

Draft recommendation under paragraphs 3.2 and 3.7 of the  
Ofwat Code on the adoption of self-laid assets by water  
companies in England

7 January 2019

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## 1. Foreword from the Codes Programme Board

The Codes Programme Board (“CPB”) was established by water companies to set up the necessary arrangements for the delivery of the Sector Guidance (SG) and Model Adoption Agreement (MAA) required by the Code. To help in this task, we convened specialist groups, comprising Water Companies and Customers and set their terms of reference.

This document contains the recommendation of the Water Companies in relation to the SG and MAA. Its preparation has been based on the substantial work carried out by those groups although responsibility for this document rests with the water companies alone.

Although it has been drafted by the CPB it is the submission of all the water companies set out in Appendix A.

We are confident that we have delivered substantially more than Ofwat anticipated when it published the Code. Whereas it was envisaged that with minor changes, the existing SLCoP and adoption agreement could fulfil the requirements of the Code, it soon became apparent that delivery of the objectives of the Code required a substantial re-think and rewrite of all documentation related to the adoption process.

The areas in which we think there has been the most significant improvement are as follows:

- Setting out for the first time a comprehensive set of procedures
- Increasing the number of metrics and/or tightening service standards in key areas
- Modernising and substantially improving the adoption agreement
- Providing redress in the case of poor performance by water companies, focusing on ensuring delivery where failures in performance have occurred
- Identifying the owner of required actions in the procedures to improve the customer journey and align more closely with CDM 2015
- Establishing a permanent panel to maintain the documentation and deal with change proposals
- Creating a national framework for contestable parent main connections
- Significantly increasing standardisation by reducing the number of Local Practices

While the Code does not require the recommendation we make to be the subject of consensus with Customers, that is clearly one of its objectives. Achieving that consensus, perhaps inevitably, has been challenging. There are a number of reasons for this.

On the one hand, given the wide range of topics which the SG and MAA cover, it may be unrealistic to expect consensus on every point. In addition, we view some areas in which consensus has not been reached as being either outside the scope of

the Code or as being unachievable within the timescales allowed by the Code. On the other hand, while consensus on all points has not been reached (and this is dealt with in more detail below), this recommendation is on any analysis a significant step forward and a foundation for further development to improve the operation of the new connections market

Some of that further work is referred to in section 7 of this recommendation.

We would like to add our sincere thanks to those Customer representatives who devoted considerable time and energy into the programme (Gary McConnell, Patrick Daly, Nick Fenton, Tim Haines, Martin Reeves, Mark Rostron, Julie Williamson).

Signed on behalf of the CPB:

Darrell Crittenden, Julian Foster, Samuel Larsen, David Strang.

## 2. Introduction

### 2.1. Purpose of this document

This document constitutes the recommendation that Water Companies are required to present to Ofwat under the Code in relation to both the draft Sector Guidance (SG) and draft Model Adoption Agreement (“MAA”).

It addresses the requirements of the Code as regards:

- whether Customers have been consulted (with examples to evidence the extent of their involvement);
- whether the draft SG and MAA reflect broad consensus of opinion between Customers and Water Companies and why particular approaches have been adopted where there is no such consensus;
- confirming that the SG and MAA comply with the Code.

This document recognises that the new SG and MAA are a starting point in changing the operation of the self-lay market and our final recommendation includes a schedule of activity we believe should be considered once the governance panel for the SG and MAA is established.

### 2.2. Recommendation

The Water Companies listed in Appendix A to this document are recommending that Ofwat accept the draft SG and draft MAA which are being provided with this recommendation.

Those companies have been involved in various ways throughout the development of the SG and MAA, such as by receiving copies of earlier drafts of the documentation and being invited to comment, by being part of the steering group leading the development of the SG and MAA and by having the opportunity to participate in the three public consultation exercises that have been carried out during the development of this documentation.

More formally, the documentation has been approved by the Water UK Infrastructure Policy Group which, for these purposes, has been given delegated authority by the Water UK Council, representing all those companies listed in Appendix A.

## 3. Content Development & Consultation

### 3.1. Introduction

The main “golden thread” running through the Code is one of consultation, particularly with SLP Customers and Developer Customers. Without a high level of consultation we would not be able to comply with the Code’s principles, nor achieve

a compliant recommendation, nor demonstrate any level of consensus between them and water companies. Furthermore, as the programme progressed, it became clear that a far greater level of detail was appropriate than perhaps the Code envisaged; and this level of technical detail would simply not have been possible without the valuable contributions of Customers.

Public consultation was therefore a key part of this collaborative work and focused often on the technical arrangements for which customer practitioner comment was particularly sought.

SLP Customers have engaged most comprehensively and enthusiastically with the programme, not only as members of both the ISGw and the PSTw and occasionally working groups (such as the MAA drafting group), but also in responses to formal consultations, and indeed correspondence outside of such formal consultations. We do not imply that this high level of engagement, which was most valuable, correlates with the level of consensus: that is dealt with elsewhere in this recommendation.

On the other hand, other than occasional responses to consultations and their representation at the ISGw and PSTw meetings, it would be fair to say that Developer Customers have not expressed their views anywhere near as extensively or vociferously as have SLP Customers. This can perhaps be attributed to where the issue of water self-lay completion comes in relation to other priorities competing for the attention of Developer Customers, particularly given the level of expertise necessary to understand it fully.

End-Users are not required under the Code to be engaged in this programme, and the programme has not specifically sought to engage them. As set out in the Code, the main issue that affects End Users is their safety. The DWI was approached as part of the programme and gave brief comments at a strategic level. The DWI rightly makes the point that it is we, as water companies, that have specific statutory duties in respect of End-User safety and these must be complied with. Championing End-User safety has always naturally been foremost in our minds as water companies, and has therefore been inherent in our approach to each issue that has arisen within the programme.

### 3.1.1. Development of the SG

The development of the SG followed a traditional public consultation approach similar to that used by regulators. In addition, the programme included direct working groups, water company engagement directly with their customers, and detailed sessions to explore specific topics. In total, three public consultations were run during 2018, although their timings were heavily dependent on the need to achieve the overall deadline for the final guidance.

### 3.1.2. Development of the MAA

The development of the MAA was carried out by a small working group that featured mainly qualified lawyers and knowledgeable specialists, in recognition of the complex nature of the agreement. Three draft versions of the MAA were released to

the public and/or senior stakeholders for comment during October, November and December 2018.

### 3.1.3. Meetings of the ISGw and PSTw

The ISGw and PSTw have held meetings on a regular basis throughout the period since March 2018. These meetings have been at least monthly and in October and November this year have been more frequent. There have therefore been very regular opportunities for some of the major companies in the SLP sector such as Aquamain and PN Daly to contribute directly to the work of the project. Other stakeholders such as Fair Water Connections, the HBF and the HBA have been able to follow the project by receiving updates on progress either from individuals on the group or from the ISGw/PSTw themselves.

During the early part of the programme, Customers were directly engaged in taking decisions on a number of areas. In the final stages of the project, Customers have been substantially less engaged in the programme and we have therefore had to rely more on written submissions of Customers' views

Our assessment of the extent of consensus on the outputs of the programme is contained in section 6 below.

## 3.2. Public Consultation

### 3.2.1. Introduction

Public consultation was a key part of the collaborative work and focused on the technical arrangements for which Customer practitioner comment was seen as being particularly helpful. Overall, SLP Customers have engaged most comprehensively in the programme while Developer Customers have been less involved. On a number of points, therefore, water companies have had to balance the interests of different customer groups.

### 3.2.2. Documents shared publicly

For transparency a specific webpage has been maintained throughout the programme to host all documents. A list of documents is provided below:

- Nov 2018 - November Consultation (Including Draft Sector Guidance) (P4)
- Nov 2018 - Codes Consultation - Question Template
- Nov 2018 - Appendix C - Procedures - Mains and Servs (P4)
- Nov 2018 - Appendix D - Design and Construction Standards Template (P4)
- Nov 2018 - Appendix E - Minimum Info S1A, 1C, 2 (P4)
- Nov 2018 - Appendix F - Adoption Agreement (Consultation 1)
- Nov 2018 - Appendix G - Levels of Service Measures and Reporting Requirements (P4)
- Nov 2018 - Appendix H - Terms of Reference for the Codes Panel (P4)
- Oct 2018 - Governance for panel
- Oct 2018 - Procedures – Supporting information P1

- Oct 2018 - Report on responses to July consultation
- Oct 2018 - Summary of consultation responses and actions P1
- Oct 2018 - Local practices proposal P1
- Oct 2018 - Draft mains and services procedures P3
- Oct 2018 - LOS and reporting proposal P1
- Oct 2018 - Draft mains and service connections procedures P2
- Oct 2018 - Draft Adoption Agreement v1
- Aug 2018 - Summary of stakeholder Q&A session: 7 August 2018
- July 2018 - ISGw public consultation
- July 2018 - Timeline for Water Guidance
- July 2018 - Water Guidance - Issues and Opportunities Log P1
- May 2018 - Codes Programme for Water - May report
- May 2018 - Timeline for Water Guidance
- May 2018 - ISGw Emerging Thinking - summary of responses
- April 2018 - Strategic Opportunities Consultation – Closed 30 April 2018.

Major document releases were advertised through specific email shots, and LinkedIn posts etc. In total the LinkedIn posts had over 1,000 views. A copy of one such post is included below.



### 3.2.3. Phase 1: Emerging thinking consultation

It was apparent early on in the programme that as it developed, there was considerable variation as to what its scope could be. Therefore, to bring some clarity as to its scope, and inform the initial work of the collaborative groups, a short public Emerging Thinking consultation was held. The consultation, and a summary of the responses are included in appendix C.

	Emerging Thinking Consultation
Date opened	20 April 2018
Date closed	30 April 2018
Number of questions	10
Number of question responses	118
Findings	The findings of the consultation were published on the 14 <sup>th</sup> May 2018

The responses to the Emerging Thinking consultation led to detailed work on the following themes:

- The procedures were expanded significantly to cover all asset adoption activities;
- Key areas where Customers favoured a more standard approach were reviewed and included in more consistent national procedures;
- The proposal to facilitate the wider implementation of best-in-class definitions of contestability were developed;
- The requirement to provide Customer updates was added to the redress proposals;
- Detailed flowcharts were developed to provide far more clarity as to what is required of all parties and when;
- Strategic opportunities for a review of accreditation were reviewed and detailed work allocated to the WIRSAPP; and
- Redress proposals were reviewed alongside other alternatives.

#### 3.2.4. Phase 2: Main consultation

Building on the outcome of the first consultation, the ISGw developed more detailed proposals as to the scope and content of the SG consulted publicly on those proposals during the summer. Given the unfortunate necessity of a consultation during the holiday period (to ensure the timely progress of the programme), this consultation was held open for longer than might otherwise be expected.

	Consultation on Initial Proposals
Date opened	24 July 2018
Date closed	10 September 2018

Number of questions	29
Number of question responses	440
Findings	The findings were published on the 25 October 2018

The programme also commissioned Reckon to produce an independent report as to the level of consensus inherent in the responses to the summer consultation. The consultation and the summary report are available in appendix D.

### 3.2.5. Phase 3: Final consultation

With the submission deadline of 7 January approaching, and the draft SG having recently been brought close to being in a form that might be submitted, during November it was published as part of a final consultation. During the latter part of the period during which that consultation was open, an early version of the MAA was also made public, with a view to canvassing comments on its form and content. The slight delay in providing a draft MAA for consultation was unfortunate, but unavoidable. This occurred because large portions of text of the MAA could not be drafted without some level of finality as to the underlying principles contained within the SG.

	Consultation on Sector Guidance
Date opened	5 November 2018
Date closed	26 November 2018
Number of questions	16
Number of question responses	Over 600
Water company respondents	15
SLP respondents	23
Developer respondents	2
Other respondents	2
Findings	The responses were analysed by the ISGw and considered during final drafting

The final consultation and a table summarising the responses are available in appendix E.

### 3.3. Other engagement

#### 3.3.1. Programme-Customer engagement

A subsequent opportunity for comments arose at the Water UK Developer Day, held in Birmingham on November 15, when a detailed report on the progress of the programme was given by representatives of Wessex Water and PN Daly respectively. Approximately thirty water company representatives and a similar number of Customer representatives attended.

The form and content of the draft MAA was not available at the Developer Day for the reasons set out above. This was provided to potential consultees on 22<sup>nd</sup> November, with bespoke comments received from Fair Water Connections, PN Daly and Cala Homes. A late response was also received from Berkeley Homes.

#### 3.3.2. Programme-Water Company engagement

As water companies, we provided, as might be expected, a very high level of engagement with the programme. Senior technical experts from among water companies, including Heads of Developer Services and senior lawyers, were provided to the CPB, the ISGw and the PSTw. Almost all water companies gave detailed responses to the consultations.

Three IPG meetings took place during the programme, on 13 June, 22 August (during the currency of the summer consultation) and 12 November (during the currency of the final consultation). IPG members were given initially an overview of the SG and the ongoing programme and asked to consider in particular any difficulties that might be faced in implementing the SG.

#### 3.3.3. Calls / meetings on specific topics

Where a specific topic merited it, a telephone conference or meeting was arranged to deal with it. For example:

- on 25 May, a meeting took place to consider the issue of accreditation, involving the attendance of a representative each of EU Skills, Merit Skills, Lloyds Register, Water UK, an SLP Customer and a water company; and
- on 7 December, a meeting took place to consider the content of the MAA. It was attended by a legal representative of practically all the WASCs (and one WOC). Its purpose was to bring the MAA as closely as possible to a final form

#### 3.3.4. Water Company-Customer engagement

A number of water companies also carried out their own direct engagement. By way of example, SWW has highlighted the consultation on its website and has sent out a mail shot to its customers on the topic and Thames has given extensive information to customers about the programme, both through face to face meetings and through email.

## 4. Benefits of the new arrangements

Throughout the programme, the members of the different working groups have focused on meeting the requirements of the Code and on providing tangible benefits to Customers. The following tables are provided as examples of the main benefits of the work.

### 4.1. Procedures, Local Practices, and Minimum Information

Improvements made	Benefit to asset adoption
Activities are now clearly defined and presented as they would occur in the typical self-lay journey	Deploying the more detailed procedures will have a positive effect on national consistency and facilitate a smoother adoption journey. As a corollary, Customers will benefit from an improved ability to measure LOS consistently as part of D-MeX
The activities have been aligned with the roles of the three parties typically involved in a self-lay project to make respective responsibilities clear	Clarity about roles will facilitate more effective planning by all parties and help avoid unforeseen events
Activities clearly categorised as accredited or unaccredited	Separate categorisation allows Customers to identify activities which can be delivered by Developers and/or SLPs without restricting Customers' freedom to contract between themselves
In support of the contestability proposals, the procedures include a new process for parent main connection work	The new procedure will allow water companies and customers to agree which medium-risk parent main connection work can be carried out on a contestable basis
New parent main connection process aligned with dynamic network risk assessment	Process maximises the opportunity for expanded contestability by providing the parties with a framework for managing

processes	water quality and service standard risks
Diverse local approaches to service connections replaced with a standard national approach	A standard approach to service connections was preferred by customers on the basis that it supported work in multiple water company regions
Activities are now colour-coded to reflect contestability	Easy identification of contestable / non-contestable activities so that customers can select a delivery route more easily
Risk-based approach to compliance activities (such as site audits) embedded into the procedures	Risk-based approach allows a reduction in the need for “control point” inspections, whilst also balancing DWI expectations on WQ surveillance
Pre-start meeting and coordination and compliance visits redefined	Foster greater early collaboration amongst Customers and Water Companies
Local practices are introduced, but have been effectively constrained to relatively few areas of the procedures where absolute consistency could not be achieved in the timescales required	Customers have consistently indicated that increased standardisation was important to them
To support the procedures, a corresponding Minimum Information schedule has been introduced	The schedule identifies the information that is required to allow activities to commence, particularly when one party is reliant on another party providing it. The schedule gives the provider of the information some certainty about the standard required, while avoiding mandating information that might not always be necessary

## 4.2. Contestability

Improvements made	Benefit to asset adoption
The extent of work made contestable has been expanded to cover parent main connection work	Customers that can evidence their suitability, will be able to compete for a greater range of works than previously, allowing more developments to be supplied with less reliance on water company services
The new Annual Contestability	Customers will be able to determine an

Summary (ACS) pre-publishes each water company's approach to new areas of contestability	individual water company's approach in detail without needing to make contact with the company. Customers will also be able to directly compare individual approaches and will benefit from relative competition effects between water companies.
ACS tables will apply annually	Annual publication will give SLPs certainty for the 12 months
ACS tables will be established by individual water companies	Water companies will be able to expand their approach to contestability in line with their own approach to managing network risks. This approach allows greater innovation and avoids the problems associated with a "lowest common denominator" approach
The ACS tables are linked to the WIRS scopes	The national definition of contestability will be more closely linked to the WIRS scope, providing SLPs with greater potential for future expansion in contestable services
The SG includes a clause that prevents any reduction in water companies' definition of contestability upon the introduction of the SG	Customers are protected from any retrograde steps in relation to contestability

### 4.3. Levels of Service, Reporting and Redress

Improvements made	Benefit to asset adoption
Metric definitions aligned to the new detailed procedures and increased in number	As the existing arrangements for LOS will largely be maintained and / or expanded, Customers will continue to benefit from consistent performance reporting and relative competition between water companies.  The increase in detail for the underlying procedures will mean the LOS measures are more directly comparable than before
The SLA for LOS for issuing vesting certificates to the customer	Customers will benefit as water companies will be incentivised to issue

has been dramatically reduced	certificates more quickly after connection. Earlier issue of vesting certificates will give Customers greater certainty over asset ownership, allow them to make service connections more quickly in accordance with the WIA
The documents to be published routinely as part of the SG are defined in one place.	Customers will know when to expect publication, and where to find key information, such as Design Standards and Annual Contestability information
Key areas of Customer performance have been included in the LOS measures (for example the addition of a measure for the provision of meter details).	The Sector will benefit from an incentive to increase the speed at which new domestic customer data is loaded onto water company databases. As a corollary, End-user Customer accounts will be more accurate, and Priority Services registrations captured in a timelier way
Some previous metrics split into two (particularly to support self-serve PoC)	Customers will benefit from more targeted measurement and reporting of discrete parts of the process. Customers choosing a self-serve PoC route will have water company performance measured accordingly

#### 4.4. Design and Construction Standards

Improvements made	Benefit to asset adoption
Water companies will be required to publish their Company Design and Construction Standards (CDCS) in a set format	A standard format will allow customers to obtain the information they need more easily and facilitate direct comparison between water companies' standards.  Because areas of national inconsistency will be prominent under the new guidance, opportunities for further convergence can be targeted by the Code panel. If desirable, may subsequently progress towards a National Design and Construction Standards for water network design.
CDM responsibility is clearly defined across the design lifecycle	Clear alignment with CDM2015 will support the parties' legal compliance,

and ensure designers are aware of their respective statutory duties

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## 5. Ofwat's Principles

In developing the SG and MAA, we have been guided by the principles in the Code and this section demonstrates how they have been taken into account. We do not consider that it would be helpful to give an exhaustive breakdown of how each element of the SG and MAA complies with the principles and our approach in this section has been to provide examples of how the documentation we have drafted complies with the Code's principles.

### 5.1. Customer focussed

*"Arrangements under the Code must balance the interests of Water and Sewerage Companies, Customers and End-user Customers, and set out how the Water or Sewerage Company will: seek to deliver the services Customers need, in the timescales they require; be Customer focussed and promote the participation of Customers in the development and maintenance of those arrangements; recognise the different types of Customer Water and Sewerage companies may need to engage with under these arrangements; and be flexible to opportunities to innovate or provide better service."* **Source**; Ofwat, Code for adoption agreements

The balancing of the interests of different stakeholders is best assessed by considering the new MAA. While recognising the enduring interest of the Water Companies in ensuring that assets being adopted meet necessary construction standards, the MAA also recognises the interests of SLP Customers in ensuring that they can provide their services without unnecessary controls on the part of the Water Companies. By reducing the opportunities for inspections, the MAA responds to one of the SLP Customers' main aspirations for the SG.

The procedures on the other hand are particularly focused on ensuring that the services SLP Customers require from Water Companies are clearly defined and are provided within acceptable timescales. In a number of key areas, those timescales have been shortened and many of the Water Companies' obligations are supported by new redress obligations if there has been a failure to provide an on-time service.

These new provisions complement the broader impact of the D-MeX system in seeking to ensure that infrastructure is delivered by Water Companies in a way and at a time that meets their customers' requirements.

The clarity provided by the SG and MAA should prove helpful to all customers, whatever their scale of operation and the interests of the smaller customers are taken into account by the flexible Minimum Information requirements.

Ideally, it may be preferable for separate documentation to be developed for use with smaller Self Lay Customers but it has not been possible to realise this ambition in the current programme. This is something that the Panel may wish to follow up in due course.

## 5.2. Fair and proportionate

*“Without compromising End-User Customer’s safety, arrangements under the Code must be proportionate in relation to the costs and risks faced by the Water or Sewerage Company on the one hand and the Customer on the other. The arrangements should also be fair and reasonable in terms of who holds the balance of risk.*

*Additionally, the arrangements under the Code must: be fit for purpose (and provide for regular review so they remain fit for purpose); not be unnecessarily complex; and not unfairly discriminate between Customers.”* **Source**; Ofwat, Code for adoption agreements

In drafting both the procedures and MAA, we have worked on an evidence-based approach which imposes the minimum obligations necessary to ensure satisfactory completion of work. Inspections, for example, need to be justified on the basis of evidence and abortive visits are paid for by the party in default.

The new arrangements make it clear that the risk of poor construction quality is carried by the party responsible for each activity eg, trenching is the developer’s responsibility and mains jointing the SLP’s.

In addition, where any mains construction work is carried out before an agreement is in place, this will be at the developer’s risk and may result in additional costs prior to adoption.

The new contestability tables exemplify the approach that has been taken in this regard with WIRS accreditation being seen as the key to allowing work to be carried out by SLP Customers. Access to other categories of work is dependent on SLPs complying with further evidence-based requirements. Were WIRS to be extended, this may be expected to lead to the extension of the scope of contestable work in the next iteration of each ACS.

## 5.3. Clear, complete and current

*“Arrangements under the Code must comply with Ofwat’s Information Principles: <https://www.ofwat.gov.uk/regulated-companies/company-obligations/engaging-with-customers/>”* **Source**; Ofwat, Code for adoption agreements

The documents that we have prepared represent the current legal and regulatory position and will be kept up to date through the Panel’s work after the SG has been

implemented. A link to the Ofwat Information Principles is included in paragraph 9.1.1 of the SG.

#### 5.4. Level playing field

*“Arrangements under the Code must: provide a framework that will enable effective competition where parties can compete with the Water or Sewerage Company to provide new connections services; minimise as far as practicable the number and type of services and activities that fall within the scope of Non-contestable services; Require that the Water or Sewerage Company provides Non-contestable services to all relevant parties on an equivalent basis as it provides the same services for its own business; and make clear Customers’ options so they can make an informed choice about who they could get to provide the new connections services they require, for example where they need to use the local Water Company or Sewerage Company and where they can use an alternative provider.”* **Source;** Ofwat, Code for adoption agreements

Given the different statutory bases of requisitions and self-lay, an exact comparison cannot be drawn between the requirements imposed on Self-Lay Customers and on companies’ own contractors. The two delivery routes will lead to the delivery of assets constructed to the same standards but identical processes between Water Companies’ term contract and adoption agreements cannot be achieved.

It has been suggested during the programme that a simple work order could be required where delivery is via an SLP, equivalent to the requisition request made to Water Companies. Such an approach ignores the differences referred to in the previous paragraph. The many obligations that are imposed on Water Companies’ contractors through their contracts can only be mirrored through the requirements we have built in to the SG and MAA.

More generally, given that the programme can only influence the conditions under which self-lay is carried out, we have been careful to ensure that the approach we have taken does not unduly influence Developer Customers to choose one delivery route over another. Having a clear set of procedures, a set of service standards and an agreed model form contract all help to achieve that aim.

#### 5.5. Efficiency

*“Arrangements under the Code must promote efficient and effective processes for entering into adoption agreements and to achieve adoption”* **Source;** Ofwat, Code for adoption agreements

In the context of the Code, we have interpreted the term efficient as being equivalent to a requirement for smooth delivery processes. This has been encouraged by a number of innovations in the SG, including a clear presentation of the steps that need to be carried out and of their sequence, a more comprehensive statement of required information and a requirement for “weekly whereabouts” information. All of

these changes allow Water Companies to deliver a risk-based approach and reduce the overall cost of compliance with their requirements. Efficiency will also result from the confidence the programme gives to SLPs that they can work substantially in the same way across the areas of all water companies.

By allowing flexibility over who delivers which activity, the right party can carry out the particular tasks thus encouraging efficient work allocation.

## 5.6. Predictability and transparency

*“Arrangements under the Code must be predictable and transparent and provide Customers with sufficient certainty as to what they can expect at each step in the process of entering into adoption agreements, for example, through standardisation of approach across the sector. Any changes to the arrangements under the Code (including company specific practices) should be adequately signposted to Customers in advance of the change”* **Source**; Ofwat, Code for adoption agreements

The programme has delivered a major increase in the predictability, transparency and standardisation of processes in the sector. The best example is the development of clear procedures for the delivery of services, to replace the previous diverse arrangements used across the self-lay market.

Another example is provided by the Annual Contestability Summary which companies are obliged to publish annually and which will give SLPs certainty as to what work is contestable for the next 12 months.

## 5.7. Encourage innovation

*“Arrangements under this Code should encourage innovation and not unduly prevent opportunities for innovation that could deliver a better service for Customers, mindful of the associated costs.”* **Source**; Ofwat, Code for adoption agreements

We anticipate that the introduction of tighter metrics on issuing the declaration of vesting and the new system of redress reports will drive more efficient processes among all parties.

Innovation is encouraged through permitted deviations from the procedures which may include pilot studies. Panel procedures will also allow innovations to be trialled on a permanent or limited time basis.

Finally, the ACS allows innovation by ensuring that contestability is not invariable.

## 5.8. Resilience and sustainability

*“Arrangements under the Code must have regard to the efficient use of resources and the long-term resilience of Water Companies’ supply systems and Sewerage Companies’ sewerage systems as regards environmental pressures, population growth and changes in consumer behaviour.”* **Source**; Ofwat, Code for adoption agreements

In replacement for the water company right to require upsizing of new mains (previously provided for under section 51A(7)(c)), the procedures allow water companies and customers to agree to upsizing via a quotation from the Customer – this allows efficient use of financial resources, and construction of assets resilient to new growth demands.

## 6. Consensus

### 6.1. Introduction

The Code requires that this recommendation set out whether the draft SG and MAA reflect broad consensus of opinion amongst Water Companies and Customers. Where this is not the case, the recommendation must set out the reasons for following one view over an alternative view.

We have approached this question by assessing whether such consensus has been reached in each of the main topic areas covered by the Code. These assessments are set out in sections 6.2-6.9 of this recommendation.

We have also sought to assess the extent to which a consensus exists in relation to the draft MAA and this is set out in section 6.9.

In each case, the assessments have sought to identify only those topics which are considered material. Given that the whole self-lay process has been subject to very significant revision, it has not been possible to assess whether a consensus exists on every aspect of the SG and MAA.

In addition, there are some wider questions of principle which have been raised during the project and which the Water Companies consider merit being addressed directly. These are considered in section 6.2 below.

### 6.2. General Objections

Whilst some respondents were able to support the majority of the specific aspects, a significant number of Customers were not yet prepared to state that they supported the overall package of measures. The reasons for this were not consistently expressed throughout, although the themes in the left-hand column below featured commonly in responses. In the right-hand column we have provided an assessment of how these have been addressed to date.

Reason for objecting	Status
The proposals do not satisfy their understanding of the “level playing field”	Identical processes are not achievable but the SG and MAA are

or “fair and proportionate” principles in the Code	drafted in a manner which does not unfairly drive either SLP or water company delivery
The need to test the proposed procedures via coordinated pilot prior to formal implementation	Section 7 recommends further work
Differences between the level of accreditation for water companies versus SLP operatives	Section 7 recommends further work
A preference for guaranteed contractual commitments for water company delivery rather than LOS measurement and reporting	The work is too variable in nature to predetermine contractual delivery timescales.
Consultation process allowed insufficient engagement, or was not effectively targeted	Section 7 recommends further work to pilot the proposals
The balance of risk is shifted towards SLPs in a way that may put them in jeopardy	This point has not been sufficiently defined for us to be able to act upon it
Lack of detail in “minimum information” tables in the final consultation, and a preference for standard application forms	Minimum information has been updated, and section 7 recommends further work on standard forms
Scepticism about water company behaviours during and after implementation	Not in scope for the programme or the permanent panel other than the provision of redress and reporting
Include service connections off old mains, and new mains for diversions	Included in final version of the procedures

### 6.3. Procedures

The draft procedures build on existing sectoral initiatives by expanding the degree of detail to cover the full range of activities in the way that Customers supported during the second consultation.

Broad consensus on the scope of work and the completeness of the work is evident across a wide range of SLP, Developer and Water Company responses to the final consultation. For example, multiple SLP respondents remarked that “The proposed procedures describe the activities required in an effective self-lay market...”, or “the various procedure charts cover most of the various components of a self-lay delivered project...”. We the water companies also support the expanded scope of

the procedures, as does the single Developer Customer that responded to the procedures question in the final consultation.

Throughout the programme a majority of respondents have preferred a detailed and standardised approach to defined procedures, although it is recognised that a minority preferred more freedom to innovate, providing that did not affect the ability to consistently measure performance nationally.

At a more detailed level, and on specific points, some views were far more divergent. Water companies were generally supportive of the specific detail in the new procedures whereas Customers expressed various concerns that prevented them from agreeing with the proposals. During December many detailed points have subsequently been considered and revised; however, the following fundamental concerns prevent us from confirming broad consensus amongst some stakeholders, particularly SLPs:

- Multiple Customers expressed concern about the compressed programme for the work and sought further time to further test the detail either through a pilot and/or an extension of time
- Some customers were not able to, or did not have enough time to, see how the overall proposals fit together and made contradictory comments in separate areas of the programme
- During the final round of consultation, some Customers expressed concern about the LoS measures that underpin the delivery standards in the Water Industry and indicated a strong preference for replacement of LoS reporting with guaranteed contractual commitments
- SLPs expressed concern about the complexity of the self-lay process, particularly from a Developer perspective, and particularly when compared to Customer-facing parts of the requisition process
- In contrast to the consensus on the scope and the degree of detail in the procedures, some respondents indicated that they preferred less detail, and more freedom for water companies to take differing, innovative approaches.
- Some consultees remained concerned that water companies would not adhere comprehensively to the procedures or had concerns about compliance with the general level playing field principle.
- The legal arrangements for vesting concerned many SLPs, in particularly the statutory requirement for a “declaration”, to be made in advance of service connection.

We have not undertaken further work to allay all of these concerns as some are either not in scope for the programme or conflict with feedback from other stakeholders. Where we have preferred one view over another we have set that out in other parts of this recommendation.

#### 6.4. Local Practices

Throughout the programme significant progress has been made to standardise the procedures that water companies are recommending to Ofwat. Much of the pre-

existing plurality in the procedures has been removed, leaving only a few areas where standardisation is either not achievable in the required timescale or counter-productive for other reasons. Many water companies confirmed that they did not envisage using Local Practices.

