

# Code for Adoption Agreements

## Water sector documents: Change proposal (Ref 014)

<b>Modification proposal</b>	Water Sector Guidance: Provision of service connection meters
<b>Independent Water Adoption Panel Recommendation</b>	The Panel recommended approving a change to the water sector documents, but proposed an alternative approach to making this change
<b>Decision</b>	Ofwat has approved this change proposal based on the Panel's alternative approach
<b>Publication date</b>	28 April 2023
<b>Implementation date</b>	01 October 2023

## Background

Fair Water Connections (**FWC**) submitted this change proposal to the Independent Water Adoption Panel (**the Panel**) on 28 September 2022, 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](#) (**the Water Sector Documents**) which apply to companies operating wholly or mainly in England. These documents were developed by companies as required by the [Code for Adoption Agreements](#) (**the Code**) and came into effect in January 2021. A change proposal is defined in the Code as a proposed change to the sector guidance or the model adoption agreements.

The change proposed by FWC concerns the provision of new water meters from water companies to self-lay providers (**SLPs**). FWC states that where water companies require SLPs to obtain water meters for new connections from the water company itself or a nominated supplier, some SLPs have experienced difficulties in obtaining these meters. This has caused some SLPs to incur delays and additional costs when making new connections. FWC has proposed changes to the [Water Sector Guidance](#) that would:

- make it clearer whether SLPs are able to procure meters from any supplier, or whether SLPs must obtain meters from the water company or a nominated supplier;
- where the SLP must obtain the meter from the water company, place a requirement on the water company to ensure that a suitable supply of meters is available; and
- where an SLP is not able to obtain a suitable supply of meters, place the responsibility for installing the meters on the water company.

## The change proposal

In its change proposal form submitted to the Panel, FWC stated that, whilst many companies make the provision of water meters a contestable activity (i.e., SLPs are free to purchase meters themselves) around a third of water companies specify that the meters need to be obtained through the water company itself, or their nominated supplier. FWC stated that SLPs have, on a number of occasions, encountered difficulties in being able to deliver new water connections in accordance with their developer customer's build profile because supplies of appropriate meters have been restricted. This has caused SLPs to incur one-off meter pick-up costs and delays through only being allowed to get a limited number of meters at a time.

FWC has proposed the following changes to the Water Sector Guidance to address this issue:

- A new category added to section 3.2 of the Water Sector Guidance – Annual Contestability Summary (**ACS**). This section would preferably be immediately after the current “construction of new mains and service connections” and would be titled “Purchase of service connection meters from own supplier”. This section would include the following traffic-light categorisation:
  - in green should the SLP be free to select their own meter;
  - in amber when a SLP is free to purchase meters themselves to a company specification; and
  - in red where meters have to be supplied by a company or their nominated supplier.
- To Stage 7 of the Procedures document at Appendix C to the Water Sector Guidance:
  - Adding new note after Note 7.0 to read: “Where service connection meter provision is non-contestable a water company shall ensure that a SLP is able to call off, and be supplied with, meters in such quantities as are necessary for them to complete the works covered by the Agreement (or whatever lower number of meters is said to be necessary by the SLP for them to complete connections in accordance with the envisaged developer's build programme).”
  - Adding a further new note after Note 7.8 to read: “Where service connection meter provision is non-contestable and a SLP has either not been able to

obtain requested meters, or the supply is so restricted as to lead to them incurring additional delivery/pick-up charges, the SLP can proceed with making service connections and fitting a plug instead of a meter. Where this arises the connection notification from the SLP shall inform the water company of the situation with the subsequent meter fitting to be arranged by the water company and at their cost.”

## 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 companies.

In considering the change proposal, the Panel has:

- Discussed the proposal at three meetings;
- Sought feedback from Panel members’ companies; and
- Asked for additional information from FWC to clarify the problem definition for the proposal and explain the scale of the issue across the sector.

The Panel also wrote to FWC on 20 December 2022 to advise it of the Panel’s intention to recommend to Ofwat a different change to the Water Sector Guidance than that which was proposed by FWC. The Panel proposed a new section 3.2.9 be added which would read:

“Each Water Company shall publish details of how SLPs can procure meters in its area as an appendix to its ACS.”

In response to this, FWC submitted a further document to the Panel, objecting to the Panel’s proposed recommendation to Ofwat, which the Panel stated that it considered as part of its consideration of the proposal.

FWC objected to the initial recommendation proposed by the Panel on the basis that it would not guarantee a clear indication to SLPs whether meters would have to be procured directly from the water company, a nominated supplier or could be freely obtained by the SLP from

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

any supplier. While still considering that its original proposal was preferable, FWC proposed to the Panel an alternative wording to section 3.2.9 of the Water Sector Guidance:

3.2.9 “Each Water Company shall publish details of how SLPs are to procure meters in its area and whether they can purchase, to a company specification, meters from an independent supplier. This being provided ideally in (or as an appendix to) its ACS.

