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Sector Guidance in relation to the adoption of sewerage assets by sewerage companies in England

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1. Introduction

1.1. The Sewerage Sector Guidance (“SSG”)

This document comprises the Sewerage Sector Guidance that companies holding an instrument of appointment as sewerage supply undertakers under Sections 6 or 7 of the Water Industry Act 1991 (“Sewerage Companies”) recommend Ofwat enables under its Code for Adoption which came into effect on 13 November 2017 (the Code). It also contains a draft Model Sewerage Adoption Agreement (MSAA).

1.2. Purpose and Scope

- 1.2.1 Sewerage Companies are obliged by the Code to comply with the Sewerage Sector Guidance once it has been approved by Ofwat pursuant to the Code. Any failure to do so may result in investigation and sanction by Ofwat under its regulatory powers.
- 1.2.2 Under the Code, this guidance applies to infrastructure in respect of which an agreement is entered into pursuant to S104 WIA. It applies to companies the areas of operation for which are wholly or mainly in England.
- 1.2.3 The guidance requires Sewerage Companies to publish information at specific intervals, deliver work in accordance with standard set of procedures, report on their performance, and provide redress where things go wrong.
- 1.2.4 This SSG does not affect Sewerage Companies’ obligations to set charges in accordance with Ofwat’s Charging Rules for New Connection Services (English Undertakers), as published from time to time.

1.3. Responsibilities

This guidance (including the MSAA), following its approval, is binding on all Sewerage Companies. Deviation is permitted only where a Company and its Customer agree to do so. In such cases, the requirements of paragraph 5 of the Code must be complied with.

1.4. Terminology

For clarity and consistency this SSG uses defined terms in key areas and these are listed in Appendix A.

2. Procedures

2.1. Introduction

Appendix B sets out the standard procedures (Procedures) and associated Levels of Service that Sewerage Companies will comply with in relation to the adoption of sewerage assets under S104 WIA.

2.2. Methodology

The Procedures are presented in a swim-lane style, with columns showing the respective responsibilities of the Customer and Sewerage Company.

2.3. Deviation

Deviation from these procedures is permitted where:

- The Customer or Sewerage Company has identified a more suitable process for delivering a particular scheme, and both parties have agreed in writing to deviate. This includes cases of innovation as described below;
- The Sewerage Company has established a Local Practice to reflect particular circumstances in its area or where the SSG has not harmonised requirements (see further section 2.6).
- An area of innovation is being tested, for example on a pilot basis (see section 2.5).

2.4. Application of Levels of Service (“LoS”)

LoS measures are shown on the Procedures for clarity and are to be treated as measurement stages that apply to all work progressing through the activities shown alongside the pink arrows.

2.5. Innovation

The Design and Construction Guidance (DCG) which sets out standards for new sewerage assets (see further section 3) is not exhaustive and new processes and products are able to be presented to the Sewerage Company for approval. It is expected that initially, trials will be conducted by way of an agreed deviation from the DCG before an application is made for the new way of working/product to be more generally adopted via the SSG governance process.

2.6. Local practices

2.6.1 Local Practices are only permitted in the following areas:

- Requirements for easements for surface water discharges to watercourse, bodies of water, sewers within third party land and sewers which may form part of another feature.

- Pumping station requirements beyond those in the DCG.

2.6.2 These are considered to be Local Practices pursuant to paragraph 3.1.3 (i) of the Code.

2.6.3 A Sewerage Company wishing to implement a Local Practice in one of the permitted areas must first publish its proposals and give customers an opportunity to comment before implementation. Such proposals must be justified under the principles of the Code.

2.6.4 If a Sewerage Company requires a local practice, it will follow the procedure set out below:

- It will consult with Customers both directly and through its website setting out the details of the proposed Local Practice and why it is considered necessary (e.g., atypical local conditions, topic not adequately covered in the DCG);
- Such consultation will be carried out so that except in cases of urgency, the consultation period is no less than three months in advance of the date in which it proposes to bring into effect the Local Practice;
- When implementing the Local Practice following consultation, it will publish a summary of the outcome of the consultation, the reasons for its ultimate decision and the way in which the proposed practice meets the principles of the Code;
- As far in advance as possible of the “go live” date for the particular practice, supply details of the practice to Water UK which will maintain details of the same on its website.