Notwithstanding the general absence of Local Practices from the majority of the standardised national procedures, many SLP customers wanted additional controls, for example: tighter rules, a methodology for removing Local Practices altogether, or Local Practices limited to just engineering preferences. Some SLPs also called for a single national approach to the publication of Local Practices or wanted a means of SLPs appealing unjustified Local Practices.

Our view is that Ofwat's Code does not prohibit Local Practices and in any event, the number of proposed Local Practices are so few that the issue is not material.

## 6.5. Contestability

A majority of water companies, and a significant number of SLP respondents to the final consultation saw the revised approach to contestability as an improvement over the outgoing approach. A significant number of other SLPs were concerned that the approach to parent main contestability was not mandatory and wanted strict incentives or obligations that required water companies to open up more areas of contestability. Some were also concerned that agreements for SLPs to carry out suitable medium risk parent mains connections might take too long to achieve or be withheld unfairly.

Our recommendation is that the variable approach to medium risk mains contestability at the water companies' discretion is in line with their absolute duty to maintain water quality. The publication of the ACS tables in consistent format will also enable future best-practice sharing, leading to more contestability across the UK. We note that relative competition through D-MeX will also put an incentive on water companies to meet customer expectations with regard to timescales.

We also note that using only two categories may mean that some potentially contestable areas could default to red rather than green, meaning Customers would potentially have a narrower range of contestable activities. The proposals align on what we consider to be the most suitable approach overall.

## 6.6. Redress

Our proposal focused on rectifying failures of performance. It therefore proposes that an initial response will be provided within one working day of a deadline being missed followed by an internal Water Company escalation procedure involving a senior employee where the initial response was not acceptable to the SLP.

In selecting those metrics for which redress is applicable, we have sought to identify the more important steps in the process as it was considered that providing redress for all metrics risked reducing the impact of the procedures we propose implementing.

A number of SLP respondents maintained that a financial remedy was necessary to incentivise good performance. A smaller number of other SLPs, particularly those represented on the working groups, as well as water companies, considered that financial remedies were not appropriate. We prefer the latter view, as fines risk being seen merely as a cost of doing business.

An alternative suggestion was that the entire fee for the non-contestable work be refunded in the event of a water company's failure to perform. However, this suffered from the problem that such a refund could be disproportionate to any harm suffered by reason of delay on the part of the Water Company.

In addition to these proposals, the draft SG also offers the option for SLPs to use the Water Company's complaint procedures in relation to claims for financial loss arising from Water Company non-performance. This is in addition to any remedy that is available for breach of contract.

### 6.7. Levels of Service ("LoS")

Many stakeholders view the self-lay process as generally taking too long to complete and in this respect, they compare the water sector unfavourably to other utility sectors. While we have shortened some service standards (such as design approval, asset payment and vesting) we have focused in the SG on increasing the certainty provided by the processes rather than in reducing overall start to finish times.

The changes we are introducing are expected to lead to improvements both in delivery and in customer satisfaction and we propose that overall timescales be considered at a subsequent point, once the new procedures have been in operation for a time.

Towards the end of the programme, a number of stakeholders expressed a strong preference for guaranteed delivery dates rather than delivery being a matter of negotiation between Water Company and Customer. It has not been possible to assess this proposal in any detail given the time at which it was made but we are in any event doubtful that a meaningful guarantee could be provided. There are many variables in agreeing dates for eg, making available a source of water and no proposal has been received as to how these variables can be reconciled with the concept of a guaranteed delivery date.

### 6.8. Minimum Information

Stakeholders have commented that the SG is incomplete in its treatment of minimum information. On that basis, they have been unable to approve this section of the SG. We accept that the document needs further work to complete it but believe that this is not material in the context of the other changes to the self-lay process that we are proposing through the SG.

Further, if a pilot is to be carried out, that can be expected to reveal what further detail needs to be provided for this section of the SG.

## 6.9. The Panel

Comments on the proposed Panel governance focused on the need to involve Developers in the process and on the arrangements to ensure the independence of the Panel.

We agree that Developers should be included given that they are also Customers and have provided for a 3:2, SLP/Developer representation on the panel.

As regards the independence of the Panel, consultees proposed that the chair be chosen from among Panel members and the secretariat be arranged by the Panel rather than by a trade association (such as Water UK).

A strong, independent chair is however considered a critical requirement for the Panel to operate successfully, given the potential for very divergent views to be taken towards particular issues by Water Companies and Customers. Our recent experience of the work on sustainable drainage, which also involved parties with conflicting views, suggests strongly that an independent chair will be helpful in allowing the Panel to fulfil its intended role.

Equally, it was not possible to accede to the suggestion that no trade association be involved in the arrangements for the operation of the Panel. Operation of the Panel is a requirement imposed on Water Companies and they need to have the right to use the sector's trade association to provide such services, if thought appropriate. We have however clarified that the Secretariat owes its duties to the Panel rather than to those funding its activities.

The suggestion has been made that convening the Panel at the earliest opportunity would help increase confidence in the new adoption arrangements. An early indication from Ofwat of the timescales in which it proposes to consider the sector's recommendation would be very helpful in assessing when the Panel should be put in place.

## 6.10. MAA

The main objection that Customers had in relation to the MAA was that they had not been given sufficient time to consider its detail. As set out above, it proved difficult to provide a meaningful draft while the substance of the MAA's underlying principles remained open. We, as water companies, have day-to-day access to legal advisers inured to dealing with tight timescales and are therefore sympathetic to this objection from Customers who do not. However, we feel bound by the Code to deliver a draft MAA on the date it requires. To mitigate the effects of the objection we make the suggestion set out below.

The MAA requires Customers to comply with "Land Rights Criteria", meaning in essence that they must procure such dispositions in favour of water companies as they may require. The intent of this obligation is to ensure that Water Companies are given reliable access to, or protection for, the adoptable assets. Some Customers expressed concern that this obligation potentially gave unscrupulous

Water Companies the ability to make capricious or unrealistic demands of Customers. We consider that inclusion of an obligation of this type is imperative, and that the remedies Customers have under the general law, particularly under the Competition Act, should deal adequately with any such unwarranted behaviour. We have, however, sought to ensure the risk of such behaviour is reduced by ensuring in the MAA that Land Rights Criteria may only be imposed to the extent that they have been made known to Customers in advance of signing the adoption agreement in question. We also believe that Land Rights Criteria is an area where there is considerable scope for harmonisation, and this forms the basis of one of our recommendations for future work.

Much debate centred on the respective level and type of liability for which water companies and Customers should be accountable under the MAA, with many different solutions proposed. Some Customers felt that the principle of a fair balance of risk was not reflected in the draft MAA. We have concluded that the MAA should reflect general construction practice – that the person constructing an asset should be entirely responsible for both its delivery and its freedom from defects. Furthermore, we have included a symmetric approach to the nature of liability – that neither Water Company nor Customers should be responsible to the other(s) for indirect or consequential losses, and there should be a upper limit to financial liability, which is set high enough to be meaningful, but within a range that can realistically be insured against if parties desire.

A number of Customers felt strongly that Water Companies' obligations under the SG should be set out (or cross-referred to) as contractual obligations in the MAA, in the same way as their own SG obligations are. The effect of this would be to provide Customers with alternate remedies for the same subject matter – through regulatory control (a breach of SG obligations by water companies representing a breach of the Code) as well as enforcement through the courts (for breach of contractual obligation). The law has been generally hostile to dual systems of remedy (one prime example being the *Marcic* case) and we did not therefore consider it appropriate to include water companies' SG obligations as contractual covenants. Although this may make the MAA appear in isolation to be asymmetric (with only Customer SG obligations set out as contractual covenants), the overall reality is far more balanced, with water company SG breaches (but not Customer SG breaches) governed by redress and regulatory enforcement and Customer breaches (but not water company SG breaches) governed by contractual enforcement.

Despite these concerns, it should be noted that we have nonetheless been able to take account of a considerable number of points made in response to the consultation on the MAA. However, we acknowledge that Customers have not had sufficient time to consider how we have responded to their comments. One option would be for Ofwat to encourage further concertation between Water Companies and Customers during the period in which it is considering the SG. We would be pleased to assist in making arrangements for such further discussions.

## 7. Further development of the asset adoption arrangements

### 7.1. Before approval of the SG and MAA

We have already suggested that further work could be undertaken by Ofwat and stakeholders on the development of the MAA before approval is granted to the new SG and MAA. It will also be important to ensure that all parties, not merely Water Companies, are aware that this new agreement will effectively be mandatory for Water Companies and are willing to use this as the basis for their self-lay arrangements.

In addition, at various points in this recommendation, we have suggested that the draft SG and MAA could be the subject of a pilot. Customers have expressed support for a pilot as well and we have identified volunteers from among the SLPs and Water Companies to take part in any such pilot.

It would be useful to have an early indication from Ofwat as to its assessment of these proposals and as to how they might work alongside Ofwat's work in considering this recommendation.

### 7.2. Matters for the Panel

This section proposes other areas of activity that could be put to the Panel should parties wish to make Change Proposals to this effect.

- Development of a full suite of Minimum Information requirements, possibly with the support of consistent national forms
- Liaison with WIRSAPP to determine how further work could be included in the scope of its accreditation scheme
- A programme under which Water companies will publish their general land rights criteria
- Development of the Template Design and Construction Standards (TDCS). It has been suggested that companies could look for areas of convergence and consider re-publishing the TDCS where there is agreement with yellow sections filled in where convergence exists on a part of the TDCS. Where areas of convergence don't exist, the Panel could help to establish "best practice" and ask water companies to consider what they can do to converge on areas that are for non-operational issues.

### 7.3. Other future matters

Some stakeholders are anticipating that the Panel will have a broader role in enforcing standards across the sector. While this does not immediately appear to be within the envisaged remit of the Panel, it may be that parties could consider the desirability and feasibility of such a proposal.

Similarly, some stakeholders have commented that they envisage the Panel having the role of improving service standards across the sector. This also could be considered further

Finally, the work to produce information on connections options work is currently on hold due to the issues arising from the implementation of the retail market. As and when the legal position is clarified, flow charts developed by the programme and not so far published could be made available to the Panel for them to develop in more detail.

## Appendix A - Water Companies which have agreed to this recommendation

Affinity Water

Albion Water

Anglian Water

Bristol Water

South Staffordshire Water

Icosa Water

Independent Water Networks

Leep Water

Northumbrian Water

Portsmouth Water

SES Water

Severn Trent Water

South East Water

South West Water

Southern Water

Thames Water

United Utilities

Veolia Water

Wessex Water

Yorkshire Water

## Appendix B – ISGw and PSTw members

ISGw:

<b>Chair – Martin Silcock</b>
<b>Samuel Larsen (Water UK) (Secretary)</b>
<b>David Strang (Water UK) (Legal and policy)</b>
<b>Gary McConnell (Director at Aquamain)</b>
<b>Martin Reeves (Gleeson Homes)</b>
<b>Nigel Martin (Wessex Water)</b>
<b>Darrell Crittenden (Anglian)</b>
<b>Ed Attree (IWNL)</b>

PSTw:

<b>Samuel Larsen</b>
<b>David Strang</b>
<b>Patrick Daly (PN Daly)</b>
<b>Tim Haines (Countryside Properties)</b>
<b>Representative of Kier Living</b>
<b>Dan Borst (Severn Trent)</b>
<b>Meriel Jones (Thames)</b>
<b>Chris Rhodes (Yorkshire)</b>
<b>Mike Thornley (Southern Water)</b>
<b>Gareth Davies (United Utilities)</b>
<b>Julian Hill (DCWW)</b>
<b>Zoe Brewer (South West)</b>





# Consultation on proposed Sector Guidance in relation to the adoption of self-laid assets by Water Companies in England

5 November 2018

Water UK has published this consultation on behalf of an Independent Steering Group that is developing new guidance for the adoption of water assets.

See <https://www.water.org.uk/developer-services/codes-adoption> for more detail regarding the Codes Programme

Report Ref. No. DS.CFA.DC (P1 11.2018)

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# 1 Introduction

This document is being published by Water UK on behalf of an independent steering group which has been developing draft sector guidance and a model adoption agreement in relation to self-laid water infrastructure. This work is being carried out in order to allow the Water Companies to comply with Ofwat's Code for Adoption Agreements which came into effect on 13 November 2017.

The members of the group who have contributed to this document are listed in annex 1.

In this document, we are seeking responses to a series of questions about the approach we have taken and those responses will inform the final documentation which is to be submitted to Ofwat for approval on 7 January 2019. This document is being published on the Water UK website and is also being sent to the full range of stakeholders who have been involved in the development of these proposals to date.

More detail regarding the programme leading up to the publication of this document can be found at <https://www.water.org.uk/developer-services/codes-adoption>. The website also contains a downloadable word document containing all the questions to which responses are invited.

In particular, the report prepared by independent consultants, Reckon, on the outcome of the initial consultation can be found there. This contains a detailed summary of all the responses to that consultation and seeks to draw some conclusions from those responses. Where a clear outcome was preferred by respondents, we have endeavoured to reflect that in the content of the draft Sector Guidance.

This document refers to draft Sector Guidance and a draft Model Adoption Agreement both of which are available via the above link.

This consultation is being issued at a time when various other elements of the regulatory regime are under review as we approach the next price review period. Adding to the existing voluntary service performance measures that are and will continue to be published, the new Developer Measure of Experience (D-MeX) will be a major change to the sector, rewarding companies that provide high levels of customer service to developers and SLPs while also imposing penalties on companies that are considered to be under-performing by their customers.

The Water Companies view D-MeX as a very significant driver of better performance in the area of new connections and we have approached the Sector Guidance on the basis that it should complement the approach taken by D-MeX and not repeat it.

Section 3 contains a series of questions about the draft guidance and agreement which stakeholders are invited to respond to by no later than 2359 on 26 November 2018. These questions are summarised in section 5 and we would suggest that you cut and paste these questions and your responses into a separate email or Word document.

Responses should be sent to the following address [<slarsen@water.org.uk>](mailto:slarsen@water.org.uk).

## 2 Draft Sector Guidance

The draft Sector Guidance and Model Adoption Agreement can be found here:

<https://www.water.org.uk/developer-services/codes-adoption>

## 3 Consultation Questions

As indicated in the Introduction, we have prepared a series of questions on each of the areas covered by the Sector Guidance. Consultees are invited to respond to some or all of these questions.

### 3.1 Contestability

#### Introduction

In line with Ofwat's requirements for the Sector Guidance, the Codes Programme has developed draft proposals for contestability within the self-lay market.

Draft contestability rules and guidance have been developed in conjunction with version P4 of the Adoption Procedures and Design & Construction Guidance and should be read alongside these.

The draft contestability table sets out the proposed requirements for publishing the information required under the new Sector Guidance.

#### What does this mean for you

Customers will have access to a clear statement of what is contestable in each Water Company's area and what steps need to be taken to expand the basic range of contestable activities.

The Sector Guidance clarifies that contestability is based on accreditation through WIRS and can only increase in scope from the current position.

Future amendments to the current minimum range of contestable activities will be made using the permanent governance arrangements for the guidance..

#### Our questions for you

- Is our proposed approach to contestability an improvement on the approach taken in the current code of practice?
- Is Table 3.2 sufficiently comprehensive and clear in its format? If not, how would you propose it be amended?

## 3.2 Procedures

### Introduction

Under the new Sector Guidance, it's being proposed that as compared to the position under the current Self-Lay Code of Practice:

- The procedures should be expanded to cover all activities required by all parties to a self-lay agreement (ie Developer, SLP, and Water Company)
- The procedures should be more accurately defined to promote improved standardisation and consistent measurement of performance
- To enable effective competition, the detailed procedures should be provided in a flow-chart format and align with the proposals for greater contestability and new LOS measures.

### What are the main proposals?

- The procedures will be more accurately described with far less variation between the approaches of individual Water Companies
- Customers will have a single and comprehensive resource, in flow-chart format, containing all the information about the required activities and the sequence of events
- Accurate procedures will support more accurate delivery, and more accurate measurement of performance.

### Other proposals we considered and discounted

- We considered simplifying the procedures, however we took the view that more detailed processes would:
  - better support faster and more accurate delivery of service to Customers
  - better align with Ofwat's objectives
  - reduce the potential for misunderstanding, and undesirable impacts on an SLPs ability to compete.
- We also considered aligning the procedures with the customer-facing requisition processes. This approach was discounted as the nature of the requisition process is fundamentally different from the self-lay process and, for example, can be dealt with through a relatively simple exchange of letters.

### Our question for you

- Do you agree that the proposed procedures accurately define the activities required in an effective self-lay market?

## 3.3 Local Practices

### Introduction

The steering group has developed draft proposals for permitted Local Practices.

These have been developed in conjunction with version P4 of the Standard Procedures and should be read alongside these.

The proposals set out the proposed requirements for publishing the information required by the Code.

### What are the main proposals?

We propose to permit Local Practices solely in the following areas. In all other areas of the process, no deviation from the published Standard Procedures is permitted.

- Meter pairing or commissioning procedures during Stage 7 of the Standard Procedures (note 7.10 refers);
- Plot reference numbers ie Stages 3 & 7 of the Standard Procedures (notes 3.5 & 7.4 refer);
- Water Company service offered to provide the design for new mains. i.e. Stage 2 and note 2.4 refer);
- Design self-certification scheme and design approval criteria offered by Water Company i.e. Stage 2 of the Standard Procedures (note 2.4 refers).

### Other proposals we considered which have not been discounted but have alternatively been included within the new suite of national procedures

- Safe Control of Operations requirements relating to some planned mains connections
- Meter selection (type & manufacturer) and supply/costs relating
- External Influences – Highway Authority notice and access requirements.
- Minimum plumbing requirements

### Our questions to you

- Is the permitted scope of Local Practices sufficiently defined?
- Will these Local Practices suffice for Water Companies such that in all other cases, the Standard Procedures shall be adhered to?

## 3.4 Design Standards

### Introduction

Under the Sector Guidance, it's being proposed that:

- The Sector Guidance includes an industry-wide guidance document -this will be known as the Template Design and Construction Standards or Template DCS
- This has been produced using the existing Self-Lay Code of Practice, other publicly available documentation and following discussions with Water Companies and Customers
- Each Water Company will be required to “fill in the blanks” within the document to produce their own Design and Construction Standards document; but the structure, subject headings and text will be standardised industry-wide
- We have tried to leave room for innovation and creativity within the document.

### What are the main proposals?

- SLPs will no longer have to familiarise themselves with multiple complex design guidance documents across different Water Companies. Rather they can quickly and easily compare design guidance documents in different areas of the country which contain similar wording and design principles
- Water companies will stick to a pro-forma and publish their design guidance in a standard format
- Responsibilities for design are clearly defined.

### Other proposals we considered and discounted

- We looked at writing a prescribed standard design guidance document that Water Companies would be forced to adopt but didn't feel that this was reasonable or possible given that different Water Companies for operational reasons have different design standards
- We considered leaving the design guidance blank with only headings for Water Companies to then insert their own design guidance. We felt that this wasn't standard enough and have therefore tried to find common ground where we can, and leave it to the Water Company where there is not
- We feel that our proposal is a happy medium and creates standards without the need for every company to have a cumbersome and radically different local practice

### Our questions for you

- Do you agree with the approach of having a Template Design and Construction Standards document where Water Companies are required to “fill in the blanks” in order to produce their Local Design and Construction Standards?
- Do you agree that a hydraulic approach to sizing of water mains is appropriate rather than a rigid “number of properties” approach in the existing Self-lay Local Practice?
- With regard to Construction, Design and Management Regulations (2015), do you think that the responsibilities are defined clearly enough in all scenarios within the Template DCS.
- Are there other subject headings that you would like to see included within the Template Design and Construction Standards?

## 3.5 Minimum information

### Introduction

Under the new Sector Guidance, it's being proposed that:

- The process of exchanging information in order to facilitate connections is defined
- That the level of information and update required is defined
- That the responsibility for the provision of information is defined

### What are the main proposals?

- Information flows change from being largely in a single direction to being multi directional involving all three primary parties i.e. developer, SLP and Water Company
- This means that Water Companies will be obliged to keep the customer informed of progress throughout the connections process
- Connection delivery becomes based around agreed programmes contributed to and updated by all parties
- Minimum information tables have been created for the first two stages as an example of how Ofwat's requirement would be met. Additional tables will be published in November 2018.

### Other proposals we considered and discounted

- Prescribed electronic transfer e.g. 4 Projects, Radar etc. but insufficient time and too complex
- Do nothing, discounted as failure to inform by Water Companies is perceived by customers to be a problem across the board varying only in terms of degree of failure
- We considered being highly prescriptive to the point of designing a single form for the whole connection process for use by all companies, while this was the ideal, the view of some parties was that the agreement of all Water Companies to such a form could not be achieved in the timescale, particularly due to necessary system changes

### Our questions for you

- Do you think that the minimum information tables place sufficient responsibility on the Water Companies to keep their customers informed?
- Should a single form be prescribed for use (at some stage) by all Water Companies for managing information exchanges and updates throughout the connection process

## 3.6 Model Adoption Agreement

### Introduction

There is at present no single model adoption agreement although many companies have adopted similar styles of agreement

The current forms of agreement differentiate the responsibilities placed on Water Companies and SLPs to a degree which is not now considered acceptable

We have therefore updated the agreement and clearly set out the role of the three main parties to the document.

Further work is being carried out on the draft in order to ensure that it is compatible with the other elements of the Sector Guidance.

### What are the main proposals?

A wholly new form of agreement has been prepared which seeks to balance the respective obligations of the parties.

As noted in the Sector Guidance, we acknowledge that the draft Model Adoption Agreement is not yet in final form but we hope that it is sufficiently developed to allow comments as to the structure and content.

### Our questions for you

- Consider whether the draft Agreement complies with the obligations set out in the Code. If you think it does not, please set out:
  - which provisions (by number) are non-compliant;
  - why you consider they are non-compliant;
  - replacement drafting (if appropriate) that you consider would rectify the non-compliance.
- Consider whether the draft Agreement aligns with the processes and principles that are set out in other parts of this consultation. If you think it does not, please set out:
  - which provisions (by number) do not align, and what they do not align with;
  - why you consider they do not align;
  - replacement drafting (if appropriate) that you consider would rectify the non-alignment.
- Please also consider the specific questions set out in the footnotes to the draft Agreement and propose how they may be resolved.

## 3.7 Redress

### Introduction

Under the new Sector Guidance, it's being proposed that:

- A consistent approach to redress for service failures is adopted across all companies
- The focus is on fixing problems rather than on paying fines for late delivery
- SLPs will also have contractual remedies and will be able to use companies' existing complaints procedures where no specific redress measure is proposed
- Ofwat will retain its enforcement powers

Consultees should note that while the formal form of the new Developer Measure of Experience (D-MeX) has not been settled, Ofwat's methodology for the price review envisages significant (£million) consequences for Water Companies if customers, including SLPs, rate them poorly for their new connections services.

### What are the main proposals?

Refunds of standard fees will be made where there is late delivery of some services as a result of a service failure on the part of the Water Company

In other key stages of the process, an internal review will be triggered where a deadline is missed with a view to remedying the problem as soon as possible

Overall, there should be no extra administration for SLPs as the onus will be on the Water Company to sort out the problem

### Other proposals we considered and discounted

We looked at imposing fines for late performance but did not take this forward because of the risk that they would just be seen as a cost of doing business rather than as a driver of better performance

We had considered relying on the proposed escalation alone but decided to also propose fee refunds as an equitable remedy for failures in some paid-for services

### Our questions for you

Have we targeted the right measures for the remedies we are proposing and if not, please suggest which measures should be proposed?

If you believe that a financial remedy needs to be applied to each metric, please explain how this will incentivise better performance, given the existence in parallel of the D-MeX penalty/reward system?

## 3.8 Levels of Service

### Introduction

The independent steering group has developed draft proposals for the Levels of Service (LoS) and Reporting Requirements:

The draft LoS measures have been developed in conjunction with version P4 of the Adoption Procedures and should be read alongside these.

In preparing these we have been mindful of the need to concentrate on the key stages of the process as having too great a number of metrics could incentivise a “tick box” approach which would not necessarily be in the interests of customers.

The draft reporting requirements (also below), sets out the proposed requirements for publishing the information required under the new Sector Guidance (such as contestability and redress arrangements).

### What are the main proposals?

In the respect of LoS, all Water Companies will be following the same measured parts of the procedures. This makes reporting against the measures more consistent and will enable customers to see who is offering the most consistent services and meeting the required service level.

Under these proposals both Water Companies and SLPs would have performance measures that are reported on. Two potential options for this are:

- 1) SLPs will gather their data and report to WIRs who will publish granular performance results for these measures; or
- 2) Water Companies measure SLP performance, and the existing LOS system includes a consolidated report of national performance for these measures

### Our questions for you

Do you believe that the proposed measures and the SLAs against the measures are appropriate? Please provide alternative proposals if you believe these aren't appropriate.

Do you agree with the reporting proposals and where we are suggesting options, can you please indicate your preference?

## 3.9 Governance

### Introduction

The Code's requirements for the permanent governance of the Sector Guidance and Model Adoption Agreement are relatively broad.

We have therefore expanded on the requirements of the Code to produce a relatively full set of rules governing the operation of the permanent Code Panel.

The key feature however remains that the Panel is balanced in its composition between Water Companies and Customers.

In producing this document, we have referred to the approaches in other sectors but have, for example, avoided the highly prescriptive approach of the MOSL governance arrangements.

### Questions

Do you think that we have struck the right balance in the overall structure of the proposal?

Do you see the proposal as a fair and efficient way of considering Change Proposals?

Is anything missing in the overall governance arrangements we are proposing?

## 4 Next Steps

All responses will be shared with the members of the groups that have been working on the programme. If you would prefer that your response remains anonymous, please indicate this in your response.

Using the responses we receive, we will be preparing final versions of this documentation for submission to Ofwat in January 2019. The final versions for submission will be approved by the Water UK Council representing all members of Water UK.

Ofwat is anticipating a three-month approval period for this documentation. We are currently discussing with Ofwat a proposal to run a pilot of the new approach within that period.

In order to simplify processes, we will assume that unless you indicate otherwise in your response, you are content for Water UK to retain your contact details on file so that we may give you further information about this programme or other work relating to new development that we are involved with.

## 5 Response Template

Topic	Question	Response
<b>Contestability</b>	Is our proposed approach to contestability an improvement on the approach taken in the current code of practice?	
	Is Table 3.2 sufficiently comprehensive and clear in its format? If not, how would you propose it be amended?	
<b>Procedures</b>	Do you agree that the proposed procedures accurately define the activities required in an effective self-lay market?	
<b>Local Practices</b>	Is the permitted scope of Local Practices sufficiently defined?	
	Will these Local Practices suffice for Water Companies such that in all other cases, the Standard Procedures shall be adhered to?	
<b>Design Standards</b>	Do you agree with the approach of having a Template Design and Construction Standards document where Water Companies are required to “fill in the blanks” in order to produce their Local Design and Construction Standards?	
	Do you agree that a hydraulic approach to sizing of water mains is appropriate rather than a rigid “number of properties” approach in the existing Self-lay Local Practice?	
	With regard to Construction, Design and Management Regulations (2015), do you think that the responsibilities are defined clearly enough in all scenarios within the Template DCS	
	Are there other subject headings that you would like to see included within the Template Design and Construction Standards?	
<b>Minimum Information</b>	Do you think that the minimum information tables place sufficient responsibility on the Water	

	Companies to keep their customers informed?	
	Should a single form be prescribed for use (at some stage) by all Water Companies for managing information exchanges and updates throughout the connection process	
<b>Model Adoption Agreement</b>	Consider whether the draft Agreement complies with the obligations set out in the Code. If you think it does not, please set out: <ul style="list-style-type: none"> <li>○ which provisions (by number) are non-compliant;</li> <li>○ why you consider they are non-compliant;</li> <li>○ replacement drafting (if appropriate) that you consider would rectify the non-compliance.</li> </ul>	
	Consider whether the draft Agreement aligns with the processes and principles that are set out in other parts of this consultation. If you think it does not, please set out: <ul style="list-style-type: none"> <li>○ which provisions (by number) do not align, and what they do not align with;</li> <li>○ why you consider they do not align;</li> <li>○ replacement drafting (if appropriate) that you consider would rectify the non-alignment.</li> </ul>	
	Please also consider the specific questions set out in the footnotes to the draft Agreement and propose how they may be resolved.	
<b>Redress</b>	Have we targeted the right measures for the remedies we are proposing and if not, please suggest which measures should be proposed?	
	If you believe that a financial remedy needs to be applied to each metric, please explain how this will incentivise better performance, given the existence in parallel of the D-MeX penalty/reward system	

<b>Levels of Service</b>	Do you believe that the proposed measures and the SLAs against the measures are appropriate? Please provide alternative proposals if you believe these aren't appropriate.	
	Do you agree with the reporting proposals and where we are suggesting options, can you please indicate your preference	
<b>Governance</b>	Do you think that we have struck the right balance in the overall structure of the proposal?	
	Do you see the proposal as a fair and efficient way of considering Change Proposals?	
	Is anything missing in the overall governance arrangements we are proposing?	

## Annex 1

### Members of Independent Steering Group (water)

- Martin Silcock-independent chair
- Samuel Larsen (Water UK-group secretary)
- David Strang (Water UK)
- Nick Fenton (Chair of the Kent Developers Group)
- Gary McConnell (Director at Aquamain)
- Martin Reeves (Gleeson Homes)
- Nigel Martin (Wessex Water)
- Darrell Crittenden (Anglian Water)
- Robert Williams (IWNL)

**Codes for Adoption Programme (Water)**  
**Report on responses to July 2018 consultation**

16 October 2018, Reckon LLP

*This is a confidential document prepared for Water UK*

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## Introduction

1. Reckon LLP was commissioned by Water UK to assist the Independent Stakeholder Group (Water) (ISGw) review and analyse the responses to the public consultation issued by the ISGw on 24 July 2018 on the Codes for Adoption Programme for water infrastructure.

### Context of ISGw's consultation

2. Ofwat's "Code for adoption agreements" (Code) requires water companies to develop guidance "setting out standard procedures for entering into, varying and terminating Water Adoption Agreements", and to produce a recommendation to Ofwat concerning such draft guidance.<sup>1</sup> The Code also requires water companies to develop and recommend model adoption agreements and the assurance terms on these.
3. The Code requires that the draft guidance and the model adoption agreements reflect, where possible, the "broad consensus of opinion" amongst water companies and of customers of their developer service, which may include developers and self-lay providers. Where there is a departure from the broad consensus, the "recommendation must set out where those parties have differing views and the reasons for following one view over an alternative view".
4. Water companies are required to submit the draft Sector Guidance and Model Adoption Agreement concerning adoption of water assets to Ofwat by 7 January 2019.
5. The July 2018 consultation exercise covered the ISGw's initial proposals on the draft guidance and model agreement.

### Scope of our review

6. The scope of our review covers the set of responses to ISGw's consultation, which ran to the 10 September 2018.
7. The consultation paper asked 29 questions, organised into six themes:
  - (a) connection options;
  - (b) procedures;
  - (c) contestability;
  - (d) competence and accreditation;
  - (e) redress; and
  - (f) model agreement.
8. Our review of the consultation responses has two objectives.

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<sup>1</sup> Ofwat (2018) "Code for adoption agreements (for Water and Sewerage Companies operating wholly or mainly in England)", paras 3.1.1 (a) and 3.2.1.

