



Department
for Environment
Food & Rural Affairs

Water industry: draft guidance to Ofwat for water and sewerage connections charges

10 June 2016



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About this consultation

Overview

This consultation seeks your views on the government's proposed Charging Guidance to Ofwat, the independent economic regulator of the water sector, on the charges for water and sewerage connections that Water and Sewerage companies (Undertakers) may make to developer, self-build, and self-lay customers (developers). The guidance covers the rules which Ofwat may set, through their Charging Rules and any other relevant document, about new connections charges. This follows the overarching statement of charging policy and principles in the [Charging Guidance to Ofwat](#)¹ published by the government in January 2016.

The Water Act 2014 changes the regime for new connections charges to improve transparency, stability and competition in the water sector. Section 17 of the Act includes provisions to enable Ofwat to set the detail of new connections charges to be paid by developers through Charging Rules, which Undertakers must follow when setting their charges for connections. To ensure that the Charging Rules are set in line with the government's policy positions, the Act also places a requirement on government to produce guidance to Ofwat.

Prior to issuing such guidance the Secretary of State is required to consult the relevant persons² on the proposed Charging Guidance.

This consultation is therefore issued under Section 144ZD of the Water Industry Act 1991 as inserted by Section 17 of the Water Act 2014: Rules about charges for connections etc.³

The consultation is open for 6 weeks from 10 June to 22 July 2016.

In developing the high level principles contained in the proposed guidance government have consulted extensively with interested parties through technical Task and Finish Groups. By working with industry to understand the issues faced under the current regime, it is the intention of government to issue guidance that will enable Ofwat to improve the regime to meet the needs of bill payers, developers and communities fairly and equitably.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496044/charging-guidance-ofwat-2016.pdf

² The relevant persons are: Welsh Ministers; the Consumer Council for Water; any relevant undertakers likely to be affected by the proposed guidance; any water supply licensees or sewerage licensees likely to be affected by the proposed guidance; and such other persons as the Minister thinks appropriate.

³ <http://www.legislation.gov.uk/ukpga/2014/21/part/1/chapter/3/crossheading/guidance-relating-to-rules-about-charges>

These changes will encourage growth by enabling developers to better plan for connections to water and sewerage systems by identifying, quantifying and planning for the costs associated with doing so. The government also expects the water sector to play its part through pace, innovation, responsiveness and streamlined processes to help achieve our ambition for one million new homes delivered by 2020.

We welcome the views of all interested parties on any aspect of this proposed guidance and we will consider and act upon any feedback, with a view to publishing the Charging Guidance later this summer.

Ofwat must have regard to the guidance when making Charging Rules that will apply to water and sewerage companies that are wholly or mainly in England⁴.

Definitions and geographical extent

This consultation applies to England only. The Charging Guidance applies in relation to Undertakers whose areas are wholly or mainly in England⁵. The Welsh government has the same powers in relation to Undertakers wholly or mainly in Wales and will issue separate guidance.

Ofwat is the independent economic regulator and we make reference to Ofwat as such in this publication. References to “the government” are to the UK government.

We refer to “Undertakers” in this publication instead of water and sewerage companies (WaSCs) and water companies (WoCs). This terminology is consistent with that used in the Water Industry Act 1991 (WIA) and the Water Act 2014 (WA).

We refer to “developers” throughout the publication as these are the customer group most often impacted by these changes. It is important to note however that connection charges may also apply to self builds, self-lay organisations and existing customers who wish to have their water/waste water pipework renewed.

Responding to this consultation

We encourage all interested parties to provide comments on the proposed charging guidance. Please respond to this consultation using the online survey at <https://consult.defra.gov.uk/water/draft-developer-charging-guidance-to-ofwat>.

⁴ Separate guidance will be issued by the Welsh government in relation to undertakers operating wholly or mainly in Wales.

⁵ Water Act 2014 Section 17 (144ZD(7)(a))

We prefer to receive responses via the online survey because it is the fastest and most cost-effective way for us to collate and analyse responses. There is no obligation to answer all of the questions.

If you experience difficulties using the online survey, you can respond to the consultation by email at: developerchargingguidance@defra.gsi.gov.uk or in writing to: Charging Guidance Consultation, Defra's Water Services Team, Area 3D, Nobel House, 17 Smith Square, London, SW1P 3JR.

