



## **Compliance Code**

Everyone within Anglian Water needs to recognise the importance of Competition law.

As a company we are keen to support the introduction of effective competition where beneficial to customers.

Since the introduction of the Competition Act 1998 we have taken all necessary steps to ensure that we comply fully with the law and do not behave anti-competitively. In doing so, we recognise the special responsibilities we have as a monopoly supplier of certain services. We believe also that it is important to be able to demonstrate that we have complied with the spirit of the legislation as well as the letter of the law and that there is a culture of compliance.

This Compliance Code and the procedures we have put in place to train people and monitor compliance demonstrate our commitment. We expect all staff to comply with it at all times.

If you are in any doubt about compliance with this Code please contact either the Regulation Solicitor (01480 323012) or the Senior Competition Economist (07973 965537) or, if not available, with another member of the Legal or Regulation teams.

This Code is applicable to the business in the environment as it operates now.

The Code will be reviewed on an on-going basis and changes made as necessary in order to ensure on-going compliance

**Version 12.0**

**October 2018**

## Version control

<b>Version number</b>	<b>Date reviewed</b>	<b>Date published</b>
1.0	3 November 2008	3 November 2008
2.0	6 April 2009	7 October 2009
3.0	16 June 2011	22 June 2011
4.0	28 September 2012	21 November 2012
5.0	03 September 2013	30 September 2013
6.0	11 September 2014	7 October 2014
7.0	1 May 2015	13 May 2015
8.0	2 February 2016	5 February 2016
9.0	4 January 2017	17 January 2017
10.0	22 February 2017	1 April 2017
11.0	16 February 2018	21 March 2018
12.0	31 August 2018	2 October 2018

This document **must** be reviewed at intervals not exceeding 12 months.

## Contents

PART A: INTRODUCTION AND CONTEXT .....	4
1. Purpose of the Compliance Code .....	4
2. Relevant legislation .....	5
3. Scope of the Compliance Code .....	5
4. Breaches of this Code .....	6
5. Training .....	6
6. Monitoring .....	6
7. Governance .....	7
PART B: DEVELOPMENTS/NAVs .....	8
8. Overview.....	8
9. Roles and Responsibilities in relation to NAV applications.....	8
10. Post transfer arrangements .....	11
11. Confidential Information re Developments .....	12
PART C: NON-HOUSEHOLD RETAIL MARKET .....	13
12. Compliance with the Market Codes .....	13
13. Wave .....	14
14. Dealings with Water Supply and/ or Sewerage Licensees.....	14
15. Roles and Responsibilities .....	15
16. Confidential Information: Business Customers .....	17
17. Post Transfer Arrangements .....	18
Glossary .....	19
Appendix 1 - NAV Appointments.....	23
Appendix 2 Water Supply and/or Sewerage Licensee.....	24
Appendix 3 - Condition R, Non-discrimination and Confidentiality clauses .....	25
Appendix 4 - Training.....	27
Appendix 5 - Guidance for Asset Planning in relation to Developments	28

## **PART A: INTRODUCTION AND CONTEXT**

### **1. Purpose of the Compliance Code**

- 1.1. The water industry is currently set up to provide for competition via New Appointments and Variations (NAV) Appointments and Water Supply and/ or Sewerage Licensees (WSSLs or Retailers). Self Lay Organisations (SLOs) also compete to supply on-site infrastructure to developments. In order to ensure appropriate behaviour by employees to prevent us being legitimately accused of anti-competitive behaviour or anti-competitive practices we must have appropriate guidance in place. (Remember: intention is not always necessary. If the unintended effect is to exclude competition then that will be regarded as anti-competitive behaviour.)
- 1.2. Following the opening of the non-household retail market in April 2017, all eligible business, public sector, charitable and not for profit organisations in England can choose who they receive their water and sewerage from. Being able to switch water and sewerage service supplier means that businesses are free to negotiate for the best package that suits their needs; be it through more efficient customer service and better-tailored packages, water efficiency advice, or price.
- 1.3. Our wholesale business continues to have a monopoly in relation to the supply of treated water to customers in the Anglian region. AWS Wholesale is also the sole supplier of water recycling services to most of the customers in our region. Because AWS Wholesale has such substantial market power, we have special responsibilities to our customers, including Retailers who are customers of AWS Wholesale.
- 1.4. In order to ensure compliance with the Competition Act 1998 there have been changes in the structure of the business. As any further changes occur, this Code will be kept under review and updated as necessary.
- 1.5. Under Condition R of our Instrument of Appointment, we are required to have a Compliance Code for the purposes of our dealings with licensees which complies with guidance published by Ofwat. Anglian Water has decided to apply the same principles to dealings with applicants for a NAV Appointment.
- 1.6. This Code ensures that Anglian Water Services Ltd (Anglian Water) complies with its legal and regulatory obligations. Accordingly, it must be followed by all staff at all times and should be read in conjunction with the 10 Golden Rules and the Competition Act Compliance Manual available on Hawk. This code is also available on Hawk.

## **2. Relevant legislation**

- 2.1. The Competition Act 1998 prohibits the following anti-competitive behaviour:
  - Any agreement (or other action) by undertakings which has as its object or effect the prevention, restriction or distortion of competition; and
  - Any conduct which amounts to an abuse of a dominant position.
- 2.2. Anglian Water is likely to be dominant within its area in many aspects of water supply and sewerage supply so it must take special care not to abuse its dominant position.
- 2.3. Whilst the Competition Act sets general prohibitions, the WSSL regime introduced by the Water Act 2014 is more specific.
- 2.4. Conditions R and S were added to Anglian Water's Instrument of Appointment to facilitate retail competition (see Appendix 3 for more details). Under Condition R, all negotiations with, and any information received from or about a licensee must be kept strictly confidential. In addition, we must not show undue preference or undue discrimination and we must have a Compliance Code.

