

May 2018

Trust in water

Application guidance for Water Supply and Sewerage Licence (WSSL) limited to self-supply

www.ofwat.gov.uk

ofwat

The impacts of Covid-19 are being felt across the whole of the UK economy. Understandably, this is a time of considerable uncertainty for all market participants and Ofwat has to ensure that it continues to protect the interests of customers in the business retail market. Within this context, Ofwat has to ensure prospective licensees provide robust evidence and assurance of their financial stability. We are publishing this clarification to [our guidance for Water Supply and Sewerage Licence \(WSSL\) applications](#) (**'our guidance'**) to set out our expectations.

[Our guidance](#) sets out that we may suspend the WSSL application process under certain circumstances. Where we suspend the processing of an application, we will set out our reasoning for this and provide the applicant with the opportunity to address the concerns we have raised. If we are satisfied that the applicant has responded fully and satisfactorily, the application and timetable will resume from the point at which the application process was suspended. We may also refuse to progress a WSSL application if, for any reason, the applicant has not provided sufficient evidence to demonstrate that it is suitable to be granted a WSSL, including where the applicant has not submitted a viable business plan.

Given the challenges posed by Covid-19 and the potential impact of adverse economic conditions on the business retail market, we will apply our guidance to only grant licences where applicants provide compelling evidence of robust capitalisation and strong financial resilience. This should be demonstrated by substantial shareholder investment that is clearly ring-fenced for that applicant with no recourse to [market liquidity support measures](#).

Ofwat will only progress applications where applicants provide sufficient evidence to demonstrate they have taken into account the impacts of Covid-19 on their business plans. This should include impacts on financial projections and evidence of testing against a number of scenarios (such as a possible reduction in customer numbers and/or adverse customer growth). We also expect applicants to evidence that they are keeping up to date with developments in the business retail market.

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) with retail authorisations limited to self-supply. 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 with a retail authorisation that is limited to self-supply, please refer to the information published on our [website](#).

Applicants seeking to apply for a WSSL that is not limited to self-supply should read the related [guidance](#) and complete the separate [application form](#).

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 independent legal advice.

Contents

1. Introduction	4
2. Self-supply	6
3. The licence application process	13
4. The application form and supporting information	22
Glossary of terms	32

1. Introduction

1.1 Structure of this guidance

This guidance is structured as follows:

- Chapter 2 provides background on WSSLs limited to self-supply and provides information on the legal obligations of licensees limited to self-supply operating in the business retail market.
- Chapter 3 describes the application process including the requirements on the applicant and the stages of the assessment process.
- Chapter 4 provides guidance to applicants in completing the application form and the supporting information required.

1.2 Background

The Water Act 2014 (WA14) introduced a number of measures to reform the water sector in England and Wales. From April 2017, these reforms resulted in:

- changes to the water supply licensing regime by removing the thresholds applicable to eligible customers served by an appointed company and operating wholly or mainly in England (eligible English customers), allowing a larger number of eligible business, charity and public sector customers (“Business Customers”) in England and Wales to choose who supplies them¹;
- the introduction of a sewerage licensing regime for English business customers;
- the introduction of a licence limited to self-supply (where the water supply or sewerage system of an undertaker operating wholly or mainly in England is used); and
- a new regulatory regime for the use of appointed companies’ water supply systems and/or sewerage systems through the use of market codes.

As of April 2017 when the expanded retail market opened, eligible English customers have been able to choose their retail supplier for both water supply and sewerage services. All retailers who wish to participate in this larger market must apply for and be granted a WSSL(s) with a retail authorisation. Eligible English customers are also

¹ The threshold amount prior to the WA14 (i.e. the total quantity of water estimated to be supplied to the premises annually by the licensee) was not less than 5 megalitres (Ml) 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 Ml in relation to premises supplied with water using the supply system of an appointed water company whose area is wholly or mainly in Wales.

able to choose to act as their own retailer by having a WSSL with a retail authorisation that is limited to self-supply.

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 retail market has remained as it was prior to the WA14, reflecting the policy position of the Welsh Government. This means that 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 requirement² 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 and be granted 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. It is also not possible to use a WSSL limited to self-supply for supplying water to eligible Welsh customers.

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.

² See previous footnote.

