

Centre City Tower, 7 Hill Street, Birmingham B5 4UA  
21 Bloomsbury Street, London WC1B 3HF

By email

01 March 2016

Freedom of Information Act- Request For Information

Reference: Fol 05012016 & Fol 15022016

Dear 

In response to your email of 04 February 2016 we would like to emphasise that protecting customers is at the heart of what we do, in particular because most customers do not have a choice of supplier. We also have statutory duties, in the Water Industry Act 1991 and the Equalities Act 2010, to protect specified categories of vulnerable customers.

Your email misunderstands our letter to you of the same day. Ofwat is bound by section 1 and section 149 of the Equalities Act 2010 ('Public sector duty regarding socio-economic inequalities' and 'Public sector equalities duty' respectively). However, this only becomes relevant where we have a particular function. The function of designating areas as water scarce areas is a function carried out by the Secretary of State and not by Ofwat. We therefore suggest that any questions you have as to whether or not a particular area should have been designated a water scarce area, should be directed to the Secretary of State.

It is beyond Ofwat's remit to provide you with legal clarity on whether or there is a contract between customers and companies. However, I refer you to [section 142 of the Water Industry Act 1991](#) which sets out a company's right to charge customers. A company can charge customers either under a charges scheme or by agreement (a contract). However, under section 142(2A) of the Water Industry Act 1991, it cannot charge household customers by way of an agreement. This means that charges for household customers must be set out in a charges scheme. Precisely because this is not a contract, there are various other mechanisms in place to protect customers. We have recently issued rules on

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companies' charges schemes which you can find on our [website](#). A company must ensure its charges scheme complies with these rules and if it does not, we can issue a direction to a company to comply. We can take enforcement action against a company that fails to comply with a direction issued by us. In addition, a company must consult with the Consumer Council for Water before publishing its charges scheme and must report to us annually on its charges scheme. Under its license conditions, a company must levy charges in a way that ensures it complies with the Price Control set by Ofwat and it must ensure that no undue preference is shown to, and that there is no undue discrimination against, any class of customers or potential customers.

In your email of 2 February you further request:

- 1. What steps has Ofwat taken with regard those with disabilities to make sure they are not unfairly treated under these sections or any other relating to such in the Act or Acts.**

Ofwat has a duty to take into account the interests of individuals who are disabled, chronically sick or of pensionable age. We recognise that because of age, disability or illness, some consumers may require specific help in the way their company delivers water and sewerage services to them. This is to make sure that they are not disadvantaged when compared with other consumers. As such, when developing all our policies we consider the needs of customers whose circumstances make them vulnerable. We have also provided specific guidance to companies as to the policies and procedures that need to be in place to ensure that they meet the needs of disabled customers:

[Services for disabled, chronically sick or elderly consumers – guidance to companies](#)

We work closely with the Consumer Council for Water (CCWater), the statutory customer representative body for water customers. CCWater deal with day-to-day complaints about water companies. CCWater will contact us if their investigations suggest that companies are systemically failing to meet the expectations set out in our guidance. In such circumstances we will consider whether our guidelines need to be modified to establish a stronger code of practice. We would also look at other ways we could work with water companies to improve service.

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We are aware that any individual may find themselves in a situation of vulnerability and in need of assistance because of unforeseen factors, such as significant life events or changes to the wider social and economic landscape. As anyone can move in and out of situations of vulnerability, we encourage companies to focus on understanding all of their customers, and not to simply equate the need for assistance with certain types of people such as the elderly or those on benefits. Ofwat is challenging companies to understand the circumstances of their customers and better tailor support. This approach is essential to good company performance and benefits everyone. For more details on this area of our work see our [vulnerability focus report](#) and [practitioners' pack](#).

Ofwat will continue to strengthen consumer safeguards for vulnerable consumers and improve our understanding of the different dimensions of customer vulnerability and their drivers, including affordability. Specifically, we will aim to understand both what works and does not work in helping vulnerable customers and the spectrum of issues the sector needs to tackle and any potential implications for our regulation of the sector.

Under Section 21 of the Freedom of Information Act, we are not required to provide information in response to a request if it is already reasonably accessible to you. We have endeavoured to respond to your questions as comprehensively as possible and we below I have listed various links to information which provide more detail on Ofwat's approach to protecting vulnerable customers, which I hope you may find useful:

- Company scorecards (including in respect of customer engagement): <http://www.ofwat.gov.uk/publications/setting-price-controls-for-2015-20-risk-based-review-recommendations-to-ofwats-board-about-companies-business-plans/>
- WATRS: <http://www.watrs.org/>
- CCWater: <http://www.cewater.org.uk/>
- Ofwat Affordability and Debt report: <http://www.ofwat.gov.uk/publication/affordability-and-debt-2014-15/>
- Supporting information for the report: <http://www.ofwat.gov.uk/publication/affordability-and-debt-2014-15-supporting-information/>

