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Eligibility guidance on whether business customers in England and Wales are eligible to switch their retailer

About this document

This document provides guidance for establishing whether business customers in England and Wales are eligible to switch the water and sewerage retailer serving their premises. It includes both statutory and non-statutory guidance.

Since the business retail market opened in April 2017, eligible business customers in England (that is, customers whose water or sewerage services come from an undertaker whose area of appointment is wholly or mainly in England) have been able to choose their supplier of water and sewerage retail services. There is no threshold requirement in terms of water consumption. In Wales, business customers (that is, customers whose water or sewerage services come from an undertaker whose area of appointment is wholly or mainly in Wales) are only able to switch their water retailer (not their sewerage retailer) and in order to be eligible to do so their water consumption has to be at least 50 megalitres (**ML**) per year.

In July 2016, we issued [guidance](#) on eligibility for the business market alongside [supplementary guidance](#). This followed requests from stakeholders for additional clarity and practical examples. In March 2020, we reissued our [guidance](#), and [supplementary guidance](#) to confirm that from 1 April 2020, our guidance would apply in the Isles of Scilly.

This current version of the guidance combines, and updates, the two guidance documents we issued in March 2020. Part A is applicable to the arrangements in England; Part B is applicable to the arrangements in Wales.

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1. Introduction

Water supply and sewerage licences (**WSSs or licences**) are issued by Ofwat to retailers¹ under sections 17A and 17BA of the Water Industry Act 1991 (**WIA91**). The WIA91 permits a person that holds a WSSL (**retailer**) to have access to an appointed water and/or sewerage company's (**wholesaler**) supply/sewerage system to enable the retailer to supply water/sewerage retail services² to its eligible business customers³. The WIA91 sets out that for premises to be supplied by a retailer, the customer's premises must not be household premises as defined in section 17C WIA91. In addition, premises must only be supplied with water or sewerage retail services by one retailer, although premises could have one retailer for water and another retailer for sewerage⁴.

We have separated this guidance into two parts. **Part A provides guidance that is applicable to the arrangements in England** and **Part B provides guidance that is applicable to the arrangements in Wales**. We have done this due to the differing legislative arrangements in those areas. In Wales, there is a threshold requirement which means that to be eligible⁵ for the business retail market, at the time a retailer first enters into an undertaking with a customer, the premises must use more than 50 ML of water per year. There is no such consumption-based restriction in England. In addition, in Wales retailers can only apply for a WSSL to supply water retail services whereas in England retailers can apply for licences to supply water and/or sewerage retail services.

The eligibility of a premises for the business retail market relies on establishing its extent, its use, and, in Wales, its level of water consumption. In Parts A and B of this guidance, we have included statutory guidance⁶ on the factors to be considered in determining the extent of any premises eligible to be supplied by a retailer. In Part B, we also include statutory guidance⁷ on how the threshold requirement applies in Wales.

Parts A and B also provide non-statutory guidance to aid with the process of establishing the principal use of a premises, and provide a range of scenarios to demonstrate the practical application of the guidance. We consider these examples will help customers and retailers, and where appropriate wholesalers, to establish the eligibility of customers' premises across

¹ A retailer includes those companies that hold a retail restricted to self-supply authorisation. For more information, see our [website](#).

² This does not include the physical supply of water and/or removal of wastewater. It is referring to customer-facing retail services only such as billing.

³ Business customers (also referred to as non-household customers) include businesses, charities and public sector organisations.

⁴ It may be possible for a single premises to be considered household in relation to one service and non-household in relation to the other.

⁵ As set out in section 17D(2) WIA91.

⁶ Approved by the Secretary of State, in accordance with Schedules 2A and 2B WIA91, and by Welsh Ministers in accordance with Schedule 2A WIA91.

⁷ Approved by Welsh Ministers in accordance with section 17D(3) WIA91.

a range of situations, in a way that is readily understandable for customers and without the need to revert to Ofwat for a formal determination⁸ on a case-by-case basis.

This guidance sets out our understanding of the relevant WIA91 provisions and related regulations and orders. It is not a substitute for any of those legal instruments and should be read in conjunction with them. Anyone in doubt about how they may be affected should seek independent legal advice.

In all cases, and for all aspects of eligibility, it is the retailer rather than the wholesaler that must ensure that the premises of a potential business customer is eligible for the business retail market. Unless doing so in accordance with an appropriate licence, as set out in the WIA91, it is a criminal offence for a person (for example, a retailer) to use a wholesaler's supply system for the purpose of supplying water to any premises of a customer or to introduce water into a wholesaler's supply system⁹. Furthermore, any retailer that provides services to non-eligible premises could face enforcement action under section 18 WIA91, financial penalties under section 22A WIA91 and, ultimately, it could face having its licence revoked. Therefore, each retailer is responsible for assessing the eligibility of premises it supplies. Nothing in this guidance should be interpreted as taking away from the responsibility of retailers to satisfy themselves that they are only providing retail services to business premises that are eligible under the statutory framework.

A retailer or prospective retailer should seek its own legal advice if it is unsure whether a customer's premises are eligible for the business retail market.

⁸ Under section 17E WIA91.

⁹ See sections 66I and 66J WIA91. While sections 117 P and 117Q WIA91 contain prohibitions on the unauthorised use of (and removal of matter from) sewerage systems, these provisions are not yet in force.

2. PART A: Guidance for England

Since April 2017, eligible business customers in England have been able to choose their supplier of water and sewerage retail services. The relevant licences for retailers participating in this market are set out in [section 2.1](#).

When assessing the eligibility of premises for the business retail market, the extent of the premises to be served must be considered. For example, whether it is a single boundary premises. [Section 2.2](#) provides statutory guidance on the extent of premises. The other key consideration is whether the premises can be considered non-household; this is based on its principal use. [Section 2.3](#) provides non-statutory guidance on how to establish a premises' principal use.

We expect difficulties with establishing the eligibility of premises to only occur in exceptional circumstances. [Section 2.4](#) provides guidance on how to resolve such issues, if and when they do occur, including through referral to Ofwat for a formal determination. Where we have to make a determination of eligibility, we will have regard to the criteria set out below. Any such determination will always require a consideration of both the relevant law and the facts of the specific case at hand.

We have included a flowchart (see Figure 1) which is intended to guide retailers and wholesalers through the process of establishing the eligibility of premises.

2.1 What retail licences can be applied for in England?

Retail licences in England¹⁰

1. **Retail authorisation (water)** – this allows a retailer to use the supply system of a wholesaler, whose area is wholly or mainly in England, to supply water retail services to eligible premises of its customers, persons associated with the retailer or the retailer itself.
2. **Retail authorisation (sewerage)** – this allows a retailer to use the sewerage system of a wholesaler, whose area is wholly or mainly in England, to supply sewerage retail services to eligible premises of its customers, persons associated with the retailer and the retailer itself.
3. **Retail restricted to self-supply authorisation** – this allows a retailer to supply water and/or sewerage retail services to their own premises and those of persons associated with them. It does not allow them to become a retailer for any other premises.