9. The first is that the review should be capable of informing an assessment by the ISGw of whether there exists a broad consensus in favour of its initial proposals. In doing so, it should describe the views expressed by stakeholders in a fair manner, taking account of the diverse range of stakeholders and their interests. It should also highlight areas of agreement and disagreement amongst stakeholders, and inform the ISGw’s work to develop its final proposals.
10. The second objective is for the review to act as a record of stakeholder engagement and help demonstrate how stakeholder views have been taken account of, and contributed to, the development of ISGw’s final proposals (and therefore the water companies’ submissions to Ofwat).

### Respondents to consultation

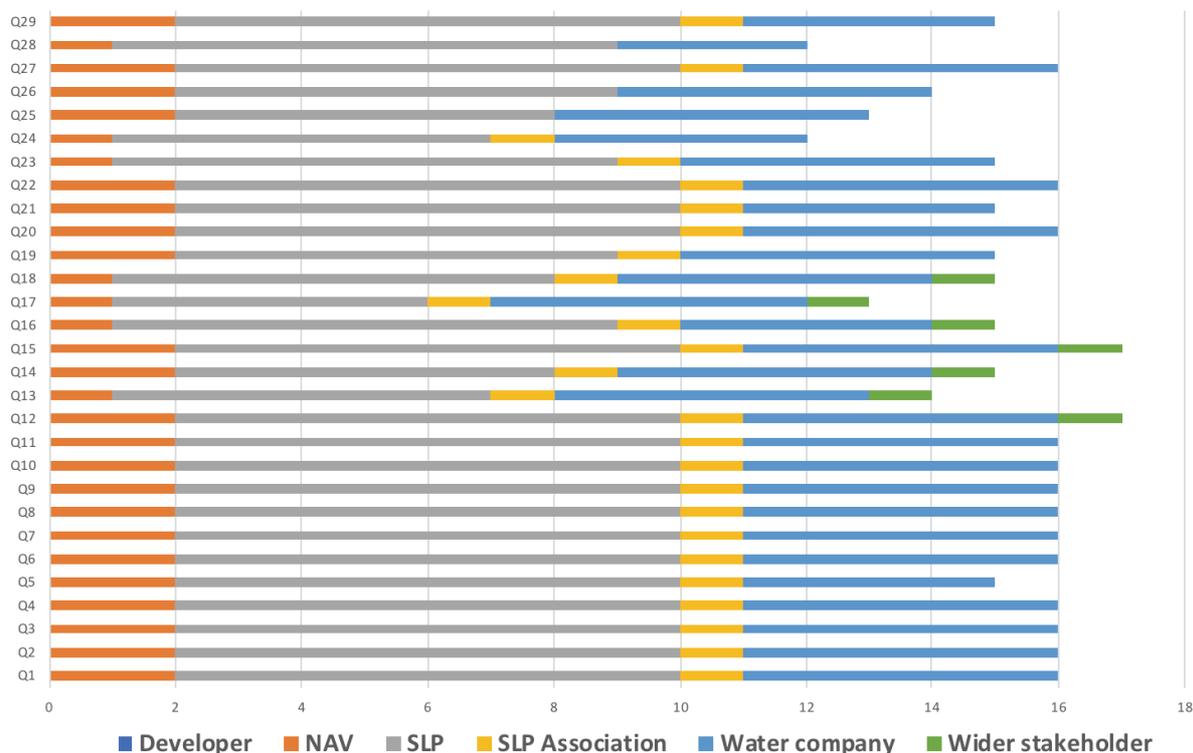
11. Water UK received 19 responses. Table 1 gives the breakdown by stakeholder category.

**Table 1 Respondents to consultation**

Category	Number of respondents
Developer	1
NAV	2
SLP	8
SLP Association	1
Water company	5
Wider stakeholder	2
<b>Total</b>	<b>19</b>

12. Figure 1 shows the number of responses to each of the 29 questions by stakeholder category. For the purpose of drawing the chart, we treated a “No comment” answer as a non-response.
13. The response received by Water UK from the stakeholder categorised as “Developer” did not engage directly with the set of specific questions raised in the consultation paper.

**Figure 1** Number of responses to each question, by stakeholder category



14. The chart shows that the breadth of coverage by stakeholder categories was similar across all questions, the exception being that the wider stakeholders commented only on a few of the questions, namely those relating to competence and accreditation.
15. In this report we have anonymised the identity of respondents and used a code to refer to them. This code is made up of an abbreviation of the stakeholder category to which the respondent belongs, plus a number. For example, we use SLP1 to refer to one of the self-lay providers. The abbreviations we used for the other stakeholder categories are: WC for water company; NAV for new appointments and variations; WD for wider stakeholder and Dev for developers. One of the respondents to the consultation was an association of SLPs. To distinguish its response from that of individual SLPs, we refer to it in this report as SLP-Assoc.

### Structure of report

16. The main body of the rest of the report is structured into the themes of the consultation paper which we listed above. We have, however, extracted from the section on “Competence and accreditation” a set of three questions that relate to the level of training in the industry and we review those in a section of their own. Taking each of those themes in turn, we first set out the context for the questions raised by ISGw, we then provide a summary of the responses to each of the question related to that theme, and then set out conclusions.

17. After going through each of those themes, we present in a closing section of the report a summary of other stakeholder comments which do not fall within the scope of the specific questions raised by the consultation paper but nonetheless seem pertinent to the ISGw's wider efforts of drafting the Sector Guidance and Model Agreement.

## **Connection options**

### **Background**

18. The Code requires water companies to “publicise the procedures for making, varying, and terminating adoption agreements”. That information must include “the delivery options available to a Customer [may include developers and self-lay providers] for the new connections infrastructure they require, including self-lay, requisition from the Water or Sewerage Company, or the use of New Appointees”.<sup>2</sup> This requirement is distinct from that of developing draft guidance and making a recommendation on that guidance.
19. ISGw's consultation proposes the use of three flowcharts to inform customers of the choices they have regarding (a) the provision of service connections for single properties, (b) the provision of service connections and mains for larger developments and (c) the ownership and maintenance of assets. The flowcharts include links to lists of potential providers of services required at different stages of the process (e.g. to list water companies, NAVs, and SLPs). They include too information on timescales associated with different phases of the process.
20. The ISGw asked for views on whether a flowchart format is a helpful way of publicising a developer's connection options, and on whether the lists referenced in the flowcharts are the best ones available.

### **Q1 Do you agree that a flowchart format is a helpful way of publicising a developer's connection options?**

21. A total of 16 respondents answered this question, and all of them agreed that a flowchart format is a helpful way of publicising the connection options. The three stakeholders who did not answer the question were WD1, WD2 and Dev1.
22. A number of responses made additional comments and suggestions that are summarised below.
23. A number of respondents suggested simplification of the flow charts or for appropriate explanation to be included. SLP2 expressed concerns that the complexity and the timescales indicated would only encourage developers to choose the simpler requisition option, and suggested that the detailed flow charts could be moved to the Codes of Practice, and only referred to in the Adoption Guidance. One respondent, SLP-Assoc, said that the “front end” elements of the process should be separately published, and that the diagrams should not be cluttered by having too much detail.

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<sup>2</sup> Ofwat (2018), Code, para 4.1 (a).

24. Five respondents noted that the services connection flowchart was not included in the consultation. SLP-Assoc also noted that metering options need to be included in the service connection flowchart.
25. SLP3 said that, rather than being simply published on a website, the flow charts should be included in all relevant water company communications, such as responses to pre-development enquiries, POC requests and requests for mains records. The response also said that the Option 1 flow chart needs to be simplified.
26. SLP8 said that there should be greater emphasis on the levels of service to be provided so they are clearly understood. That respondent also said that the process set out in the flowchart in Annex 1 of the consultation paper “reflect the obligation on water companies to be liaising with LPA’s [Local Planning Authorities] on strategic sites to ensure large developments can be adequately supplied when detailed planning applications are made.”
27. WC5 said that it would be helpful to include timelines and service levels against the various activities and stages.
28. SLP9 said that while the flowcharts can provide a high-level overview of the options, it does not always show what actually happens as this can vary from company to company and site to site.
29. SLP-Assoc said the diagrams should also show the separate functions of the water company (i.e. as a provider of non-contestable activities, adopter of assets and a provider of contracted services).
30. WC1 said that the flow charts should contain links to the relevant forms and documents.

**Q2 An effective market will rely on easy to access lists of potential providers. Are the lists referenced in the flowcharts the best available sources of potential connection service providers?**

31. Of the 16 stakeholders who answered this question, all but one – an SLP – agreed that the lists referenced in the flowcharts were the most appropriate ones to draw on, or that they were a starting point. The three stakeholders who did not answer the question were WD1, WD2 and Dev1.
32. One respondent commented that it would be helpful if the functionality of the list available through WIRS were improved to allow for filtering by size of sites that the provider is able to develop, and to allow for ordering providers alphabetically or by region.
33. SLP8, who considered that the links provided were a starting point, added, however, that the “WIRS scheme register is not fit for purpose” and echoed the view that it needed enhancing to allow customers to spell out their requirements and get a better search result to help them identify potential suppliers.
34. Two respondents, both SLPs, suggested that the flowcharts be revised so that the lists referenced correctly reflect the following:

- (a) That SLPs can work for NAVs as well as for water companies.
  - (b) That, in the flowcharts set out in Annex 1 of the consultation paper, the link to the “lists of Water Asset owners” flowing from Connection Option 1 for medium and large sites requiring new mains be amended to also include self-lay providers / Lloyd’s Register.
35. The one respondent who disagreed with the referenced lists stated that a better automatic system needs to be introduced. It referred to Cadent Gas’ automatic referral system for anyone applying for a connection and ticks an online box saying that they want the query to be sent to alternative providers.

### **Conclusions**

36. All respondents agreed that a flowchart is helpful to publicise connection options available. Some respondents commented that it would be necessary for these to be accompanied by supporting text or documents.
37. All but one SLP agreed that the list of parties referenced in the flowcharts set out in the paper are the best available sources of information, though some suggested revisions to where/how the flowcharts referenced those lists. The SLP who disagreed considers that an automatic system needs to be introduced.

### **Procedures**

#### **Background**

38. The Code requires companies to develop guidance on standard procedures for entering into, varying and terminating water adoption agreements. In the context of that effort, the consultation sets out ISGw’s draft procedures. It does so by breaking up the adoption process into a number of stages – from the pre-planning enquiry stage to the stage of vesting new mains and correcting any defects – and, for each, presenting a flowchart that outlines the actions and decision points facing the various relevant parties (developer, SLP, and water company). The flowcharts presented expand and revise the procedures set out in the outgoing voluntary self-lay code of practice.
39. ISGw suggests that the improvement in the clarity and greater standardisation of procedures will bring about a range of benefits for the adoption process as a whole.
40. ISGw asks for views on the scope of the procedures covered by the flowcharts, and on whether the procedures will promote the benefits it lists.
41. It asks too for views regarding the standardisation of procedures across water companies. Specifically, it asks whether there are particular parts of the procedures where a high degree of standardisation across water companies is particularly helpful, and whether water companies should be able to develop their own version of any part of the procedures where they want to offer better service.

**Q3 Do you agree that expanding the procedures, so that they include the full range of activities involved in delivering assets is helpful?**

42. Sixteen respondents commented on this question. The three stakeholders who did not answer the question were WD1, WD2 and Dev1.
43. Of the 16 that responded, all agreed that expanding the set of activities covered by the set of procedures is a helpful thing. Several commented that the organisation of the procedures as set out by ISGw would provide clarity, and one noted that it would reduce scope for disputes and misunderstandings.
44. However, amongst these, one SLP and SLP-Assoc raised the following points:
  - (a) SLP6 expressed the concern that developers will be intimidated by the complicated flow charts and so default to the status quo, and a couple of SLPs underlined the importance of adopting the standardised procedures across water companies.
  - (b) SLP-Assoc considered that extending the set of activities covered by the procedures was required by the Code, and expressed surprise that this was a question being raised in the consultation.
45. In a submission to Water UK, though not in response to this specific question in the consultation paper, Dev1 raised a point that relates to the set of procedures captured by the proposed flow charts. Dev1 said that the consultation paper did not address the land acquisition stage of procedures, one that it deemed to be key in the development process. It said that “commercial decisions taken at the land acquisition stage need to be based on robust information that has transparency and confidence and which (with minimal variation) will endure throughout the development process. SLP/NAV’s and the competing commercial terms that they are able to offer, are a crucial part of this decision process.”

**Q4 Do you agree that enhancing the procedures in this way will promote the improvements [listed in the consultation paper]?**

46. Sixteen respondents commented on this question. The three stakeholders who did not answer the question were WD1, WD2 and Dev1.
47. Most of the respondents, 13 out of the 16, said that the enhancing the procedures were a step in the right direction, and would contribute to meeting the objectives mentioned earlier.
48. However, a number of stakeholders commented that enhancing procedures as outlined in the consultation paper would not be enough on its own to achieve those objectives. In particular:
  - (a) Three SLPs and SLP-Assoc made the point that it would be necessary for water companies to not impose undue control points along the process. They said that such control points might be introduced under the veil of procedures relating to the granting of authorisations, approval, audit of works or requirements on qualifications. In this context, SLP6 said that control points are not acceptable

unless they are agreed by SLPs, incorporate water companies' KPIs and are also used on term contractor activities.

- (b) Two SLPs said that it would be necessary to ensure water companies do not introduce their own bespoke arrangements, alongside the standardised procedures, as that would take away from usefulness of developing the standardised procedures in the first place.
  - (c) SLP3 stated that it would be necessary for the procedures to have durations set against them, to give developers assurances against time-based risks.
  - (d) NAV2 raised the concern that too much information may put developers off the self-lay route as it may not offer the path of least resistance.
49. The respondents who gave a negative view on the proposition set out in the question were two SLPs and one water company. The points made to explain their position included:
- (a) That the only way to progress is to prevent water companies from putting controls, as outlined above.
  - (b) That, as set out by WC5, there is “no clear line of sight between the process enhancements and delivery of the benefits described”.

**Q5 Are there any particular parts of the procedures where a high degree of national standardisation would be particularly useful?**

**Q6 Should water companies be able to develop their own local version of any part of the procedures where they want to offer better service?**

50. There is an overlap in the responses to these two questions and so we choose to review them together.
51. Some respondents put forward a number of different areas where they considered that national standardisation would be particularly useful, and some identified areas in which local variations should be allowed. We set these out in the tables below.
52. We have sought to capture in the tables the description of those activities as described by the respondents. Different respondents may use slightly different terminology to describe the same activity. At the risk of capturing the same activity under different names, we have erred on the side of using the descriptions given in the individual responses.

**Table 2 Areas in which national standardisation was considered particularly helpful**

Area	Respondent
All areas (as far as possible)	SLP1, SLP2, SLP5, SLP-Assoc
All interactions for contestable activities	SLP3

Self-lay application form	SLP9
Notification forms	SLP8
(parts of) Design Standards	WC1
Design Approval/Costings	WC4
Determining pipe material	SLP3
Meter location and installation	WC1, SLP5, SLP6, SLP-Assoc, SLP8
Meter details capture form	SLP9
Location of boundary boxes	SLP6, SLP8
Safe control of operations (permit to work/impinge)	WC1
Water Regs. (trench inspections)	WC1
Inspections	SLP8
Commissioning and handover	WC1
Environmental risk assessment	SLP3
New connections	WC1
Point of Connection	WC4
Pre-development enquiry / Pre-planning enquiry	WC4, NAV1
Testing new mains	WC3
Sampling	SLP5, SLP-Assoc, SLP8
Vestings	WC4

**Table 3 Areas in which water companies should be able to develop local versions**

<b>Area</b>	<b>Respondent</b>
(parts of) Design Standards	WC1
Meter preferences on location (internal/external/wall mounted) and type and related boundary boxes	WC1
Meter issue and choice	WC1

Welcome pack to customers (including tap test to check meter allocated to correct account)	WC1
Connections to the main	NAV2

53. Most respondents agreed that, at least in principle, water companies should be able to develop their own local version of parts of the procedures. Specifically, of the 16 responses to question 6, 13 agreed that water companies should be allowed to develop some local variation, two SLPs disagreed, and we were unable to interpret which way one other response leaned, namely that of WC3.
54. Of the 13 that agreed, some specified that local variations should be allowed with a view to promoting innovation and provided they did work to improve service levels.
55. However, one SLP and one water company raised the point that water companies could seek to implement innovations and improvements into the national standards, rather than run different local processes.
56. Other SLPs as well as SLP-Assoc expressed the view that local variations create difficulties and are to be discouraged, and that national standards should exist in all areas as far as possible.
57. WC5 said that Ofwat's Code is clear that standardisation should be the norm and that local variations – which must be permitted by the sector guidance – need to be justified under the principles of the Code but kept to a minimum. WC5 added that the Code expects deviations from standards to be reported annually to Ofwat.
58. In a similar vein, SLP1 said that, where water companies offer local versions of procedures, they should be proactive and explain to customers the benefits to them of doing so, and offer customers the option to choose to work to their local procedures or to the national standards. It suggested this should be offered at each stage set out in the flowcharts in Annex 2 of the consultation paper, with a view to giving the customer flexibility throughout the process.
59. SLP-Assoc and NAV1 also said that any deviation from a national standard should be explained clearly and highlighted as a deviation. In this context SLP-Assoc suggested there should be a supplementary document to the Code showing which companies have local practices, and summarising which aspects of the standard arrangements are being locally changed. This would allow SLPs to readily establish where there are local arrangements. SLP-Assoc also suggested there should be company-specific documents produced to detail and justify any local variations to the standard arrangements.
60. SLP6 said that local variations could be allowed provided the national standards were set reasonably high, and no lower than allowed in the current self-lay code of practice.

## Conclusions

61. Whilst one respondent commented that expanding the procedures to cover the full range of activities was required by the Code and so considered the issue a non-question, all other respondents agreed that such expansion was helpful.
62. However, some SLPs and SLP-Assoc commented that expanding the procedure would not be sufficient on its own and that it is important that, in expanding procedures, water companies do not impose points of control unduly. SLPs also raised concerns about the lack of the time-frame set against procedures and about the risk that water companies introduce local variations to the procedures, countering the benefits of standardisation.
63. Respondents put forward a number of areas where they felt standardisation would be particularly helpful.
64. Most of the responses agreed that local variations by water companies should be permitted, and one drew attention to fact that the Code envisages the process by which such deviations of national standards should be agreed. There was a view amongst some respondents that, where local variations are sought, water companies should bring to customers' attention the fact that they are deviations from national standards and set out the justification for it.

## Contestability

### Background

65. The Code requires the draft Sector Guidance to include an explanation of what works are contestable and what level of competency is required to carry out these works.<sup>3</sup> The consultation document puts forward a number of proposals in this regard.
66. The ISGw proposes that the areas of contestability defined in the outgoing Self-lay Code of Practice be carried forward into the Sector Guidance as a regulatory minimum standard.
67. That definition of contestability includes the live connections to parent mains of up to 63mm in diameter. With a view to allowing for contestability in some larger live connections to parent mains, the ISGw proposes that each company publish a parent mains "Connection Risk Matrix". This would set out a company's approach to agreeing work on parent mains – not already captured by the minimum standard – on a contestable basis. The consultation paper includes an example of how such a matrix might look like. The paper notes that approach builds on the best-practice in the industry, where some companies have already created bespoke arrangements that allow SLPs to deliver live connections to parent mains of up to 250mm.
68. ISGw also proposes that, accompanying the publication of the Connection Risk Matrix, water companies publish the typical additional requirements that the party carrying out the work may need to meet in order to be able to deliver the expanded definition of

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<sup>3</sup> Ofwat (2018), Code para 3.1.3 (f).

contestability. It suggests that the publication of such requirements up front would add transparency to the process.

69. A final proposal put forward in the consultation concerns contestability for non-construction tasks. The consultation proposes that companies publish their approach to this, setting out against each non-construction task what accreditation a party would have to have.

**Q7 Do you agree that allowing developer greater choice over who delivers parent mains connections would enable better growth?**

70. There were 16 responses to this question. The two wider stakeholders and Dev1 did not respond to the question.
71. It appears to us that respondents interpreted the question differently: most took the question to ask about growth in house-building and demand for new connections, but two took it to mean growth in self-laying connections. Further, one respondent expressed doubt as to what the question was asking. Overlaying this, some respondents did not give a clear answer to what was being asked, however the question was interpreted.
72. Of the responses with a clear answer, eight considered that the greater choice would enable better growth and three that it would not. Amongst the latter, there was the general view that greater choice over who delivers parent mains connections is a good thing but is not likely to have an impact on growth.
73. The mix of views held at the level of the responses as a whole, was also held within SLPs and within water companies separately. Both NAVs agreed with the question's proposition.

**Q8 Do you agree that we should expand the scope for self-lay parent main connections on the existing best practice in this area?**

74. There were sixteen responses to this question. Dev1 and the two wider stakeholders did not respond.
75. Of the 16 responses, all but two agreed with the question's proposition. These were two water companies who expressed the view that it should be the local water company who chooses the level of contestability they are comfortable with. One pointed out that parent main connections was an area that should fall within scope of local practices.
76. The remaining 14 respondents all agreed with the view that the scope for self-lay parent main connection should be expanded on the existing best practice.
77. Some of those who agreed, put forward different qualifications to their answer. These included:
- (a) WC2 agreed, provided the competency of SLPs can be proved to be like those of water companies' term contractors and as long as process is followed and it is clear who is responsible if anything goes wrong.

- (b) WC1, several SLPs and SLP-Assoc considered that it would be helpful, or indeed necessary, for all water companies to adopt the same Risk Matrix and saw no reason why this would not be the case. As expressed by SLP4, “it is difficult to think that work that is acceptable to one company is ‘risky’ to another”.

**Q9 Do you agree that water companies should pre-publish their approach to allowing additional parent main connection work “on a contestable basis” using a proforma table that allows comparison?**

78. There were sixteen responses to this question. Dev1 and the two wider stakeholders did not respond.
79. Amongst the 16 responses, there was widespread support for water companies pre-publishing their approach to contestability on additional parent main connections. Of the set of responses, 14 agreed with the proposition, one disagreed and we were unable to interpret the direction of answer of the remaining response.
80. The one response that disagreed, the response by SLP1, expressed the view that there should be a national standard on this and that local approaches should be on a “case-by-case” basis. The view that there should be a national standard was also expressed by other SLPs who, nevertheless, answered the question affirmatively.
81. WC1 agreed that a pro-forma table be published but considered that it should allow for local variations.
82. One SLP also commented that it would be desirable for a proforma table to be accompanied by an explanation of how water companies would support failures and deal with changes in circumstances when the main is not the size or of the material expected.

**Q10 Do you agree that additional requirements should only be set where there is a specific need to manage a particular risk?**

83. There were sixteen responses to this question. Dev1 and the two wider stakeholders did not respond.
84. All of the 16 respondents who answered agreed with the question’s proposition that additional requirements should only be set where there is a specific need to manage a particular risk. However, amongst these, many qualified their answer. Several noted that it was important for water companies to provide a clear explanation or definition of what specific needs might need to be covered and of the reasons for the ensuing additional requirements. The additional requirements should be justified and proportionate to the risks involved.
85. Two respondents raised some concerns about the introduction of additional requirements. One SLP commented on the risk that these would become control points, hampering the viability of the self-lay route. One other SLP raised the concern that additional requirements would become the norm and unduly restrict SLPs’ ability to undertake connections. It added that to help address such concerns it would be important for any requirement to have levels of service and reportable metrics defined.

**Q11 Do you agree that water companies should publicise their approach to contestability for non-construction activities?**

86. There were sixteen responses to this question. Dev1 and the two wider stakeholders did not respond.
87. All 16 respondents who answered the question agreed that water companies should publish their approach to contestability for non-construction activities. Several of these qualified their answer in a number of ways:
- (a) Three SLPs and SLP-Assoc considered that water companies should already be doing this, and one referred to the Ofwat Code in support of this view.
  - (b) Two SLPs and one NAV submitted that the approach to contestability on non-construction sites should be common across water companies, and, in that sense, did not recognise that water companies would be publishing their *own* approach. For the purpose of our assessment, we took the focus of the question to be on the merits of making the approach transparent and public, rather than on the standardisation of it across companies. In this light, we interpreted the response of these stakeholders as being supportive of the question. In this context, one water company expressed a view to the contrary: that water companies should publish their approach subject to their local practices relative to meter and chamber types.
  - (c) WC1 qualified its view that water companies should publicise their approach to non-construction work by saying that ‘[it is] subject to local practices relative to meter and chamber types’ and that in relation to sampling, the WIRS accreditation should be with the individual and the company.
88. On the back of this question, some respondents commented on the set of non-construction activities listed in table 4.2.1 of the paper.
- (a) SLP1 considered that only the first three activities listed – self-approval of new mains network design, design of reinforcement work and design of new onsite water mains networks – are non-construction activities.
  - (b) WC4 said it was concerned over self-certification of mains design, one of the non-construction activities listed in the consultation paper, as it holds liability to own and operate the asset and is responsible for customer service after adoption.

**Conclusion**

89. The majority of respondents considered that allowing developer greater choice over who delivers parent main connection would enable better growth, though some of these specified that having such choice would not be sufficient on its own. Rather, it would be one contributing factor. Those who disagreed with the proposition held the view that allowing choice was a good thing, but considered that it would not have an impact on growth in the number of connections sought.

90. Of the 16 that responded to the question, 14 agreed that the scope for self-lay parent main connection should be expanded based on best practice. A view shared by some respondents was that water companies should have a standard approach on this. The two respondents who disagreed with this view, two water companies, considered that this was an area where water companies should be allowed to define their own local approaches.
91. There was widespread agreement, across water companies, SLPs and SLP-Assoc, for water companies to publish their approach to allowing additional parent main on a “contestable basis”. Only one respondent answered otherwise: it considered that there should be a national standard on this and that local approaches should be on a “case-by-case” basis. Arguably, this can be interpreted as a disagreement on the existence of local procedures, rather than a disagreement that companies should publish their approach. The view that there should be a national standard in this area was also expressed by other SLPs who, nevertheless, answered the question affirmatively.
92. All respondents agreed that additional requirements should only be set where there is a specific need to manage risks. Some said that it was incumbent on a water company to justify any such additional requirements, and that these should be proportionate to the risks involved. Two SLPs raised concerns that the additional requirements could become points of control.
93. All respondents agreed that water companies should publicise their approach to contestability for non-construction activities. Of these, a few considered that water companies should already be doing so.

## **Competence and accreditation**

### **Background**

94. The consultation paper asks for views on a number of questions relating to parties demonstrating their competence to carry out work.
95. The Code requires the Draft Guidance to include “high-level information about any sector accreditation schemes, including where further information can be obtained.”<sup>4</sup> In that context, the consultation paper states that water companies recognise the benefits of having a national approach to demonstrating competency and notes that, through WIRS, there is an established scheme in operation that facilitates this.
96. The consultation paper outlines a number of features relating to the governance of WIRS, and raises one concern that has been raised about one of the requirements of WIRS. The paper goes on to ask for views on two aspects of this, the key contextual information for which is as follows:
  - (a) That WIRS is overseen by a panel, the WIRS Advisory Panel (WIRSAP) which is comprised of 10 executive members from water companies and 5 executive members from SLPs.

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<sup>4</sup> Ofwat (2012) Code, para 3.1.3 (e).

- (b) That customers have expressed concerns that WIRS requires their operatives to hold NCO(w) cards, which in turn rely on having NVQs, whereas only some water companies require the same form of accreditation from their own supply chain. The SLPs' concerns relate to the tilting of the playing-field that this brings about.
97. The Code also states that the model agreement may include assurance terms that require the relevant party to demonstrate its competency to provide the proposed self-laid work. It also sets out that any additional assurance terms must reflect the applicable accreditation schemes developed and recognised in the sector and that they must be transparent and set out clearly the rationale for them, be reflective of, and proportionate to, the identifiable costs and risks of the water company in adopting the infrastructure and be reasonable in terms of who holds the balance of risks.<sup>5</sup>
98. The consultation paper asks for views on matters relating to these two aspects of the Code.

**Q12 Do you agree that a national accreditation scheme should be overseen by a body that is comprised by a majority of water companies?**

99. There were 18 responses to this question. Dev1 did not respond. Four of 18 responses did not give a clear answer on the narrow point raised by the question.
100. Amongst the remaining 14, views were mixed: five agreed that the scheme should be comprised by a majority of water companies, and nine disagreed with the proposition. Views were also mixed within stakeholder groups though SLPs tended to disagree with the question, and water companies to agree.
101. In explaining its view that water companies should make up the majority of the body overseeing a national accreditation scheme, WC5 stated it was appropriate for this to be so due to the absolute liability and obligations for water quality that water companies carry. NAV1 expressed a similar view.
102. WD1 raised the point that whilst there is an imbalance in the existing body overseeing national accreditation, WIRSAP, there is a process in place to address areas of dispute where SLPs are concerned with the decision made
103. On the other side, those that considered that water companies should not constitute the majority of the body overseeing accreditation put forward a number of closely related reasons:
- (a) WC2 stated that it is necessary for SLPs to have confidence in the criteria required for accreditation and that best practice for accreditation does not come only from water companies. This echoed the view of SLP3 who considered that a body made up of a majority of water companies would protect the interest of the water companies.
- (b) WD2 said there would be a benefit from having a greater representation of developers and SLPs, and that this would better reflect Ofwat's principles about

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<sup>5</sup> Ofwat (2018) Code, paras 3.5.2 and 3.5.3.

engagement with customers. In a similar tone, other responses made the point that it would be fairer for the body to be representative of the sector, and for the chair of the body to be an independent party.

- (c) WD2 also said that having sufficient representation from all parties involved would make it more straightforward to use a single scheme panel to make changes to the scheme, as and when it became appropriate to do so.

- 104. In closing the summary of points raised by respondents in answer to this question, we add the comment by WC5 that a national accreditation scheme managed by WIRS already exists and that, in its view, there is no provision within the Code for this body's role to be reviewed. As such, WC5 believes the issue raised by the question is out of the scope for the consultation.

