



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**CER Decision Paper on
Irish Water's *First Fix Leak Repair Scheme* for Domestic
Customers**

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Abstract:

The CER has published its Decision in relation to *Irish Water's First Fix Leak Repair Scheme*. This Scheme is to address the leakage on the customer supply pipes in accordance with the Government's announcement in May 2014 that €51 million is allocated to a First Fix Scheme. The main objective of the Scheme is to assist in water conservation.

Irish Water has developed its Scheme following public consultation and direction by the CER as to the scope and implementation of this Scheme. Irish Water's proposed *First Fix Leak Repair Scheme* is published alongside this Decision paper.

Target Audience:

All interested parties including Irish Water customers - both in terms of water supply and wastewater services, consumer representative organisations and the water industry.

Related Documents:

- Water Services Act 2014
- CER/14/746 *Water Charges Plan Decision Paper*
- CER/14/747 *Irish Water Charges Plan*
- CER/15/001 *Irish Water's Water Charges Plan*
- CER/15/005 *Water Charges Plan Decision Paper*
- CER/15/075 *Irish Water First Fix Leak Repair Scheme for Domestic Customers Submission to the CER*
- CER/15/178 CER Decision Paper on Irish Water's First Fix Leak Repair Scheme for Domestic Customers
- CER/15/178(a) Responses to CER Consultation CER_15_074 - Appendix 1

Revised Documents:

- CER/15/179 *Irish Water First Fix Leak Repair Scheme for Domestic Water Customers Submission to the CER (Reg_PP_IW_FFLRS_002)*
- CER/15/179(a) *IW First Fix Leak Repair Scheme Appendix 5 - Customer Journey*
- CER/15/180 *Irish Water First Fix Leak Repair Scheme for Domestic Water Customers , CER Consultation Public Submissions : Irish Water Response, Submission to the CER (Reg_PP_IW_FFLRS_003)*

Next Steps:

- Engage with Irish Water on Reporting Requirements on *First Fix Leak Repair Scheme*
- Monitor Irish Water's *First Fix Leak Repair Scheme*

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1 EXECUTIVE SUMMARY

In May 2014¹, the Government announced a funding allocation of €51 million to the end of 2016 for a *First Fix Leak Repair Scheme* to be operated by Irish Water for households. This was to address excessive leakage in the system and to assist in water conservation. Irish Water has made a submission to the CER on the principles of the First Fix Scheme and the CER is now publishing its Decision on Irish Water's Scheme. Customers who qualify under the Scheme will have their first leak fixed free of charge. The CER views this as an enduring Scheme to the extent that Irish Water can demonstrate to the CER tangible benefits of the Scheme for consumers. In this context, Irish Water will be reporting to the CER on a quarterly basis regarding the operation of the Scheme.

In April 2015, the CER consulted on Irish Water's Proposed Leak Repair Scheme for Domestic Water Customers. The CER received eight responses to the consultation. The CER's Decision is based on a review of the eight submissions received during the consultation period. This is the CER's Decision on the Irish Water's First Fix Leak Repair Scheme and the Scheme document is published alongside this Decision.

Summary of Irish Water's Scheme:

Irish Water proposed certain eligibility criteria and parameters for the operation of the First Fix Leak Repair Scheme. Once a customer meets and the eligibility criteria they qualify for the *First Fix Leak Repair Scheme* and the repair of their leak will be fixed free of charge under the Scheme. Under the *First Fix Leak Repair Scheme*, Irish Water will offer a free fix where the leak is identified on the External Supply Pipe between the point of entry to the house and the property boundary. The Scheme will not apply to leaks within a house.

Irish Water will use metering data to identify where the most significant leaks are located. Meters will trigger a Constant Flow Alarm (CFA) when a constant flow of 6 litres per hour continuously over a 48 hour period is detected.

All customers whether they are registered or not with Irish Water will receive an Advice Letter from Irish Water if they have a leak alarm at their property. When the customer contacts Irish Water to schedule a leak investigation appointment, Irish Water will ensure that the customer has registered. If they have not done so then Irish Water will register the customer prior to organising a scheduled visit to investigate the leak.

Main qualifying criteria for receiving a fix under the Scheme:

- the customer is a domestic customer;
- the customer is registered with Irish Water;
- the customer has a meter installed;
- a leak is located on the External Supply Pipe;
- the customer has an Internal Stop Valve (ISV);
- the customer is not a mixed use customer;

¹ <http://www.environ.ie/en/Environment/Water/WaterServices/News/MainBody,37946,en.htm>

- the customer is not supplied by a backyard shared service;
- the customer is the owner or has the consent of the owner for the repair works, however the Leak Investigation can be carried out with the tenant or occupier;

First Fix Leak Repair Scheme Process:

Irish Water has detailed a three step process in its Scheme as follows:

1. **Customer Notification Process** - letters are sent to customers advising them that there is a potential leak - Irish Water will advise customers in writing to contact Irish Water to carry out internal leak checks – letters will issue to customers where a Continuous Flow Alarm has been activated (6 litres/hr for continuous 48 hours period) – if it appears that the leak is not internal to the house, a Leak Investigation (involving a visit by an engineer to the customer's home) is scheduled. Irish Water will check that the customer is a registered with Irish Water before scheduling a leak investigation. If the customer is not registered, Irish Water will require a customer to register with them before carrying out a leak investigation.
2. **Leak Investigation Process** - an engineer carries out an investigation at the property to identify the source and location of the leak (using a ground microphone and pulse wave generator) – if this establishes that the leak is external to the property and can be located, Irish Water will offer a leak repair.
3. **Leak Repair Process** - this is a repair or pipe replacement (with the consent of the owner).

Key CER Decisions:

In reaching this Decision the CER has engaged heavily with Irish Water in order to ensure that it amended its Scheme and documentation to appropriately take account of the submissions made to the consultation. The CER has set out in its Decision the reasoning behind its Decision and has required Irish Water to amend its Scheme where appropriate. Outlined below are some of the key CER decisions and amendments made to the Scheme:

- Irish Water to include the Government objective of the First Fix Leak Repair Scheme, of helping customers to reduce bills;
- Irish Water to ensure that new owners (of dwellings where previous owners did not engage or avail of a repair) are eligible;
- Irish Water to include customers who have not responded to leak notifications but subsequently contact Irish Water;
- Irish Water to assist customers in finding their Internal Stop Valves; and where one does not exist, to include customers that later fit an ISV, in the First Fix Scheme;
- Irish Water to confirm clearly its process for supporting/dealing with customers who have a visible surface leak but fall outside the Scheme for any reason;
- Irish Water is to send 2 leak notification letters, one to the Supply Address and another to the Correspondence Address (where different) to ensure that both landlords and tenants are notified of a suspected leak;
- Irish Water is to contact customers for whom a second (and third etc.) continuous flow alarm is detected (unless the customer requests otherwise);
- Irish Water will repair all leaks (even where multiple leaks are found on a single supply pipe for a single customer) and in some cases carry out pipe replacements;
- Irish Water has now significantly amended its Ts&Cs, all of which are reflected in the revised Ts&Cs.

Reports to be submitted by Irish Water:

The CER will continue to monitor Irish Water's Scheme and has required Irish Water to report to the CER on a quarterly basis in relation the number of notifications issued, responses received and investigations and repairs completed by geographical location. In addition, a detailed breakdown of the overall Scheme expenditure and water savings achieved will be reported on a quarterly basis to the CER.

Next Steps:

The CER will monitor Irish Water's implementation of the Scheme through the reporting process regarding the effectiveness of the Scheme and the benefits achieved.

The CER expects Irish Water to strongly promote the Scheme in order to increase customer awareness of the Scheme and to encourage customers to engage with Irish Water on the Scheme.

CER Decision:

In accordance with s.22(8) of the Water Services (No.2) Act 2013, and the CER's Water Charges Plan Decision October 2014, the CER has decided to approve Irish Water's First Fix Leak Repair Scheme for Domestic Customers (Appendix A) with the modifications set out in this Decision.

The CER wishes to thank all respondents to the consultation on this First Fix Leak Repair Scheme.

2 Introduction

2.1 The Commission for Energy Regulation

The Commission for Energy Regulation (CER) is Ireland's independent energy and water regulator and regulates Ireland's public water and wastewater system since 2014.

The CER's role is to protect the interests of water customers, ensure water services are delivered in a safe, secure and sustainable manner and that Irish Water operates in an economic and efficient manner.

Further information on the CER's role and relevant legislation can be found on the CER's website at www.cer.ie.

2.2 Purpose of this paper

The purpose of this paper is to outline and describe the CER's decision with regard to **Irish Water's First Fix Leak Repair Scheme**. The CER has carried out a public consultation on Irish Water's *First Fix Leak Repair Scheme* in May 2015 and has considered fully the comments and submissions received from the public and key stakeholders. In reaching its decision on the *First Fix Leak Repair Scheme*, the CER has considered the issues and comments raised throughout the consultation process.

