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Trust in water

# **Application process for Water Supply Licence and/or Sewerage Licence (WSSL): guidance**

## **Version 2**

[www.ofwat.gov.uk](http://www.ofwat.gov.uk)

The logo for the Office for Water (ofwat) is displayed in a dark blue font. The letters 'o', 'f', 'a', and 't' are in a standard sans-serif font, while the 'w' is enclosed within a dark blue circle.

## About this document

This guidance is designed to assist those applying for water supply licences and/or sewerage licences (collectively and individually referred to as WSSLs) from April 2016. We will review and update this guidance, where necessary, to ensure that it remains fit for purpose. For those wanting more detail to decide whether or not to apply for a WSSL, please refer to the information published on our website.

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## 1. Introduction

### 1.1 Background

The Water Act 2014 (WA14) has and will introduce a number of measures to reform the water sector in England and Wales. By April 2017, these reforms will result in:

- changes to the current water supply licensing regime by removing the current thresholds applicable to eligible customers served by a company appointed as an undertaker under the Water Industry Act 1991 (an appointed company) that are based wholly or mainly based in England (eligible English customers), allowing a larger number of business customers to choose who supplies them;
- the introduction of a sewerage licensing regime for English business customers; and
- a new regulatory regime for the use of appointed companies' water supply systems and/or sewerage systems through the use of market codes.

Prior to the WA14 amendments, the legislation allowed competition for the provision of retail and wholesale services in water for the largest business customers in England and Wales. Retail services include activities such as billing and customer services and retailers (holders of a Water Supply Licence (WSL), with a 'retail authorisation') were able to buy wholesale services such as a water supply from monopoly companies. Wholesale activities (the introduction of water into an appointed company's network) could be undertaken by the holder of a Combined WSL. Holders of WSLs could compete with other WSLs and the appointed company in its own area, providing retail and wholesale services to business customers that consumed water over the threshold requirement<sup>1</sup>.

From April 2017 when the expanded retail market opens, eligible English customers will be able to choose their retail supplier for both water supply and sewerage

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<sup>1</sup> The threshold amount prior to the WA14 amendments was the total quantity of water estimated to be supplied to the premises annually by the licensee is not less than 5 megalitres (MI)<sup>3</sup> in relation to premises supplied with water using the supply network of an appointed water company whose area is wholly or mainly in England and not less than 50 MI in relation to premises supplied with water using the supply system of an appointed water company whose area is wholly or mainly in Wales.

services. All retailers who wish to participate in this larger market must hold a WSSL(s) with a retail authorisation.

For those business customers who use the water supply system of an appointed company whose area is wholly or mainly in Wales, the scope of the market will remain as it is was prior to the WA14 amendments, reflecting the policy position of the Welsh Government. Those business customers who use the supply system of an appointed company whose area is wholly or mainly in Wales and who meet the 50MI threshold requirement will continue to be able to choose a different supplier for water retail services (eligible Welsh customers). All retailers who wish to participate in this market will have to apply for a WSSL with a restricted retail authorisation allowing them to provide only water retail services to eligible Welsh customers. It will not be possible for a WSSL to provide sewerage services to these customers.

Customers who meet the eligibility criteria under the WSL regime<sup>2</sup> will also be able to choose a WSSL wholesaler. Those wishing to provide a wholesale service to customers served by appointed water companies that are based wholly or mainly based in England must hold a WSSL with a wholesale authorisation. In order to supply customers that are served by appointed water companies that are based wholly or mainly based in Wales, they will need a supplementary authorisation.

The WSSL incorporates standard licence conditions, which are published by the Secretary of State in consultation with Welsh Ministers. If a licensee fails to comply with its licence conditions, enforcement action may be taken against it by Ofwat or the Secretary of State and, ultimately, its licence may be revoked.

In the new market, it will also be possible for individual eligible English customers to elect to become their own retailer and self-supply with retail services. This would allow them to supply their own sites and those of persons associated with them, but would not allow them to become a retailer for any other sites.

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<sup>2</sup> See above footnote.

## 1.2 Structure of this guidance

This guidance is structured as follows:

- Chapter 2 describes the licence application process including the requirements on the applicant and the stages of the assessment process.
- Chapter 3 provides assistance to applicants in completing the application form for a WSSL.

Additionally, there are three appendices which provide additional information for applicants:

- Appendix 1 provides guidance on what should be included in and attached to a business plan. A business plan must be included with each application.
- Appendix 2 provides a copy of the prescribed form of Certificate of Adequacy which must also be completed and included with each application.
- Appendix 3 provides a template for the business plan pro-forma which must also be completed and included with each application.

**Please note, this document sets out our understanding of the applicable law. This document is not a substitute for reading and understanding that applicable law. The document should be read in conjunction with relevant legal instruments and case law. Anyone in doubt about how they may be affected should seek legal advice.**

## 2. The licence application process

An entity that wishes to use an appointed company's supply system or sewerage system for the purpose of supplying water and/or providing sewerage services to customers at eligible premises in England and/or Wales will need a WSSL. This chapter outlines the steps involved in the application process for a WSSL.

Our intention is that the application process should be thorough but not overly burdensome. The requirements as set out in the [Licence Application Notice](#)<sup>3</sup>, the application form attached to the Licence Application Notice, and this guidance ensure that prospective licensees know that they must prove they are fully competent in all areas before we will grant a WSSL.

In the final section of this chapter, we set out detailed process flow charts, which illustrate the various steps, responsible parties, and intended timings through the application process.

### 2.1 Understanding the market arrangements

An applicants must be able to satisfy us that it understands the market in which it is seeking to operate. Chapter 3 below sets out the type of information we would expect from an applicant to demonstrate its understanding and knowledge. To assist applicants, a summary document has been published to help navigate the [legal framework](#) and understand the roles of the various stakeholders in the market.

### 2.2 Potential joint applications for licences in England and Wales and licences in Scotland

The WA14 seeks to establish a cross-border market between England, Wales and Scotland, recognising the separate legal systems and regulators. It will be possible to make an application for licences in England and/or Wales and/or Scotland.

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<sup>3</sup> The Licence Application Notice is a Notice made by Ofwat under section 17F of the WIA91 which determines the requirements which relate to applications for Water Supply and Sewerage Licences, including information on the licence application process and information to be provided by prospective licensees.

However this guidance covers only applications to Ofwat for licences in England and/or Wales.

The assessment processes for applications made for a licence to operate in England and/or Wales and Scotland will be run separately by Ofwat and the Water Industry Commission for Scotland (WICS) respectively. Additionally, Ofwat and WICS will issue their own separate licences.

## **2.3 Making an application**

The Water Industry Act 1991 (WIA91) (as amended by the WA14) provides that the Secretary of State and Ofwat may grant applications for WSSLs. The Secretary of State has issued a general authorisation to Ofwat to grant WSSLs. Ofwat has issued a Licence Application Notice determining the form and manner in which applications may be made and an application form is attached to that notice. Applications for a WSSL must be made in writing and contain the information set out in the Licence Application Notice and the application form. We must have enough information to allow us to assess whether the applicant has the appropriate skills and competencies required of a licensee.

## **2.4 Payment of application fees**

At the same time that an application is made, an applicant must pay an application fee to have its application assessed. The application fee is intended to cover the average cost incurred by Ofwat in processing each application. It does not include any provision for the ongoing costs of regulating licensees. The revenue from application fees will be paid into the Consolidated Fund (that is, to the Exchequer).

The application fee as described in clause 5 of the Licence Application Notice is a fee of £5,250. This will be applicable regardless of the type of WSSL or the number of authorisations requested in relation to those WSSL(s) in a single application form. Payment should be made to Ofwat by cheque or by electronic transfer. Receipts will be issued on request.

An application will not be processed until the application fee has been paid.

## 2.5 Initial screening and public consultation

We will only accept applications that are complete and contain all the information we require. We will not commence our assessment process until we have all the required information and the application fee has been received. We aim to have checked whether an application is complete within 5 working days of receipt.

As soon as reasonably practicable following our decision that we are satisfied that a completed application has been received, we will provide the applicant with written confirmation. The written confirmation will signal the start of our assessment process.

