

Keith Mason  
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Ofwat  
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14<sup>th</sup> December 2018

Dear Keith

**Developer Services Measure of Experience (D-MeX) for PR19**

Following our PR19 Business Plan submission for AMP7 we thought it important to write to you about the proposal by Ofwat to introduce the 'Developer Services Measure of Experience' (D-MeX) and the current position of how this mechanism might work in practice.

We fully support measuring the service and performance provided to customers engaged in development activities and in fact we have already been measuring both our quantitative and qualitative service delivery over many years. We place significant focus on this area of our business, and have done so for over a decade, to ensure we support all forms of growth and economic development in our region and our track record demonstrates this commitment which spans our colleagues on the 'front-line' right the way through to our Board.

Our Developer Services team is led by a Director (Ian Wyatt) who is a member of our Executive Team and reports directly to our Managing Director. Ian has the accountability for the services we provide to all of our business customers except those few that are in the contestable market. All aspects of our developer customer performance is reported to our Board on a monthly basis.

We have set out in our PR19 Business Plan the innovative and detailed plans we have for our Developer Services function so that we remain an industry leader and also the 'provider of choice' for our customers. Our future plans build upon our many achievements which include:-

- Creating a dedicated and all-encompassing team with expert industry leading knowledge to provide all the services expected and desired by developer customers
- Delivering industry leading performance – we are the top performer for both water & sewerage measures and also the most consistent performer based on the WaterUK Developer Services Levels of Service since they were introduced in April 2015
- Our independently conducted annual customer service survey demonstrates our continuous improvement over the last 4 years since the survey was first launched. Our last survey undertaken in February 2018 resulted with a customer satisfaction score of 86% and 87% for customer trust which is a fantastic endorsement of the service provided by our dedicated team.
- Supporting over 98% of all housing units that are subject to a planning application and it's in excess of 99% if you exclude issues where our existing assets are physically impacted by the proposed development.
- Reducing 'avoidable' complaints (those where we have failed the customer) by over 70% since 2015/16.

Whilst we are very supportive of measuring the service we deliver to this important customer group we do have a number of significant concerns about the current approach being proposed for D-MeX and in particular how our performance will be fairly assessed and appropriately determined when compared to the other water companies. The approach used for D-MeX has to provide parity across the industry as the risks are extremely high for all water companies from both a reputational and financial perspective.

Our objective of setting out our concerns below is to assist Ofwat with implementing an effective and equitable developer customer service mechanism for developer customers and we are very willing to provide any necessary support with achieving this vital aim.

### Arrangements in Wales

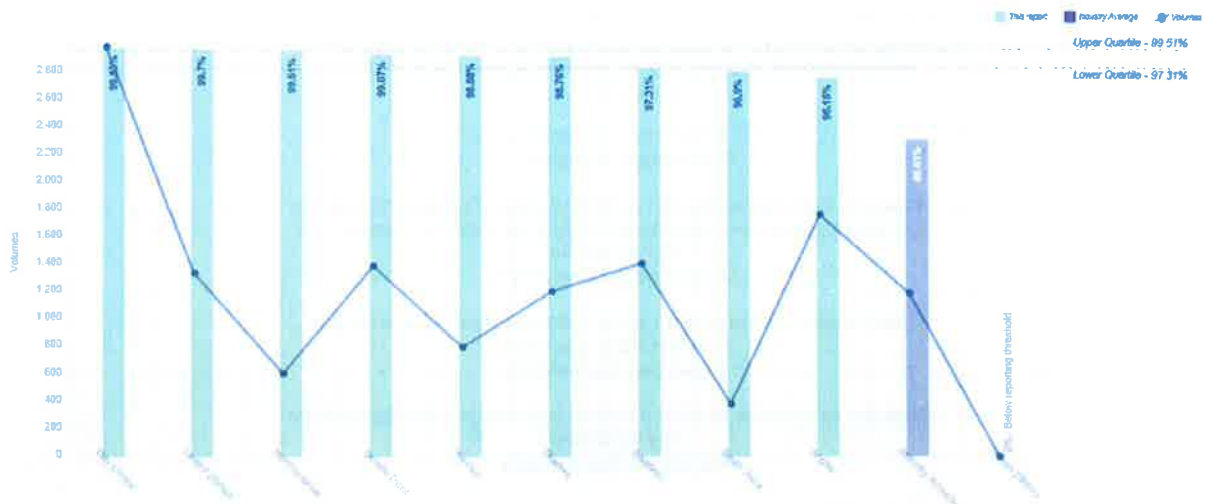
For water and sewerage undertakers who operate in Wales there have been many changes, some that are very significant, in both legislation and regulation compared to those companies who operate in England. Many of these changes have altered the duties and fundamental role that Welsh Water undertake particularly in respect of those involving developer customers. We have attached a summary of these changes to this letter which includes a brief commentary of how this has altered our role compared to our English counterparts.