## **3. Scope of the Compliance Code**

- 3.1. Anglian Water is most at risk when dealing with potential NAV Appointees and WSSLs. For the purposes of this code, we have referred to these as "Competitive Enquiries". Other dealings with developers and customers, which are dealt with by Development Services, will be referred to as "Normal Dealings". It should be noted that Development Services does not undertake retail activities in serving new developments. Anglian Water must however, respond to any statutory requisition to supply new developments. It therefore remains important to ensure that all costs provided to potential NAV applicants for off-site infrastructure are consistent with those costs that are generated in response to a requisition. It is also important to ensure that levels of service are applied consistently such that there is no undue delay caused in responding to a request made by a potential NAV applicant.
- 3.2. This Code covers:
  - NAV Appointments within Anglian Water's area (paragraphs 8-11);
  - Compliance with the non-household retail market codes and dealing with Retailers, including Wave (a joint venture between NWG Business Limited and Anglian Water Business (National) Limited (AWB(N)) which is part of Anglian Water Group operating under a Water Supply License and a Sewerage License (paragraphs 12-17);

#### **4. Breaches of this Code**

- 4.1. Any breach of this Code (unless trivial or immaterial) may result in disciplinary proceedings being taken against the employee involved. This is because any breach of this Code could put the company at jeopardy of being in breach of the Competition Act 1998, the Water Industry Act 1991 and/or the Company's Instrument of Appointment.
- 4.2. Ofwat can impose financial penalties for a breach of the Competition Act 1998 or for a breach of its statutory duties under the Water Industry Act 1991 or the company's Instrument of Appointment. These fines can be up to 10% of group turnover.
- 4.3. In addition, for certain offences under the Competition Act, individual employees may be liable personally and if found guilty, could be fined or sentenced to a term of imprisonment.
- 4.4. Any complaint against AWS Wholesale being in breach of competition law will be raised through the Wholesale Service Centre (WSC) who may seek advice from the Legal team before responding to the complaint. If the issue remains unresolved, it may be escalated through the Senior Competition Economist, Legal Director and Wholesale Board.

#### **5. Training**

- 5.1. Training on the requirements of the Competition Act 1998 and this Code will be provided to all employees in roles or functional areas where there is a risk of non-compliance. Those members of staff on the High Risk Register will undertake refresher training on the Compliance Code when it is updated at least once every 12 months.
- 5.2. Training will be given to the individuals occupying the roles and functional areas identified in Appendix 4.
- 5.3. In the event of any doubt or ambiguity regarding any aspect of competition law, Condition R or this Code, employees should discuss with their line manager initially and seek further advice from either the Regulation Solicitor (01480 323012) or the Senior Competition Economist (07973 965537) or, if not available, with another member of the Legal team. All training related enquiries should be directed to the Wholesale Market Services Team (01733 414631).

#### **6. Monitoring**

- 6.1. All enquiries by WSSLs/Retailers must be submitted to the Wholesale Service Centre. All Retailer enquiries should be submitted through the Retail Portal and access will be provided by our Wholesale Service Centre upon signing of the Wholesale-Retail Contract. All enquiries will be monitored on a day-to-day basis using a risk-based approach.
- 6.2. Applicants for a NAV Appointment should submit enquiries to our Pre-Development team using the dedicated NAV portal, Inflow. The Pre-

Development team (which sits within Development Services) will record the enquiry and act as the single point of contact. Access to Inflow can be requested by emailing our Pre-Development team.

- 6.3. Our system Inflow and the Wholesale Service Centre System are the primary tools used for the retention of enquiry records and the monitoring of compliance of this code. Full access to Inflow is restricted to those in Development Services Team. Retailers can request customer user portal access to Inflow, which allows them access growth information on an enquiry-by-enquiry basis.
- 6.4. Full access to The Wholesale Service Centre System is restricted to those in the Wholesale Market Services team (within Wholesale Services). Retailers can request access to Retail Portal, which allows them to submit wholesale service requests in line with the Market Codes.
- 6.5. Access through Inflow and Retailer portals ensure that Anglian Water responds to all retail enquiries in an efficient, fair and consistent manner. In addition, Internal Audit will audit the processes, systems and documentation every two years as a minimum to ensure compliance.
- 6.6. Under Condition R, the Legal Team must review this document at intervals not exceeding 12 months.

## **7. Governance**

- 7.1. Our Wholesale Board provides a controlled forum for discussion and decisions to ensure Anglian Water is compliant.
- 7.2. The terms of reference of this board is regularly reviewed to ensure it remains effective.

