

Supplementary Guidance Consultation
Retail Market Opening Programme
Ofwat
21 Bloomsbury Street
London
WC1B 3HF

Direct line: 01392 443967
Email: ivosper@southwestwater.co.uk
Our ref: IV / SC

6 April 2016

By email: retailmarketopening@ofwat.gsi.gov.uk

Dear Sir,

SUPPLEMENTARY GUIDANCE: ASSESSING WHETHER NON-HOUSEHOLD CUSTOMERS IN ENGLAND AND WALES ARE ELIGIBLE TO SWITCH THEIR WATER AND WASTEWATER RETAILER

Thank you for the opportunity to contribute to this consultation. The Draft Supplementary Guidance, as contained in Appendix A of the consultation document, is very helpful in addressing many of the issues raised at the MOSL workshop in December and Ofwat workshop in January.

South West Water and Bournemouth Water have the following comments on a number of areas where the guidance could be improved further to reduce the impact on some non-household customers and also give greater clarity in the definitions.

GUIDANCE DOCUMENT

It would be helpful for the August 2015 guidance and supplementary guidance to be reissued (when finalised) as a single document. It is possible that some customers will want copies of the guidance so a single document would be more customer friendly.

DEFINITION OF A PREMISES

Section 3.1 of the August 2015 Guidance states "...every property that is assessed separately for the purposes of Council Tax and business rates – or that would be if the property were not exempt – will be treated as a separate set of premises for the purpose of assessing eligibility...".

Assessments for council tax and business rates are based on different definitions of properties so on a given site do not always apply to the same areas. Therefore where both apply, depending on whether Council Tax or business rates are used as the basis for defining premises, different premises would be defined. It is not clear in the guidance how this issue is being treated.

This is important for customers with mixed use sites as a definition that requires separate treatment of domestic residences on a commercial site (all within a single curtilage) would mean that a business that currently has one account for the mixed use site, would have to have that site disaggregated to eligible and not eligible properties so one bill would become

at least two, with different suppliers. This represents poor customer service and may be seen as an annoyance by these large customers whose expectation would be that the site is treated as a whole for eligibility. We are aware of a number of sites where this would be the case if the guidance remains as currently worded.

We suggest that where sites have business rates (or would if the property was not exempt), then the site assessed for business rates is used to define the premises. Council tax assessment would then only be used to define premises where there is no liability for business rates.

This would result in commercial sites that include dependent residential accommodation being defined as one premises and being considered for eligibility on that basis. This would be more beneficial for larger customers and would undoubtedly result in fewer challenges to eligibility decisions.

DEFINITION OF A HOUSEHOLD – STUDENT ACCOMMODATION

The use of services provided to students as a criterion in the guidance (1.4.1) results in companies needing to understand the contractual relationship between students and the accommodation provider. These tend to be complicated and subject to a large amount of variation. For example, food provision can be meal vouchers included in accommodation costs, a refectory, food dispensing machines, etc, whilst cooking facilities can vary from a fully furnished kitchen to a room containing only a microwave.

The provision of student only accommodation may draw parallels with specialist accommodation for others such as care homes. We expect that companies that build and let specialised accommodation for students may claim that this is a commercial business that is dependent on another non-household business (university, college, hospital, etc.) so **we suggest** that commercial accommodation specifically limited to students only could be classed as non-household.

This issue may therefore result in challenges to the guidance, so **we suggest that** as a minimum the phrase in 1.4.1 "*food and wider services*" is clarified in more specific terms.

For student accommodation on campuses as in the example in 1.4.1, which refers to accommodation with its own supply point and self catered, this should be determined by first establishing the definition of the premises (as described above). The supply point isn't a criterion for establishing the premises in Section 3.1 of the August 2015 guidance, so it seems unwise to introduce this criterion here. **We suggest that** it is made clear in 1.4.1 that the decision on premises must be made first if this example is to be retained. Our comments above on definition of a premises apply to this example, and we would hope that campus sites can be treated as a whole under the principle of dependency of the accommodation on the non-household business.

DISPUTE RESOLUTION

The August 2015 guidance states “Should there be a dispute between an appointed water company, a licensee, and a customer about the eligibility of particular premises, we would expect the parties to take advantage of the dispute resolution mechanism”.

We do not believe that this is appropriate where a dispute is about the interpretation of Ofwat guidance. The outcome of such disputes may need to be fed back into revisions of the guidance, and therefore **we suggest that** Ofwat should be involved in the dispute process. A resolution process that gave stand-alone decisions on the interpretation of guidance would not be appropriate.

We would be happy to discuss any of these issues further with Ofwat.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Iain Vosper', with a long horizontal flourish extending to the right.

Iain Vosper
Regulatory Director