2. Self-supply

A licensee limited to self-supply can only supply its own premises and the premises of people or companies associated with it. A licensee limited to self-supply is not able to supply retail services to premises of third parties, such as supplying other business customers unrelated to its business.

This chapter provides further information about the obligations of operating as a licensee limited to self-supply.

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

2.1 Potential benefits of self-supply

There are a range of benefits that self-supplying may bring to business customers who decide self-supply is the most suitable option for them in the business retail market. These benefits include:

- potential cost savings (in that licensees limited to self-supply pay the wholesaler directly and therefore do not pay the margin a retailer may add to the wholesale charges);
- acquiring certain rights within the business retail market arrangements (including membership and voting rights in the running of the Market Operator Services Limited (MOSL); and
- being able to fully manage its own usage and data.

2.2 Supplying itself and associated persons

A licensee limited to self-supply must not use the water supply system or the sewerage system of an appointed company for the purpose of supplying water or providing sewerage services to the premises of anyone other than the licensee, or persons associated with the licensee. The reference to 'persons associated with the Licensee' must be interpreted in accordance with paragraphs 11 and 12 of Schedule 2A of the Water Industry Act 1991 (WIA91) in relation to water supply services and paragraphs 8 and 9 of Schedule 2B of the WIA91 in relation to sewerage services. These state:

“For the purposes of this Schedule, a person (A) is associated with a Licensee (L) if:

- (a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;
- (b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary³;
- (c) A is a partnership of which L is a member.”⁴

2.3 Operating as a licensee limited to self-supply

Opening the expanded business retail market required new systems, licences, rules and processes to enable eligible businesses to engage with the market, and for new licensees and licensees limited to self-supply to enter the market. These place certain requirements on market participants including licensees limited to self-supply and are detailed in the following sections.

Licensees limited to self-supply will not be provided with retail services, such as billing, and therefore will be responsible for providing its own retail water services including:

- reading its own meter or meters for the business premises;
- submitting the meter readings to the wholesaler; and
- engaging with the wholesaler when required.

As detailed below, licensees limited to self-supply operating in the market are also required to:

- produce, and keep up to date, a list of associated persons and publish the most up to date list on its website;
- manage wholesale billing from the wholesaler; and
- understand all relevant documentation about the business retail market, including the:
 - [legal and regulatory framework](#); and
 - market codes. The market codes that govern and underpin the new market are discussed in section 2.5.

³ “Subsidiary” has the meaning given by section 1159 of the Companies Act 2006.

⁴ This must be read with sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) – see sections 11 and 12 of Schedule 2A WIA91.

2.4 Standard licence conditions

A WSSL incorporates a set of standard licence conditions which place a series of obligations on the licensee. A WSSL limited to self-supply cannot be used to serve customers other than associated persons. We therefore modify the [standard licence conditions](#) for a WSSL limited to self-supply to include a special condition that provides that the licensee may only use its retail authorisation to supply its own premises and those of its associated companies.

We also modify the standard licence conditions to reflect that a licensee limited to self-supply is not subject to some of the obligations of a licensee under the regulatory framework. For example, a licensee limited to self-supply does not need to adhere to the [Business Customer Protection Code of Practice](#), but is required to publish a list of its associated persons that will be supplied under the WSSL limited to self-supply. Details of these modifications to the standard licence conditions can be found in Table 1 below.

Table 1: Modifications to the standard licence conditions for WSSLs limited to self-supply

Part	Relates to	Summary of licence condition	Exclude/modify	Reasoning
Part A				
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 unassociated customers are exposed to the risk of a licensee limited to self-supply 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 appointed company are undertaken at arm's length including no undue preference being shown to an appointed company to which a licensee is associated.	Exclude	As the licensee is only purchasing from an appointed company to supply itself and/or associated persons, no other retailer requires protection from discriminatory practices.

Part	Relates to	Summary of licence condition	Exclude/modify	Reasoning
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 WIA91.	Modify	This is modified to include a requirement for the licensee to publish a list of associated persons that will be supplied under the WSSL limited to self-supply.
Part 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.

