

**Customer protection in a retail market:  
Guaranteed Standards Scheme  
– a consultation**

## About this document

This document consults on our proposals to amend the guaranteed standards scheme (GSS) to ensure all non-household customers continue to be protected, by extending its provisions to cover:

- new entrant retailers licensed under the new ‘retail authorisations’<sup>1</sup> (water supply and sewerage service Licences or ‘WSSLs’) introduced by the Water Act 2014; and
- existing companies that are appointed as water and sewerage companies under the Water Industry Act 1991 (appointed companies).

This document forms part of a suite of planned consultations focusing on customer protection arrangements that will be necessary to ensure that the new retail market operates effectively and in the best interests of customers. We explain this in more detail in ‘[IN 15/12, Opening a new retail market for non-household customers – protecting customers](#)’, which we have published alongside this document.

The [Water Act 2014](#) will allow 1.2 million businesses and other non-household customers of providers based mainly or wholly in England to choose their supplier of water and wastewater retail services from April 2017. Retail services include things like billing and customer services.

At the moment, only a limited number of non-household customers across England and Wales can choose their retailer. But research shows that [seven out of ten of non-household customers want this choice](#), instead of using monopoly companies. And customers are already benefiting from [a similar market in Scotland](#).

The new market will be the largest retail water market in the world and deliver about [£200 million of overall benefit to customers and the UK economy](#). Customers will be able to shop around and switch to the best deal. Investors and retailers will have new opportunities for growth. And the [environment will benefit from customers using new water efficient services](#).

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<sup>1</sup> This includes retail authorisations for water supply and wastewater services, as well as restricted retail authorisations for water supply.

The UK Government is committed to delivering the new market. It set up ‘[Open Water](#)’, a single programme of work that brings together all of the key organisations to design and deliver the new market. These include [the Department for Environment Food and Rural Affairs \(Defra\)](#), [Ofwat](#) and [Market Operator Services Limited](#) – a private company owned by market participants.

Opening the new market is a complex challenge but it is [on track to open in April 2017](#). The design is almost complete and work is now being carried out to deliver the technical systems, checks and ways of working that are needed to get the market right for customers.

One of these areas of work is ensuring non-household customers continue to be protected through GSS.

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## Responding to this consultation

We welcome views on all aspects of our proposals, both in response to this consultation and through forthcoming workshops.

We welcome your responses to this consultation by **2 October 2015**. We are also arranging workshops on key areas covered in the consultation and will circulate the details of these in due course.

And we are inviting comments on our draft impact assessment, which we have published alongside this consultation.

Please submit responses by email to [customerprotection@ofwat.gsi.gov.uk](mailto:customerprotection@ofwat.gsi.gov.uk), or post them to:

Retail Market Opening Programme  
Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA.

If you wish to discuss any aspect of this consultation, please contact Dan Mason on 0121 644 7629 or by email at [daniel.mason@ofwat.gsi.gov.uk](mailto:daniel.mason@ofwat.gsi.gov.uk).

We will publish responses to this consultation on our website at [www.ofwat.gov.uk](http://www.ofwat.gov.uk), unless you indicate that you would like your response to remain unpublished. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation – primarily the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 and the Environmental Information Regulations 2004.

If you would like the information that you provide to be treated as confidential, please be aware that, under the FoIA, there is a statutory 'Code of Practice' which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

## Consultation questions

Throughout this consultation, we raise a number of questions, which we have summarised here. We have also published a draft impact assessment alongside this consultation, on which we are also seeking views.

As well as responses to these specific questions, we welcome views from stakeholders on any of the issues raised in this consultation or our draft impact assessment.

### Consultation questions

**Q1** Do you think there are any particular issues that we should consider as part of our work on customer protection for the retail market?

**Q2** Do you have any views on the potential for customers to forego their entitlement to GSS?

**Q3** Do you agree with our proposal to extend the GSS Regulations so that they apply to all licensed companies?

**Q4** Do you agree with our proposal to allocate each service standard to either wholesale or retail?

**Q5** Do you agree with how we have proposed the service standards be allocated?

**Q6** Do you agree with the proposal to recommend that this allocation is included in the GSS Regulations?

### Preliminary impact assessment questions

**Q1** Do you agree with our approach to this draft impact assessment? If not, how do you think this could be improved and why?

