

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

By email

4th February 2016

Freedom of Information Act- Request For Information

Reference: FoI 05012016

Dear 

Thank you for your request for information which said the following:

“Please show the following with regards enforced water metering in water stress areas. Please ensure your responses are accurate to January/February 2016.

1. *How Ofwat has as laid down in section 2 of the Water Industry Act 1991 (WIA91)12 as updated by section 39 of the Water Act 2003.13 protected the consumers' interests by sourcing competition within water supply & waste companies?*

2. *How Ofwat have protected the following interest & well being of the following groups:*

- *disabled or chronically sick*;*
- *of pensionable age;*
- *living on low incomes; or*
- *living in rural areas*

+The first category will need referencing with other forms of primary legislation such as the Equalities Act 2010 where a provision, criterion or practice (enforced water metering) has the effect of substantially disadvantaging a person with protected characteristics (disabilities).

3. *Under the primary legislation **Unfair Terms in Consumer Contracts Regulations 1999**, please show how the enforced water metering programme is deemed to be acceptable by the provisions of this Act.”*

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Ofwat can confirm that it does not hold the information in the specific format you have requested. I have included further information that you may find useful with links to published information, in an effort to advise and assist you with your enquiry:-

Compulsory Metering in water stressed areas

We understand your questions to all relate to compulsory metering by water companies in water stressed areas. In questions 1 and 2, you ask how we have complied with our duties as set out in section 2 of the Water Industry Act 1991 (the WIA91), in particular in relation to protecting vulnerable customers. You also ask that we reference the Equalities Act 2010 in our answer and by this we understand you to be asking how we have complied with section 1 of that Act which requires various public authorities to have regard to the needs of certain categories of people when it takes strategic decisions in relation to the exercise of its functions.

Ofwat is a statutory body and its powers and duties are set out in statute, in particular the WIA91. Its primary duties are set out in section 2 WIA91 and, in summary, that provision sets out that in performing various functions, Ofwat must act in a manner which it considers best calculated to further the consumer objective; secure that the functions of an undertaker are properly carried out; secure that undertakers are financeable; and further the resilience objective.

Importantly, in relation to compulsory metering in water stressed areas, Ofwat has no statutory function and therefore the application of section 2 WIA91 does not arise. Similarly, as Ofwat does not have a statutory function in relation to compulsory metering in water stressed areas, section 1 of the Equalities Act 2010 does not apply.

The Water Industry (Prescribed Conditions) Regulations 1999 set out when a company may impose compulsory metering. Companies may apply to the Secretary of State for Environment, Food and Rural Affairs for water scarcity status if they consider they are going to experience problems meeting customers' demands. Companies granted water scarce area status can compulsorily meter their customers, provided this forms part of their Water Resource Management Plan.

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Although Ofwat has no role in the decision to grant a company water scarce area status and therefore our duties do not apply in this instance, we have worked with water companies in the implementation of compulsory metering programmes. For example, we have ensured that tariffs for low income customers and transitional tariffs for those who are likely to experience large changes in their water bills, are in place.

I note your comments with regard to WaterSure and that you are familiar with the scheme. This is not an Ofwat initiative, but it is set out in the Water Industry (Charges) (Vulnerable Groups) (Consolidation) Regulations 2015.

Unfair Terms in Consumer Contracts Regulations 1999

Your third question relates to whether compulsory metering is compatible with the Unfair Terms in Consumer Contracts Regulations 1991. These regulations do not apply to water bills as the relationship between the consumer and the water company is a statutory rather than a contractual relationship.

The following links may provide you with more information on the statutory scheme in relation to compulsory metering in water stressed areas:

Water stressed areas designation -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/244333/water-stressed-classification-2013.pdf

The Water Industry (Charges) (Vulnerable Groups) (Consolidation) Regulations 2015

<http://www.legislation.gov.uk/uksi/2015/365/contents/made>

If you have any queries or concerns with regard to the content of this email please do contact me, quoting the reference number.

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

Freedom of Information/EIR Information Not Held

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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 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,

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