For example the enactment by the Welsh Government of section 42 of the Flood & Water Management Act 2010 now requires anyone who is constructing new sewers, lateral drains and pumping stations in our area (that will connect to an existing public sewer) to enter into a section 104 adoption agreement with us prior to undertaking any sewer construction or connecting to a public sewer. It is important to note that customers seeking adoption of new sewerage systems prior to section 42 would typically be confined to national housebuilders and even then they would limit the scope of adoption to the 'spine sewers' in the new highway down to the connection with the public sewer. Post section 42 being enacted all customers constructing any new sewers or lateral drains (whether this be associated with small alterations around a privately owned house, a self-build property in an existing rear garden or a housing / commercial development) must include all new sewers, lateral drains and pumping stations in an adoption agreement.

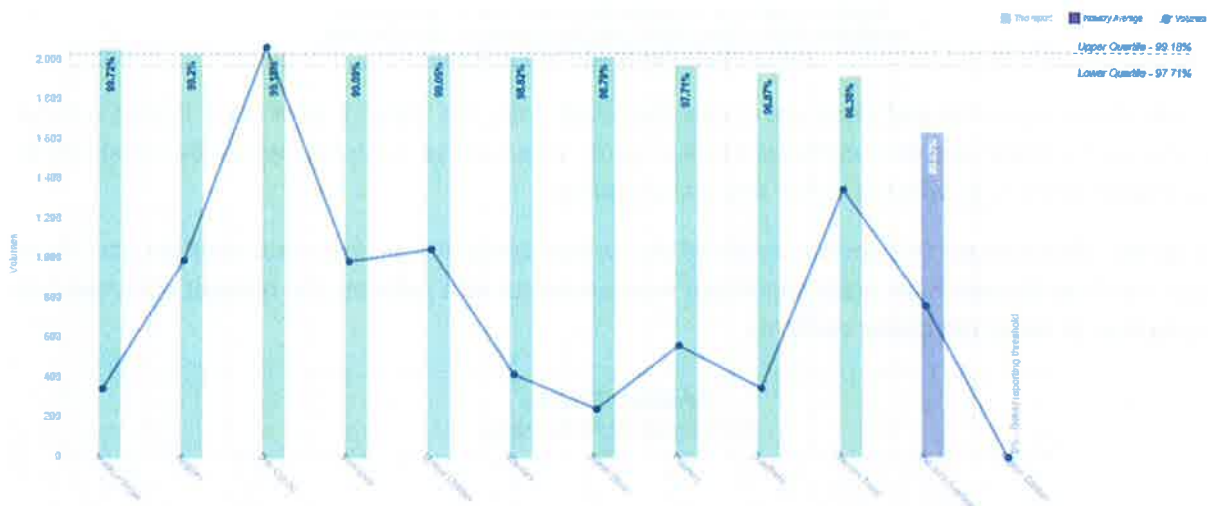
They must also comply with the Welsh Ministers Foul Sewer Standards which are mandatory. Failure to do so is in breach of section 106 of the Water Industry Act 1991 and also an offence under section 109 of the Water Industry Act 1991 if they connect to a public sewer. So whereas prior to section 42 being introduced customers had the choice of whether to offer new sewers for adoption to us (as they still do in England) they are now obligated to do so and we have a duty to enforce these requirements.