## **PART B: DEVELOPMENTS/NAV<sub>s</sub>**

### **8. Overview**

- 8.1. Whilst many small developers will apply directly to Anglian Water when they want to make a new connection to our water or sewerage network, some larger developers see the benefit in obtaining multiple quotes to supply water and/or sewerage services to new developments. Frequently, developers also ask suppliers to construct the required on-site infrastructure and off-site reinforcements (including assets such as new pumping stations). A developer may approach Development Services requesting a quote to supply services to a new development. At the same time, a NAV Applicant may wish to obtain bulk supply/bulk discharge prices for supplies of water/discharges from the boundary of the new development.
- 8.2. As explained further in Appendix 1, there are two main types of Eligible Sites: those where the site is not served by an existing undertaker (known as new development or 'greenfield' NAVs) and those where the premises is supplied with at least 50,000m<sup>3</sup> of water per year (known as large user NAVs). A NAV may also be awarded where consent is given by Anglian Water. This section sets out the procedures for dealing with applications for a NAV appointment and the roles of key teams.
- 8.3. AWS will only provide statutory offers based on AWS regulatory obligations to Developers. This effectively removes the contestable nature of developments, as NAV applicants will be provided with the same inputs and costs that are available directly to the Developer. As a result, the Development Services team is considered part of the wholesale business. Development Services must ensure that they treat all customers including NAV applicants equivalently by delivering the same services levels, information and infrastructure provision. The Pre-Development team will monitor service levels to ensure equivalent services are provided to all parties. This will be regularly reported through the appropriate governance forum.

### **9. Roles and Responsibilities in relation to NAV applications**

#### **Role of Development Services**

- 9.1. The NAV Growth Liaison Manager within the Pre-Development team will manage communications with NAV Applicants. This role is responsible for managing NAV enquiries from first point of contact to conclusion. Where bulk services agreements are put in place with a NAV, on-going account management services (including billing) will be supplied by the Wholesale Service Centre.
- 9.2. A key role of the Pre-Development team is to ensure that Anglian Water treats NAV applicants fairly. This involves ensuring that asset information and costs are consistent and that information is supplied within the same timescales.

9.3. The Pre-Development team:

- must treat all parties in the same way; will receive enquiries from NAV Applicants through Inflow as per the NAV Applications process;
- will respond to Developer driven Growth requests and Pre-Development Enquiries in line with Equivalence rules;
- will receive, log and forward enquiries regarding the assets required to supply new developments to Water and/or Water Recycling Asset Planning to obtain details of the design and costs;
- must only offer standard services as published in the wholesale charges scheme. Any deviation must be agreed and signed off through the Wholesale Board.
- must ensure that all terms (financial and non-financial) offered to NAV Applicants must be signed off by individuals detailed in the Anglian Water Scheme of Delegation;
- must co-operate with the rest of Anglian Water Wholesale as long as these rules are observed.

9.4. The Development Services Connection Team must ensure loggers are ordered and fitted to the bulk connection in accordance with agreed service levels.

**Role of the Wholesale Service Centre**

9.5. The Wholesale Service Centre:

- must treat all parties in the same way;
- will provide on-going account management for NAVs where a bulk agreement is in place.

**Role of Water/Water Recycling Asset Planning**

9.6. The Water and Water Recycling Asset Planning teams provide comments on and costs in relation to solutions required in response to new growth and planning enquiries.

9.7. Water and Water Recycling Asset Planning:

- must only respond to growth and planning enquiries that have been formally forwarded from Development Services or the Strategic Planning Team or wholesale parties, such as the WSC;
- must formally respond directly to Development Services or the Strategic Planning Team or WSC regarding these enquiries (and not to the originator of the enquiry);

- can discuss the enquiries directly with the party who has submitted the enquiry to clarify points. However, all discussions or options must be noted and any solution formally proposed must go through the Inflow System;
- must comply with the requirements of Appendix 5 (which covers amongst other things, design assumptions, sharing solutions and communicating with NAV Applicants).

### **Role of Policy and Regulatory Strategy**

9.8. The Policy and Regulatory Strategy Team must:

- advise on regulatory issues, as appropriate, to facilitate Normal Dealings and/or respond to Competitive Enquiries;
- treat all information received from NAV applicants as Confidential Information and must not tell any other NAV any Confidential Information (or even the existence of any such Confidential Information);
- act on behalf of and support the Pre-Development Team where new areas of work on competition require policies to be developed;
- provide advice and support to the Pre-Development Team on a case by case basis on the asset information requested by a NAV Applicant;
- carry out relevant analyses as appropriate;
- inform the Pre-Development Team of any potential concerns in relation to Competitive Enquiries and normal bids;
- seek advice and support in respect of Competitive Enquiries from other teams as may be necessary;
- check all information is complete and identify further information requirements, as necessary;
- deal with relevant correspondence with Ofwat.

### **Role of the Income and Tariffs**

9.9. Income and Tariffs must:

- advise on tariff and income issues, as appropriate;
- own and keep under review wholesale charges;
- calculate bulk terms as required.

## **Role of Legal**

### 9.10. Legal must:

- advise on legal issues, as appropriate, to facilitate Normal Dealings and responses to Competitive Enquiries;
- investigate the source of information, if necessary;
- draft and negotiate any contract with the potential NAV appointee;
- manage any correspondence of a legal nature.

## **10. Post transfer arrangements**

10.1. Once an NAV appointment has been made, Anglian Water will cease to provide water and/or sewerage functions within the boundary and will not initiate any direct contact with any non-contestable customers in the NAV area.

10.2. If Anglian Water has agreed to provide a bulk supply to or to receive a bulk discharge from the NAV, we will have on-going dealings with the NAV. These will be governed by the terms and conditions of the bulk supply or, as the case may be, bulk discharge agreement. The Wholesale Technical Account Manager from within the Wholesale Services Centre will provide account management services.

10.3. Once any bulk supply/cross-border sewage discharge is in place Development Services **must:**

- manage the bulk connections process ensuring that reinforcements are delivered, bulk connections including telemetry are made and monies are collected;
- manage the process of collecting monies corresponding to Zonal charges.

10.4. Wholesale Services Centre **must:**

- ensure bulk meters are added to meter reading schedules;
- monitor actual bulk flows against contractual and MDD flows;
- facilitate the management of the bulk supply and, as the case may be, bulk discharge agreements;
- ensure bills for the bulk supply and, as the case may be, bulk discharge, are issued and monies are collected;
- manage operational enquiries, as required.