After the consultation

The consultation will close on 22 July 2016.

Government will review the responses and use these to inform our Charging Guidance to Ofwat on charges for (water and sewerage) connections. Our intention is to publish the response to this consultation and final guidance later this summer. This will provide Ofwat with sufficient time to develop and consult on their Charging Rules, with a view to implementing the new regime for connections charges in April 2017.

About this guidance

Overview

Undertakers have a duty, subject to certain conditions, to permit connections to their existing water and sewerage networks. The Water Industry Act 1991 provides for Undertakers to charge for new connections to the network, and for associated work. The connection of new premises to the existing networks can result in additional costs associated with the extension of the existing network and/or increasing the capacity of the existing network.

The legislation has however been interpreted differently by the Undertakers leading to confusion for customers and in some cases, to long and costly disputes. The customers impacted are most often developers, but connection charges may also apply to self-builds, self-lay organisations or existing customers who wish to have their water/waste water pipework renewed.

The Water Act 2014 therefore changes the regime for new connections charges to improve transparency, stability and competition in the water sector, and to provide greater clarity on charging. The Act includes provisions to remove the complex arrangements for new connections charges and enables Ofwat to set the detail through Charging Rules, which Undertakers must follow when setting their charges for connections. To ensure that

the Charging Rules are set in line with the government's policy positions, the Act also places a requirement on government to produce guidance to Ofwat.

The background to charging

Every five years, Ofwat sets revenue requirements for each water and sewerage or water only Undertaker, and uses these to determine the limits on what companies may recover from their customers. In doing so, it is Ofwat's responsibility to both protect consumers and ensure that the companies are able to finance their operations. It is the responsibility of Undertakers to fix their charges in accordance with the price limits set by Ofwat. Every year each water company must publish a charges scheme which sets out how charges will be apportioned between different customer groups.

The Water Industry Act 1991 together with Condition D of companies' Instruments of Appointment sets out the legal framework within which water and sewerage Undertakers may make such charges schemes. Since 1991, there has also been a legal requirement for Ofwat to approve each company's charges scheme before it can take effect. However, Section 16 of the Water Act 2014 includes provision to remove the approval requirement and to replace this with a framework of rules and guidance. The objective is to reduce red-tape and to make the companies accountable to their customers for the charges they set.

The approval requirement is replaced with a power for Ofwat to set Charging Rules. This is supported by a power of direction to be used in the event that Ofwat considers that a charges scheme does not comply with their published rules. Section 16 of the Act also creates a new duty for Ofwat to issue rules requiring Undertakers to consult the Consumer Council for Water about proposed charges schemes. In setting their Charging Rules Ofwat must have regard to any Charging Guidance issued by the government under Section 143E or 144ZE of the Water Industry Act 1991. Should the government issue amended guidance, Ofwat must consider whether the rules also need amending and respond accordingly.

The Water Act 2014 (a new framework for charging)

[The Water Act 2014](#) introduced a number of changes to legislation to support the government's overarching policy objectives for the water sector. The Act sets out a new framework governing the regulation of water and sewerage charges. This provides the UK and Welsh governments with new powers and duties to produce charging guidance to Ofwat; setting out a policy framework for Ofwat's approach to regulating charges which Ofwat must have regard to.

In January 2016 the government published general [Charging Guidance to Ofwat](#) (under Section 144ZE of the Water Industry Act 1991 as inserted by Section 38 of the Water Act

2014), which looked at charging schemes; charges in the new non-household Retail Market; charges in the current and future Upstream Markets and developers Charges.

The further guidance published here is pursuant to that general guidance and provides more detail on the charges for connections that water companies may make to developers and others.

Specifically, [Section 17 of The Water Act 2014](#) reforms the regime for connection charges by inserting Section 144ZA of the Water Industry Act 1991 to make provision for Charging Rules to be produced by Ofwat. Ofwat may issue rules under the following provisions:

- provision of new water main(s) **(Section 42(2)(a))**;
- connections with water main(s) **(Section 45(6))**;
- ancillary works for domestic connection **(Section 46(7)(b))**;
- provision of public sewer(s) or lateral drain(s) **(Section 99(2)(a) or (2A)(a))**;
- provision of lateral drain(s) following provision of a public sewer **(Section 101B(3))**;
- communication with public sewer(s) **(Section 107(3)(b)(i))**; and
- moving of pipes etc. **(Section 185(5))**.