Please note that final Irish Water *First Fix Leak Repair Scheme* for Domestic Water Customers is published alongside this document (CER/15/179).

Irish Water has also written a response paper which addresses the issues raised by respondent during the Consultation process. This document, Irish Water's Response Document (CER/15/180) is published alongside the CER Decision.

2.3 Responses received

- Competition and Consumer Protection Commission
- Society of St. Vincent de Paul
- Irish Council for Social Housing
- Irish Creamery Milk Suppliers Association
- Eamonn Grennan Private Individual
- 3 further private individuals

2.4 Structure of this paper

This paper is structured in the following manner:

- **Section 1** provides an Executive Summary to this Decision Paper;
- **Section 2** provides an Introduction to this Decision Paper;
- **Section 3** provides Background Information to the Decision Paper;
- **Section 4** outlines the CER's Approach to Reaching this Decision;
- **Section 5** outlines Irish Water's proposal, Responses Received and CER's Decision on the Irish Water's *First Fix Leak Repair Scheme for Domestic Customers*;
- **Section 6** outlines the Reporting Requirements;
- **Section 7** outlines the CER Decision & Next Steps;
- **Section 8** refers to Appendix 1 – Responses Received.

Please note that the revised Irish Water's *First Fix Leak Repair Scheme* (CER/15/179) and Irish Water's Response Document are published alongside this document (CER/15/180).

3 Background Information

Irish Water (Uisce Eireann) was established in March 2013 under the Water Services Act, to become the single national body responsible for public water and wastewater supply. Irish Water has been taking over responsibility for public water and wastewater from the 34 Local Authorities on a phased basis since January 2014. There are service level agreements in place between Irish Water and the Local Authorities for the next 12 years to ensure full knowledge transfer.

Irish Water is regulated by the Economic Regulator; The Commission for Energy Regulation (CER) and by the Environmental Protection Agency (EPA) as the Environmental Regulator. The CER and the EPA are working closely to ensure that effective and complementary regulation is established in regard to the quality, security and efficiency of provision of water and wastewater services.

Our role, as outlined in the Act, requires the CER to ensure that the interests of water customers are protected, that water and wastewater services are delivered safely, securely and sustainably, and that Irish Water operates in an economic and efficient manner.

The Government announced on 6th May 2014² a funding allocation of €51 million to the end of 2016 for a *First Fix Leak Repair Scheme* to be operated by Irish Water for households. This was to address excessive leakage in the system and to assist in water conservation. Irish Water has made a submission to the CER on the principles of the First Fix Scheme and the CER is now publishing its Decision on the Irish Water Scheme. Customers who qualify under the Scheme will have a free first fix. The CER views this as an enduring scheme to the extent that Irish Water demonstrates to the CER on an ongoing basis the cost effectiveness and benefits of the Scheme.

The consultation on Irish Water's proposed *First Fix Leak Repair Scheme* closed on the 15th May 2015. Irish Water submitted their proposed *First Fix Leak Repair Scheme* for review during the public consultation. There were ten responses received during the consultation and these are published on the CER website, some from private individuals and some from representative organisations. The CER has now reviewed and considered the responses received to the consultation on Irish Water's proposed *First Fix Leak Repair Scheme*. The CER has reached decisions following a review of the Irish Water's submission on a *First Fix Leak Repair Scheme* and a review of the responses received. All responses received have been reviewed by the CER and also sent to Irish Water for their response which is published in *Irish Water's Response Document (CER/15/180)*.

This document sets out the proposals, a summary of the responses received, the CER's view and the CER's associated decision on each question

² <http://www.environ.ie/en/Environment/Water/WaterServices/News/MainBody,37946,en.htm>

4 CER's Approach to Reaching this Decision

Upon closure of the consultation on 15th May 2015, the responses received to the Consultation were submitted to Irish Water in order for issues raised by the respondents to be considered by Irish Water with a view to revising its Scheme. In reaching this Decision the CER has engaged heavily with Irish Water in order to ensure that it amended its Scheme to appropriately take account of the submissions made to the consultation.

The CER also required Irish Water to produce a response document to the submissions made to the consultation – this is included in Appendix X of this decision. Where the CER has decided that further amendments are appropriate, these are set out within this decision in the sections below.

Where the CER has not required Irish Water to make a change this is explained in the text accompanying the section on “CER's Response”.

5 Proposals Made, Responses Received & CER Decisions

This section discusses each topic within the consultation paper, in turn, as well as some further topics based upon the submissions made to the consultation. For each topic, a brief overview of the proposals made is given, followed by the responses received to the consultation, Irish Water's response thereto, and finally, the CER view and decision, where appropriate, in each case.

Following the public consultation on Irish Water's submission and analysis of the responses received the CER has now reached a Decision on Irish Water's *First Fix Leak Repair Scheme*. The following section is structured as follows:

- Irish Water's Proposal in their *First Fix Leak Repair Scheme*
- Response Received
- Irish Water's Response
- CER Response

5.1 *First Fix Leak Repair Scheme Objectives*

Irish Water Proposal:

Irish Water proposed the following objectives for the *First Fix Leak Repair Scheme*³:

- *Improve water conservation through increased public awareness of the existence of customer side leaks;*
- *Reduce water lost through customer side leakage through the offer of a free repair for leaks on External Supply Pipes to eligible customers;*

³ Section 3.1 *First Fix Leak Repair Scheme Objectives* in *Irish Water First Fix Leak Repair Scheme (CER/15/075)*

- *Develop an efficient data driven approach to the identification and prioritisation of leaks based upon water volumes; and*
- *Ensure the efficient operation of the Scheme to minimise inconvenience to customers and to maximise the return on investment in the Scheme.*

Responses Received:

One respondent proposed that the objectives should include mitigating financial impact on customers with leaks and cited that this will be important if capped charges are lifted. The respondent also stated that the Scheme must also address customers who fall outside the scope of the Scheme citing that if a customer did not fall within the Scheme that the financial impact must still be mitigated.

Two respondents stated that the Scheme should be kept under review and one respondent iterated that the Scheme should be reviewed particularly in order that customers who do not benefit from the Scheme are not disadvantaged.

Another respondent stated that there is no incentive to save water as the water charging mechanism does not support this objective through a capped water charges structure.

Irish Water Response:

IW has considered this question and following discussions with the CER the following Scheme objective will be included in section 3.1 of the policy document:

- *“Reduce water lost through customer side leakage through the offer of a free repair for leaks on External Supply Pipes to eligible customers and thereby helping customers to reduce bills;”*

CER Response:

The objectives of the Scheme were set out by the Government and it is the role of the CER is to ensure that Irish Water meets these objectives. In its announcement on 6th May 2014, the Minister stated in relation to the *First Fix Leak Repair Scheme* that:

“This scheme will help households tackle customer-side leakage in a speedy manner. It will help people reduce their bills as well as overall leakage in the water network, which is unacceptably high at 40%.”

The CER’s view is that whilst Irish Water has generally reflected the objectives of the *First Fix Leak Repair Scheme*, some amendment is still required. The CER has therefore decided that Irish Water is to amend its objectives to ensure that the principal of reducing customers’ bills is also included. The CER suggests the following wording for the second objective listed by Irish Water:

“Reduce water lost through customer side leakage through the offer of a free repair for leaks on External Supply Pipes to eligible customers and thereby helping customers to reduce bills;”

Also, in CER's Water Charges Plan Decision on 8th October 2014 (CER/14/746), under section 2.2, it stated that:

“Where a leak qualifies under the first fix policy the customer charges will be capped at the unmetered rate until the leak is repaired.”

The CER's decision in this regard remains in place to ensure that customers are not significantly financially disadvantaged as a result of a leak which may qualify for repair under the *First Fix Leak Repair Scheme*. Further, under the Water Services Act 2014, domestic water charges are capped until the end of 2018.

The CER will require Irish Water to provide an estimate of water savings and to provide to the CER detailed reporting of the costings together with the benefits achieved in order for the CER to monitor the ongoing effectiveness of the Scheme.

Going forward, Irish Water will report quarterly to the CER with respect to all aspects of the operation of the Scheme and through this mechanism the CER will be able to monitor the impact of leaks for households and review customer side leakage policies.

The CER will continue to review the Scheme to ensure that the objectives of the Scheme are met. The CER will ensure that any measures continue to be beneficial to customers, aiding water conservation and thereby reducing the cost of producing water in the future and resulting in price reduction to customers in accordance with the Government announcement.