## **11. Confidential Information re Developments**

### **Asset Planning: Sharing Confidential Information in relation to developments**

- 11.1. Subject to what is stated below, Water and Water Recycling Asset Planning should not share Confidential Information with other parts of Anglian Water (other than the Pre-Development Team or the Strategic Planning Team and WSC).
- 11.2. New information may be identified which changes the fundamental basis on which previous responses, within the preceding twelve months, have been based (i.e. a material change in the design of the offsite reinforcement). If this is the case, it should be highlighted to the Pre-Development Team or the Strategic Planning Team and/or the WSC as appropriate so that it can be shared with all parties competing to supply a development.
- 11.3. Nevertheless, where a confidentiality agreement is in place, information relating to the unique customer circumstances should be kept confidential.

### **Other teams in AWS: Sharing Confidential Information in relation to developments**

- 11.4. Development Services will generally manage all communication with Developers. However, it should be noted that, the Wholesale Service Centre will become the initial point of contact for Process A1 (Pre-Application Enquiries Relating to a New Connection) as and when this process comes into effect.
- 11.5. No one working for Anglian Water Wholesale (including Development Services) and Customer Services should use their knowledge to influence a Competitive Enquiry in respect of that same site, developer or customer.
- 11.6. However, where there are operational developments e.g. rezoning of a network, which highlights a reduction in the need for substantial offsite reinforcements, this information should be shared with Asset Planning as it will change the response to their enquiries and will need to be shared with all interested parties.

## **PART C: NON-HOUSEHOLD RETAIL MARKET**

### **12. Compliance with the Market Codes**

- 12.1. The non-household retail market works in much the same way as in other utility services, where a range of Retailers compete for customers by offering them the best deal. Retailers buy wholesale services from the former monopoly suppliers (including Anglian Water). They then package them with other value-adding services for their customers at competitive prices. To be a retailer in the non-household retail market, the retailer must have a licence with a retail authorisation for Water Supply and/ or Sewerage as appropriate.
- 12.2. A number of Codes and agreements set out the rules of the market. These rules explain:
- how AWS Wholesale works with Retailers to provide services to customers, and what standards AWS Wholesale need to meet;
  - how AWS Wholesale charges Retailers, and how Retailers are able to transfer customers between them;
  - what information AWS Wholesale need to get from Retailers and what information AWS Wholesale will need to provide; and
  - what AWS Wholesale have to do and when.
- 12.3. Where a Retailer's customer has a difficulty with their water or sewerage services due to an unplanned change (e.g. emergencies and potential water quality incidents) or if the customer wishes apply for, vary, discontinue or terminate their trade effluent consent they may contact AWS Wholesale directly. In other cases, they will contact the Retailer, who then contacts AWS Wholesale. The Wholesale Service Centre handles contacts from Retailers.
- 12.4. Systems and processes make sure that compliance with the Codes is built into "business as usual".
- 12.5. AWS Wholesale is scrutinised by Ofwat, the Market Operator and by Retailers. If AWS Wholesale fails to comply with the rules, AWS Wholesale will be challenged.
- 12.6. The Wholesale Retail Code (WRC) governs the interactions between Wholesalers and Retailers and sets out the basis on which Wholesalers and Retailers will communicate with the Market Operator so that it can calculate sums due by each Retailer to each Wholesaler and administer the customer switching process. This is a statutory code that has been given effect through the legislation directly. It also covers interactions between wholesalers and the associated retail arm.
- 12.7. The Market Arrangements Code (MAC) governs the multi-party interactions across the market participants, setting out the membership

and governance of the Market Operator and the membership and conduct of the Panel (and Panel committees) that will oversee the governance and change management of both the Wholesale-Retail Code (WRC) and MAC.

### **13. Wave**

- 13.1. When Anglian Water exited the non-household retail market on 1<sup>st</sup> April 2017, its eligible customers were transferred to AWB(N). In August 2017, AWB(N) was sold to a joint venture company (Wave Ltd), 50% of which is owned by AWG (via Anglian Venture Holdings). Wave Ltd has a single operating subsidiary which now incorporates the non-household retail businesses formerly owned by Anglian Water and by Northumbrian Water. This operating subsidiary is AWB(N). AWB(N) intends to change its name to Wave Utilities Ltd.
- 13.2. As a Retailer, Wave can seek to supply retail water and/ or sewerage services in any part of England and Wales where the undertaker's area of appointment is wholly or mainly in England.
- 13.3. Transactions between AWS and Wave must be conducted in the same way that transactions would be conducted between AWS and any other Retailer.

### **14. Dealings with Water Supply and/ or Sewerage Licensees.**

- 14.1. This section sets out the procedures for dealing with WSSLs with retail and/ or wholesale authorisation and the roles of key teams. Where a WSSL with wholesale authorisation is competing against AWS to provide wholesale services to eligible customers within the AWS region, there is a risk that information received by AWS from the licensee could be used to gain an unfair commercial advantage.
- 14.2. The WSC will act as a single point of contact for enquiries that originate from a WSSL. This will ensure that all WSSLs obtain information on the same basis, timescales and on the same terms. There are currently three types of enquiries: 1. Growth Enquiries (where the request is for additional volume); 2. Service Requests (including things such as meter exchanges) and; 3. Enquiries from WSSLs switching business customers away from the current supplier. Growth requests (which involve the construction of new assets) are managed by the Pre-Development team on the same basis, regardless of the WSSL they are received from.
- 14.3. Enquiries from WSSLs will be managed in accordance with the Wholesale Contract and Anglian Water's published Access Code and must not be disclosed to other Retailers, and in particular, not to Wave. Once a WSSL is supplying the customer, day-to-day contact with the WSSL will be managed by the WSC. The WSC will provide on-going account management and billing of Wholesale Charges.

