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## 1. Introduction

### 1.1. The Wholesale Policy Suite

This document forms part of our wholesale policy suite which aims to ensure that we provide all our wholesale services on a fair and equivalent basis. Other documents that include reference to charges for creating new infrastructure include our:

- [Developer Charging Arrangements](#): these set out our charges in respect of those activities regulated by Ofwat’s [Charging Rules for New Connection Services \(English Undertakers\) from April 2020](#) as well as our infrastructure charges, which are regulated by Ofwat’s [Charges Schemes Rules from April 2020](#);
- [Wholesale Charges Schedule](#): these set out our charges to retailers, which are regulated by Ofwat’s [Wholesale Charging Rules](#);
- [NAV Charging Arrangements](#): these set out our charges to new appointees for supplies of water or sewerage services in bulk – they are not currently regulated by any charging rules, although Ofwat has power to publish such rules in future

### 1.2. The Purpose of this Document

In relation to capital contributions, the aims of this policy document are to set out the basis upon which we will charge for infrastructure whose purpose is **not** or not wholly:

- to provide water for domestic purposes; or
- to convey effluent for domestic sewerage purposes

Those matters are set out in our Developer Charging Arrangements (and to a lesser extent the other documents listed above) and do not need to be reproduced here. This policy will be subject to review and approval by the Wholesale Board, on a frequency determined by that Board.

In the context of this policy, “we” and “us” are defined as being Anglian Water Services.

The principles set out in this policy are exactly that: they are not intended to give rise to legal rights or liabilities but rather to inform the likely terms of any agreement, statutory or otherwise, to which they will be subject.

## 2. Policy background

In agreeing our policy as a wholesaler our overall principles are that we will:

- comply fully with our obligations under the Competition Act;
- treat those to whom we provide a service fairly, transparently and equivalently; and
- honour the commitment we provide in Conditions E and E1 of our Instrument of Appointment as a water and sewerage undertaker – namely, when formulating our charges, not to give undue preference to one class of customer over another, nor to discriminate unduly against a class of customer, nor to prejudice the proper operation of competitive markets.

### 2.1. Definition of Capital Contributions

A capital contribution is payable by where capital costs are incurred in providing infrastructure for the purposes of providing new or additional water supply and/or sewerage services. It is not payable to the extent that the capital costs have already been recovered from an existing development or applicant or covered by funding in the Final Determination.

### 2.2. Definition of “Infrastructure”

Capital contributions are required to the extent that capital costs are expended in providing infrastructure in respect of the following, in order to facilitate water supply or sewerage services for *non-domestic* use:

- our water supply network
- our sewerage network
- our water resources facilities;
- our water treatment works;
- our sewage treatment works; and
- our sewage disposal infrastructure.

Subject to the rules concerning charges for network reinforcement and infrastructure charges discussed below, capital contributions are potentially required to the extent that capital costs are expended in providing infrastructure, however, only in respect of the following, in order to facilitate water supply or sewerage services for *domestic* use:

- our water supply network; and
- our sewerage network

The term “infrastructure” in this policy must be understood accordingly.

### 2.3. Definition of “Domestic” and “Non-Domestic” Purposes

It is important not to confuse the concept of “household” and “non-household” *premises* with the concept of the use of water or the discharge of effluent for “domestic” or “non-domestic” *purposes*. Water can be supplied to non-household premises for domestic purposes, for example, to use in wash basins or toilets in an office.

Section 219 of the Water Industry Act 1991 sets out what is understood by water supplied for “domestic purposes”. This means water:

- whose purpose is for drinking, washing, cooking, central heating and sanitation at the premises supplied; and
- it may include water used for the purposes of a profession carried on in a house and for watering gardens or washing vehicles using water from within a house; but
- it does not include water used for very large baths (>230 litres), for a laundry business, or for preparing take-away food

Section 117 of the same Act sets out what is understood by “domestic sewerage purposes”. This means:

- the removal from buildings of the contents of lavatories;
- the removal from buildings of water which has been used for cooking or washing; and
- the removal from buildings of surface water;
- but does not include the removal of any water used for a laundry business or from preparing take-away food, nor water from land where there are no buildings.

Non-domestic sewage discharge will nearly always be trade effluent but there may be very rare cases when it is not.

### 2.4. Activities to which this Policy is relevant

The table below highlights the activities for which this Policy is relevant, together with the sections of the [Water Industry Act](#) that set out our duties in respect of each activity.