5.2 Eligibility

5.2.1 Eligibility Criteria – Number of Leaks to be Fixed

Irish Water Proposal:

Irish Water proposes to implement the *First Fix Leak Repair Scheme* using data obtained from Meters as the basis for identifying Customer side leakage. This will allow Irish Water to prioritise the investigation of leaks to target the largest sources of water wastage. It will also facilitate the efficient use of resources under the *First Fix Leak Repair Scheme* through a co-ordinated scheduling of leak investigations and repairs within geographic areas.

Responses Received:

Some respondents felt that the First Fix Scheme is not comprehensive and that it should cover all leaks occurring on customer properties.

Irish Water Response:

Given the level of customer side leakage it will not be possible to fix all such leaks under this Scheme; there must be an element of prioritisation. Irish Water has set out a proposal to achieve significant water savings in an efficient manner through prioritisation and identification via meter read data.

CER Response

The Government announced an initial funding allocation of €51million to commence a scheme to address customer side leakage including the objectives of water conservation. This is an initial estimate to implement the first two year period of the Scheme (to the end of 2016).

The CER's view is that there must be some parameters for eligibility to take part in the Scheme given the financial limitation means that it would not be possible to fix all leaks. The parameters therefore have been set to ensure that this expenditure is incurred efficiently by Irish Water, whereby the largest leaks will be targeted for repairs first by Irish Water. This is appropriately implementing the principle objective set out by Government for this Scheme, which is water conservation. .

Going forward, Irish Water will report quarterly to the CER with respect to all aspects of the operation of the Scheme and through this mechanism the CER will be able to monitor the impact of leaks for households and review customer side leakage policies.

The CER will continue to review the Scheme to ensure that the objectives of the Scheme are met. The CER will ensure that any measures continue to be beneficial to customers, aiding water conservation and thereby reducing the cost of producing water in the future and resulting in price reduction to customers in accordance with the Government announcement.

5.2.2 Registration with Irish Water

Irish Water Proposal:

The *First Fix Leak Repair Scheme* will only apply to domestic Customers. In order to qualify for a free leak investigation under the *First Fix Leak Repair Scheme*, the following additional criteria must be met:

- The water to the Dwelling must be supplied through a Meter;
- a Constant Flow Alarm is detected via data obtained from the Meter;
- The Dwelling has an accessible Internal Stop Valve⁴; and
- The Customer has registered their details with Irish Water.

Response Received:

⁴ If required, Irish Water will provide advice to Customers on how to identify the location of the Internal Stop Valve, as part of the leak investigation.

One respondent stated that the ownership of water was a critical question and that this had impacts regarding the responsibility of householders.

CER Response:

This Scheme is to address the objective of water conservation. The owner continues to be responsible for internal leaks in the house. The Scheme is to assist customers and to introduce a customer side leakage policy to address the objective of water conservation and resulting in an overall reduction in the cost of water. Irish Water will ensure that a customer is registered with Irish Water prior to carrying out any leak investigations on the property.

5.2.3 Eligibility Criteria – Impact on New Owners**Irish Water Proposal:**

In its proposal in *Irish Water's First Fix Leak Repair Scheme*, Irish Water will write to customers indicating that there may be a leak on their property. Irish Water proposes to follow up with two subsequent letters if they do not receive a response from the customer.

Responses Received:

Two respondents indicated that a new owner should not be excluded due to the fact that a previous had not availed of the *First Fix Leak Repair Scheme* by not responding to Irish Water's correspondence.

Irish Water Response:

Irish Water agrees that new property owners should not be penalised for the inaction of previous owners. The following text will be included in the revised *First Fix Leak Repair Scheme* policy document:

"In the event of a change of ownership of a Property in which a Constant Flow Alarm has been detected, Irish Water will contact the new occupier of the Property on validation of their details with Irish Water to notify them of the existence of Constant Flow Alarm at the Property. The Customer will be entitled to avail of the First Fix Leak Repair Scheme at that point, subject to the terms and conditions."

CER Response:

The CER is satisfied that Irish Water has amended its *First Fix Leak Repair Scheme* to ensure that new property owners are not excluded from the Scheme in their property and welcomes the changes made to the Scheme to clarify that new owners will benefit from the Scheme.

5.2.4 Internal Stop Valve Requirement

Irish Water Proposal:

Irish Water has proposed that in order to be eligible for inclusion in the *First Fix Leak Repair Scheme*, a property must have an Internal Stop Valve (ISV). Irish Water's proposal in this regard follows a Pilot Scheme it undertook. The pilot scheme identified the need for an ISV. Irish Water states that an Internal Stop Valve is necessary in order for Irish Water to shut off supply from the mains and to observe the meter flow rate which will indicate the source of the leak as being on the External Supply Pipe. Without an Internal Stop Valve this flow cannot be definitively attributed to a leak on the External Supply Pipe.

Responses Received:

There were many responses received regarding the Internal Stop Valve. One respondent believed that more data should be gathered on numbers of ISV in houses and that there should be a separate Scheme to install ISVs in houses where there are none.

Another respondent believed that this criterion should be removed altogether and that there should be more support for people who are ineligible for the Scheme.

Several respondents suggested that customers may not know how to locate their ISV and that assistance should be provided.

Irish Water Response:

Irish Water stated that this is a technical requirement; the ISV is required to isolate the internal pipework in order to identify the source of the leak. All plumbing systems should have an internal stop valve at the mains point of entry to the dwelling to isolate the supply to the dwelling.

Irish Water does not propose to implement a program of ISV installation. Surveying all properties in the state to determine the extent of ISV installation would be expensive and time consuming and would divert resources from the ultimate objective of the Scheme which is the repair of customer side leaks. A scheme of ISV installation may increase customer eligibility but would leave fewer funds available to carry out leak investigations and repairs. ISVs are installed in the house and are therefore a matter for the property owner. The property owner may engage a plumber to have an ISV installed.

As part of the *First Fix Leak Repair Scheme* process, when a customer contacts Irish Water following receipt of an Advice Letter (confirming the presence of a continuous flow alarm), Irish Water will ask a customer if they have an ISV. If the customer is unsure or cannot check, a leak investigation will be arranged. Unfortunately it is not possible to provide a 'one for all' guideline document to locate the internal stop valve as there are many variations to internal pipework layout/ entry locations etc. There are also many valves which may look the same on the internal plumbing network (depending on the particular configuration) controlling other elements of the water flow in heating systems for example. Typically this valve is under the sink as it is a common entry point for cold feed supplies.

CER Response and Decision:

The CER understands that there are technical parameters which must be set in order for Irish Water to be able to identify sources of leaks. The CER accepts that there is a requirement for an Internal Stop Valve for technical reasons, to allow the identification of the source of the leak and to enable Irish Water to isolate the leak on the External Supply Pipe. The ISV enables Irish Water to stop the water flow and isolate the leak on the external supply pipe to the dwelling.

The CER has worked with Irish Water to ensure that it will assist customers in locating their ISV's. Also, it is worth noting that where an owner does not have an ISV fitted, but subsequently fits an Internal Supply Valve, then the customer becomes eligible for the *First Fix Leak Repair Scheme*.

The CER will require Irish Water through the rollout of the Scheme, to identify and report on the number of properties that were ineligible for the Scheme due to the fact that there was no ISV located in the dwelling. The CER will review this data to ensure that the Scheme is meeting its objectives and to inform any future amendments to the Scheme ensuring it continues to be beneficial and efficient, and operated in such a manner as to be as inclusive as practically possible.

5.2.5 Internal Leaks in the House that are outside the Scheme**Irish Water Proposal:**

In Irish Water's proposed *First Fix Leak Repair Scheme*, leaks that are discovered to be internal at a customer's house will not be scheduled for a Leak Investigation but Irish Water will assist the customer to identify the leaks internal to the house. Irish Water will send the customer a booklet to assist customers in investigating a leak and will talk the customer through checks that a customer can make to identify the sources of leaks.

Responses Received:

One respondent highlighted the concerns of customers with internal leaks that fall outside the scope of the *First Fix Leak Repair Scheme*. They stated that:

"in the event that leaks are identified in homes which remain ineligible for the scheme one must consider the concerns of the household in this regard....Such households need to be provided with best advice as how to identify and remedy the problem."

Irish Water Response:

Where a leak is identified internal to the property, the leak investigator will provide the customer with information on the outcome of this investigation through the leak investigation outcome card. The leak investigator will also provide the customer with advice on how to detect the leak and will advise them to engage with a reputable plumber to rectify the leak.

CER Response:

Irish Water must ensure that all possible assistance is provided to the customer to help identify the source of the leak. The CER accepts that Irish Water will be providing customers with an outcome card following the leak investigation. Further, Irish Water will assist any customer who contacts it regarding leaks.

