

Supplementary Guidance Consultation
Retail Market Opening Programme
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Dear Ofwat

Consultation on Supplementary Guidance: Assessing whether non-household customers are eligible to switch their water/wastewater retailer

We are pleased to be able to respond to Ofwat's consultation on supplementary 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. 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. Consequently we wholly support the need for industry guidance which is clear, simple and consistent.

We welcome the supplementary guidance which provides greater clarity around a number of scenarios where previously there were variances in approach across the industry. We consider that there are three scenarios which remain challenging and should be added to the guidance to improve it further. These are explained below.

1. Premises containing a shop and domestic accommodation

Our understanding of the practical application of the principles is as follows. In this scenario, the first consideration is whether there are separate supply points to the shop and to the accommodation or a single supply point serving both. Where there are separate supply points then each should be treated as separate premises so the shop is included within the non-household market and the accommodation is excluded. Where there is a single supply point to both then we would consider this a single premise and we then look to the principal use of the premises.

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To inform this decision we look to liability for business rates and council tax. If the premises is liable for business rates only, it should be included within the non-household market. If the premises is liable for council tax only, it should be excluded from the non-household market. Where the premises is liable for both Council Tax and Business Rates there is a need to determine which use is the principal one.

If the household part is dependent upon the non-household part, then the premises should be considered non-household and included within the market. For example, if the flat accommodates the owner or manager of the shop.

Where there is no dependency identified then the value of the Business Rates bill relevant to the value of the Council tax bill could be used. For example, if the Business Rates bill is greater in value than the Council tax bill then the premises is included in the non-household market.

It would be useful if this scenario could be included in the supplementary guidance as this is likely to be a common scenario to address.

2. Premises operated as Self catering holiday units

The Valuation Office have criterion on which they assess whether a property that is being used for commercial purposes is rated for business rates. The criterion are different between England and Wales.

Holiday units in England are assessed for business rates if they are available for letting for short periods totalling 140 days or more per financial year.

In Wales, self-catering accommodation will be assessed for business rates if it will be available for short term holiday letting for 140 days in the following 12 months, and in the 12 months prior to assessment it has been available as short term holiday letting for at least 140 days and has actually been let for at least 70 days of that period. From 1 April 2016 a new provision applies so that businesses consisting of several self-catering properties at the same location or within very close proximity have the option to average the number of lettings days of the properties to meet the 70-day criterion where they are let by the same or connected businesses.

Therefore, using the criteria above, if the Valuation Office has assessed a self catering holiday unit as liable to pay business rates then it would seem appropriate that this is included in the non-household market. Conversely, if the Valuation Office has assessed a self catering holiday unit to pay Council Tax, then it would seem appropriate that this should not be in the non-household market.

It would be useful if this scenario could be included in the supplementary guidance.

3. Water company premises

Some water company premises will be part of the operational water or wastewater supply system, for example water treatment works, pumping stations, wastewater treatment works etc. These are clearly part of the supply system rather than supplied by the supply system and should be exempt from the retail market for the relevant service. It would be useful if the guidance could include this point.

We also have the following comments on the scenarios below which we think would improve the guidance further.

University halls of residence and accommodation.

Whilst the inclusion of this scenario is useful, we suggest that it could be simplified. Currently, a distinction is drawn between halls of residence where food and wider services are provided and those which are self-contained and self-catered. We think that this distinction does not address the question as to whether use of the premises is "as a home". Therefore, we suggest that a simpler distinction is whether students can remain in the accommodation during the university vacations. If they cannot remain, and the students return to their permanent "home" then the principal use of the accommodation is not as a home, and so the premises should be eligible for the non-household market. This is particularly relevant where the premises is used by the university during vacation periods for conference accommodation etc.

Temporary supply for developers

The guidance says "if the development is being progressed by a self-builder (not a business), we consider that the principal use of the new property cannot be established as a household until the point where the property is complete and should be included in the non-household market." If the plans indicate that the new property is intended to be a home then should it be excluded from the non-household market? It would be useful if the guidance could be explicit about what impact development plans have on eligibility (if any).

The guidance also says "once the development has been completed there is scope that the premises contained within the development may have to be reclassified depending upon their principal use(s)." It is not clear what is meant here by "completed". Some very large developments will take 15 years to complete. In this circumstance, we would not expect the first premises to wait 15 years before reclassification. We think that what is meant is that once

a premises is being used as a home, it may need to be reclassified. Clarity on this point would be useful.

We hope that you find our comments useful and that these can be incorporated within the final supplementary guidance. We note that Ofwat is now also consulting on its revised eligibility guidance which we will review. We are keen that the industry has 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 sincerely,

Wendy Monk
Head of Policy and Compliance