¹⁰ Retailers can also apply for a wholesale authorisation. This allows a retailer to introduce water into the public water networks of wholesalers, whose areas are wholly or mainly in England, to supply the retailer's own customers if their non-household premises consume at least 5 ML of water per year.

A person is considered associated with such a retailer, and thus eligible for the business retail market, under the following circumstances:

- The person and the retailer are corporate bodies, one of them is a subsidiary of the other or both are subsidiaries of the same corporate body;
- The person or the retailer is an individual or an unincorporated association and the other is a corporate body, that individual or unincorporated association controls the other or a corporate body of which the other is a subsidiary; and
- The person is a partnership of which the retailer is a member¹¹.

2.2 How to establish the extent of premises

The WIA91 does not define ‘premises’ for the purpose of assessing eligibility for the business retail market. Premises can include buildings or land. Retailers can only supply customers at individual eligible premises. Each of the premises supplied must be eligible.

To ensure that the market works as effectively as possible and in the interest of customers, we have adopted a simple methodology for determining the extent of premises. Accordingly, in general, we consider that every property that is assessed separately for the purposes of council tax and business rates – or that would be assessed separately if the property were not exempt from such rates – should be treated as a separate premises for the purpose of establishing whether the premises constitutes one or more properties¹².

In certain circumstances, it may be justifiable for a retailer to supply several non-household properties through a single supply point – for example, because they are supplied via a private distribution network¹³ (for example, such as on certain industrial estates) and there is evidence of a joint billing agreement. In such circumstances, these properties should be treated as a single premises.

In general, under the [Wholesale Retail Code](#)¹⁴ (**WRC**), each individual non-household premises should be supplied via its own supply point¹⁵. Customers of such properties can ask to be billed directly for their supply, or to switch retailer, but will bear the risk of breaching any existing joint billing arrangement (which may take various forms, including a historic

¹¹ See schedules 2A and 2B WIA91.

¹² Please note this applies solely to the assessment of eligibility of premises for the business retail market.

¹³ This is typically where water is supplied to one property and then distributed on to other properties.

¹⁴ The WRC is a statutory code which forms the agreement entered into by wholesalers with those retailers they are providing services to; it sets out the relationship between wholesalers and retailers and how the business retail market will operate.

¹⁵ A supply point is defined in the WRC (schedule 1, part 1) as the point at which water or sewerage services are provided. Any eligible premises that receives both water and sewerage services shall have two supply points. Any eligible premises that receives either water or sewerage services shall only have one supply point.

joint billing agreement or a lease agreement). If customers make a request to switch retailer, and/or to be billed directly rather than via a joint billing arrangement, the relevant retailer can ask the wholesaler to register individual supply points and the wholesaler must consider such requests in line with the WRC. Where there are any complexities, we expect retailers and wholesalers to work constructively and collaboratively to resolve them, so a timely and appropriate solution is reached for the customer.

If the extent of premises remains unclear having considered the above, the relevant parties should also consider if there is any additional information that could reasonably be used to identify the extent of the premises. The information we provide in section 2.3.2, to help establish the principal use of a premises, may be a good starting point.

2.3 How to establish the principal use of premises

Having established the extent of premises, using [section 2.2](#) as guidance, premises must then satisfy the requirement that they are not household premises. We expect that in the majority of cases, satisfying this requirement will be relatively straight forward. However, we also acknowledge there will be instances where this assessment will be more difficult, and we provide guidance below to help market participants through this process.

2.3.1 Principal use

As set out above, the WIA91 sets out that for premises to be supplied by a retailer, the customer's premises must not be household premises¹⁶ as defined in section 17C WIA91.

Section 17C WIA91 states that household premises are those in which, or in any part of which, a person has his home¹⁷. It also states that the fact that a person has their home in, or in part of, any premises does not mean that the premises are household premises unless the **principal** use of the premises is as a home¹⁸. For example, a farm in which various buildings constitute a single premises serves both as the farmer's home and the farmer's place of business, but ordinarily its principal use will be as a business. So, ordinarily, the farm will not be considered to be a household premises.

We consider that, as a first approximation, market participants can rely on the use of classifications made to administer council tax and business rates:

¹⁶ This requirement is set out in Schedule 2A, paragraphs 4 and 7 WIA91 and Schedule 2B paragraph 2 WIA91.

¹⁷ As set out in section 17C (1) WIA91, for the purposes of paragraph 4 of Schedule 2A and paragraph 2 of Schedule 2B WIA91.

¹⁸ As set out in section 17C (2) WIA91.

- Premises that are liable for council tax only will ordinarily be household premises for the purposes of section 17C WIA91.
- Premises that are liable for business rates only will ordinarily be non-household premises in the sense of the WIA91.
- Premises that are liable for both council tax and business rates will normally be classified as non-household premises, unless there are grounds to consider that their principal use is as a home.

Where there are premises that are liable for neither council tax nor business rates, other information will be required to assess their principal use. This could include information on the billing categorisation at the premises and whether the premises is registered for [VAT](#).

Other useful resources to establish principal use may be the [Valuation Office Agency \(VOA\)](#) and the [Local Government Finance Act 1988 \(LGFA88\)](#) which provides definitions of domestic and non-domestic properties¹⁹.

2.3.2 Mixed-use premises

Mixed-use premises where it is not readily apparent what its principal use is, may be considered to be non-household premises if the household part of the premises is **dependent** in some way on the non-household part. We consider 'dependent' as meaning that the existence of the household part is linked to the function of the non-household part of the premises. However, it must always be open to a retailer or customer to demonstrate that for a particular premises the principal use is not as a home.

It may be necessary for a retailer to gather further evidence to establish whether, for a given mixed-use premises, the principal use is as a home. We expect that retailers will want to start by carrying out a relatively light-touch assessment. Where data about the premises and the customer that a retailer already holds, or can access, is insufficient to establish how the premises is used, the retailer might consider the amounts of council tax and business rates payable with respect to the premises or use certain online tools to gather evidence on the premises' use. [HM Land Registry](#), which deals with the ownership of property, may be a useful resource to inform a view on mixed-use premises.

In Figure 1 below we have included other information we expect the retailer to typically use to help establish the principal use of a premises. We expect the retailer to consider all the relevant information, where it is available, to ensure it is making an informed and appropriate assessment. This information includes:

- The premises' ownership.

¹⁹ See section 66 LGFA88.

- Any arrangements between a resident and a business in terms of water use and payment for it.
- Any difference in size between the residential area and the commercial area at a premises.
- The location of the water meter.
- The highest incidence of rates.
- The scale of household and non-household activities undertaken at the premises relative to each other.
- Relevant evidence submitted by the customer – for example, photographs or floor plans of the premises.
- Relevant evidence submitted by the Wholesaler.

2.4 How to resolve disputes about eligibility

2.4.1 Informal resolution

After considering the relevant legal framework, and taking account of this guidance, we expect disputes concerning the eligibility of premises to only occur in exceptional circumstances.

Examples of the type of issues we might expect to see could include a business customer disputing whether its premises should be eligible for the business retail market or a wholesaler not registering individual supply points, in accordance with the WRC, in an instance where multiple properties are served by a single supply point. There may also be issues where the eligibility status of a premises changes, and there is no agreement on how to backdate the relevant account for that premises.

