**Water Adoption Panel**

**Meeting on 7 December 2021 at 11.00am via MS Teams**

**In attendance:**

**Victor Olowe – Chair**

**Kate Raybould – Secretary**

**Ben Brownbill – Infrastructure Gateway**

**Nigel Martin – Wessex Water**

**Graham Morley – United Utilities**

**Sathi Amulaseelan – Southern Water**

**Damian Hill - Persimmon**

**James Ball – Anglian Water**

**David Topping – Triconnex**

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|  | **Item** | **Action** |
| 1 | **Introduction and Apologies**  The Chair welcomed members to the meeting and it was noted that the meeting was quorate, with the required number of representatives from both water companies, developers and self-lay providers (SLPs) in attendance.  Apologies had been received from Robert Perrins, Mark Whitehouse (observer), Dan Borst and Patrick Daly. The Chair welcomed Sathi Amulaseelan to the meeting as the new representative for Southern Water, replacing Ryan Lownds. |  |
| 2 | **Declaration of Interests**  Graham Morley declared an interest in the United Utilities change proposal to be discussed by the Panel. The Panel agreed that he would take part in the discussion of the proposal and then withdraw from the meeting while the Panel reached its decision on the proposal. |  |
| 3 | **Waiver of notice and publication period**  The Panel had received a further change proposal from United Utilities (see 5 below). Rather than defer consideration of the proposal to the next meeting in 2022, the Chair had agreed to accept the proposal for consideration at this meeting and in light of this, all members gave their consent to the waiver of the notice and publication period in relation to the change proposal in accordance with the Panel’s Terms of Reference. |  |
| 4 | **Approval of Minutes of Panel Meeting on 12 October 2021**  The Panel approved the minutes of the Panel Meeting held on 12 October 2021 for publication.  In respect of matters arising, it was noted that all actions had been completed. A new action would be included on the list to develop a circulation list of stakeholders for proposals. |  |
| 5 | **Change proposals**   1. **Making adoption agreements s.9 Highways Authority notification compliant – Fair Water Connections (FWC)**   The Panel discussed the change proposal submitted by FWC regarding making s.9 of the adoption agreement in relation to Highways Authority notification compliant and removing streetworks opening barriers to connection competition. The Panel reviewed the legal advice prepared by Weightmans on the legal aspects of the proposal, in particular the consequential impact of the proposal on the rest of the agreement and potential competition law issues.  In respect of the impact of the proposal on the agreement, it was noted that the proposal was not in direct conflict with any other sections of the agreement. While this aspect of the proposal was focussed on a local issue and may not address the wider issues raised by FWC, acceptance of the proposal would remove a possible ‘blocker’ for SLPs and developers. The Panel further noted Weightmans’ suggestion that the proposed wording could be adapted to remove reference to a particular party, which would allow for flexibility between developers and SLPs.  It was unanimously agreed that the Panel would recommend to Ofwat that the proposal be accepted as it was consistent with the Code principles, subject to the removal of the reference to ‘in its own name’ in the agreement.  In respect of the competition law issue, the Panel noted that Weightmans had advised that while it did not appear that the current position was anti-competitive, further analysis of the issue should be carried out. There are existing mechanisms under which Ofwat can consider such issues and the Bristol Water competition inquiry indicates that there is precedent for Ofwat to investigate; for instance, FWC could seek a determination from Ofwat on the issue. After discussion, it was unanimously agreed that the competition issue fell outside of the Panel’s remit and the Panel would suggest that it would need further consideration by Ofwat as the regulator. The Secretary would draft a letter to Ofwat setting out the recommendation and circulate it for comment and approval.   1. **SLPM S4/1 and incoming water quality issues - FWC**   The Panel discussed the change proposal submitted by FWC in respect of clarifying responsibility for incoming water quality issues in LOS metric SLPM S4/1. The Panel noted that the Weightmans advice had not raised any concerns and although the change was relatively minor, it would provide additional clarity and in particular would be helpful for smaller SLPs, who are more exposed to the cost implications.  After discussion, it was unanimously agreed that the Panel would recommend to Ofwat that the proposal be accepted. The Panel noted that the current number of change proposals considered could result in frequent minor changes to the Code documentation, which could lead to confusion for stakeholders. After discussion, it was agreed that any minor changes (including this proposal) recommended by the Panel should take effect from the start of the next financial year in April, to reduce the frequency of changes to the Code documentation. This would be subject to a cut-off date of December, so that companies have time to incorporate upcoming changes in their Charges Schemes etc, ready for April. The Secretary would draft a letter to Ofwat setting out the recommendation and circulate it for comment and approval.   