

Supplementary Guidance Consultation  
Retail Market Opening Programme  
Ofwat  
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07 April 2016

Dear Ofwat,

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

We welcome the opportunity to respond to this consultation on the proposed supplementary eligibility guidance. As signalled by the industry workshop facilitated by MOSL in the winter, eligibility criteria for the forthcoming non-household retail market is an area where the sector is keen to collaborate and develop a common understanding, recognising the benefits this will have both to customers and market participants.

Whilst noting that it will ultimately be the responsibility of licensees to determine eligibility for switching customers in the new market, from a wholesale perspective, we recognise the importance of establishing clear eligibility criteria. This will mutually benefit wholesalers, retailers and customers. The need is particularly acute where there are different suppliers of water and water recycling services.

This letter sets out our comments on the existing guidance, followed by views on where the guidance could be expanded to include further categories. We conclude by proposing some next steps.

## Comments on the existing categories proposed in the supplementary guidance

### *1. University halls of residence and accommodation.*

Inclusion of this scenario is useful given this has been a frequent area of discussion. We consider that the guidance on this could benefit from further simplification. We consider that the provision of "food and wider services" should not be the driving consideration for eligibility. We think that this distinction does not align with the consideration of whether the principle use of the premises is as a home.

We suggest that a simpler definition is whether students have the option to occupy the accommodation outside of core academic periods. If they cannot remain, (i.e. the students return to their permanent "home") then the principal use of the accommodation is not as a home. This is specifically relevant in cases where this accommodation is utilised for alternative uses in non-term time (e.g. for conference accommodation). Where this is the case, the premises should be eligible for the non-household market.

### *2. Temporary supply for developers*

We think that the guidance here would benefit from clarity both on what is intended by the terminology regarding "self builder" and the intention of the definition "completed".

We also think that the guidance could be simplified if the intended principal use of premises through the planning process were deemed sufficient to capture the future eligibility of the premise.

## Further categories for inclusion in the supplementary guidance

### *1. Premises consisting of a shop and domestic accommodation*

In this scenario, we understand the supplementary guidance to apply as follows: initial consideration is given to the "extent" of the premise – i.e. whether there are separate supply points to the shop and to the accommodation, or a single supply point serving both. For a single supply point, eligibility is determined by the principal use of the premises.

To inform this decision, we would subsequently review the liability of the premise for both 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.

Ofwat's guidance also states that principal use takes precedence before considering the incidence of liability for council tax or business rates.

We consider 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 as a proxy for principal use. 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.

We think that the guidance would significantly benefit from the inclusion of this scenario given our view that this will be a frequently occurring situation.

## *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. Our understanding is that 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.

On this basis, if the Valuation Office has assessed a self catering holiday unit as liable to pay business rates, then we consider it appropriate to include this as an eligible premise in the non-household market. We think the guidance would benefit from including this scenario explicitly.

## *3. Water and Sewerage Undertaker premises*

The range of undertaker premises will include offices, a mixture of co-located offices on operational sites and purely operational sites; some of which will be located in other operators' areas (for example Milton Water Recycling Centre is in the area of appointment of Cambridge Water (South Staffs)). Whilst for some premises it will be clear that these sites (e.g. water treatment works) form part of the operational water or wastewater supply system and should be exempt from the retail market (for the relevant service), the guidance would benefit from a discussion of this group of premises.

### Next steps

We note that at the time of writing this response to the supplementary guidance, Ofwat is simultaneously consulting on the revised version of the overarching eligibility guidance. We consider it would be useful if both consultations can be drawn together and explored in the coming weeks to mitigate the need for further iterations, providing clarity to a wide range of stakeholders.

We would also support the use of a further stakeholder workshop in this area if felt beneficial to Ofwat and companies.

I trust these comments will help to positively shape the final version of the supplementary guidance. As ever, please do not hesitate to get in contact if you wish to explore anything further.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Darren Rice', with a stylized, cursive script.

Darren Rice  
Wholesale Policy & Competition Manager