- 14.4. AWS Wholesale is only able to carry out work for Retailers (including Wave) under a Wholesale Contract (which forms part of the WRC) and any Service Agreement. When a Retailer asks AWS Wholesale to do something, AWS Wholesale will check whether it is obliged to do it under the Wholesale Contract or any Service Agreement. If it is not covered, AWS Wholesale will not do it. All Service Agreements and Wholesale Contracts are administered through the WSC. Any disputes in relation to the services provided to a Retailer are dealt with by the Wholesale Commercial Manager with escalation to Wholesale Board where required.
- 14.5. Employees within AWS Wholesale may learn things about a Retailer's customers when work is carried out under the Wholesale Retail Codes. If this information is related to water and sewerage services, it can be shared with the Retailer who is supplying the relevant customer. However, AWS Wholesale must not pass on information about a customer to any other Retailer (and particularly not to Wave). AWS Wholesale must only provide Retailers with information that is covered in the market codes.

## **15. Roles and Responsibilities**

### **Role of Wholesale Service Centre ("WSC")**

#### 15.1. The WSC:

- will receive, log and forward service requests from WSSLs to the appropriate team to respond;
- will receive, log and manage WSSL enquiries to completion;
- must treat Wave in the same way as all other Retailers (the "principle of equivalence"); and
- is the primary point of contact for upstream enquiries originating from all Retailers (including Wave) including the gathering of information necessary for the Wholesaler to carry out its duties such as resource planning and strategic growth.

### **Role of the Development Services**

- 15.2. The responsibilities of the Pre Development Team in relation to growth enquiries received from any Retailer including Wave are the same as the responsibilities in relation to enquiries relating to developments (see section 9.4 above).

### **Role of the Asset Planning team**

- 15.3. The responsibilities of the Asset Planning team in relation to growth enquiries received from any Retailer including Wave are the same as

the responsibilities in relation to enquiries relating to developments (see section 9.5 and 9.6 above).

### **Role of the Policy and Regulatory Strategy team**

15.4. The Policy and Regulatory Strategy **must**:

- advise on regulatory issues, as appropriate, to facilitate Normal Dealings and responses to Competitive Enquiries;
- act on behalf of and support the Wholesale Services Centre where new areas of work on competition require policies to be developed;
- provide support on all external and internal enquiries in respect of water supply and/ or sewerage licences for Business Customers;
- seek advice and support in respect of wholesale authorisations from other teams as may be necessary, BUT must not contact Wave for advice or support;
- check all information is complete and identify further information requirements, as necessary;
- work with WSSLs to investigate the source of the information, if necessary, should that WSSL inform them that they have become aware of a Competitive Enquiry from any person other the customer with whom they are dealing;
- deal with all correspondence with Ofwat;
- Support regulatory interactions with MOSL around market developments.

### **Role of Income and Tariffs**

15.5. Income and Tariffs **must**:

- calculate access prices as required;
- advise on tariff and income issues, as appropriate.

### **Role of AWS Legal team**

15.6. Legal **must**:

- manage any correspondence of a legal nature;
- advise on legal issues, as appropriate, to facilitate Normal Dealings and responses to Competitive Enquiries;
- investigate the source of the information, if necessary, should a WSSL inform them that they have become aware of a Competitive

Enquiry otherwise than from any person other than the customer with whom they are dealing.

## **16. Confidential Information: Business Customers**

### **Wholesale Service Centre: Sharing information in relation to Business Customers**

- 16.1. Information that is specific to a Retailer who is bidding to supply a Business Customer or has a contract to supply a Business Customer must not be shared with other Retailers unless the Retailer who supplied the information has agreed to the sharing of the information with others. The WSC should not share Confidential Information with other parts of Anglian Water (subject to the exceptions set out below).
- 16.2. People working in the WSC need to consider what information they tell other colleagues in Anglian Water Wholesale. The WSC should only share information with colleagues where it is necessary for market reasons, or in order to carry out Anglian Water's core functions.
- 16.3. There are no restrictions on sharing information with other parts of Anglian Water except for Confidential Information. The WSC are, for example, allowed to share with the rest of the business information about working practices, growth strategy, training and general company news. The WSC is allowed to co-operate with other parts of Anglian Water so long as the team follow the Principle of Equivalence and the rules about sharing Confidential Information.
- 16.4. Information may be shared where:
  - The information becomes publicly available (and therefore by definition ceases to be confidential); or
  - The information is obtained from another source and that other source is happy for the information to be shared freely (although, in these circumstances, you should confirm the original Retailer is aware of this fact). Note that you should also confirm with the other source that the information in question has been supplied to them without confidentiality restrictions and document evidence of this.

### **Other teams in AWS: Sharing Confidential Information in relation to Business Customers**

- 16.5. Everyone working for Anglian Water Wholesale and for AWS Customer Services must keep confidential any information about Retailers (including Wave) unless AWS Wholesale is under a legal obligation to supply that information.
- 16.6. AWS Wholesale will have regular contacts with Retailers, and may find out what they intend to do in the market. AWS Wholesale must not tell other Retailers any information that it may have about a Retailer's activities. AWS Wholesale must also make sure that any systems that it

sets up to hold market information are secure and can't allow any unauthorised access (in particular by Wave).