5.2.6 Visible Surface Leaks reported by the Customer

Irish Water Proposal:

If an unmetered domestic customer reports a visible surface leak to Irish Water, Irish Water may choose to carry out an assessment and if, following this assessment, the Property is deemed suitable for the installation of a meter, Irish Water will arrange for a Meter to be installed. Within 6 weeks of notifying Irish Water of the visible surface leak the Customer will either (1) be scheduled for Meter installation (if there is planned Meter installation in the area), or, alternatively, (2) be contacted to arrange an exceptional Meter installation. If a Constant Flow Alarm is collected from Meter readings following the installation of the Meter, the Customer will be deemed to be eligible for the *First Fix Leak Repair Scheme*.

Response Received:

One respondent stated that the current process proposed for dealing with unmetered domestic customers who report a visible surface leak to Irish Water could be stronger - Section 3.2.3 of Irish Water's *First Fix Leak Repair Scheme* document states that:

"Irish Water may choose to carry out an assessment".

It is the respondent's view that Irish Water should carry out an assessment where possible. The respondent stated that it would appear from Irish Water's document that surface leaks will not be dealt with if a meter cannot firstly be installed at the property. The respondent stated that this approach may prove inefficient and at odds with the principle of water conservation as it will delay the fixing of the problem.

With regards to visible surface leaks the respondent indicated that consideration should be given to addressing these, regardless of whether the customer is domestic or mixed use.

Another respondent wanted clarity on the obligations and liability of Irish Water where they have caused the leak.

Irish Water Response:

Irish Water has amended the First Fix Leak Repair Scheme policy document to clarify that all such reports will be looked into.

As outlined, it will not be possible to fix all customer side leaks under this Scheme; there must be an element of prioritisation. Irish Water has set out a proposal to achieve significant water savings in an efficient manner through prioritisation and identification of leaks via meter read data. In the

event that a meter cannot be installed on a property where a leak is suspected, the customer should arrange for a plumber to investigate the leak.

Irish Water will, in conjunction with its contractors, implement strict quality control protocols around the works being carried out pursuant to the First Fix Leak Repair Scheme (including during leak investigation works). On that basis the likelihood of leaks being caused by the carrying out of the works is greatly reduced.

First Fix Leak Repair Works (carried out pursuant to the Terms and Conditions of the First Fix Leak Repair Scheme):

In the unlikely event that a leak is proven to have been caused by the negligent carrying out of the First Fix Leak Repair Works then clause 6 of the Terms and Conditions of the First Fix Leak Repair Scheme provides as follows (our underline added):

“The owner agrees that Irish Water will not be liable for any loss or damage in relation to the Property arising from, or in connection with, the carrying out of the Works (including the remediation of defects) except to the extent that such loss or damage arises from the negligence of Irish Water”.

On that basis Irish Water will be liable for loss or damage to the Property to the extent that such loss or damage arises from the negligent carrying out of the Works. This would, in our view, include loss and damage caused to the Property by a leak which is proven to have arisen from the negligence of Irish Water (or its contractors) in carrying out the Works.

Clause 8 of the Terms and Conditions also deals with Irish Water’s liabilities if the leak repair work carried out is defective and is clear as to the basis and ambit of Irish Water’s responsibility and/or liability in that regard.

Leak investigation works (carried out prior to the offer and acceptance of the Terms and Conditions of the First Fix Leak Repair Scheme):

There is no exact rule or formula for determining liability in advance of such incidences occurring nor are such incidents covered by the Terms and Conditions of the First Fix Leak Repair Scheme. Accordingly, liability will be determined by reference to the facts on a case by case basis. To the extent that it is alleged that the actions of Irish Water or its contractors have caused or contributed to the injury then liability will be determined according to normal legal principles.

CER Response:

The CER engaged with Irish Water when considering responses received. Irish Water has now amended its response and Scheme document to address, more comprehensively, customers who cannot have a meter but report a visible surface leak. Therefore Irish Water will engage with all customers who report visible surface leaks.

Irish Water has now revised section 6 of the Terms & Conditions to ensure that it is clear as to its liability and obligation where it has caused any damage.

5.2.7 Appeals Process where customer ineligible

Irish Water Proposal:

In Irish Water's proposed *First Fix Leak Repair Scheme* there is no separate appeals process included to appeal decisions regarding non-eligibility for the Scheme or exclusions from the Scheme.

Responses Received:

Two respondents have indicated that an appeals process should be put in place where Irish Water has deemed a customer ineligible for the Scheme. One noted that no appeals system was in place. The other respondent focused on scenarios where eligible customers receive no or delayed service citing:

"...eligible households may....receive no or delayed service. Such customers should a) be informed of the nature of the leak b) the detailed reason as to why they are not receiving a service and c) be given the right to appeal the decision to an independent 3rd party such as the CER complaint process."

One respondent stated that *"there is no appeal system if one is deemed not to have met all 12 criteria, remembering that just 1 is sufficient to deem one ineligible"*.

Irish Water Response:

Irish Water intends to process all eligible customers in accordance with the time frames set out in the *First Fix Leak Repair Scheme* document.

Irish Water will respond to any customer complaints received in line with its Domestic complaint handling Code of Practice available at www.water.ie.

The right to appeal through the CER complaints process is a matter for the CER to consider.

CER Response:

The CER understands the concerns raised by the respondents. The CER has a statutory responsibility to provide a complaints resolution service to Irish Water customers with an unresolved dispute with Irish Water. The customer must ensure that they exhaust the full complaints process with Irish Water prior to sending a complaint to the CER for investigation. Following investigation the CER has the power to direct Irish Water to resolve the complaint in a set fashion if the complaint is upheld and where appropriate to pay a refund or compensation. The Customer Care Team has been setup within the CER to deal directly with customers who have complaints. Irish Water should always assist customers where possible.

Complaints or disputes regarding the First Fix Scheme will be dealt with through this existing complaints escalation process between Irish Water and the CER. If a customer is dissatisfied at not being included, for any reason, the customer can raise the matter with Irish Water and submit a complaint if necessary. Should a customer be dissatisfied with the outcome of the Irish Water's complaints process, the customer can then escalate the complaint to the CER thereafter.

5.2.8 Mixed Use Customers

Irish Water Proposal:

In Irish Water's proposed Scheme Mixed Use customers are not included. Irish Water stated in its Scheme:

"The domestic portion of water supplied to mixed use Customers⁵ is not separately metered and therefore cannot be included in the First Fix Leak Repair Scheme. In addition, commercial customers may have different water usage patterns to domestic Customers including, for example, 24 hour/day usage (e.g. cooling systems) and, on that basis; it becomes difficult to distinguish normal consumption from leakage. For this reason, the First Fix Leak Repair Scheme will not apply to these categories of Customer".

Response Received:

Two respondents indicated that Mixed Use customers should be included in the Scheme. One respondent stated that a Mixed Use customer who observes a surface leak should not be excluded from the Scheme.

Irish Water Response:

The scheme has been designed based on the use of metered data to effectively and quickly identify the source of leaks on external supply pipes. As mixed use customers are not metered they cannot be involved in the scheme as currently designed. For mixed use customers to be included in the scheme it would have to be redesigned to include exploratory searches which are less efficient than leak investigation using meter data.

The *First Fix Leak Repair Scheme* is the first step in a broader framework of customer side leakage policies that will be developed and rolled out by Irish Water. Not all leaks can be addressed within the scope of the *First Fix Leak Repair Scheme*, however customers that do not qualify for the scheme may benefit from a future scheme.

CER Response:

The Government's announcement for a First Fix Scheme stated that it was for all households therefore it was not intended to address non-domestic customers in this particular Scheme.

⁵ Customers that use water services for both business and household purposes.

However, Irish Water must assist all customers where possible regarding visible surface leaks. The CER accepts the criterion that a domestic meter is a requirement for the *First Fix Leak Repair Scheme* in order for Irish Water to identify possible leaks. The CER will monitor and review future Scheme proposals to address broader customer side leakage policies.

5.2.9 Landlord and Tenant

Irish Water Proposal:

Irish Water's First Fix Scheme process proposed that the occupier could engage with Irish Water up to the Leak Investigation Stage. However when a repair is required the Irish Water process states that the consent of the owner is required in order for Irish Water to carry out any repair works.

Responses Received:

One respondent stated that extra efforts may be required to ensure that tenants and landlords of homes that are identified and eligible for the Scheme take up the opportunity to avail of the First Fix. Another respondent sought clarity where a leak is identified and the landlord takes no action to address the leak, resulting in potentially higher charges for the tenants.

Irish Water Response:

Under the Water Services Acts it is the responsibility of the property owner to repair leaks within the property boundary. Irish Water will offer qualifying property owners the option to avail of a free repair under the *First Fix Leak Repair Scheme*; however we cannot oblige any property owner to avail of this offer. Where a landlord takes no action to repair a leak in a tenanted property this would be a matter for the tenant and the landlord to resolve, as for all household repairs.