Section 17 of the 2014 Act also inserts Section 144ZD which stipulates that the Minister must issue guidance as to the content of rules under section 144ZA.

[Section 10 of the Water Act 2014](#) inserts section 51CD of the Water Industry Act 1991, which states that Ofwat may issue charging rules in relation to the following charges:

- By a water Undertaker under a section 51A agreement (to adopt a water main or service pipe at a future date).

Section 10 of the 2014 Act also inserts Section 51CG which states that the Minister may issue guidance to Ofwat as to the content of rules under Section 51CD. Ofwat is required to have regard to such guidance and it is the government's intention that the over-arching principles and objectives set out in this (and any subsequent and/or revised) guidance should also apply to charging rules issued by Ofwat under Section 51CD.

[Section 11 of the 2014 Act](#) inserts Section 105ZF of the 1991 Act which states that Ofwat may issues rules about charges that may be imposed in relation to the following charges:

- By a sewerage Undertaker under a Section 104 agreement (to adopt a sewer, drain or sewage disposal works at a future date).

Section 11 of the 2014 Act also inserts Section 105ZI which states that the Minister may issue guidance as to the content of rules under Section 105ZF. Ofwat is required to have to regard to such guidance and it is the government's intention that the principles and

objectives set out in this (and any subsequent and/or revised) guidance should also apply to charging rules issued by Ofwat under Section 105ZF.

Under the provisions of the Water Industry Act 1991, Undertakers are obliged to comply with Ofwat's rules in setting their charges. If Ofwat considers that an Undertaker is not acting as required by the rules they can issue the Undertaker a direction.

In producing charging rules, Ofwat must prepare a draft of any proposed rules and consult relevant persons before the rules come into effect. Ofwat's charging rules will be subject to public consultation. The Minister⁶ has a power to direct Ofwat not to issue the rules, for example, if he or she considers that the rules are not consistent with the government's guidance. Where the government issues revised guidance, the Act requires that Ofwat should review and, if necessary, revise the relevant charging rules.

The government has always been clear that the development of Ofwat's charging rules is likely to be evolutionary, with revisions to be made when necessary. To allow for this the government proposes to set high level Charging Guidance as a framework for these rules, such that future development and innovations in water supply and sewerage and drainage are not constrained. Further, the guidance should not constrain Ofwat from setting rules about charges for developer services that fall within the scope of other powers to make charging rules, provided those rules adhere to the principles and objectives set within the government's general guidance to Ofwat under Section 38 of the 2014 Act, and any other relevant direction and/or guidance to Ofwat, such as the Strategic Policy Statement to Ofwat.

Ofwat should make provision to review the rules on a regular basis, taking into account the extent and content of price review determinations made and the outcome of consultation. Ofwat should update the rules, when required, to ensure they continue to provide a transparent, efficient, fair, reasonable and effective charging system that keeps pace with any future developments in the sector.

Government priorities

It is the government's responsibility to set the strategic framework and policy priorities within which Ofwat operates as the independent economic regulator for the water sector. The government's policy framework for the water sector is set out in its [Strategic Policy Statement to Ofwat](#). The government is committed to stable and predictable regulatory

⁶ Welsh Ministers have the same powers in relation to Undertakers wholly or mainly in Wales and will issue separate Guidance.

frameworks to protect customers, facilitate efficient investment and contribute to sustainable growth.

There are four overarching government principles for charging in respect of water and sewerage services. These were set out in the government's general [Charging Guidance to Ofwat](#). Each of these has equal weight and Ofwat must have regard to these in determining the Charging Rules:

- Stable and predictable charges.
- Transparent and customer focused charging.
- Fairness and affordability.
- Environmental protection.

The scope of the guidance

This Charging Guidance covers the rules which Ofwat may set, through their Charging Rules and any other relevant document, about the charges that Undertakers may make for connections to their water and sewerage services, and adoption of infrastructure at a future date. Specifically, this is provided for in Sections 10, 11 and 17 of the Water Act 2014.

