

# A new business retail water market from April 2017 – third party intermediaries (TPIs)

## Overview

From April 2017, 1.2 million eligible business, charity and public sector customers ('business customers') mainly in England will be able to shop around for their water and wastewater retailer.

Retail services include things like customer service and billing. In shopping around customers will be able to benefit from lower prices, consolidated water bills, higher standards and more tailored services, for example in relation to water saving advice.

One of the ways that customers may access the market is by using the services of third party intermediaries (TPIs).

## What are TPIs?

TPIs are organisations and individuals that give advice and information to help customers buy services for their business. They act as an intermediary between customers and retailers. TPIs include:

- switching and comparison websites;
- utility brokers; and
- companies offering to support customers to switch

## Why are TPIs important?

TPIs will have a unique role in the business retail market. They are not market participants, nor are they licensed or directly regulated by us. Yet their behaviour in the market has the potential to directly affect levels of trust and confidence in the sector and in the effective functioning of the market.

Experience from other sectors has shown that TPIs can play an important part of the new market and its development. This includes:

- encouraging customers to engage with the market;
  - increasing levels of switching or renegotiation; and
  - driving up standards of service from retailers; and
  - driving up standards of service among TPIs through self-regulated codes of practice.
- TPIs may also offer contract management services, especially if customers have multiple sites, and advice on using water more efficiently to help customers reduce costs.

At the same time, we are also aware of some customer protection issues in other markets associated with TPIs.

So we think it is important that:

- customers and their representatives are aware of TPIs and their role;
- retailers are aware of their obligations in using TPIs; and
- TPIs are aware of the opportunities that the new market presents – but also their responsibilities in operating within it.

## How do TPIs work?

TPIs operate under a variety of different business models and corporate structures.

- They may offer to get customers a better deal (tariff or service or both) for their water and wastewater retail services and help them switch to their new retailer. They may carry out price comparison of different offers for one retailer or multiple retailers.

TPIs charge customers money for providing their services. They may:

- ask customers to pay them directly through a one off payment or through a regular charge; or
- get a commission from any retailers customers switch to. This commission may be added to the bill customers receive from your new retailer.

TPIs also have different degrees of independence from retailers.

- Some TPIs directly represent the customers.
- Some TPIs have arrangements that mean they act as sales agents for given retailers. They help with a range of functions including water procurement, water efficiency and management. These agents are sometimes referred to as first party intermediaries (FPIs).

TPIs are not a customer's retail supplier. Their contract for retail services will always be with the chosen licenced retailer and not with the TPI.

## Why would customers use TPIs?

Some customers may not have the time to shop around for their retail services. Others think it will be easier to let someone else do it for them. That is why TPIs offer their services.

## Why would retailers use TPIs?

Retailers may use TPIs to increase their customers and market share. TPIs can also provide specialist knowledge on customers' preferences, so retailers could use them to design deals that keep their existing customers – and win new ones.

## Do customers have to use TPIs?

No. It is up to each customer to decide whether they use a TPI or not. Ofwat does not regulate or licence TPIs. We also do not check:

- who TPIs are;
- how good their services are; or
- how much they charge.

But like any business, there are laws covering what TPIs can do (see below). If they break these laws, Ofwat will work with other enforcement organisations to take action to prevent this happening in future.

We are also supporting the creation of an industry-led voluntary TPI code of practice and are exploring the benefits of a consistent approach with other

regulators. Once the code of practice is finalised, we will encourage customers to sign up to TPIs who are accredited members of that code.

## What customers will be in the water retail market?

At present, only around 26,000 of the largest business customers across England and Wales can choose their retailer, and only for water their water supply service. Most customers must use services provided by their local monopoly water only or water and wastewater companies.

The Water Act 2014 (WA14) will allow eligible business, charity and public sector customers ('business customers') to choose their supplier of water and wastewater retail services from April 2017, expanding the market to around 1.2 million customers.

For customers who use the water supply system or sewerage system of an appointed company whose system is wholly or mainly in England, the market will be extended to include all business customers.

For companies wholly or mainly in Wales, reflecting the different policy position of Welsh Government, only those customers using more than 50 million litres of water each year will be able to choose their water supplier.

More information on which customers are eligible is available in [our eligibility guidance](#).

Residential customers in both England and Wales are not eligible to switch their retailer. Although [Ofwat is carrying out a review of the case for extending choice to residential customers in England](#), this does not affect the opening of the business retail market. And any decision to extend choice to residential customers in England will be a matter for the UK Government to decide.

## What services are included in market?

Retail services are the customer-facing activities provided to customers. They include:

- billing;
- account handling (payments, debt management, meter reading);
- customer queries;
- water efficiency advice; and
- tackling leaks on customers' pipes.

## What types of company are in the market?

Most customers current receive their water supply and sewerage services from monopoly companies appointed to deliver both wholesale and retail water and sewerage services ('[undertakers](#)'). In the new retail market, holders of water supply and sewerage licences ('WSSLs', 'licensees' or 'retailers') will buy wholesale services from undertakers and sell these on with retail services to customers. Individual eligible customers will also be able to [become licensed to buy wholesale services and](#)

[self-supply themselves with retail services](#).

The new WSSLs will replace existing water retail [Water Supply Licences \(WSLs\)](#). We expect current holders of WSLs are expected to apply for a new WSSL if they want to participate in the new retail market. The UK Government has consulted on and published [the standard conditions for the WSSL](#). Applications for WSSLs opened on 5 April 2016.