CER Response:

The CER supports the premise that the *First Fix Leak Repair Scheme* is open to all customers of Irish Water who have registered. The CER accepts that customer who are not also the owners of the property which is affected by a leak under this Scheme, will need to have obtained the consent of the owner of the property in order to avail of a repair under the *First Fix Leak Repair Scheme*. Irish Water has stated in its Scheme that initial leak investigation can be undertaken without Owner consent.

In order to address the issue of ensuring that both occupiers and owners of homes suffering leaks are informed under the *First Fix Leak Repair Scheme*, that a continuous flow alarm has been activated, the CER has decided that Irish Water must ensure its process includes leak notifications are issued to both occupiers and owners where Irish Water has this information (i.e. where Irish Water has on its database a supply address with a separate correspondence address). Irish Water is to update its Scheme to include the process that both the occupier and owner should be notified that a continuous flow alarm has been activated.

5.3 Notification: Constant Flow Alarm, Customer Notification Letter and Phasing

5.3.1 Introduction

Irish Water sets out in its *First Fix Leak Repair Scheme* the processes for identifying leaks using meter data and for sending out Notification Letters to customers alerting them to the fact that they may have a leak. Each meter installed has a leak alarm and when a constant flow of 6 litres per hour continuously over a 48 hour period is detected, an alert is recorded when the meter is read. Irish Water will contact customers with an alarm by letter (a “Customer Notification Letter” included in Appendix X of this decision), to alert them that there is a suspected leak on their property.

Once a customer responds to a Notification Letter, Irish Water will go through checks over the phone with the customer to eliminate any possible sources of leaks in the house such as cisterns, toilets and dripping taps – this is to assist customers in identifying the source of the leak. If a leak cannot be identified in this manner, Irish Water will arrange a leak investigation on the customer’s property as the leak may be on the external supply pipe.

Irish Water will use a combination of prioritisation of the largest leaks first, identifying geographical areas and grouping areas, to ensure it has sufficient resources available to identify and fix leaks in an area, before sending out the letters to customers. This is to facilitate Irish Water in operating in a cost efficient manner through scheduling leak investigations and ultimately repairs.

5.3.2 Constant Flow Alarm

Irish Water Proposal:

The meters installed have a constant flow alarm which is set to trigger when there is a flow of 6 litres per hour through the meter over a continuous 48 hour period. Irish Water states that the Constant Flow Alarm is set to this level to prevent activation due to background seepage which occurs on all water systems or low level internal leakage; such as dripping taps. Irish Water indicates that setting the Constant Flow Alarm at this level provides a reliable and objective indicator of potential leakage.

Response Received:

One respondent queried if the level of CFA would be reduced to target smaller leaks at a later stage. Another respondent questioned how Irish Water will distinguish between excessive use and leakage.

Irish Water Response:

It is not intended to reduce the level of the Constant Flow Alarm under the First Fix Leak Repair scheme.

A continuous flow of water over a period of time indicates a leak; excessive use would more likely be intermittent throughout the day. The Constant Flow Alarm is set at 6 litres per hour over a 48 hour period and is set to this level to prevent activation due to background seepage which occurs on all water systems or low level internal leakage; such as dripping taps.

It would be very difficult to identify any leak occurring at a continuous flow of less than 6 litres per hour without carrying out significant excavation works.

CER Response:

The continuous flow alarm is activated at a low level of 6 litres per hour – this rate of flow is sufficiently low enough to be consistent with the flow from a dripping tap and is equivalent to a flow of 1 litre in 10 minutes, or 50 millilitres in 30 seconds. It is also important to note that the alarm is only activated where the flow is continuous for a full 48 hour period. Therefore reducing the level of the alarm is unlikely to be beneficial for customers as a level below 6 litres per hour is likely to be background seepage as Irish Water has suggested. Further, the continuous flow alarm levels were set at meter manufacture stage and without substantial works and cost, cannot be altered.

However, this does not mean that in the future, the Scheme could not be altered to include other leaks in other ways, outside of the requirement for the current leak alarm mechanism.

The CER will continue to monitor this situation both within this, and future, customer side leakage policies. Not all leaks can be addressed within the scope of the *First Fix Leak Repair Scheme*, however customers that do not qualify for the scheme may benefit from a leak repair in a future Scheme whilst in the meantime will benefit from the overall effect of reducing leakage on the system, thereby conserving water which will benefit all customers by reducing the costs incurred by Irish Water needed to address leakage issues in general.

As part of other ongoing workstreams at the CER, it may consider the concept of excessive use.

5.3.3 Specifications of Meters**Irish Water Proposal:**

In Irish Water's proposed Scheme the meter reading data will be used to identify suspected leaks where a constant flow alarm is triggered.

Responses Received:

One respondent requested that the specifications of the meters are made publicly available so that the accuracy could be viewed and the "life" of the meter assessed.

Irish Water Response:

In accordance with the EU Measuring Instruments Directive (2004/22), our water meters are tested for metrological accuracy at a range of flow rates at the time of manufacture. Those that fail to meet the accuracy requirements are rejected. The meters are sealed by the manufacturer in accordance with the Measuring Instruments Directive and cannot be adjusted thereafter in service. The meters are tested across a range of conditions, including temperature and flow to International measurement standards, for which the meters have to comply. Irish Water anticipates that there will be a competitive tender for independent meter testing services for our programme of testing of

meters in service. This will be subject to agreeing such a programme with the CER in due course. The full specifications from the framework are attached. The design life for the water meters installed by Irish Water is 15 years. Each supplier has given a minimum 12-month full parts and labour warranty (guarantee) against material defect and/or poor workmanship.

CER Response:

The CER understands that Irish Water has made meter specifications available to customers where requested and there is information on their website regarding the meters. The procurement of the meters installed was made under a public tender process. Information on meter specifications is available from Irish Water

The CER has decided that Irish Water is to publish on its website, the specification for the meters it installs.

The CER also notes that further meter information is available on the Irish Water website at <http://www.water.ie/billing-and-charges/metering/>

5.3.4 Phasing of Customer Notification Letters**Irish Water Proposal:**

Irish Water is using a phasing approach to sending the Customer Notification Letters based on the size of leaks and their geographical locations. Leak investigations will be prioritised by size of leak and clustered on a regional basis. This is to operate the process in an efficient manner.

Responses Received:

One respondent did not agree with the prioritisation approach regarding fixing the largest leaks first suggesting that the oldest houses with the oldest pipes would be fixed first. One respondent suggested changing the wording from notification to advice. Another respondent stated that notification letters should be sent early so that customers have the opportunity to address leaks before the capped charges are lifted.

Irish Water Response:

The capped charges are set to remain in place until 31st December 2018. The *First Fix Leak Repair Scheme* is currently operational and notification letters are being issued. It is anticipated that 77,000 customer notification letters will be issued before the end of 2016.

With regards to changing the use of the wording notification to advice, Irish Water will amend the terminology in the policy document.

CER Response:

In terms of the prioritisation approach proposed by Irish Water, the approach suggested by the respondent that oldest pipes be fixed first would be contrary to the main objective of the Scheme which, in accordance with the Government announcement, is water conservation. Therefore it is prudent that Irish Water prioritise fixing leaks based on the largest first.

With respect to the notification wording, Irish Water has reworded its policy document to change the wording from Notification to Advice.

With respect to the comment regarding issuing notifications to customers early, Irish Water proposes to contact customers as part of the *First Fix Leak Repair Scheme*, at a time when it is in a position to schedule leak investigations and repairs for those customers. Customers are of course free to undertake their own leak repairs at any time. Irish Water's *First Fix Leak Repair Scheme* does not preclude Irish Water from contacting customers where constant flow alarms are active. The CER therefore requests that Irish Water review the potential for notifying customers with constant flow alarms, even if Irish Water is not in a position to offer, as yet, a leak investigation or repair.

Also, in CER's Water Charges Plan Decision on 8th October 2014 (CER/14/746), under section 2.2, it stated that:

"Where a leak qualifies under the first fix policy the customer charges will be capped at the unmetered rate until the leak is repaired."

The CER's decision in this regard remains in place to ensure that customers are not significantly financially disadvantaged as a result of a leak which may qualify for repair under the *First Fix Leak Repair Scheme*. Further, under the Water Services Act 2014, domestic water charges are capped until the 31 December 2018.

The CER will require Irish Water to provide an estimate of water savings and to provide to the CER detailed reporting of the costings together with the benefits achieved in order for the CER to monitor the ongoing effectiveness of the Scheme.

Going forward, Irish Water will report quarterly to the CER with respect to all aspects of the operation of the Scheme and through this mechanism the CER will be able to monitor the impact of leaks for households and review customer side leakage policies.