With the new framework for charging established in the Water Act 2014, this guidance is intended to clearly set the principles, in line with government policy, which Ofwat must have regard to when issuing their Charging Rules for new connections. Water treatment, transportation and disposal do not fall in scope of this and therefore, as currently, Undertakers are responsible for meeting those costs.

This charging guidance applies to domestic water use, whether in a household or non-household (commercial) premises.

It is the view of government that all in scope charges, including the current infrastructure charge, are subject to the principles below including transparency. For reference, Annex A sets out the current charges that are levied between Undertakers and developers for connections.

The Charging Guidance applies in relation to Undertakers whose areas are wholly or mainly in England⁷.

⁷ Water Act 2014 Section 17 (144ZD(7)(a))

Guidance on charges for (water and sewerage) connections

Overview

The government's general [Charging Guidance to Ofwat](#) was issued in January 2016 and this set the overarching statement of charging policy and principles. The further guidance published here supplements the general guidance to provide more detail on the charges for connections that water companies (Undertakers) may make to developer, self-build, and self-lay customers (developers).

There are four overarching government principles for charging in respect of water and sewerage services. Each of these has equal weight and Ofwat must have regard to these in determining the Charging Rules:

- Stable and predictable charges.
- Transparent and customer focused charging.
- Fairness and affordability (including to existing and new consumer customers).
- Environmental protection.

The government recognises that in practice, trade-offs will need to be made between these principles to reach the appropriate balance, such as between simple to apply charging formulae and more complex, but arguably more cost-reflective, administratively expensive detailed charges calculations.

Charges that are simple and can be clearly related back to the costs incurred by the water sector for connections etc. will build confidence within the developer community. Charges which are finalised at the earliest opportunity will allow developers to plan and budget for new developments more effectively. This is the case even if it is acknowledged that it may be more difficult providing detailed predictions when it is unclear whether and to what extent network reinforcement is required as a consequence of the new development.

It is the view of government that developers should bear the **on-site costs that reflect the cost of their connections** to, or adoption of, water and sewerage systems. These costs should be fair and proportionate and Undertakers should provide services to developers at the earliest reasonable opportunity. Developers should also bear the **costs needed to provide and augment the existing network infrastructure** (on or off the development site) such that the network can meet the need associated with their connections to, or adoption of, water and sewerage systems.

It is the view of government that developers should not be required to bear the costs of reinforcing, upgrading or otherwise changing existing network infrastructure to address pre-existing shortfalls in capacity or capability.

These principles rest on the concept of fairness. It is the view of government that the current balance between contributions to costs by developers and bill payers should be broadly maintained. The general customer base should not bear costs in relation to new development and developers should not bear costs associated with enhancements to the existing network that are not a consequence of their new connections.

Q1: Do you agree that the current balance of contributions between developers and existing billpayers should be maintained? Please provide further comments to support your answer.

[Section 17 of The Water Act 2014](#) reforms the regime for connection charges by inserting Section 144ZA of the Water Industry Act 1991 to make provision for Charging Rules to be produced by Ofwat. Ofwat may issue rules in relation to charges for the following:

- provision of new water main(s) **(Section 42(2)(a))**;
- connections with water main(s) **(Section 45(6))**;
- ancillary works for domestic connection **(Section 46(7)(b))**;
- provision of public sewer(s) or lateral drain(s) **(Section 99(2)(a) or (2A)(a))**;
- provision of lateral drain(s) following provision of a public sewer **(Section 101B(3))**;
- communication with public sewer(s) **(Section 107(3)(b)(i))**; and
- moving of pipes etc. **(Section 185(5))**.

The rules that Ofwat may make under this section could include provision for:

- the types of charges that may be imposed (including payments) **(Section 144ZA(2)(a))**;
- the amount, or maximum amount, or a method for determining the amount or maximum amount of any type of charge **(Section 144ZA(2)(b))**;
- principles for determining what types of charge may or may not be imposed **(Section 144ZA(2)(c))**;
- principles for determining the amount of any charge that may be imposed **(Section 144ZA(2)(d))**;
- timing of payment of charges **(Section 144ZA(2)(e))**;
- the availability of schemes of charges **(Section 144ZA(8)(a))**;
- publication of the charges that may be imposed **(Section 144ZA(2)(f))**;
- the amount of security that may be required by an Undertaker **(Section 144ZA(5)(a))**;

- the type of security that may be required; ‘*With regards to the standards of assets and asset performance*’ (**Section 144ZA(5)(b)**); and
- the payment of interest on a sum deposited with a relevant Undertaker by way of security (**Section 144ZA(5)(c)**).