**Q2** Do you agree with our analysis, and in particular our key assumptions? If not, please provide your views and any evidence you think could help to improve it.

## 1. Introduction

The UK Government is committed to opening a new retail market that will provide choice and competition to all eligible non-household customers in England by April 2017. The arrangements that are currently in place for the largest non-household customers in Wales to choose their water supplier will continue unchanged.

We recently issued more detailed [guidance on eligibility](#), but broadly, for water supplies, eligible non-household customers are:

- non-household customers whose premises are supplied with water using the supply system of a water company whose area is wholly or mainly in England; or
- non-household customers whose premises are supplied with water using the supply system of a water company whose area of appointment is wholly or mainly in Wales **and** to which the total quantity of water estimated to be supplied each year is not less than 50 million litres (megalitres – MI).

For wastewater services, eligible non-household customers are customers whose premises are supplied with wastewater services using the sewerage systems of undertakers whose area of appointment is wholly or mainly in England.

Eligible non-household customers will be able to choose between:

- new entrant retailers licensed under the new ‘retail authorisations’<sup>2</sup> (water supply and sewerage service Licences or ‘WSSLs’) introduced by the Water Act 2014; or
- existing companies that are appointed as water and sewerage companies under the Water Industry Act 1991 (appointed companies).

To prepare for the opening of the retail market, we have started to consider the customer protection issues that might arise in the new market, and what steps we would need to take to address those issues. This is in accordance with:

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<sup>2</sup> This includes retail authorisations for water supply and wastewater services, as well as restricted retail authorisations for water supply.

- our statutory duties to protect customers and promote effective competition where appropriate; and
- our shared vision for the water sector that customers and wider society have trust and confidence in vital public water and wastewater services.

The rest of this document focuses on one particular issue that we need to consider in relation to the Guaranteed Standards Scheme (GSS).

All customers of appointed companies are entitled to guaranteed minimum standards of service, through the Guaranteed Standards Scheme. This is laid down by the UK Government in the [Water Supply and Sewerage Services \(Customer Service Standards\) Regulations 2008](#).

Currently, the GSS arrangements only apply to the appointed companies, and not to existing retailers licensed under the water supply licensing (WSL) framework or future WSSL retailers. Unless the GSS provisions are amended, any non-household customer wishing to exploit the benefits of retail competition will not be entitled to these guaranteed minimum standards.

In its [Water White Paper](#), the UK Government committed to ensure that all retail customers receive a minimum standard of service by extending GSS to all retailers before the non-household retail market opened. The Water Act 2014 includes powers for Ministers to apply the GSS to WSSL retailers as well as appointed companies, based on recommendations from Ofwat. The Department for Environment, Food and Rural Affairs (Defra) has asked Ofwat to consult on this issue, and make recommendations.