Where disputes do occur, in the first instance, we expect customers, retailers and wholesalers to try to resolve the issue directly between themselves. As part of this, we expect the retailer and wholesaler to gather all relevant information to enable them to make an informed decision. Where there are issues with backdating an account, due to the eligibility status of a premises changing, in the first instance, it is for the relevant parties to agree on a reasonable date to backdate the eligibility status. Any decision should factor in, amongst other things, the provisions set out in the [Customer Protection Code of Practice](#) and when the issue of eligibility was first raised.

Where relevant, we also expect retailers and wholesalers to seek to resolve any issues on eligibility using the mechanisms set out in the [Market Arrangements Code](#)²⁰ (**MAC**) and WRC. These are market codes that govern and underpin the business retail market. This means

²⁰ The MAC is a non-statutory code issued by Ofwat pursuant to conditions in retailer's licences and undertakers' Instruments of Appointment.

retailers and wholesalers complying with the terms of the WRC²¹ and, where appropriate, using the dispute resolution process set out in the MAC²².

Where issues are unable to be resolved, customers can consider using the [Consumer Council for Water \(CCW\)](#) which is the statutory consumer body for the water sector in England and Wales. It will be able to offer further assistance and advice.

In all cases we expect retailers and wholesalers to act in the best interests of customers.

2.4.2 Formal determination by Ofwat

If the above steps have been exhausted, but the dispute is not resolved, then a retailer or customer can refer certain matters to us for determination.

We can determine whether a proposed supply of water to, or proposed sewerage services for, a customer would be in accordance with what is authorised by a retailer's licence²³. The matters that we may determine include:

- the extent of the premises to be supplied (in the case of water) or served (in the case of sewerage);
- whether the premises to be supplied or served are household premises; and
- any other matter the determination of which is relevant to those matters²⁴.

When determining such eligibility disputes, we will seek views from the wholesaler, retailer and customer as appropriate. Where relevant, we may also need to engage with other parties – for example, consultants working on behalf of customers – in relation to some technical or financial aspects of the dispute. We will inform all relevant parties of our proposed approach and give them an opportunity to comment on our proposed conclusion before a final determination is made.

2.4.3 Formal direction or order by Ofwat

In addition to our role in determining the eligibility of a premises, depending on the circumstances, we may also have a role where a retailer or wholesaler does not act as required by the WRC and/or WIA91. From an eligibility perspective, this may be in scenarios

²¹ The WRC forms the agreement entered into by wholesalers with those retailers they are providing services to so that essentially the WRC is the wholesale contract. Also, see section 66D WIA91.

²² In particular, see section 17.

²³ See section 17E(1) WIA91.

²⁴ See section 17E(2) WIA91.

where, for example, a retailer has initiated the process for registering a gap site²⁵ and the wholesaler has not acted in line with that process. In such a case, our role may include directing the wholesaler to take certain steps to comply with the WRC²⁶ and, where appropriate, issuing an order²⁷ requiring a wholesaler to perform the relevant duty²⁸. Such an order has an effect as an agreement between the retailer and the wholesaler to perform the duty in question.

²⁵ A gap site is any eligible premises which is in receipt of water and/or sewerage services where no supply points or insufficient supply points are registered on market operator's system (CMOS) in relation to such eligible premises in the supply point register.

²⁶ Under section 66DA (4) WIA91.

²⁷ Under section 66D (1) WIA91.

²⁸ Under sections 66A to 66C WIA91.

Figure 1: Establishing a premises' eligibility for the business retail market in England

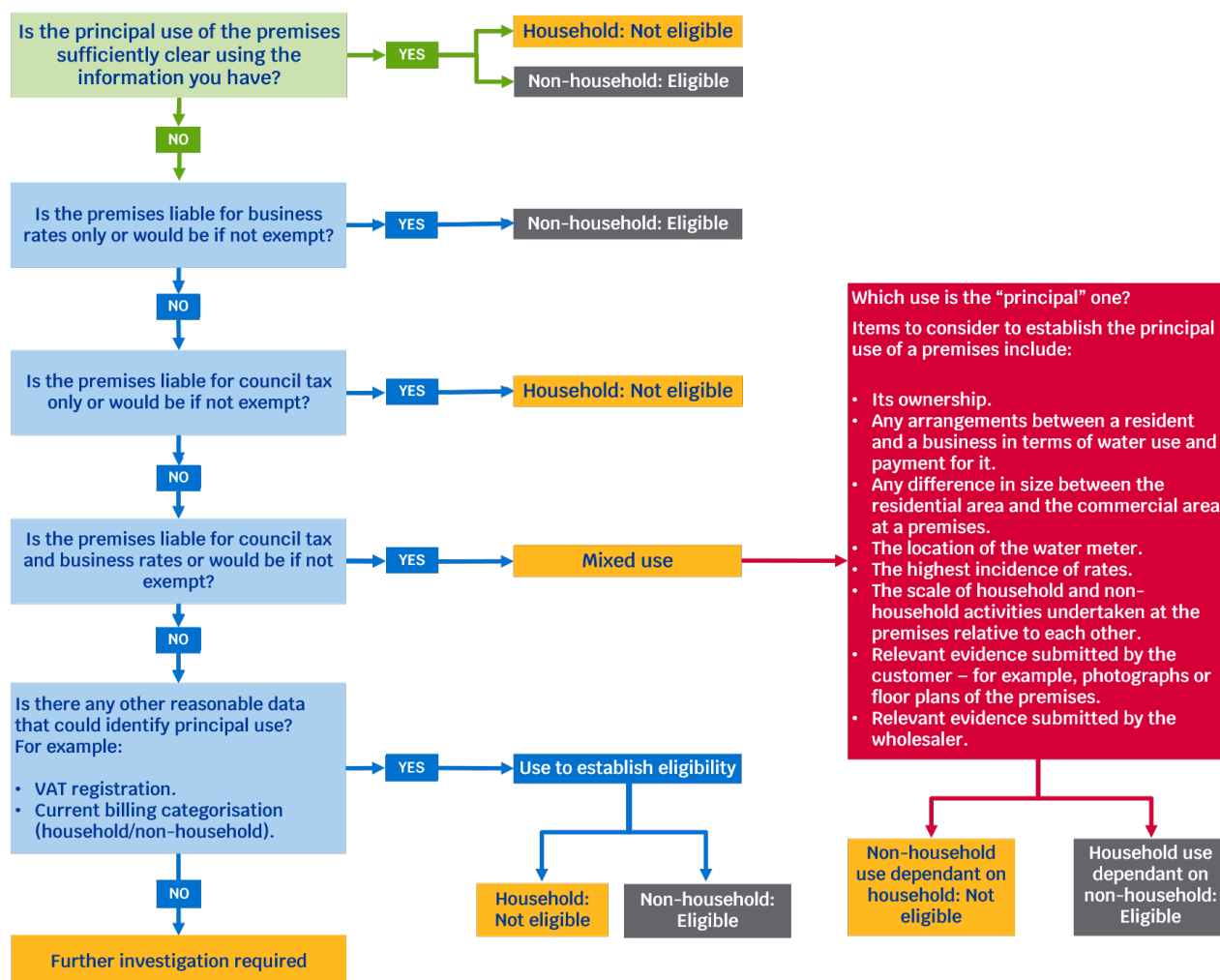
1. Establish the extent of the premises

Every property that is assessed separately for the purposes of council tax and business rates should be treated as a separate set of premises.