- 16.7. Anglian Water produces a substantial amount of information about its networks, its water quality and its plans. Some of this information is publicly available and some of it can be obtained via a request made under the Environmental Information Regulations. AWS Wholesale will need to provide Retailers operational related information so that they can inform their customers. However, AWS Wholesale should be mindful of the risk of providing information that gives a Retailer an unfair advantage.

## **17. Post Transfer Arrangements**

- 17.1. Once a customer has transferred under the WSSL regime, the outgoing Retailer will cease to have day-to-day retail contact with the occupier of the premises for water and/or sewerage services as appropriate. However, the incoming Retailer will then become the Anglian Water Wholesale customer for that premises.

- 17.2. Anglian Water Services will continue to have contact with the occupier of the premises for the following functions:

- Water Fittings Regulations – Anglian Water remains the enforcement body;
- Trade Effluent – Anglian Water remains the enforcement body;
- Validating readings from meters and loggers, inspecting, testing and replacing meter reading apparatus, as required; and
- In specific operational circumstances, for example in the event of an incident;

- 17.3. Wholesale Services Centre **must**:

- Provide the point of contact for account related queries from WSSLs (through the Wholesale Technical Account Manager).
- Manage the contract with the WSSL involving Asset Planning, Income and Tariffs, Legal, the Policy and Regulatory Strategy team and others as necessary.

## Glossary

<b>Term</b>	<b>Definition</b>
Arm's length	As if negotiated independently.
AWB(N)	Anglian Water Business (National) an associated Retailer to AWS as part of Anglian Water Group operating under a WSSL.
AWS	Anglian Water Services Limited, which, for avoidance of doubt, includes Hartlepool Water.
Business Customer	An Eligible Customer.
Competitive Enquiry	An enquiry received from a Competitive Party.
Competitive Parties/Party	A party who is directly involved in competition to supply Eligible Customers or Eligible Sites meaning (i) Retailers (including Wave) (ii) NAV Applicants.
Compliance Code	This document.
Condition R	A condition of AWS's Instrument of Appointment which requires (inter alia) that all negotiations with, and any information received from or about a licensee must be kept strictly confidential (see Appendix 3)
Confidential Information	Information that is commercially sensitive and which relates to an Eligible Customer or an Eligible Site but not in the public domain in accordance with the WRC Business Terms.
Customer	The owner or occupier of premises receiving or wishing to receive a water supply or sewerage service from Anglian Water, including any potential owner or occupier of such premises.
Developer	A person intending to develop a site who has expressed an interest in Anglian Water or a NAV Applicant in providing a water supply or sewerage service to the site.
Development Services	The Development Services Team which forms part of Anglian Water Wholesale and carries out wholesale activities such as off-site mains laying, connections provision, vetting etc.

Term	Definition
Eligible Customer	<p>A customer who owns or occupies eligible Premises in the Anglian region and who receives or wishes to receive a water supply or sewerage service from AWS or from a retailer.</p> <ul style="list-style-type: none"> <li>• All Eligible Customers are able to select their retailer; and</li> <li>• Retailers are able to supply both water and sewerage services to Eligible Customers.</li> </ul>
Eligible Premises	<p>Eligible Premises are non-household premises. Put another way, Eligible Premises are premises that are <u>not</u> household premises (per 17A(3)(a) WIA91).</p> <p>The classification of properties set out in the Local Government Finance Act 1988 (LGFA 88) may be used to determine whether premises are non-household premises. Per the LGFA 88:</p> <p>Domestic properties – those that are liable for Council Tax only – will ordinarily be household premises for the purposes of WIA91 (and therefore NOT Eligible Premises).</p> <p>Non-domestic properties – those that are liable for business rates only – will ordinarily be non-household premises for the purposes of WIA91 (and therefore Eligible Premises).</p> <p>Mixed-use premises, referred to in the LGFA88 as composite hereditaments are liable for both Council Tax and business rates, and will normally be classified as non-household premises, unless there are grounds to consider that their principal use is as a home (and therefore, in most cases, mixed-use premises will be Eligible Premises).</p>
Eligible Site	<p>A site in the Anglian region which is capable of being served by a NAV and which therefore satisfies one or more of the criteria which are set out in WIA 91 s7(4) and summarised in Appendix 1</p>
Equivalence	<p>The processes and principles that ensure that Anglian Water responds to competition in a fair way.</p>
Inflow	<p>The customer relationship management system that replaced GEMS as the central point for recording all Growth Information and the management of Equivalence.</p>
Instrument of appointment	<p>The document appointing AWS as a water and sewerage undertaker</p>

<b>Term</b>	<b>Definition</b>
Market Operator	A body that calculates the amount that Retailers have to pay Anglian Water, and manages the system for Retailers to transfer customers from one Retailer to another. To make this system work, AWS Wholesale needs to inform the Market Operator when AWS Wholesale connects or disconnects a non-household property. AWS Wholesale also needs to advise the Market Operator when it changes the services or charges that a premise receives.
NAV	New Appointments and Variations. An appointment made by Ofwat whereby a third party undertaker is authorised to supply water and/or sewerage services to a site within another undertaker's area. For more details see Appendix 1.
Normal dealings	Day to day dealings with Developers and customers, which are dealt with by Customer Services.
Principle of Equivalence	The Principle of Equivalence has the meaning given in section 15.1 of the Compliance Code.
Register of Information	A register of any Confidential Information disclosed by individuals and teams in relation to Eligible Sites or Eligible Premises.
Retailer	AWB(N) and other companies who wish to supply water and/or Water Recycling services to Eligible Customers. Retailers have licences that allow them to have contracts with Eligible Customers so they can charge them, and in turn pay Anglian Water Wholesale for the services their Eligible Customers use. A Retailer is entitled to supply water services and/ or sewerage services to Eligible Customers having obtained an appropriate licence from Ofwat.
Water Supply and/ or Sewerage Licensee (WSSL)	A company holding a water supply and/ or sewerage supply license. A retail licence entitles the holder to purchase water and/or sewerage services from AWS and retail it eligible customers. A wholesale authorisation allows the holder to introduce water into AWS' water supply system or take sewerage from AWS' sewerage system. For more details, see Appendix 2.
Wave	Wave is a joint venture company, 50% of which is owned by AWG (via Anglian Venture Holdings Limited). In August 2017, AWB(N) was sold to Wave Ltd.