## 2. Customer protection for the retail market

### 2.1 Providing choice for non-household customers

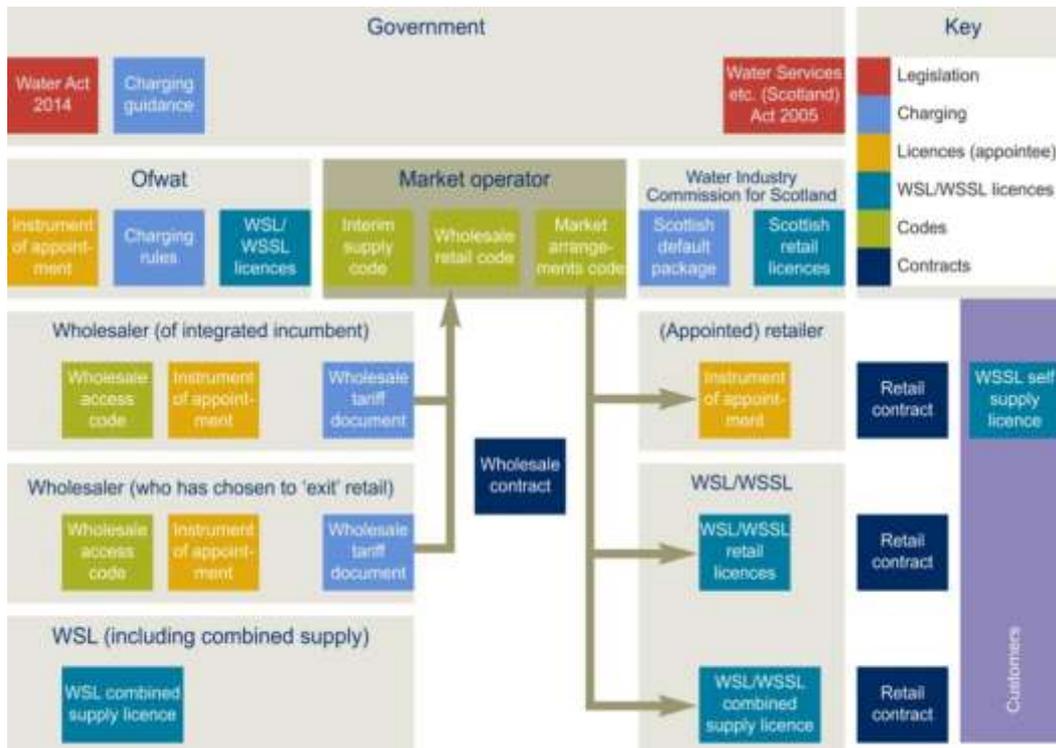
The UK Government is committed to opening a new retail market that will provide choice and competition to all non-household customers in England by April 2017. The arrangements that are currently in place for the largest non-household customers in Wales to choose their water supplier will continue unchanged. The new retail market is expected to deliver about £200 million of benefits to customers.

Delivering the new retail market as set out in figure 1 below requires a number of substantial work streams to develop the necessary:

- licence provisions;
- charging arrangements; and
- market architecture.

It is also essential to ensure that appropriate customer protection arrangements are in place to ensure that the market works effectively in the best interests of customers.

**Figure 1 Market overview**



## 2.2 Protecting customers

At the heart of our role is our statutory duty to protect the interests of consumers, wherever appropriate by promoting effective competition. This role is particularly important for us in relation to the opening of new retail market, where the companies we regulate engage directly with customers, the vast majority of which have not had the opportunity to engage with the competitive market before.

So, we need to balance carefully the promotion of competition with the need to ensure that customers remain adequately protected. The best way to protect customers in the new retail market is to make sure that the market arrangements are effective, with high levels of competition, innovation and rivalry among retailers, as well as avoiding unnecessary or onerous burdens on retailers and removing any undue barriers to entry or expansion.

Effective competition requires customers to be able to freely switch or negotiate better deals. Making sure that a customer can choose a different retail supplier and switch to them in a simple and timely fashion provides customers with the ability to negotiate the range and quality of services that they want, at the best possible price. Having sufficient protection in place for those customers that choose not to switch retail supplier, or those that are allocated to a retailer if, for example, their existing supplier leaves the market, will best help to maintain the trust and confidence of customers in line with our new strategy – ‘Trust in water’.

### 2.2.1 Our customer protection work programme

We are currently considering the appropriate customer protection arrangements that need to be put in place for when the new retail market opens.

As we set out in our recent [consultation on licensing and policy issues in relation to the opening of the non-household retail market](#) and our information notice, we have identified the customer protection issues that we are taking forward as a priority so that we can put the necessary arrangements in place for market opening in April 2017. There are a number of other issues that we may then need to address in a second phase. In any event, we plan to review customer protection arrangements once the expanded retail market opens, to ensure that any measures are fit for purpose and are effectively protecting customers without stifling competition or creating undue barriers to entry or expansion.

The first, and by far the broadest area, covers **sales, marketing and contractual issues**.

The development of competition in the water sector is anticipated to bring significant benefits to customers. But it also presents some risks if necessary safeguards are not put in place. There is evidence from other sectors of aggressive or misleading sales techniques and potentially restrictive contractual terms, particularly in the early stages of the market opening. So, we are considering how best we can protect customers' interests while at the same time empowering them to engage in the market and make informed choices. We also need to consider carefully the balance between protecting customers, and potentially creating barriers to entry or expansion or restricting innovation, which could reduce competition to the detriment of customers.