In general, each individual non-household premises should be supplied via its own supply point. See above for exceptions to this.

If the extent of premises remains unclear then relevant parties should also consider if there is any additional data that could reasonably be used to identify the extent of premises.

2. Establish the principal use of the premises



3. PART B: Guidance for Wales

Since April 2017 eligible business customers in Wales have been able to choose their supplier of water retail services. The relevant licences for retailers participating in this market are set out in [section 3.1](#).

When assessing the eligibility of premises for the business retail market, the extent of the premises to be served must be considered. For example, whether it is a single boundary premises. [Section 3.2](#) provides statutory guidance on the extent of premises. Business customers using the supply system of wholesalers whose area of appointment is wholly or mainly in Wales, and who meet the threshold requirement of using more than 50ML of water per year, can choose a different supplier for their water retail services. [Section 3.3](#) provides guidance on the threshold requirement, and when and how it applies. The other key consideration is whether the premises can be considered non-household; this is based on its principal use. [Section 3.4](#) provides non-statutory guidance on how to establish a premises' principal use.

We expect difficulties with establishing the eligibility of premises to only occur in exceptional circumstances. [Section 3.5](#) provides guidance on how to resolve such issues if, and when they do occur, including through referral to Ofwat for a formal determination. Where we have to make a determination of eligibility, we will have regard to the criteria set out below. Any such determination will always require a consideration of both the relevant law and the facts of the specific case at hand.

We have included a flowchart (see Figure 2) which is intended to guide retailers and wholesalers through the process of establishing the eligibility of premises.

3.1 What retail licences can be applied for in Wales?

Retail licences in Wales²⁹

Restricted retail authorisation – this allows a retailer to use the supply system of a wholesaler, whose area is wholly or mainly in Wales, to supply water retail services to eligible premises of its customers only (consuming at least 50 ML of water a year).

²⁹ Retailers can also apply for a supplementary authorisation. This allows a retailer to introduce water into the public water networks of wholesalers, whose areas are wholly or mainly in Wales, to supply the retailer's own customers if their non-household premises consume at least 50ML of water per year.

3.2 How to establish the extent of premises

The WIA91 does not define 'premises' for the purpose of assessing eligibility. Premises can include buildings or land. Retailers can only supply customers at individual eligible premises. Each of the premises supplied must be eligible. There will be a single premises in the following circumstances.

3.2.1 Single boundary premises

The premises are located within a single boundary and a single customer occupies the premises and is liable for water bills in respect of those premises. In most cases, single boundary premises for these purposes will be the same as those that the wholesaler supplies with water. The boundary will usually be clear from the land register or from the property deeds. A single customer does not only mean a single legal or natural person. A single customer means a single economic entity or business which is liable for water bills. A single premises can have more than one meter and the number of meters is not necessarily an indication of whether those premises comprise a single premises.

3.2.2 Common occupation co-located premises

The premises consist of co-located properties, other similar structures and/or land that have adjoining boundaries or that are separated only by transport infrastructure, and a single customer occupies the premises and is liable for water bills in respect of those premises. Transport infrastructure includes public highways, railways, other public rights of way and watercourses.

Co-located premises with constituent parts that are separated from each other by anything other than transport infrastructure, and its directly associated land, are not a single set of premises. For example, co-located premises separated by common land are not a single set of premises. Likewise, co-located premises that are separated by a combination of common land and transport infrastructure are not a single set of premises because of the existence of common land (that is something 'other than transport infrastructure').

3.2.3 Common management co-located premises

The premises consist of a single property or co-located, separately occupied, buildings, other similar structures and/or land with all four of the following characteristics:

- They have a common landlord or managing agent in respect of the totality of the premises.

- They have adjoining boundaries or are separated only by transport infrastructure.
- They receive water from a wholesaler but the distribution to all co-located premises is via a private distribution network not owned by a wholesaler.
- A single customer, which may include a management agent, is liable for water bills in respect of the totality of the premises.

If a development comprises co-located industrial and commercial properties and houses, the houses will only be considered part of the single set of premises if they are commonly managed with the other industrial and commercial properties and are not billed directly for water. It is likely that most houses would be separately managed and, therefore, premises in their own right. Houses that are separate premises would fall under the definition of household premises³⁰.

It will not necessarily be possible for two separate businesses to create a single set of premises by simply joining their pipe networks together and for one of them to be solely liable to the retailer for the water bills for the premises as a whole. First, in most cases, the two businesses will not have a common landlord or managing agent. Second, in many situations the businesses will not have adjoining boundaries or be separated only by transport infrastructure. Third, in some cases it will not be possible to join the two water pipe networks without using the appointed water company's supply system.

3.3 How to establish if the threshold requirement has been met

The threshold requirement is that, at the time the retailer first enters into an undertaking with a customer to supply the premises, the total quantity of water estimated to be supplied annually to the premises by the retailer, is not less than 50 ML per year. Any estimate of the volume of water to be supplied to any premises³¹ shall be made in accordance with this guidance.

The word 'undertaking' has a wider meaning than the word 'contract' or 'agreement' in ordinary contract law. An undertaking may be entered into once commercial managers have agreed the principal commercial terms of an agreement, but before the legally binding contracts have been finalised and signed. However, it will be easier to demonstrate that an undertaking has been entered into once legally binding agreements have been signed. An undertaking may also encompass several successive agreements on similar terms.

³⁰ See section 17C WIA91.

³¹ For the purposes of section 17D(2) WIA91 and Regulation 3 of the Water Supply Licence (New Customer Exception) Regulations 2005 (SI 2005/3076)

3.3.1 When does the threshold requirement need to be satisfied?

Water use only has to be assessed at the time when the retailer first enters into an undertaking with a customer to supply any particular premises. As long as the total volume of water estimated to be supplied to the premises at that time is not less than the threshold requirement, a customer can continue to be supplied by the same retailer for the duration of the undertaking. This is true even if consumption at those premises falls below the threshold requirement, provided that the premises does not change. This is because the supply is part of the same undertaking.

Where premises have a planned closure for a substantial period of time in every year, and do not require a supply during that period, the threshold requirement must still be satisfied taking into account the closure period.

There are certain scenarios where it may be unclear whether the threshold requirement continues to be satisfied and, as such, whether the water use needs to be reassessed. Table 1 provides some scenarios to help provide clarity.