NOTE: Where there are Local Practices, the Sewerage Company making use of the practice shall publish any impact that the practice has on the Procedures in a local version of that document.

2.6.5 Local Practices may not be relied on for the purposes of excusing non-performance under any LoS measure set out in this Sewerage Sector Guidance and/or reported on nationally as part of D-MeX.

3. Design and Construction Standards

3.1. Design and Construction Guidance

All Sewerage Companies will adopt sewers complying with the requirements of the DCG.

The works referred to in the DCG are all contestable, that is to say, capable of being carried out by parties other than a sewerage company.

The DCG also notes areas where Local Practices may be established, as referred to in section 2.6.

A design submission may include sewerage components that are not currently covered by the DCG and therefore greater input into the design is required from the Sewerage Company (pursuant to paragraph 4.1 (f) of the Code) to enable adoption. This may but is not limited to components that require a specific engineering design or configuration such as:

- Wastewater treatment works
- Access to sewers at a greater depth than 6m

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- Design of special manholes or other structures (inc. specific inlet/outlet)
- Design and location of flow control devices
- Design, configuration and access to multi leg and proprietary tank systems
- Design of large diameter flexible pipes
- Inverted syphons
- Innovative systems or products

Sewerage Companies will publish on their website any technical standard details or designs that they refer to which are not currently included in the DCG.

4. Minimum information

Appendix D sets out a range of minimum information and checklists that all Sewerage Companies have agreed to use

5. Model agreement

The Model Sewerage Adoption Agreement (MSAA) that must be used by Sewerage Companies is set out in Appendix E. This may only be amended where this is agreed with the Customer.

6. Levels of service and reporting

Sewerage Companies shall measure their Levels of Service in accordance with the requirements in Appendix F1 and in line with the Water UK Levels of Service documentation which can be found at <https://developerservices.water.org.uk/public/metrics>

All periods are quoted in calendar days and periods start on the first working day after receipt of notification.

Data shall be uploaded monthly to the central Water UK LoS system and to enable it to be reported on in accordance with the interval specified in Appendix F. For clarity, the Levels of Service metrics are also annotated on the procedures flow charts in Appendix B.

In addition, Sewerage Companies shall publish the information specified in Appendix F2 at the intervals shown.

The information required by Appendix F2 shall be published on Sewerage Companies' websites and made available in other appropriate formats as necessary to meet the requirements of the Code.

Despite the above, in order to allow for a smooth transition to the new Levels of Service, the first quarterly report in respect of the metrics in Appendix F1 will be in respect of data gathered with effect from 1 October 2020.

7. Redress

- 7.1 Where the Sewerage Company fails to comply with a Relevant Metric, without prejudice to any liability on part of the Sewerage Company under an Adoption Agreement, the consequences shall be as follows.
- 7.2 Without any requirement on the part of the Customer to notify the Sewerage Company of the failure, the following procedure shall apply:
- Within one working day of the failure, the Sewerage Company shall email the Customer with such information as shall reasonably be available to it regarding the nature and cause of the failure with relevant supporting evidence, and an indication of the proposed remedial action;
 - That email shall also contain a new date for the performance of the service in question;
 - The Customer may either confirm acceptance of this information or request escalation to the Compliance Manager;
 - Where the Customer requests such escalation, the Compliance Manager shall within five working days of receipt of such notification, report in writing on the causes of the failure and on how the failure can be corrected, if this has not already occurred and whether there any lessons for either party arising out of the failure which might prevent a recurrence of similar failures.
- 7.3 Where in any case referred to in this clause, the Customer considers that it has suffered direct financial loss as a result of the failure, it may make a complaint to the Sewerage Company in question and the Sewerage Companies shall all ensure that their complaints processes are able to handle complaints of this nature and able to make ex gratia payments where Customers are able to demonstrate such financial loss.
- 7.4 The above provisions represent a minimum level of redress and where individual companies consider it appropriate, they may adopt other forms of redress in addition to those set out.
- 7.5 Repeated failure may raise questions about the compliance of the Company with its competition law obligations and may result in legal/regulatory consequences.
- 7.6 Appendix 5 of the MSAA contains a dispute resolution procedure which is to be followed where a party is not satisfied after having completed the redress procedure in this section.

