

SPECIAL AGENDA III

PRIVATE MEMBERS' MOTIONS

CHURCH WATER BILLS

A background paper by the Secretary General

Introduction

1. This note provides an overview of the relevant legislation, and the methods and impact of new charging regimes. It is intended to be read in association with Martin Dales' own background note at GS Misc 904A.

Legislation, regulation and guidance

2. The current framework for water and drainage services was largely established by the Water Industry Acts of 1991, 1999 and 2003. The 1991 Act sets out the structures for the delivery and supervision of water supply and sewerage services; the powers and duties of the Secretary of State, the Water Services Regulation Authority (Ofwat), and the water and sewerage undertakers (the water companies), and relationships between them. The 1999 Act makes additional provisions, amending the 1991 Act with the intention of giving many water consumers new rights, particularly household customers, and increasing choice.
3. The Acts impose a range of general duties on the Secretary of State (currently, Hilary Benn at Defra), Ofwat and the water companies. The Secretary of State is required to make **regulations** by statutory instrument to promote effective competition and to ensure the proper functioning of the water companies. The Secretary of State may also provide **guidance** from time to time to Ofwat on policy and statutory requirements which may impact on price limits, and to be taken into account when approving water companies' charging schemes.
4. The legislation provides that the Secretary of State may issue guidance about any social or environmental policies which should be taken into account by the regulator, together with environmental and recreational issues. These include the need to protect and conserve the natural environment and sites of special interest, and also buildings, sites and objects of archaeological, architectural or historic interest, and the effect of proposals on the amenity of rural or urban areas. The Secretary of State and Ofwat are in addition under a duty to exercise their powers in a manner best calculated "to secure that no undue preference is shown, and that there is no undue discrimination in the fixing...of water and drainage charges". This has been specifically included in the licences by which the water companies are appointed.
5. The regulations cover those matters with which charging schemes must comply, whilst guidance sets out those matters which Ofwat must have regard to in exercising its functions. The Government has tended to use regulations to take forward measures essential to protect the vulnerable from hardship, to specify standards and to prescribe specific social objectives it wishes to achieve. Examples included the Water Fittings Regulations 1999 or Drought Plan Regulations 2005. Guidance covers matters where the Government's approach is less prescriptive.

6. Ofwat's primary duty is to protect consumers, including through the promotion of competition, while enabling companies to finance their operations. Among its specific duties are to:
 - Set limits on what companies can charge (and on changes year-on-year);
 - ensure companies are able to carry out their responsibilities under the Water Industry Acts;
 - protect standards of customer service;
 - encourage companies to be more efficient;
 - meet the principles of sustainable development; and
 - help encourage competition where appropriate.

Each water company is required to submit draft business plans to Ofwat, working within price limits set by the regulator. The current charging round runs 2005-10. Ofwat is currently undertaking a review to set price limits for 2010-15.

7. The guidance published by the Secretary of State (of the Environment) in 2000 encouraged metering for water supplies, and stable, predictable, transparent and customer-focused charging, in line with use made of the three sewerage services offered (foul water, surface water and highways drainage). Rebates were suggested for those who do not benefit from a particular service.
8. The guidance stated that it would inappropriate to charge all non-household customers, such as places of worship, community sports facilities, charities and voluntary bodies, as if they were businesses. The principle recommended was that those making similar demands should be charged on the same basis. Sewerage services, especially surface water charges, should be based on use, but also reflect the fact that large areas of certain sites may not drain into a public sewer. Large changes in charges should be phased to prevent significant increases, and introduced in a sensitive way following consultation with customers.

The Charging regimes

9. Changes to the charging schemes for surface and highways water drainage are being phased in as part of the 2005-10 charging round. It is for each company to decide its own precise approach within the overall framework set by its licence. To date United Utilities, Northumbrian Water, Yorkshire Water and Severn Trent are known to have implemented new charging regimes. Severn Trent originally excluded places of worship, hospitals and schools but, we understand, were recently required by Ofwat to apply the charges across the board. Others are being encouraged to adopt the same approach.
10. For non-household customers, most charging was formerly on the basis of rateable value of the property. Properties which were exempted in their own right from business rates, such as places of worship or properties used for the disabled, or which enjoyed relief by virtue of being charities, such as Scout halls, did not pay for surface water drainage. All will now be subject to the same rates as business users, as they fall within the non-household category. Ofwat and the water companies have stated that the change is intended to be cost neutral and no additional revenue will be generated. In other words, the net effect of the change is to shift some of the previous funding

burden to places of worship, charities and voluntary/community bodies from business customers, who should see their charges drop.