Table 1: Scenarios where the threshold requirement, and water use, will, and will not, have to be reassessed

Scenarios where the threshold requirement, and water use, WILL NOT have to be reassessed	Scenarios where the threshold requirement, and water use, WILL have to be reassessed
An agreement expires, or is cancelled, and is immediately renewed to ensure the ongoing supply of water at the same premises by the same retailer with the undertaking remaining in place.	At the same premises, a customer wishes to change its supplier from retailer A to retailer B.
The retailer's licence is varied but the retailer continues to supply the same premises.	At the same premises, having been supplied by retailer A and then having been supplied by a wholesaler or retailer B, a customer wishes to revert to retailer A (in those circumstances, retailer A would not be continuing the original supply and any new supply would be pursuant to a new undertaking).
The terms of the agreement to supply water at the same premises are varied, irrespective of the impact on water supplied, but the undertaking remains in place.	A customer moves to new premises and wishes those new premises to be supplied by the retailer.
The customer changes its use of the premises ³² .	A customer sells part of its premises so that the original premises is split and occupied by different customers.
There is a temporary closure of premises owing to expected or unexpected circumstances.	A customer buys a plot of land next to its existing premises so that the two plots of land together form a new single premises.
There is a temporary interruption in the supply of water owing to technical difficulties.	A single boundary premises or common occupation of co-located premises (see section 3.2) is divided into

³² This only refers to the need to reassess the volume of water supplied; if the premises are changed from non-household to household, it will cease to be eligible, and the retailer will have to stop supplying it.

Scenarios where the threshold requirement, and water use, WILL NOT have to be reassessed	Scenarios where the threshold requirement, and water use, WILL have to be reassessed
	separate premises. For example, being split by transfer into two separate occupiers.
A common management of co-located premises (see section 3.2) takes on new occupiers or creates new properties within the boundary of its premises.	A common management co-located premises (see section 3.2) is divided into separate premises. For example, being split such that two managing agents are liable for water bills.

The [Water Supply Licence \(New Customer Exception\) Regulations 2005](#) also provide for certain circumstances where a customer in the business retail market in Wales will not have to reapply the threshold requirement. This largely covers scenarios where there are changes to a customer's business at a corporate level such as a change to a business group structure or personnel changes.

3.3.2 How should water use be assessed?

Assessing whether the threshold requirement has been met is interrelated to the assessment of the extent of a set of premises (see section 3.2). Where applicable, the threshold requirement must be met within the boundary of a single premises. Customers cannot aggregate consumption at more than one premises to meet the threshold requirement, although some groups of premises may constitute a single premises in certain circumstances. This does not mean that retailers cannot treat groups of premises as a single entity for their own billing purposes, for the convenience of a customer.

Where a customer has two premises located on both sides of a public highway, and which satisfy the common occupation co-located premises criterion (and are, therefore, to be regarded as a single premises), the water consumption at those two premises can be added together to establish whether the threshold requirement is met.

There are a number of scenarios where the threshold requirement will be considered to be met and this includes:

- A premises receives a supply of water where in the past 12 months the volume of water has not been lower than the threshold and there are no material changes in the customer's demand characteristics to suggest that future demand is not going to be the same as in the past.
- A premises receives a supply of water where the average of the volume of water supplied in the past three years is not less than the threshold and there are no material changes in the customer's demand characteristics to suggest that future demand is not going to be the same as in the past.
- The customer and retailer can demonstrate objectively and can justify that the estimated volume of consumption in the next 12 months and annually thereafter will be no less than the threshold.

- A customer's past bills show that the eligible premises met the threshold requirement, and there is no significant change in business practices or forecast demand.
- A premises is served by more than one appointed water company, each of which supplies a volume below the threshold but collectively supplies the premises with 50ML per year.
- A premises receives potable³³ and non-potable³⁴ water supplies each of which supplies a volume below the threshold but collectively supplies the premises with 50ML per year.
- A premises is supplied by a retailer acting under its restricted retail and supplementary authorisations with the total volume of water estimated to be supplied under a single agreement not less than the threshold.

In addition, the following cannot be used to satisfy the threshold requirement:

- Water supplied to premises by means of private supplies and direct abstractions.
- A customer's own on-site private water supply.
- Water a customer reserves as a back-up supply (for example to supplement a private supply).
- Water lost through leakage in the wholesaler's supply system.
- Water that a meter does not record. For example, when a meter under records the volume of water passing through it.

3.4 How to establish the principal use of premises

Having established the extent of premises, using [section 3.2](#) as guidance, premises must then satisfy the requirement that they are not household premises. We expect that in the majority of cases, satisfying this requirement will be relatively straight forward. However, we also acknowledge there will be instances where this assessment will be more difficult, and we provide guidance below to help market participants through this process.

3.4.1 Principal use

As set out above, the WIA91 sets out that for premises to be supplied by a retailer, the customer's premises must not be household premises³⁵ as defined in section 17C WIA91.

³³ Water for domestic and food production purposes which is wholesome at the time of supply. See sections 67 and 68 WIA91 and [the Water Supply \(Water Quality\) Regulations 2018](#).

³⁴ Water that is not intended for domestic or food production purposes.

³⁵ This requirement is set out in Schedule 2A, paragraphs 4 and 7 WIA91 and Schedule 2B paragraph 2 WIA91.

Section 17C WIA91 states that household premises are those in which, or in any part of which, a person has his home³⁶. It also states that the fact that a person has his home in, or in part of, any premises does not mean that the premises are household premises unless the **principal** use of the premises is as a home³⁷. For example, a farm in which various buildings constitute a single premises serves both as the farmer's home and the farmer's place of business, but ordinarily its principal use will be as a business. So, ordinarily, the farm will not be household premises.

We consider that, as a first approximation, market participants can rely on the classifications made to administer council tax and business rates:

- Premises that are liable for council tax only will ordinarily be household premises for the purposes of section 17C WIA91.
- Premises that are liable for business rates only will ordinarily be non-household premises in the sense of the WIA91.
- Premises that are liable for both council tax and business rates will normally be classified by companies as non-household premises, unless there are grounds to consider that their principal use is as a home.

Where there are premises that are liable for neither council tax nor business rates, other information will be required to assess their principal use. This could include information on the billing categorisation at the premises and whether the premises is registered for [VAT](#).

Other useful resources to establish principal use may be the [Valuation Office Agency \(VOA\)](#) and the [Local Government Finance Act 1988 \(LGFA88\)](#) which provides definitions of domestic and non-domestic properties³⁸.

3.4.2 Mixed-use premises

Mixed-use premises where it is not readily apparent what its principal use is, may be considered to be non-household premises if the household part of the premises is **dependent** in some way on the non-household part. We define 'dependent' as meaning that the existence of the household part is linked to the function of the non-household part of the premises. However, it must always be open to a retailer or customer to demonstrate that for a particular premises the principal use is not as a home.

It may be necessary for a retailer to gather further evidence to establish whether, for a given mixed-use premises, the principal use is as a home. We expect that retailers will want to start

³⁶ As set out in section 17C (1) WIA91, for the purposes of paragraph 4 of Schedule 2A and paragraph 2 of Schedule 2B WIA91.

³⁷ As set out in section 17C (2) WIA91.

³⁸ See section 66 LGFA88.

by carrying out a relatively light-touch assessment. Where data about the premises and the customer that a retailer already holds, or can access, is insufficient to establish how the premises is used, the retailer might consider the amounts of council tax and business rates payable with respect to the premises or use certain online tools to gather evidence on the premises' use. [HM Land Registry](#), which deals with the ownership of property, may be a useful resource to inform a view on mixed-use premises.

