

Anglian Water Business

PO Box 11076
Harlow
CM20 9JQ

Tel 03457 626784
Fax 01480 311216

wmonk@anglianwaterbusiness.co.uk

Eligibility Consultation
Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

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Dear Sir or Madam

Guidance on Eligibility – a consultation

We are pleased to be able to respond to Ofwat's consultation on eligibility guidance. As a retailer for business customers it is critical to us that the customers who are in the competitive market are eligible to switch. Customers need to clearly understand whether they are in the market or not, particularly if there is an impact on their bills of moving from being classified as household to non-household or vice versa. There is also a need for consistency across the industry, particularly where there are different suppliers of water and wastewater services. For these customers, both suppliers will need to be in agreement that a customer is eligible. Clarity of guidance will assist in this. Furthermore, we have to bear in mind that as a retailer we would be in breach of the legislation if we switched a customer who was not eligible. Consequently we wholly support the need for industry guidance which is clear, simple and consistent.

We have set out our responses to the questions in the consultation as follows:

Question 1: Do you have any comments or concerns in relation to our proposed guidance on the threshold requirement?

To improve the clarity of the guidance and make it simpler for users we recommend separating the guidance into two versions; one which applies to appointed companies located wholly or mainly in Wales and one which applies to appointed companies located wholly or mainly in England. The guidance gets unnecessarily complicated when trying to deal with two scenarios; one where a threshold will remain and one where it will be abolished in April 2017. For most, they will only require the guidance which is applicable to one scenario

Question 2: Do you have any comments or concerns in relation to our proposed guidance on what constitutes a single set of premises?

We note the proposal to retain the 2011 guidance where the threshold continues to apply ie in England until April 2017 and in Wales. However, when the threshold ceases to apply then it is proposed that every property that is assessed separately for the purposes of business rates will be a separate set of premises. The guidance states that 'for most premises, nothing will change'.

We have a significant concern that in the Anglian region there could be a substantial adverse impact on customers as a consequence of this approach. This is because the Maximum Daily Demand (MDD) tariff, which applies to all non-household customers with consumption greater than 10,000m³/year, requires a view to be taken on the extent of a premises. To date, this view has not been related to the assessment of business rates but is consistent with the 2011 guidance.

Adopting the revised guidance will mean there is an inconsistency between the extent of premises used for the application of tariffs and charges and the extent of premises used to identify eligibility and hence the ability to switch. The consequence of disaggregating existing premises into separate properties is that the three part MDD tariff would apply separately to each disaggregated premise. This could mean that a customer faces additional fixed charges and higher volumetric and MDD tariffs potentially increasing bills to customers. Higher bills as a consequence of implementing the eligibility requirements are likely to create highly dissatisfied customers at a time when retailers are building positive relationships with their customers ahead of market opening. If we agreed with our customers to continue to charge and bill on the previous application of premises we would expect this to create an inconsistency with the charging of wholesale charges which would be on the disaggregated basis.

In addition, what if a premises has individual buildings which are individually rated but not separate supplies? Or a single building has a single supply which is let to different individually rated occupiers? This could be the case for water but also for wastewater. What happens in these circumstances?

For these reasons we do not support using the assessment of business rates to determine the extent of a premises. We recommend maintaining the current definition both when the threshold requirement applies and when it does not apply.

Question 3: Which factors are relevant when deciding whether or not the principal use of mixed-use premises is as a home?

We support the proposal for all companies to use the assessment of council tax and business rates as a starting point for assessing whether a premises is household or non-household. As a principle, we think that it is extremely helpful to make reference to external publicly available data. The Valuation Office data on council tax and business rates is a useful data source in this respect. Therefore, we agree that premises liable for council tax only should be designated as household and that premises liable for business rates only should be designated as non-household.

Premises which are liable for both council tax and business rates will be more problematic and be the most likely to lead to customer dissatisfaction and disagreements between incumbent companies. There are likely to be a significant number of these 'mixed use' or 'composite' premises across the industry as our initial estimation suggests that there are around 15,000 such premises in the Anglian region.

We accept the default position that premises liable for both council tax and business rates should be considered non-household and therefore included within the competitive market. Having reached this assessment we think there needs to be communication with the customer to explain the situation and set out the impact of assessing their premises as non-household. For example, in some circumstances the customer will need to move from a household tariff onto a non-household tariff which could mean a higher (or lower) bill, depending upon their consumption.

Where there are different suppliers for water and wastewater, companies will need to work together in order to agree a joint approach and a joint customer communication.

In considering the evidence provided by customers the factors which may be relevant when deciding whether the principal use of a mixed use premises is as a home are:

- Can the premises be disconnected for non-payment of bills? We recognise that the criteria for disconnection is dependent on whether the premises is a person's only or principal home rather than the principal use of the premises, however, for retailers operating with small margins the ability to be able to disconnect customers for non-payment of bills is highly relevant.
- Do people come to the premises to engage in a commercial activity? Where this is the case then we might expect a premises to be assessed as non-household.
- Is the household part of the premises dependent in some way upon the non-household part? This might go further than linking the functions of the parts and might include whether the household is dependent on the non-household part because there is a single connection.

Question 4: Do you have any comments on our proposed guidance on the definition of eligible non-household premises?

Whilst we welcome the guidance as far as it goes, we would have liked to see it go further in assisting the industry in deciding how 'principal use' of premises will be determined. Without a consistent and clearly understood approach we foresee the following issues arising:

- There will be different approaches adopted by neighbouring companies where water and sewerage are provided by different suppliers. These differences will need resolving with some urgency so that there is agreement on which customer data goes into the market dataset ahead of market opening. This is needed so that the Market Operator can cross-validate data provided by different Trading Parties including pairing references where water and wastewater is provided to an eligible premises by different suppliers.
- Companies will not have sufficient time to identify, move from one billing system to another and cleanse the data on non-household customers ahead of market opening. Poor quality data within the market dataset will be problematic for everyone but in particular will impact on retailers who switch a customer away from the previous retailer.
- Customers may be moved in and out of billing systems between household and non-household which may also mean moving between household and non-household tariffs. In some circumstances this may create incidence effects.
- At retail exit customers who are defined as household will be retained by the incumbent household supplier and be outside the competitive non-household market and will not be able to benefit from switching retailers.

Question 5: Do you have any further comments or concerns in relation to the proposed changes we are making to this guidance?

Whilst we agree that existing providers should manage their customer relationships in the first instance we strongly support putting in place an effective dispute resolution process. As currently drafted, the guidance is not sufficient to provide absolute clarity and consistency across the industry when assessing the difficult mixed use properties and if this is not addressed it could result in numerous determinations. The determination process must be transparent and cases must be resolved rapidly in order to maintain customer confidence and not stifle the market. We suggest that Ofwat should aim to publish final determinations within three months.

We have a concern that because the guidance is based on the existing 2011 guidance it is largely focused on water and may not have sufficiently considered

the impact of extending the competitive market to non-household wastewater retail services.

We hope that you find our comments useful. We are keen to assist Ofwat and the industry in developing a workable and effective approach to eligibility so if we can support in any way or if you would like to discuss any of our comments in more detail please do not hesitate to contact me.

Yours faithfully,

Wendy Monk
Head of Policy and Compliance