2.5 Market codes

There is a legal and regulatory framework in place to facilitate the business retail market, and provide the necessary market governance. This framework includes a number of codes which together set out the rules for the business retail market with each code having a different role to play in helping to govern the market. We list the most significant codes below. Please note that not all of these codes are applicable to a licensee limited to self-supply.

- [Market Arrangements Code \(MAC\)](#);
- [Wholesale Retail Code \(WRC\)](#);
- [Retail Exit Code \(REC\)](#);
- [Business customer protection code of practice \(CPCoP\)](#); and
- [Interim Supply Code \(ISC\)](#).

The CPCoP and ISC do not apply to licensees limited to self-supply.

The MAC is a non-statutory code which is brought into effect by conditions in WSSLs and wholesalers' Instruments of Appointment (MAC Condition). The MAC applies to all licensees and appointees in England and Wales as a consequence of the MAC Condition.

The WRC is a statutory code which sets out the rules (including business terms, operational terms and market terms) that apply for interactions between wholesalers

and retailers. Retailers (including licensees limited to self-supply) and wholesalers in the business retail market must comply with the WRC.

Schedule 1 Part 2 of the [WRC](#) focusses on the Business Terms for the market. The Business Terms are designed to establish the rights and obligations of the parties to a Wholesale Contract in respect of the services which are the subject of the Wholesale Contract. The Business Terms also cover a number of other matters of a contractual nature, for example limits of liability for a breach of the Wholesale Contract, confidentiality obligations and third party rights. Section 9 of the WRC explains that a retailer (including a licensee limited to self-supply) may select to pay its Primary Charges to the wholesaler by either Pre-Payment (Section 9.2.2) or Post-Payment (Section 9.2.3) and provides detail on the requirements of both options.

The REC is made under the Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016 ([Retail Exit Regulations 2016](#)). The regulations provide for retail exit – that is, for an appointed company to exit the non-household retail market and transfer all of its business customers to one or more licensee. The area of appointment of the appointed company then becomes a Retail Exit Area. The REC requires any licensee operating in a Retail Exit Area to make and keep under review a scheme setting out the terms and conditions that will apply to all customers of the licensee in the Retail Exit Area if the customers have not otherwise negotiated a contract. The Retail Exit Regulations require Ofwat to issue a code setting out the basis for such schemes of terms and conditions and the REC has been issued in compliance with this requirement.

We consider that the supply to oneself or to associated persons will always be a supply by agreement; nonetheless, the Retail Exit Regulations do not distinguish between licensees limited to self-supply and other retailers and therefore the requirement to have a scheme of terms and conditions in a Retail Exit Area that complies with the REC applies to a WSSL limited to self-supply.

In certain circumstances, a licensee may cease to supply its customers in the business retail market - for example, because of the termination of a wholesale contract as a result of insolvency. To deal with these circumstances, Ofwat issued **the ISC** which provides for the arrangements necessary to ensure the continued provision of retail services in circumstances where a licensee ceases to supply and appropriate protections for customers and other market participants. As a licensee limited to self-supply can only supply retail services to itself and its associated persons it cannot apply to be an eligible licensee⁵ for the purposes of the ISC.

⁵ An eligible licence is a licensee with a retail authorisation or a restricted retail authorisation who has elected to be an eligible licensee in accordance with the ISC for the purposes of section 63AC and/or section 110L of the WIA91.

However, should a licensee limited to self-supply cease trading and be unable to find retail services for itself or its associated persons, the ISC may apply.

The CPCoP places obligations on licensees in relation to five areas⁶ of market activity in order to protect eligible customers and to further the Code Principles. Licensees limited to self-supply are not required to comply with the CPCoP because they serve only their own premises and/or those of their associates.

The final codes, consultations and consultation responses can all be found [here](#).

2.6 The market operator, MOSL

MOSL is responsible for the effective and efficient operation of the water retail market. In order to enter the market, a licensee limited to self-supply will need to make a trading application to MOSL, complete Market Entry Assurance Certification (MEAC) and satisfy the trading conditions⁷.

MOSL's [website](#) provides further information on this process. 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.

Once certified, licensees limited to self-supply will have access to the Central Market Operating System (CMOS), which is the core IT system that manages all the electronic transfers involving customer switches and provides usage and settlement data which is used for billing.