In Figure 2 below we have included other information we expect the retailer to typically use to help establish the principal use of a premises. We expect the retailer to consider all the relevant information, where it is available, to ensure it is making an informed and appropriate assessment. This information includes:

- The premises' ownership.
- Any arrangements between a resident and a business in terms of water use and payment for it.
- Any difference in size between the residential area and the commercial area at a premises.
- The location of the water meter.
- The highest incidence of rates.
- The scale of household and non-household activities undertaken at the premises relative to each other.
- Relevant evidence submitted by the customer – for example, photographs or floor plans of the premises.
- Relevant evidence submitted by the Wholesaler.

3.5 How to resolve disputes about eligibility

3.5.1 Informal resolution

After considering the relevant legal framework, and taking account of this guidance, we expect disputes concerning the eligibility of premises to only occur in exceptional circumstances.

Examples of the type of issues we might expect to see could include a business customer disputing whether its premises should be eligible for the business retail market or a wholesaler not registering individual supply points, in accordance with the WRC, in an instance where multiple properties are served by a single supply point. There may also be issues where the eligibility status of a premises changes, and there is no agreement on how to backdate the relevant account for that premises.

Where disputes do occur, in the first instance, we expect customers, retailers and wholesalers to try to resolve the issue directly between themselves. As part of this, we expect the retailer and wholesaler to gather all necessary information to enable them to make an informed decision. Where there are issues with backdating an account, due to the eligibility status of a premises changing, in the first instance, it is for the relevant parties to agree on a reasonable date to backdate the eligibility status. Any decision should factor in, amongst other things, the provisions set out in the Customer Protection Code of Practice and when the issue of eligibility was first raised.

Where relevant, we also expect retailers and wholesalers to seek to resolve any issues on eligibility using the mechanisms set out in the [Market Arrangements Code](#)³⁹ (**MAC**) and WRC. These are market codes that govern and underpin the business retail market. This means retailers and wholesalers complying with the terms of the WRC⁴⁰ and, where appropriate, using the dispute resolution process set out in the MAC⁴¹.

Where issues are unable to be resolved, customers can consider using the [Consumer Council for Water](#) (**CCW**) who are the statutory consumer body for the water sector in England and Wales. They will be able to offer further assistance and advice.

In all cases we expect retailers and wholesalers to act in the best interests of customers.

3.5.2 Formal determination by Ofwat

If the above options have been exhausted, but the dispute is not yet resolved, then a retailer, or customer, can refer certain matters to us for determination.

We can determine whether a proposed supply of water to a customer would be in accordance with what is authorised by a retailer's licence⁴². The matters that we may determine include:

- the extent of the premises to be supplied;
- whether the premises to be supplied are household premises;
- whether the threshold requirement is satisfied in relation to premises to be supplied; and
- any other matter the determination of which is relevant to those matters⁴³.

³⁹ The MAC is a non-statutory code issued by Ofwat pursuant to conditions in retailer's licences and undertakers' Instruments of Appointment.

⁴⁰ The WRC forms the agreement entered into by wholesalers with those retailers they are providing services to so that essentially the WRC is the wholesale contract. Also, see section 66D WIA91.

⁴¹ In particular, see section 17.

⁴² See section 17E(1) WIA91.

⁴³ See section 17E(2) WIA91.

When determining such eligibility disputes, we will seek views from the wholesaler, retailer and customer as appropriate. Where relevant, we may also need to engage with other parties – for example, consultants working on behalf of customers – in relation to some technical or financial aspects of the dispute. We will inform all relevant parties of our proposed approach and give them an opportunity to comment on our proposed conclusion before a final determination is made.

3.5.3 Formal direction or order by Ofwat

In addition to our role in determining the eligibility of a premises, depending on the circumstances, we may also have a role where a retailer or wholesaler does not act as required by the WRC and/or WIA91. From an eligibility perspective, this may be in scenarios where, for example, a retailer has initiated the process for registering a gap site⁴⁴ and the wholesaler has not acted in line with that process. In such a case, our role may include directing the wholesaler to take certain steps to comply with the WRC⁴⁵ and, where appropriate, issuing an order⁴⁶ requiring a wholesaler to perform the relevant duty⁴⁷. Such an order has an effect as an agreement between the retailer and the wholesaler to perform the duty in question.

⁴⁴ A gap site is any eligible premises which is in receipt of water and/or sewerage services where no supply points or insufficient supply points are registered on CMOS in relation to such eligible premises in the supply point register.

⁴⁵ Under section 66DA (4) WIA91.

⁴⁶ Under section 66D(1) WIA91.

⁴⁷ Under sections 66A to 66C WIA91.

Figure 2: Establishing a premises' eligibility for the business retail market in Wales

1. Establish the extent of the premises

Single boundary premises

Are the premises located within a single boundary and does a single customer occupy the premises and is liable for water bills in respect of those premises?

Common management co-located premises

Does the premises consist of a single building or co-located, separately occupied buildings, other similar structures and/or land with all four of the characteristics described above.

Common occupation co-located premises

Do the premises consist of co-located buildings, other similar structures and/or land that have adjoining boundaries or that are separated only by transport infrastructure, and does a single customer occupy the premises and is liable for water bills in respect of those premises?

2. Has the threshold requirement been met?

Does the premises meet the 50 megalitres threshold requirement?

Yes: Proceed to step 3

No: Not eligible

3. Establish the principal use of the premises

Is the principal use of the premises sufficiently clear using the information you have?

YES

Household: Not eligible

Non-household: Eligible

NO

Is the premises liable for business rates only or would be if not exempt?

YES

Non-household: Eligible

NO

Is the premises liable for council tax only or would be if not exempt?

YES

Household: Not eligible

NO

Is the premises liable for council tax and business rates or would be if not exempt?

YES

Mixed use

NO

Is there any other reasonable data that could identify principal use? For example:

- VAT registration.
- Current billing categorisation (household/non-household).

YES

Use to establish eligibility

Household:
Not eligible

Non-household:
Eligible

NO

Further investigation
required

Which use is the "principal" one?

Items to consider to establish the principal use of a premises include:

- Its ownership.
- Any arrangements between a resident and a business in terms of water use and payment for it.
- Any difference in size between the residential area and the commercial area at a premises.
- The location of the water meter.
- The highest incidence of rates.
- The scale of household and non-household activities undertaken at the premises relative to each other.
- Relevant evidence submitted by the customer – for example, photographs or floor plans of the premises.
- Relevant evidence submitted by the wholesaler.

Non-household
use dependant on
household: Not
eligible

Household use
dependant on
non-household:
Eligible

A1 Scenarios

The following scenarios have been provided to help market participants establish the eligibility of particular types of premises. The scenarios apply in both England and Wales, the primary difference being that in Wales the retail market only applies to the supply of water (and not sewerage) and there is a 50ML per year threshold requirement. These differences may limit the relevance of some of the examples in Wales.

A1.1 Allotments

The principal use of an allotment is not as a home and so such premises should be eligible for the business retail market. This includes individually rented allotments and allotment societies or associations that operate multiple allotments on behalf of their members.

A1.2 Animal troughs

While principal use determines whether individual premises are in the business retail market, dependency should determine if an animal trough (or similar) which shares its supply point with another property should be in the business retail market.