**Q13 Are there any existing groups that could address Customer's concerns about the WIRS requirement?**

- 105. There were 18 responses to this question. Dev1 did not submit a response.
- 106. Five of the 18 responses were not clear what the question related to, and queried what the "concerns" and/or the "Customers" referred to. These provided no further answer. One other respondent, WC5, considered that the question was out of scope of the consultation exercise.
- 107. Of the remaining responses, five suggested WIRSAP by name and one other suggest the "national accreditation scheme". However, amongst these responses, two – those of SLP1 and of SLP4 – said that the concerns raised have been on the agenda for many years and that no progress has been made. SLP4 said that WIRSAP has no powers to impose any standards for the water industry.
- 108. WD2 said that the concerns which are discussed in the consultation paper and are the subject of the question may be misplaced. It pointed to the in-house training carried out by water companies and to the view that water companies need to know about skills and competencies of third-party operatives.
- 109. WD2 also said that the standards underlying the NCO(w) scheme, which is administered by Energy & Utility Skills, are reviewed once a year and that there is an opportunity for water companies and customers to review the content of standards and influence future direction of the NVQ and the NCO(w) registration scheme.
- 110. WC2 suggested that, for SLPs, the Fair Water Connection association might be an appropriate body with whom to raise the concerns.
- 111. SLP8 said it was uncertain about the relevance of the question. It added that if there was an issue it would approach Lloyd's and/or the water company. Dependent on the outcome or issue it would then consider taking things to CC Water or to Ofwat.
- 112. Neither WC3 nor WD1 know of an existing body to suggest

**Q14 Do you agree that water companies should only use additional terms as a means of overcoming shortfalls in a Customer's accreditation?**

113. There were 18 responses to this question. Dev1 did not submit a response.
114. Five of the 18 responses did not give a clear answer to the question. Some of these said they were unsure what the questions was asking and the response of others did not address the question as such.
115. Amongst the remaining responses, the views were mixed. Nine respondents agreed with the proposition (some with qualifications) and three disagreed. Views were also mixed within stakeholder groups.
116. WD2, one of the respondents that agreed that water companies should only use additional terms to overcome shortfalls in accreditation, emphasised that in normal circumstances the competence should be demonstrated through a "passport" scheme. The additional requirements should be used to overcome temporary shortfalls.
117. Amongst the respondents who disagreed with the proposition, a number considered that WIRS adequately dealt with matters.
- (a) SLP4 summed the position, saying that WIRS is fit for purpose and simple to understand, and that an SLP either has full or partial accreditation to carry out particular work, or it does not.
  - (b) SLP2 said that WIRS should incorporate partial accreditation, where any shortfall would be addressed.
  - (c) SLP5 made the point that if the "shortfalls" referred to in the question related to WIRS and to water companies being unsure about the scheme, then water companies should try to engage with it and get clarity.
  - (d) SLP-Assoc and SLP8 said it would like to see WIRS being developed to cover additional scope as and when these are needed.
  - (e) WC5 said that concerns over shortfalls in accreditation should be done through WIRS, not the Code for Adoption
118. Respondents raised a number of other points:
- (a) SLP4 said that if the question relates to water companies being allowed to set additional terms with a view to enabling non-contestable items to become contestable, then this would be positive. On the other hand, if "a water company is using additional terms to allow a SLP to carry out work that should be carried out by the water company to help them out of a hole then this should not be recommended, i.e. high leakage means no water company teams are available to carry out SLP connections."
  - (b) NAV1, who agreed with the question's proposition, raised concerns about the prospect of there being a myriad of local versions of additional requirements.

- (c) WD1 said that any additional terms levied on SLPs should only be applied where a water company can show that its framework contractors could demonstrate to meet those same terms.

**Q14 Do you agree that a national record of an individual operative's experience and qualifications would help SLPs and water companies determine the appropriate personnel for more complex connections works irrespective of their employer?**

- 119. There were 18 responses to this question. Dev1 did not submit a response.
- 120. Of the 18 responses, 16 agreed with the proposition put forward by the question that a national record of an operative's experience and qualifications would help SLPs and water companies determine the appropriate personnel for work.
- 121. SLP1 and WC5 were the two that did not express outright agreement. The reasons the two gave were of a different nature:
  - (a) SLP1 said that there was no need for such a passport scheme and that it was up to each party to check that the SLP meets the WIRS accreditation. It added that the scheme could be needed for water companies "as they work to inconsistent standards".
  - (b) WC5 considered that the Code for Adoption agreement guidance does not extend the remit of Water UK to cover the topic raised by this question. As such, it considered the question to be out of scope and expressed no further view on it.
- 122. The 16 responses that agreed with the proposition in the question covered water companies, SLPs, SLP-Assoc as well as the two NAVs and the two wider stakeholders. Two different themes were common across a number of these 16 responses:
  - (a) Some of the responses commented on the helpfulness of a passport scheme. It was pointed out that such a scheme would help level the playing field and provide transparency in the industry. This would help give SLPs and water companies confidence in those carrying complex connection works.
  - (b) A number of SLPs, as well as WD1, said that it would be necessary for the passport scheme to apply to both SLPs and to water companies. If the operatives of water companies were to be outside it, then the benefits of the passport scheme would be at risk.
- 123. Linked to this last point, SLP2 and SLP8 both noted that a scheme with the same purpose is already in place, referring to the current registration scheme with EU Skills for Gas, Power, Water Management and Water and to the NCO(w) and SHEA. The respondents said that it would be necessary to make it a requirement for water company operatives to be covered by those arrangements.
- 124. SLP4, who agreed with the question's proposition, added that the passport scheme could be set up in a short period of time. It added that it saw two possible routes going forward: (i) The passport scheme is adopted for both SLPs and water company operatives and NCO(w) is no longer required; or, (ii) the passport scheme is available

to operatives from both sets of companies until a point in time where the water companies “get up to speed” and an NCO(w) becomes mandatory throughout the water industry.

125. SLP-Assoc, who also agreed with the role of a national record, added that this could be set up simply, along the lines of the arrangement that applies for electricity connection operatives. SLP-Assoc considered that the introduction of passports would solve the current situation where a water company is able to employ operatives directly from SLPs, but that an SLP wishing to employ experienced company operatives (or company contractors) can only do so after committing to training and registering their qualifications with EU Skills. An alternative to resolving this situation which would not use a passport is for companies to commit to requiring all their operatives to hold Network Construction Operation Registration with EU Skills.

## Conclusions

126. There were mixed views amongst the respondents on the proposition that a national accreditation scheme should be overseen by a body that is composed by a majority of water companies. This is the case when all responses are considered together, and also when responses by water companies and by SLPs are considered separately. This said, SLPs tended to be more in disagreement with the proposition and water companies in agreement.
127. WIRSAP was the most common suggestion put forward by respondents as the group that could address the concerns of Customers about WIRS requirements. Other suggestions made included Fair Water Connections, Lloyds Register and Ofwat or CC Water. A number of respondents considered the question was not clear, and did not comment on it.
128. There were mixed views on the proposition that water companies should only use additional terms as a means of overcoming shortfalls in Customers’ accreditation. Nine respondents agreed with the proposition (some with qualifications) and three disagreed. Views were also mixed within stakeholder groups. As with the previous question, a number of respondents said they were unclear about what the question was asking.
129. Most of the responses – 16 out of 18 – agreed that a national record of an operative’s experience and qualifications would help companies determine the most appropriate personnel for complex connection jobs. The two that disagreed pointed out that (i) the WIRS accreditation already provided such information, and (ii) that the question fell outside the scope of the Code for Adoptions.

## Training in the industry

### Background

130. Moving on from the discussion on proposals related to parties’ demonstration of their competencies, the consultation paper asks for views on training in the industry.

131. Specifically, views are sought on the level of training in the industry, and on the benefits of providing SLPs access to industry-wide apprenticeship scheme and to water companies' training facilities.

**Q16 Do you believe there is a lack of meaningful training across the water industry?**

132. Six respondents did not answer this question, one of whom objected to the leading phrasing of the question and considered it inappropriate for the consultation. The 13 respondents that did answer included two water companies, one NAV, eight SLPs, SLP- Assoc and one other stakeholder.
133. Of those 13 respondents, three considered there is no lack of meaningful training and 10 considered that there is. These 10 include one water company
134. Five of the SLPs that considered there was a lack of training and SLP- Assoc highlighted the difference in the training provided to SLP operatives and that received by employees and term contractors of water companies, and commented that there was no lack of meaningful training amongst the SLPs but that there was amongst water companies.

**Q17 Do you believe that providing the SLPs access to a water industry wide apprenticeship scheme would help provide consistent training irrespective of employer?**

135. The question was answered by 11 of the respondents; the remaining either offered no comment, noted that the question was out of scope of a consultation on adoption code or provided no explicit answer.
136. Of the 11 that did answer, all but one agreed that providing SLPs access to an industry-wide apprenticeship scheme would help provide consistent training. Of these, some, however, qualified their answers in a number of ways. Two specified that such a policy would ensure consistency of training amongst new recruits to the workforce, rather than to the larger body of operatives. One SLP considered that, for such an effect to be felt, it would also be necessary to be introduced alongside a passport scheme.

**Q18 Do you feel that allowing SLPs access to water company training facilities would help build trust and confidence between the parties?**

137. The question was answered by 14 respondents. The remaining five did not comment on it or did not provide an explicit answer.
138. All but two of the 14 who answered considered that allowing SLPs access to water companies' training facilities would help, or could potentially help, build trust and confidence. A number of these qualified their answer.
- (a) Two SLPs commented that granting access to water companies' training facilities is not "a big point".
  - (b) Two SLPs stated that most water companies source their training from independent training providers, as do SLPs.
  - (c) One NAV expressed doubt that it would actually happen.

- (d) One water company and one wider stakeholder, WD1, considered that the arrangements would require for SLPs to cover the costs of their operatives' training.
  - (e) Two SLPs raised concerns about the potential detrimental impact on SLPs that could flow from this. Specifically, they considered the risk that it becomes a requirement for SLP operatives to receive such training at water company's facilities, which could become a burden if there are then delays and waiting lists to get the training. In this context, one of the SLPs commented that electricity (distribution) companies used to require trade testing for jointers at their facilities and training and that this was used to strangle competition, through long waiting lists.
139. Of the respondents who did not consider that granting access to training would help build trust, SLP-Assoc considered that giving access to training was not a means of building relations between SLPs and water companies. Rather, it saw it as a means of levelling the playing field by giving SLPs access to training that companies consider necessary.
140. The other respondent who answered negatively, one of the wider stakeholders (WD2), stated that allowing access to training facilities is no guarantee that facilities had been used or that operatives had received training. It added that having a passport scheme would be a far better way of improving trust between parties as it would ensure there is "live" visibility of the skills and competence of all working on-site.

### **Conclusions**

141. The set of questions on training in the industry was answered by a fewer number of respondents than other questions. Some felt these were outside scope of a consultation on the Codes for Adoption.
142. Of 13 responses to the question on the level of meaningful training in the industry, three considered there was no lack of training and 10 considered it was lacking. Of these 10 respondents, eight were SLPs and one was SLP-Assoc. These respondents tended to share the view that it was training within water companies that was lacking, rather than amongst self-lay providers.
143. Of those who responded to the questions, most agreed that providing SLPs access to industry wide apprenticeships would help improve consistent training across the industry, and that allowing them access to water company training facilities would help build trust and confidence between parties.

### **Redress**

#### **Background**

144. The Code requires the Sector Guidance to set out arrangements to deliver "appropriate customer redress if a water or sewerage company fails to meet the minimum levels of

service”.<sup>6</sup> The consultation paper outlines a number of aspects of what such an arrangement may look like.

145. It puts forward a set of eight key delivery metrics; failure to meet any of these would require a graduated response from water companies. The paper also outlines a proposed escalation path for when there is such a failure by the water company to deliver. The consultation paper asks for views on the appropriateness of the set of metrics, and on whether the proposed escalation path is reasonable for resolving on-site problems.
146. The consultation also discusses the question of financial redress. The escalation path that it outlines does not foresee financial redress and the question is asked on whether that is preferable to one where monies are paid by the water company in the event that it does not meet one of the key delivery metrics.
147. A further issue raised is whether a mechanism to allow financial losses to be recovered should be developed. In this context, it puts forward the possibility that failures against the metrics could go through water companies’ formalised complaint resolution procedure and that any unresolved complaint of that nature be dealt with through Water Redress Scheme (WATRS).

**Q19 Are these the right metrics to focus on?**

148. There were fifteen responses to this question. Dev1, the two wider stakeholders and SLP1 did not respond or comment.
149. Of the fifteen responses, we find it hard to distil a clear answer to the consultation paper’s question from the responses of two water companies. One of these, WC2, said that the metrics used should be ones that mirror its levels of service, with a view to ensuring transparency and minimising confusion. We do not know how these map across to the metrics listed in the paper. One other water company, WC4, said the metrics should be focussed on what customers tell them is important, and gives the example of metrics related to the water being on, branch connection complete, and costings issued, all within an agreed timescale. There is some overlap between these examples and some of the metrics in the paper but we do not know whether these are ones that the respondent would like covered and are not in the ISGw’s list.
150. Of those that did provide a clear answer, three respondents – two water companies and one NAV – agreed with the set of metrics proposed in the consultation paper.
151. Of the remaining 10 respondents, some proposed revisions to the set of metrics presented, but took different stands in doing so. Some considered that the metrics presented in the paper were a starting point and put forward their view on how that list ought to be revised; others took the view that the metrics presented were not adequate and offered their own list. Some of metrics in the proposed lists overlap with those in the paper. Table 4 lists the suggestions put forward by respondents.

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<sup>6</sup> Ofwat (2018), Code, para 3.1.3 (b).

**Table 4 Revisions to metrics listed in consultation paper**

Respondent	Metrics
WC1	Those in paper as a minimum, plus “Water company advises SLP of non-performance / SLP becomes aware of non-compliance”
SLP2	<p>Those in paper, plus:</p> <ul style="list-style-type: none"> <li>• Point of connection confirmation</li> <li>• Source of water for testing etc</li> <li>• Asset payment receipt</li> <li>• Provision of meters</li> <li>• Self-lay agreement</li> <li>• Issue of vesting certificates</li> </ul>
SLP5 and SLP6	<p>Those in paper, plus:</p> <ul style="list-style-type: none"> <li>• Point of connection confirmation (at enquiry stage)</li> <li>• Agreement acknowledgment (if not covered by “advise applicant if submission is compliant”)</li> <li>• Asset payment made on each section of commissioned main (may need to be tied into account reconciliation / settlement when, looking ahead, asset payments will not be made). Vesting certificates will need to be tied to this.</li> <li>• Provision of meters and other non SLP supplied fittings.</li> </ul>
SLP-Assoc	<p>Suggest revising those set out in paper as follows:</p> <ul style="list-style-type: none"> <li>• [Add] Confirm point of connection (both ‘chargeable’ and ‘actual’)</li> <li>• Advise applicant if submission compliant</li> <li>• Issue <del>quote</del> terms</li> <li>• Issue design approval and draft adoption agreement</li> <li>• [Add] Confirm agreement in place (so that SLP can confidently proceed)</li> <li>• Install <u>parent main</u> connection <del>branch and valve</del></li> <li>• Agree (<u>SLP provided</u>) connection date</li> <li>• Completion / failure to complete <u>contestable</u> work</li> <li>• [Add] Confirm vesting (post each section of main being commissioned)</li> <li>• Service connection information provided</li> <li>• [Add] Provision of meters and other non SLP supplied fittings</li> </ul>

Respondent	Metrics
SLP8	<p>Those in paper, plus:</p> <ul style="list-style-type: none"> <li>• Agreement completion timetable</li> <li>• Pre-start meeting agreed</li> <li>• Back to back completion timescale</li> <li>• Meter deliveries</li> <li>• Metering activities</li> <li>• Asset payment made</li> <li>• Inspections</li> </ul>

152. Further to their comments on the list of metrics itself, five respondents (four SLPs and one NAV) emphasised that it was necessary to define the metrics more clearly. For example, on precisely what was being measured, what are the delivery times associated with each (when relevant), what happens when published targets are not met. One respondent also raised the question of how the information to measure the metric was to be collected.

153. Other comments raised by responses included:

- (a) SLP4 said that having too many metrics would become meaningless.
- (b) SLP9 said that it would be desirable for the list of metrics to be reviewed regularly (e.g. every six months) to ensure that the list remains relevant.
- (c) SLP-Assoc suggested that there be a schedule of permitted allowable performance exceptions. These would cover advance notice times issued at preliminary stages (and no later than agreement acceptance), and where the customer is not ready for the work on the 'due' date. SLP-Assoc explained the need to have a clear framework for allowable reporting exceptions by reference to view that "customers do not understand how companies can report high levels of compliance against performance targets yet customers know that they routinely experience provision delay."

**Q20 Is this a reasonable approach to resolving problems on-site?**

154. There were sixteen responses to this question. Dev1 and the two wider stakeholders did not respond.

155. The response amongst those 16 stakeholders was mixed.

156. Eleven of the respondents did not consider the proposed escalation path to be a reasonable approach to resolving problems on-site. These included three water companies, seven SLPs and SLP-Assoc. A number of different criticisms were made.

- (a) Three SLPs considered that the work on site is “fast moving”, that the proposed approach would add further delays, and that it would be preferable for the investigation to start after the connection had been made, i.e. for the problem to be resolved first and to then investigate why the problem arose in the first place. One of the water companies commented to the contrary: that the 24-hour timescale given to water companies to confirm a failure in compliance seems like “jumping the gun” and that further time would be needed to carry out an investigation.
  - (b) SLP-Assoc considered that the proposed approach is not reasonable as it relies on SLPs helping companies work through the issues, whilst SLPs want to concentrate on progressing the delivery of their work. SLP-Assoc proposed that, instead, when a company fails to deliver it forfeits the right to charge for this element of work and that the SLP is immediately allowed to proceed unrestrained with carrying out the outstanding work or progressing their own design or selection of point of connection.
  - (c) SLP3 stated that the proposed approach would be partial to water companies and that it would be necessary for parties to have the right to recourse to an independent body.
  - (d) SLP8 considered that the process outlined in the paper relied on SLPs to trigger the complaint whereas it should be for the water companies to instigate the contact to explain the failure and explain how it would be resolved.
  - (e) WC3, who did not agree with the proposed approach, stated that there is an existing, well established and regulated complaints process that all customers can utilise, and that from 2020 companies will also be subject to the DMEx. It considered it unnecessary to introduce this “overbearing and incommodious approach that relies heavily on key individuals’ immediate availability.” It added that if the approach were to be followed, the process should be triggered by the developer – who it considers to be the customer – rather than by the SLP.
157. The five responses that agreed with the proposed approach included two water companies, two SLPs and one NAV. Amongst these five responses some provided further comments:
- (a) SLP1 agreed with the broad structure of the proposed approach but considered there were some points that needed reviewing. In particular, it considered that water companies should adopt a more pro-active approach to connection, more similar to that which is taken in managing leakages or bursts: taking action when it knows there is a high likelihood of a problem rather than only after the problem has come about.
  - (b) NAV1 considered that three or four of the seven bullet points relate to stages or activities happening during the administrative phase rather than happening on-site.

**Q21 Do parties agree that a non-financial approach is to be preferred?**

158. There were sixteen responses to this question. Dev1 and the two wider stakeholders did not respond.

159. Of the 16 responses, a water company, said it considered unlikely that SLPs would support non-financial redress and preferred to wait to see how SLPs responded before commenting further.
160. Of the remaining 15 respondents, the response was mixed: six agreed that a non-financial approach is preferable, and nine disagreed.
161. In broad terms, views were split along the different categories of respondents. Of the six that agreed, three are water companies, two are NAVs and one is an SLP. Of the nine that disagreed, one is a water company, seven are SLPs and the other is SLP-Assoc.
162. The general view amongst those that disagreed was that financial penalties are “what bite”. They would focus water companies into improving their levels of service. Some of the respondents referred to how financial penalties are in place, and work, in other utility sectors.
163. Further to that, some of the respondents who disagreed made other observations:
- (a) SLP1 commented that it would be wrong to advise for indemnities to be sought from developers or SLPs for potential failures by them (as indicated by question 29 of the consultation paper), and yet consider that financial redress for failures by water companies is not appropriate.
  - (b) SLP3 stated that it would support low levels of fines for breaches of mandatory standards of service. However, where a company repeatedly fails to address behaviour detrimental to competition the level of fines should be higher; at a level that would “scare shareholders” and lead to a change on behaviour.
  - (c) One SLP considered that the potentially high administrative costs would be a driver to ensure future failures are not repeated, rather than a reason for discounting financial redress.
164. One of the respondents who agreed that there should not be financial redress, a water company, commented that financial redress is not what matters most to customers, that it could be expensive to administer and raised the question of whether it would be fair and proportionate to have such redress alongside the D-MeX.
165. NAV2, who also agreed that there should not be financial redress, raised the concern that the prospect of facing financial penalties for failure will not allow “the market to flourish” as water companies would become more risk averse in their practices and this could result in more distrust between parties.
166. The SLP who agreed there should not be financial redress (SLP9) stated that the way to drive change in behaviour was through involvement of more senior management in resolving disputes, rather than through financial redress.

**Q22 If you consider financial redress should be offered, please suggest a mechanism for delivery of such redress that overcomes the problems identified above.**

167. Ten respondents put forward suggestions that could contribute to developing a mechanism to deliver financial redress. The remaining respondents were ones who did

not comment on the whole set of questions relating to redress or who, in their answer to question 20, had considered that financial redress is not appropriate.

168. Further to these ten responses, one other respondent, a water company who considered that there should be no financial redress, did state that there is already provision in contract and commercial law to recover losses. In line with its position, it did not propose a mechanism.
169. The ten responses that put forward suggestions on the mechanism for delivering financial redress outlined features that would be desirable and/or pointers on how the mechanism might be developed. We saw no common theme across the responses. The points raised include the following:
- (a) WC1 stated that “most water companies have a simple process for recovering rechargeable work costs from a third party, so that problems on site can be linked to a cost”.
  - (b) WC2 stated that it was currently using the redress system it receives from its term contractors if they miss a delivery. It added that other companies too may have redress from their term contractors and that this could be applied and directed to the SLPs.
  - (c) That same water company stated that the system should not be overly arduous for SLPs, that it would be better for the redress to be applied earlier rather than later and that a mini county court type procedure does not seem to be in line with the aim of improving relations between water companies and SLPs. That latter route should only be applied in serious cases.
  - (d) One SLP said it was difficult to put forward a suggested mechanism as the metrics that would determine whether redress was due or not were not yet clearly identified. It suggested that for construction activities that do not meet agreed dates, the redress could be 10 per cent of the value of the work (linked to published charges, for transparency) per day. For failures in administrative activities that include a financial application fee, the redress should cover that full fee.
  - (e) That same SLP also said that the redress could include the option of amending service delivery metrics within the procedures so that the project as a whole is kept on track. As an example, it suggested that if a point of connection enquiry takes five days longer than the agreed date, then the design or design approval should be delivered five days sooner than what it otherwise would have been, so that there is no slippage in the timescale of the project as a whole.
  - (f) Two SLPs suggested looking at examples already working in other sectors such as in electricity (distribution). One of these referred to Ofgem’s Standard Licence Condition 15 and Ofgem’s Incentive on Connections Engagement plans for DNOs.
  - (g) One SLP said that the level of redress should be affected by the number of properties affected, by type of end user (e.g. more if a connection is for a school than for a retail unit), and by type, location and timing of connection (e.g. redress

would be lower if problem arose on a complex connection that went wrong whilst drilling, than if the water company had done no work).

- (h) One SLP commented that the level of redress should be at a level which ensure failures are not repeated.
- (i) One SLP said that payments should be automatic when SLAs have not been met, and should be issued directly to the customer.
- (j) SLP-Assoc stated that its preferred mechanism would be for a company to forfeit the right to charge for an element of work that it has failed to deliver and that the SLP is immediately authorised to proceed unrestrained with either doing the outstanding work or progressing their own design or selection of the point of connection. The SLP adds that this would overcome issues where “the non-delivery is deep rooted or the company has not done necessary preparatory work to deliver within the published timescales.” The SLP adds that, tied to the design of the redress mechanism, there is a need for a full discussion of the envisaged process times and performance targets.
- (k) One SLP suggested that SLPs and developers should be provided with an “account that can be used to pay water company fees and as and when failure fees are due it is paid into this account and drawn down as and when required by developer or SLP.”

**Q23 Is there support for developing WATRS to cover this type of dispute?**

- 170. There were fifteen responses to this question. These covered five water companies, eight SLPs, SLP-Assoc and one NAV. The responses were mixed
- 171. Two respondents, one water company and one SLP, gave support to developing the WATRS. The SLP stated that the WATRS would be an option to balance financial losses not recovered through the simpler redress scheme. The water company considered that the WATRS is proven to be effective “but the current precursor of an exhausted CCW complaint process is essential” and added that it would be necessary to consider the appropriate value limits associated with WATRS.
- 172. Four other respondents also supported the development of WATRS, with some qualifications:
  - (a) One water company suggested that the proposal was one-sided, querying whether it would deal with the redress due to poor performance by SLPs.
  - (b) One SLP expressed concern that the WATRS would be “toothless”. It suggested that Ofwat initiate the development of such arrangement, but that it not retreat from the role of resolving such types of disputes between parties.
  - (c) One other SLP agreed that a dispute would need to go through an independent body, and that the WATRS could perform that role. It added that this should only be for the purpose of determining the level of payment as it should be clear whether or not a metric had been failed.

173. The remaining nine respondents did not support the development of WATRS. These included two water companies, one NAV and six SLPs. A range of reasons were given for this view:
- (a) Four SLPs considered that if the approach to redress was got right – in terms of how comprehensive it was and how it was implemented – then there would be no need for WATRS.
  - (b) In a similar vein, one SLP echoed its response to question 22 and stated that redress payments should be automatic with no need to apply.
  - (c) Three SLPs expressed concern that the arbitrators would not have the necessary expertise and/or experience. One of these suggested that SLPs would end up having to spend much time to provide briefings necessary to “educate” the appointed arbitrator.
  - (d) One NAV said that any dispute should be dealt with between the parties and then escalated to the regulator if required. One other SLP echoed this sentiment, stating that it had had good success with drawing on Ofwat intervention when needed and would not want to remove that pathway and replace it with an unknown entity.

**Q24 Are there other ways in which the redress proposals should address the subject of continuous improvement? If so, please specify how.**

174. In response to this question, thirteen stakeholders put forward their suggestions. These covered four water companies, one NAV and eight SLPs.
175. The respondents who engaged with the question made a range of comments. Some of these comment on routes to promote continuous improvements which are unrelated to considerations around redress:
- (a) One water company stated that the mechanism should penalise repeat offenders. It suggested the level of redress associated with a failure escalate with the number of number of failures, e.g. £50 per late connection for the first 10 in the year, £75 per late connection for 11 to 30 connection failures in the year, and so on.
  - (b) Three SLPs raised the point that water companies developing meaningful – high enough – standards as baseline was important to driving continuous improvement. In this context, one SLP said that, from that starting point, good performing companies should be allowed to “increase turnover over agreed max” and reward shareholders.
  - (c) One water company considered that improved relationships and cross-industry industry working groups, rather than redress would drive continuous improvement in the industry.
  - (d) One water company said that SLP performance should be monitored “against a set of national criteria similar to monitoring of water companies – which would also support the use of proportionate local practices to suit.”

- (e) One SLP and one NAV put forward the process of sharing with industry the learnings from mistakes. The SLP suggested this should be raised and distributed through WIRS.

## Conclusions

- 176. Across the set of questions relating to redress, respondents' views tended to be mixed.
- 177. The consultation paper put forward a set of metrics relevant to where a company fails to meet a key delivery. Whilst three respondents agreed with these, most put forward suggestions on further metrics to be added to the list, and/or of how those on the list should be revised.
- 178. There were mixed views on the approach outlined in the consultation paper for resolving on-site problems. The views were mixed at the level of respondents as a whole, and within categories of stakeholders. Of the 16 responses to the question, five agreed with the approach (two water companies, two SLPs and one NAV), and 11 disagreed (three water companies, seven SLPs and SLP-Assoc).
- 179. Views were also mixed regarding the preference for a non-financial approach to redress. Here, however, the difference in view tended to be in line with the category of stakeholder within which a respondent fell: SLPs tended to disagree that a non-financial approach should be followed, whereas water companies and NAVs tended to agree.
- 180. Responses were mixed on the question of whether the role of WATRS should be expanded: six agreed and nine did not. The views were mixed at the level of respondents as a whole, and within categories of stakeholders.
- 181. Various respondents put forward suggestions on routes to address the subject of continuous improvement, not all related to financial redress.

## Model Agreement

### Background

- 182. Ofwat's Code requires water companies to develop and maintain a "draft Model Water Adoption Agreement that covers the adoption of all water infrastructure that can be subject to an adoption agreement".<sup>7</sup>
- 183. The consultation paper sets out that the current proposal is for the sector to use a standard model agreement which clarifies the risks and responsibilities of each party and which cannot be varied unilaterally. There would be separate agreements for each project, and the only customisation would be to the technical and payment schedules.
- 184. The consultation raises the option that, as an alternative, water companies develop framework agreements which would establish a set of terms under which all the parties to it will provide services from time to time under separate "call off" contracts.

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<sup>7</sup> Ofwat (2018), Code para 3.4.1 (a).

185. ISGw's consultation paper asks for views on terminology and the language of a model agreement, and on the merits of developing framework contracts.
186. Customers choosing the SLP route can receive an asset payment once the assets are transferred to the water company. The consultation paper notes that such payments are likely to cease in April 2020 and asks for views on whether, in the meantime, they should continue to be paid to developers.
187. The consultation paper also asks for views relating to the indemnity which is sought from the developer and SLP by the water company with the purpose of contributing to the cost of repairs to water mains assets that the company has adopted. Specifically, the ISGw seeks view on the level at which the indemnity level sought should be capped at.

**Q25 Do you agree that the legal agreements should be called "Adoption Agreements (Water Mains)" to clearly differentiate them from the construction contract between the developer and SLP?**

188. There were thirteen stakeholders who responded to, or commented on, the question. These covered five water companies, two NAVs, five and six SLPs. SLP-Assoc did not comment on it.
189. Of these 13 responses, two said they were indifferent about the terminology and gave no other comment.
190. Of the eleven that expressed a view one way or the other, ten agreed with that the legal agreement should be called "Adoption Agreements (Water Mains)". One respondent, SLP6, disagreed on the basis that it was not aware of any confusion and saw no reason to change.

**Q26 Do you agree that the language should be as simplistic as possible with easily understood definitions, even if that makes the agreement longer?**

191. There were fourteen stakeholders who responded to, or gave a comment on, the question. These covered five water companies, two NAVs and seven SLPs. SLP-Assoc did not comment on the question specifically.
192. Of these, the response of SLP5 was simply that "the agreement is fine as it is". We cannot interpret this as a response to the question, in either direction.
193. Of the 13 respondents that expressed a view on this question all agreed that it that the language of the model agreement should be as simplistic as possible, even if that were to increase the length of the contracts.
194. Comments raised by stakeholders in response to this question included:
  - (a) NAV1 qualified its answer that the language should be simplified "but only to a point". Its view was that if a party to such an agreement "does not recognise at least the generality of the WIA1991 they cannot appreciate many of the associated reasons why water companies work the way they do."

- (b) Two respondents disagreed with the view implicit in the question that the use of simplistic language would necessarily lead to a longer agreement.
- (c) SLP4 said that the legal agreement “should be written independently so it does not favour the water company, SLP or developer”.

**Q27 Given the variability in parties to the agreements, is a framework contract helpful?**

195. There were 16 responses to this question. Dev1 and the two wider stakeholders did not respond.
196. Respondents’ views were mixed: twelve considered that framework contracts would be helpful and four considered that that would not be the case.
197. The four that expressed a negative view were three water companies and one NAV. The NAV stated that because it had infrequent self-lay developments it would prefer a standard model agreement used for each occasion. Concerns raised by the other respondents who considered framework contracts not to be helpful included:
- (a) concerns about the complexity that such contracts would entail;
  - (b) concern that framework contracts would allow too much variation in interpretation and could cause confusion;
  - (c) concern that framework agreements can be confusing as it is not always clear whether an activity is covered under the framework or specific agreements for the site;
  - (d) concern that given that there are many variables that would need to be agreed on each scheme (scheme specifics, payments, parties, phasing) it would be time consuming and costly to develop framework agreements with each SLP; and
  - (e) concern that entering into agreements with some SLPs and not others could be construed as giving advantage to some SLPs and, potentially, be anti-competitive.
198. The twelve respondents that took a different view and considered that framework agreements would be helpful included two water companies, one NAV, all eight SLPs and SLP-Assoc. Points raised by this set of respondents included:
- (a) Several respondents made the point that a framework agreement could help align the self-lay route with the requisition route which has no requirement for formal agreements and simply requires acceptance of terms offered.
  - (b) One water company stated that even though there may local variations in approaches taken by water companies, it would be important for the sake of clarity for agreements to have a similar layout.
  - (c) One water company stated that it may be difficult to develop framework agreements in settings where there are multi-party agreements, e.g. with landowners.