In addition section 42 prescribes a detailed legal process to ensure the timely adoption of this new infrastructure that both a developer customer and we have to follow and formally put in place to protect the new homeowners from liabilities. Hence this process has introduced the obligation for customers to engage with us, enter into a legal agreement, pay the relevant charges and provide a surety – a completely different process compared to England where they can choose whether or not to offer sewers for adoption.

Whilst we are the 6<sup>th</sup> largest water company in Wales & England we handle at least twice the number of sewer adoptions compared to the English companies as can be seen from the graph below which has been taken from the WaterUK Developer Levels of Service information for the period April 2015 to November 2018.



The graph below provides information from the same source and period for the number of section 104 legal agreements drafted.



What these two graphs also demonstrate is that whilst the sewer adoption arrangements in our area are mandatory and the process significantly more onerous for both customers and us we are an upper quartile performer for both quantitative measures and top performer in respect of technical vetting.

However when we have had our independent qualitative surveys undertaken annually over the past 4 years the verbatim comments we receive clearly demonstrate that customers do not welcome complying with these new adoption requirements and this therefore influences the feedback and view they provide to us of the service we deliver. We have provided a selection of these comments below all of which are matters beyond our control :-

*"We deal a lot with Severn Trent and the process is much smoother especially the S106 applications. Welsh Water S104 causes the majority of delay issues"*

**Developer**

*"Too much paperwork and red tape – can't start drainage until the 104 has been approved, causing huge delays and cost"*

**Developer**

*"Too long to approve – unrealistic to wait for drawings to be approved"*

**Developer**

*"Welsh Water take too long to deal with S106 matters. The idea that drainage is not to be started before the signing of a S106 is simply wrong. Costs developers money and worse, men their jobs."*  
**Developer**

*"S104 has been a problem to us"*  
**Groundwork Contractors**

*"Based on the S104 agreement coming to place, it's alright for existing customers, but for new applications S104 is very time consuming and very expensive"*  
**Groundwork Contractors**

*"New Section 104 regulation seem to have slowed down technical responses and approvals"*  
**Developer Consultants**

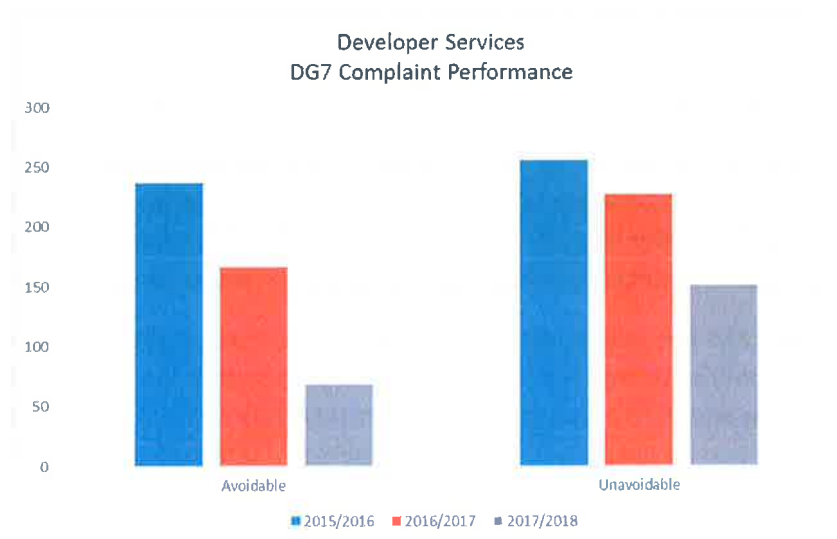
*"Since the introduction of WMS the S104 approval process has become very frustrating"*  
**Developer Consultants**

*"Tackle the Welsh Government about coming up with a process that allows Developers to commence with S104 drainage works prior to the S104 Agreement being completed (look at United Utilities process for this)."*  
**Developer**

*"Legislation has made things take longer and more complicated not necessarily Welsh Waters fault but the new legislation has made them act in a different way as duty bound by law now"*

This feedback has continued when you review the results from the 'Wave 1' & 'Wave 2' D-MeX surveys conducted by Ofwat and demonstrates a lack of parity when our performance would be compared to the English companies which is unfair and unacceptable.