In doing so, we are considering the issues which might arise before, during and after the switching process. For example, we are currently considering areas such as:

- sales and marketing activities, including mis-selling;
- contract terms and conditions, especially those which could be unduly restrictive or onerous;
- the switching timeline and process; and
- billing issues.

The second area covers schemes for terms and conditions that are to apply in certain circumstances where there is no agreed contract with a customer. These schemes are sometimes referred to as '**deemed contracts**'.

The Water Act 2014 provides for deemed contracts to be used to protect customers of WSSL retailers in certain circumstances where they would not otherwise have agreed terms and conditions. In those circumstances, customers would be covered by the deemed contract until they chose to switch onto a different contract with the same retailer, or switched to a different retailer. Deemed contracts will also provide certainty for the retailer, so that they have a contractual basis on which to bill the customer.

Where a service is provided to a premises or a customer without contractual terms in place, the supplier would be deemed to have contracted with the customer for the supply of that service from the time the service began. Deemed contracts are used in the energy sector.

There are two main areas where the Water Act 2014 provides for Ofwat to introduce deemed contracts:

- retail exit (where the appointed undertaker decides to exit the non-household market and transfers its non-household customers to a WSSL retailer); and
- as part of the interim supply arrangements to protect customers when a WSSL retailer exits the market due to becoming insolvent.

Deemed contracts will cover the terms for both the price and service the customers will receive. Customers will be able to switch away from the deemed contract at any point (either to better contractual terms with the same retailer, or to a different retailer), and there will be requirements on retailers to ensure that customers are clearly informed of their rights to switch.

Finally, the third area of customer protection, and the primary focus of the remainder of this consultation, is around **guaranteed service standards**.

Appointed companies' customers are currently entitled to guaranteed minimum standards of service. These cover aspects of service such as:

- supply interruptions;
- low pressure;
- sewer flooding; and
- complaint handling.

Any appointed company that fails to meet a standard is required to make a specified payment to the affected customer.

The Water Act 2014 provides scope for new WSSL retailers to enter the market. As set out above, it also includes provisions for appointed companies to exit the non-household retail market – either completely or by transferring their customers to an associated WSSL retailer.

This means that once the retail market opens, we anticipate that a growing proportion of non-household customers will receive their water supply, or water and wastewater service, from WSSL retailers rather than appointed companies – either because they have chosen to switch, or because their appointed company has decided to exit from the market.

But, at present, the GSS arrangements only apply to appointed companies and not to existing WSL or future WSSL retailers. This means that unless the GSS provisions are updated, customers that are currently protected by the service standards would lose this protection if they chose to switch to a different retailer.

This is likely to cause confusion for customers, as they may find they have inadvertently lost their GSS protections when they switched to a new retailer. It could also potentially act as a deterrent to customers switching if they are aware of the difference.

Finally, if the GSS provisions are not extended to all retailers, this would result in a market where competing retailers face different obligations. Although there are situations when this would be appropriate, especially to help ensure a level playing field, we do not consider that, in this instance, there would be any justification for placing different regulatory obligations on WSSLs and appointed companies that would outweigh the benefits to customers from a universal application of the GSS provisions.

The remainder of this consultation covers:

- our approach to, and proposals for, amending the GSS provisions;
- wholesale and retail aspects of the GSS provisions; and
- next steps

We have published a draft impact assessment, [‘Proposed amendments to the Guaranteed Standards Scheme – preliminary impact assessment’](#), alongside this consultation and invite your comments on it.

In parallel to this consultation process, we are also carrying out some desk-based research to inform and support our final recommendation to Defra. We will publish a written summary of our research alongside our formal proposal to Defra together with a summary of our reasons for our proposal.

### Consultation question

**Q1** Do you think there are any particular issues that we should consider as part of our work on customer protection for the retail market?

### 3. Options for amending the GSS

This chapter sets out the options we have considered in reaching our proposals for amending the GSS Regulations. It is not intended to replace any part of our draft impact assessment. It provides a high-level overview of the existing GSS Regulations and summarises the process that must be followed in amending those regulations.