The CER will continue to review the Scheme to ensure that the objectives of the Scheme are met. The CER will ensure that any measures continue to be beneficial to customers, aiding water conservation and thereby reducing the cost of producing water in the future and resulting in price reduction to customers in accordance with the Government announcement.

5.4 Leak Investigation

5.4.1 Timelines for Customer Contact

Irish Water Proposal:

Irish Water has outlined timelines as part of the process for a customer to contact Irish Water once they have received a Constant Flow Notification Letter. The Letter states that a customer must respond within 14 days to request a free leak investigation. Irish Water will send two subsequent reminder letters.

Responses Received:

A number of respondents stated that they believed the timelines to be onerous on the customer. This was raised in the context of ineligibility from the scheme if they failed to respond to two consecutive Constant Flow Notification Letters. Respondents raised the point that customers may not receive two consecutive letters for reasons such as absence from the country but may wish to participate in the scheme. Respondents felt that such customers should not be excluded.

Irish Water Response:

Irish Water accepts that there may be some customers who do not receive both letters but may wish to participate in the scheme. It is not the intention of Irish Water to preclude qualifying customers who wish to avail of the scheme, but simply to put in place time limits to allow effective administration of the scheme and to avoid situations where customers who do not wish to engage with us continue to receive unsolicited communications. The revised First Fix Leak Repair policy document outlines that a customer who has not received the notification letters may contact Irish Water to request re-inclusion in the scheme.

CER Response:

The CER understands that for investigation and repair scheduling reasons which include mobilisation of repair crews, Irish Water must have timelines regarding responses to its notification process. However, customers will not be excluded from the Scheme where timelines have not been met. Rather, customers will be re-entered into the Scheme if they make contact directly with Irish Water.

The CER supports Irish Water's proposal to include customers who did not respond, for whatever reason, to notification letters regarding a CFA once a customer contacts Irish Water. However it is worth noting that in such situations, for leak investigation and repairs scheduling reasons, this does not mean that customers will have an investigation/repair carried out at the time they respond, since the crews for undertaking this work may have moved on to a different area. In these instances, the customers may have to wait until the next scheduled round of leaks/fixes in their area.

Notwithstanding the above, Irish Water must not exclude customers' eligibility for the Scheme due to onerous timelines. The CER accepts that Irish Water will put a customer onto the Scheme if they request to be included but are outside the response timelines. This issue is also mitigated by CER's decision (above) that Irish Water must ensure its process includes leak notifications are issued to both occupiers and owners where Irish Water have this information (i.e. where Irish Water has on its database a supply address with a separate correspondence address).

5.4.2 Business Working Hours

Irish Water Proposal:

Irish Water had stated in Section 4.2 of the proposed *Irish Water First Fix Leak Repair Scheme* document that “Customers will be required to facilitate a leak investigation visit during Business Hours. This requirement is necessary for efficiency, operational and health and safety reasons. Leak investigators will also require the support of back office services and on-call plumbing services which are only in place during these times.”

Irish Water Response:

Section 4.2 of the proposed Irish Water First Fix leak Repair Scheme document noted that:

“Customers will be required to facilitate a leak investigation visit during Business Hours. This requirement is necessary for efficiency, operational and health and safety reasons. Leak investigators will also require the support of back office services and on-call plumbing services which are only in place during these times.”

The reference to “on-call plumbing services” will be removed in acknowledgement of the fact that such services could be procured in the marketplace. Such services could only be obtained at an increased cost and doing so would not be conducive to an efficient and cost effective operation of the scheme.

CER Response:

The CER required Irish Water to justify in the Scheme documentation, its decision to carry out leak investigations and repairs only during “business hours”. Irish Water should facilitate as much as possible times that are suitable to customers.

The CER accepts however that in order to ensure best value for money in terms of the costs associated with fixing leaks under the Scheme, carrying out works within business hours achieves this more efficiently than out of business hours works. This means that Irish Water can reduce the costs of the leak investigations and repairs, resulting in a greater volume of leaks being addressed under the Scheme.

5.4.3 How Many Leak Investigations?**Irish Water Proposal:**

Irish Water stated in its *First Fix Leak Repair Scheme* that if a customer cannot identify an internal source of leakage they should contact Irish Water to arrange a leak investigation. The Scheme sets out the process which Irish Water will follow to verify and identify the source of a leak. The Scheme did not set out a limit to the number of leak investigations a customer may avail of.

Responses Received:

One respondent sought clarity on how many leak investigations will a customer be allowed if Irish water does not find a leak the first time.

CER Response:

When there is a CFA alert at a property, Irish Water will send out a letter to the customer notifying them that there is a potential leak at the property. The CER understands that as long as there is a CFA, customers will be notified and the process of identifying the source of the leak will commence. This will include in some instances a leak investigation by Irish Water.

The CER engaged with Irish Water in relation to customers who have subsequent CFA's following a previous investigation/repair. The CER understands from Irish Water that it will carry out leak investigations for any property that has a CFA, whether the property has had a previous leak investigation or a repair. This also means that if the leak was considered to be on the customer side and the Constant Flow Alarm is still registered following action being taken by the customer, Irish Water will monitor future meter reads and if a subsequent CFA is detected at the same property it will be included in the First Fix process again, and another leak investigation carried out.

The CER accepts that under the terms of the Scheme, the leak investigation is a complex process which does not always result in a confirmed source of water leak. The CER accepts Irish Water's position that even with the presence of a Constant Flow Alarm and following a comprehensive investigation by Irish Water there will be instances in which the source of a leak cannot be identified. Subsequent CFA alerts should be investigated. Notwithstanding this, Irish Water must ensure that all possible efforts are made to identify the source of leaks and repairs made.

5.5 Leak Repairs

5.5.1 Limit of Repair to Pipes of 15 metres

Irish Water's Proposal:

In Irish Water's proposed Scheme, Irish Water will issue a *First Fix Leak Repair Scheme Offer* to the owner of the property if a leak has been identified on the External Supply Pipe following a leak investigation. Irish Water states that the Offer document contains Terms and Conditions associated with the works carried out on the External Supply Pipe. Irish Water has stated in their Terms and Conditions that they are not under an obligation to carry out works on External Supply Pipes that exceed 15 metres but may do so.

Responses Received:

Two respondents questioned why the Scheme was limited to 15 metres length in external supply pipe and the rationale that sits behind this.

One respondent requested the rationality for the exclusions and the percentage of properties likely to be affected in Appendix 3 – *First Fix Leak Repair Scheme Offer Terms and Conditions*, in the definition "External Supply Pipe" sets out a number of exclusions including (i) pipework that exceeds 15 metres in length; and (ii) pipework with an inside diameter exceeding 25 millimetres'.

Another respondent queried why a greater length of 25 metres was not being used as is the case in some UK water utilities.

Irish Water Response:

The majority of connections will fall within these standard parameters. For pipework exceeding 15 metres Irish Water may carry out local repairs (i.e. repairs at the locus of the leak(s) in question with no full pipe replacement taking place). Irish Water carried out a review of the majority of the English and Welsh Water Companies plus Scottish Water to confirm their approach and customer Terms and Conditions for first fix or equivalent repairs. It was discovered that the replacement lengths adopted by the UK utilities vary from 7 metres up to 25 metres, with only one adopting 25 metres and the average replacement length across all operators at 12 metres. Irish Water elected for a service pipe replacement length of 15 metres, which when tested through the pilot study covered a vast proportion of pipe lengths encountered. Irish Water will still offer to carry out repairs on pipework in excess of 15 metres in length but intend to limit this to localised repairs solution instead of full service replacement.

CER Response:

The CER notes that Irish Water intends to fix all leaks either through pipe replacement or repair. The CER also note that while the average length across all UK operators is 12 metres, Irish Water has proposed a replacement length of 15 metres. From the Pilot Scheme undertaken by Irish Water, it was found that the vast majority of properties will fall within the 15 metres length. Irish Water may carry out a localised repair where the pipe is greater than 15 metres. The CER notes also that where external supply pipe lengths exceed 15 metres, and there is a disproportionate cost issue arising, then Irish Water may decide not to fix leaks in the interest of cost efficiency for the Scheme.

5.5.2 Multiple Leaks Found during Leak Investigation**Irish Water Proposal:**

Irish Water in its proposed Scheme stated that the leak repaired will be limited to leaks that occur between the Dwelling and the Property boundary, however it did not specify how many leaks would be repaired when found.

Responses Received:

One respondent stated that:

“... for properties included in the scheme, all existing leaks on external pipework should be identified and repaired i.e. in situations where multiple leaks might exist, they should all be fixed under the first fix scheme.”

Irish Water Response:

The following text will be included in the revised First Fix Repair Scheme policy document:

“If it is found, following excavation that a more than one leak exists on the External Supply Pipe, Irish Water will, where possible, repair all such leaks. This may require the replacement of a portion of the External Supply Pipe.”