<b>Term</b>	<b>Definition</b>
WRC	The Wholesale-Retail Code issued by Ofwat setting out the relationship between Wholesalers and Retailers and how the market will operate.
Wholesale Service Centre (WSC)	The team within Wholesale Services, which is the initial point of contact with the Wholesaler for Competitive Parties who require the supply of water or water recycling services to supply Eligible Customers).

## Appendix 1 - NAV Appointments

The Water Industry Act 1991 sets out the NAV appointment framework. It allows sites supplied by one undertaker to be replaced by another undertaker as the supplier of water and/or wastewater services. Applications are made to Ofwat. There are three criteria, only one of which **must** be met, in order for an NAV to be granted:

- The premises is supplied with at least 50,000m<sup>3</sup> of water per year e.g. a large user
- The site is not served by an existing undertaker e.g. a 'greenfield' site or a privately supplied site such as MoD sites.
- The existing undertaker consents to the change.

As part of the process, potential NAVs may need to negotiate with Anglian Water for bulk supply or bulk discharge terms. Potential NAVs may also require information from Anglian Water in relation to off-site and connection costs.

In dealing with potential NAV appointments, Anglian Water and its representatives **must** at all times comply with the Competition Act 1998 that prohibits any abuse of its dominant position.

The guidance given in the attached Code is intended to help employees comply with Anglian Water's legal obligations and **must** be followed at all times.

## **Appendix 2 Water Supply and/or Sewerage Licensee**

The Water Act 2014 introduced a competitive market in water and sewerage supply for all non-household customers. A water supply licensee and a sewerage supply licensee will supply these eligible customers where the undertaker has exited the retail market. On 1<sup>st</sup> April 2017 Anglian Water Services exited the retail market and transferred its eligible customers to Anglian Water Business (National) Limited, Anglian Water's associated Retailer. Eligible customers can choose to switch their water and/ or sewerage supplier provided that supplier has a WSSL with retail authorisation.

WSSLs are associated with one or more of the following authorisations.

- Retail authorisation – this gives the licensee authorisation to use the water/ sewerage system of a water/ sewerage undertaker to provide water/ sewerage services to their customers.
- Wholesale authorisation – this is an authorisation for the licensee to introduce water into the supply system of a water undertaker (in the case of a water supply licence) or to remove matter from the sewerage system of a sewerage undertaker (in the case of a sewerage supply licence) where these services are provided to eligible customers.

In dealing with WSSLs, including AWB(N), Anglian Water Services and its representatives must at all times comply with the Water Industry Act 1991, its Instrument of Appointment, its Access Code (which must comply with Ofwat's Access Code guidance) and the Competition Act 1998.

Condition R of AWS' Appointment requires AWS to keep all information received from a licensee confidential and not use any such information for any purpose other than arranging for the customer to be supplied by the licensee.

The guidance given in the attached Code is intended to help employees comply with Anglian Water's legal obligations and must be followed at all times.

### **Appendix 3 - Condition R, Non-discrimination and Confidentiality clauses**

#### Anti – Competitive behaviour

The Appointee shall not show undue preference towards, or undue discrimination against:

(a) Customers or potential customers (or classes of customers) of a licensed water supplier, as compared with either the Appointee's own customers or potential customers (or classes of customers) or the customers or potential customers (or classes of customers) of any other licensed water supplier; or

(b) A licensed water or sewerage supplier, as compared with any other licensed water supplier or the Appointee itself.

#### Obligations about information

(1) Whenever the Appointee is –

(a) negotiating with a licensed water and/or sewerage supplier the period for which and terms and conditions on which it might discharge any of its duties under sections 66A to 66C; or

(b) discharging any of those duties,

it shall ensure that legally enforceable terms exist about the confidentiality of information provided to or by it for those purposes.

(2) Without prejudice to the generality of sub-paragraph (1) above, the Appointee shall not use or disclose information received from or in relation to a licensed water and/ or sewerage supplier in the course or contemplation of the discharge of its duties under sections 66A to 66C or in the course or contemplation of its dealings with that licensed water supplier under sections 66A to 66C, except –

(a) for the purpose for which it was furnished and to the minimum extent necessary to discharge those duties or for those dealings;

(b) where required or permitted by law; or

(c) where otherwise agreed with the licensed water supplier.

(3) Without prejudice to the generality of sub-paragraph (1) and (2) above, and subject to sub-paragraphs (2)(a), (b) and (c) above, the Appointee shall ensure that information received from or in relation to a licensed water supplier in the course or contemplation of the discharge of its duties under sections 66A to 66C or in the course or contemplation of its dealings with or in relation to that licensed water supplier under sections 66A to 66C is not used or disclosed or otherwise distributed or disseminated within the Appointed Business otherwise than for the purposes for which the information was furnished.

