for certain companies, we do not consider this necessarily addresses the issues raised by SLPs about operative mobility. A water company operative can be trained to broad equivalence with the NCO qualification, however, if they are not actually NCO qualified then the SLP will still have to spend time and money getting such an operative suitably qualified.

As noted in our PR24 final methodology, SLPs do not think the market is sufficiently well developed to remove some of these services from the price control. They are concerned it will affect their competitiveness and lead to lower levels of service quality from incumbent companies. Whilst we consider developer services customers' needs, and interests, will be protected by both competition and our charging rules, this will rely on companies' approach to developer services supporting competition. We consider the current proposal put forward by the accreditation working group does not go far enough to support competition and does not go far enough to alleviate the concerns that SLPs have been raising for several years. We recognise that companies committing to all their operatives working on developer services contracts completing the NCO qualification may take some time and, as such, we consider it reasonable for companies to have this in place on or before April 2025.

## Next steps

In response to this letter, please clearly set out the following:

- a. How you consider your company will be compliant with option 5 put forward by the accreditation working group – a commitment to all operatives working on developer services completing the NCO qualification – by April 2025.
- b. If your company does not currently comply with option 5, and is not intending on complying by April 2025, how you are addressing the issues raised by SLPs, set out above, by other means.

Please provide your response by **15 March 2023**. Please also note that we are copying this letter to SLPs and will shortly be publishing it on our website.

Please note, we may publish responses to this letter on our website ([www.ofwat.gov.uk](http://www.ofwat.gov.uk)). We will consider not publishing your response if you indicate that there are any elements that you consider to be confidential. Information provided in response to this letter, including personal information, may also be published, or disclosed in accordance with access to

information legislation – primarily the Freedom of Information Act 2000 (**FoIA**), the Data Protection Act 2018, and the Environmental Information Regulations 2004. For further information on how we process personal data, please see our [privacy policy](#).

If you would like the information that you provide to be treated as confidential, please be aware that under the FoIA there is a statutory code of practice which deals, among other things, with obligations of confidence. In view of this, please explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

If you have any questions regarding any of the above, or need any further information, please do let me know.