Consistent with the approach we have adopted for other mixed-use premises, where an animal trough shares a supply point with another building, or buildings, and is dependent on those buildings, it should be categorised in the same market as the premises on which it is dependent.

A1.3 Appointed water companies' premises

Principal use is the determining factor of eligibility for the business retail market. As the principal use of a water company's office would be not as a home, these premises should be eligible for the business retail market. Equally, the principal use of operational premises of a water company would not be as a home, meaning that these premises should also be eligible for the business retail market.

However, where these premises form part of the wholesalers supply system, [the Water and Sewerage Undertakers \(Exit from Non-household Retail Market\) Regulations 2016](#) provides for an exception to the prohibition on wholesalers from supplying water or providing sewerage services to business premises in retail exit areas. This means that a wholesaler is still permitted to provide services to premises which are owned by it and which form part of the supply or sewerage system. Where premises are part of the supply system, we do not

envisage that registration of that premises is required on the market operator's system (**CMOS**).

A1.4 Assisted living or sheltered housing accommodation

Assisted living properties are housing with limited care/intervention for individuals who may at times require assistance but do not require active care such as that provided in a nursing or care home setting.

In assessing the eligibility of assisted living housing, it is important that the extent of premises is identified. This is because there may be instances where an office is co-located with an assisted living property and could be considered as a separate premises (with its own supply) or as part of a wider set of premises where the principal use of the premises will be either household or non-household activities.

In general, the principal use of assisted living properties is as a home. In assisted living accommodation the support functions will generally be considered ancillary to the accommodation. Assisted living properties are usually liable for council tax and are often owned separately from the provider of care services. As such, these types of premises should not be eligible for the business retail market.

Where a separate, and distinct, set of non-household premises is identified, for example an office, its principal use would not be as a home and so it should be eligible for the business retail market.

A1.5 Barracks and married quarters

The principal use of barracks and married quarters can be as a home but to establish the principal use of the premises it is important to first determine the extent of the premises. Where married quarters are provided within the community, the extent of premises would be considered separately. The principal use of those premises would likely be a home and so should not be included in the business retail market. Where barracks or married quarters are provided but form part of a wider, single set of premises, the principal use of these premises is likely to be non-household and so should be included in the business retail market.

A1.6 Bed and breakfast accommodation and guesthouses

Where the extent of a bed and breakfast accommodation or guesthouse includes both household and non-household elements the premises would be considered mixed-use. The eligibility of that premises would then be based upon its principal use. We provide further

information on items to consider to establish principal use in such scenarios in sections [2.3.2](#) and [3.4.2](#). Reviewing the liability of the premises for both business rates and council tax can also help to establish principal use.

Where the bed and breakfast or guesthouse is separate from the main residence, and has its own supply, its principal use would not be as a home and so it should be eligible for the business retail market.

A1.7 Car parks and garages

To aid participants in identifying the extent of a premises, and possible dependency of a car park or garage, parties could refer to the [Local Government Finance Act 1992 \(LGFA92\)](#) which outlines instances⁴⁸ where a property forms part of a larger premises, including:

- a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property used wholly for the purposes of living accommodation;
- a private garage which either has a floor area of not more than 25 square metres or is used wholly or mainly for the accommodation of a private motor vehicle; and
- private storage premises used wholly or mainly for the storage of articles of domestic use.

This means private garages that either have a floor area of not more than 25 square metres or are used wholly or mainly for the accommodation of a private motor vehicle, being within the extent of the premises. Principal use would, therefore, be based on the classification of these wider set of premises.

Where a car park or garage is on household premises, is served by the same supply point as those premises, and meets the criteria set out in the LGFA92, it would be considered part of that household premises' and so should not be eligible for the business retail market.

If a car park or garage is served by a separate supply point and, does not meet the criteria set out in the LGFA92, its principal use would not be considered as household and so it would be eligible for the business retail market.

⁴⁸ See section 3 LGFA92 which sets out the meaning of dwelling.

A1.8 Caravan sites/parks

The principal use of caravan sites/parks, which provide temporary accommodation, would not be as a home and so they should be eligible for the business retail market.

Where a caravan site/park has a separate supply to a communal management office, the principal use of those premises would not be as a home and so they should be eligible for the business retail market.

The principal use of caravan sites/parks, which provide permanent (all-year round) accommodation, would be as a home and so they should not be eligible for the business retail market. We consider this would also cover traveller sites.

A1.9 Care/Nursing homes

The principal use of a care/nursing home (which we consider to be any institution providing residential accommodation for the purposes of providing residents with continued health care) is considered to be the provision of continued care. Thus, although residents of a care/nursing home have the home as their principal home, they are there to receive a care service and they are not separately liable for water and sewerage bills. Accordingly, we consider that these premises should be eligible for the business retail market.

Where a care provider leases property to staff (even if repair and maintenance are provided by the care home) the principal use of those leased properties should be considered to be a home unless the leased property shares a single supply point with the larger care/nursing home. In this instance, the non-household status takes precedence based on the premises wider principal use (including the staff accommodation) and so the premises should be eligible for the business retail market.

Where staff accommodation is provided, but on separate premises, the principal use of these premises must be considered separately. In this case, the principal use of the premises would be as a home and so it should not be eligible for the business retail market.

A1.10 Farms

A farm may serve both as the farmer's home and the farmer's place of business, but ordinarily its principal use will be as a business. If this is the case, a farm would not be household premises and should be eligible for the business retail market.

Where principal use is not clear, liability for business rates or council tax may provide a first approximation. Unless they have diversified into non-agricultural activities, farms may not

have a letter from the VOA confirming the business is exempt from business rates. In this case, other reasonable criteria or data that could identify principal use should be considered, such as VAT registration.

A1.11 Gyms

The principal use of a gym is not as a home and so such premises should be eligible for the business retail market. Where a gym is contained within a residential accommodation block, and is solely for the use of residents, the principal use would be as a home, and it should not be eligible for the business retail market.

A1.12 Housing association/tenanted properties

We consider that housing association/tenanted housing properties are comparable to landlords who undertake some service/operation and maintenance activities in relation to a premises. Regardless of the number of units served by the same supply point, the principal use of housing premises run by a housing association is as a home and so that premises should not be eligible for the business retail market. An exception to this would be if there is a non-household element on the premises that is sufficiently large enough for the principal use of the premises to be considered non-household. In such circumstances, it is possible that the premises should be eligible for the business retail market. Local housing authorities are also registered providers of housing. As such, premises provided by local housing authorities should be treated in the same way as housing associations and they should, therefore, not be eligible for the business retail market. Similar to housing associations, an exception to this would be if there is a sufficiently large non-household element on the premises. In such circumstances, it is possible that the premises should be eligible for the business retail market.

A1.13 Household premises with management companies

The principal use of household premises, even with management company arrangements in place, is as a home and so should not be eligible for the business retail market. In some instances, residents pay a management company a management/service fee or may have a shared supply for water or gas, or services such as gyms etc. included within the management fee. Despite the management company initially carrying this liability and then charging residents as part of their service fee for such items, we consider that these are ancillary services to the principal use of the property which is as a home. This use should take precedence and the property should not be eligible for the business retail market.

