



Department  
for Environment  
Food & Rural Affairs

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



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# 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 customers impacted are most often developers, but connection charges may also apply to self-builds, self-lay providers, new appointees 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

[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 Minister<sup>1</sup> 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

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<sup>1</sup> Welsh Ministers have the same powers in relation to Undertakers wholly or mainly in Wales and will issue separate Guidance.

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 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 England<sup>2</sup>.

The Charging Guidance follows (please see the **Annex**).

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<sup>2</sup> Water Act 2014 Section 17 (144ZD(7)(a))

# Annex: Guidance to Ofwat on Charges for (Water and Sewerage) Connections

## Introduction

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.

Developer customers 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. Developer customers 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.

Developer customers 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.

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.

## The Guidance

Government recognises the importance that customers (e.g. developers, self-lay providers, new appointees, self and custom 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; that this is a transparent process and 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.

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 (including self and custom build, new appointees and self-lay providers).

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, and equally available for developers, self-lay providers and new appointees. 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. Mechanisms should be put in place to enable a level playing field in

water and sewerage connections and to ensure that competition is not distorted or inhibited.

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 be expected to 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.

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. Rules should also take reasonable account of smaller sites that are not recognised in Local Plans.

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.