Once we are satisfied that an application is complete, we will publish a notice of the application on our website. The notice will contain only the information contained within the pro-forma, which is to be completed by applicants and submitted with their application. This requires the name, address, and parent company details (if applicable), plus any information they consider to be relevant to a public consultation, for example, the type of licence and authorisations requested, and the geographical areas in which they wish to operate. They may also wish to provide a brief summary of the services that they will provide. The pro-forma is set out at Appendix 3. Publication of this notice will commence our 20 working day public consultation period.

As part of the assessment process we will share the information provided by applicants with the Drinking Water Inspectorate (DWI), Environment Agency (EA) and Natural Resources Wales (NRW). Within the work to plan the application process, Ofwat has reminded the other regulators of the commercial confidentiality of some of the information such as business plans. Applicants will be required as part of completing the application form to confirm that they consent to this information being shared with these organisations. During the 20 working day public consultation period, a review of the application by the DWI, the EA, and where relevant the NRW, will take place. In the event that such a review identifies areas of concern and further information is required, it may in some instances take longer than 20 working days to complete the review.

Finally, with regard to information requests, primarily under the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004, we may be required to publish or disclose information in accordance with this legislation. If the applicant considers that information provided should be treated as confidential they should explain to Ofwat why this is the case. If we receive a request for disclosure of the information we will take into

account the representations provided, but we cannot give an assurance that we can maintain confidentiality in all circumstances.

## 2.6 Our assessment of applications

As part of the assessment of an application, we will consider whether the applicant has the appropriate level of competency to hold the type of WSSL requested. We will do this by assessing a number of key areas, including managerial, financial and technical competencies.

- **Managerial competency** is a key element of our assessment criteria. In particular, we look at: the skills, qualifications and experience of the applicant's staff; whether the applicant has adequate knowledge and understanding of the duties of licensees under the law and licence conditions; its systems and procedures in place for complying with those duties; and the overall quality of the submission. We may invite applicants to a meeting for applicants to demonstrate further their managerial competence.
- With regards to **financial stability**, we consider whether the applicant has sufficient financial resources to finance its obligations under the law and to deliver its business plan and whether it has the capacity to raise new funds in future.
- The applicant should be able to demonstrate that it has **technical competency** relating to measures expected by the DWI, EA and /or NRW - for example, knowledge of the relevant security and emergency measures required. The DWI, EA and NRW will provide an assessment of whether applicants have the technical expertise required.

As detailed above there will be a public consultation on each application and we will consider third party representations submitted in response to the consultation when assessing a licence application. Ordinarily, we expect to provide copies of any third party responses to the applicant. If the responses raise any substantial concerns, we will attempt to resolve these in discussion with the applicant. Having received their responses, we would not expect to consult further with those third parties that make representations on an application.

We expect our detailed assessment of an application to take 40 working days following the closure of the public consultation referred to above. This is an indicative timescale only. The process may take longer should we require further clarification or information from the applicant or if complex issues arise from our assessment or from the representations of third parties. Where we receive an application that

requires amendments to the published WSSL Standard Licence Conditions we will need to run a further consultation of 28 days on the proposed amended licence conditions. This is likely to affect self-supply applications (see below). If we need to run the additional consultation, we aim to process the application within 90 working days.

Chapter 3 of this document and the application form provide details of the information which applicants need to provide us with to demonstrate these competencies. We have not set prescriptive criteria that we will require applicants to fulfil before we will grant a WSSL. The requirements set out aim to ensure that any entity granted a WSSL is competent to be a licensee.

## **2.7 Minded-to-grant subject to market entry assurance certification**

We will issue a minded to grant letter on the successful conclusion of our assessment process. We will not formally grant a WSSL to an applicant until we have received confirmation from MOSL that the applicant has satisfactorily completed [Market Entry Assurance Certification](#) (MEAC). MEAC provides assurance that a company seeking to become a trading party within the retail market has the required systems, processes and capabilities to fulfil its market obligations. Without certification from MOSL, an applicant will not be granted a WSSL and will be unable to participate in the market.

The WSSL application process and market entry assurance process are distinct and separate processes carried out by Ofwat and MOSL respectively. However, the outcomes of each process are interdependent. MOSL will not permit entry to the market entry assurance process unless an applicant has, at the very least, applied for a WSSL.

For clarity, completing the MEAC is a necessary step for Ofwat's consideration of whether to grant a WSSL. However, the completion of the market entry assurance process in no way removes the discretion for Ofwat to approve or reject a licence application.

Following grant of a WSSL, the applicant must also satisfy the remaining trading conditions, including, for example, signing wholesale contracts with those appointed companies in whose area it wishes to provide retail services to customers.

## 2.8 Granting a WSSL

Upon receipt of certification from the MOSL that the applicant has completed the market entry assurance process, we will then be able formally to grant the WSSL. Under section 17F(7) WIA91, as soon as practicable after granting a licence, we are required to serve a copy of the licence on the licensee. We must also serve a copy on:

- the Secretary of State;
- Welsh Ministers;
- the Drinking Water Inspectorate (DWI);
- the Environment Agency (EA)
- Natural Resources Wales (NRW)
- the Consumer Council for Water (CCWater)
- each relevant appointed company<sup>4</sup>; and
- all other WSSL licensees.

We will retain a copy of the licence or variation of the licence on our public register.

When a licence is granted, we will issue a press notice. We will also maintain a list of licensees on our website.

## 2.9 Suspending or refusing a licence application

We may suspend the licence application process under certain circumstances. Examples would be where the applicant has not provided sufficient details for the DWI or the EA/NRW to contribute to the assessment of the application, or if the applicant needs to take action following representations received by us from other third parties during the public consultation.

We will tell the applicant why the application process has been suspended and invite it to remedy the defects. The onus is on the applicant to provide the necessary additional material and we will not continue to consider the application until this is received. If the defects are remedied successfully, the application and timetable will resume from the point at which the application process was suspended.

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<sup>4</sup> This is a company whose supply system or sewerage system could be used by the licensee

Suspending a licence application is not the same as refusing an application. We may refuse an application if, for any reason, the applicant has not demonstrated that it is suitable to be granted a licence. Examples of situations in which we consider it may be appropriate for us to refuse an application are given below.

- We will refuse a licence if the applicant has failed to successfully complete the market entry assurance process.
- We may refuse a licence if the applicant has failed consistently to provide the required information.
- We may refuse a licence if the applicant does not demonstrate to us, the DWI or the EA/NRW that it is competent to hold a licence. For example, if:
  - there is concern about the ability of the applicant to fulfil regulatory requirements;
  - the applicant has not shown a sufficient understanding of what its responsibilities will be as a licensee or the potential consequences of its actions;
  - the applicant does not have a viable business plan;
  - key personnel are shown to be unsuitable; or
  - the applicant has previously had a licence revoked or application refused and cannot show that it has taken steps to address the reasons for the original revocation or refusal.
- We may refuse a licence if we consider that information supplied is false, misleading or incomplete.

This is not an exhaustive list of reasons for refusal.

Section 17F(4) WIA91 provides that if we propose to refuse an application, we must notify the applicant:

- stating that we propose to refuse the application;
- stating the reasons why we propose to refuse the application; and
- specifying the time within which representations or objections to the proposed refusal may be made.

We must consider any representations or objections which are duly made and not withdrawn. The applicant will have the opportunity to make representations or to

submit the necessary additional information to us within a specified time, normally 10 working days. We may refer this additional information to the DWI, the EA or the NRW as appropriate.

Following consideration of any representations we will confirm our decision.

An applicant that has had an application refused is not prohibited from making another application.

## 2.10 The self-supply application process

A WSSL limited to self-supply allows a person to provide retail services to itself and associated persons, for example companies in the same group.

A WSSL limited to self-supply will only be granted to supply premises supplied or served using the supply or sewerage system of an undertaker whose area is wholly or mainly in England. A WSSL limited to self-supply will not be available to provide services to premises supplied using the supply system of an undertaker whose area is wholly or mainly in Wales.

Given that a WSSL limited to self-supply cannot be used to serve customers other than associated persons, these licences will have less onerous licence conditions. Following consultation, we have modified the [WSSL standard conditions](#) for a WSSL limited to self-supply. These modifications are set out in the Table 1 below.

