

Rowaa Mahmoud
Retail Market Opening Programme
Ofwat
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By email to: customerprotection@ofwat.gsi.gov.uk

15 April 2016

Dear Rowaa,

Protecting customers in the non-household retail market – a consultation on final proposals and a draft customer protection code of practice

Thank you for inviting Yorkshire Water to contribute to the consultation on the draft Customer Protection Code of Practice for non-household retailers, which we have reviewed in conjunction with the final proposals document on the code of practice.

We support the commitments made by the Government and Ofwat to protect customers' best interests and to ensure the new non-household retail market operates effectively.

A number of key principles and objectives have guided our thinking in developing our feedback on the Code of Practice as drafted and your questions around the governance arrangements, which are as follows:

- Ensuring the best outcomes for our customers is paramount including building and maintaining customers trust in the sector.
- Effective customer protection measures and arrangements should also enable innovation and competition between retailers to support a successful market.
- Protections are successful where there is simplicity of arrangements delivering benefit both to customers and the wider market.

We would especially like Ofwat to consider the level of consistent application of protections for Micro-businesses.

The method of classification of customers as being Micro-businesses based solely on whether the business customer has fewer than ten employees will require retailers to capture such information through their engagement with customers during activities, such as customer acquisition and switching. The process of capturing such information during normal business will mean retailers are unlikely to have a full picture of their respective Micro-business portfolio at market opening; rather this will be progressively populated over time.

It should therefore, be expected that protections specifically for Micro-business customers can only be applied once the employee information has been captured by their current or

prospective retailer, and may lead to some customers not having the benefit of a protection that they should otherwise enjoy.

Our response to the consultation questions on governance and commentary of the code of practice, as drafted, is appended to this letter.

We look forward to publication of the Customer Protection Code of Practice for non-household retailers in due course, however should you have any queries regarding any of our responses, please don't hesitate to contact myself, or my colleague Colin Fraser by email at: market_Design_Team@yorkshirewater.co.uk.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Wendy Kimpton', with a horizontal line underneath.

P.P.

Wendy Kimpton
Regulatory Strategy Manager

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Protecting customers in the non-household retail market – a consultation on final proposals and a draft customer protection code of practice

Yorkshire Water Services' (YWS') responses to the three questions Ofwat have raised in the consultation are as follows:

Q1	Do you agree with our proposed approach to the governance of the code of practice?
A1	<p>We agree with the proposed approach to the governance of the code of practice and the arrangements for Ofwat and interested parties to raise change proposals to the Code.</p> <p>We also are supportive of Ofwat's proposed approach to following a consultative process in respect of considering Code change proposals before Ofwat determines what action to take.</p>
Q2	Do you have any views as to whether the code governance and modification should be included in the code or the licence/appointment?
A2	<p>The benefit YW can see to having the code governance and modification in the Code itself is that this will give a single common framework for the governance of amendments to the code in one place. However, irrespective of whether such process is included within the code or the licenses, changes will be required to the loA in the form of a condition giving the code legal force (the draft WSSL conditions already include this). From a practical perspective therefore, in terms of ensuring all detail relating to the code for both Appointees and Licensees is collated in one document, YW preference would ordinarily be for the governance arrangements related to changes to the code to remain within the code itself, as currently documented in the draft.</p> <p>However, it is YW understanding that although the change process as drafted would see Ofwat consult on any significant changes, Ofwat would ultimately have the power to implement changes to the code regardless of the result of such consultation, with no right of appeal by the companies. By contrast, we understand that if the governance process were incorporated in the loA and WSSL, this would provide companies with the right of appeal, which currently exists within the licence modification frameworks.</p> <p>We consider an appropriate right of appeal within the code change process would strengthen the legitimacy of the governance proposals. This could be achieved through minor amendments to the WSSL and loA, but given the timescales likely to be involved in the legislative process to achieve this, YW will support Ofwat's proposal for a single common governance and modification framework to be inserted in the loA and the WSSL.</p> <p>YW would ideally like to see a draft of the proposed changes to the loA and WSSL conditions before committing to this view, but accept this may not be possible.</p>
Q3	Who should be able to raise changes to the code of practice?
A3	<p>We agree that Ofwat, market participants, and consumer groups who legitimately represent the interests of non-household customers should have a route, which permits them to propose changes to the Code.</p>

Yorkshire Water Services' (YWS') feedback in regards to the draft Customer Protection Code of Practice for non-household retailers issued by Ofwat on 17th March 2016 is shown below. The feedback is structured in the order of the relevant sections of the drafted Code of Practice document with YWS comments provided in *blue italics*.

1.1 Table of defined terms

Please update the table of defined terms and ensure terms use uppercase universally and reorder terms accordingly. For example, the term 'Renewal notice' should read 'Renewal Notice' and be reordered in the table.

Please add a definition for the term 'Code Principles' and refer to relevant section of the Code, either sections 2. or 4.

1.2.7 references to 'writing' or 'written' shall include email;

We propose other electronic means be included, such as online messages and notifications received or visible via a website.

8.2 Cancellation Requests

8.2.2 If the reason provided by the Outgoing Retailer for submission of the Cancellation Request include that there was an Outstanding Debt due to the Outgoing Retailer by the affected Non-Household Customer, the Outgoing Retailer shall provide the following additional information to the Non-Household Customer:

- (a) that the Non-Household Customer has 90 calendar days in which to raise a formal dispute with the Outgoing Retailer in relation to an Outstanding Debt before there is a Cancellation; and

We propose section 8.2.2 (a) is removed as it suggests the Non-Household Customer should be provided a further 90 calendar days in which to raise a formal dispute in relation to an Outstanding Debt. The definition of Outstanding Debt in the Wholesale-Retail Code states that such a debt is 90 days overdue and where the Retailer has not received a formal dispute from the Non-Household Customer in relation to that debt.

9.2 Billing accuracy and frequency.

9.2.1 Outgoing Retailers shall base their final bill on the Transfer Read provided by the Incoming Retailer.

For clarity we expect the retailers (both incoming and outgoing) to use the validated Transfer Read as the meter read to contribute to the calculation of their respective bills across a customer switch event. We recognise that the date of the Transfer Read provided may not be the same as the Registration Start Date for the incoming retailer and the outgoing will use the calculation approach as described in the Wholesale-Retail Code accordingly.

9.3 Restrictions on Billing of Micro-businesses

9.3.1 Retailers shall not bill or invoice Micro-businesses for or recover charges in respect of water supplied or sewerage services provided to that Micro-business before the start of the preceding Financial Year.

We note the intention for Ofwat to align the back-billing restrictions on Retailers to the charging arrangements between Wholesalers and Retailers. This will require modifications to the Wholesale-Retail Code to be made, and implemented by MOSL, prior to market opening.

This protection therefore requires the classification of a Non-Household Customer (and the SPID or SPIDs that are associated to them) as a Micro-business to be made available to MOSL and the relevant Wholesaler so the above settlements process remains aligned.

End