8 Governance

Appendix G contains terms of reference for the Code Panel, as required by paragraph 3.8 of the Code.

Appendix A - Glossary of Terms

Adoption	The process by which Sewerage Companies take over responsibility for sewerage infrastructure
Adoption Agreement or MSA	An agreement in the form of the Model Sewerage Adoption Agreement set out in Appendix E under which the Sewerage Company is to adopt certain works
Charging Arrangements	A Sewerage Company document adopted in accordance with Ofwat's Charging Rules for New Connection Services (English Undertakers), August 2017 or as amended from time to time
Code	The Code for Adoption Agreements adopted by Ofwat and which came into effect on 13 November 2017, as amended from time to time
Compliance Manager	An appointed individual or individuals within the Sewerage Company's developer services team with managerial authority to require the Company or its contractors to take steps to resolve service failures
Customer	Shall have the meaning given in the Code
Damage	Physical harm caused after commissioning that impairs the value, usefulness, or normal function of installed sewers
DCG	The Design and Construction Guidance published pursuant to the Code as Appendix C to the Sewerage Sector Guidance from time to time
Defect	A fault caused by poor workmanship or flaw in the installed materials
Developer	Shall have the meaning given in the Code
Diversion	Re-routed pipeline
Domestic Purposes	In relation to sewerage means (a) the removal, from buildings on the premises and from land occupied with and appurtenant to the buildings, of the contents of lavatories; (b) the removal, from such buildings and from such land, of water which has been used for cooking or washing; and (c) the removal, from such buildings and such land, of surface water This term is defined fully in S117 WIA
Easement	A legal right of way over another person's property to install and maintain pipework

Highway	That part of the street including the carriageway, verge and footpath (as defined by the Highways Act 1980).
Household Premises	(Defined by Ofwat) as premises in which, or in any part of which, a person has his home
Network Reinforcement	Work funded by the Sewerage Company from Infrastructure Charges, to provide or modify such other water infrastructure as is necessary beyond the site Point of Connection in consequence of providing an adequate supply to a development
New Development	Are premises on which there are buildings, or on which there will be buildings when proposals made by any person for the erection of any buildings are carried out, and which require connection with, and/or modification of, existing water distribution systems
Ofwat	The Water Services Regulation Authority which is the economic regulator of the Water and Sewerage Companies in England and Wales
Point of Connection	The exact location (manhole or pipeline detail) where the proposed adoptable sewerage network connects and discharges to the Sewerage Company's existing public sewerage system
Procedures	the document published pursuant to the Code as Appendix B to the Sewerage Sector Guidance from time to time
Relevant Metric	A performance standard included in Appendix F relating to activity to be carried out by a Sewerage Company and which is marked with "Yes" for the purposes of redress under the SG
Requisitioning	The process, as detailed in S98 WIA, by which an owner or occupier or local authority, who owns buildings or proposes to construct buildings on their land can apply to the Sewerage Company to provide a public sewer to be used for the drainage for domestic purposes of premises in its area
Site-Specific Works	Works necessary to supply a Development, as defined in Charging Rules for new connection services (English undertakers) published by Ofwat, July 2018
Street (as defined by the New Roads and Street Works Act 1991)	The whole or any part of any of the following, irrespective of whether it is a thoroughfare: (a) any highway, road, lane, footway, alley or passage; (b) any square or court; or (c) any land laid out as a way whether it is for the time being formed as a way or not
Technical Standards or TS	Technical standards or details under paragraph 3.1 of the Sewerage Sector Guidance dealing with matters not covered by the DCG and where greater input into the design is required from the Sewerage Company to enable adoption

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Vesting Date	The date which confirms the date of transfer of ownership of sewerage assets to the Sewerage Company
Vesting Certificate	A document, confirming the transfer of ownership of sewerage assets to the Sewerage Company
Sewerage Company	A company holding an instrument of appointment under Section 6 or 7 of the Water Industry Act 1991 (i.e., whether a regional company or a New Appointment and Variation)

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Appendices B to G

These documents are all available on the Code Programme web page at:

<https://www.water.org.uk/sewerage-sector-guidance-approved-documents>

Version Control

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1.0	25 October 2019	Approved by Ofwat	Water UK
2.2	29 June 2022	No changes – dates updated	Water UK