Applicant	Purpose of Infrastructure	Properties to be served	WIA section
Developer	Domestic water supply	Household	41
Developer*	Domestic water supply	Non-household	66AA
Developer*	Non-domestic water supply	Non-household	66AA
NAV	Domestic water supply	Household	40, 40A
NAV	Domestic water supply	Non-household	40, 40A
NAV	Non-domestic water supply	Non-household	40, 40A
Developer	Domestic discharge	Household	98
Developer*	Domestic discharge	Non-household	117B
Developer*	Non-domestic discharge	Non-household	117B

NAV	Domestic discharge	Household	110A, 110B
NAV	Domestic discharge	Non-household	110A, 110B
NAV	Non-domestic discharge	Non-household	110A, 110B
* see paragraph 2.6 below			

### 2.5. Governing Laws and Rules

Ofwat has set out rules governing how undertakers may charge for requisitions made under sections 41 (water infrastructure for domestic purposes) and 98 (sewerage infrastructure for domestic purposes). However, charging rules do not currently extend to the other activities set out in section 2.4 at the current time

Condition E of our Instrument of Appointment:

- requires us to ensure we give no undue preference to a class or classes of customer; and
- prohibits us from unduly discriminating against a class or classes of customer;

in formulating certain charges. In general these include customer charges (including developer charges where appropriate), but not NAV charges.

Condition E1 of our Instrument of Appointment Ofwat imposes the same requirements in a number of cases where there is market competition to provide services, and therefore applies when we are formulating self-lay charges and NAV charges in respect of new infrastructure.

Section 18 of the Competition Act 1998 prohibits undertakings from abusing a dominant position in a market in order to distort competition. It is clear law that section 18 is engaged even if the dominant position and the distortion of competition occur in different markets.

It is therefore important that we do not apply charges for infrastructure in a way that either unduly subsidises or unduly penalises a class of customers or a potential NAV.

### 2.6. Non-household Retail Market Opening and New Infrastructure Provision

The [Water Act 2014](#) provided new sections to the Water Industry Act designed to enable water supply and sewerage retailers to seek new infrastructure on behalf of their customers. These were sections [66AA](#) (for water supply infrastructure) and [117B](#) (for sewerage infrastructure).

Together with the [The Water and Sewerage Undertakers \(Exit from Non-household Retail Market\) Regulations 2016](#), this Act also provided for water companies to exit the non-household retail market, leaving retailers to provide water and sewerage services to end-users at the retail level (with the resource itself provided to the retailers by the exiting water company). Anglian Water exited the non-household retail market when it opened, on 1 April 2017.

The draftsmen of the 2014 Act considered that new infrastructure would be exclusively provided to non-household end-users by their retailers (again, using water company resources), and therefore repealed those parts of the 1991 Act relating to the provision by

water companies direct to the end-user (namely sections 41, 45, 55 and 98). However, there has proved to be little appetite for retailer-led new infrastructure provision, either from end-users, or from the retailers themselves.

We therefore offer the opportunity to owners or developers of non-household premises to apply direct to us for the provision new infrastructure unless:

- any water and/or sewerage retailer (as appropriate) already appointed by the end-user objects to such provision; or
- such provision requires the exercise of statutory powers (for example, as to pipe-laying) that are reliant on a specific statutory duty or function.

The latter exception is particularly applicable where we must lay new water mains or public sewers in private land, but would not apply, for example, where work is limited to a connection and perhaps reinforcement on our existing network. Where either exception applies, the application must be made either by a water and/or sewerage retailer as appropriate or jointly.

### 3. Principles of this Policy

We will use the following principles where capital costs are associated with new infrastructure for a site.

#### 3.1. Infrastructure Charges

Under section 146(2) of the Water Industry Act 1991, water companies may levy charges in respect of connections by premises that have never before been supplied with water or sewerage services. Like many water companies, we levy infrastructure charges for new connection of premises whether they are household or non-household, but only in respect of:

- water supplied for domestic purposes; and
- domestic sewerage purposes.

There are two main reasons why infrastructure charges are relevant only to these purposes.

- The first is related to Ofwat's charging rules. Infrastructure charges levied over a rolling five-year period must be calculated to equate to the costs involved in network reinforcement required to facilitate the provision of water and sewerage services for domestic purposes. Such costs may not, by virtue of the same rules, be included within direct requisition or connection charges. Connections of water and sewerage services for non-domestic purposes fall outside this rule.
- The second is due to the nature of calculating infrastructure charges. For a new house these are set by reference to the number of water or sanitary fittings in an average house. For new commercial premises, they are set by reference to the actual number of water or sanitary fittings comprised there. This type of calculation has no application to water supplied or sewerage services for non-domestic purposes, such as an industrial process.

Consequently, we do not apply an infrastructure charge in respect of connections for non-domestic purposes

### **3.2. The “Income-Offset” Discount**

For requisitions by developers for new water infrastructure (but not sewerage) for *domestic* purposes, our Developer Charging Arrangements contain an in-built discount. Discounts are applied irrespective of the extent to which the use of the properties served may be household or non-household, and are given against the water infrastructure charge. Currently, the discount exceeds the water infrastructure charge and therefore, as provided for in our Developer Charging Arrangements, a balancing credit is given against other charges.

However, no discount is given in respect of new water infrastructure for non-domestic purposes for two reasons:

- the discount is a reflection of the “income-offset” formerly enshrined in now-repealed legislation, which only applied to requisitions of infrastructure for domestic purposes; and
- since the discount is applied to the infrastructure charge and there are no infrastructure charges in respect of infrastructure supplied for non-domestic purposes, there is nothing to provide a discount against.