A1.14 Self-catering holiday units and serviced apartments

In most instances, we would expect a self-catering holiday unit (for example, those listed on holiday and rental websites) to be used principally as a holiday unit. As such, the premises' principal use would not be as a home and so they would be eligible for the business retail market.

There may be instances where self-catering holiday units are also used as a permanent residence, for certain times of the year, however, this does not necessarily mean it would be a household premises. For it to be classed as a household premises the principal use must be as a home. The question of whether the principal use of such premises is a holiday unit, or a home, is likely to depend on how often the premises is used as a holiday unit compared to a home throughout a given year. Where a premises is used for more than half of the year (that is, more than 26 weeks) as a holiday unit, the principal use would likely not be as a home and so they would be eligible for the business retail market. Where a premises is used for more than half of the year (i.e. more than 26 weeks) as a home, the principal use would likely be as a home and so they would not be eligible for the business retail market. Reviewing the liability of the premises for both business rates and council tax can also help to establish principal use.

Individually rented rooms (for example, those listed on rental websites) would not be eligible for the business retail market where they form part of a wider premises that is principally used as a home.

Serviced apartments (fully furnished living quarters for short- or long-term stays) need to be considered in the context of the services being provided and the nature of the accommodation to establish their principal use. Some serviced apartments are similar to residential properties with management companies and, therefore, have a principal use as a home and should not be eligible for the business retail market. Other serviced apartments are commercial premises run for the purposes of providing short term accommodation for holidays and business travellers as an alternative to a hotel. These premises should be eligible for the business retail market.

We understand that the LGFA88 makes a similar distinction for the purposes of assessing council tax liability and, therefore, liability for council tax may be a useful indicator in relation to such premises.

A1.15 Shop and domestic accommodation – mixed premises

Where a shop and household form part of the same premises, and share a supply point, it would be considered mixed-use and so the eligibility of the premises is dependent on the principal use of that premises. If the household part is dependent on the non-household

part, then the premises should be eligible for the business retail market. If the non-household part is dependent on the household part, then the premises should not be eligible for the business retail market.

We provide further information on items to consider to establish principal use in such scenarios in sections [2.3.2](#) and [3.4.2](#). Reviewing the liability of the premises for both business rates and council tax can also help to establish principal use.

A1.16 Stables

If a stables forms part of a household premises and is used primarily to house the horses of the household, rather than being used for commercial purposes, the principal use is a home, and the premises should not be eligible for the business retail market. If a stables are operated primarily as a commercial business, then the principal use is not as a home and the premises should be eligible for the business retail market.

A1.17 Temporary supply for developers

The current principal use of the relevant premises is used to establish its eligibility. This means that where a house has not been completed, its current principal use cannot be as a home and so it should be eligible for the business retail market.

Where developers use premises for purposes such as show homes, these premises remain part of the development process (the sales process) until such time as a householder moves in and the premises is being used as a home. The principal use of such a premises is, therefore, not as a home until it is occupied as such.

Under the WRC it is possible for a retailer to apply to a wholesaler for a temporary connection. This may be an appropriate process for a construction site where a supply point will be required by the developer during construction (when premises are non-household), but different supply points may be required on completion of construction (for example when individual houses and plots become used as homes). Such a temporary supply would be considered to be for non-household premises where temporary supplies for building sites are used solely for the purposes of constructing premises (i.e. building water used for washing down sites, mixing cement, etc.). As the development progresses and parts become separate premises, which become occupied and used as a home and/or non-household, these will be separately registered and classified depending on their principal use(s).

Site development plans may be useful in assisting stakeholders to anticipate changes in principal use but not in the assessment of current principal use.

A1.18 University halls of residence and accommodation

There is the possibility that different kinds of university halls of residence may act principally as a home. As per our hierarchy of considerations, firstly the extent of the premises should be defined. For example:

- Where a number of university properties are served through a single supply point this will constitute a single premises and the principal use will be the principal use of all the properties, taken as a whole.
- Where university properties are served through multiple supply points, the principal use of the premises supplied by each supply point is to be considered independently.
- Where a university premises is separate from the rest of the university, and has its own supply, this would need to be assessed independently.

Once the extent of premises has been established, the principal use of the premises should be defined. This may not always be apparent as some premises could be considered as a home for students whereas others could more accurately resemble hotels. We suggest that companies obtain additional information about the relevant premises and the services provided at them and then consider the following (depending on available data) in determining principal use:

- Premises wholly used as a home (i.e. not being used for non-household purposes such as out of term lettings or conferences), and where students can remain all year, would be considered as a home and should not be eligible for the business retail market.
- Premises where students cannot remain in the accommodation all year (i.e. not during university holidays) would not be considered as a home and should be eligible for the business retail market.
- Premises primarily used for non-household activity, such as conferences and sub-letting, both on campus and off campus, would not be considered as a home and should be eligible for the business retail market.
- Premises that do not have all the facilities usually found within a home, and instead the use of that accommodation is reliant upon other facilities being provided by the university or its service provider, would not be considered a home and should be eligible for the business retail market.

A1.19 Vacant property/premises

The principal use of vacant premises may not be straightforward. Factors such as the length of time for which the premises have been vacant, whether they are capable of being used as a home (for example, because the property is unfurnished or derelict), council tax/business rate liability and whether a person lists the property as their residence may all be relevant.

Some vacant premises may be gap sites where the principal use could be assessed once a new owner/occupier selects a retailer. In 2006, Ofwat provided guidance in [RD 02/06](#) (charges to vacant properties), in which we considered it reasonable for companies not to charge for unfurnished vacant premises because those premises were not ready for occupation (and therefore may be regarded as not being used or being ready to be used as a home). As vacant properties will, in the majority of cases, still be liable for either council tax or business rates (or both), we consider that such liability would be a reasonable approximation of principal use in the absence of other evidence.

Another possible source of evidence when considering eligibility, is to consider the property's previous use alongside the incidence of business rates and/or council tax.

We accept that a vacant property once brought back into use may have its eligibility changed. For example, an unused office building being converted into residential flats will become ineligible for the business retail market.

A1.20 Places of worship

The principal use of a place of worship is not as a home and so such premises should be eligible for the business retail market. Where places of worship have living accommodation on the same supply, this would be considered a mixed-use premises. The eligibility of that premises would then be based on its principal use. We provide further information on items to consider to establish principal use in such scenarios in sections [2.3.2](#) and [3.4.2](#). Reviewing the liability of the premises for both business rates and council tax can also help to establish principal use.

Where a place of worship has living accommodation on a separate supply these premises would be classified as household and should not be eligible for the business retail market.

A1.21 Youth hostels

The principal use of a youth hostel is not as a home and so they should be eligible for the business retail market.

A1.22 Zero rated and exempt properties (council tax and business rates)

There are instances in which households and/or businesses can be exempt from various council tax and business rates by virtue of the usage "class" into which the premises fall. Such exemptions may make principal use of a premises more difficult to identify. However,

the application of these exemptions does not alter the principal use of the exempt property, and so will not affect its eligibility for inclusion within the business retail market.

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