CER Response

The CER notes Irish Water's response that Irish Water intends fixing all leaks found in the external supply pipe during a leak repair following a leak investigation and Irish Water has updated its Scheme document to reflect this.

5.6 Terms & Conditions of Irish Water's First Fix Leak Repair Scheme - Repair Offer

Irish Water proposed in its Scheme the Terms and Conditions that will apply to the Repair Offer (see Appendix 3 of Irish Water's Leak Repair Scheme for Domestic Customers). Below, are some of the issues that were raised by respondents to the consultation process.

Also, during the consultation period, and upon review of the submissions received from respondents, the CER engaged heavily with Irish Water regarding many aspects of the Ts&Cs to which the CER required amendments including limitation of liability issues, references to contractors and plain language issues. As a result of this engagement, Irish Water has now significantly amended its Ts&Cs, all of which are reflected in the revised Ts&Cs (Appendix 3 of the Scheme document attached hereto).

5.6.1 Section 1.3

Irish Water Proposal:

Irish Water proposed the following section 1.3:

"Irish Water may make a First Fix Leak Repair Scheme Offer and carry out works in circumstances in which the pipework serving the Property exceeds 15 metres in length (but Irish Water is under no obligation to do so). The owner acknowledges and agrees that, in such circumstances, the works to be carried out by Irish Water will be limited to local repairs only. Subject to the foregoing, all of these Terms and Conditions shall apply to such works as if the works were being carried out to External Supply Pipe. In these circumstances, the term "External Supply Pipe" shall, for all purposes, be deemed to be amended so as to provide for the deletion of the phrase "2. Pipework that exceeds 15 metres in length; and" (and the term "External Supply Pipe" shall be read and construed as if the pipe in question was an External Supply Pipe)."

Response Received:

One respondent raised a number of points in relation to the provisions of the *First Fix Leak Repair Scheme* terms and conditions pertaining to warranties regarding repair.

The respondent suggested that local repair, as set out in section 1.3 of the terms and conditions should be defined.

Irish Water Response:

Following discussions with the CER, Irish Water has removed references to “local repairs” from the Ts&Cs document.

CER Response and Decision:

The CER reviewed section 1.3 of the Ts&Cs and is of the view that it was unclear and in accordance with Regulation 5(2) European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995, in the case of contracts where all or certain terms offered to the consumer are in writing, the seller or supplier shall ensure that terms are drafted in plain, intelligible language. As a result of engaging with Irish Water, it has now deleted this section from the Ts&Cs.

5.6.2 Section 8.1**Irish Water Proposal:**

“8.1 Subject to clause 8.2 below, if a defect occurs in the Works within a 12 month period following the completion of such Works (the date for completion being the date on which Irish Water’s contractors leave the Property and confirm to the owner, whether verbally or in writing, that that the Work is completed), then Irish Water will procure the remediation of the relevant defect.”

Response Received:

One respondent stated that the 12 month period for the identification of defects following repairs by Irish Water appears to be short considering the nature of the work. The respondent also stated that a period of 6 years which would be in keeping with the statute of limitation would be more appropriate.

Irish Water Response:

An amendment to the remediation period is not recommended at this time for the following reasons;

- The nature of the Works is such that if the works were defective, then such defect should come to the attention of the owner within a short period of time after completion of the Works and a 12 month remediation period is considered reasonable for this purpose;
- Irish Water is not under a contractual or statutory obligation to provide a first fix to the owner, imposing a six year remediation period does not go to the intention of the First Fix Repair Scheme Offer where Irish Water is seeking to improve water conservation by fixing existing pipe leaks only. A six year remediation period does not lend itself for that purpose.

CER Response and Decision:

The CER's view is that this section does not limit the right of the owner to exercise their statutory rights, within the statute of limitations, under the Sale of Goods and Supply of Services Act 1980 and other relevant legislation.

5.6.3 Section 8.2**Irish Water Proposal:**

"8.2 Where the defect in the Works is due to the material used by Irish Water as part of the Works (as opposed to the manner in which the Works were carried out), then Irish Water's obligation to remedy the defect will only arise if and to the extent that Irish Water has, at the time of notification of the defect, a full warranty from the person or entity that provided or supplied the materials, which warranty covers the entirety of the costs of Irish Water in remediating such defect."

Response Received:

A respondent suggested that:

*"In relation to defects in the Works due to the material used by Irish Water as part of the Works, the lawfulness of the warranty exclusion should be reviewed to ensure that it complies with **Part IV of the Sale of Goods and Supply of Services Act 1980**".*

The respondent also suggested that this section of the terms and conditions be reviewed for compliance with **SI No 27/1995 European Communities (Unfair terms in Consumer Contracts) Regulations, 1995 Section 3(1)**.

The respondent also suggested that Paragraph 8.2 and any other paragraph which may raise issue under **Regulation 5 (1) of the Unfair Terms Legislation** should also be reviewed.

Regulation 5 (1) states:

"In the case of contracts where all or certain terms offered to the consumer are in writing, the seller or supplier shall ensure that terms are drafted in plain, intelligible language".

Irish Water Response:

Clause 8 of the Ts&Cs document provides that it is in addition to, and does not detract from any existing statutory rights which the owner may have. In that regard, we are satisfied that the Terms and Conditions of the First Fix Repair Scheme Offer does not attempt to restrict the application of the Act.

The terms of the First Fix Repair Scheme Offer do not breach the provisions of the Regulations as the terms of the contract create a benefit for the owner by offering to fix water leaks to External Supply Pipe at no cost to the owners. In that regard, there is no imbalance as the owner is free not to accept the offer or to procure the service from an alternative service provider.

Please note that this section has been reworded in the updated policy document.

The terms of the First Fix Repair Scheme Offer comply with Section 5 (1) of the Unfair Terms Legislation: as the definitions and clauses of the contract are drafted in clear and uncomplicated terms.

CER Response and Decision:

The CER's view is that the T&Cs create the legal relationship between Irish Water and the customer only and cannot infer a legal relationship between the Customer and its suppliers of materials. The CER's view is that this section does not limit the right of the owner to exercise their statutory rights, within the statute of limitations. The CER notes also that Irish Water has amended this section of the Ts&Cs to ensure it is clearer for customers.

5.6.4 Section 9

Irish Water Proposal:

"9. NO DEROGATION FROM STATUTORY RESPONSIBILITIES

The owner acknowledges and accepts:

9.1. their obligations and duties under the Water Services Acts 2007 to 2014 in relation to the repair of leaks and the reasonable conservation of water and the management, consumption and use of water on or at their Property to ensure that water is not wasted or consumed in excessive amounts;

9.2. that the making of a First Fix Leak Repair Scheme Offer and/or the carrying out of the Works does not affect, limit or prevent Irish Water from exercising its powers under the Water Services Acts 2007 to 2014 in relation to the owner, whether under Sections 43 (Connections), 54 (General Duties of an Owner) of the Water Services Act 2007 or otherwise; and

9.3. that notwithstanding the carrying out of the Works, the External Supply Pipe (ownership, maintenance, repair or otherwise) will remain the responsibility of the owner."

CER Response and Decision:

The CER engaged with Irish Water regarding this section requesting several amendments and deletions. As a result, Irish Water has now significantly amended this section.

5.6.5 Acceptance Form where External Supply Pipe is laid under a Specialist Surface

Irish Water Proposal:

Irish Water as part of the T&Cs included an acceptance form which must be completed by the owner if there is a specialist surface above the External Supply Pipe which is to be repaired / replaced. Section 3 of that form states:

“I hereby acknowledge that Irish Water will use contractors to perform the leak repair Works. I accept and agree that such contractors shall have the same contractual rights, benefits and protections under this offer as Irish Water (but excluding, unless they are an authorised officer of Irish Water, any statutory powers of Irish Water under the Water Services Acts 2007 to 2014), with the intent that such contractors may exercise any right or benefit under such Terms and Conditions or rely on any provision within such Terms and Conditions which is expressed to afford a benefit to the contractor (including any provision therein which is expressed to limit the contractor's liability).”

CER Response and Decision:

The CER engaged with Irish Water regarding these sections of the acceptance forms and as a result, Irish Water has amended them accordingly.

5.7 Resources, Costs and Reporting to the CER

CER Proposal:

Under the Irish Water *First Fix Leak Repair Scheme*, Irish Water will be required to report to the CER on a quarterly basis in relation the number of notifications issued, responses received and investigations and repairs completed by geographical location. This will include, at minimum, a detailed breakdown of the overall Scheme expenditure, water savings and benefits. The CER will review Irish Water’s submissions to examine the costs associated with the Scheme and the effectiveness and benefits achieved for customers.