In the ACS (or appendix - if so specified in the clause) companies shall state whether customer meters must be procured either:

- direct from themselves; or,
- direct from the company’s nominated supplier:

or alternatively,

- from a supplier chosen by the SLP (to a company meter specification)

Where the provision is from either the company or their nominated supplier any constraints on a SLP being able to ‘call-off’, should they so desire, all the meters required for the complete connection works in the agreement are to be stated. Also to be specified are the Redress arrangements which are to apply should delivery of the SLP works be compromised by customer meter delivery shortfalls from either a company or their nominated supplier.

Additionally, where SLPs can themselves purchase meters, this section should reference where details of customer meter specifications are provided and any options there are (should a SLP so chose) to use the company meter supplier.”

FWC also considered that the initial recommendation would not address the issue of clearly defining responsibilities for when a company, or their nominated supplier, restricts customer meter provision in ways which adversely impact on SLP delivery.

In addition to this, we consulted with the Drinking Water Inspectorate (DWI). The DWI did not have any concerns regarding the recommendation of the Panel.

## Panel recommendation

On 17 February 2023, the Panel recommended to Ofwat, by unanimous decision, that we approve a change to the water sector documents. However, the Panel has proposed an alternative change be made to the water sector documents than that which was proposed by FWC. In reaching its decision, the Panel stated that it has considered the following:

- The proposal relates to two issues, (a) the procurement of meters and the contestability of activities around this and (b) liability for compensation for costs incurred by SLPs due to meter supply issues.
- In relation to contestability, the Panel agreed that while the installation of meters was likely to be a contestable activity, the procurement of meters was not contestable, and it was important that those issues were not conflated.
- However, the Panel accepted that there was scope for water companies to provide more clarity around meter procurement in their ACS. The Panel considered that this would be best addressed by making an amendment to Section 3.2 of the Water Sector Guidance to require companies to explain this in their ACS, rather than the more prescriptive amendment proposed by FWC.
- In relation to compensation, the Panel noted that there was a question of whether the financial risk of meter supply issues is balanced fairly between water companies and SLPs, who may be less able to bear additional costs.
- In addition, the Panel noted that liability for costs or compensation could be negotiated with water companies on a case-by-case basis, via the Model Adoption Agreement or some other form of dispute resolution. The Panel noted there was not sufficient justification to recommend a permanent change to the Water Sector Guidance when there are other avenues for redress already available.
- The Panel stated that water companies and SLPs should engage constructively to identify and resolve any potential supply issues, and this is best achieved through a collaborative approach rather than amending the Water Sector Guidance to make it overly prescriptive.

The Panel stated that, while it was not persuaded to recommend the specific change that was proposed by FWC, it considers that the water sector documents could be improved to address the issues raised by FWC in this area. The Panel recommends that the following change is made to section 3.2 of the Water Sector Guidance, adding a new section 3.2.9:

*“3.2.9. Each Water Company shall publish details of how SLPs are to procure meters in its area in, or as an appendix to, its ACS, including whether customer meters must be procured either:*

*- direct from the Water Company;*

*- direct from the Water Company's nominated supplier; or*

*- from a supplier chosen by the SLP (to a Water Company meter specification)”*

The Panel does not recommend any changes to Stage 7 of the Procedures document at Appendix C of Water Sector Guidance in relation to the issues raised by FWC around the availability of meters for the reasons given above.

## **Our decision and reasons**

We have considered the above issues and all supporting documentation provided to us by the Panel and have decided to approve the change based on the Panel's alternative approach.

We agree with FWC and the Panel that there is a benefit to requiring water companies to publish information to make it clear whether SLPs are required to procure water meters directly from the water company or from a nominated supplier or if they are free to obtain the meters from any supplier. We consider the addition of section 3.9.2 to the Water Sector Guidance as recommended by the Panel is a reasonable way to introduce this requirement and aligns with the Code principles of 'Predictability and transparency' as well as being 'Clear, complete and current'.

We also agree with the recommendation of the Panel not to make a change to the dispute resolution process regarding situations that may arise where SLPs are unable to obtain the meters they require from the water company or its nominated supplier. We agree that SLPs could be harmed if they are unable to obtain the necessary supply of water meters from the relevant water company or their nominated supplier. However, despite the Panel's request to FWC to clarify the problem definition for the proposal and explain the scale of the issue across the sector, we do not consider that sufficient evidence has been provided to show that a change to the water sector documents is proportionate or necessary. It is not clear to us that this is a widespread or ongoing problem for SLPs, and we agree with the Panel's observation that liability for costs or compensation could be negotiated with water companies on a case-by-case basis, via the Model Adoption Agreement or some other form of dispute resolution, and that constructive engagement between SLPs and companies is a preferable approach to changing the Water Sector Guidance at this stage.

## **Decision notice**

In accordance with paragraph 3.9.4 of the Code Ofwat approves this Change Proposal using the alternative approach recommended by the Panel.

**Emily Bulman**  
**Director, Charges, customers and developer services**