



Updated Eligibility Guidance - 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 Currently non-household (NHH) customers of incumbent water companies in England using more than five megalitres (5Ml)¹ of water a year, and NHH customers of incumbent water companies in Wales using more than 50Ml of water a year, can choose who supplies their water retail services².
- 1.3 The Water Industry Act 2014 (WA14) will allow all eligible NHH customers in England to choose who supplies their water and wastewater retail services when the market opens in April 2017. The threshold of 50Ml will remain in Wales.
- 1.4 To reflect the WA14 changes and help enable retail licensees and customers to determine eligibility in the current and forthcoming market, Ofwat has updated its eligibility guidance and consulted on supplementary eligibility guidance in March 2016.
- 1.5 We welcome the opportunity to respond to this consultation on Ofwat's updated eligibility guidance. We have responded³ separately to Ofwat's supplementary eligibility guidance and will cross reference our comments as part of this response.

2. General Comments

- 2.1 We welcome the updates made to the eligibility guidance which should help facilitate a smooth transition between the current and forthcoming NHH retail markets.
- 2.2 However, we believe it is important for Ofwat to publish customer-friendly information about eligibility ahead of market opening. Within this, a flow chart would help customers understand whether they are eligible to switch retailer.
- 2.3 In our response to Ofwat's eligibility consultation, published in March 2015, we stated the importance of a consistent, clear, timely determinations process that is subject to appeal, where required. We are disappointed to see that minimal changes have since been made. The only updates being to set out how the Water Industry Act 1991 applies determinations to the Water and Sewerage Licence (WSSL) regime. Ofwat should expand this further by making clear the process, the timescales involved, and enabling a customer to appeal a decision where it was requested by a retailer and the customer is in disagreement with the determination.

¹ One megalitre is equal to one million litres or one thousand cubic metres

² Retail services include customer billing and handling customer queries and complaints

³ [CCWater's response to Ofwat's consultation on supplementary guidance on assessing whether non-household customers in England and Wales are eligible to switch their water and wastewater retailer, April 2016](#)

2.4 We also note that the guidance states that, “a licensee or prospective licensee should seek its own legal advice if it is unsure whether a customer’s premises are eligible”. Licensees may find it difficult to reconcile the advice to seek potentially costly legal advice ahead of, or instead of, talking to Ofwat where eligibility cannot be easily determined given Ofwat’s powers to make a determination.

2.5 We urge Ofwat to expand its guidance on the assessment of mixed-use premises. In particular, we want the guidance to address:

- the issue of separating supplies,
- the costs involved in separating supplies so they do not impact ineligible customers, unless the household part receives a benefit from the separation, and
- how to manage issues if separating supplies is not an option.

Customers have told us they want the retail market to include mixed-use premises, adding that a property consisting of flat above a shop is two different premises, which should have its supplies separated⁴. Therefore, the ‘Recommended steps to take for mixed-use premises’ at section 4.2 in the guidance needs further consideration.

3. Response to the consultation questions

3.1 The consultation asks:

- i. Whether any of the updates are inconsistent to commencements of the relevant provisions of the Water Act, the development of Ofwat’s thinking on the transition from the water supply licence (WSL) regime to the WSSL regime, and the position reflected in the supplementary guidance.
- ii. If there are any inconsistencies between the eligibility guidance and the supplementary guidance, what are they?

3.2 We do not believe the updates made by Ofwat in the eligibility guidance are inconsistent with the Water Act or developments on the transition from the current WSL regime and the forthcoming WSSL regime.

3.3 There are no obvious inconsistencies between the eligibility guidance and the supplementary guidance. However, we have a number of issues relating to the proposals on how to assess the eligibility of some ‘difficult to determine’ premises. In particular:

⁴ [Uncharted Waters: Non- household customers’ expectations for competition in the water industry. Accent, a report for CCWater, March 2014](#)

- For some types of premises, the Ofwat proposal will not always give the eligibility result that is set out in the supplementary guidance. This is because some premises need to be assessed on a case-by-case basis. For example, it is likely that a university hall of residence will have some students that are full board, part board, and self-catered within the same building. Therefore, the proposal which considers dependency, and as such eligibility, by assessing whether a university provides a hall of residency with meals and other services, needs further consideration.
- We are concerned about the proposal which determines that properties on a development site will be eligible until a householder moves in. This could result in administration complications from premises starting off as eligible, and being registered in the Central Market Operating System, only then to deregistered (due to ineligibility) and switched to the incumbent water company when the householder moves in. Customers at these premises might experience bill complications or delays, which could be exacerbated if the move in date is brought forward or delayed unexpectedly. We do not want household customers to be impacted negatively by new market reforms for NHH customers, so would urge this proposal to be further considered.

3.4 We would welcome a discussion with Ofwat about the issues above and the eligibility guidance more generally before it is finalised.

4. Enquiries

Please send questions about this consultation to:

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