(4) (a) The Appointee shall have a Compliance Code which complies with Compliance Guidance issued by the Authority...

b) Subject to sub-paragraph (c) below, the Appointee –

(i) shall review its Compliance Code annually not later than the anniversary of the date upon which Compliance Guidance is first issued by the Authority; and

(ii) may at any time revise it.

(c) If the Authority revises its Compliance Guidance, the Appointee shall revise its Compliance Code to conform to such revised guidance, within the timescales set out by the Authority

## **Appendix 4 - Training**

The following teams require training specific to their Compliance Code role:

- Pre Development team within Development Services, Wholesale Services
- Strategic Planning Team , Water Resources
- Wholesale Service Centre, Wholesale Services
- Development Services, Wholesale Services
- Legal (Regulation)
- Policy and Regulatory Strategy, Regulation
- Income & Tariffs, Regulation
- Cost Base Team, Asset Management
- Asset Planning Water, Asset Management
- Asset Planning Water Recycling, Asset Management

The following teams that potentially will come into contact with processes that support the Compliance Code require awareness training:

- Catchment Quality Scientists, Water Recycling Services
- The Alliance, Asset Management
- ADMC, Asset Management
- Metering, Wholesale Services
- Income & Billing, Customer Services
- Contact Centre, Customer Services
- Water Services
- Water Recycling Services

## **Appendix 5 - Guidance for Asset Planning in relation to Developments**

### **A Design Assumptions**

Over many years Anglian Water has developed design assumptions (for example instantaneous peak flow) based on historical data and commissioned studies. NAV Applicants develop different assumptions and provide data that may not correlate to data Anglian Water would expect.

In such cases, it is important to confirm the information proposed and how it varies from standard Anglian Water design assumptions. An indicative cost should also be provided to advise the NAV Applicants of future reinforcements that may result because of incorrect design assumptions.

However, Anglian Water should use the design assumptions provided by the NAV Applicant. Anglian Water retains the right to physically limit the peak discharge rates from NAV Areas.

### **B Strategic Infrastructure**

Anglian Water's strategy is to make an early assessment as to whether strategic mains or sewers are required across developments in an area (normally during the Local Development Framework process).

Water and Water Recycling Asset Planning must define the development of strategic mains/sewers.

The guiding principle should be that customers across the Anglian region should not subsidise the cost of additional capacity provided for new development.

Both NAV Applicants and Anglian Water's Development Services team must be treated the same way in contributing to the cost of strategic mains/sewers. This is by way of our Zonal Charging.

Where applicable, Anglian Water must state there are strategic off-site mains contributing capacity to a site at the earliest opportunity.

The NAV Applicant/Developer/Self Lay Provider will contribute in line with the Zonal Charging policy for strategic main/sewer.

## **C Sharing solutions with other interested parties**

As a rule, design solutions developed as a response to developer enquiries (either directly or via an NAV Applicant) are classed as Confidential Information and must not be shared with other NAV Applicants;

However, if the design philosophy of the offsite reinforcements and/or connections changes, such as discovering that the surrounding networks can be rezoned or attenuation can be provided instead of increasing sewer size; this information must be shared with all parties bidding to supply a development site, and their respective design solutions amended and re-estimated accordingly.

In addition, if a NAV Applicant is using peak flow rates substantially more or less than Anglian Waters' standard calculation, then the NAV must be made aware that there is a discrepancy with the assumptions Anglian Water use in writing. All responses must use the peak flows assumed by the Retailers.

## **D Meeting notes**

Designing a solution for a development may involve direct meetings with a NAV Applicant.

In such cases, meeting notes are required to confirm the following:

- Design options discussed and recommended solutions.
- Information shared from other applicants.
- Agreed actions.
- Agreed timescales.

All solutions and notes must be saved on Inflow and available to the Pre-development Team.

## **E Meeting/talking/communicating with NAV Applicants**

From time to time Water and Water Recycling Asset Planning will need to clarify and discuss design options with a NAV Applicant. In these circumstances, individuals should take into account the following points:

- Focus on area of expertise.
- If topics of discussion move outside your area of expertise, refer the Retailer to an individual in Anglian Water Wholesale that can answer this question.
- Confirm discussion points in writing.
- Copies of notes should also be sent to the Pre-Development Team and held on Inflow.

- Will not divulge any details of other detailed appraisal requests they have received previously to anyone.

## **F Reviewing previous responses**

It is important that previous responses for a development site be reviewed to identify whether the design needs to be updated if there are material changes to the design for later enquiries.

However, growth enquires that are greater than 12 months old as of 1 April 2012 will not be reviewed. In addition, only active enquiries for Pre-planning and Connections will be reviewed. Previous owners of developments and Planning Authorities will not be informed of changes.

Material changes to a site may include:

- changes in the location of connection points (if the offsite reinforcements are made substantially cheaper).
- moving from, or reducing the amount of offsite reinforcement required for a development if a decision has been made to rezone a network or provide attenuation to a sewerage pumping station.

It must be noted that designs for one NAV Applicant must not be shared with another NAV Applicant. Only the change in the design philosophy can be shared. The design assumptions and details for the previous NAV Applicant must also be used in developing the updated design.

## **G Water Cycle Studies**

Where individuals are involved in developing Water Cycle Studies, the Water Cycle Study must focus on developing the best technical solution.

The best technical solution does not necessarily have to be delivered by any existing water companies (incumbents) and could be provided by other parties, including new entrants.

Incumbents will co-operate (as necessary) with any person who is contracted to deliver the solution.