**Table 1: Modifications to WSSL standard conditions for WSSL limited to self-supply**

Part	Relates to	Summary of licence condition	Exclude/modify	Reasoning
	<b>Part A</b>			
4	Certificate of adequacy	Requirement to submit an annual certificate in the prescribed form to confirm the licensee can still meet its obligations under the licence and statute, and has sufficient product and public liability insurance.	Exclude	No unrelated customers are exposed to the risk of a licensee ceasing to trade. Wholesalers are protected by credit provisions within the Wholesale Contract and Wholesale Retail Code.

7	Arm's length transactions	Requirement that all transactions with an undertaker are undertaken at arm's length including no undue preference being shown to an undertaker to which a licensee is related.	Exclude	As the licensee is only purchasing from an undertaker to supply itself and/or associated persons, no unrelated customer requires protection from discriminatory practices.
8	Provision of information	Requirement for the licensee to provide information to Ofwat that Ofwat reasonably requires for the purpose of carrying out its functions under the Water Industry Act 1991 or the Water Act 2014	Modify	The inclusion of an additional requirement for the licensee to publish a list of associated persons/sites that will be supplied under the self-supply licence.
<b>Part B</b>				
2	Customer Protection Code of Practice	Requires the licensee to adhere to the Customer Protection Code of Practice.	Exclude	This is not required as the licensee is supplying itself and/or associated persons and not unrelated customers who would need protection.

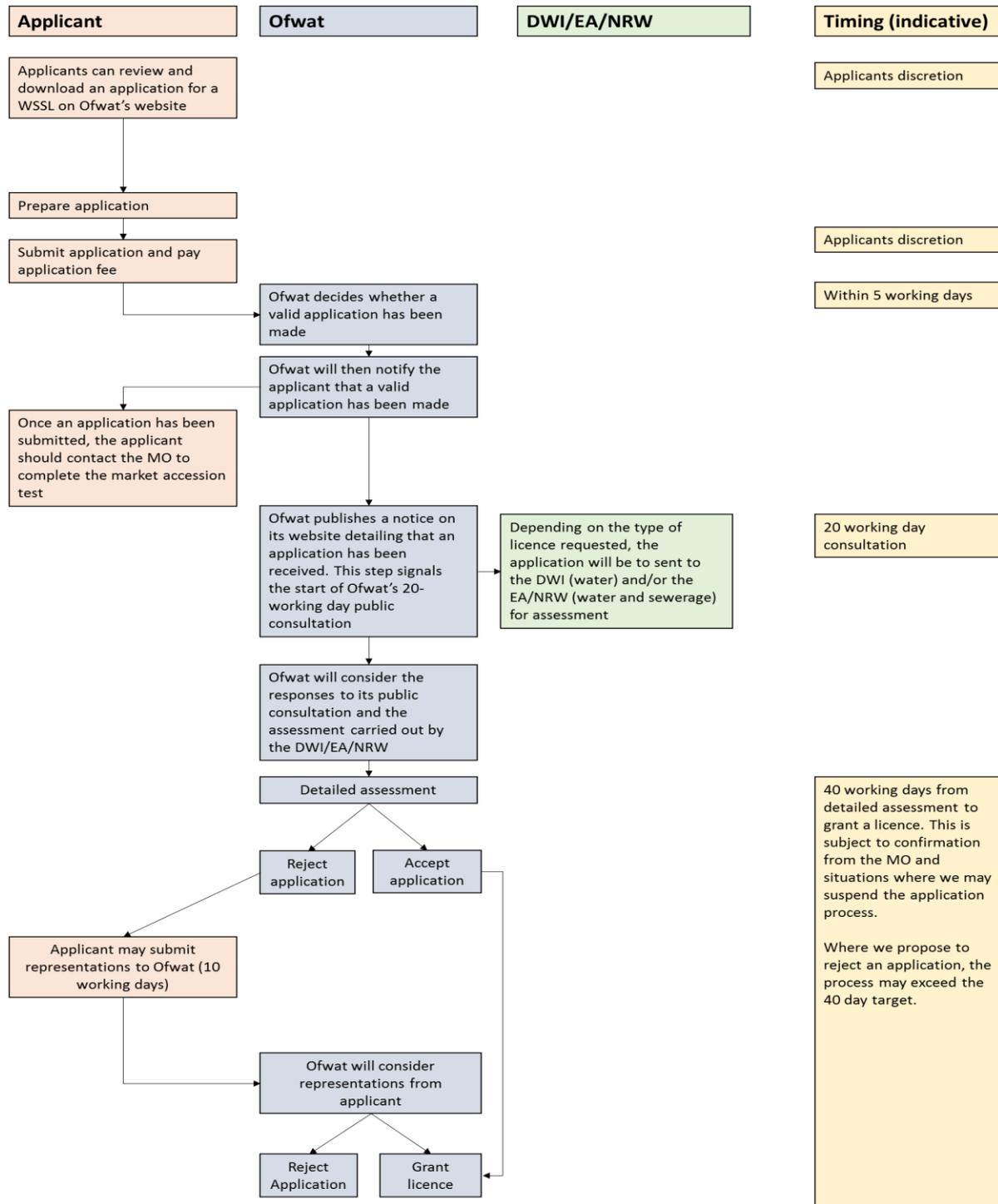
Companies that wish to apply for a self-supply licence must do so in the same way as they would apply for a standard WSSL licence, with the following differences:

- there is no requirement for an applicant for a self-supply licence to submit a certificate of adequacy; and
- an applicant for a self-supply licence must submit a list of associated persons/sites that it intends supplying if a self-supply licence is granted.

In order to enter the market, self-supply licensees will need to make a trading application to MOSL, pass the market entry assurance tests and satisfy the industry code trading conditions.

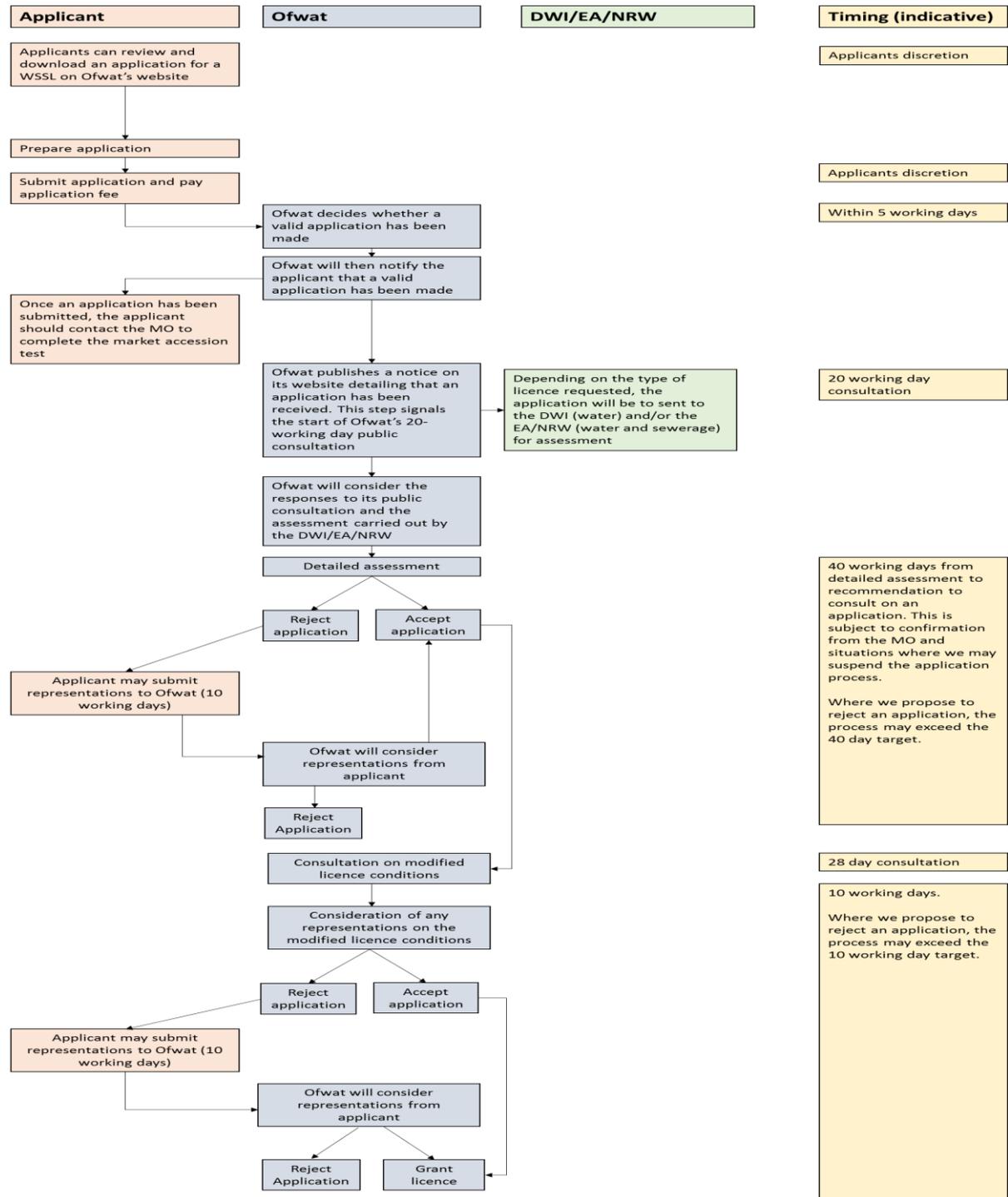
## 2.11 Application flow chart– standard process