To further demonstrate this point a review of our written complaint performance over the past three years confirms that we have made significant improvements with reducing the number of complaints we receive as the graph below confirms.



However when you analyse our 'unavoidable' complaints (those where we have no ability to change or influence policy or the outcome) for each of the three years the number of complaints relating to sewer adoption remains generally static at around a third of the total. This is a further indicator that customers do not welcome having to comply with the legal obligations placed upon them (and us) in respect of sewer adoption.

In summary whilst we are providing industry leading and upper quartile quantitative performance for the sewer adoption activities all of the qualitative information we have from customers to date

support our real concerns that our customer service delivery cannot be fairly appraised against English water companies and therefore by the current approach being advocated for D-MeX.

Similar issues and evidence exists with the requirement in Wales for new houses to have fire sprinklers installed and also as a result of us being a Statutory Consultee in the planning process. The comment below is another gained from our independent customer survey when in fact we have no specific duty or responsibility in this area as a water undertaker. Similar comments are also prevalent in our 'Wave 1' & 'Wave 2' D-MeX survey comments.

*"We've put sprinklers into properties and the response time with the sprinkler system is a nightmare but I think because it's new but still it's taking a long time"*

**Small Developer**

### ***Industry collaboration***

Throughout our engagement with developer customers both locally and nationally it is a clear expectation by customers that the water industry deliver services consistently and uniformly. This has been facilitated by the water companies working collaboratively over the last decade or more and more laterly through WaterUK. It is important to note that there is still much work to do in this area.

The most recent demonstration by customers of this expectation was at the WaterUK Developers Day in Birmingham where in a number customer presentations and questions from the floor this very requirement was highlighted and the water companies challenged. Both DEFRA and Ofwat representatives were present and heard first hand how important this objective is to customers.

A very likely consequence of the currently proposed D-MeX mechanism is that collaborative working between water companies will be constrained and frustrated as each company will be competing to be at the top of the D-MeX league table and therefore unwilling to share best practice and innovations that would benefit customers across Wales & England. We are aware that most, if not all, of the other water companies have the same concern. If this were to become the reality then it would be a perverse outcome for a measure that is meant to improve developer customer service delivery.

### ***Nature of the Developer Services Market***

Another important consideration is how each water company (including water only companies) can be fairly compared given that they vary considerably in size, levels of developer services activity and the varying 'players' prevalent in their area. Examples of this could be :-

- High or low levels of self-lay activity
- The extent of NaV activity in a company's area
- Whether the company's area is heavily urbanised or rural or a mix as this would determine the type of developer customers that are active e.g. national or local housebuilders

The question that results from this is how a fair D-MeX sample can be derived for each water company and we do not think this is achievable.

### ***Summary***

Based on what we have outlined above and in the attached we are convinced that two issues will cause unfairness to materialise if the D-MeX mechanism is implemented in its current form. The two issues are firstly the substantial differences in legislation and regulation in Wales compared to England

which fundamentally alter a Welsh water company's role in the developer services area and secondly that the development market in each water company's area varies considerably. The other significant issue is that customers who work across numerous water companies areas will likely fail in their expectation of water companies approaching service delivery consistently.

We believe the solution to overcome these issues would be to move away from a D-MeX league table approach to reward or penalise water companies and instead agree specific performance targets for each water company with further consideration of the appropriateness of reward and penalties being used. The benefits of this approach would include :-

- Prevent unfairness and the potential for perverse outcomes materialising in the industry which could ultimately be to the disadvantage of customers.
- Each water company devising their developer services plan which is tailored to there specific developer services market.
- Facilitate and ensure that water companies collectively continue to share and promote best practice, innovation and consistency in line with customers expectations and requirements.

We would be very willing to engage and provide Ofwat with any further support that may be helpful and this includes broader dialogue with the rest of the water industry and customers.

Yours sincerely



PP

**Mike Davis**

**Director of Strategy and Regulation**

(signed in his absence by Faye Yoxall personal assistant)