- (d) One SLP commented that this type of arrangement was used in gas and electricity.
  - (e) One SLP stated that it might be appropriate to put in place separate agreements between water companies and developers, which would ideally include sewer adoption, and between water companies and SLPs, which would ideally be at a national level and linked into WIRS. That respondent considered that this would facilitate the exchange of letters on scheme specifics.
  - (f) One SLP agreed that framework agreements would be helpful provided these mirrored the procedures set out in the flowcharts of the consultation paper.
  - (g) One SLP qualified its agreement on the helpfulness of framework agreement in two ways. First, that such agreements would not “slow down ability to react” and provide the service required by developers. Second, that between the framework agreement and the model agreement there were clear assurances over who has the liability over key components of the water mains and services being installed should there be any defect.
199. SLP-Assoc proposed that the framework agreement be one part of the overall contractual arrangements. Specifically, its proposal is for the arrangements to be in two parts:
- (a) Part A would be a scheme-specific agreement between companies and the developer. This would cover how the works are developed and commit the developer over land access rights, responsibility for private pipework and protecting the works until adoption.
  - (b) Part B would be a framework agreement between the water companies and a SLP to tie them into delivering works for developers which meet the technical requirements (as set out in company specific design guidance) to deliver works for adoption.
200. SLP-Assoc considers that such an approach would create a level playing field with the requisition route.

**Q28 Asset payments are likely [to] cease in April 2020, but in the meantime do you agree that any such payments should be made to the Developer?**

201. There were 15 responses to this question. Dev1, two wider stakeholders and one NAV did not respond or did not give a comment.
202. Of these, two water companies responded as follows:
- (a) WC5 said that because of timing, it considers that the question is irrelevant. In particular, it said that charging arrangements for 2019/20 will need to be published no later than 31 January 2019 and that to meet that deadline, companies will have obtained signoff several weeks before. Given water companies’ proposals to Ofwat are to be submitted by 7 January 2019 and Ofwat will take time to consider them, WC5 would not have time to reflect any changes to its current charging arrangements.

- (b) WC1 said “no comment” though it added “national position applicable”, which we do not know how to interpret.
203. In the remaining 13 responses, views were mixed:
- (a) Two stakeholders had no issue with how the asset payment would be treated or had no preference between alternatives given in question. SLP-Assoc was one of these; it stated it had no issue with the asset payment being paid to the developer provided that its suggestions concerning the setting up of a framework agreement – which we outline in summary of responses to question 27 above – are carried through.
  - (b) Three agreed that any such payments should be made to the Developer. These covered one water company, one NAV and one SLP.
  - (c) Eight disagreed with that position. These covered one water company and seven SLPs.
204. In setting out their responses, some stakeholders put forward a number of observations. These included:
- (a) SLP1, who disagreed with the proposition in the question, said that the payment should be made depending on what is agreed within contracts.
  - (b) SLP2, who also disagreed, said that the proposals for 2020 should be reviewed.
  - (c) SLP6, who strongly disagreed, said that in general the asset payment should be paid to the self-lay applicant or whoever it nominates. The SLP raised concern that this is a proposal to make SLPs less competitive. SLP6 had serious concerns that if asset payment is no longer paid to SLPs, these may lose a large share of work as the installation would revert back to statutory option.
  - (d) On the other side of the argument, WC3 explained its agreement with the question’s proposal by saying that “it’s the developers’ main on their site”.
  - (e) One water company, WC4, said that it currently makes payment to SLPs and that for sake of one year it would rather continue with that arrangement. It said it was, however, open to other options.

**Q29 In the absence of a payment retention, for the applicable defect liability period, indemnities will be sought from Developer and SLP. What level do you propose these should be capped at?**

205. There were 15 responses to this question. Dev1, two wider stakeholders and one water company did not respond or did not give a comment.
206. Of those who responded, five SLPs said that there was no justification for indemnities, and made no suggestion of a cap to apply. SLP9, who was one of those five, said that this issue would be better captured by the contract/framework agreement. SLP1, one other of those five SLPs, added that if water companies are to require indemnities on SLPs it must also transpose that requirement into the requisition route where a developer may carry unaccredited construction activity on behalf of water company.

207. Two SLPs referred to Ofwat's information note IN 16/06. One of these, SLP2, said that "Ofwat have already stated that the SLPs working under WIRS should not have anything other than contractual obligations to deliver work to specification and remedy any defects". SLP2 draws on this to add that there is no need for indemnities to be provided.
208. SLP5 said that it saw no reason for changing arrangements on indemnities from how they currently are.
209. SLP-Assoc said that indemnities would need to be structured into the agreement and that it would wait to see a draft of this before commenting further.
210. One SLP queried how a defect liability period would work "once an on-site main has been vested in and adopted by the water company?". It added the comment that "99 per cent of surface box or chamber damage is caused subsequently by the developer's ground force" and that "any fundamental, poor workmanship or catastrophic failure would result in costs being met by the SLP in any case."
211. Several respondents did put forward suggestions on the level at which indemnities should be capped:
- (a) WC3 suggested the cap to be set at 10 per cent of gross asset value.
  - (b) WC4 suggested it should be capped at the value of the scheme at the water company's published rate.
  - (c) SLP3 suggested £5 million for "framework" and 4 per cent of construction value per job agreement.
  - (d) SLP4 said it was hard to put forward a level for the cap because all schemes are different (e.g. apartment block with little mains and lots of service pipe compared with generic housing estate), but suggests 5 per cent of the scheme cost could be appropriate.
  - (e) NAV1 said that in terms of potable water mains, the level could be derived from an industry-wide survey of such failures in the first 12 months, and the costs to the water company of repair set against the cost of the self-lay schemes involved. (This stakeholder's response assumed that on-site asset damage – third-party damage – by the developer or his subcontractor is not included in scope of question, and that the water company has adequate opportunity to witness the SLP laying the mains etc. to assure itself that the work is of an acceptable standard).
  - (f) NAV2 said the level should be a percentage of the cost of the failure.
  - (g) WC5 made the comment that there needs to be alignment between water and wastewater. It said that "[u]nder Sewer for Adoption 8, there is an expectation that cover is provided for 12 months to cover any defects experienced. In wastewater, there is a suggestion that bond/surety values are set at 33 per cent."

## Conclusions

212. Of those that responded to the questions, most stakeholders agreed that the legal agreements should be called “Adoption Agreements (Water Mains)”. All agreed that the language of such agreements should be as simple as possible with easily understood definitions.
213. On the other questions raised by the consultation paper relating to the model agreement, views were mixed.
214. Of 16 responses, 12 (eight SLPs, SLP-Assoc, two water companies and one NAV) agreed with the view that framework contracts would be helpful, and four (three water companies and one NAV) disagreed.
215. On the question of whether, in the period to April 2020, asset payments should be made to the developers, the view was similarly mixed. SLPs tended to disagree, in some cases strongly, with that proposition. The views of water companies, on the other hand, were more evenly split between disagreeing, agreeing or being indifferent.
216. Respondents put forward a number of suggestions on the level of the cap to apply to indemnity levels. Some of these were expressed in percentage terms (e.g. of gross asset value), and others as a number in Pounds Sterling. Five SLPs considered that there was no justification for indemnities, and made no suggestion of a cap to apply.

## Other points raised in responses

217. In their responses, some stakeholders made points which, in our view, did not relate directly to the specific question being asked but might relate to the wider area within which a question from the consultation paper was couched, or relate to the ISGW’s approach to consultation. We think it is helpful for these points not be lost as the ISGW progresses in its work to develop the draft Sector Guidance and Model Agreement.
218. We present these additional points below, in Tables 5 and 6.
219. Table 5 covers to points raised by one of the stakeholders, SLP-Assoc. Specifically, the table captures a framework for the components which SLP-Assoc considers necessary for implementing an Adoption Code. SLP-Assoc set out that framework within a submission it made to Water UK. The submission noted that that framework, dated 14 August 2018, was preliminary and that SLP-Assoc would develop it further. Some of the points raised in that framework relate directly to questions in the consultation paper, but others do not. We think it is helpful to cover here the full set of the components identified by SLP-Assoc, rather than highlighting only those that relate to points that are in addition to ones already covered by the consultation paper. This gives a fairer representation of how SLP-Assoc views the necessary framework in its entirety. In our analysis of the responses set out in the previous few sections, we have sought to reflect, whenever they are relevant to the relevant consultation question, points raised by SLP-Assoc in outlining its framework.

**Table 5 SLP-Assoc’s proposed framework: summary of components necessary for implementing Adoption Code for water assets**

	<b>Component</b>
A	Summary high level procedures covering all the developer enquiry/upfront stages prior to the making of an adoption application.
B	A Code of Practice based on the current national Code of Practice with the removal of the upfront elements but otherwise minimal change
C	Segregate out the various roles water companies have in flow diagrams, and remove ‘discretion’ from the wording
D	Minimise the number of ‘control points’. These include pre-meetings and need to attend meeting before advancing works.
E	A schedule of company specific “permissible materials and local construction arrangements” (such as type and sizes of pipe where there are established company specific practices).
F	Access (via a web link) to company specific design requirements.
G	A supplementary document showing which companies have ‘local practices’, and summarising which aspects of the standard arrangements are being ‘locally’ changed
H	A company specific document which details all ‘local’ variations to the standard arrangements, including providing a full specification and giving an objective justification.
I	Whilst general guidance on company websites, and in their literature is welcome, no requirements related to adoption agreements should be detailed in any documents not included in this schedule.
J	A schedule of key performance metrics (largely based on those that companies already report against but with the removal of mainly ‘administrative’ measures and with the addition of metrics covering the provision of meters and of other company-provided materials).
K	A schedule of permitted allowable performance metrics exceptions. These to cover advance notice times issued at preliminary stages (and no later than agreement acceptance) and where the customer is not ready for the work on the ‘due’ date.
L	(Linked to J and K) Performance standards customers can expect, and meaningful financial redress payable when standard is not delivered, i.e. move to a world of ‘guaranteed standards’.
M	(Linked to L) Report every occasion when performance has not met the target and redress payments have been made.
N	Provide, in a standard form, named contacts for escalating any complaints to company performance.
O	Dispute resolution channels and mediation.

P	Provide an adoption agreement that is no more onerous than the exchange of letters by which developers can accept company provision/requisitioning terms.
Q	To facilitate ‘exchange of letters’ terms acceptance, propose to introduce: (i) a new framework agreement between developers and water companies covering both adoption and in-house/requisitioning provision, (ii) a new framework agreement (linked into WIRS) which commits SLPs to deliver to company requirements.  Included in both will be company commitments to deliver in accordance with their published performance standards and other requirements that arise from compliance with the Adoption Code.
R	Include within Adoption Agreements facilities to allow SLPs to use water companies’ road opening powers (on works that are to be adopted). Also for water companies to take over, including payment, for Fire Service required works until such time as the Fire Service will fully accept responsibility for ongoing maintenance.
S	Update WIRS Memorandum of Understanding, with aim of integrating control and management of WIRS scheme into the Adoption Code governance.
T	Use WIRS as a means of securing SLP compliance against agreement requirements
U	Remove requirements for SLPs to ensure their operatives hold NCO (Water) registrations with EU Skills, and replace it with the requirement for SLPs to assess the competence of their operatives and only deploy them on works which are within their pre-defined competence criteria.
V	Remove requirement for SLPs to ensure that their operatives hold a Safety Health and Environmental Awareness (Water) registration with EU Skills.
W	A contestable works framework which, as a minimum, accepts all of the activities in the current Code of Practice as being universally contestable (though companies can introduce local variations in accordance with G and H above).  Introduce a mechanism to extend the range of the current listed set of contestable activities to include new scope, particularly the making of connections to live networks (starting with relatively small diameter ones).
X	Standardise service connection sign-off regarding approval of private pipework. Propose to categorise companies into those which (a) allow widespread self-certification; (b) allow self-certification but require a number of (sample) inspections; and (c) insist on inspecting every property.  Define allowable metering options.
Y	Company staff training about the Adoption Code framework.

220. Table 7 captures other additional points raised by respondents. We have organised these within the themes of the consultation paper.

**Table 6 Set of additional comments**

<b>Approach to consultation</b>	
Dev1	<ul style="list-style-type: none"> <li>Without visibility of the draft adoption agreement, it is difficult to provide a meaningful response.</li> <li>The current consultation is more around principles with limited scope.</li> </ul>
SLP3	<ul style="list-style-type: none"> <li>Raises question about how representative the ISGw is.</li> </ul>
SLP6	<ul style="list-style-type: none"> <li>“It is unacceptable should either the Water UK sponsored group or water companies themselves press forward with advancing documents to Ofwat for approval that have not been openly issued for full consultation. Such a consultation needing a minimum of 4 weeks during which complete drafts of all the intended documents should be in the public domain.”</li> </ul>
SLP- Assoc	<ul style="list-style-type: none"> <li>Considers that questions raised are at “emerging thinking” stage and fall well short of exposing comprehensive proposals to stakeholder scrutiny. It is therefore essential that a substantive consultative process is run as early as possible in early autumn.</li> </ul>
SLP- Assoc	<ul style="list-style-type: none"> <li>Essential that all documents ISGw intends water companies to use are published with adequate time before submission to Ofwat. Specifically: (a) a minimum of 4 weeks for consultation; (b) Adequate subsequent time to be provided to jointly work on closing anything customers identify as needing rectification, and (c) Companies to hold their own consultation on any “local arrangement” proposals.</li> </ul>
WC5	<ul style="list-style-type: none"> <li>Expresses concern that the questions in consultation paper are somewhat leading and do not follow best practice.</li> <li>Expresses concerns that “the current scope and quality of consultations are insufficient to demonstrate we have collectively discharged the requirements under section 3.2.1 of the Code for Adoption agreements guidance, in respect to the involvement of interested parties.”</li> <li>Without visibility of draft codes it is very difficult to see how the agreements will work in practice.</li> </ul>
<b>Procedures</b>	
SLP3	<ul style="list-style-type: none"> <li>The flowcharts in Annex 2 do not cover under what circumstances, if any, could the water companies not to be held to those standards of service</li> </ul>
SLP- Assoc	<ul style="list-style-type: none"> <li>“The proposal in the wording (but not covered by the questions) of introducing “double spade” valve controls is unacceptable (as water companies do not normally fit these themselves, so it is an example of imposing unreasonable ‘control points’ and increasing SLP costs on activities companies do not impose on themselves.”</li> </ul>
SLP9	<ul style="list-style-type: none"> <li>Express strong disagreement with statement made in Stage 4 of the procedures, as shown in the flowcharts in Annex 2. In particular, “an SLP wants to be part of a risk assessment process that affects the deliverables of their scheme for their customers.” It raises several specific examples.</li> </ul>

<b>Contestability</b>	
NAV1	<ul style="list-style-type: none"> <li>The Risk Matrix should not be solely governed by number of properties affected. Existing customer Sensitivity or Large Users affected by shutdowns should also be incorporated into decision making process.</li> </ul>
SLP3	<ul style="list-style-type: none"> <li>Consultation paper does not address question of who has the right to participate in the contestable market; it needs to spell out what qualifies a company or individual to carry out such work, and what may prevent them from competing in the market</li> </ul>
SLP- Assoc	<ul style="list-style-type: none"> <li>Essential that, following that consultation, anything proposed by companies which seeks to restrict currently defined contestable self-lay activities be put out to consultation</li> </ul>
SLP- Assoc	<ul style="list-style-type: none"> <li>It is essential that the right of SLPs to make service connections off existing mains is clarified.</li> </ul>
<b>Competence and accreditation</b>	
SLP1	<ul style="list-style-type: none"> <li>WIRS construction (mains and services) accreditation allows a SLP to make connections to 63mm on a fully contestable basis. The proposed Table 4.3.1 limits this to 32mm. This proposed change is not consistent with the definition of WIRS and would reduce the amount of competitive connection work an SLP can undertake.</li> </ul>
SLP3	<ul style="list-style-type: none"> <li>Consultation paper disregards fact that a water companies operate a lesser standard of competence assessment and qualification requirement for their contractors than for their own staff</li> </ul>
<b>Redress</b>	
SLP3	<p>Commenting on Table 2.1 of consultation paper:</p> <ul style="list-style-type: none"> <li>On redress, SLP3 said that respondents also indicated that for any system of redress to be credible it can only be internally managed by the water company to a given level, beyond which an independent body must deliver timely investigation, determination, corrective action and where appropriate sanction.</li> </ul>
<b>Legal agreement</b>	
SLP3	<p>Commenting on Table 2.1 of consultation paper:</p> <ul style="list-style-type: none"> <li>It is hard to see how the ISGw can deliver on developing a legal agreement until drafting all other guidance in complete, as all areas under consideration by the ISGw impact on the substance of the agreement to be drafted.</li> </ul>



## **Codes for Adoption Programme – Water assets**

### **Consultation on our emerging thinking**

## 1. Introduction

In November 2017, Ofwat published a new “Code” which will amend the regulatory regime for all water companies which operate wholly or mainly in England. In the Code, Ofwat considers that water companies, developers and self-lay providers are now best placed to develop a new suite of sector-led guidance documents that will further enable customer focussed service delivery and housing growth. Water UK has established a programme of work to allow adoption customers and water companies to collaborate on proposals for the future arrangements for water asset adoption. Work on sewerage asset adoption will follow later this year.

This document has been created by a collaborative team of developer-customers, SLP-customers, and water companies and outlines some strategic opportunities that could transform the water adoption process. In advance of taking these opportunities into the detailed development phase of the programme, the collaborative group welcomes feedback on the initial proposals outlined in the remainder of this document.

**Stakeholder feedback is important to us**

Please respond to:

Email: [slarsen@water.org.uk](mailto:slarsen@water.org.uk)      Deadline: **30 April 2018**

For clarity this document uses the term “**water company**” to mean incumbent regional water and waste water companies, and local water companies (new appointees or NAVs).

## 2. Existing issues and opportunities for improvement

### Issue 1: Adoption procedures do not cover the full lifecycle

The current water adoption guidance concentrates on the processes which should be followed once a SLP delivery route has been chosen. Whilst this provides the SLP and the water company with a framework for their interaction, it does little to help the developer choose which route to take in the first place.

**Opportunity 1:** Ofwat's new Code requires that the new guidance outlines the developer's connection options (such as SLP delivery, NAV delivery, or water company delivery). This new information could be positioned at the beginning of the guidance so that developers are encouraged to consider all connection options at an early stage of the development lifecycle.

#### Question 1:

Do you agree that customer's connections options should be set-out at the front of the new sector guidance?

### Issue 2: Adoption procedures do not cover all roles

The current water adoption guidance concentrates on the procedures that the SLP and water company should follow, but do not include the important role the developer can play in connecting new developments. As a result of this gap, some site activities are difficult to coordinate, and delays or safety concerns can result. For example, placement of final covers is often left to the developer's civil engineering contractor as part of carriageway surfacing works. Further examples are the need to coordinate NJUG utility separation and to ensure that final levels are achieved in accordance with utility designs. The current arrangements do not include a framework that supports collaboration between all parties.

**Opportunity 2:** There is an opportunity to include the roles of all parties in the standard procedures and align those procedures with other statutory requirements such as CDM 2015. Defined roles and responsibilities would support more accurate site delivery and allow company systems to better support service. On the other hand, the effect of including more developer obligations in the Model Agreement in order to facilitate this (or even a non-binding code of practice) may be seen by some as an inappropriate restraint on the contractual freedom of developers and SLPs to share activities out as they choose.

#### Question 2:

Do you agree that procedures should cover the full range of activities to ensure that asset adoption proceeds smoothly?

### Issue 3: Water company supply chain delivery

The creation and adoption of new water assets is often reliant on water company supply chain activity, such as making parent main connections or carrying out network valve operations. Many such activities require close co-ordination between the developer, the SLP, and the water company, including accurate programming and regular updates otherwise commissioning, and adoption can be delayed. This can disrupt customers' programmes and have knock-on consequences for property occupations.

**Opportunity 3:** Standard procedures could include new requirements to provide updates to customers at the completion of each work stage (by phone or email) to overcome any issues that could result from a lack of information. This could include a written record of the causes of delays to a particular activity, or the reasons for aborting site appointments.

#### Question 3:

Do you agree that water companies should provide adoption customers with updates at the end of each activity or whenever there is a delay? If so which activities in particular?

### Issue 4: Accidental damage to assets

Accidental damage to water assets can increase connection costs and can delay adoption of newly laid assets. The existing guidance is unclear on the processes for reporting damage to assets and how to get quick resolution either through an SLP, or if the assets are already adopted, through the water company in the first instance.

**Opportunity 4:** The new guidance could outline the initial steps customers should take when accidental damage occurs so that leakage is minimised, and end-user service is maintained.

#### Question 4:

Should the new guidance include a process for reporting accidental damage?

### Issue 5: Adoption procedures vary nationally

To allow companies to meet pre-existing commitments in areas such as metering, the existing adoption arrangements allow water companies to take unique approaches to parts of the adoption process. Water companies may also deviate from the national standard where they deploy an innovative approach that has not yet been rolled out nationally.

While there are good practical reasons for a degree of national variation, customers are concerned that in some regards, the amount of variation is unhelpful for customers working regionally. The differences in water company procedures also makes levels of service reporting more difficult because companies may not be directly comparable.

**Opportunity 5:** The new guidance could consider the merits of individual approaches and seek to harmonise water companies around a single set of standard procedures where possible. While this would facilitate cross-boundary integration, it may slow down the pace of innovation because water companies would be strongly constrained by the national procedure. It may also mean significant change for those companies that currently have existing processes that lie outside of the national procedure.

**Question 5:**

Should adoption procedures be standardised across the water companies as much as possible, even if the pace of innovation is slower?

**Issue 6: The existing contestability definition is subjective**

The current guidance uses a complex mix of engineering, risk, and dimensional criteria to determine what types of work are contestable. The definition also allows a degree of individual latitude, in that water companies may agree that a particular non-contestable task can be delivered by an SLP subject to some additional oversight from the water company. In practice, different water companies take differing approaches to the above, meaning that the extent of contestability varies nationally.

**Opportunity 6:** The new guidance could reduce its reliance on an engineering definition of contestable work, and instead focus on the appropriate level of control that a water company would require before allowing an SLP, or its own supply chain to carry out the task. The definition could include three categories of contestability: (1) fully contestable, (2) contestable with additional support and controls, (3) non-contestable and only to be carried out by water company direct labour. Water companies would be encouraged to make many activities available to SLPs under categories (1) and (2) above.

**Question 6:**

Do you agree that applying a three-category approach to SLP contestability and supply chain management would facilitate water asset adoption?

## Issue 7: Accreditation arrangements for SLPs are different to those for water companies

While the existing arrangements ensure that personnel involved in constructing water assets have suitable experience, the formal training requirements vary significantly. For example, many SLPs engage WIRS accredited personnel, whereas water company accreditation arrangements vary. As a result, an individual may be sufficiently qualified to make a connection on behalf of a water company, but insufficiently qualified to do the same activity for an SLP as part of an asset adoption. In some cases, personnel transferring to an SLP following long service in a water company may find they are not able to carry out some connection work until they re-qualify through an external training provider.

**Opportunity 7:** The new guidance could introduce a common water industry passport to record skills and experience irrespective of employer. Water companies could recognise long service in lieu of formal accreditation where passports contain sufficient relevant experience. In addition, formal training for SLPs and water company's supply chain staff could be equalised, so that the same qualifications are required whether the activity is carried out by the supply chain or an SLP; it is, however, recognised that this second objective may take longer to achieve if external training organisations are affected.

### Question 7:

Do you agree that a passport of skills and experience would support personnel mobility, and that formal training should be equalised in the medium term?

## Issue 8: Redress

The Ofwat code calls for the creation of a system of “redress” for failure to meet published performance standards. The nature of this redress is not spelled out, although in other comparable sectors, relatively modest financial payments are made where there are performance failures. In water, customers can already seek redress through companies' complaints procedures or adjudication through the WATRS alternative dispute resolution procedure.

In this area of activity, significant financial penalties are to be introduced in the next business plan period through the D-MeX measure and there are strong arguments to suggest that this will be the primary driver of water company performance.

At this stage the Codes Programme is concerned to ensure that any redress system acts as a positive incentive for the timely delivery of connections work that does not inadvertently discourage collaborative working between customers and water companies. Any system of redress would also need to be carefully designed to reflect water company performance, rather than delivery by third parties (such as street works licences provided by others).

**Opportunity 8:** To introduce a tiered system which offers different forms of redress depending on the circumstances. For example, a refund of application fees could be made automatically where there are delays in meeting targets for administrative tasks. Secondly, payments could be available for failure to achieve key metrics, eg provision of water for testing and making asset payments. Finally, all companies could also ensure that their internal complaints procedures explicitly included adoption activity, and these could include non-financial forms of redress such as a guaranteed timescale for completing delayed site activities.

**Question 8:**

Do you agree with the proposed approach to the creation of a sectoral redress scheme?

**Question 9:**

Do you have any other thoughts or suggestions regarding the future arrangements for water asset adoption?

**Question 10:**

If you have not already provided consent, do you want to be kept up to date with proposals for new asset adoption guidance by email?

Do you want Water UK to anonymise your response before sharing it with other parties?

### 3. Next steps

A full list of questions is provided in section 4. These can be copied into a document for you to capture your responses. Please send your responses by the 30 April 2018 to:

Email: [slarsen@water.org.uk](mailto:slarsen@water.org.uk)

All responses will be shared with the project team to inform the design of future adoption guidance. If you want your comments to remain anonymous, please indicate this in your response.

Further consultations are planned for summer 2018, and if you have indicated that you would like to be kept up to date with our work, we will contact you by email.

## 4. Full list of consultation questions

### Water UK Codes Programme – Response to “Consultation on our emerging thinking”

**Name of respondent:**

**Type of stakeholder (eg. SLP, developer, water company, etc):**

**Question 1:** Do you agree that customer’s connections options should be set-out at the front of the new sector guidance?

**Question 2:** Do you agree that procedures should cover the full range of activities to ensure that asset adoption proceeds smoothly?

**Question 3:** Do you agree that water companies should provide adoption customers with updates at the end of each activity or whenever there is a delay? If so which activities in particular?

**Question 4:** Should the new guidance include a process for reporting accidental damage?

**Question 5:** Should adoption procedures be standardised across the water companies, even if the pace of innovation is slower?

**Question 6:** Do you agree that applying a three-category approach to SLP contestability and supply chain management would facilitate water asset adoption?

**Question 7:** Do you agree that a passport of skills and experience would support personnel mobility, and that formal training should be equalised in the medium term?

**Question 8:** Do you agree with the proposed approach to the creation of a sectoral redress scheme?

**Question 9:** Do you have any other thoughts or suggestions regarding the future arrangements for water asset adoption?

**Question 10:** If you have not already provided consent, do you want to be kept up to date with proposals for new asset adoption guidance by email? Do you want Water UK to anonymise your response before sharing it with other parties?

Programme Area	Developer Services
Report Title	Codes for Adoption Programme – Water assets. Strategic opportunities
Supported By	Water UK
Author	Independent Steering Group for Water (A group established by the Water UK Codes Programme).
Report Type	Public Consultation
Period Covered	20 April 2018 to 30 April 2018

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Codes for Adoption Programme

Independent Steering Group (water)

Public consultation on our initial proposals

Water UK has published this consultation on behalf of an Independent Steering Group that is developing new guidance for the adoption of water assets.

See <https://www.water.org.uk/developer-services/codes-adoption> for more detail regarding the Codes Programme

Report Ref. No. DS.CFA.PC (P1 07.2018)

# 1. Introduction

In November 2017, Ofwat published a new “Code” which amended the regulatory regime for all water companies which operate wholly or mainly in England<sup>1</sup>. In the Code, Ofwat considers that water companies, developers and self-lay providers are now best placed to develop a new suite of sector-led guidance documents that will further enable Customer focussed service delivery and housing growth. Water UK has established a programme of work to allow adoption Customers and water companies to collaborate on proposals for the future arrangements for water asset adoption.

To ensure all stakeholders have a strong voice, the development of the new arrangements is overseen by an independently chaired group that operates separately from Water UK. The Independent Steering Group (“ISGw”) includes an equal number of representatives from Customers (both developer and SLP) and water companies (both NAV and regional water companies). The proposals in this document have been prepared by the ISGw and published by Water UK as a public consultation.

We welcome feedback on all or part of these proposals from all stakeholders before the deadline in section 5. The proposals may be of particular interest to the following:

- Developer and self-lay Customers (SLPs), or their representatives
- Land owners with an interest in development, or water asset adoption
- Assets owners, including NAVs and regional water companies
- Regulators
- Local authorities, including their planning teams
- End-user customers, and those with an interest in drinking water quality
- Asset constructors and materials suppliers
- Organisations and trade bodies that represent any of the stakeholders above
- Legal advisors, particularly those involved in asset transfer

For clarity, this document uses the term “**we / our**” to mean the ISGw and the term “**water company**” to mean incumbent regional water and waste water companies, and local water companies (new appointees or NAVs). The term “**sector**” includes all parties interested in the planning and / or delivery of services in relation to adoption agreements. “**Customer**” means a developer or SLP proposing to enter into an adoption agreement. “**SLP**” means self-lay provider and “**SLPCoP**” means the Self-lay Code of Practice<sup>2</sup>. “**Developer**” means persons or organisations improving land or buildings, such as house builders or owner-occupiers. “**WIA91**” means the Water Industry Act 1991.

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<sup>1</sup> <https://www.ofwat.gov.uk/publication/code-adoption-agreements/>

<sup>2</sup> <https://www.water.org.uk/developer-services/self-lay-code-practice>

## 2. Our approach to developing new guidance

To allow a range of stakeholders to work on the development of new sector guidance in parallel, we have divided the drafting work into a number of topics, in line with the structure Ofwat has used in its Code. In April 2018, we summarised our emerging thinking, and asked stakeholders for their initial views on those topics in advance of detailed drafting<sup>3</sup>. We summarised those views in May and made a commitment to develop proposals that align with stakeholder feedback<sup>4</sup>. During June 2018, the ISGW developed more detailed proposals for the six key topics that are outlined in this first full public consultation (see Table 2.1).

Further work is ongoing on 4 further topics (local practices, minimum information, reporting requirements, and code panel governance). Later this year we will release a complete set of proposals for final stakeholder consultation. See section 5 for further details of our next steps.

In line with Ofwat's code, we have given regard to the overarching principles that Ofwat set-out as listed out in Table 2.2.