The flow chart below illustrates the stages for the various parties and the intended timings through the application process.



## 2.12 Application flow chart– applications requiring modification to licence conditions

The flow chart below illustrates the stages for the various parties and the intended timings through the application process in circumstances where the standard licence conditions require modification.



### **3. The application form**

This chapter outlines the information and supporting documentation that needs to be submitted to Ofwat to make an application for a WSSL.

Each application will be considered on its own merits and will be assessed for managerial competency, financial stability and technical competency. Procedural and statutory requirements will be checked before an application can proceed, for example, ensuring that the application fee has been paid. The application for a licence(s) must be made in writing and the declaration included in the application form signed for or on behalf of the applicant.

We consider that this approach will give confidence to customers, appointed companies and other licensees that any entity granted a WSSL has the capability to be a licensee and has the competency to comply with the Standard Conditions that attach to the WSSL for which they are applying.

The application form is split into five sections. In all instances, applicants must:

- complete and provide all of the information required in section 1 of the application form;
- complete section 2; provide the required enclosures in section 4; and
- sign the declaration in section 5.

The following paragraphs provide details of the type of information we require to assess applications, and should assist applicants in completing the above sections of the application form.

In the period before market opening in April 2017, Ofwat will, within reason, take a pragmatic approach in respect of applicants having to describe their future intentions rather than the existing situation. Our focus will be on the quality and completeness of the explanation provided as to the future intentions. However, responses to the effect that “we have not thought about that yet” will not be acceptable.

## 3.1 Section 1: General particulars

### 3.1.1 Type of application (question 1)

The application form requires applicants to select the type of authorisation(s) for which they are applying.

A summary of the authorisations available under a WSSL licence are shown below:

Applicable area	Type of Authorisation	Type of services that can be provided	Eligible customers that can be served
England	Retail (Water)	Retail services	<ol style="list-style-type: none"> <li>1. the licensee</li> <li>2. persons associated with the licensee</li> <li>3. the licensee's customers</li> </ol>
	Retail (Sewerage)	Retail services	<ol style="list-style-type: none"> <li>1. the licensee</li> <li>2. persons associated with the licensee</li> <li>3. the licensee's customers</li> </ol>
	Retail restricted to self-supply	Retail services	<ol style="list-style-type: none"> <li>1. the licensee</li> <li>2. persons associated with the licensee</li> </ol>

	Wholesale <sup>5</sup>	Wholesale services	The licensee's customers that meet the minimum annual user threshold of 5MI <sup>3</sup>
Wales	Restricted Retail <sup>6</sup>	Retail services	The licensee's customers that meet the minimum annual user threshold of 50MI <sup>3</sup>
	Supplementary <sup>7</sup>	Wholesale services	The licensee's customers that meet the minimum annual user threshold of 50MI <sup>3</sup>

Applicants who select authorisations that are listed as applicable to England are indicating that they would like to use the supply system and/or sewerage system of an appointed company whose area is wholly or mainly in England to provide services to eligible customers. For this purpose, supply system has the meaning given in section 17B(4A) WIA91 and sewerage system has the meaning given in section 17BA(7) WIA91.<sup>8</sup>

Applicants who select authorisations that are listed as applicable to Wales are indicating that they would like to use the supply system of an appointed company whose area is wholly or mainly in Wales to provide services to eligible customers. For this purpose, supply system has the meaning given in section 17B(5) WIA91.<sup>9</sup> Applicants should note that it is not possible to apply for a sewerage licence in

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<sup>5</sup> This is available for water services only and the applicant must be a limited company. In order to apply for a wholesale authorisation, the applicant must already hold a WSSL with a retail or restricted retail authorisation or apply for these at the same time.

<sup>6</sup> This is available for water services only.

<sup>7</sup> This is available for water services only and the applicant must be a limited company. In order to apply for a supplementary authorisation, the applicant must already hold a WSSL with a retail or restricted retail authorisation or apply for these at the same time.

<sup>8</sup> Sections 17B(4A) and 17BA(7) were introduced into the WIA91 by the WA14 and when this guidance was issued had not yet come into effect.

<sup>9</sup> Section 17B(5) was introduced into the WIA91 by the WA14 and when this guidance was issued had not yet come into effect.

relation to the use of sewerage systems of appointed companies whose areas are wholly or mainly in Wales.

Applicants should be aware that there are separate statutory provisions in the WIA91 in relation to water supply and sewerage service provision respectively. In particular applicants should note the offences in sections 66I, 66J and 117P WIA91.

### **3.1.2 Other information about special forms of licence**

By ticking the “self-supply” option in response to question 1(a). Self-supply licensees will have less onerous obligations under the regulatory framework but will also be required to provide some additional information about its premises in their application form.

Ofwat published details of the WSSL limited to self-supply in June 2016. There are minimal differences between the application process for the standard WSSL licence and a self-supply licence as a modified version of the standard licence conditions will apply to self-supply licences. The differences in process are set out in 2.11 and 2.12 above.

### **3.1.3 Contact information (question 2)**

Where the applicant is not an individual, please provide the contact details (contact name, position in applicant’s organisation, postal address, email address and telephone number) of the person who may be contacted concerning the application.

### **3.1.4 Managerial competency (questions 3- 12)**

(Question 3) Where the application is by an individual, please indicate the contact details (business address, telephone number and email address). Where the applicant is not an individual, please indicate the jurisdiction in which the applicant is established and the address of its principal place of business. In setting out the applicant’s legal status, please indicate whether the applicant is, for example, a body corporate, partnership, unincorporated association, individual or some other entity.

(Question 4) The persons concerned in the direction or management of the applicant’s affairs would typically include, in the case of companies, their directors (executive and non-executive) and, in the case of partnerships, each of the partners. In addition, details of any other persons occupying senior management positions (for example, chief executive, financial controller etc.) should be provided where those

individuals will be directly accountable for the licensed part of the applicant's business. If the applicant is an individual the answer to this question should be 'Not applicable' or 'N/A'.

(Question 5) If the applicant has no ultimate controller, the response to this question should be 'Not applicable' or 'N/A'.

For the purpose of the application as a whole, the 'ultimate controller' means a person or undertaking who, acting alone or jointly, has control of the applicant and is not itself controlled by another person or undertaking. Where the applicant is the member of a group of companies, for instance, details would typically be required of the parent company and ultimate controller within that group. The concept of control should be interpreted and assessed in accordance with Merger Regulation (Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 24/1, 29.1.2004)

(Question 6) The applicant should provide details of any relationship it has with an appointed water or sewerage company where there is common ownership or common control. The applicant should also highlight this detail on the organisational structure chart required to be included as an enclosure with the application form. This should make clear the nature of the relationship between the applicant and the relevant company, and the nature of any contractual relationships it has with the company.

(Question 7 and 8) Details should be provided of any current and/or previous employment within a regulated utility of those persons referred to in question 4, along with any professional or industry qualifications that are relevant to the management of the applicant as a licensed retailer or wholesaler as appropriate. This information should include, but is not limited to, regulated utilities within England and Wales.