Response Received:

A respondent also asked if the information regarding notifications issued, responses received, investigations and repairs be made available to the public. The same respondent raised a concern that only half the money allocated was being spent on leak repairs and that the numbers of repairs was lower than the number of notifications and investigations. Many respondents highlighted the need for the Scheme to be monitored in order for customer who do not benefit from the Scheme.

CER Response:

The CER will require Irish Water to provide an estimate of water savings and to provide to the CER detailed reporting of the costings together with the benefits achieved in order for the CER to monitor the ongoing effectiveness of the Scheme.

The CER will publish the reports received from Irish Water.

Irish Water will issue leak notification to customers with active continuous flow alarms – however not all of the leak notifications will result in leak repairs. The same principle applies to the number of leak investigations as not all leak investigations will result in leak repairs. For this reason, the number of leak notifications will be greater than the number of investigations carried out and similarly, the number of investigations will be greater than the number of repairs. It is worth noting the Government allocated funding of €51 million to the end of 2016 to operate the Scheme including the customer notifications, leak investigations and leak repairs.

The CER will monitor the implementation of the Scheme to ensure that the costs allowed are efficiently incurred and that benefits are achieved for customers. The reporting requirements are discussed in more detail in Section 6.

In addition Irish Water is required to report on the customers who are deemed ineligible to be included in the Scheme for any reason – this will allow the CER to review the Scheme with respect to its effectiveness and may amend the Scheme in the future.

Further, a detailed breakdown of the overall Scheme expenditure and water savings achieved will also be reported on a quarterly basis to the CER for review. The CER expects Irish Water to strongly promote the Scheme in order to increase customer awareness of the Scheme and to encourage customers to engage with Irish Water on the Scheme.

5.8 Other Issues Raised by Respondents

5.8.1 Vacant properties

Irish Water Proposal:

Irish Water's proposed *First Fix Leak Repair Scheme* did not directly address vacant properties. Irish Water stated in its proposal the following:

"The *First Fix Leak Repair Scheme* will only apply to domestic Customers. In order to qualify for a free leak investigation under the *First Fix Leak Repair Scheme*, the following additional criteria must be met:

- The water to the Dwelling must be supplied through a Meter;

- A Constant Flow Alarm is detected via data obtained from the Meter;
- The Dwelling has an accessible Internal Stop Valve; and
- The Customer has registered their details with Irish Water.

Response Received:

One respondent suggested that vacant properties were not eligible for the scheme:

“Under the proposed scheme vacant dwellings are not currently eligible. This means that there could possibly be an unfair situation where owners/landlords are forced to pay higher metered fees despite the only water usage being from a leak. “

Irish Water Response:

Irish Water would like to clarify that vacant properties may be eligible for the scheme, subject to meeting the criteria set out in the *First Fix Leak Repair Scheme* policy document and the terms and conditions. There is no provision in the *First Fix Leak Repair Scheme* that excludes vacant properties from the scheme.

CER Response:

Irish Water’s proposed Scheme did not directly address vacant properties but supports Irish Water’s position and the government announcement that the objectives of the Scheme were to conserve water therefore should not directly exclude vacant properties. Vacant properties are included in the Scheme if there is an owner registered with Irish Water and all criteria are met as laid out by Irish Water in the Scheme.

5.8.2 Subsidy Model**Irish Water Proposal:**

Irish Water’s proposal is to address customer side leakage through a *First Fix Leak Repair Scheme*. Irish Water will assist customers by replacing the supply pipe or repairing the supply pipe where a leak is found. In the UK, some water utilities use a subsidy model where grants or some other form of financial aid is given to customers towards the cost of leak repairs – this is known as a subsidy model.

In its *First Fix Leak Repair Scheme* proposal, Irish Water stated that information provided to it by a number of UK utilities suggests that the transition to a subsidy based model is only possible once the most significant leaks have been addressed and an approved register of suppliers is in place.

Responses Received:

One respondent wanted more detail regarding the decision not to use a subsidy model as was mentioned in the Irish Water Submission.

Irish Water Response:

Irish Water carried out a review of the majority of the English and Welsh Water Companies plus Scottish Water to confirm their approach and customer Terms and Conditions for first fix or equivalent repairs. Irish Water also had direct conversations with a number of the 10 WASCs (Water and Sewerage Companies) looking at their respective CSL (Customer Side Leakage) strategy and approach to customer engagement. Fundamentally, the UK utilities are much further into their investment cycles and as such have a more mature understanding both of their leakage levels, asset condition and customer engagement. A number of the WASCs are looking at the subsidy route primarily based on limiting the Water Companies liability to claims around reinstatement and workmanship, however this has been considered on a cost benefit perspective where these companies are chasing much smaller levels of CSL per household than Irish Water. Irish Water is in a position that, for water conservation reasons, we need to resolve as many of these large customer side leaks as possible. From an administration perspective the WASCs also have a mature customer relationship and systems that can enable potential management of subsidy claims and payments and importantly have also developed Approved Plumbers/In home Service Providers that can be used by customers for this type of work. Again Irish Water is not yet at that level of maturity although we would advocate an Accreditation requirement for any provider working on customer pipes.

Irish Water would encourage such an Approved Register that could support a customer led repair recompensed through subsidy. This is not a current option and could not be seen to be easily implemented at this stage.

CER Response and Decision:

Irish Water proposes a replacement / repair model is initially implemented instead of a subsidy based model, following Irish Water's analysis of the data and research from the UK. The CER supports the *First Fix Leak Repair Scheme* in its current format whereby directly assists its customers to reduce leakage. The CER's view is that this model, for now, is the most cost effective and time efficient solution in order to meet the objective of reducing leaks and conserving water and the CER will continue to review all aspects of the Scheme, with quarterly reports being submitted by Irish Water, to ensure that this remains the case.

6 Reporting Requirements

6.1 Introduction

Below is a high level list reporting requirements. The CER expects Irish Water to report to it on a quarterly basis, with the information below, broken down at minimum, on a monthly basis and by geographical location. The first report is due in October 2015 and is to include all information up to the end of September 2015. The CER and IW will discuss the issue of report format and detailed levels of information to be included, after the CER's final decision on IW's First Fix Leak Repair Scheme.

Expenditure:
Leak investigations
Leak repairs
Additional costs: Scheme inspection & Administration, VAT, etc.
Cumulative Expenditure
Quarterly Deliverables
No. of Constant Flow Alarms detected
No. of Customer Notifications issued
Customer responses received
Leak Investigations Completed
First Fix Repairs Completed
Benefits – Water Savings achieved

6.2 Expenditure

This is a breakdown of forecasted expenditure for the period to the end of 2016. Irish Water has provided its forecast figures for this period in its First Fix Leak Repair submission published by the CER as part of the consultation and decision. The figures are to be submitted showing cumulative expenditure in a similar format to that included in Irish Water's submission.

6.3 CFA's/Notifications/LI's/LR's

These are estimations of deliverables up to the end of 2016 as provided by Irish Water in the consultation/decision submission. These figures are cumulative.

6.4 Forecast v Actual

This will be shown in cumulative figures of actual and forecasted. An explanation is required from Irish Water for any differences between forecast and actual.

6.5 Benefits – Water Savings

Estimated water savings will be reported in number of litres saved and the cost of producing water that has been saved. Irish Water may also wish to include other benefits which it observes or perceives resulting from the *First Fix Leak Repair Scheme*.

6.6 Number of Properties with an ISV

Irish Water will report quarterly on the number of properties that do not qualify for the FF Scheme due to the fact that there is not an ISV on the property. This will help to inform the CER how many properties will not qualify for the FF Scheme for this reason.

6.7 Number of Properties with a water supply through a shared backyard pipe

Irish Water will report quarterly on the number of properties that do not qualify for the FF Scheme due to the fact that they share their water is supplied through a shared backyard pipe. This will help to inform the CER how many properties will not qualify for the FF Scheme for this reason.

6.8 Next steps

The CER requires Irish Water to report on a quarterly basis, following discussions regarding the details to be included. The first report will be due in October 2015 which is to include information up to the end of September 2015. The CER will publish progress reports received from Irish Water.

7 CER DECISION & NEXT STEPS

The CER requires Irish Water to report on a quarterly basis with the information in Section 6 above, following discussions regarding the details to be included. The first report will be due in October 2015 which is to include information up to the end of September 2015. The CER intends to publish such reports as soon as possible once received.

In accordance with s.22(8) of the Water Services (No.2) Act 2013, and the CER's Water Charges Plan Decision October 2014, the CER has decided to approve Irish Water's First Fix Leak Repair Scheme for Domestic Customers with the modifications set out in this Decision.

The CER expects Irish Water to strongly promote the Scheme in order to increase customer awareness of the Scheme and to encourage customers to engage with Irish Water on the Scheme.

8 Appendix 1 – Responses Received

- (Published separately - CER/15/178(a) Responses to CER Consultation CER_15_074 - Appendix 1)