Table 2.2: Ofwat's code principles

Customer focussed	Efficiency
Fair and proportionate	Predictability and transparency
Clear, complete and current	Encourage innovation
Level playing field	Resilience and sustainability

A separate independent group has also initiated work on the arrangements for waste adoptions. Further information will be made available at:

<https://www.water.org.uk/developer-services/codes-adoption>

<sup>3</sup> <https://www.dropbox.com/s/wq9viy14jcfbxd/CfA%20-%20Strategic%20Opportunities%20Consultation.pdf?dl=0>

<sup>4</sup> <https://www.dropbox.com/s/k8o1nl71fch5lu9/180514%20Emerging%20Thinking%20Summary.pdf?dl=0>

**Table 2.1:** Emerging thinking commitments and content in this consultation

Emerging thinking commitments we've focused on in Wave 1	Our proposals outlined in this consultation
<ul style="list-style-type: none"> <li>• Develop guidance that clearly explains the SLP, NAV, Retailer, and incumbent connection options.</li> <li>• Support the guidance with suitable flow-charts</li> <li>• Develop Sector Guidance that includes the full range of activities.</li> <li>• Develop proforma schedules for developer / SLP / land owner duties that can flex to suit individual connection projects.</li> <li>• Test the proposed schedules with stakeholders to ensure they do not constrain Customers.</li> </ul>	<p><b>Connections Options</b> (page 6)</p> <p>New flow charts that outline the developer's connection options</p>
<ul style="list-style-type: none"> <li>• Clarify that the proposition is to provide an improved framework that enables greater degrees of contestability.</li> <li>• Compare proposal with the existing arrangements to address concerns about increased levels of complexity.</li> <li>• Define a consistent method of assessing risk</li> <li>• Develop proposals that do not reduce the degree of contestability</li> </ul>	<p><b>Procedures</b> (page 7)</p> <p>New mains procedures that include the parties' roles in a way that will allow better delivery and not constrain Customer choice. Increased levels of detail to support greater self-lay activity. Draft schedules provided for consultation</p>
<ul style="list-style-type: none"> <li>• Map all existing forms of training and assurance that apply to SLPs, water companies, and supply chains.</li> <li>• Host a sector workshop to review the existing arrangements and develop draft proposals for equalised training.</li> </ul>	<p><b>Contestability</b> (page 9)</p> <p>A proposal that allows the developer greater choice of provider for parent main connections that feed the development via new mains</p>
<ul style="list-style-type: none"> <li>• Respondents indicated that they wanted a system of redress that incentivised accurate delivery of services.</li> </ul>	<p><b>Accreditation</b> (page 13)</p> <p>An overview of the existing forms of accreditation as identified during the workshop. An outline of our current thinking for consultation</p>
<ul style="list-style-type: none"> <li>• Develop a suitable legal agreement that clarifies responsibilities in line with the schedules</li> </ul>	<p><b>Redress</b> (page 17)</p> <p>A proposal to create a new method of addressing delivery issues in key areas of the adoption process</p> <p><b>Model Agreement</b> (page 19)</p> <p>An overview of the key principles for drafting a national model agreement</p>

### 3. Background - asset adoption in the connections market

Ofwat's Code for asset adoption requires the sector to develop new guidance to replace the current voluntary code of practice<sup>5</sup>. Any new guidance developed by the sector is subject to regulatory approval by Ofwat in advance of a permanent Code Panel taking responsibility for ongoing maintenance. In this context, these assets are typically new mains and service connections for new developments that have been constructed by an SLP that the developer has chosen. Through the adoption process, most of these assets are typically transferred to the ownership of a water company that will oversee their ongoing maintenance and operation.

Through our collaborative work with stakeholders, we recognise that Customers can benefit from competition in the connections market and that there is strong evidence of year on year growth in self-lay (see Table 2.1). Enabling continued growth will require detailed adoption arrangements that allow participants to interact efficiently and without hold-ups. These proposals enable greater competition by improving the accuracy of the underlying processes, and by creating a national framework that promotes a widening of the scope of activity that SLPs can compete for.

**Table 2.1:** Some indicators of growth in the Self-lay market

	May 2017	May 2018	Change
<b>Metric W30.1</b>			
Service connection references issued to SLPs	1409	5049	358%
<b>Metric W27.1</b>			
Permanent supplies provided for SLP mains	35	44	26%

Source: Water UK Levels of Service (<https://developerservices.water.org.uk>)

<sup>5</sup> <https://www.water.org.uk/developer-services/self-lay-code-practice>

## 4. Our detailed proposals

The ISGW has developed the following proposals by drawing on: (1) direct knowledge of the subject matter; (2) public consultation responses; (3) direct engagement on key issues; (4) workshops on key topics.

### 4.1. Connection options

In line with Ofwat’s Code, the new guidance must publicise “*the delivery options available to a Customer for the new connections infrastructure they require, including self-lay, requisition from the Water or Sewerage Company, or the use of New Appointees*”. The latest sectoral guidance on connection options for developers was created by the Department for Communities and Local Government. However, that document does not cover all the options available in the water connections market, so new content needs to be proposed.<sup>6</sup>

To set out the options clearly for those new to water connections, we propose flow chart format (see **Annex 1**). The options are separated into 3 stages according to the type of connection service under consideration by the developer. Table 4.1 outlines the primary choices Customers have in the connections market.

Table 4.1: Key areas of Customer choice covered by the proposed flowcharts

<b>Provision of service connections for single properties</b>  <b>(see flowchart 1)</b>	<b>Provision of service connections and mains for larger new developments</b>  <b>(see flowchart 3)</b>	<b>Ownership and maintenance of assets</b>  <b>(see flowchart 2)</b>
Currently these are typically delivered by water companies as “s45 statutory connections”	These are typically delivered through a mixture of SLPs and water companies	NAVs and water companies compete for the ownership and maintenance of water assets
There is an emerging self-lay market for this activity particularly where the single properties comprise the early stages of a larger development	There is a well-developed competitive market for this activity, however the current guidance does not help Customers find potential providers	There is a well-developed competitive market for this activity, however the current guidance does not help Customers find potential asset owners

Setting out the choices above also affords an opportunity to meet other objectives of Ofwat’s Code, for example enabling “*the timely provision and adoption of new water and sewerage infrastructure required to enable housing growth*”. Our proposed connections

<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389772/Better\\_Connected\\_Dec14\\_2.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389772/Better_Connected_Dec14_2.PDF)

options guidance included in Annex 1 outlines the connections options and enables housing growth by:

- highlighting the need for the developer to secure alternative quotations at the appropriate points of the decision-making process
- guiding Customers towards pre-existing lists of potential providers (such as SLPs and NAVs) to facilitate them obtaining competitive quotations
- directing Customers toward potential asset owners at an early stage of the process to ensure water companies can plan for capacity to be made available
- indicating the typical timescales to ensure Customers allow sufficient time to engage with multiple potential providers in the competitive market

**Question 1:** Do you agree that a flowchart format is a helpful way of publicising a developer's connection options?

**Question 2:** An effective market will rely on easy to access lists of potential providers. Are the lists referenced in the flowcharts the best available sources of potential connection service providers?

## 4.2. Procedures

Ofwat's Code requires the sector to develop "*standard procedures for entering into, varying and terminating Water Adoption Agreements*". Whilst it was originally envisaged that these procedures would be largely based on the existing procedures in the SLCOP, it has now become clear that a more comprehensive restructuring of the procedures would be in stakeholder interests.

We also recognise that the sector wants more choice over who provides connection services for development sites. Enabling growth in the self-lay market (see section 2) and amending contestability arrangements (see section 4.3) means that more Customers will have greater reliance on the procedures in future. This had led us to conclude that the procedures should be made more specific, and more definitive about what action needs to be taken by which party and at what time.

Stakeholders have also highlighted that the existing procedures do not cover every activity required in the adoption journey. For example, the developer's role is not included in the existing SLCOP. Our work during June 2018 has completely reviewed the mains laying procedures and expanded them so that they can facilitate more accurate interaction between all participants, and better enable housing growth.

In Annex 2 we provide a draft copy of the revised procedures and we welcome stakeholder feedback. Yellow highlight denotes areas of new, or significantly amended content compared with the procedures in the outgoing voluntary SLCOP. We believe these new procedures:

- break the adoption journey down into clearly defined stages;

- include the developers role in a way that is beneficial for the adoption process as a whole;
- align more clearly with the CDM 2015 regulations;
- support higher quality interaction between participants;
- promote further standardisation;
- align with the increasing demand for more contestability;
- build on industry innovation and best practice, for example the recent development of an accreditation for the “construction of routine under pressure mains connections” by WIRS and Thames Water;
- improve the alignment with other regulatory developments such as the new connections charging rules, and the proposed changes for income offset;
- are consistent with our other major proposals set out in this document, for example the proposal to use the POC or quotation stages as a means of defining the extent of contestable work involved in each parent main connection;
- clarify key areas – such as the process and timing of vesting;
- include suitable practical means of coordinating the engineering input required when delivering connections work through multiple parties, such as the greater definition provided for site meetings;
- allow us to develop the “information required” at each stage and to standardise processes nationally;
- better portray the choice with regard to mains design;
- improve alignment with the legal parties to an adoption;
- introduce a means of responding to problems on site, such as when accidental damage occurs.

Stage 4 of the new procedures include the option for SLPs to request parent main connections that terminate in a “double spade valve” to simplify some of the later connection processes. While we have not tested the merits of this proposal in any detail at this stage we would welcome feedback from stakeholders who have experience of that approach.

**Question 3:** Do you agree that expanding the procedures, so that they include the full range of activities involved in delivering assets is helpful?

**Question 4:** Do you agree that enhancing the procedures in this way will promote the improvements described above?

**Question 5:** Are there any particular parts of the procedures where a high degree of national standardisation would be particularly useful?

**Question 6:** Should water companies be able to develop their own local version of any part of the procedures where they want to offer better service?

### 4.3. Contestability

Stakeholders have highlighted that Customers currently have limited choice over who carries out connections to live parent mains. As a result, the water company is often the default provider for this key task even though an SLP may already be working on the development site laying mains. We have considered whether a new wider definition of contestability could be included in the Sector Guidance to enable more live connections to the parent main to be delivered by SLPs.

Ofwat's Codes requires the sector to develop *"a framework that will enable effective competition where parties can compete with the Water or Sewerage Company to provide new connections services"*. In this respect, our proposal would enable competition by: (1) ensuring that a consistent approach is taken to the existing minimum level of contestability by all water companies, and; (2) that a new framework is provided to facilitate greater contestability for suitable parent main connections. If it is incorporated into the final Sector Guidance, the proposal could mean that in a significant number of cases, all the development's physical connection work could be carried out by an SLP of the developer's choosing.

To ensure that the proposal does not inadvertently limit any existing areas of contestability defined in the outgoing Self-lay Code of Practice, that existing definition would be carried forward into the Sector Guidance as a regulatory minimum standard. This definition already includes work laying new mains (sometimes referred to as "dry pipe" assets), and live connections to parent mains of up to 63mm in diameter. The new proposals will also add some larger live connections to parent mains in a way that could allow an SLP chosen by the developer to deliver that connection work as part of an integrated mains laying and spur connection scheme.

The programme recognises that this proposal builds on the latest best-practice in the industry, and that some water companies have already created bespoke arrangement that allows SLPs to deliver live connections to parent mains of up to 250mm. Through Ofwat's Code, our proposal will provide all participants with a national framework that supports this increase in contestability. This framework will align with the model agreement and include a common risk assessment approach that sets out the assets classes / sizes that each water company typically considers to be suitable for SLP delivery.

To support transparency, water companies would be asked to: (1) publish a parent main **Connection Risk Matrix** (see below) which sets out its general approach annually; (2) indicate on its quotations or POC reports its assessment of the particular activities that should be non-contestable on each live mains connection. While the published Connection Risk Matrix will allow market participants to gauge and compare individual companies, any SLPs seeking to self-lay a live connection to a parent main of greater than 63mm would refer to the relevant POC report or quotation for detailed guidance. This approach will allow the developer and SLP to decide whether to use alternative provision for any particular parent main connection.

Allowing Developers greater freedom to choose who delivers more of their connections services is expected to have a positive impact on the effectiveness of the connections market. In addition, water companies will be able to focus their specialist resources on the parent main connections that have elevated levels of risk and, increase the prospects for favourable D-MeX outcomes. SLPs would also benefit by being more in control of the overall connection scope, and less reliant on water companies (or their supply chains) for parts of the physical connection work.

We anticipate that stakeholders would welcome these proposals, on that basis that they increase Customer choice, and respond to the concerns that they have raised through the programme.

### Connection Risk Matrix

Ofwat’s code requires water companies to publicise *“Details of the circumstances where the Water Company or Sewerage Company takes a wider view of contestability than that defined in the relevant Sector Guidance, and any additional requirements that the party constructing the works may need to meet to be able to deliver the expanded definition.”*

To achieve the first part of this requirement, a proforma connection risk matrix would be included in the Sector Guidance. Water companies would consider their own circumstances and publish a version of the risk matrix on their website at least annually. While this methodology does not require water companies to take a wider view of contestability, it does provide a national framework for widening the definition of contestable activities and will also allow direct comparison of water company approaches.

Table 4.3.1 shows how one notional water company might present its approach using the proposed national proforma Connection Risk Matrix:

- **Fully contestable connections** (green shading) – In all cases, water companies would use the green shading to denote the nationally agreed minimum level of contestability. In contrast with today, there will in future be a regulatory requirement for companies to comply with that national minimum.
- **Connections agreed “on a contestable basis”** (amber shading) – A new framework built on the approach that some companies are already using. We see this as an opportunity for water companies to open more activities up in a structured and harmonised way. Water companies would be able to take a variable approach to this category that reflects their own circumstances. Customers would be able to compare water companies using the extent of extra work allowed “on a contestable basis”.

Note: Because WIRS does not sufficiently cover the potential extent of the amber category, each water company would also provide a description of the additional measures SLPs would be required to evidence before agreeing to allow the work to be carried out on a contestable basis. Further detail is provided below and in section 4.4.

- **Typically non-contestable** (red shading) – high risk work where there is currently little appetite for competition at present. If an SLP does want to complete this work,

then an initial meeting would be held between SLP Operations Director or equivalent and Self-Lay Business Lead to determine the appropriate steps. Water companies may reserve the right to carry out work on high risk assets or connections that could significantly impact existing Customers using their own preferred resources.

Table 4.3.1: Proposed national proforma risk matrix including an illustration of how a notional company might use it to represent its approach to agreeing additional work “on a contestable basis”.

<b>A notional Water Company - Connection Risk Matrix (2019/20)</b>				
<ul style="list-style-type: none"> <li>• Connections: &gt; 300mm</li> <li>• Parent main: 18" &amp; above, or GRP or PVC</li> <li>• Operational pressure: above 75m</li> </ul>	R	R	R	R
<ul style="list-style-type: none"> <li>• Connections: 63mm to 300mm MDPE</li> <li>• Parent main: 12" to 18" / 300mm to 450mm DI/CI/SI/AC or MDPE/HPPE</li> <li>• Operational pressure: 50m to 75m</li> </ul>	A	R	R	R
<ul style="list-style-type: none"> <li>• Connection: 63mm to 300mm MDPE</li> <li>• Parent main: &lt;12" CI/SI/DI/AC/MDPE</li> <li>• Operational pressure: &lt; 50m</li> </ul>	A	A	A	R
<ul style="list-style-type: none"> <li>• Connection: up to 32mm MDPE</li> <li>• Parent main: &lt;12" DI/CI/SI/MDPE</li> </ul>	G	G	G	R
	<49	50-199	200-499	500+
Existing properties potentially affected by the connection work				

**Question 7:** Do you agree that allowing developer greater choice over who delivers parent main connections could better enable growth?

**Question 8:** Do you agree that we should expand the scope for self-lay parent main connections based on the existing best practice in this area?

**Question 9:** Do you agree that water companies should pre-publish their approach to allowing additional parent main connection work “on a contestable basis” using a proforma table that allows comparison?

### Additional requirements for work “on a contestable basis”

Ofwat’s Code also requires water companies to publicise “any additional requirements that the party constructing the works may need to meet to be able to deliver the expanded definition” of contestability. In addition to publishing the Connection Risk Matrix, water companies would also set out their typical additional requirements to ensure that the process is transparent. As an illustration, the list below outlines some potential additional requirements that a notional water company might specify prior to agreeing that a wider definition of contestability can be applied to a particular connection:

- Specific accreditation (via WIRS or local to the water company), and potential additional adoption agreement terms as identified in section 4.4
- Informing the water company at earliest opportunity that you are requesting to complete work
- Evidence that suitable emergency repair material will be on site
- Evidence that Operatives have relevant skill to complete planned work and ability to manage unplanned events
- Inform Water company programme manager on day of planned connection to request authorisation to carry out work
- Do not begin work until authorisation given
- Take photographic evidence of when work complete and provide via email to water company once job complete
- Report any unplanned events to the water company and await further instruction

**Question 10:** Do you agree that additional requirements should only be set where there is a specific need to manage a particular risk?

### Contestability for non-Construction Tasks

It is also recognised that Customers would like greater choice over who provides a number of non-construction tasks. In common with the approach taken above for physical connection work, a table could be published by the water company indicating their approach to non-construction contestability. The table would also set out what accreditation would be required, and where further detail can be found.

Table 4.2.1: The proposed proforma for non-construction tasks including an illustration of how a notional water company apply it

<b>A notional Water Company – Approach to contestability for non-construction tasks (2019/20)</b>		
<b>Activity</b>	<b>Evidence of competence</b>	<b>Process</b>
Self-Approval of new mains network design	Agreement with Water company Design Manager – No corrections necessary on previous 5 submitted designs	Link to process on water company website
Design of reinforcement works	Water company retain the right to design reinforcement works and deliver using own resource. SLPs will be invited to comment if a more efficient design or sharing of resources can be utilised	Link to process on water company website
Design of new onsite water mains networks	WIRS Design accreditation	Link to WIRS

Chlorination and pressure testing	WIRS Accreditation	Link to WIRS
Sampling	<ul style="list-style-type: none"> <li>• WIRS accreditation (Commissioning element)</li> <li>• Water company specific training</li> </ul>	<p>Link to WIRS</p> <p>Link to water company training</p>
Testing	<ul style="list-style-type: none"> <li>• UKAS Accredited Laboratory</li> <li>• Agreed set of tests with Water company</li> </ul>	Link to agreed set of tests from Water company
Meter Installation	WIRS Accreditation	Link to WIRS

**Question 11:** Do you agree that water companies should publicise their approach to contestability for non-construction activities?

#### 4.4. Demonstrating Competence and Accreditation

As outlined in Section 2, some proposals are less settled than others. In the case of Accreditation, we note that the existing arrangements are heavily reliant on third party organisations such as training schemes and accreditation providers, so we propose to consult further before finalising our preferred approach. We welcome stakeholder input on the points of view outlined below.

The legal duty that requires water company supplies to be ‘wholesome’ means that water companies have a strong interest in ensuring that persons working on water assets are competent to do so. Competency can be demonstrated in a number of ways, such as through evidence-based assessment, or accreditation. While Ofwat’s Code does not directly require water companies to maintain a sector accreditation scheme, water companies recognise the benefit of having a national approach to demonstrating competency:

1. Competence can be pre-assessed by a suitable third party and reduce the need for individual assessments prior to starting individual projects
2. Accreditation can be applied nationally, irrespective of water company areas, reducing the burden for both water companies and Customers
3. A consistent national accreditation scope can be applied
4. Through a national approach, Customers can influence the requirements and evolve the scheme to meet the needs of the market
5. Audit work can be carried out on a national basis by a suitable third party
6. More straightforward alignment of accreditation with national training curriculums

Through WIRS, there is an established scheme already in operation that facilitates a nationally recognised demonstration of competency. For relatively straightforward work,

WIRS is almost universally used as the means of demonstrating a suitable level of competence for the contestable activities associated with typical connections work. However, there are two areas of concern raised by Customers during the course of the Codes Programme.

### Inconsistent adoption of NCO(w) cards

The programme recognises that some Customers have expressed concern about one of the requirements of the WIRS scheme, in particular the requirement for individuals to hold NCO(w) cards, which in turn rely on NVQs. Those concerns relate to the additional cost that SLPs bear in achieving WIRS accreditation when compared with some water company's own resources. Some Customers have requested the Codes Programme to review the WIRS accreditation arrangements as part of ensuring the final guidance meets Ofwat's level playing field principle.

We note the following:

- In its current form WIRS is operated by Lloyd's Register, and it's requirements are overseen by a panel (WIRSAP) composed of both water companies and SLPs.
- Through the panel, stakeholders have an opportunity to update or amend the scheme's requirements to best-reflect the common interests of its users. Currently that panel is comprised by 10 executive members from water companies, and 5 executive members from SLPs. Water UK is an observer member with no voting rights.
- While there is a strong alignment of the common interests of all parties, the unequal membership can result in a perception that water companies could exert undue influence over the national accreditation arrangements.
- In practical terms, connection services can be delivered by 3 main parties (SLP, water company direct labour, water company supply chains). The arrangements for evidencing competency have developed in different ways to reflect the differences in contractual obligations and regulatory duties that each party operates within.
- The codes programme has explored the existing range of methods of assessing and maintaining competency. Table 4.4.1 sets out the factors that are commonly considered across the sector.
- As shown in the first column of the Table 4.4.1, SLPs personnel are currently required to hold NCO(w) cards<sup>7</sup>), whereas only some water companies require the same form of accreditation from their own supply chain. Those companies that do not require NCO(w) from their own supply chains rely on other means of assessing and maintaining a competent workforce.

Ofwat's Code states that the Sector Guidance should include: *"High-level information about any sector accreditation schemes, including where further information can be obtained."*

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<sup>7</sup> WIRS Requirements Document v5 August 2014, Section 4.2.3.

While the national arrangements for accreditation are not in scope for the Codes Programme, we would welcome stakeholder's views on the observations above to inform potential future areas of industry work.

**Question 12:** Do you agree that a national accreditation scheme should be overseen by a body that is comprised by a majority of water companies?

**Question 13:** Are there any existing groups that could address Customer's concerns about the WIRS requirements?

### The additional terms occasionally required above WIRS

Ofwat's Code states that *"the terms of a Water Adoption Agreement may require the relevant party to: (a) demonstrate it is suitably competent to provide the proposed self-laid works, for example by means of WIRS Accreditation"*. The Code later states *"any additional assurance terms must be: (a) reflective of the accreditation schemes, where applicable, that are developed and recognised by the sector"*. This implies that national accreditation should be the starting point for demonstrating competence nationally, and additional terms should be applied to adoption agreements where there are residual concerns about a Customer's competence to carry out a particular task.

The WIRS accreditation approval process includes a "Partial" accreditation stage that allows less experienced SLPs to join the scheme in a controlled way in advance of having all the necessary evidence to support Full Accreditation. This route is useful for new entrants because SLPs can access some of the benefits of national accreditation whilst they build a portfolio of connections work experience. Whilst partially accredited SLPs build their connections experience, Ofwat's Code could allow each water company adoption agreement to include additional terms to mitigate any remaining risks.

In addition, we recognise that additional terms could be helpful in overcoming temporary shortfalls in accreditation, on particular projects, in the following scenarios:

- Where the Customer has accreditation, but that accreditation is probationary, has recently reduced to Partial, or only covers part of the scope of connection work that the SLP proposes to carry out
- Where the Customer has accreditation, but that accreditation is likely to expire before the completion of the proposed work
- The Customer has not undergone a surveillance visit within the period defined by the accreditation scheme
- The Customer has an inappropriate level of non-compliances / deficiencies identified by the national accreditation scheme, or the water company is directly aware of non-compliance / deficiencies from the Sector Guidance. For example, this could include the following parts of the national procedures:
  - Providing weekly whereabouts records
  - Notifying the water company that service connections have been made

Table 4.4.1: The factors typically used to assess competency for each connection risk category

		Self-lay providers		Water company (self-delivery)		Water company (supply chain delivery)	
		Competency Processes	Commercial incentive / remedy	Competency Processes	Commercial incentive / remedy	Competency Processes	Commercial incentive / remedy
High	Large diameter / high risk connections on live assets	Accreditation to carry out High risk connections		Experience - Senior operative with specialist knowledge of Medium risk connections and Internal WC training	Poor delivery of services would potentially increase costs or lead to ODI penalties that are not recoverable from customers	Experience - Senior operative with specialist knowledge of Medium risk connections and internal WC training	Takes on unlimited risk
		Has skills to reduce risk to existing customers by using repair and maintenance techniques can utilise WC framework		Has skills to reduce risk to existing customers by using repair and maintenance techniques can utilise WC framework		Has contingency on standby, can pay for specialist services (R&M Techniques) from WC framework	
		Risk assessments documented		Risk assessments documented		Risk assessments documented	
		Method statements signed off by network owner		Method statements signed off by network owner		Method statements signed off by WC	
Medium	Medium sized / moderate risk connections on live assets	Accreditation to carry out medium risk connections		Experience - Senior operative with specialist knowledge of Medium risk connections and Internal WC training	Poor delivery of services would potentially increase costs or lead to ODI penalties that are not recoverable from customers	Experience - Senior operative with specialist knowledge of Medium risk connections and internal WC training	Takes on unlimited risk
		Has skills to reduce risk to existing customers by using repair and maintenance techniques can utilise WC framework		Has skills to reduce risk to existing customers by using repair and maintenance techniques can utilise WC framework		Has contingency on standby, can pay for specialist services (R&M Techniques) from WC framework	
		Risk assessments documented		Risk assessments documented		Risk assessments documented	
		Method statements signed off by network owner		Method statements signed off by network owner		Method statements signed off by WC	
Low	New "dry" assets plus small dia live connections work	Water Hygiene Card & NVQs in appropriate areas	Potential review of accreditation / registration if breaches occur	Water Hygiene Card	Poor delivery of services would potentially increase costs or lead to ODI penalties that are not recoverable from customers	WC ensure employees on contract either have the required skills or meet them within agreed contractual timescale minimum Water Hygiene	Ability to recharge water company costs, and recover ODI penalties through contract
		WIRS Registered & WIRS Audits / WC can also audit if required	Water company declines adoption until assets meet adoptable standards	No external audit	Often no remedy against third parties but may be a general risk allowance in programme for correcting defects using own labour	WC audits Term contractor or awards self-assurance	Contract may have early termination clause for poor performance
		Some SLPs have: ISO 9001 ISO 14001	Adoption agreement allows recovery of evidenced loss by Water company	ISO 9001 ISO 14001	Water company back-up resources on standby	ISO 9001 ISO 14001	Water company and supply chain partner audits of personnel and delivery
		Set skills for each defined role	Possibility of criminal prosecution for some breaches	Set skills for each defined role	In the event of a major incident recovery of costs through insurance, but potentially at an increased premium	Set skill matrix for each defined role within contract	Possibility of criminal prosecution for some breaches
		SLP risk assessment process		Shared water company / supply chain risk assessment process	Possibility of criminal prosecution for some breaches	Shared water company / supply chain risk assessment process	Contract may have an entitlement to disbar individuals
		Employment contracts may allow termination for breaching standards etc					

- Providing as-laid records, or meter information
- Making payment for services delivered by the water company

**Question 14:** Do you agree that water companies should only use additional terms as a means of overcoming shortfalls in a Customers accreditation?

### Training & Skills Passport

In our emerging thinking consultation we proposed a ‘skills passport’ to record work experience in a structured way, and better facilitate the mobility of personnel between water companies, the water companies supply chain, and SLPs. Such a passport could comprise an important part of assessing SLP personnel’s suitability for undertaking the “works on a contestable basis” referred to in section 4.3. While the creation of such a passport is outside of the scope of the Codes Programme, we would be interested to hear from organisations or individuals interested in developing the proposal in more detail.

**Question 15:** Do you agree that a national record of an individual operative’s experience and qualifications would help SLPs and water companies determine the appropriate personnel for more complex connections works irrespective of their employer?

In addition, we would also be interested in hearing from stakeholders in response to the following questions:

**Question 16:** Do you believe there is a lack of meaningful training across the water industry?

**Question 17:** Do you believe that providing SLPs access to a water industry wide apprenticeship scheme would help provide consistent training irrespective of employer?

**Question 18:** Do you feel that allowing SLPs access to water company training facilities would help build trust and confidence between the parties?

## 4.5. Redress

Ofwat’s Code introduces a new requirement for the sector to develop arrangements that include “*Appropriate Customer redress if a Water or Sewerage Company fails to meet the minimum levels of service*”. In the absence of a pre-existing redress arrangement to build upon, our work has established 5 key principles to guide the design work. The ISGW decided that an appropriate redress approach would:

- Incentivise right performance first time
- Resolve problems on site promptly and efficiently
- Not create unnecessary administration
- Do nothing to incentivise defensive behaviour
- Allow for continuous improvement

In line with these principles, the primary proposal is for there to be a graduated response from companies where there has been a failure to meet a key delivery metric. Eight metrics are considered to fall into this category:

- Issue quote
- Advise applicant if submission compliant
- Issue design approval and draft adoption agreement
- Install branch and valve
- Agree connection date
- Completion/failure to complete works
- Service connection information provided

(Note that these do not fully align with the procedures included in appendix 2 and there will need to be a further exercise to ensure that appropriate metrics are identified)

This does not exclude the possibility of water companies reporting on other elements of their performance on non-contestable activities, but this is outside the redress workstream at present.

**Question 19:** Are these the right metrics to focus on?

Where one of these measures has not been complied with, the following is suggested as an escalation path:

- SLP advises water company of non-performance/water company becomes aware of non-compliance
- Within 24 hours, water company's operations management team acknowledges failure (or not), identifies cause and proposes remedial action-in writing
- SLP confirms acceptance or requests escalation to Compliance Manager
- Compliance Manager reviews and investigates cases of inadequate remedial action, forms conclusions and proposes corrective actions (within 5 working days of receipt of referral). Note: under these proposals, the Compliance Manager would be a designated person in each water company.
- If the Customer remains dissatisfied, engage the relevant water company's complaints procedure

Water companies' management teams will wish to avoid devoting time to reporting on complaints and this will incentivise good first-time performance. Also, this proposal will help to resolve problems on site as promptly as possible.

It creates a proportionate way of dealing with failures of performance and the creation of a written record will provide suitable evidence if the SLP wishes to take the matter further, eg, with Ofwat.

**Question 20:** Is this a reasonable approach to resolving problems on-site?

This proposal does not involve fee refunds or other payments in cases of missed deadlines. There are a number of reasons for this. First, large potential payments could promote

cautious behaviour, directed at avoiding penalties rather than at delivering good performance. Secondly, nominal payments could be seen as a cost of doing business and so not be an effective spur to better performance. Thirdly, no-one has yet devised a simple way of making smallish payments/refunds which does not involve disproportionate administrative effort on the part of both water company and SLP.

**Question 21:** Do parties agree that a non-financial approach to redress is to be preferred?

**Question 22:** If you consider financial redress should be offered, please suggest a mechanism for delivery of such redress that overcomes the problems identified above.

A further question is whether to develop a mechanism to allow financial losses to be recovered. It has been suggested that one way to achieve this would be to have failures of performance towards SLPs marked as "complaints" which could then go through water companies' formalised complaint resolution procedures. This would allow for the possibility of payments being made for failures in performance. A further refinement would see unresolved complaints of this nature being dealt with through the WATRS dispute resolution scheme. The basis of this would need to be agreed but the forthcoming re-tendering of the contract for this service allows an opportunity to incorporate developer complaints within the scheme. Note however that this is currently run like a mini County court procedure.

**Question 23:** Is there support for developing WATRS to cover this type of dispute?

Note also that nothing in this proposal removes or reduces the right of the SLP to engage with the regulator in cases of repeated failures of performance.

Continuous improvement should occur through the lessons learned from the management review of the causes of failure. A further approach to this topic would be that metrics should be tightened over time. From the water company perspective, a move away from statutory timescales has financial implications and companies are not currently funded to comply with such higher standards.

**Question 24:** Are there other ways in which the redress proposal should address the subject of continuous improvement? If so, please specify how.