In addition to any experience in the water and sewerage industry, previous retail experience or previous experience of other regulated utilities such as electricity, gas or telecommunications will be particularly relevant.

(Questions 9) Applicants should give details of all previous or similar applications for a licence by the applicant or any of the persons referred to in question 4, including applications that were refused, withdrawn or otherwise unsuccessful.

(Question 10) Applicants should include details of every occasion on which the applicant or any of the persons referred to in question 4 has been involved with a regulated utility which has been the subject of enforcement or revocation

proceedings in respect of its licence or other authorisation, as well as details of any insolvency event.

(Question 11) Applicants should include pending and anticipated litigation, as well as ongoing litigation. Disclosure should cover not only court proceedings, but also those raised by or before any other tribunal or regulatory agency. Applicants should also indicate the jurisdiction in which each litigation has been raised. Where there is a large number of cases to disclose, for example, in relation to routine debt collection, we are willing to consider disclosure of information on the basis of categories.

(Question 12) Applicants should indicate the jurisdiction in which they were convicted. We would not expect applicants to submit information about minor convictions or penalties, such as routine traffic violations. If applicants are unsure about whether or not something is a 'minor' conviction or penalty, then they should raise it with us prior to making their application. Applicants should note that we regard civil penalties as including any enforcement orders issued by a court, tribunal or other regulatory agency.

If the persons referred to in question 4 have any unspent convictions an individual declaration signed by each of these person(s) should be provided (please see paragraph 3.4.4 for further detail).

### **3.1.5 Financial stability (question 13)**

With regards to **financial stability**, we consider whether the applicant has sufficient financial resources to finance its obligation under the law and to deliver its business plan and has the capacity to raise new funds in future.

(Question 13) The applicant's response to information on financial backing, alongside other enclosures including its business plan and Certificate of Adequacy provides the basis on which we make this assessment. This should contain information regarding the organisational structure and management team, for example CVs for key personnel; corporate strategy; resources for delivery; and both current and forecast financial information, for example audited statutory accounts and annual report (if available). As part of the business plan, we also require declarations, signed by an authorised person, that the applicant will work with CCWater, the DWI, the EA and the NRW. In appendix 1 we set out more detailed guidance on our expectations regarding business plans supporting an application.

### **3.1.6 Further information (questions 14 to 16)**

(Question 14) On 17 March 2016, the Secretary of State published the Standard Conditions of the WSSL which apply to all licences granted under section 17H and section 17HA of the WIA91. In granting a particular licence, we may exclude or modify any of the standard conditions to such an extent as we consider requisite to meet the circumstances of a particular case.

If applicants consider that we should exercise this power in the case of their application, they should set out their reasons in response to this question.

(Questions 15 and 16 on other circumstances or additional information) If the applicant is supplying any additional information in response to this question 15 and 16, such other information may be included in any of the supporting documents submitted with the application form, or it may be included in extra sheets added to the completed form.

## **3.2 Section 2: Additional information**

### **3.2.1 'Fit and proper' requirement (question 1)**

We will have regard to the responses to previous questions in considering whether a person meets our requirement to be fit and proper. In determining whether a person is fit and proper, we will have regard to, but will not be limited to:

- Any statement setting out the circumstances of the case where the person has been convicted of a criminal offence in response to Question 12.
- Any statement setting out the circumstances of the case where the person has been the subject of any adverse finding or any settlement in civil proceedings in response to Question 12.
- Any statement setting out the circumstances of the case where the person is currently involved in litigation in response to Question 11.
- Any statement setting out the circumstances of the case where the person has been the director, partner or concerned in the management of a business that has gone into insolvency liquidation or administration while the person has been involved with that organisation in response to Question 10.
- Whether the person has been, or is currently, the subject of investigation or disciplinary proceedings by any regulatory body. The applicant must provide details of any regulatory investigations or disciplinary proceedings in the last three years involving the applicant (or any of the individuals concerned with the

direction or management of the applicant). A statement setting out the nature of the investigation/ disciplinary matter(s) must be provided.

### **3.2.2 Technical competencies (Questions 2 and 3)**

The applicant should be able to demonstrate that it has adequate knowledge of the issues set out below. For some of these requirements, for example knowledge of the relevant security and emergency measures required, the applicant may be able to fulfil this requirement by showing that it has access to advisers with adequate knowledge of these issues.

The applicant should have an adequate understanding of the legal duties and responsibilities of a licensee, and be able to set out how it will comply with these duties and responsibilities. The applicant should set out how it intends to ensure that it will:

- comply with its duties under the WIA91;
- comply with the Standard Conditions of the WSSL; and
- communicate emergencies and details of sensitive customers to the relevant appointed company.

If the applicant would find it helpful, Ofwat has no objection to them making use of relevant documents, or extracts of documents, that may have been prepared for the MOSL Market Entry Assurance Certification Process to support their answers to these questions. However, applicants should ensure that any documents relied on do directly address the requirements set out here and should provide detailed cross-references to the relevant parts of those documents. So for example, it is unlikely that an answer that said simply “see accompanying document” would be sufficient. We would expect a short narrative explaining what this document was and how the evidence therein addressed the requirements set out here.

In addition to answering the questions on the application form, we have included below an example of a table that applicants may wish to use to demonstrate how they meet their duties and obligations, in particular in relation to the requirements set out by the DWI, EA and NRW. Applicants should refer to the next two sections ‘Requirements from the DWI’ and ‘Requirements from the EA / NRW’ for guidance on the technical competencies and the requirements that their application should cover.

Regulation		Description	Owner	How we are/will be addressing this
<b>Water Industry Act</b>				
39C	Drought plans: provision of information	...	...	...
<b>Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008</b>				
...	...	...	...	...
<b>WSSL licence conditions</b>				
...	...	...	...	...
<b>Water Industry (Suppliers' Information) Direction 2012</b>				
...	...	...	...	...
<b>Water Supply (Water Fittings) Regulations etc.</b>				
...	...	...	...	...

### 3.2.3 Requirements from the DWI

The DWI is concerned to ensure that applicants for a WSSL have an overall understanding of water supply and water quality issues and the potential environmental impacts that can arise from their usage of supply systems so that licensees' activities do not have a detrimental effect on an appointed company's supply system. The application form provides an opportunity for applicants to provide evidence of its understanding of its duties and obligations.

Applicants should demonstrate an understanding of the role of the DWI and of the responsibilities of licensees under the relevant sections of the WIA91, relevant regulations, licence conditions and market codes including:

- an understanding of the relationship between the wholesaler, the retailer and the customer in relation to planned and unplanned interruptions to supply and water quality incidents. The information that should be provided in relation to this requirement includes:
  - an understanding of the communication requirements between the parties and what will be put in place in relation to these requirements;
  - details of any assistance that will be given during any incidents and to whom;
  - details of the processes and capability that will be in place to deal with such incidents; and
  - details of how sensitive sites will be dealt with.

- the regulatory requirement to provide wholesome water;
- the definition of water unfit for human consumption;
- the penalties for supplying water unfit for human consumption;
- an understanding of the reporting requirements of licensees, including the provision of information under the Water Undertakers (Information) Direction 2012 and the provision of a public record as specified in Regulation 34 of the Water Supply (Water Quality) Regulations 2010;
- the implications for licensees of the Water Supply (Water Fittings) Regulations<sup>10</sup>;
- relevant security and emergency directions issued by Defra and/or the Welsh Government. Licensees may sub-contract the implementation of the plans made under these directions, but will need an understanding of the situations that can arise and of the potential need for appointed companies to communicate directly with the licensee's customers;
- the appointed company's Water Resources Management Plan and Drought Plan and the licensee's responsibilities in helping to develop, maintain and action these plans;
- the management of planned and unplanned events including droughts; and
- the duty to promote the efficient use of water under section 93A of the WIA91.

There is further guidance on the [DWI website](#).