In addition, Section 10 of the Water Act 2014 inserts section 51CD of the Water Industry Act 1991, which makes provision for charging rules to be produced by Ofwat which can cover the charges by a water Undertaker under a section 51A agreement (to adopt a water main or service pipe at a future date); and section 11 of the 2014 Act inserts Section 105ZF of the 1991 Act which makes provision for charging rules to be produced by Ofwat which can cover the charges by a sewerage Undertaker under a Section 104 agreement (to adopt a sewer, drain or sewage disposal works at a future date).

As set out above, Ofwat may issue charging rules for new connections, and adoption of infrastructure at a future date, as provided for within the Water Industry Act 1991 (as amended). Water treatment, transportation and disposal do not fall in scope of this and therefore, as currently, Undertakers are responsible for meeting those costs.

This charging guidance applies to domestic water use, whether in a household or non-household (commercial) premises.

It is the view of government that all developer charges, including requisition charges and infrastructure charges (section 146, Water Industry Act 1991), be subject to the principles below including transparency. We expect Ofwat to manage any appeals process in the same spirit of transparency.

Guidance: Stable and predictable charges

Government recognises the importance that customers (e.g. developers, self-lay organisations, self-build) attach to stability in charging for costs management, including project viability, and in particular that the charges quoted by Undertakers before works begin are realistic, fair and accurate.

Ofwat should ensure that the charging rules also clarify who bears the risk in the event that the actual cost of works varies between estimates made by Undertakers and charges ultimately imposed. In all cases Undertakers should strive to be open and transparent about the nature and scale of potential charges so that developers are able to make informed decisions at the earliest possible opportunity.

Ofwat should ensure that where there is a need to adjust charges to make them more cost reflective this is managed to avoid disproportionate impacts on the continuing competitiveness of particular sectors or the bill payers.

Transitional arrangements between the application of existing and revised charging rules will be of fundamental importance. To avoid compromising the delivery of new homes and development in general, these must be clear, proportionate, developed and implemented at the earliest reasonable opportunity, and widely communicated. Transitional arrangements should be developed and deployed such that unacceptable and unreasonable impacts on extant arrangements or agreements between developers, Undertakers and local government during the period that the transitional arrangements apply, are avoided.

Q2: What are your views on the guidance provided under the principle of stable and predictable charges?

Guidance: Transparent and customer focused charging

Ofwat should set charging rules which make clear which costs the different charges are designed to recover and what they are not expected to cover. The government considers that the distribution of costs between developers and water/sewerage bill payers should be fair and proportionate.

Ofwat should set rules that enable Undertakers to recover the costs incurred in the provision of connections to, or adoption of water and sewerage systems. This should include consideration of any costs to increase infrastructure capacity and network reinforcement needed for the effective operation of new developments and new communities introduced by such new development.

Where infrastructure is provided that has a greater capacity than that needed for a specific new development, charging rules should ensure that costs are appropriately apportioned between meeting capacity needs for the new development in question, and meeting existing or other new capacity needs; and that those costs are allocated fairly.

Ofwat should set rules for charges that take account of the duties and obligations placed on Undertakers with whom new connections duties sit, under sections 8 and 9 of the Water Act 2014, and water suppliers as a result of their appointment (under Section 36 of the Water Industry Act 1991).

Ofwat should ensure that Undertakers have charging schemes and processes in place which ensure that there is a clear basis upon which charges are being raised in relation to new connections.

Ofwat should ensure the charging rules allow sufficient flexibility to enable Undertakers to adopt bespoke approaches where these are in the best interests of both the billpaying customers and developers.

Charging rules should not preclude the use of trials of charging models or charging formulae through geographical pilot testing or through pilots based on other relevant selection criteria, such as development size, provided that those trials and/or pilots are subject to Ofwat's prior approval.