### **3.3. Network Reinforcement**

As discussed above, network reinforcement in respect of water supply and sewerage services for domestic purposes are funded through the infrastructure charge. However, network reinforcement in respect of water supply and sewerage services for non-domestic purposes are not. Consequently, those costs will be reflected in our charges to the applicant.

These charges will be included in the agreement to provide a new water main, public sewer, or water connection to serve the premises in question or as a condition of issuing a trade effluent consent or non-domestic discharge agreement in respect of the premises.

### **3.4. Infrastructure for Both Domestic and Non-Domestic Purposes**

Where capital costs are incurred in providing infrastructure to be used for both domestic and non-domestic purposes, the principles in this document will apply to the domestic and non-domestic elements of the infrastructure on a proportional basis.

Therefore, charges will be calculated as follows:

- For both the domestic and non-domestic proportions of the new infrastructure:
  - 100% of the site-specific costs (on-site infrastructure)
  - 100% of the site-specific costs (local off-site infrastructure)
- For the proportion of the new infrastructure attributable to domestic purposes:
  - no charge for network reinforcement
  - infrastructure charges (and discount) commensurate with that proportion
- For the proportion of the new infrastructure attributable to non-domestic purposes:

- no infrastructure charges (or discount)
- the costs of network reinforcement commensurate with that proportion

The relevant proportions are worked out by reference to the peak flow of water supplied or effluent discharged for domestic or non-domestic purposes;

There will be no upper or lower threshold to the application of this principle. Consequently, even if only one property (or all but one property) among those to be supplied via the main is using water for non-domestic purposes, the principle in this paragraph will still be applied.

We will apply standardised peak flow assumptions for each household unit that will be served.

In accordance with Ofwat’s rules, our Developer Charging Arrangements provide for a fixed charge calculation in respect of requisitions of new infrastructure for domestic purposes, to enable developers to calculate charges up-front. However, we do not offer the fixed charge calculation in respect of infrastructure for mixed domestic and non-domestic purpose since:

- the rates provided in the tables set out in the Developer Charging Arrangements assume the activity is required in respect of the whole of the infrastructure, not a proportion of the infrastructure;
- the activities required to build infrastructure with a non-domestic element are difficult to predict, due to its complexity; and
- given that the overall charges cannot be known, the strategic objective of providing an up-front figure cannot be achieved in any event.

### 3.5. Maintaining headroom

It has long been a principle of the water industry that the duty to provide water and sewerage services for domestic purposes is absolute, whereas for non-domestic purposes it is not. Hence section 66AA(4) of the 1991 Act provides that a water undertaker is not required to provide a supply of water for non-domestic purposes where doing so would put at risk its ability to meet existing or probable future obligations to supply water for domestic purposes (or could do so only by incurring unreasonable expenditure). Likewise, a sewerage undertaker retains an element of control over non-domestic sewer discharges by virtue of the trade effluent provisions in the 1991 Act.

Furthermore, headroom (in other words capacity to provide a service to future end-users) has generally been funded from contributions or schemes attributable to domestic water supply and sewerage services.

Consequently, we will design the infrastructure that must be provided to make supplies of water or sewerage services for non-domestic purposes in a manner that preserves any existing headroom, and our charges will reflect this design.

### 3.6. Supporting greater capacity than that required by the applicant

Where it is appropriate to do so, we may decide to provide additional capacity beyond that required by the applicant in anticipation of demand from future developments. In such

circumstances it would be unreasonable to request a capital contribution for the entire scheme from that applicant.

In this case we will apportion the cost of the infrastructure in accordance with the capacity provided to the applicant, using peak flows as set out in paragraph 3.4.

### **3.7. Equivalence**

The principles set out in this paragraph in respect of infrastructure for non-domestic use will be applied regardless of whether the application is direct by a developer using the option set out at the end of paragraph 2.6, by a developer with its retailer under sections 66AA or 117B, or by a NAV under sections 40 and 40A of the Act.

NAVs are not strictly liable to pay infrastructure charges as defined. However, as set out in our NAV Charging Arrangements, charges equivalent to infrastructure charges will be set out in any bulk agreement, limited as set out above in respect of the provision of infrastructure for non-domestic purposes.

We recognise that there may be avoided costs where a retailer or NAV is carrying out activities in substitution for Anglian Water; but because the charges are based on the actual cost of providing the infrastructure, and any deposit based on an estimate of costs are ultimately reconcilable, in most cases avoided costs should not be replicated in Anglian Water's charges. However, where an element of cost (and therefore charges) to a competitor would not otherwise be replicated in costs or charges to an end user, we will not include that cost in the competitor's charges: hence, the cost of providing a bulk meter to a NAV, which we would not have installed absent the new appointment, will not form the basis of a charge to the NAV.

### **4. Date this policy comes into effect**

This policy comes into effect in full on the date it is published on our website.

### **5. Application**

This policy along with Ofwat's charging rules for new developments and our charges regime will guide our approach to collecting contributions for capital infrastructure as a result of additional demand. Setting out our principles in - and consistently applying - this policy will ensure that all of those to whom we provide a service fairly, transparently and equivalently.