1. **Escalating Cat 1 Delivery Failures – FWC**   The Panel discussed the change proposal regarding providing a means to escalate Cat 1 Delivery failures submitted by FWC. Following discussion at the last meeting, Panel members had sought feedback on the proposal from their respective companies. Overall, companies were supportive of the proposal as it would improve consistency. It was unanimously agreed that the Panel would recommend to Ofwat that the proposal be accepted, and that as a minor change, it should take effect from April 2022. The Secretary would draft a letter to Ofwat setting out the recommendation and circulate it for comment and approval.   1. **Work Quote validity period – United Utilities**   The Panel discussed the change proposal regarding work quote validity periods submitted by United Utilities. GM explained that the change was needed to align the water adoption agreement to each water company’s charges scheme. Currently the clause states that water company works quotes are valid for 12 months but this may not align to some water company’s quote validities. For instance, United Utilities’ construction quotes are usually valid for 6 months, provided they have been accepted within 3 months.  The change would also ensure that the water adoption agreement aligns to a new requirement in Ofwat’s Charging Rules For New Connection Services which comes into effect 1 April 2022. The new charging rule requires each undertaker to set out the validity period of quotations and the approach it will take where the validity crosses into a new charging year.  GM withdrew from the meeting while the Panel discussed the proposal. It was noted that 2022 will be the first year that companies have to publish validity periods and the inconsistency was likely to be a drafting oversight. After discussion, it was agreed that the Panel agreed with the principle of the change and suggested that the wording of the proposed change should be considered further to ensure it is clear and aligned with the new Ofwat rule. The Secretary will ask United Utilities to clarify this.  GM then rejoined the meeting. | Draft letter to Ofwat (KR)  Draft letter to Ofwat (KR)  Draft letter to Ofwat (KR)  Speak to UU (KR) |
| **6** | **Panel Meetings**  Following previous discussions regarding proposal timescales and extensions, Ofwat have emailed the Secretary to explain that they consider the current 3 month period to be sufficient and are concerned at the number of extensions requested by the Panel. As the Panel’s Terms of Reference require proposals to be published 3 weeks before meetings, this reduces the 3 month period for consideration. This The Panel has also discussed the need to consider proposals at 2 meetings before making a recommendation.  After discussion, it was agreed that the Panel would increase the frequency of its meetings from every 3 months to every 2 months. It will also ask Ofwat to consider extending the time period for proposals from 3 months to 4 months, which would permit consideration at 2 meetings.  The Chair reminded the Panel of the need to make use of alternates to attend meetings, to ensure that meetings are still quorate. | Speak to Ofwat (KR) |
| **7** | **WRc and CESWI project**  The Secretary had spoken to WRc, who have been instructed by CESWI to carry out annual reviews of documentation. It is likely that this will identify inconsistencies with parts of the DCG and WRc will submit change proposals in respect of these. |  |
| **8** | **Technical Sub-Groups – update**  The new Technical Sub-Groups have been set up and can now be consulted on technical queries on proposals. Going forward, as proposals should be considered at 2 meetings, the Panel should consider any queries for the Sub-Group at the first meeting, so they can be consulted in advance of the second meeting. |  |
| **AOB** | The Secretary will contact the Panel with proposed dates for the 2022 meetings. | Circulate meeting dates (KR) |

**Water Adoption Panel**

**Meeting Action Log**

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| **Date of Meeting** | **Action** | **Action Owner** | **Due Date** | **Status** |
| 12/10/21 | FWC Proposals – ask in-house lawyers for view | GM/DB/PD | 10/11/21 | Complete |
| Southern Water – draft letter to Ofwat and circulate | KR | 21/10/21 | Complete |
| Affinity Water – draft letter to Ofwat and circulate | KR | 21/10/21 | Complete |
| FWC Proposals Cat 1 failures – ask companies for feedback | All | 07/12/21 | Complete |
| 07/12/21 | FWC Proposals – draft 3 x letters to Ofwat and circulate | KR | 15/12/21 |  |
| United Utilities – ask UU to clarify wording | KR | 05/01/21 |  |
| 3 month deadline – speak to Ofwat | KR | 22/12/21 |  |
| Circulate 2022 meeting dates | KR | 24/12/21 |  |