

United Utilities response to Ofwat's consultation – Guidance on eligibility

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Table of contents

1	INTRODUCTION.....	3
2	CONSULTATION QUESTIONS.....	3

1 INTRODUCTION

United Utilities Water (UW) is pleased to respond to Ofwat's consultation on guidance on eligibility. Please find below our responses to the questions raised. UW recognises that the document giving guidance on eligibility will play a significant role in the smooth transition to the successful operation of market opening.

It is important for customers that there is consistency of treatment for eligibility across the customer base, across England. In order to best support this it is important to minimise, wherever possible, the number of "grey areas" where the guidance is inconclusive.

We therefore believe that it is important that the guidance provides as much clarity as possible in relation to some specific examples before market opening. This would be a prudent and proportionate means of avoiding future disputes which would be costly and disruptive for companies and customers alike.

UW supports the three main principles identified:

- Clear
- Simple
- Consistent

Equally we recognise, like Ofwat, that there will undoubtedly be some difficult cases that cannot be resolved by simple rules and will therefore ultimately require a dispute resolution process. Based on the draft guidance we have highlighted a number of these instances in our response. The guidance should seek to address these and minimise the number of customers who are potentially inconvenienced and/or the number of cases which are put forward for dispute resolution.

However, where cases do proceed, this process needs to be transparent to all participants in the market. **Publication of the results of the process and the reasoning behind the decision is essential if the principle of consistency is to be maintained throughout the industry and across all customers.**

Whilst it is hoped that the issued guidance will be operational for a number of years beyond 2017, it should be recognised that it may require periodic review and updates to reflect the results of cases referred for dispute resolution. **We consider that it would be appropriate to establish an annual cycle of review.**

In support of the principles that Ofwat has identified, and in applying these across the regulatory framework we believe that **the definition of eligibility must be applied equally to the operation of each of the retail price controls and SIM.**

2 CONSULTATION QUESTIONS

Q1. Do you have any comments or concerns in relation to our proposed guidance on the threshold requirement?

We have no comments regarding the threshold requirement contained within the proposed guidance.

Q2. Do you have any comments or concerns in relation to our proposed guidance on what constitutes a single set of premises?

We believe that the approach that has been identified for the identification of a single set of premises is straightforward and can be easily applied for the majority of our customers.

However, there will be a small group of customers for whom this approach may be less straightforward and we consider the guidance should be explicit on how such customers should be treated.

Treatment of customers with multiple co-located premises who benefit from large user discounts

This group of customers are those which will have looked to expand their businesses over time and in order to do so have required additional buildings. This may have been done by taking over co-located premises or by additional premises being built within the same boundary. These buildings will sometimes be separately assessed for business rates, so instead of there being one business rate there are two. The water consumed in these two separate but co-located premises when added together may have resulted in them being eligible for a large user tariff, which they may otherwise be ineligible for.

The proposals for disaggregation appear to mean that these customers would either:

- continue to have a (large user) tariff applied, in conflict with the definition of the site for eligibility purposes; or,
- will experience incidence effects when tariff definitions are aligned to the eligibility definition.

We consider that the guidance should either make clear that it is reasonable for companies to define and apply large user tariffs which may be in conflict with the definition of the site for eligibility purposes or, alternatively, specify the appropriate treatment.

Q3. Which factors are relevant when deciding whether or not the principal use of mixed-use premises is as a home?

Q4. Do you have any comments on our proposed guidance on the definition of eligible non-household premises?

Treatment of properties which are exempt from business rates

The use of Valuation Office information to set a default position is simple and should allow for a consistent approach. However the VO website identifies premises/properties that are exempt from business rates:

“Certain properties are exempt from business rates.

Exemptions include:

- *agricultural land and buildings, including fish farms*
- *buildings used for training or welfare of disabled people*
- *buildings registered for public religious worship or church halls”*

http://www.2010.voa.gov.uk/rli/static/HelpPages/English/faqs/faq152-businesses_exemp_from_rates.html

We believe that, whilst these premises are exempt from business rates, it is likely that they would consider transactions with their water supplier as being on a B2B basis. They are therefore likely to

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expect that they should be eligible to switch supplier following market opening. **The guidance should state clearly whether the premises referred to above are eligible.**

Application of the dependence principle to mixed use properties

For mixed-use premises, as suggested in Ofwat's consultation some will be more straightforward than others in the way that the "dependence" principle can be applied. We have identified below some premises that we believe would be linked by this principle and would therefore considered as eligible premises.

1. A farmhouse is dependent on the farm
2. A caretaker's flat is dependent on the landlord's business
3. A vicarage is dependent on the church
4. Reservoir keeper cottages are dependent on the water company

The guidance document should set out such examples and describe the appropriate treatment.

Principal use of premises to define eligibility

The consultation document discusses desktop research or the use of customer floor plans or photographs for the purposes of assessing eligibility. This implies that it is not the *principal use of water* that defines if a customer is eligible or not, rather that it is the *principal use of the premises*. **The guidance should make an explicit statement on this point, to ensure that it is consistently applied.**

Eligibility of student residences

In the consultation, Ofwat provides examples of how it would expect certain premises to be classed e.g. a university hall of residence. Student residences can appear in a number of different forms. The university provisioned hall of residence is probably the easiest example to resolve. However, there will also be houses that have been converted into individual student dwellings or flats which are owned by private landlords. These could potentially be used for other purposes, but are currently used as student accommodation, dependent on the existence of the university. These premises may be adjacent to and look the same as premises on the same road that are private household dwellings.

The draft guidance does not provide clarity on whether these two different types of student accommodation should be dealt with in the same way for eligibility purposes. **The guidance should make an explicit statement on this point, to ensure that it is consistently applied.**

Caravan parks and similar premises

There are other similar types of premises that will be in existence throughout the industry such as caravan parks that could potentially be difficult to classify. Some sites will consist solely of caravans that are permanently occupied, others will consist solely of holiday lets and others will consist of a combination.

In the interests of delivering a consistent approach across customers and reducing the possible number of disputes referred for resolution, we again consider that the guidance should make an explicit statement on the treatment of such premises. We propose that such guidance could be included within an appendix to the main guidance document.

Q5. Do you have any further comments on concerns in relation to the proposed changes we are making to this guidance?

Eligibility of developers and housebuilders

The guidance as currently presented does not reference developers or housebuilders.

We would propose that a development of new homes should be considered as a household customer. We also believe that this approach would be supportable by the Home Builder Federation.

One advantage of this approach is that it would avoid the need for developers to appoint a non-household retailer for building water supplies. Another is that it would also avoid the need to register such premises with the market operator only to de-register them at such a time as they are occupied to be used as a home.

This would also be consistent with section 66 (5) of the Local Government Finance Act 1998 which states that: *"Property not in use is domestic if it appears that when next in use it will be domestic"*.

Whether or not our proposal is accepted, we believe it is important that the guidance is explicit on whether domestic property which is unoccupied and under construction should or should not be considered eligible.