## 4.6. Key principles for the model agreement

Ofwat's Code requires the sector to "*develop and maintain...a draft Model Water Adoption Agreement that covers the adoption of all water infrastructure that can be subject to an adoption agreement under section 51A WIA91*" following consultation with Customers. Our assessment of the existing agreement and the feedback from stakeholders has highlighted the following areas for consultation:

### Purpose of the agreement

The purpose of the adoption agreement is to confirm that the water company will adopt certain assets built by the developer and/or SLP if they meet an adoptable standard. This

purpose is in contrast with any agreement between a Developer and the developer's contractually appointed SLP sub-contractor for the design and/or build of a water main. To highlight the differences, we propose to entitle the model agreement "Adoption Agreements (Water Main)"

**Question 25:** Do you agree that the legal agreements should be called "Adoption Agreements (Water Main)" to clearly differentiate them from the construction contract between the developer and SLP?

### Terminology and Language

The language used in the existing agreement is closely aligned with the underlying statutory terminology. For example, water companies have historically been referred to as 'the undertaker' in many of these agreements. While we note this language may not be immediately clear to any party not closely involved with the WIA91, it is also not appropriate to use consumer facing terminology (such as 'we', 'you' 'us') due to the multi-party nature of these adoption agreements. Detailed redrafting of the agreement could simplify the language, however, sometimes this can increase the length of clauses.

**Question 26:** Do you agree that the language should be as simplistic as possible with easily understood definitions, even if that makes the agreement longer?

### Model agreements or framework agreements

The current proposal is for the sector to use a standard model agreement, which clarifies the risks and responsibilities owned by each of the parties and can't be varied unilaterally by a water company or any other party to the agreement. The agreement would be executed for each project and the only customisation would be to the technical and payment schedules. Because the agreement would be standardised it should negate the need for Customers to obtain legal advice on each and every agreement.

Alternatively, a framework agreement establishes a set of terms under which will the parties to it will provide services from time to time on request, under separate, future 'call-off' contracts. Framework agreements are facilitative in nature; they provide a mechanism for one party to place an 'order' with the other on standard terms. So, there would be multiple contracts, i.e. the framework agreement itself and all future 'call off' contracts made under it. However, such agreements only benefit the bigger companies and they could discourage new, small entrant developers and SLPs.

So, whilst entering into a mid-term [1-3 yr duration for example] framework agreement with a water company and the developer which appoints it may be an ideal arrangement in the mind of an SLP, in practice there are risks. In particular, all parties may assume that there is an adequate framework in place when there is not.

The potential problem arises when the nature of a proposed development either changes or is different from usual and requires additional parties to sign up to the s.51A adoption agreement. For instance, where a land owner, adjoining land owner or even an SLP surety are required as signatories to the s.51A agreement in addition to the Developer and SLP.

This isn't simply a variation of the framework, it is an entirely different contract extending overriding obligations to the additional parties.

Partly to minimise this risk, it would be sensible, where a framework arrangement is used, for each framework to be limited in duration, if not to the term of each development project, then to a 1-3 year agreement.

**Question 27:** Given the variability in parties to the agreements, is a framework contract helpful?

### Asset Payment

Developer-Customers proposing to construct their own water assets using an SLP can receive an asset payment once the assets are transferred, in line with the water company's charging schedule. The asset payment is made in respect of a statutory requirement to recognise the income that the water company reasonably expects to receive from future Customers supplied by those assets. Its further purpose is to ensure a level of equivalence between requisitions and self-lay. The asset payment is not a payment for construction work carried out by the developer or SLP in respect of a water main design or construction contract.

To clarify the status of the payment, we propose that the agreement would require any Asset Payment to be made directly to the developer

**Question 28:** Asset payments are likely cease in April 2020, but in the meantime do you agree that any such payment should be made to the Developer?

### Indemnities

The existing adoption process includes a "defect liability period" throughout which, any costs for rectifying asset failures (such as burst or leakage etc) are recoverable against the developer / SLP that originally constructed the asset. The defect liability period allows the ownership of the asset to transfer in a way that means that the burden of cost of early asset failure is not immediately borne by general bill-payers. The defects liability period is an effective means of adopting assets built in the competitive connections market, while also protecting End-user customers from increased bills.

In practical terms, the recovery of the water companies' costs for rectifying premature failures is facilitated through an indemnity, which is also a term of the adoption agreement. In contrast with other conventional forms of protecting End-user from the cost of rectifying construction defect (for example retaining say 5% of the payment) an indemnity does not directly affect the developer's cash-flow, as no payments are retained. The indemnity approach is less burdensome for developers, but still offers End-users some protection from contributing to the cost of repairs to water mains assets because costs are recoverable against the party that built the assets.

**Question 29:** In the absence of a payment retention, for the applicable defect liability period, indemnities will be sought from Developer and SLP. What level do you propose these should be capped at?

## 5. Next steps

All responses will be shared with the collaborative project team and used to inform the design of future adoption guidance. If you would prefer that your responses remain anonymous, please indicate this in your response. A full list of questions is provided in section 6, and these can be copied into a document or email to simplify the process of responding

**Stakeholder feedback is important to us**

**Preferred response date: Tuesday 14 August 2018\***

(latest response date: Monday 10 September 2018)

Email: [slarsen@water.org.uk](mailto:slarsen@water.org.uk)

\* Wherever possible, responses before the **14 August 2018** would be particularly welcomed, as these will be used to inform the drafting work that is ongoing through the summer. Because stakeholder feedback is important to us we are also, accepting later responses from those stakeholders that are not able to respond during the school holidays.

In recognition that some of the proposals either differ considerably from the existing arrangements, or comprise a completely new approach, we propose to carry out further detailed consultations later in 2018. We also plan to carry out public launches for specific parts of the proposals and “ask the expert” sessions. If you have indicated that you would like to be kept up to date with proposals for the new asset adoption guidance, we will contact you by email nearer the time.

The latest working project timeline is also available on the programme web-page:

<https://www.water.org.uk/developer-services/codes-adoption>

## 6. Full list of consultation questions

Stakeholder response template (please paste into document or email)

### Water UK Codes Programme – July consultation on our initial proposals

Name of respondent / organisation:

Type of stakeholder:

#### Data Protection

I would like my response to be anonymised: Yes / No

I would like my response to remain confidential: Yes / No

I would like to be kept informed about Water UKs work on adoption codes: Yes / No

**Question 1:** Do you agree that a flowchart format is a helpful way of publicising a developer’s connection options?

**Question 2:** An effective market will rely on easy to access lists of potential providers. Are the lists referenced in the flowcharts the best available sources of potential connection service providers?

**Question 3:** Do you agree that expanding the procedures, so that they include the full range of activities involved in delivering assets is helpful?

**Question 4:** Do you agree that enhancing the procedures in this way will promote the improvements described above?

**Question 5:** Are there any particular parts of the procedures where a high degree of national standardisation would be particularly useful?

**Question 6:** Should water companies be able to develop their own local version of any part of the procedures where they want to offer better service?

**Question 7:** Do you agree that allowing developer greater choice over who delivers parent main connections could better enable growth?

**Question 8:** Do you agree that we should expand the scope for self-lay parent main connections based on the existing best practice in this area?

**Question 9:** Do you agree that water companies should pre-publish their approach to allowing additional parent main connection work “on a contestable basis” using a proforma table that allows comparison?

**Question 10:** Do you agree that additional requirements should only be set where there is a specific need to manage a particular risk?

**Question 11:** Do you agree that water companies should publicise their approach to contestability for non-construction activities?

**Question 12:** Do you agree that a national accreditation scheme should be overseen by a body that is comprised by a majority of water companies?

**Question 13:** Are there any existing groups that could address Customer's concerns about the WIRS requirements?

**Question 14:** Do you agree that water companies should only use additional terms as a means of overcoming shortfalls in a Customer's accreditation?

**Question 15:** Do you agree that a national record of an individual operative's experience and qualifications would help SLPs and water companies determine the appropriate personnel for more complex connections works irrespective of their employer?

In addition, we would also be interested in hearing from stakeholders in response to the following questions:

**Question 16:** Do you believe there is a lack of meaningful training across the water industry?

**Question 17:** Do you believe that providing SLPs access to a water industry wide apprenticeship scheme would help provide consistent training irrespective of employer?

**Question 18:** Do you feel that allowing SLPs access to water company training facilities would help build trust and confidence between the parties?

**Question 19:** Are these the right metrics to focus on?

**Question 20:** Is this a reasonable approach to resolving problems on-site?

**Question 21:** Do parties agree that a non-financial approach to redress is to be preferred?

**Question 22:** If you consider financial redress should be offered, please suggest a mechanism for delivery of such redress that overcomes the problems identified above.

**Question 23:** Is there support for developing WATRS to cover this type of dispute?

**Question 24:** Are there other ways in which the redress proposal should address the subject of continuous improvement? If so, please specify how.

**Question 25:** Do you agree that the legal agreements should be called "Adoption Agreements (Water Main)" to clearly differentiate them from the construction contract between the developer and SLP?

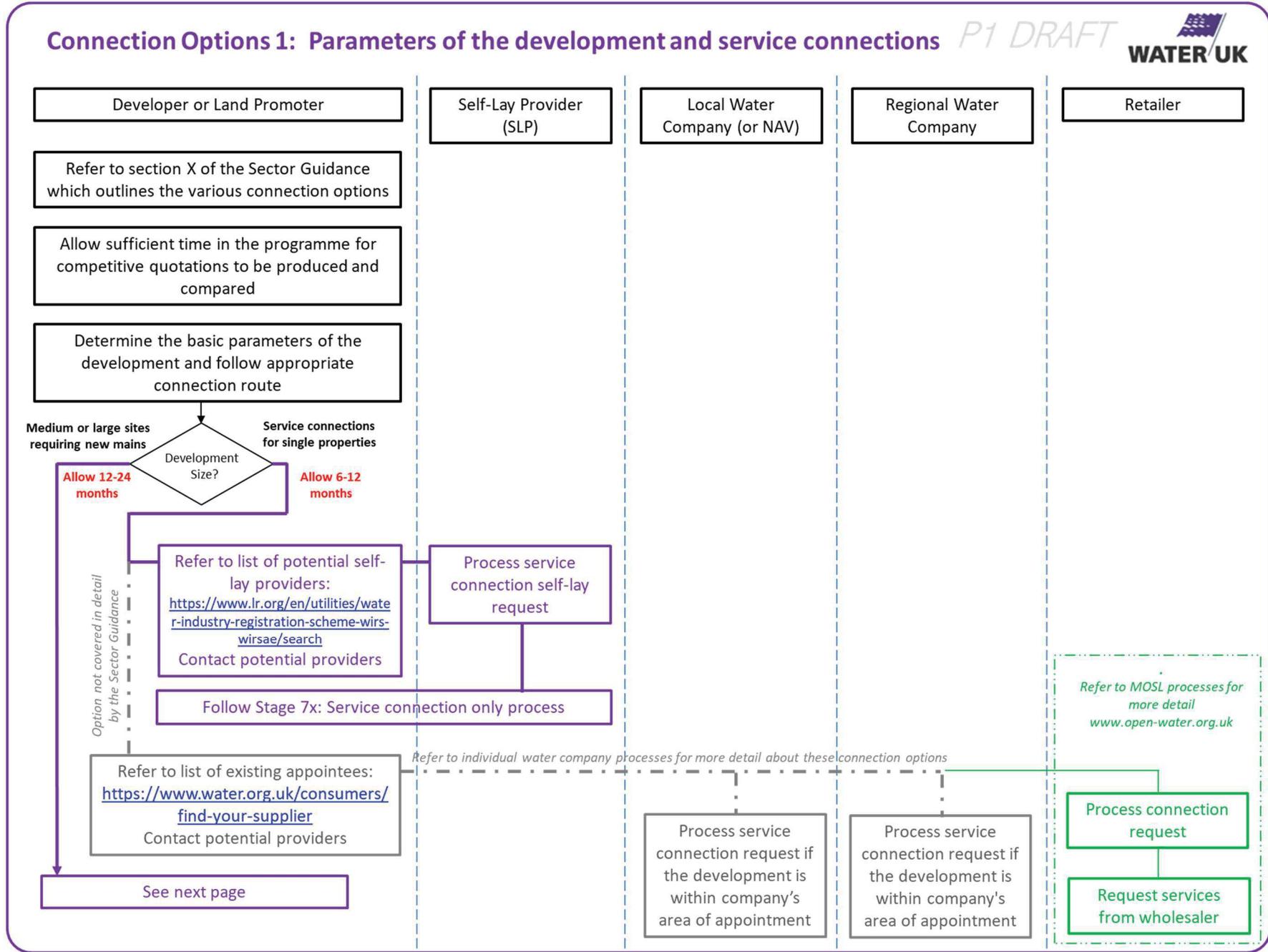
**Question 26:** Do you agree that the language should be as simplistic as possible with easily understood definitions, even if that makes the agreement longer?

**Question 27:** Given the variability in parties to the agreements, is a framework contract helpful?

**Question 28:** Asset payments are likely to be discontinued in April 2020, but in the meantime do you agree that any such payment should be made to the Developer?

**Question 29:** In the absence of a payment retention, for the applicable defect liability period, indemnities will be sought from Developer and SLP. What level do you propose these should be capped at?

# Annex 1: Draft flowcharts for Connections Options



## Connection Options 2: Pre-planning Enquiry (sites requiring new mains)

Developer or Land Promoter

Self-Lay Provider (SLP)

Local Water Company (or NAV)

Regional Water Company

Retailer

For sites requiring new mains, refer to lists of potential **water asset owners** and appraise potential options:  
 Local Water Companies (NAV):  
<https://www.ofwat.gov.uk/publication/register-of-new-appointments-and-variations-granted-to-date/>  
 Regional Water Companies  
<https://www.water.org.uk/consumers/find-your-supplier>

*12-24 months ahead of the development requiring water*

Based on appraisal above decide who should **supply water and be the long-term onsite asset owner**. Make a pre-planning application via Stage 1a to the relevant asset owner

Note: While this stage is not mandatory, it does help support the Local Authority planning process, and allow companies to plan any capacity upgrades that facilitate new development. Early engagement can also increase the efficiency of network reinforcement and reduce developer charges, particularly where multiple developments can be enabled by one Network Reinforcement solution

*Refer to Stage 1a: Planning liaison for more detail*

Carry-out pre-planning enquiry (Stage 1a)

Carry-out pre-planning enquiry (Stage 1a)

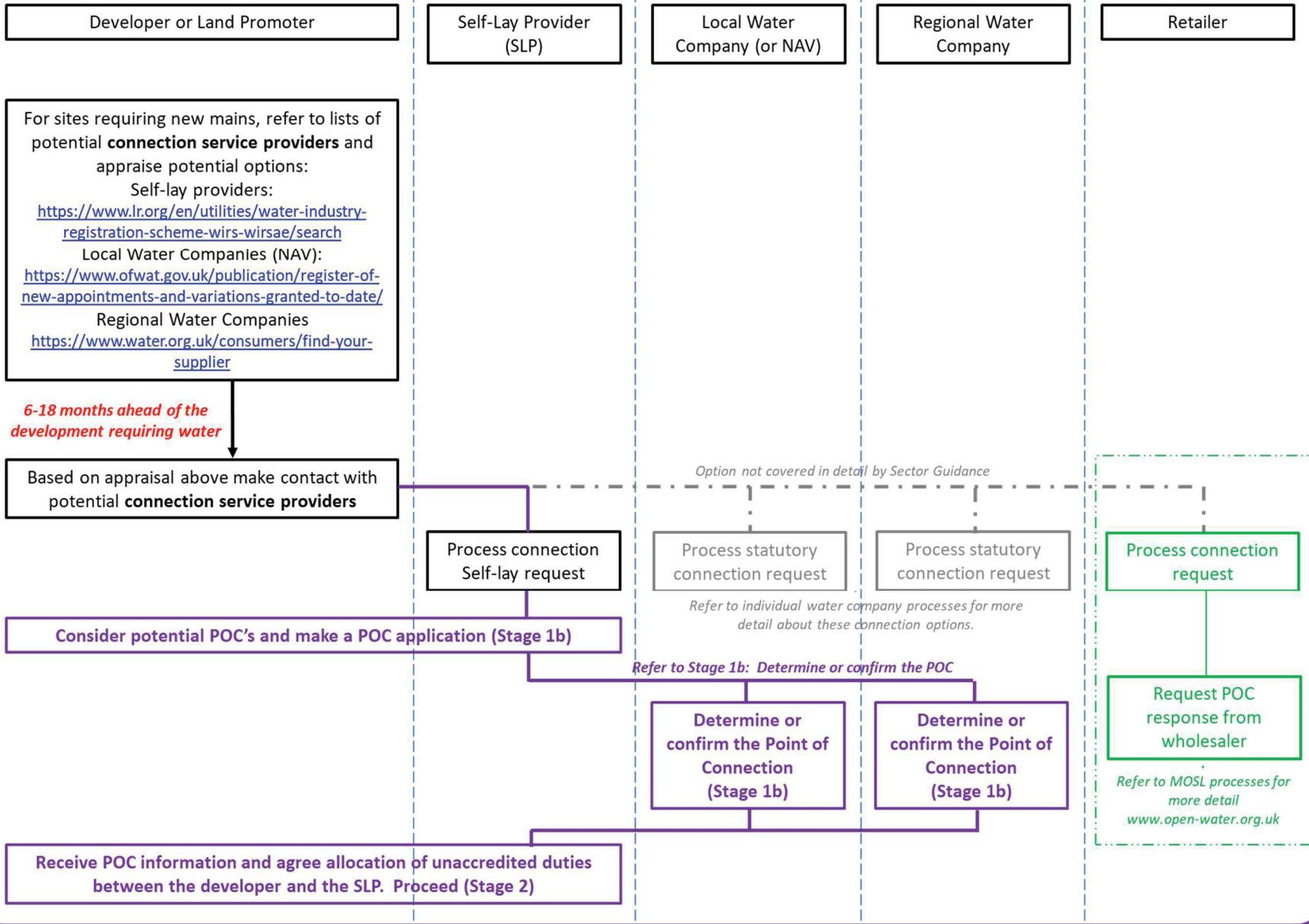
Process pre-planning enquiry request

Request pre-planning response from wholesaler

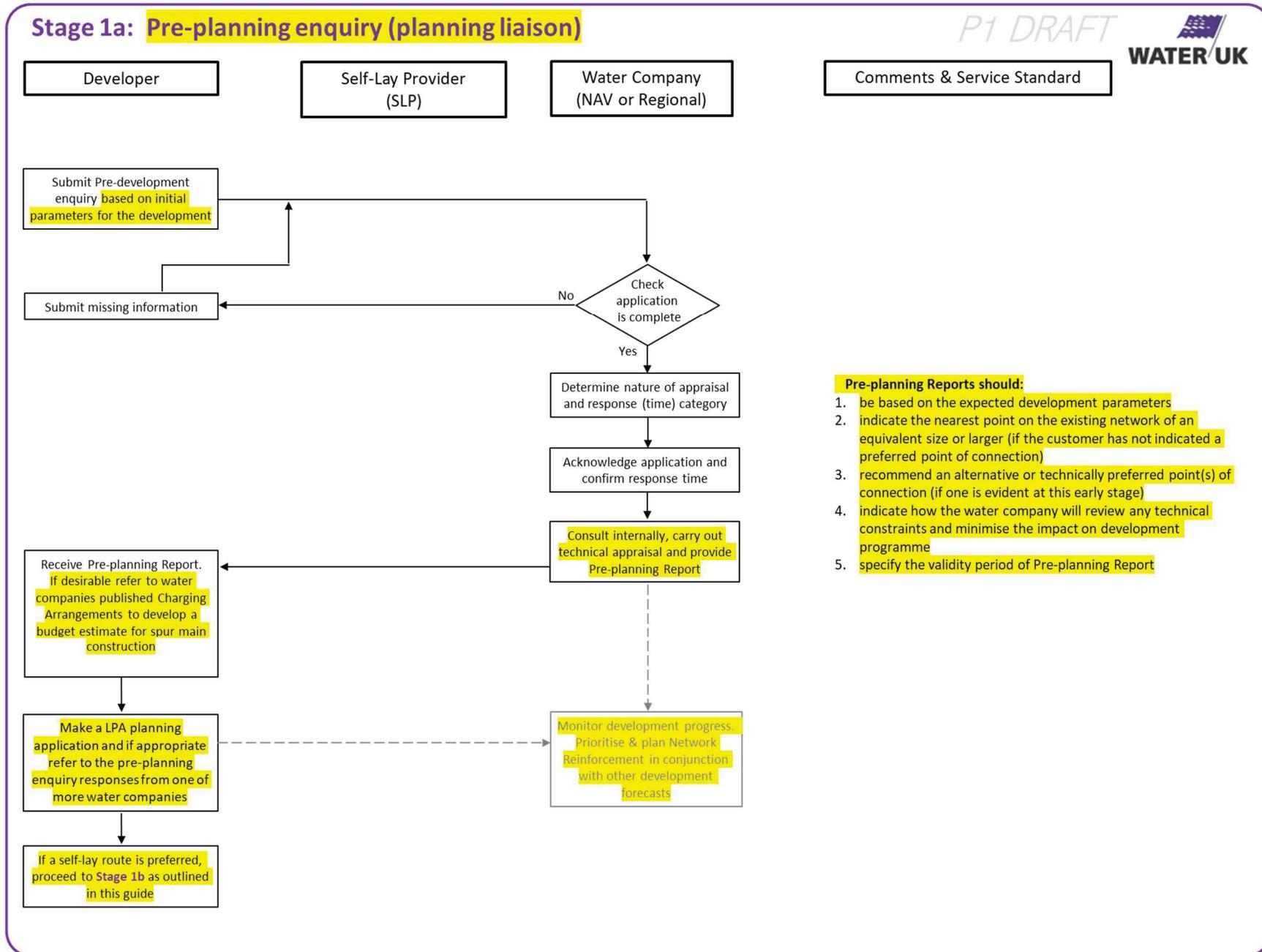
*Refer to MOSL processes for more detail  
[www.open-water.org.uk](http://www.open-water.org.uk)*

Make a LPA planning application and if appropriate refer to the pre-planning enquiry responses from one of more water companies

# Connection Options 3: Confirm point(s) of connection

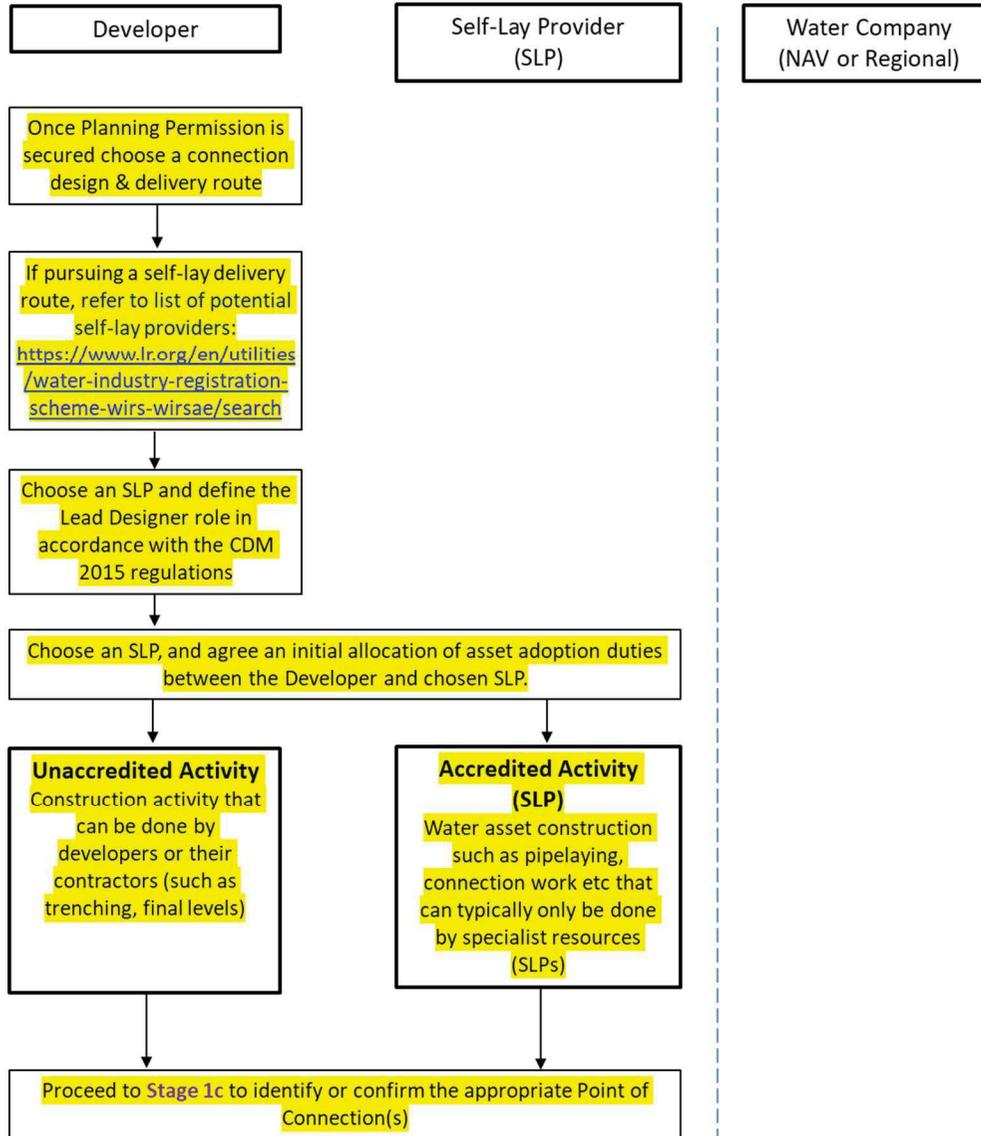


# Annex 2: Draft adoption procedure flowcharts



## Stage 1b: Choose delivery route & allocate self-lay duties

P1 DRAFT



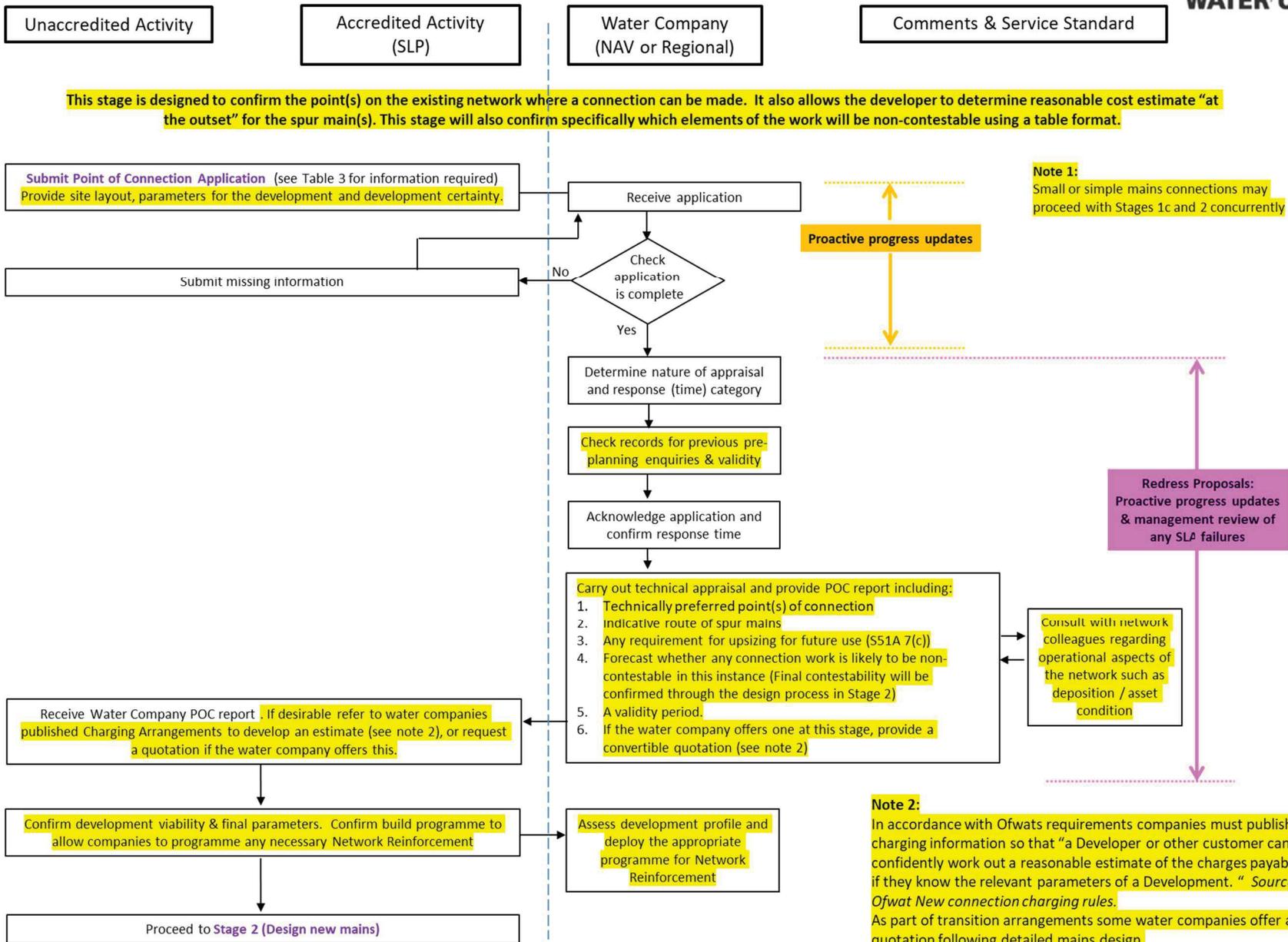
### Comments & Service Standard

**Note:**  
Refer to the Connections Options section of the Sector Guidance for more information on other potential connection routes

**Note:**  
To ensure this Sector Guidance allows Customers a high degree of choice, these flow charts categorise activities as Unaccredited & Accredited.  
**Unaccredited Activities** can be carried out by a developer or SLP. **Accredited Activities** are typically only carried out by SLPs that have demonstrated competence through recognised schemes, such as the Water Industry Registration Scheme (<https://www.lr.org/en/utilities/water-industry-registration-scheme-wirs-wirsae/>)