#### 3.1 Overview of the GSS

Appointed companies' customers are entitled to guaranteed minimum standards of service. These are laid down by the UK Government. Any company that fails to meet a standard is required to make a specified payment to the affected customer. We monitor the scheme and can recommend changes.

The most recent review of the GSS Regulations was carried out in 2008. That review ensured that, among other things the regulations were amended to include sewer flooding. The service standards were also amended so that they are now the same regardless of whether the appointed company operates in England or Wales.

The scheme applies to all customers (both household and non-household) of appointed water only and water and sewerage companies. Details of the service standards and the payments that appointed companies must make if they do not meet these service standards are set out in appendix 1.

It is important to note that these payment levels are **minimum** payment amounts. Companies are free to voluntarily enhance these levels if they choose to – the June Returns for 2011 (for English companies only) shows that of 101,000 GSS incidents that led to payments, 6,000 of these were enhanced beyond the minimum levels, with approximately £200,000 paid to customers.

#### 3.2 Summary of the process to change GSS

The GSS Regulations are set out in the [Water Supply and Sewerage Services \(Customer Service Standards\) Regulations 2008](#). There is a statutory procedure for making these regulations that must be undertaken, which is set out in sections 39 and 96 of the Water Industry Act 1991, respectively. The procedure for making regulations for standards of performance in connection with WSSL holders providing

water supply and wastewater services is set out in sections 39ZA and 96ZA of the Water Industry Act 1991 (inserted by sections 29 and 30 of the Water Act 2014).

Specifically, these sections provide that the Secretary of State (as regards holders of a WSSL with a retail authorisation) and the Welsh Ministers (as regards holders of a WSSL with a restricted retail authorisation) may make regulations upon receiving an application from Ofwat, and that this application should:

- set out our proposals, specifying the appointed companies to which the proposed regulations apply; and
- summarise our reasons for the proposals.

The Secretary of State and Welsh Ministers (as appropriate) may then make amendments to the GSS Regulations if they are satisfied that we have considered representations or objections to our proposals, and served the appropriate notices.

### **3.3 Our approach**

Our statutory duties include the duty to promote effective competition where appropriate, as well as a duty to protect customers. In addition, our shared vision for the water sector is for customers and wider society to have trust and confidence in vital public water and wastewater services. So, making sure that customers are protected is a key part of this.

Effective competition is one of the best ways of protecting customers. This is because customers can engage with the market and choose a retailer which best meets their requirements. If the customer experiences poor service, they can choose to move to a different retailer.

The new retail market is expected to deliver benefits in the region of about £200 million to customers. But they might need additional protections in some key areas – especially in making sure they are no worse off as a result of the retail market opening, or to protect those customers that are perhaps less likely to switch supplier. The GSS is one of these areas, as non-household customers could lose the protections that they currently have, unless we take steps to update the GSS provisions.

For all of our customer protection work where we are considering possible new regulations, we recognise that we need to achieve a careful balance between protecting customers, and promoting effective competition. If any new measures are too onerous, or confusing, they could act as a barrier to entry or stifle innovation. This could reduce competition and ultimately be detrimental for customers.

In relation to the GSS provisions, we have focused on ensuring all non-household customers continue to be protected when the expanded retail market opens in April 2017.

In assessing each of the options, we have considered the following two primary objectives that reflect our statutory duties. These are as follows.

- a) We want **all non-household customers continue to receive the same level of protection in relation to GSS** as they do currently – especially in circumstances where they could be allocated to a different retailer, such as in retail exit situations or where a retailer ceases trading.

Although the GSS provisions do not currently apply to customers of WSLs under the current limited retail market, the vast majority of non-household customers continue to receive the protection of GSS, and we think it is important that they continue to do so once the retail market opens.

- b) We also want **any changes to support effective competition**, so that the retail market works best for customers. One aspect of allowing competition to deliver benefits for customers is to ensure a level playing field. To achieve this, it is not always appropriate to treat all market players in an identical way. But in relation to GSS obligations, we consider that all retailers should face the same service obligations, regardless of whether they are providing services under an appointment or a WSSL.

This is because the vast majority of customers will not understand or be aware of the different types of retailer – they simply want to find a water supplier or wastewater service that is right for them. We do not consider that this would undermine other efforts to allow effective competition to develop.