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- Resolving complaints, disputes and company failures – Ofwat’s new casework strategy : <http://www.ofwat.gov.uk/publication/in-1510-resolving-complaints-disputes-and-company-failures-ofwats-new-casework-strategy/>
- The revised debt guidelines (revised in Sept 2015): <http://www.ofwat.gov.uk/publication/dealing-with-household-customers-in-debt-guidelines-2/>
- Ofwat customer vulnerability CEO announcement: <http://www.ofwat.gov.uk/publication/customer-vulnerability-the-regulatory-landscape/>
- Vulnerability Focus report published 18<sup>th</sup> February 2016 <http://www.ofwat.gov.uk/publication/vulnerability-focus-report/>

2. **What steps has Ofwat taken to avoid monopoly situations and to allow for competitiveness in South eastern water supply companies? (This is clearly designated under the WIA 1991 that such conditions are sought). As you will be aware, those who live in Sussex and Kent only have one supplier.**

Areas of work in relation to competition in England and Wales are the responsibility of Defra and specific questions should be directed to them, however we have included other sources of general information which you may find useful below:

<http://www.ofwat.gov.uk/ib-0116-ofwat-sets-out-plans-for-review-of-household-water-competition/>

<https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs>

General information can be found on our website at the links below.

<http://www.ofwat.gov.uk/publication/towards-water-2020-policy-issues-regulating-monopolies/>

<http://www.ofwat.gov.uk/publication/balance-of-risk-risk-and-reward-across-the-water-and-sewerage-value-chain/>

3. **Please describe the process or processes which Ofwat uses to assign pricing for water supply and water discharge.**

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Assigning prices for water supply and water discharge are not normal terms that Ofwat generally recognise.

Under the Water Industry Act companies are allowed to set their own charges subject to conditions that Ofwat set including:

1) The overall price controls we set (further information can be found at the Price Review link below)

<http://www.ofwat.gov.uk/regulated-companies/price-review/price-review-2014/pages>

2) Ofwat charging rules. Ofwat's charging rules can be found at the link above on page 2. Rules 12-17 are the most closely associated with the obligation on companies (set out in their licences) that charges must show no undue discrimination or preference and what this means in practice

General information on pricing can be found here:

<http://www.ofwat.gov.uk/publication/towards-water-2020-policy-issues-promoting-markets/>

Defra's view about Southern Water's programme -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/211980/RFI\\_5563\\_-\\_Southern\\_Water\\_Universal\\_Metering.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211980/RFI_5563_-_Southern_Water_Universal_Metering.pdf)

Annual review page for WRMP setting out review process -

<https://www.gov.uk/guidance/balancing-water-resources>

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review of the decision, please contact:

Programme Office  
Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA  
[mailbox@ofwat.gsi.gov.uk](mailto:mailbox@ofwat.gsi.gov.uk)

If you are not happy with the outcome of that review you can ask the Information Commissioner's Office to consider your complaint. Generally, the ICO will not make

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a decision unless you have exhausted Ofwat's complaints procedure. The ICO can be contacted at:

<https://ico.org.uk/>

or

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow

Yours sincerely,

Christine Manise  
Senior Associate, Freedom of Information  
Operations  
Ofwat  
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██████████  
South East Water  
Rocfort Road  
Snodland  
Kent  
ME6 5AH

6 April 2016

Dear ██████████

### **Provision of services to disabled, chronically sick or elderly customers**

We have had some concerns raised with us by a customer of South East Water about the provision of services to disabled, chronically sick or elderly customers. As you know, Ofwat has previously provided guidance<sup>1</sup> to companies on the essential elements of the policy and procedures we believe are required to meet the needs of these customers – while allowing companies to continue to be innovative in developing additional policies.

Under our risk-based approach, we have not routinely asked companies to provide evidence or list their policies and procedures in this area. But in the light of concerns raised with us, we would like you to explain how you have provided these services to customers – in particular:

- The specialist services that are available to customers under your register (“Service Plus”);
- How you promote this service and engage with customers and other stakeholders;
- How you have made sure that all metered bill payers are able to check their metered consumption (including, for example, resiting meters or providing outreaders) as part of your universal metering programme; and
- How you make sure that your staff are trained to identify customers who may benefit and be aware of how to communicate sensitively and effectively with these customers.

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<sup>1</sup> [http://www.ofwat.gov.uk/wp-content/uploads/2015/10/gud\\_pro\\_specialassistsept08.pdf](http://www.ofwat.gov.uk/wp-content/uploads/2015/10/gud_pro_specialassistsept08.pdf)

For the avoidance of doubt, we are not suggesting that there are any specific problems with these services. We are asking for more details so we can be confident that you are providing these services in line with our guidance (as a minimum set of requirements).

We are happy to receive this information through a bespoke reply, sharing existing publications or documents, or even meeting to talk through these services. We look forward to your reply.

Yours sincerely

**Andy Duff**

**Programme Director, Finance and Governance**

**Ofwat**