2.7 Ongoing fees

As licensees limited to self-supply will be supplying themselves, we do not expect to monitor licensees limited to self-supply in the same way that we would monitor other licensees, nor would we expect to process complaints on a similar scale to other

⁶ Sales and marketing, the provision of information to Non-Household Customers, the Transfer of Non-Household Customers, billing and complaint handling and dispute resolution.

⁷ The Trading Conditions are that a retailer:

- Has applied to be admitted to trading by completing and delivering an accurate trading application to the market operator;
- Holds an appointment or a WSSL;
- Has completed the Market Entry Assurance Process;
- Has entered into a wholesale contract(s) in relation to the area(s) in which it intends to trade;
- Has become a member of MOSL; and
- Has entered into an Accession Agreement to be admitted as a party to the MAC.

licensees as licensees limited to self-supply will essentially be both retailer and customer. For these reasons, we do not consider that licensees limited to self-supply should pay a licence fee⁸.

We intend to keep our position on licence fees under review and if we consider that we need to revise our approach, we will consult prior to making a final decision on this issue.

Applicants should note that there will be other costs to operating as a licensee limited to self-supply including the annual fees to MOSL, costs involved in maintaining the appropriate security status to access CMOS and the general administrative costs of operating in the market and ensuring compliance with the market codes.

⁸ The WSSL fee decision document is published on our [website](#).

3. The licence application process

A business customer 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 its own premises and those of persons associated with it in England will need to apply for and be granted a WSSL limited to self-supply. This chapter outlines the steps involved in the application process for a WSSL with a retail authorisation that is limited to self-supply.

Our intention is that the application process should be thorough but not overly burdensome. The requirements as set out in the [Licence Application Notice](#)⁹, which is attached to the Licence Application Notice, and this guidance document seek to ensure that applicants know what they must do to evidence that they can meet the requirements of a licensee limited to self-supply.

In section 3.10, we set out a process flow chart, that illustrates the various steps and intended timings of the application process.

3.1 Understanding the market arrangements

An applicant for a WSSL limited to self-supply must be able to satisfy us that it understands the market in which it is seeking to operate. Chapter 4 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.¹⁰

3.2 Potential joint applications for licences in England and Wales and licences in Scotland

The WA14 established a cross-border market between England, Wales and Scotland, recognising the separate legal systems and regulators. It is possible to make an application for licences in England and/or Wales and/or Scotland. However, this guidance covers only applications to Ofwat for WSSLs limited to the self-supply

⁹ The Licence Application Notice is a Notice made by Ofwat under section 17F of the WIA91 which determines the requirements that relate to applications for Water Supply and Sewerage Licences, including information on the licence application process and information to be provided by prospective licensees.

¹⁰ Further information can be found in [the legal and regulatory framework for the business retail market from 1 April 2017](#) guidance document.

of eligible premises served using the supply or sewerage system of an appointed company whose area is wholly or mainly in England.

The assessment processes for applications made for WSSLs to operate in England and Scotland will be run separately by Ofwat and the Water Industry Commission for Scotland (WICS) respectively. Ofwat and WICS issue their own separate licences. Further information on the process for submit a joint application to Ofwat and WICS can be found in our [explanatory guidance](#).

3.3 Making an application

The Secretary of State 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 limited to self-supply 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 competency required of a licensee limited to self-supply.

3.4 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 application fee as described in clause 5 of the Licence Application Notice is a fee of £3,000. This will be applicable regardless of the type of WSSL (water supply and/or sewerage licence) limited to self-supply requested in a single application form. Payment should be made to Ofwat by cheque or by electronic transfer. Cheques should be made payable to Ofwat. Receipts will be issued on request.

Bank details for BACS electronic transfers are as follows:

- Bank name: RBS
- Account name: WATER SVC REG AUTH
- Account number: 10009817
- Sort code: 60-70-80

An application will not be processed until the application fee has been paid. If you require further information please contact Ofwat at licensing@ofwat.gov.uk for further details.

3.5 Initial screening and public consultation

We will only accept applications that are complete, contain all the information we require and when the application fee has been received.

As soon as reasonably practicable following our decision that we are satisfied that a complete application has been received, we will provide the applicant with written confirmation. The written confirmation will signal the start of our assessment process. We aim to notify the applicant that its application has or has not been accepted as complete within five working days of receipt of the application.