### **3.2.4 Requirements from the EA / NRW**

The EA and NRW are concerned to ensure that applicants for a WSSL have an overall understanding of the potential environmental impacts that can arise from their usage of water supply and/or sewerage systems. Applicants will also need an understanding of water supply and sewerage systems and their role in managing water demand. This is to ensure that licensees' work does not have a detrimental effect on the appointed water company's network, sewerage treatment processes or the environment. This will include:

- an overall understanding of domestic and non-domestic drainage, sewage (including trade effluent) and sewerage systems;
- an overall understanding of sewerage and sewage treatment processes;
- the potential environmental impacts that might arise from discharges into and from sewerage systems;

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<sup>10</sup> The Water Supply (Water Fittings) Regulations 1999 (SI 1999/1148, amended by SI 1999/1506 and SI 2005/2035).

- an understanding of the responsibilities with regard to customer contact about environmental incidents such as flooding or pollution, including:
  - details of how telephone calls will be managed and tracked both in and out of office hours;
  - details of the roles and responsibilities identified and the asset owner (if appropriate);
  - details of any set timescales for information to be forwarded to the asset owner (if appropriate) and / or the regulator (EA or NRW); and
  - details of any monitoring and reviews that will be undertaken in delivering against any set timescales;
- 
- demonstration of knowledge and awareness of more sustainable approaches to surface water drainage (SuDS) and details of proposed customer engagement;
  - demonstration of knowledge and awareness of the relevant appointed company's Water Resources Management Plan and Drought Plan and the responsibilities that exist in helping to develop, maintain and action these;
  - the management of planned and unplanned events including droughts and details of support that will be provided to the relevant appointed company during these incidents; and
  - demonstration of knowledge and awareness of the duty to promote the efficient use of water under section 93A of the WIA91 and details of how water efficiency will be promoted including what information will be provided to customers.

### **3.2.5 Eligibility issues (question 4)**

Applicants should demonstrate that they have the understanding and procedures in place to ensure that they can identify whether a customer is eligible for switching. The distinction between eligibility requirements for retail, restricted retail, wholesale and supplementary authorisations should also be addressed.

### **3.2.6 Customer facing systems and market interface (questions 5 and 6)**

Recent experience in the energy market has demonstrated that problems related to customer service can compromise the switching process for customers and undermine general confidence in the market. So as some licence holders will increase the scale of their business very rapidly as a result of being an acquiring licensee for a company exiting the retail market, or through other activity in the new market, we have included a question on this issue.

Question 5 asks applicants to explain how they have satisfied themselves that their customer facing systems and procedures have the capacity and capability to support the proposed business plan. The question is designed to get applicants to explain what design thinking and/or testing they have done to make sure that if they do acquire large numbers of customers, they can maintain service standards for both their existing and new customers. We expect this to cover aspects such as IT systems and staffing levels and training.

By customer facing systems and procedures, we mean those systems and procedures that applicants use for any element of service after a customer has signed-up with them, until the point at which that customer transfers to another retailer. Aspects such as sales and marketing are of less concern since the impact of any deficiencies will be on the applicant rather than the customer.

The question has been designed to be proportional for different types of applicants. So for example, applicants who have only a small number of customers or whose business plans do not signal rapid growth in customer numbers will need to provide less information than those who intend to grow quickly.

Question 6 also seeks confirmation as to whether the applicant intends to seek market entry assurance certification for the use of the low or high volume interface. This is to help ensure that the scale of plans set out in the licence application process is consistent with the interface capability.

### **3.2.7 Transferable certification within the MOSL market entry assurance process (question 7a and 7b)**

MOSL has decided to allow the transfer of certification from “incumbent retailer” to an associate retailer who will make use of the certified capability for operation in the live market. This assumes that Defra approves the exit application.

Where an applicant intends to make use of transferable certification, it must explain this in the response to this question. Applicants are asked to explain the circumstances behind this approach, together with the expected timing and details of the transfer. The response should also explain the steps that they plan to ensure that the transfer will be effective (e.g. the quality and breadth of capability will be as expected) and reliable (e.g. that the applicant will have control of the capability). Applicants should also comment on their contingency plans in the event that the transfer does not proceed as planned as well as how they will ensure that their Certificate of Adequacy remains valid.

### **3.2.8 Fee (question 8)**

As detailed at paragraph 2.4 above, the applicant must submit the application fee with the application form. Until the fee is provided, the processing of the application form will not commence. An applicant may pay the fee by either electronic transfer or cheque. If you wish to pay by electronic transfer please contact Ofwat's Case Management Office at [casemanagementoffice@ofwat.gsi.gov.uk](mailto:casemanagementoffice@ofwat.gsi.gov.uk) for further details. If you are paying by cheque, please make this payable to "The Water Services Regulation Authority".

## **3.3 Section 3**

Section 3 of the form has been intentionally left blank pending future developments of the application process.

## **3.4 Section 4: Enclosures**

This section provides a list of tick boxes to ensure that all the additional documents required by the Licence Application Notice are included with the application form. If you do not provide the information required within this section we will be unable to process your application.

### **3.4.1 Fee**

Please ensure that you have enclosed the application fee.

### **3.4.2 List of sites to be served (Self-Supply applicants only)**

Please ensure that you have provided a list of sites and/or associated persons to be served.

## **Evidence of managerial competency**

The application should be supported by the following enclosures which will provide evidence to help our assessment of the competency of management.

### **3.4.3 CVs for key personnel**

Please refer to Appendix 1 of this guidance for more information.

### **3.4.4 Organisational structure**

Please refer to Appendix 1 of this guidance for more information.

### **3.4.5 Statement of any unspent criminal convictions**

The applicant must provide details of any criminal cases which involve the applicant (or any of the individuals concerned with the direction or management of the applicant) where the applicant (or the individuals concerned) have pleaded guilty or have been found guilty of a criminal offence and/or been subjected to a civil penalty. A statement setting out the circumstances of the case(s) must be provided.

If the applicant (or any of the individuals concerned with the direction or management of the applicant) do not have unspent convictions, then a declaration to that effect from each of the individuals must be submitted as an enclosure to the application form (see paragraph 3.4.5 below).

### **3.4.6 Declarations of ‘fit and proper’ status**

Subject to paragraph 3.4.5 above, a declaration must be provided as an enclosure to the application form by all persons concerned with the direction or management of the applicant, stating that the person:

- Does not have any unspent convictions
- Has not been the subject of any adverse finding or settlement in civil proceedings
- Is not, or has not been the subject of a regulatory investigation or disciplinary proceedings
- Has not been involved in the management of a business that has gone into insolvency liquidation or administration while the person has been connected with that organisation, or within one year of that connection.

### **Evidence of financial stability**

The application should be supported by the following enclosures which will provide evidence to help our assessment of the financial stability of the applicant.

### **3.4.7 Business plan**

Please refer to Appendix 1 of this guidance for more information.

### **3.4.8 Audited statutory accounts and annual report if available**

Please refer to Appendix 1 of this guidance for more information.

### **3.4.9 Certificate of adequacy**

The Standard Licence Conditions for WSSLs place an obligation on all licence holders to submit a certificate of adequacy each year to confirm that they have sufficient management, financial, technical, operational and other resources to meet their obligations under the licence. As part of the application process for a new

WSSL, applicants (with the exception of those making an application for self-supply) are required to provide a completed certificate of adequacy at the time of application.

It is important that when preparing the certificate, the applicant has in mind the details of its proposed business plan. So for example, if an applicant is preparing to become an acquiring licensee following a retail exit by one of the appointed companies, its view on the adequacy of resources should be expressed for the scale of business that will be required after the exit process has been completed. The same considerations would apply if the applicant's intended business model was to acquire a substantial portfolio of customers as a result of a competitive tendering process, or through a commercial transaction with another retailer.

The certificate of adequacy is based on self-assurance, and there is no requirement for an applicant to obtain third-party assurance. Where the applicant has chosen to undertake specific internal or external reviews prior to submission of the completed certificate, it may wish to provide a summary of these reviews as additional evidence in support of its submission.

A copy of the certificate of adequacy which needs to be completed on application is available in Appendix 2.

### **3.4.10 Statement from financial backer (if appropriate)**

If the applicant is being supported by a financial backer, the business plan should be accompanied by a declaration from the financial backer that they are willing to provide funds based on the business plan. This should be submitted on headed paper. 'Financial backers' are those entities that the business plan indicates are expected to provide all or most of the finance for the applicant's activities over the following three year period. They may include lenders or the applicant's parent company. If finance is intended to be provided from more than one source, the applicant should provide a declaration from each major backer. These declarations will not constitute a guarantee that funds will be available, but are intended to give us additional assurance that new licensees will be able to fund their functions.

### **Evidence of technical competency**

The application should be supported by the following enclosures which will provide evidence to help our assessment of the technical competency.

### **3.4.11 A declaration from the applicant that, if granted a licence, it will work positively with CCWater, the DWI, the EA and the NRW**

The applicant is required to provide a declaration that, if granted a licence, it will work positively with the CCWater. CCWater has a duty to represent and provide information to consumers, including those supplied by a licensee.

Section 29 of the WIA91 gives CCWater the power to investigate a complaint against any water supply or sewerage licensee, where the customer has been unable to resolve the matter directly. Applicants should highlight the role of CCWater within their own complaint procedures.

Applicants should also be aware that CCWater will be able to direct licensees to provide information that it requires for the purpose of carrying out its functions.<sup>11</sup> The requirement for a declaration is intended to make the applicant aware of CCWater and its role and that they will need to work together. Further information on CCWater's role is available on its website [www.cewater.org.uk](http://www.cewater.org.uk).

In addition to demonstrating how the applicant meets the required technical competencies, the applicant is also required to provide a declaration that, if granted a licence, it will work positively with the DWI, the EA and the NRW, and that it will provide information that the organisations request.

### **3.4.12 Declarations that persons detailed at question 4 of the application form are aware of the responsibilities of licensees under the WIA91, including responsibilities in relation to security issues under section 208 WIA91**

The requirement for a declaration is intended to direct the attention of the applicant to the responsibilities of licensees as set out in the WIA91, and particularly to the responsibilities in relation to security issues set out in section 208 of the WIA91.

## **3.5 Section 5: Declaration**

The declaration made is a personal declaration made by the person signing the application form. Where that person is not an individual applicant for a licence (or

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<sup>11</sup> See section 27H of the WIA91.

licences), e.g. if the person signing the form is signing on behalf of his or her company, the term “enquiry of the applicant” means enquiry of the company.

Except in the case of an individual applicant, we would expect this declaration to be made by one of the persons named in response to question 4, and preferably, by the person occupying the most senior executive position within this group.

## **Appendix 1: Business plan guidance**

### **A1.1 Introduction**

As part of the application process, we will need to assess the applicant's capabilities to carry out the activities authorised by the type of licence for which it is applying. The applicant's business plan is a key document in support of the applicant's licence application and provides the applicant with the opportunity to demonstrate that it has the following expected competencies:

- Relevant knowledge, expertise and experience;
- Financial acumen and business viability;
- Effective governance and management arrangements.

We will require applicants to provide specific supporting information to assist us in our assessment. We will look to see whether an applicant has demonstrated that it has appropriate financial stability, managerial competence, and an understanding of the legal framework and of the responsibilities of a licensee.

#### **A1.1.1 Business plans**

To assess an applicant's financial and managerial viability, we will require each applicant to submit a business plan. The applicant must set out the business plan in the prescribed structure. This guidance provides the issues to be addressed in each section of the business plan.

#### **A1.1.2 General guidance for completion of business plans**

Applicants should bear in mind the following points:

- The specific guidance set out at the beginning of each section below is designed to be a helpful prompt to the applicant on the type of information we require to undertake our assessment. It does not preclude additional information being provided that the applicant feels may be helpful in support of its application.
- Providing answers to the business plan questions is the essential minimum required, and Ofwat expects the applicant to demonstrate that it has the required managerial, financial and technical capability to perform adequately the activities authorised by the licence.

- The purpose of the business plan is to assess the applicant's proposed approach to undertaking the licensed activities. To that end the business plan should refer to the applicant's approach to only those licensed activities.
- The business plan should demonstrate that the applicant's licensed business will be suitably independent of the applicant's (or any related companies') other activities.
- The business plan should be accompanied by a covering letter confirming that it has been agreed by those persons concerned in the direction or management of the applicant.

Applicants should follow the prescribed structure below when writing their business plans. Please see the following sections for more information:

- Executive Summary (1.1.3.)
- Corporate Structure and Management Team (1.1.4.)
- Strategy (1.1.5.)
- Delivery (1.1.6.)
- Financial Information (1.1.7.)

When considering an applicant's submission, Ofwat will have particular regard to the following for all sections of the business plan:

- The completeness, detail and reasonableness of the assumptions;
- Documentary evidence of the formal adoption of the business plan by the responsible person; and
- Consistency across and between all sections of the business plan.

### **A1.1.3 Content of business plan**

The applicant's business plan should as a minimum cover the three years following its application, be presented in the prescribed structure set out below, and contain the information listed below. These requirements should be seen as a minimum; in most cases we would expect applicants to provide additional supporting information where this is appropriate. The onus is on the applicant to ensure that its plan includes all information necessary to make an informed assessment of its financial and managerial viability.

The business plan should include any assumptions underlying the applicant's financial projections.

#### **A1.1.4 Executive summary**

This section should provide us with a high level summary of key points from the applicant's business plan and the activities it plans to undertake if granted a WSSL .

#### **A1.1.5 Corporate structure and management team**

##### **Purpose of the section**

The purpose of this section of the business plan is for the applicant to demonstrate that it has the knowledge, expertise and experience to operate a water supply and/or sewerage services business. The applicant should also ensure that its business will comply with best practice in corporate governance. It is essential for the applicant to demonstrate that its licensed business is suitably independent of the applicant's (or its parent's or associate's) other activities. In particular, the applicant must ensure arms-length trading in situations where the applicant is part of a group of companies that includes an appointed company that is already regulated by Ofwat.

##### **Outline of issues to be addressed**

To demonstrate this managerial competence, the applicant should ensure that the following questions have been addressed:

- What is the organisational structure of the business? (Applicants should provide a diagram of the overall company structure.)
  - Where the applicant is a member of a group of companies, the diagram should show all the members of the group up to and including any ultimate controller. The diagram should illustrate each company which directly or indirectly controls the applicant, and the companies that are directly or indirectly controlled by the applicant.
- What are the key roles within the organisation and their associated responsibilities? (Applicants should provide a management structure diagram/organogram.)
  - Where there is overlap in personnel holding positions in the proposed WSSL business with an appointed company that is already regulated by Ofwat, at least one member of the senior management team should be independent of that other company. Where there is overlap in roles, these should be clearly identified.

- What skills does the applicant consider are prerequisites of the key roles identified?
- Who has been identified to fill those key roles?
- Do the individuals identified to fill the key roles have the skills necessary to fulfil the requirements of the key roles? (Applicants should include the CVs of those people who have been appointed to the key roles and other key personnel. These should include details of any professional qualifications and relevant experience.)
- Details of sub-contractors who will be involved in the licensed activity should be provided.
- What are the applicant's corporate governance arrangements?
- Who are the applicant's advisers, including accountants, lawyers and technical advisers? (Applicants should provide information on how the applicant plans to make use of their expertise.)
- Applicants should state, if they are associated with an appointed company, the steps which that appointed company has taken to ensure that the applicant is given no undue preference compared to other market participants.

### **A1.1.6 Strategy**

#### **Purpose of the section**

In this section, the applicant should set out its strategy for its intended operation in the market and environment.

#### **Outline of areas to be addressed**

- What is the applicant's strategy for the business? In particular:
  - What are the applicant's objectives for the first three years of operation?
  - What are the timescales for delivery of the applicant's key overall objectives?
  - Which customers will the applicant be serving or targeting?
  - Whether the applicant intends to be an acquiring licensee under the Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016?
- What impact, if any, will the proposed strategy have on customers? For example, how will the level of service to existing customers be affected and how does the applicant propose to measure this impact?
- What pricing strategy does the applicant propose to adopt with its customers?

## **A1.1.7 Delivery**

### **Purpose of the section**

In this section, the applicant should set out the resources that it considers it requires to deliver the strategy described in the preceding section.

