

**Supplementary Guidance:  
Assessing whether Non-household  
Customers in England and Wales are  
eligible to switch their Water and  
Wastewater Retailer  
- an Ofwat Consultation**

## 1. Introduction

- 1.1 The Consumer Council for Water (CCWater) is the statutory consumer organisation representing the interests of customers of regulated water and sewerage companies in England and Wales. CCWater has four regional committees in England and a committee for Wales.
- 1.2 When the non-household (NHH) retail market opens in April 2017, only eligible customers will be able to switch their retail water and wastewater services to another retail licensee. Therefore, to help customers and licensees determine who is eligible, Ofwat has supplemented its eligibility guidance and asked for comment.
- 1.3 We welcome the opportunity to respond to Ofwat's consultation on supplementary eligibility guidance.

## 2. General Comments

- 2.1 We support the hierarchy of considerations set out by Ofwat that apply when determining eligibility. However, we feel this could be more clearly explained and would benefit by the addition of a flow chart, such as Figure 1 in the August 2015 summary of responses to Ofwat's consultation on eligibility guidance. A flow chart would be a particularly useful method of explaining eligibility for the market in any customer information Ofwat publishes ahead of market opening.
- 2.2 In our response to Ofwat's initial consultation on eligibility guidance, published in March 2015, we asked for specific examples of eligible and ineligible premises. The supplementary guidance provides proposals on how to assess the eligibility of 'difficult to determine' premises, such as university halls of residence and nursing homes, which we welcome.
- 2.3 Customers and licensees need clarity, consistency and easy to understand advice on how the eligibility criteria will apply, especially where the status of certain premises is not straightforward. This is because customers and licensees will be determining eligibility based on Ofwat's guidance. Consistent guidance will help ensure customers know what to expect regardless of who their supplier is.
- 2.4 However, there is a risk of creating a 'tick box' approach where individual cases and exceptions are not considered. Where a case by case approach might be required, we welcome Ofwat determining the eligibility of those premises. The determinations process must be clear, timely, and subject to appeal, where required.
- 2.5 The assessment of mixed-use premises needs further consideration as we do not feel this has been fully addressed. The supplementary guidance does not consider the issue of separating supplies (or how to address issues if separating supplies is not an option) to enable eligibility of the non-household part of the premises.

2.6 We believe the approach to eligibility must reflect the views of NHH customers. Our research<sup>1</sup> found that these customers want:

- choice but with appropriate protection;
- processes to be simple so all can be involved;
- market reform to be designed so it is fair, simple, flexible and transparent; and
- the market to include mixed-use properties in the eligible definition, but with caveats:
  - examples, such as beauty salons operating from domestic premises should not receive unfair protection against disconnection<sup>2</sup>.
  - a property consisting of flat above a shop is two different premises and should have its supplies separated.

### 3. Response to the consultation question

3.1 The consultation asks whether:

- the descriptions in the examples reflect the types of issues likely to be encountered; and/or
- there is inconsistency between the draft supplementary guidance and the relevant legislation; and/or
- the proposals in the supplementary guidance are unreasonable.

3.2 Currently we believe that Ofwat has identified the main types of premises where eligibility may be difficult to determine. However, we recognise that other scenarios may become apparent as the market opens.

3.3 We do not believe that the draft supplementary guidance is at odds with relevant legislation.

3.4 Generally, we do not believe the supplementary guidance proposals are unreasonable. However, we have comments on several of the proposals. Some of the examples could be described more clearly and some need further consideration, in particular the proposal around temporary supply for developers.

3.5 Building on the examples in the supplementary guidance, we have made comments and suggested clarifications in the table overleaf based on our research and our discussions with NHH customers.

### 4. Enquiries

Please send questions about this consultation to:

**Christina Blackwell**

Policy Manager

Consumer Council for Water

[christina.blackwell@ccwater.org.uk](mailto:christina.blackwell@ccwater.org.uk)

0121 345 1082

---

<sup>1</sup> Uncharted Waters: Non- household customers' expectations for competition in the water industry. Accent, a report for CCWater. March 2014.

<http://www.cewater.org.uk/wp-content/uploads/2014/06/Uncharted-Waters-Non-household-customers-expectations-for-competition-in-the-water-industry1.pdf>

<sup>2</sup> The laws around disconnection were not explained during the focus group used as part of our research.