Once we are satisfied that an application is complete, we will publish a notice of the application on our website. The notice will set out the following details, as provided by the applicant in the application form:

- applicant's name;
- applicant's address;
- applicant's registered company number and parent company details (if applicable);
- a brief summary of the intended use of the licence if granted; and
- any further information the applicant considers to be relevant to a public consultation.

The notice will also set out Ofwat's proposal to modify the standard licence conditions that will apply to the applicant should it be granted a WSSL with a retail authorisation limited to self-supply. Publication of this notice will commence our 28 day public consultation period, during which any person can make representations or objections with respect to the application and our proposal to modify the standard licence conditions. In accordance with sections 17H and 17HA of the WIA91. A copy of this notice will be shared with WICS, the Drinking Water Inspectorate (DWI), Natural Resources Wales (NRW), the Environment Agency (EA) and the Secretary of State.

As part of completing the application form, applicants will be required to confirm that they consent to us sharing the information provided in their application with the DWI,

EA and NRW¹¹, to enable them to complete an assessment of the technical competency of the applicant. Ofwat has made these other regulators aware of the commercial confidentiality of some of the information submitted as part of the application. The DWI, NRW and the EA will seek to complete their review of the application during the public consultation period. In the event that their reviews identify areas of concern and further information is required, it may in some instances take longer than 28 days to complete their reviews.

With regard to information requests, in accordance with the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 and from May 2018 the General Data Protection Regulations (GDPR), and the Environmental Information Regulations 2004, we may be required to publish or disclose information. 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.

3.6 Our assessment of applications

To assess an application, we will consider whether the applicant has the appropriate level of competency to hold a WSSL with a retail authorisation limited to self-supply. We do this by assessing a number of key areas, including managerial competency, financial stability and technical competency.

- **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 an adequate understanding of the duties of licensees under the law and licence conditions; and the systems and procedures it has in place to comply with those duties.
- 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 funds in future if necessary to operate as a licensee limited to self-supply. The applicant should be able to demonstrate to us its understanding of the functions of a licensee limited to self-supply and the impact being a licensee will have on its financial statements.
- The applicant should be able to demonstrate that it has **technical competency** relating to the measures expected by the DWI, NRW and EA -

¹¹ As applicable

for example, knowledge of the relevant security and emergency measures required. The DWI, NRW and EA will provide an assessment of whether applicants have the technical competency required.

As detailed above there will be a public consultation about each application. We will consider any representations or objections submitted in response to the consultation when assessing a licence application. Ordinarily, we expect to be able to provide copies of any consultation responses we receive to the applicant. If the responses raise any substantial concerns, we will attempt to resolve these in discussion with the applicant. Having received the applicant's responses to any issues raised, we would not expect to consult further with the person(s) that had made representations on an application.

We aim to complete our detailed assessment of an application within 45 working days of confirming receipt of a complete application (this includes 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 the assessment by the other regulators or from representations or objections to our consultation. Section 3.9 below provides information about us suspending or refusing a licence application.

Chapter 4 of this document and the application form provide details of the information that applicants need to provide to us to demonstrate the required competency. The requirements set out aim to ensure that any entity granted a WSSL limited to self-supply is competent to be a licensee.

3.7 Market entry assurance certification

Ofwat's application process for a WSSL with a retail authorisation that is limited to self-supply and MOSL's process for gaining a [Market Entry Assurance Certification](#) (MEAC) are distinct and separate processes. 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 limited to self-supply. We will not formally grant a WSSL to an applicant until we have received confirmation from MOSL that the applicant has satisfactorily completed its MEAC.

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 Ofwat's discretion to approve or reject a licence application.

After an applicant has been granted a WSSL limited to self-supply, it 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.

3.8 Granting a WSSL limited to self-supply

Upon successful completion of our assessment process and confirmation from MOSL that the applicant has completed the MEAC process, we will be able to grant the WSSL limited to self-supply. As required by section 17F(7) WIA91, as soon as practicable after granting a licence, we will serve a copy of the licence on the licensee. We must also serve a copy on:

- the Secretary of State;
- Welsh Ministers;
- the DWI;
- the EA;
- NRW;
- the Consumer Council for Water (CCWater);
- each relevant appointed company¹²; and
- all other 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 also maintain a list of licensees on our [website](#).

3.9 Suspending or refusing a licence application

We may suspend the licence application process under certain circumstances. For example, where the applicant has not provided sufficient details for the DWI, NRW or the EA to complete their assessment of the application, or if the applicant needs to take action following representations we receive from the public consultation.

If we suspend the processing of an application, we will tell the applicant why and explain what it needs to provide to enable further progress. The onus is on the applicant to provide the necessary additional information and we will not continue to

¹² This is an undertaker whose supply system or sewerage system could be used by the licensee.

consider the application until this is received. If the required information is provided, the application and timetable will resume from the point at which the application process was suspended.

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 WSSL. Although not an exhaustive list of reasons for refusal, examples of situations in which we consider it may be appropriate for us to refuse an application include:

- if the applicant has failed to successfully complete the MEAC process;
- if the applicant has failed repeatedly to provide the required information;
- if the applicant does not demonstrate to us, the DWI, NRW or the EA 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;
- if we consider that information supplied is false, misleading or incomplete.

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

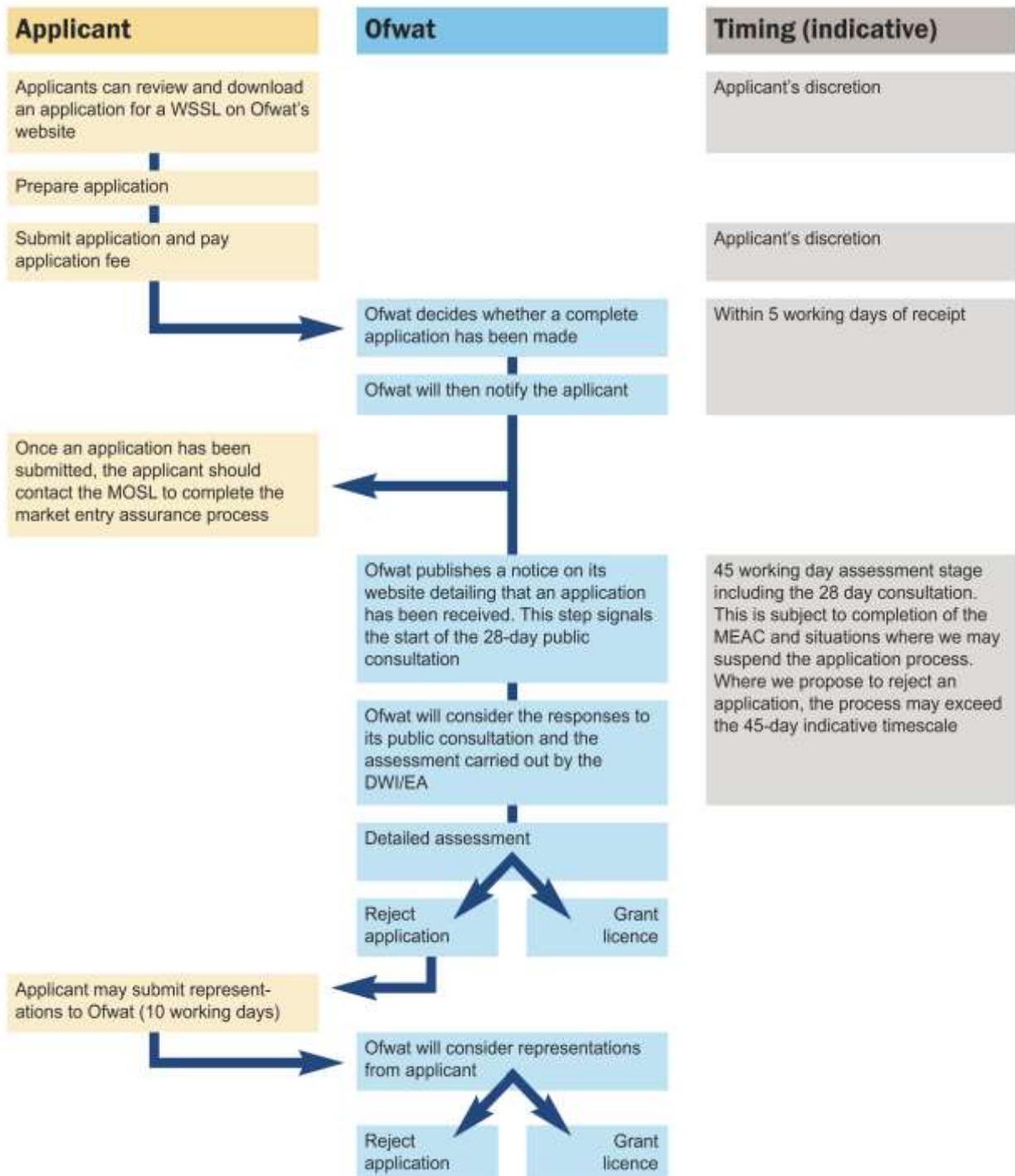
- stating that we propose to refuse the application;
- stating the reasons why we propose to refuse the application; and
- specifying the time within which representations or objections to the proposed refusal may be made.