Ofwat should set rules requiring Undertakers to publicise their charges schemes and mechanisms in a way that is easily accessible to developers and clear to understand.

Ofwat should set charging rules that are themselves easily accessible and clear to understand. The charging rules and the charges schemes those rules may cover should aim to minimise unnecessary administrative burdens on Undertakers and developers.

Ofwat should set charging rules that promote effective competition in both the water and sewerage sectors.

We want to ensure a sustainable and resilient water sector. Ofwat should set charging rules that allow for relevant costs to be adequately reflected in charges in order to provide incentives for efficient resource use and installation of innovative solutions that are sustainable over the longer term, including rainwater harvesting, grey-water reuse and sustainable drainage systems (SuDS). Charging rules that encourage collaboration between neighbouring landowners, developers in the same greater or neighbouring sites and Undertakers are desirable.

Costs of providing or reinforcing infrastructure can depend on the decisions made by the developer in respect to location of the site and in respect to efficient resource use. Ofwat should set charging rules that allow for connections to reflect the costs of the different choices that may be open to developers to consider. This can act as a signal to developers to encourage more efficient use of resources. Regional or zonal charging may also inform developer decisions and encourage the more efficient use of resource.

When preparing, reviewing and/or revising charging rules, Ofwat will need to give consideration to enabling flexibility for future innovation in sustainable technologies and solutions.

Ofwat should set charging rules that will ensure developers understand how charges have been determined and the reason for differences in charges between Undertakers, and within an Undertaker's area for different developments and/or developers' proposals, except to the extent that this would result in revealing commercially sensitive information.

Developers should not bear costs associated with enhancements to the existing network that are not a necessary part of new connections and/or a consequence of new connections or the new communities served by new connections.

The Government is committed to doubling the number of self and custom builders by 2020. Ofwat should therefore examine how its charging rules can help to achieve this. We would expect Ofwat to consider how to make it quicker, easier and cheaper for self and custom builders to connect to the water and sewerage networks.

Ofwat should set charging rules which encourage water companies to meet their developer service standards and recognise the impact of unnecessary delay on housing supply.

Q3: What are your views on the guidance provided under the principle of transparent and customer focused charging?

Guidance: Fairness (including to existing and new bill payers)

Ofwat should set charging rules that are consistent with aims to encourage Undertakers to undertake appropriate and timely investment ahead of future need in such a way as to minimise the overall costs of infrastructure provision that fall to current and future bill payers. Such investment would involve collaboration and partnership working with local planning authorities and other public bodies, and awareness of, and appropriate participation with the development of, local plans.

Q4: What are your views on the guidance provided under the principle of fairness?

Guidance: Environmental protection and sustainable growth

We want to ensure a sustainable and resilient water sector for the long-term and to promote a good standard of environmental amenity for all existing and future occupants of the land and buildings.

Ofwat should set charging rules that allow for relevant costs to be adequately reflected in order to provide incentives for efficient resource use and innovative solutions that are sustainable over the longer term.

Ofwat remains the independent economic regulator; any charging rules should reflect all the wider aims for the industry, and the principles addressed in the Strategic Policy Statement.

Undertakers are subject to a statutory duty to ‘effectually drain’ their area. This requires them to invest in infrastructure suitable to meet the demands of projected population growth. Ofwat’s charging rules should ensure that charges are proportionate to funding additional sewerage infrastructure required to accommodate flows from a proposed development. Charges should be applied fairly and Undertakers’ duties taken into account.

Ofwat should set charging rules that will encourage collaboration between Undertakers, developers, planners and the Local Planning Authority to support the predictability of charges and sustainable development. This should support planning for capacity requirements for strategic and/or large developments.

Q5: What are your views on the guidance provided under the principle of environmental protection and sustainable growth?

Conclusion

This guidance sets out the government’s principles to Ofwat on charging rules for new connections to water and sewerage services. It exercises the powers provided to government in Sections 144ZD, 51CG and 105ZI of the Water Industry Act 1991 and provides the framework to which Ofwat must have regard in developing charging rules for new connections and future adoption of new infrastructure.

This guidance establishes principles for fair, stable, predictable, transparent and customer focused charging, and for environmental protection and sustainable growth. The guidance is part of a framework of tools to encourage growth by enabling developers to better plan for connections to water and sewerage systems by identifying, quantifying and planning for the costs associated with doing so.