Of course, this also needs to be balanced against the need to ensure that competition and innovation is not stifled, by introducing unnecessary or unduly onerous burdens on retailers, or by creating deterrents to switching. Bearing in mind these are minimum standards (which companies can enhance voluntarily if they choose to), we do not want to set the standards too high to stifle innovation or deter entry to the market.

Looking at this through the customer lens, we want all customers continue to be entitled to the minimum standards of protection that they currently receive, but that they are also not deterred from engaging in the market to negotiate the best deal for them.

As well as the primary objectives set out above, we have also taken account of the need to ensure that:

- **implementing the GSS arrangements work effectively with the new market structure upon implementation**, given that they cover both retail and wholesale service issues. We expect there to be a range of market players post-market opening, all potentially providing different services. So, we want to make sure the new arrangements are as clear and transparent as possible and avoid any unforeseen consequences on the market interactions between retailers and wholesalers, and the related market codes that govern those interactions; and
- **our proposals comply with the principles of better regulation** that regulators should bear in mind when devising, implementing, enforcing and reviewing regulations. Any policy intervention, therefore, should be **proportionate, accountable, consistent, transparent and targeted**.

In the context of these objectives, we have assessed the following options.

### 3.3.1 Option 1 – do nothing

A ‘do nothing’ approach, as set out earlier in this consultation, would leave some non-household customers without the protection of GSS that they are currently entitled to. It could also potentially undermine efforts to embed confidence in the market and ensure a level playing field, as some market participants would have GSS obligations and others would not. As discussed above, this would potentially provide a deterrent for customers to engage in the market or could leave some non-household customers without guaranteed minimum service standards of protection.

It would also not support the UK Government’s stated policy of extending standards of service to customers of all retailers. And it risks creating confusion for customers, as it would not be clear to customers whether they were covered by the provisions or not and could also mean retailers are not aware of their obligations.

We have made some assumptions in our preliminary impact assessment, but it is not yet known how many appointed companies will seek to exit the market and we are unsure on the levels of switching to expect. However, assuming that there is some appetite for exit and a reasonable level of switching among the remaining customers, this could lead to a large proportion of non-household customers not being entitled to GSS.

### **3.3.2 Option 2 – extending the existing protections to non-household customers of all retailers**

This option would mean that all customers would be entitled to the guaranteed minimum service standards, regardless of their retail provider. There would be no obvious change in the benefits enjoyed by customers, as customers who are covered by the GSS provisions at present would continue to be covered by those provisions, with no changes in the service issues covered or the amounts payable stipulated.

But there would be clarity for customers and retailers, as all customers would be entitled to GSS and all retailers would be aware they faced these obligations.

We consider this option would allow effective competition to develop. We do not think that this would create a barrier to entry into or expansion of the market. Nor do we think it will stifle the innovation and rivalry we want to see in a competitive retail market – for example, the payment amounts are minimum amounts and companies are free to enhance these if they choose to, but we are not setting or creating a ‘gold plated’ standard that all retailers must meet. Instead, the presence of further competitive threat could incentivise retailers to offer enhancements to the guaranteed minimum standards.

The overall regulatory burden on retailers would remain broadly the same, but would be shared between a greater number of companies, so that for WSSL retailers there would be a slightly increased regulatory burden, and for appointees a slightly lower regulatory burden. By how much depends on:

- the number of customers that switch away from their current appointed company to a WSSL retailer; and
- how many appointed companies decide to exit the retail market by transferring their customers to a WSSL retailer.

We also need to bear in mind that some of the service standards relate to wholesale functions. So, in those instances, responsibility will remain with the appointed company, even if retailer passes on the payment to the customer. This means any changes in the regulatory burden will be less than they would otherwise be. As set out above, we discuss below the potential allocation of GSS to 'wholesale' and 'retail' in section 3.4.

As part of our consideration of this option, we have also looked at whether a fuller review of the service standards and payment levels would be appropriate at this time. This would have the potential to increase benefits to customers, but would also increase the costs to companies, including WSSL retailers. In addition, any changes would have implications for the service standards applicable to household customers.

We have concluded it is not appropriate to carry out a detailed review at this time, as the non-household retail price control from the 2014 price review (PR14) uses the GSS to set default levels of service for non-household customers. So, this places a constraint, to an extent, on what we can sensibly propose as being necessary for market opening.

We do not propose to review the detailed arrangements for household customers at this stage in terms of the standards themselves or associated payments. GSS provisions already distinguish between household and non-household customers for these payment levels (whereas the service standards are the same). But we anticipate that in due course, responses to this consultation on the GSS arrangements for non-household customers could be used to inform any further review of the GSS arrangements for household customers. One area where we are interested in gauging views is the extent to which GSS provisions are flexible enough to allow customers to 'opt out'.

However, we recognise that some customers, especially smaller non-household customers including sole traders and SMEs, might need a greater degree of protection. Also, at the time they are agreeing their contracts, customers are not necessarily going to consider what might happen if things go wrong later on. There could be a risk that customers inadvertently opt out if the terms are hidden in the small print, or they are put under pressure to do so at the point they agree their contract. So, we propose that customers should not be able to opt out of the GSS provisions. But we are interested in stakeholders' views on this.

**Consultation question**

**Q2** Do you have any views on the potential for customers to voluntarily forego their entitlement to GSS?

**3.3.3 Summary of options appraisal**

Option	All customers continue to be protected	Supports effective competition
Option 1	x	x
Option 2	✓	✓

Based on the assessment below, we conclude that an approach which **ensures the guaranteed minimum standards (option 2)** are in place so that all customers receive the default GSS protection, in readiness for market opening, is both pragmatic and appropriate at this time. This includes allocating each GSS to either 'wholesale' or 'retail'.

To be clear, we propose that these revised GSS regulations apply to all WSSL holders (excluding retailers who opt to self-supply) and appointed companies from market opening in April 2017.

This option will allow us to strike the right balance between protecting customers and promoting effective competition. We also consider that, for the reasons set out above, this option is consistent with the principles of better regulation in that it is targeted and necessary, but also in that it will not place unduly onerous burdens on retailers.

The GSS Regulations have not been comprehensively reviewed since 2008. So, a more detailed review of the GSS regulations will be required for both household and non-household customers in due course. Quality of service and price regulation are both **potentially** important prospective (ex ante) economic regulatory interventions where markets are not sufficiently effective without them. We are currently at the start of an evidence-led review of the scope of both for the 2019 price review (PR19) – in this area, the evidence after 2017 will be particularly relevant to PR19 in due course.

So, we do not propose to include this in our PR19 consultation in December 2015, but do expect to include this in our longer-term work plan for the next price review. We intend to review customer protection arrangements once the market opens in any event, to ensure that any measures are fit for purpose and are effectively protecting customers without stifling competition or creating undue barriers to entry or expansion.

### Consultation question

**Q3** Do you agree with our proposal to extend the GSS Regulations so that they apply to all licensed companies?

## 3.4 Allocating existing standards to wholesale and retail

A key issue to be considered and clarified is the allocation of responsibilities for the GSS between wholesaler and retailer in the non-household retail market. Currently, the GSS provisions only apply to appointed companies, which exercise both a retail and wholesale function, so the distinction between wholesale and retail is less important for the purposes of GSS at present. But if we extend the GSS provisions to WSSL holders as well as appointed companies, we need to ensure that there is clarity over responsibilities under the GSS provisions.

This is important, as it will ensure that wholesalers and retailers are aware of their responsibilities to make sure customers do not experience poor service (for example, delays in responding to the customer because the wholesaler and retailer are unsure over who is responsible) in a situation where they may have suffered a breach of the GSS.

Given there are interactions between the GSS and the development of the market codes, one option we have considered is whether the market codes could be used to set out the responsibilities of wholesalers and retailers in relation to the GSS provisions.

Although the [draft market codes](#) already include provisions that could be used to facilitate the process of handling GSS payments between wholesalers and retailers, we do not think it is appropriate to rely solely on these. One reason is that the market codes are expected to evolve over time. Perhaps a more important consideration is that the market codes are not expected to be visible or easily accessible to customers. Given the GSS provisions are set out in the GSS Regulations, we consider that it is better for the all the GSS provisions to be kept in one place, so that greater clarity can be provided to customers.