11. Under the new regimes, surface water drainage charges are based on the non-permeable areas (buildings and car parks or hard standings), on the argument that this is said more fairly to reflect the relative use of the public drains. Site area is also used to assess the indirect contribution towards global cost of providing for drainage of the public highways within a particular water companies' region, though with no potential for reduction.
12. For this charge, no distinction is made between types of non-permeable area; a large church is treated the same as, for example, as a large multi-storey car park. And somewhere in a rural setting would be charged the same as a place of the same site area in a busy urban location. Access to public roads or possession of a car park is not a pre-condition of charging.
13. The hugely increased costs of the new arrangements for churches have been exacerbated in the short term by the way that some water companies have dealt with their own lack of comprehensive information on surface drainage areas. They have issued bills on the basis that the total surface area of properties is non-permeable. This has meant that some churches have been assessed for charges 5-10 times higher than they should be as permeable areas such as churchyards have been included in the assessment. In some cases charges have been made where none are due, because the church has no connection with the public drains.
14. The companies' approach has been to place the onus on the customer to challenge the assessment made, employing the services a qualified professional, such as an architect or a surveyor, if necessary. In all cases the revised charging begins immediately and continues unless and until a customer can prove the assessment wrong. By perseverance it has in places been possible to secure more accurate bills. Even so, these represent an increased burden compared with the old system.

Mitigation

15. Surface water charges can be reduced by adopting sustainable drainage systems or soakaways. These are to be encouraged given the Church's commitment to the environment. Nevertheless, they are not a panacea and even where they are in principle possible, up front investment costs for either can be large if not prohibitive.
16. Rainwater can be harvested into above- or below-ground storage tanks for use in irrigation and, if filtered and treated, used for flushing WCs and wash basins. The amount of water stored is based on roof area and the demand for water supply. For churches, with relatively large roof areas but small water use, only a small proportion of rainwater is likely to be collected meaning that drains or soakaways would still be required. (For example, 1" of rain on the roof of a medium-sized church would produce enough water to flush a WC around 1,000 times.)
17. Installation costs for a sustainable drainage system can be £10,000 or higher, plus archaeological costs. Payback times are dependent on how much water supply can be offset, but in most cases would take very many years before the capital costs are recouped, if ever.

18. A more viable solution for some churches is to drain water to soakaways, as already occurs in many historic churches. An average-sized church needs 6 soakaways, at a cost of £5-7,000 (plus any archaeological costs). Reinstating old soakaways can cost around £2,000.
19. It should be noted that the Government permits businesses to set the cost of installing approved sustainable drainage systems against corporation tax, in effect providing a subsidy. This is not possible for most churches, small charities or voluntary groups.
20. The contribution towards highways drainage cannot be mitigated by adopting sustainable drainage systems or soakaways. For example, United Utilities has stated that any church which is a water customer (i.e. which uses either water supply or drainage services) will be liable for highways drainage charges on the basis of site area. This also means that churches which are not currently water customers but which seek to provide community facilities such as a new kitchen or WC (or simply a stand-pipe in the churchyard) requiring a water supply, could become liable for the highways charge.

Impact of Charges

21. Individual churches will be charged annually – charges vary between water companies. Using examples from United Utilities, it is clear that even if correctly assessed, surface water charges for a medium sized church with a small car park could be £300-£500, up to £2,000-£5,000 for some larger churches with extensive paved areas or car parks and £10,000 or considerably more for our largest cathedral precincts.
22. If fully implemented across the country on this basis, the estimated annual cost to Church of England churches and cathedrals is likely to be around £5 million for surface water drainage and £10 million for highways drainage contributions. To this may be added the costs, financial and in terms of volunteers' time, of contesting assessments. A parish in Chester diocese recently found that it had to incur professional fees of £1,000 to demonstrate no liability.
23. The impact on other organisations is also potentially very large. The Scouts Association estimates additional charges of around £1.5 million. Many small voluntary sports clubs are reporting similar increases to churches, ranging from 100 to 1,400%, in the United Utilities region.

WILLIAM FITTALL

January 2009