## How will the market work?

[General information about the market for customers](#) is available from the Open Water website – the overall programme of work to open the new market.

More specific information on how the market will operate for the customer (the 'customer journey') is available in the [Customer Protection Code of Practice](#) that all retailers will need to comply with.

TPIs should be particularly aware of the following.

- Following a customer's request to change to a different retailer, the incoming retailer will lead the administration of the switch and resulting communications with the market operator and the customer. Only retailers will be able to initiate a switch through the market operator. TPIs will not be able to do this.

- In certain limited circumstances during the switching process, the outgoing retailer also communicates with the customer. In particular, the outgoing retailer needs to contact the customer to resolve any issues around a request to cancel the switching process, or where the customer has not initiated the switching process.

## How will the retail market be regulated?

The new retail market will rely on a number of legal documents to work (the 'legal framework') – ranging from legislation, regulations, codes and non-statutory guidance. Key elements of the regulatory framework are as follows.

The [wholesale retail code](#) sets out the rules that apply to the agreements between undertakers (wholesalers) and licensees (retailers) including payments, transfer of customer data and operational processes.

The [market arrangements code](#) sets out the how the market will operate including the requirements for the market operator, setting up a code panel and dispute resolution.

All customers in the business retail market will be protected by minimum service standards (the '[guaranteed standards scheme](#)'). The customer code of practice will provide additional protection to micro businesses (those customers with less than 10

employees) and other customers, with additional protections provided through the [retail exit regulations and retail exit code](#) to customers not on negotiated contracts.

## Does Ofwat regulate TPIs?

No. Unlike some other regulators, Ofwat does not have powers to regulate TPIs. But there are rules that TPIs need to follow (see below). And we will be monitoring the market for any issues.

## What rules are there for TPIs?

TPIs and retailers will be covered by existing general market protections in relation to sales and marketing activities. In particular the [Business Protection from Misleading Marketing Regulations](#) (BPMMRs), which is enforceable by the Competition and Markets Authority (CMA) and by Trading Standards, which prohibits misleading advertising and sales activities.

All water and wastewater retailers will also need to comply with the new Customer Protection Code of Practice. Where TPIs are acting for retailers, retailers must take all reasonable steps to ensure that the third parties are aware of, understand and comply with, the provisions of the code. Where TPIs are acting for business customers, retailers must obtain written confirmation – known as a letter of authority – from the relevant customers that:

- the named third party is acting on their behalf;
- the extent of the third party's authority; and
- how the third party's fees are being paid.

Where the customer is also a microbusiness the written confirmation will need to be in the [form of a standard template](#). This is available from the Ofwat website.

### **What should customers be aware of in using TPIs?**

Before signing up to a contract through a TPI, the customer must make sure that they understand:

- the services the TPI is providing;
- how they will be paid for these services; and
- all terms and conditions.

The contract duration may be one year or more. The customer should check whether there will be a termination notice and termination fee in case they want to switch again before the end of the contract.

Micro businesses (businesses with less than 10 employees) are entitled to a 7 days cooling off period, during which they can cancel the switch request.

Customers should note that a verbal agreement, in person or over the phone, with a TPI is legally binding. They also need to be aware that they

are under no obligation to use a TPI and must not feel pressured into using them when contacted by them.

#### **Top tips for customers in dealing with TPIs**

When engaging with TPIs as a customer it is worth considering the following.

- Who the TPI is representing (some TPIs will only represent certain companies, others may only represent one retailer or a group of retailers).
- How many retailers the TPI has approached for a quote.
- What the TPI can (and cannot) do to help you switch. For example, are there other services the TPI could offer after the switch (during the life of the contract)?
- How the TPI gets paid (by the customer or retailer). For example, will the customer be charged directly or indirectly?
- TPIs are businesses that need to make profits so claims that it is a free service should always be challenged.
- Remember that a verbal agreement, in person or over the phone, with a TPI is legally binding.
- Always sign terms and conditions in writing.
- Always ask for full quotations and contact details.

## **What happens if customers have a dispute with TPIs?**

Where customers are not satisfied with a TPI, they can approach both the TPI and their water and wastewater retailer through their complaint handling team. If they are not happy with the outcome of their complaint, they can contact the [Consumer Council for Water](#) – the legal representative of water and wastewater customers in England and Wales – and the relevant retailer's alternative dispute resolution scheme.

## **Further information**

More information about the market is available from the [Open Water website](#) and [Ofwat's retail market opening](#) webpage. You can also sign up to receive [email updates with the latest news](#) on the Open Water website homepage.

If you are a customer and need further advice, please speak to the Consumer Council for Water. You can also ask your relevant trade or representative body to contact Ofwat on your behalf.

If you are a customer representative or trade body, retailer or TPI and have further questions, please contact us at [retailmarketopening@ofwat.gsi.gov.uk](mailto:retailmarketopening@ofwat.gsi.gov.uk).

## More information

[Water company contact details](#)

[Ofwat retail market opening webpage](#)

[Customer protection code of practice webpage, May 2016](#)

[Open Water website](#)

[Marketing and advertising: the law, gov.uk website](#)

[Consumer Council for Water website](#)

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a leading economic regulator, trusted and respected, challenging ourselves and others to build trust and confidence in water.

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