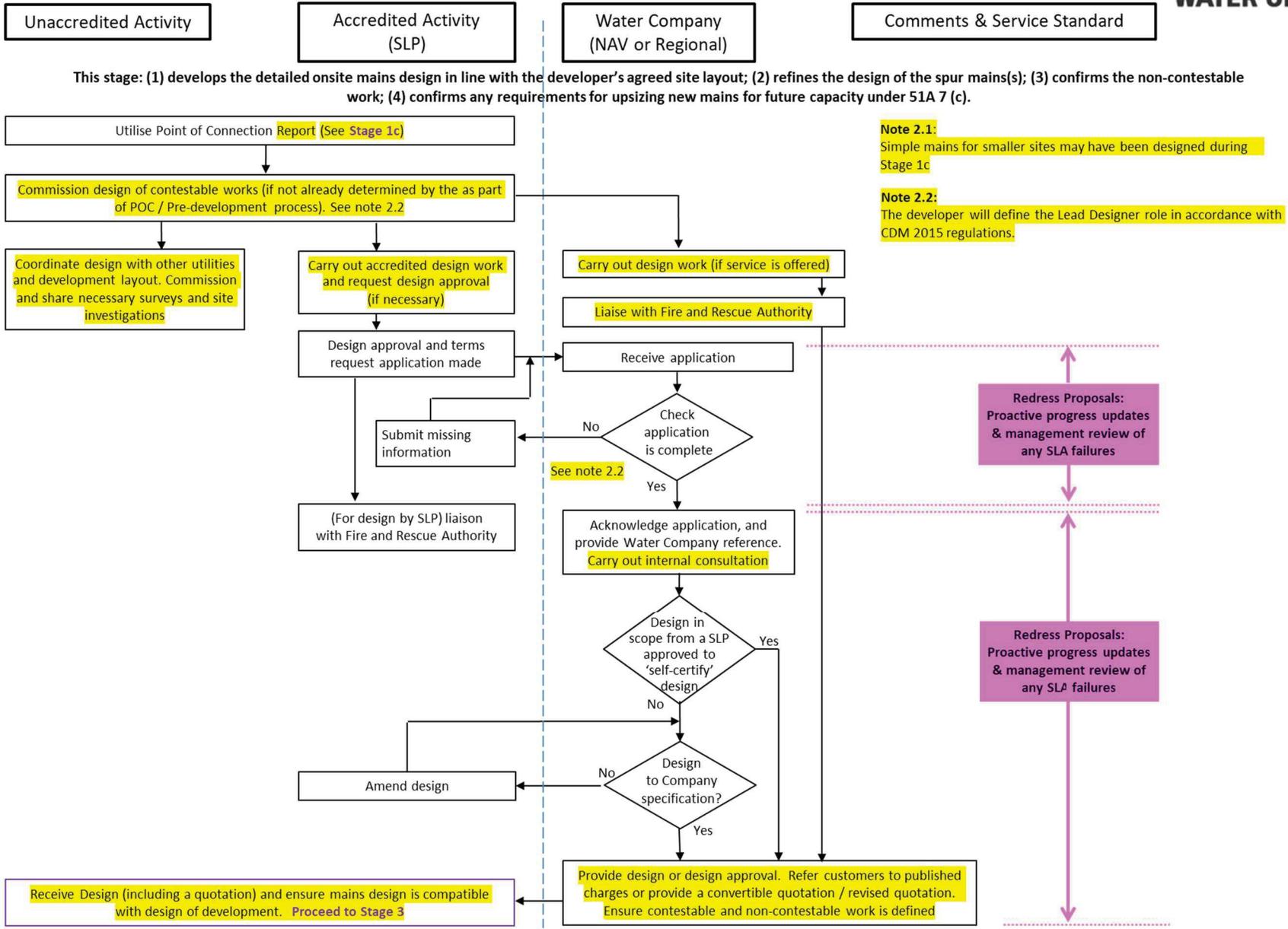
# Stage 1c: Point of Connection (assessment or confirmation)

P1 DRAFT



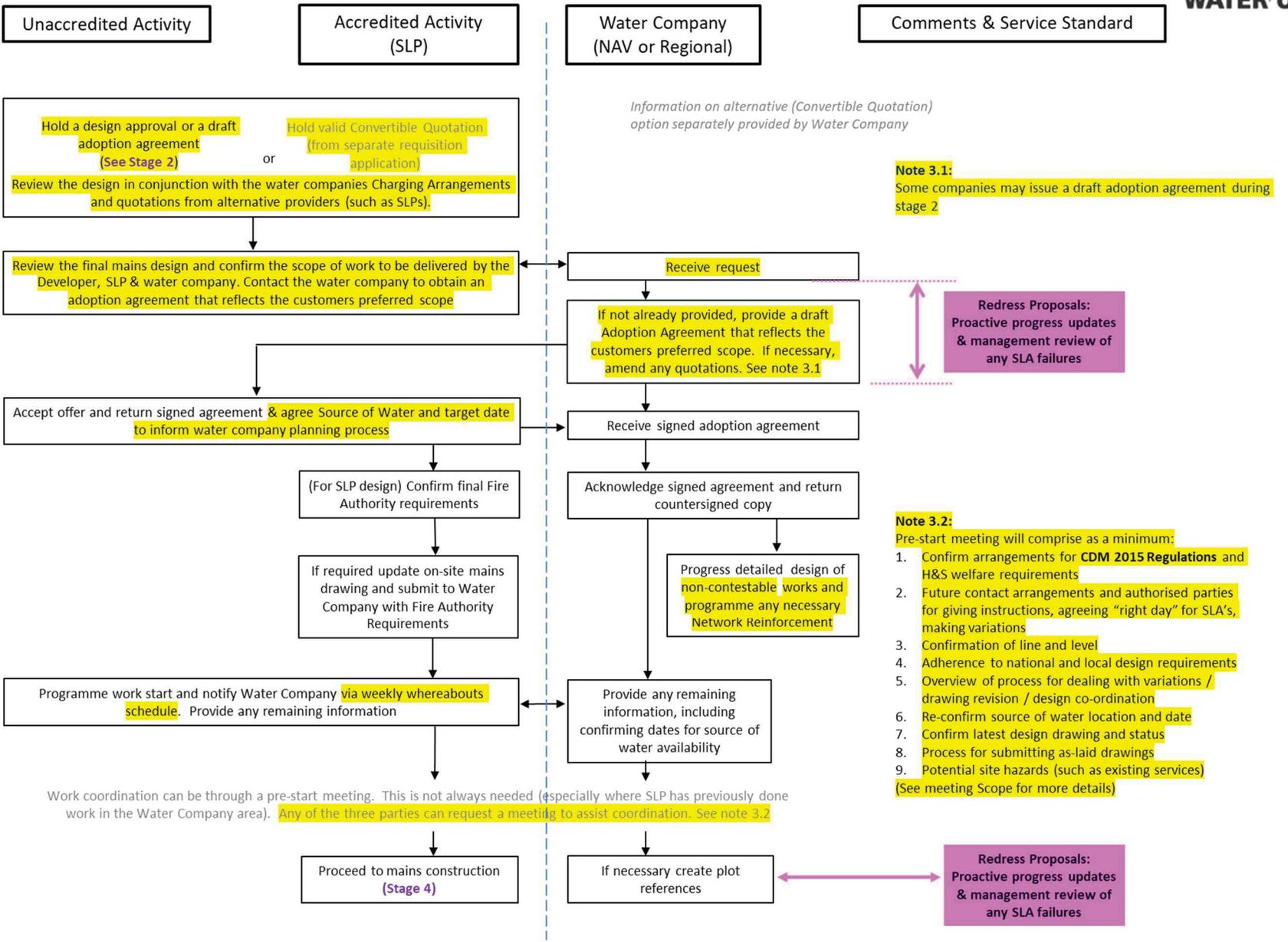
# Stage 2: Design new mains

P1 DRAFT



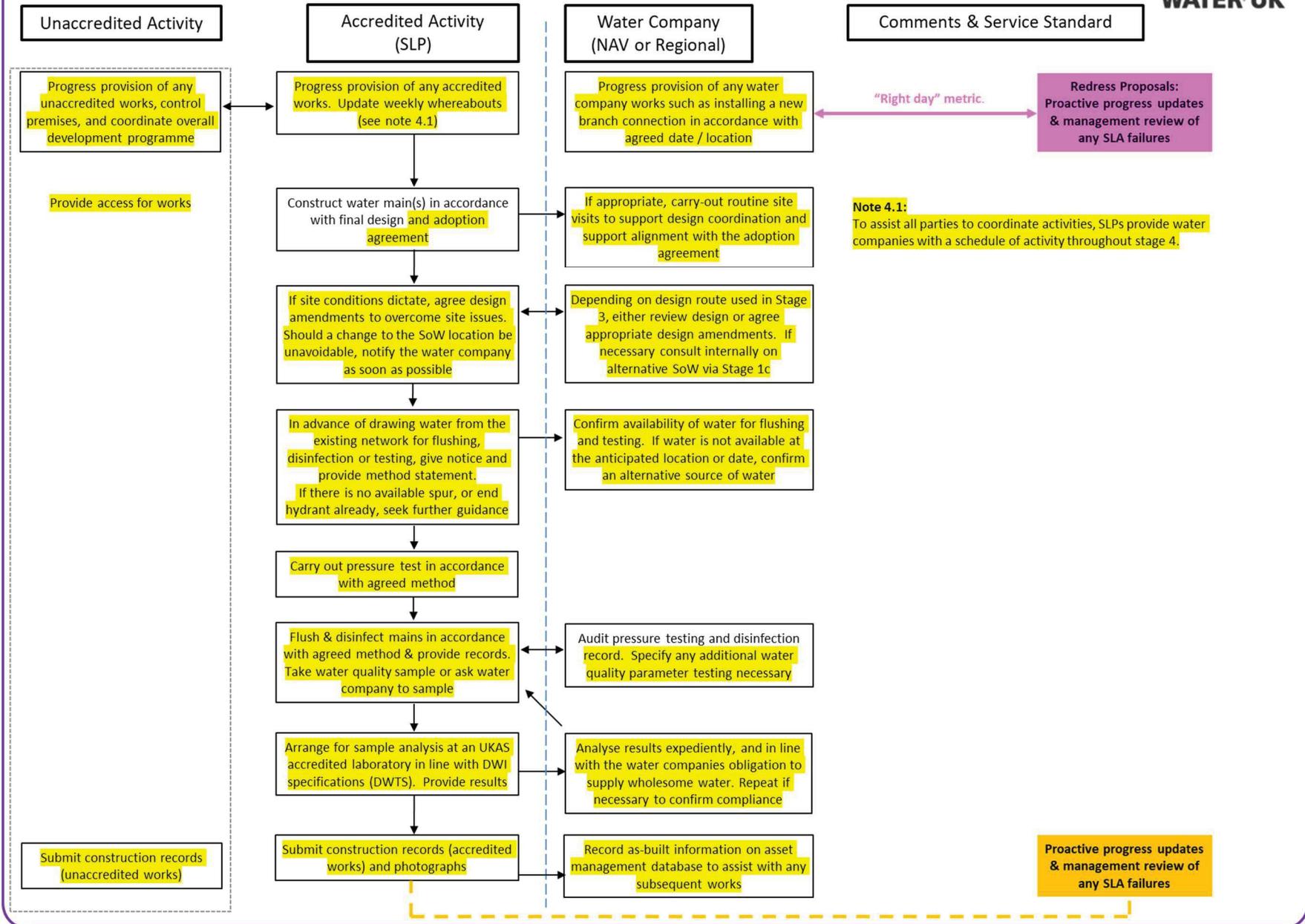
# Stage 3: Review design / execute adoption agreement

P1 DRAFT



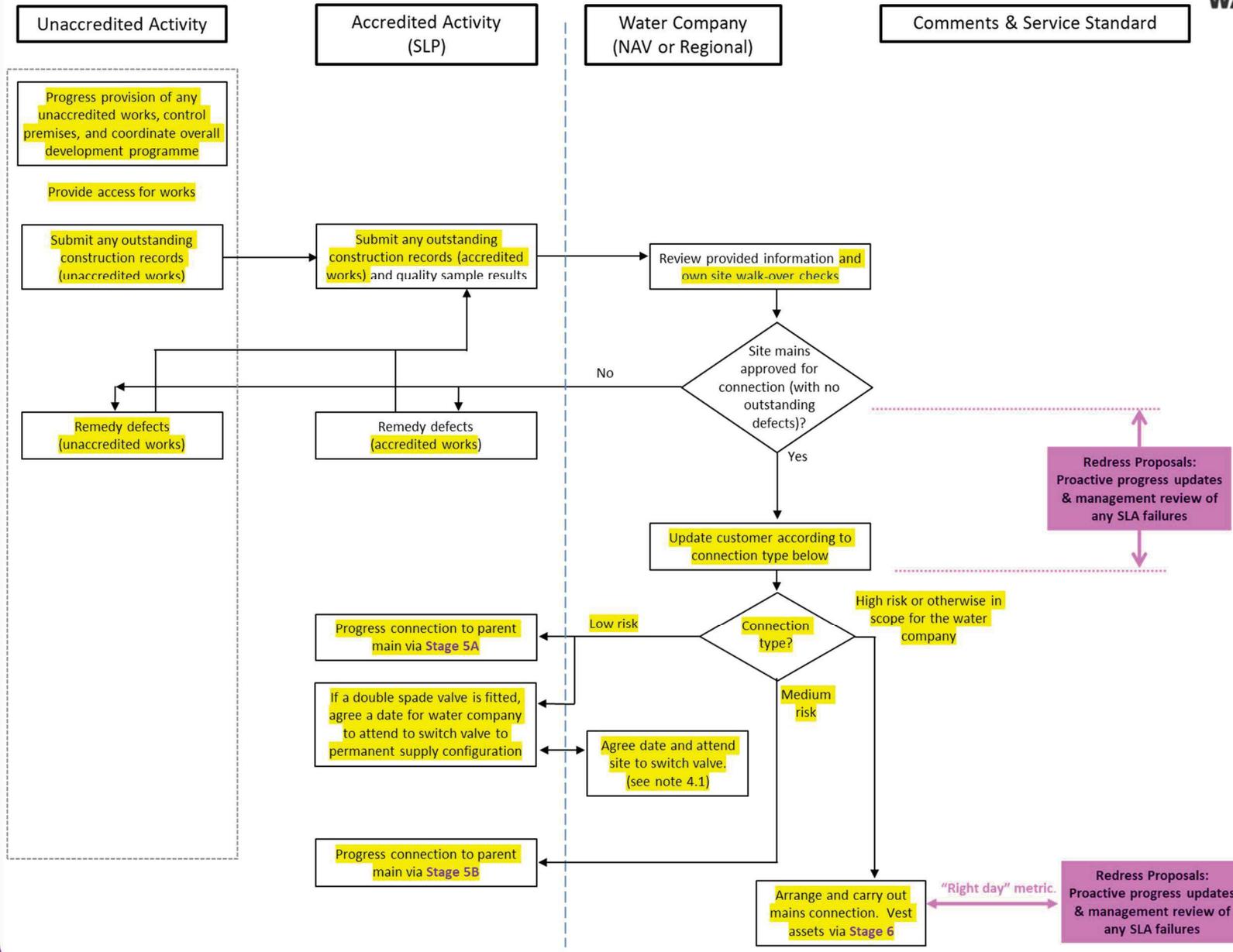
# Stage 4: Construct water mains (part 1 of 2)

P1 DRAFT



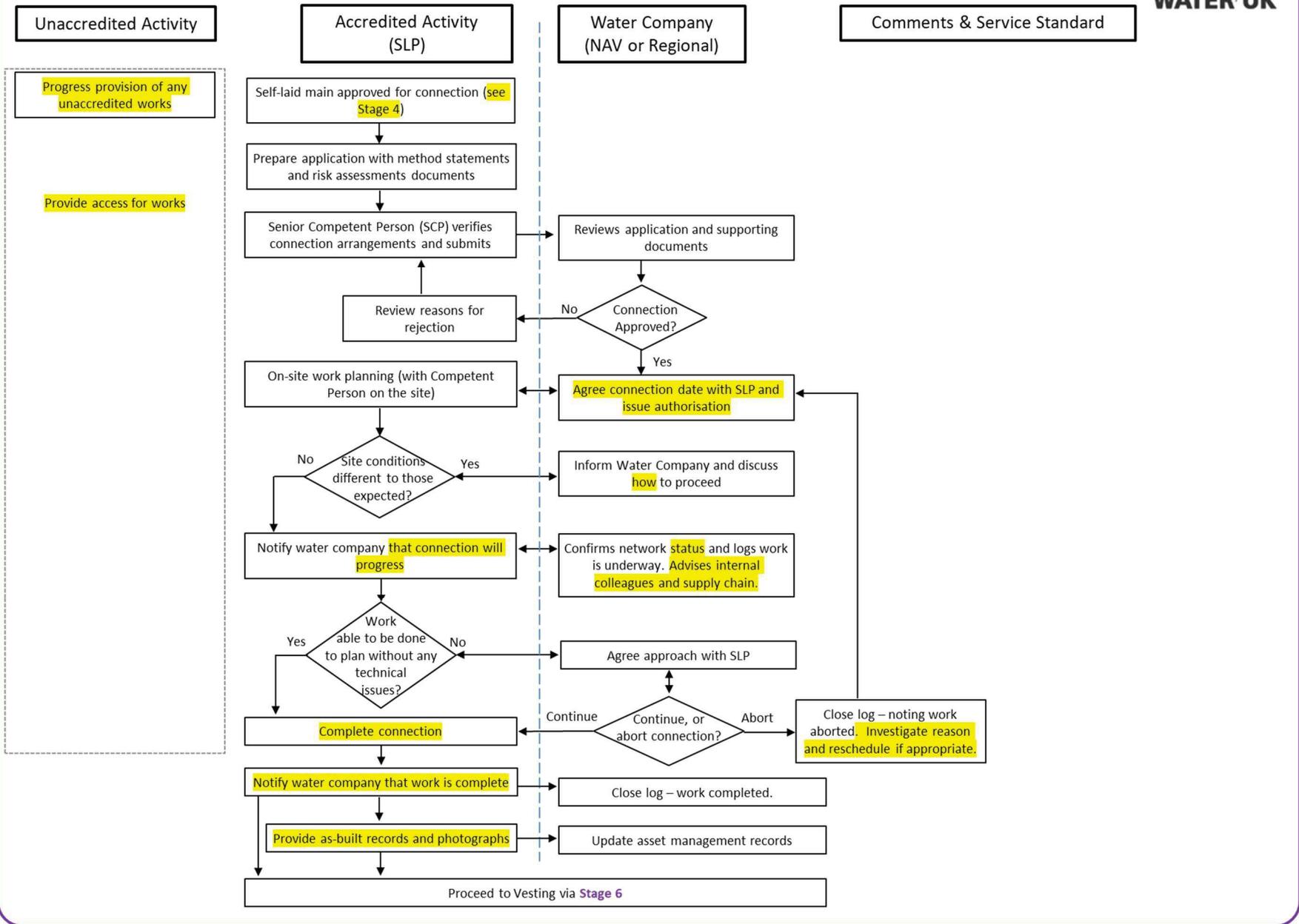
# Stage 4: Construct water mains (part 2 of 2)

P1 DRAFT



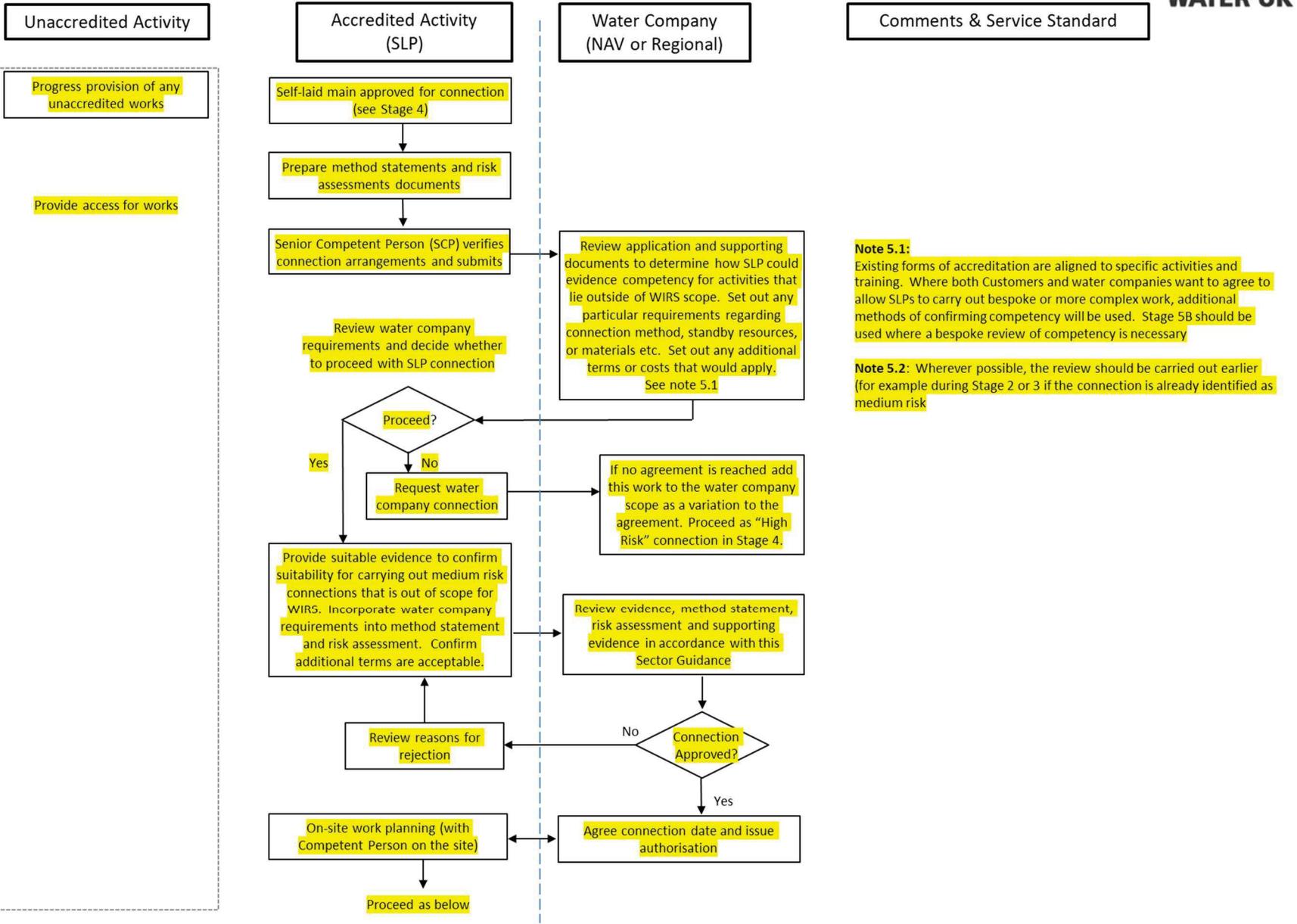
# Stage 5A: Connect mains (low risk connection or routine inline connection)

P1 DRAFT



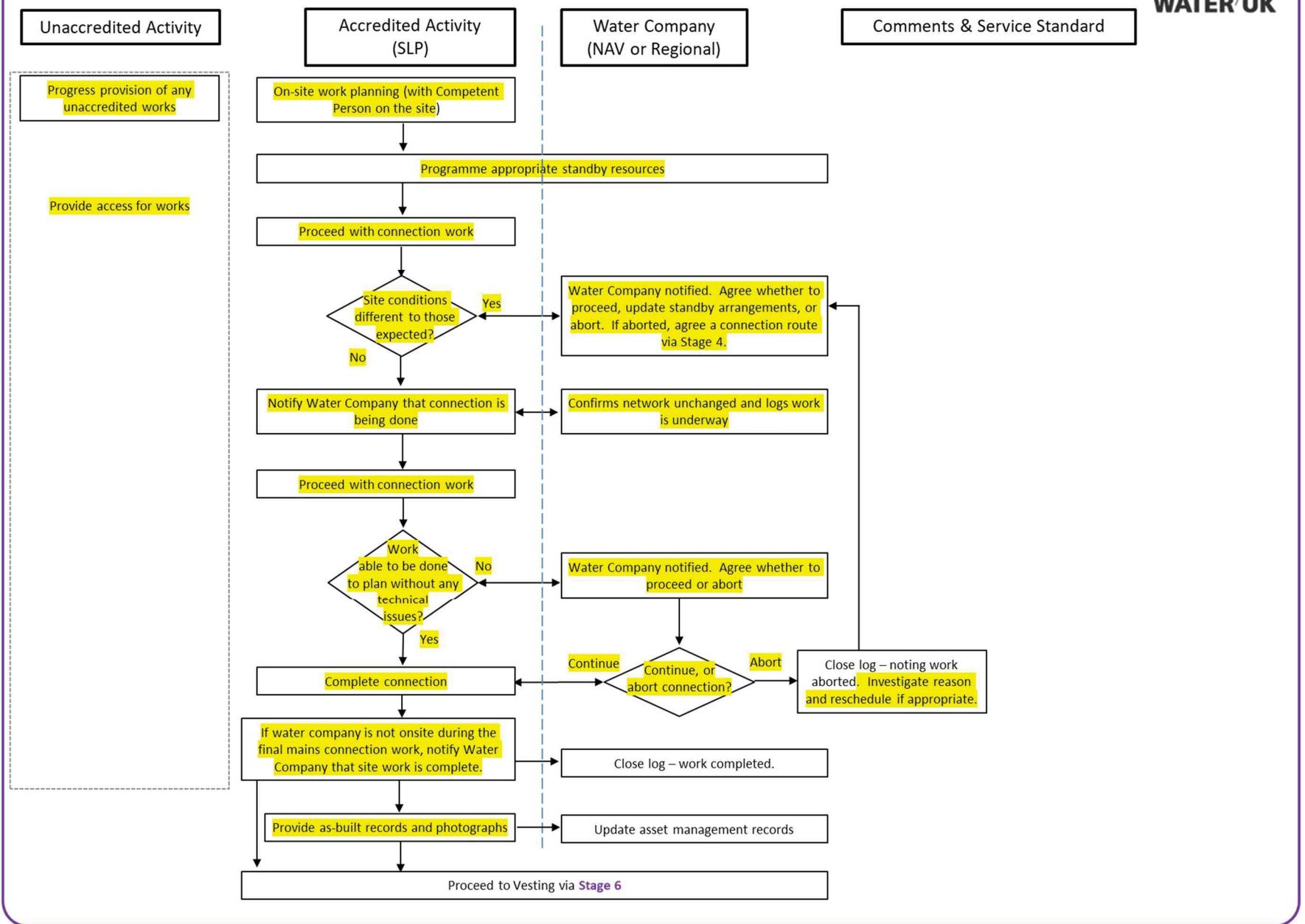
# Stage 5B: Connect mains (medium risk connection) (Part 1 of 2) (where offered by water companies)

P1 DRAFT



# Stage 5B: Connect mains (medium risk connection) (Part 2 of 2) (where offered by water companies)

P1 DRAFT



# Stage 6: Vest new mains and correct any defects

P1 DRAFT



Unaccredited Activity	Accredited Activity (SLP)	Water Company (NAV or Regional)	Comments & Service Standard
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Note – This procedure applies to each section of main that is brought into use

Mains Connected by SLP or Water Company (See Stage 5)

Ensure final cover levels are achieved / maintained throughout any remaining landscaping or carriageway works

(For SLP design) Notify (and invoice) Fire and Rescue Authority of connected hydrants

Once each section of main(s) have successfully entered service, declare the mains assets vested (see note 6.1). Maintenance period starts.

Await vesting certificate, before making service connections.

Issue Vesting Certificate and confirm final Asset Value (if required for an Asset Payment claim)

**Note 6.1:**  
The vesting process legally transfers appropriately constructed assets to the ownership of the water company as part of the adoption process. Legal transfer via vesting can only occur when a Declaration is made by the water company. These processes assume that will be done in writing by the water company as a result of it becoming aware that the conditions of the agreement have been satisfied, and that the asset has entered service successfully.

The vesting process should start automatically once the water company is aware of the connection having been made during Stage 5.

Service connections can only be made to a vested water main, and for this reason, the physical work to make service connections follow the issuing of the declaration of vesting.

Update asset records to ensure that leakage and accidental damage is responded to by the water company

If appropriate, submit Asset Payment claim

If appropriate, make Asset Payment

At appropriate points during the maintenance period, visit site to agree a schedule of remedial works and timescales

Carry out remedial works (which do not affect supplies)

Carry out remedial works (which do not affect supplies)

Carry out remedial works (which affect supplies) and invoice developer / SLP

Notify water company should accidental damage occur to vested assets

Arrange repair of any damage to vested apparatus

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Report Type	Public Consultation
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Question	Stakeholder response	Stakeholder Theme
Do you agree that customers' connections options should be set-out at the front of the new sector guidance?	✓	93% of respondents agreed that the sector guidance should set out the developers' options at the front of the documentation.
Do you agree that procedures should cover the full range of activities to ensure that asset adoption proceeds smoothly?	✓	73% of respondents agreed that the standard procedures should include the full range of activities that arise during typical adoptions. Some respondents were keen to ensure that any procedures didn't constrain the developer's / SLP's freedom to contract between themselves
Do you agree that water companies should provide adoption customers with updates at the end of each activity or whenever there is a delay? If so which activities in particular?	✓	93% of respondents agreed that water companies should provide customers with updates, although there was less consistency about which activities should be included
Should the new guidance include a process for reporting accidental damage?	✓	80% of respondents agreed with the inclusion of a reporting processes for accidental damage. Some stakeholders noted the dependency on the point of vesting and the potential for standardising this nationally
Should adoption procedures be standardised across the water companies, even if the pace of innovation is slower?	?	53% of respondents supported further standardisation even if it made innovation more difficult. Many stakeholders felt that the framework should be designed to foster both innovation and standardisation
Do you agree that applying a three-category approach to SLP contestability and supply chain management would facilitate water asset adoption?	?	Concerns about complexity, and whether the approach would reduce the degree of self-lay, may explain why only 53% of respondents supported the proposal
Do you agree that a passport of skills and experience would support personnel mobility, and that formal training should be equalised in the medium term?	✓	67% of respondents agreed that a passport would help balance accreditation and support mobility. Some respondents were concerned about action only being taken in the medium term
Do you agree with the proposed approach to the creation of a sectoral redress scheme?	?	Respondents indicated that they wanted a system of redress that incentivised accurate delivery of services. However, only 38% of respondents supported the proposed approach, mainly because it was not clear how the Redress proposal would be incentivise accurate delivery, and work in conjunction with other pre-existing forms of remedy. Not all stakeholders were convinced that financial penalties would be a helpful form of redress

We will
our proposed next steps
Develop guidance that clearly explain the SLP, NAV, Retailer and incumbent connection options. Support the guidance with suitable flow-charts
Develop Sector Guidance and a Model agreement that includes the full range of activities typically undertaken on adoption projects. Develop proforma schedules for developer / SLP / land owner duties that can flex to suit individual connection projects. Test the proposed schedules with stakeholders to ensure they do not constrain customers. Develop a suitable legal agreement that clarifies responsibilities in line with the schedules
Identify service areas where the requirement for automatic updates could apply and grade these based on their usefulness to customers. Develop a new requirement for providing customers with routine updates and make a more detailed proposal to stakeholders.
Develop a simple process for reporting accidental damage that works for both SLP and requisition projects. Ensure any changes made to SLP documentation are equivalent to that used for requisitions. Clarify the definition of vesting to enable the implementation of guidance for accidental damage
Work with key stakeholders to identify those areas where increased national standardisation would be most beneficial. Develop a detailed case for / against greater standardisation and consult further with stakeholders. Avoid areas that disrupt innovation without providing tangible benefit for customers
Clarify that the proposition is to provide an improved framework that enables greater degrees of contestability. Compare proposal with the existing arrangements to address concerns about increased levels of complexity. Define a consistent method of assessing risk - ie the variables / principles / components that should be taken into account when assessing live connections work. Develop proposals that do not reduce the degree of contestability
Map all existing forms of training and assurance that apply to SLPs, water companies, and supply chain staff alongside all existing forms of surety etc. Host a sector workshop to review the existing arrangements and develop draft proposals for equalised training. Consult with stakeholders on the those proposals and on initial details for a skills passport
Develop an additional proposal for incentivising accurate delivery in key areas of the adoption process, for example, a formal review of delayed activities in critical areas of service overseen by a senior water company manager. Consider whether water companies should publish details of what caused each delay, what remedy was deployed, and what has been done to prevent recurrence. Map all existing forms of Redress available through complaints processes and develop a proposals to address any gaps. Avoid forms or redress that cause the customer further inconvenience, such as inappropriate claims processes or penalty payments that need to be processed by the customer

The Codes Programme ISG is a collaborative group:

