

# Information notice

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## Proposed temporary licence condition to facilitate the development of arrangements for the new retail market for non-household customers

This information notice provides an update on our consultation with companies regarding a new temporary licence condition to ensure funding and membership of Open Water Market Limited (OWM Ltd).

### Background

The Water Act 2014 includes provisions to open the retail market for all non-household customers in England to choose their supplier. OWM Ltd has been established to help deliver the £190 million of customer benefits associated with increased choice.

OWM Ltd is a company limited by guarantee that has been set up to enable companies to fund the development of the arrangements for the new non-household retail market. We set out further information in the [information notice](#) we published in January 2014.

In April 2014, we wrote to companies setting out our proposals to introduce a temporary licence condition to enable phase 2 of OWM Ltd.

The proposed temporary licence condition would be introduced as Condition R1 to all appointed companies' licences, and as a temporary modification made to the Standard Conditions of Water Supply Licences.

### Proposed licence condition

The proposed licence condition would require all companies, including water supply licensees, to become members of OWM Ltd. It would also require companies appointed as water or water and sewerage undertakers (known as 'appointed companies' or 'appointees') to contribute towards OWM Ltd's annual budget. The only exceptions to this would be small companies, new appointments and variations, or

'NAVs' (which are companies that provide water, sewerage or water and sewerage services for a specific area in place of the existing supplier) and companies operating wholly or mainly in Wales.

The licence condition would be temporary as it is intended to enable phase 2 of OWM Ltd. This is the period when the detailed development of the new market arrangements as set out in the Water Act 2014 will take place, and before the market operator – the company that will facilitate the retail market – is established. Phase 2 will begin when the new licence condition is in place, which is likely to be by early August 2014.

We anticipate that the licence condition would be removed by April 2017. But as a contingency measure, it could continue until 31 March 2018, to allow for any budget requirement in the 2017-18 financial year.

This is a formal document that alerts our stakeholders to a change in the way that we regulate the water sector in England and Wales.

The funding gathered through the licence condition is to enable OWM Ltd to deliver the infrastructure and detailed arrangements for the new retail market. OWM Ltd's annual budget will be agreed and managed by its Board.

The relative contributions of each appointee would depend on their current proportion of the total number of non-household customers that would be eligible to choose their supplier from 2017. The licence condition would limit each company's contribution to this percentage of OWM Ltd's annual budget.

Those appointees with very small numbers of eligible non-household customers, including those operating wholly or mainly in Wales (because of the continuing requirement for customers to use a minimum quantity of water before they are allowed to switch supplier) and NAVs, would have negligible funding contributions to make – that is, below £500 a year. So, we have proposed that they would be exempt from funding OWM Ltd during phase 2, and the funding elements of the licence condition would not apply to them.

The proposed licence condition limits the total funding contributions to a maximum annual budget of £10.5 million in each financial year. This figure reflects the high point of OWM Ltd's current budget estimates for phase 2, plus a 10% contingency. Clearly, for most years it is

expected that the annual budget will be much lower than this.

Expenditure on the central market arrangements that is efficiently incurred during phase 2 will be recoverable through each of the relevant company's price and services package ('price controls'). Companies have reflected this in their business plans for the [2014 price review](#). We will be making allowances for these funding contributions in companies' wholesale price controls for 2015-20, based on the mid-point figures from OWM Ltd's current budget estimates.

### Company responses

Companies have agreed in principle to our proposal for the temporary licence condition, although it will be for their Boards to take a final view in response to the statutory ('legal') consultation we will be carrying out in due course.

Some companies used the opportunity to [raise specific issues with us](#). For example, they requested minor wording amendments, or they asked for more information on particular points.

### Next steps

We will now move towards carrying out the 28-day statutory consultation on the proposed temporary licence condition. For appointees, this consultation will be completed under section 13 of

the Water Industry Act 1991 (WIA91). For water supply licensees it will be under section 17J of the WIA91. We plan to begin the statutory consultation in late June 2014. Subject to the consultation, we hope to be able to have the licence condition in place by early August 2014.

### Enquiries

If you have any questions about this information notice, the proposed licence condition or the planned statutory consultation, please send them to [ruth.gibson@ofwat.gsi.gov.uk](mailto:ruth.gibson@ofwat.gsi.gov.uk).

## More information

'Summary of water company responses to Ofwat's proposal for a temporary licence condition', May 2014

Open Water website

'IN 14/03: Update on Open Water funding, resources and governance', January 2014

Ofwat's market web pages

Ofwat's 2014 price review web pages

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