Q6: If you have any additional comments about the charging guidance on new connections please provide them here.

Consultation questions

We encourage all interested parties to provide comments on the proposed charging guidance. Please respond to this consultation using the online survey at <https://consult.defra.gov.uk/water/draft-developer-charging-guidance-to-ofwat>.

Q1: Do you agree that the current balance of contributions between developers and existing billpayers should be maintained? Please provide further comments to support your answer.

Q2: What are your views on the guidance provided under the principle of stable and predictable charges?

Q3: What are your views on the guidance provided under the principle of transparent and customer focused charging?

Q4: What are your views on the guidance provided under the principle of fairness?

Q5: What are your views on the guidance provided under the principle of environmental protection and sustainable growth?

Q6: If you have any additional comments about the charging guidance on new connections please provide them here.

Annex A: Current charges levied between Undertakers and developers for connections

The current system between Undertakers and developers has led to five separate charges/payments associated with developments (not including the direct costs associated with securing adoption agreements). These are:

- the connection charge;
- the requisition charge;
- the self-lay charge;
- asset payment; and
- the infrastructure charge (not covered directly by this charging guidance but may be reflected in Ofwat charging rules).

In addition, there are charges associated with pre-development requests, including modelling fees; and other costs such as for water and/or sewerage diversions, and connection charges for Section 106 (Water Industry Act 1991) agreements.

Connection charges are paid by the developer to the Undertaker. These are intended to recover from the developer the reasonable expenses of the Undertaker in making the water and sewerage connection from the boundary of the premises in question, to the water main or public sewer. These charges can also include administration costs and design fees.

Requisition charges are paid by the developer to the Undertaker. These occur when a developer requests that the Undertaker builds the necessary infrastructure to serve the new development. The charge is therefore intended to recover from the developer the costs incurred by the Undertaker in providing assets to serve the new development. For domestic water use requisitions, costs are recovered where they exceed income received from the development over 12 years. Non-domestic water use requisitions allow for full recovery of costs.

Requisition charges are site specific and can also include the cost of network reinforcement where work is required to provide additional infrastructure as a result of the demands of the new development. These charges can also include administration costs and design fees. Connections to individual premises, and some development sites, will not require a requisition and in those cases will only be subject to connection and infrastructure charges (see below).

Self-lay charges are charges paid by the developer or the self-lay organisation (SLO)⁸ to the water company for the costs of network reinforcement and any other services that the company carries out to enable the connection. These charges can also include administration costs and design fees. If a developer chooses the self-lay option (as opposed to requesting a water company to build the necessary infrastructure and paying a requisition charge as above), then it can build the necessary infrastructure itself or contract with a third party – such as an SLO – to build it. The developer pays the costs of building these assets to the SLO, not the water company.

Asset payments are payments made by the water company to an SLO or developer (depending on the terms of the self-lay agreement) once it has adopted the assets (currently only water mains and not sewers, drains or water service connections) owned by the SLO or developer (for example, those put in place by an SLO as discussed under ‘self-lay charges’ above). Where assets are provided by an SLO and later adopted by the water company, an asset payment can be made if the estimated revenue over a 12 year period exceeds the estimated costs of the works.

On adoption by the Undertaker of self-laid water supply and/or sewerage assets, the developer may be entitled to an asset payment, which could be zero.

Infrastructure charges can be raised where premises are connected to the Undertaker’s water supply or the sewers for the first time for domestic purposes. Infrastructure charges are intended to provide a contribution towards the costs of developing distribution networks to serve new customers. The maximum level for the infrastructure charge for premises is set out in condition C of the Undertakers’ licences and is the same for all Undertakers. The condition provides for a uniform maximum amount per premises, subject to certain exceptions. The exceptions apply, in the case of a house (which includes flats), where there is a common billing agreement or, in the case of premises that are not a house, where the supply pipe is larger than the current size used by the Undertaker for new connections to houses. Infrastructure charges are not specifically within the scope of this guidance but may be reflected in Ofwat rules.

The following table sets out the current legislation that allows for charges to developers for connections to water and sewerage services, and adoption of infrastructure.