### **Outline of areas to be addressed**

- What resources does the applicant need to deliver its strategy? The applicant should address this question in relation to the following:
  - Assets required (for example, call centre and IT.) This should be cross-referenced with the opening balance sheet where it is intended that the assets will be owned by the applicant. Where the assets are not owned by the applicant, the applicant should outline from whom (and on what commercial terms) the principal assets will be leased/ main services outsourced).
  - Details of the workforce in terms of total planned numbers and by department;
  - What are the current proposals for staff development including recruitment or training plans (in particular details about training plans should address the technical competencies)?
- How does the applicant intend to manage its key relationships (e.g. with its wholesaler, CCWater, the DWI, the EA and the NRW as appropriate)? Applicants should provide a declaration signed by a responsible person to state that they will work with CCWater, DWI and EA/ NRW as appropriate. Also see section 3.2.2 above for information on the technical competencies.
- What provisions has the applicant made to deal with emergency situations and issues of security of supply and what allowances have been made for associated costs? (For example, how will the applicant work with the wholesaler to manage and resolve emergencies such as drinking water contamination?) Also see section 3.2.2 above for information on the technical competencies.
- What provisions has the applicant made to manage operational incidents? (For example, how will the applicant work with the wholesaler to manage and resolve operational matters such as planned and unplanned interruptions to supply and metering issues?) Also see section 3.2.2 above for information on the technical competencies.

## **A1.1.8 Financial and asset information**

### **Purpose of the section**

The applicant should demonstrate its financial acumen and the viability of the business it has proposed. This section should focus on the finance required by the business, consistent with the expenditure needs identified in the previous two sections. The financial information should be provided in the form of an Excel spreadsheet, with a clear narrative demonstrating any underlying assumptions that have been made.

### **Outline of areas to be addressed**

- What are the estimated costs that will be incurred in providing services to its customers or to itself?
- What is the estimated revenue that will accrue from those customers?
- Does the applicant consider that these factors will change over time and if so, how?

Ofwat expects that the applicant will ensure that the financial information set out below has been provided.

- Opening balance sheet and relevant financial assumptions providing a detailed analysis of start-up assets and activities;
- Information regarding the funding arrangements of the business, in particular the capital structure and working capital arrangements;
- Projected closing balance sheets for the following three years (to include an annual breakdown);
- Three years' projected cash flow statements (to include an annual breakdown);
- Three years' projected profit and loss statements (to include an annual breakdown). These statements should provide the projected turnover figure from licensed activities and refer to turnover from other activities if they have a material impact on financial projections;
- Forecasts of revenue. The applicant should ensure that revenue forecasts are consistent with information provided in previous sections and relate only to the activities that will be covered by the WSSL;
- Expose any material financing assumptions, including cost of debt or equity, critical financial indicators or covenants, implied capital structure and dividend policy; and
- Details of any measures that the applicant and its associated companies consider are necessary to ensure appropriate arm's length trading between themselves.

The applicant should provide commentary as appropriate on the items in these statements.

## Appendix 2: Prescribed form for certificate of adequacy

### Form of certificate of adequacy determined by the Authority pursuant to Standard Condition 4(1) for water supply and sewerage licences

Standard Condition 4 of the water supply and/or sewerage licence(s) of [insert company name] (the “**Licensee**”) granted pursuant to section 17A and / or section 17BA of the Water Industry Act 1991 (the “**Licence**”) requires that an authorised signatory of the Licensee certify to the Authority that all of the arrangements required by Standard Condition 3 are in place and that the Licensee has, and will have until 31 March in the following year, all the management, financial, technical, operational and other resources needed for securing that it is able to meet the obligations mentioned in Standard Condition 3.

Standard Condition 3 provides that the Licensee shall ensure that all such arrangements have been made as are necessary for securing that:

- (a) it is and continues to be able to meet its obligations under:
  - (i) its Licence; and
  - (ii) any statutory requirement imposed on it and which applies to the activities authorised by its Licence; and
- (b) it has sufficient product and public liability insurance for the activities authorised by its Licence.

In compliance with Standard Licence Condition 4, and having made appropriate enquiries into the Licensee's resources, the authorised signatory whose name appears below certifies on behalf of the Licensee:

- (1) that all of the arrangements required for the Licensee to meet its obligations mentioned in Standard Condition 3 are in place; and
- (2) that the Licensee has, and will have, until 31 March [insert year], all the management, financial, technical, operational and other resources needed for securing that it is able to meet the obligations mentioned in Standard Condition 3.

**[Insert full name and job title of the director, company secretary or other authorised signatory responsible for this certificate. Please refer to the Guidance for the appropriate level of person to give the certificate]**

For and on behalf of **[insert licensee/proposed licensee name]**

Date **[insert date of issue]**

## Appendix 3: Business Plan pro-forma

Please refer to section 2.5 of the guidance.

The purpose of this document is to provide information that the applicant consents to be published as part of the notice of application which forms the commencement of Ofwat's 20 working day public consultation period.

### **Please provide the following details for the applicant:**

Applicant's name:

Regulated owners or associates<sup>12</sup>:

Registered company number (if applicable):

Contact Address:

### **Please provide a brief synopsis of the business plan (around 50 words) that can be published with the notice of application as part of the public consultation**

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<sup>12</sup> These are companies that sit within the group that are regulated by Ofwat

## Glossary of terms

**Application fee:** Fee that is to accompany an application, as set out in the Licence Application Notice.

**Application form:** the form as contained in the schedule to the Licence Application Notice.

**Appointed company:** A company holding an appointment under the WIA91 as a water and/or sewerage undertaker for a defined geographic area of England and Wales.

**CCWater:** The Consumer Council for Water.

**Certificate of adequacy:** A statement from the licensee that it continues to have adequate resources and competencies to meet its obligations under its water supply and sewerage licences for at least 12 months.

**Drinking water safety plans:** Preventative plans encompassing all steps in water protection from catchment to the consumer. See DWI Information letter 06/2004 (available on DWI's website) for more information.

**DWI:** The Drinking Water Inspectorate, responsible for regulating public water supplies in England and Wales. The DWI is responsible for assessing the quality of drinking water, taking enforcement action if standards are not being met, and taking appropriate action when water is unfit for human consumption.

**EA:** The Environmental Agency, an executive, non-departmental government body that has a statutory duty to protect and enhance the environment in England.

**Instrument of Appointment:** An appointment made by the Secretary of State or the Authority for a company to provide water or sewerage services in part of England or Wales. The Instrument of Appointment imposes conditions on the relevant appointed company which Ofwat enforces.

**Licence Application Notice:** the notice issued by Ofwat under section 17F of the WIA91.

**Licensee:** The holder of a water supply licence and / or sewerage licence.

**NRW:** Natural Resources Body for Wales, is a Welsh Government sponsored body, responsible for the management of the natural resources of Wales.

**Ofwat:** The Water Services Regulation Authority.

**Restricted retail authorisation:** An authorisation in the water supply licence that allows the licensee to use the supply system of an appointed water company whose area is wholly or mainly in Wales for the purpose of supplying retail services to eligible premises that use 50 megalitres or more water a year (Schedule 2A WIA91).

**Retail authorisation:** An authorisation in the water supply or sewerage licence that allows the licensee to use the supply system of an appointed water company and the sewerage system of an appointed sewerage company whose area is wholly or mainly in England for the purpose of supplying retail services to eligible premises (Schedules 2A and 2B WIA91).

**Sewerage system:** as defined in section 17BA(7) of the WIA91.

**Scottish licence:** means a licence granted by the WICS pursuant to the Water Services etc (Scotland) Act 2005.

**Standard Conditions of the WSSL:** The standard terms and conditions of Water Supply and Sewerage Licences published by the Secretary of State (for Environment, Food and Rural Affairs) pursuant to sections 17H and 17HA of the WIA91.

**Self-supply Licensee:** A holder of a WSSL that provides retail services to its own premises and/or those of its associates (for example, subsidiaries or partners) in the areas of appointed companies wholly or mainly in England.

**Sensitive customer:** Defined in Standard Condition 6 as a vulnerable non-household customer, including any non-household customer for eligible premises occupied by the sick; the elderly; the disabled; or other vulnerable sections of the population; and/or which is a hospital; or a school.

**Supply system:** as defined in section 17B of the WIA91.

**WA14:** Water Act 2014.

**WIA91:** Water Industry Act 1991.

**WICS:** the Water Industry Commission for Scotland.

**WSSL:** Water Supply and Sewerage Licences as defined in the WIA91.