

**Water UK Response to Land Registry regarding “Land Registry, Wider Powers and Local Land Charges” and the Government’s response.**

Water UK is the policy development organisation for water and wastewater companies in the United Kingdom. It represents all major UK water and wastewater service suppliers at a national and European level. It is pleased to be able to respond to the Land Registry in relation to the proposals set out in the Land Registry’s consultation document “Land Registry, Wider Powers and Local Land Charges” published in January 2014 and the Government’s Response published in June 2014.

Water UK is surprised and disappointed that it was not consulted directly as part of the initial Consultation but is pleased to be asked to put forward its members’ responses in respect of the potential impact on the water sector of the proposed changes.

Water UK asked member companies to confirm the types of local land charges (LLCs) they routinely register and to give an assessment, based on the current proposals, of the likely impact if the changes were to be implemented.

As you will be aware a number of companies provide conveyancing search and report services for residential and commercial properties either through trading divisions or wholly owned subsidiaries. Water UK has not canvassed views on the potential effect of the proposed changes to those parts of individual companies’ businesses.

**Background**

Water and sewerage companies (WaSCs) and water only companies (WoCs) own, operate and maintain extensive networks of underground clean and wastewater assets. The vast majority of these assets were, and continue to be, laid under statutory powers. It is very unusual for there to be any specific easements in place in respect of such assets. In order to protect the structural integrity of an asset whilst still allowing development to occur, a WaSC may enter into a building over agreement (BOA) with a land owner. A BOA permits, subject to conditions, the erection of a structure over a sewer which would otherwise be prohibited. BOAs in respect of water mains are, for operational reasons, very rarely entered into.

Historically, and particularly prior to extensive land registration, in order to protect an undertaker’s interests, BOAs were registered as LLCs. In some instances this was also a specific requirement of a local Act of Parliament (LAOP), see for example the Southern Water Authority Act 1982. Notwithstanding that many LAOPs are extant not all WaSCs continue to register BOAs as LLCs and instead choose to register an agreed notice on the charges register of the property concerned.

In addition to BOAs a number of WaSCs register agreements made under section 104 of the Water Industry Act 1991 as LLCs. These agreements are usually entered into by a company and a developer in relation to the adoption of a sewer or sewers at a future date and will normally affect a number of properties in the same location.

### **Proposals and the impact on water industry of Land Registry becoming central registering authority for LLCs**

Water UK has received a range of responses from its members to the proposals which are informed by, and reflect, individual company policies towards the use and registration of LLCs and levels of service experienced in dealings with both the Land Registry and Local Authorities.

The majority of responses from members do not, in principle, foresee a significant adverse effect on the sector from the proposed changes, however concerns have been expressed as with any increased registration activity and the potential for mistakes and delays.

Water UK members are particularly concerned, given that not all local authorities currently hold information relating to land charges in a digital format, that great care should be taken to ensure that all relevant data is transferred to the new central hub register and that robust systems to track and audit this process are put in place.

Water UK believes that it is important that not only the transfer of existing records but also the maintenance and operation of the register in the future is undertaken by legally trained staff with knowledge and experience in this area. Water UK is concerned that the reduction in the number of legally qualified and technically experienced staff employed by the Land Registry following the fall in transactional conveyancing activity after 2007 has already resulted in significant variations in the quality and consistency of the service provided by the Land Registry.

Water UK agrees that it is desirable to reduce the time taken and the costs incurred in the conveyancing process as a whole and for there to be greater consistency and clarity in the services provided. It supports the principle of standard fees, agreed service levels and an overall reduction in costs to end-users however Water UK is concerned that the cost and practical difficulties of moving the diverse local registers to one central register should not be disproportionate to the benefit of uniformity gained.

Water UK supports the Government's strategy of "digital by default" but is mindful that there is still a small proportion of customers who do not have access to or embrace electronic media, and would not wish to create a system which would, in effect, disenfranchise by default if other methods of accessing records were no longer available.

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