⁸ SLO’s may lay assets as well as undertakers. SLOs are suitably qualified bodies who work on behalf of developers, to provide the infrastructure required to supply water or provide drainage at the development site instead of the existing undertaker. In practice, for water supply, the SLO will generally, albeit not exclusively, undertake the on-site work within the development site and the developer will ask the undertaker to undertake the off-site work outside the development site.

Table A. Legislation for new connections and adoption of infrastructure charges

Category	Charged By	Charged To	Form of Regulation ⁹	Regulation or Legislation Reference	Regulation of Legislation Reference once relevant Water Act 2014 provision commenced
Charges in connection with a notice of a water main requisition	Undertaker	Any party requisitioning a water main, for example a developer or an occupier of any premises in that locality.	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 42(1)(b)/(2)(a)/(2)(b)/(4)/(6)/43/43A, WIA 1991	Section 42(1)(b)/(2)(a)/(2)(b)/(6) WIA 1991 Charging rules issued under section 144ZA WIA 1991
Charges for the making of a connection with a water main	Undertaker	Developer (or household)	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 45(2)/45(6)/45(6A), WIA 1991	Section 45(6) and (6A) WIA 1991 Charging rules issued under section 144ZA WIA 1991
Charges for ancillary works relating to the making of a connection with a water main	Undertaker	Developer (or household)	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 46(1)/46(7)/46(9), WIA 1991	Section 46(7)(b) WIA 1991 Charging rules issued under section 144ZA WIA 1991
Charges contained in agreements relating to the adoption of a water main or service pipe (“self-lay”)	Undertaker	Developer/SLO	Undertakers will be required to ensure that prices are in accordance with rules to be produced	Section 51C, WIA 1991	Section 51C – 51G WIA 1991 (specifically section 51CD about rules about charges which may be

⁹ NB: in addition, pricing conduct is generally subject to the provisions of the 1998 Competition Act.

			by Ofwat		levied by Undertakers under section 51A agreements)
Charges relating to asset value of the water main	Developer/SLO	Undertaker	Developers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 51C(8), WIA 1991	Section 51C – 51G WIA 1991
Charges contained in agreements relating to the adoption of a water main or service pipe (“self-lay”) whereby the Undertaker requires the main to be tailored for provision of services in addition to those proposed by the person constructing the main	Developer	Undertaker	Developers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 51A(7), WIA 1991	Section 51C – 51G WIA 1991 (specifically section 51CD about rules about charges which may be levied by Undertakers under section 51A agreements)
Charges in connection with a notice of a sewer requisition	Undertaker	Developer	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 99, 100, 100(A), WIA 1991	Section 99(1)(b), (2)(a) and (6) WIA 1991 Charging rules issued under section 144ZA WIA 1991
Charges in connection with the provision of lateral drains	Undertaker	Developer (or household)	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 99, 100, 100(A), WIA 1991	Section 99(1)(b), (2A)(a), (6) and 101B(3) WIA 1991. Charging rules issued under section 144ZA WIA 1991 (and see section 101B(3), (3A) and (4) WIA 1991 about charges imposed in connection with power to construct

					lateral drain following provision of public sewer)
Charges for the making of a connection with a public sewer	Undertaker	Developer (or household)	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 107, WIA 1991	Section 107(3)(b), (4) and (4A) WIA 1991 Charging rules issued under section 144ZA WIA 1991
Charges contained in agreements relating to the adoption of a sewers, etc ("self-lay")	Undertaker	Developer	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 104(6A), WIA 1991	New sections 105ZA to 105ZI will regulate section 104 agreements. Section 105ZF allows Ofwat to publish rules about charges which may be levied by sewerage Undertakers under section 104 agreements.
Infrastructure charges	Undertaker	Developer, household, or non-household customer	Undertakers will be required to comply with condition C of their appointment.	Section 146, WIA 1991	Section 142 and 146(2), WIA 1991
Charges for moving infrastructure and apparatus	Undertaker	Any person with an interest in land where assets are situated (or in land adjacent).	Undertakers will be required to ensure that prices are in accordance with rules to be produced by Ofwat	Section 185(5) WIA 1991	Section 185(5) WIA 1991 Charging rules issued under section 144ZA WIA 1991