Premises	Ofwat's proposal	Reasonableness of the proposal
University halls of residence and accommodation	<ul style="list-style-type: none"> <li>• A number of university buildings served through a single supply point on a single set of premises <b>should be eligible</b></li> <li>• A hall of residence with its own supply point that is dependent on the university for the provision of meals and other wider services as part of the accommodation costs <b>should be eligible</b></li> <li>• A hall of residence with its own supply point that is not dependent on the university and is self-catered <b>should not be eligible</b></li> </ul>	<p>The proposal which considers whether a premises is self-catered has potential to cause confusion and should be further considered. It is entirely possible within the same building for some students to be full board or part board, while others are self-catered.</p> <p>Also the proposal does not address the complications of a university being able to switch some of its sites and not others</p>
Housing Associations	Premises rented through Housing Associations <b>should not be eligible</b> as the Association is comparable to a landlord and the primary use is as a home	We agree with the proposal described in the supplementary guidance. However, Housing Associations are likely to have some premises that are served through a single supply point of which the principal use is not as a home, e.g. offices. These <b>should be eligible</b> and as such should be added as a scenario in the supplementary guidance
Local Authority Housing	Local Authority housing should be treated in the same way as housing rented through Housing Associations so the premises <b>should not be eligible</b>	We agree with this proposal
Serviced Apartments	<ul style="list-style-type: none"> <li>• Serviced apartments with a principal use as a home <b>should not be eligible</b></li> <li>• Serviced apartments providing short term accommodation as a hotel alternative <b>should be eligible</b></li> </ul>	We believe this is a sensible approach. However, we recognise that premises may have a combination of the two types of serviced apartments, which needs to be further considered. Also, licensees may need to review these premises as they could potentially change purpose resulting in a change in eligibility status
Residential properties with management companies	Residential properties' principal use will be as a home so <b>should not be eligible</b>	We agree with this proposal

Premises	Ofwat's proposal	Reasonableness of the proposal
Nursing and care homes	Nursing homes providing continued health care where the residential element is a requirement of the care <b>should be eligible</b>	Generally we agree with this proposal. However, the example provided is confusing, particularly where it describes property leased to staff, and should be considered further for greater clarity
Assisted living and sheltered housing	Assisted living premises with limited active care will have a principal use as a home so <b>should not be eligible</b>	We agree with this proposal
Car parks and garages	<ul style="list-style-type: none"> <li>• Car parks and garages served through the same single supply point as a household premises <b>should not be eligible</b></li> <li>• Car parks and garages served by a separate supply point to the household premises <b>should be eligible</b></li> </ul>	We agree with this proposal but believe it would add clarity by considering the impact of dependency
Animal troughs	<ul style="list-style-type: none"> <li>• Troughs that are dependent on the farm where the principal use of the farm is a home <b>should not be eligible</b></li> <li>• Troughs that are separate where the principal use is not a home <b>should be eligible</b></li> </ul>	We generally agree with this proposal. However, we question whether principal use will always be evident and would welcome further consideration of this scenario
Treatment of allotments	Both individually rented allotments and multiple allotments operating under Allotment Societies and Associations would not have a principal use as a home so <b>should be eligible</b>	We agree with this proposal
Temporary supply for developers	<ul style="list-style-type: none"> <li>• Properties that are part of a development process until a householder moves in <b>should be eligible</b></li> <li>• Properties being built on an existing household premises and supplied by the same supply point <b>should not be eligible</b></li> </ul>	We are yet to be convinced about this proposal due to the administration complications which could arise from premises starting off as eligible and being registered in the Central Market Operating System, only then to be switched to the incumbent water company as an ineligible household premises when the householder moves in. We would welcome a discussion with Ofwat about this proposal and may raise our concerns at a forthcoming Interim Code Panel meeting

Premises	Ofwat's proposal	Reasonableness of the proposal
Zero rated and exempt properties	Properties exempt from paying Council Tax or business rates will be assessed by principal use	The supplementary guidance identifies that exemptions may make it difficult to identify principal use but does not fully explore the complications. Therefore, we would welcome further consideration of this issue
Treatment of vacant property/ premises	<ul style="list-style-type: none"> <li data-bbox="461 400 1276 469">• If a vacant property is liable for Council Tax it <b>should normally not be eligible</b></li> <li data-bbox="461 475 1276 544">• If a vacant property is liable for business rates it <b>should normally be eligible</b></li> </ul>	We agree with this proposal