So we propose to recommend a formal allocation of each service standard as a wholesale or retail obligation in the GSS Regulations. Given that condition F of appointed companies' licences already require them to allocate and report their costs for their wholesale and retail activities separately, we consider that this would be reasonably straightforward to implement.

We consider that the benefits of providing certainty about the responsibilities of wholesalers and retailers outweigh the potential costs that we have quantified in our preliminary impact assessment. And by binding them into legislation, we consider that this provides appropriate safeguards to ensure customers remain protected.

The proposed arrangements in the draft wholesale–retail code, which will govern the operational arrangements between wholesalers and retailers, would support this approach. For example, there is already a provision for where a wholesaler needs to make a payment in respect of a service failure. The most recent working version of these arrangements is set out in the [pre-vendor Market Architecture Plan documents](#).

In the table below, we have aligned the proposed allocations with our allocations to wholesale and retail included in the final determinations of the last price review (PR14).

**Table 1 Suggested allocation of GSS standards to wholesale and retail**

GSS Regulation	Proposed allocation	
	Wholesale	Retail
Making appointments – GSS Regulation 6		✓
Keeping appointments – GSS Regulation 6		✓
Low pressure – GSS Regulation 10	✓	
Notice of interruption to supply – GSS Regulation 8	✓	
Supply not restored – GSS Regulation 9	✓	
Account queries and requests to change payment arrangements – GSS Regulation 7		✓
Complaints – GSS Regulation 7		✓
Flooding from sewers (internal flooding) – GSS Regulation 11	✓	
Flooding from sewers (external flooding) – GSS Regulation 12	✓	

## Consultation questions

**Q4** Do you agree with our proposal to allocate each service standard to either wholesale or retail?

**Q5** Do you agree with how we have proposed the service standards be allocated?

**Q6** Do you agree with the proposal to recommend that this allocation is included in the GSS Regulations?

## 3.5 Summary of proposed amendments to GSS

In summary, our proposals are to recommend to Defra that:

- the GSS Regulations be extended to cover WSSL retailers, as well as appointed companies, as illustrated in figure 2 below;
- each of the service standards should be allocated to ‘wholesale’ or ‘retail’ as set out above; and
- not to allow customers to opt out of GSS protections.

**Figure 2 Current versus proposed scope of the GSS Regulations**



## 4. Next steps

Responses to this consultation will help us to refine our approach to issues regarding customer protection for the retail market.

Once we have considered the responses, we will make a formal recommendation to Defra and the Welsh Government at the end of October that will include our proposals for amending the GSS Regulations, along with our final impact assessment and a summary of the results from our research. We will publish our recommendation at the same time, together with the final impact assessment. If Defra and/or the Welsh Government then decides that the Regulations need to be updated, we understand that would happen in the first half of 2016, subject to the appropriate Parliamentary processes.

We are keen to engage all stakeholders in a dialogue around the best way to move towards a market that works best for customers, including the appropriate protection for customers where necessary. We hope that this consultation is the start of that dialogue. We plan to continue our engagement with a series of workshops during the autumn and further consultations. In particular, we plan to consult on deemed contracts in October, and on other customer protection issues later in the autumn.

## Appendix 1: GSS payment amounts

GSS Regulation	GSS Payment		Late payment penalty	
	Household customers	Non-Household customers	Household customers	Non-Household customers
Appointments not made properly	£20	£20	£10	£10
Appointments not kept	£20	£20	£10	£10
Incidences of low water pressure	£25	£25	–	–
Incorrect notice of planned interruptions to supply	£20	£50	£20	£50
Supply not restored – initial period*	£20	£50	£20	£50
Supply not restored – each further 24 hours*	£10	£25		
Written account queries and requests to change payment arrangements not actioned on time	£20	£20	£10	£10
Written complaints not actioned on time	£20	£20	£10	£10
Properties sewer flooded internally	Payment equal to annual sewerage charges (minimum payment of £150; maximum of £1,000)		£20	£50
Properties materially affected sewer flooded externally	Payment equal to 50% of annual sewerage charges (minimum payment of £75; maximum of £500)		£20	£50

**Note:** Supply not restored within time notified (planned work) or when supply is interrupted for an extended time under unplanned/emergency situations.

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