The applicant will have the opportunity to make representations to us or to submit the necessary additional information to us within a specified time, normally 10 working days. We must consider any representations or objections which are duly made and not withdrawn and we may refer this additional information to the DWI, NRW or the EA as appropriate. Following consideration of any representations we will make a final decision whether or not to refuse the application.

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

3.10 Application flow chart

The diagram below illustrates the stages involved in the application process, and the intended timescales for the application process.



4. The application form and supporting information

This chapter outlines the information and supporting documentation that needs to be submitted to Ofwat when making an application for a WSSL limited to self-supply. Each application will be considered on its own merits. The applicant's supporting information is key to the application and provides the applicant with the opportunity to demonstrate that it has the required competency. We consider that this approach gives confidence to customers, appointed companies and other licensees that any entity granted a WSSL limited to self-supply has the competency to be a licensee and has the competency to comply with the Standard Licence Conditions. The following sections provide details on the information we require to assess applications.

If the applicant has appointed a third party to act of its behalf during the application process, a signed letter of authority from the applicant must be included with the application.

4.1 General guidance for completion of supporting information

Applicants should consider the following points:

- The specific guidance set out at the beginning of each section below is designed to advise 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 supporting information questions is the essential minimum required. Ofwat expects the applicant to demonstrate that it has the required managerial, financial and technical competency to perform adequately the activities of a licensee limited to self-supply.
- The purpose of the supporting information is to assess the applicant's proposed approach to undertaking the licensed activities. To that end the supporting information should refer to the applicant's approach to only those licensed activities.
- If the applicant would find it helpful, Ofwat has no objection to the use of relevant documents, or extracts of documents, that may have been prepared for MOSL's MEAC process to support its application. However, applicants should ensure that any documents relied on do directly address the requirements set out in this chapter and the application form. Applicants should provide detailed cross-references to the relevant parts of those documents. It is unlikely that an answer that said simply "see accompanying

document” would be sufficient. We would expect a short explanation of what the document is and how it evidences the requirements set out here.

4.2 Managerial competency

4.2.1 Purpose of the section

The purpose of this section is for the applicant to demonstrate that it has the knowledge, expertise and experience to operate a water supply and/or sewerage retail services business.

4.2.2 Outline of areas to be addressed

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

- What is the organisational structure of the business? Applicants should provide a diagram/organogram 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 applicant’s corporate governance arrangements?
- What are the key roles within the organisation related to the activities to be licensed? What are the associated responsibilities of these roles? (Applicants should provide a management structure diagram/organogram.)
 - Who has been identified to fill those key roles?
 - Detail the skills, relevant experience and knowledge of the individuals identified to fill the key roles in order to demonstrate that the applicant will have the ability to operate as a licensee limited to self-supply.
- If using a third party to support the licensed activities, will the applicant ensure that there will be some transfer of knowledge and skills from the third party to employees of the licensed business?
- Provide a list of premises and associated persons (if applicable) that it intends supply if a WSSL with a retail authorisation that is limited to self-supply is granted.

4.3 Financial stability

4.3.1 Purpose of the section

The applicant should demonstrate its financial capabilities 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 application. This information will allow the applicant to demonstrate to us its understanding of the functions of a licensee limited to self-supply and the impact it would have on its financial statements. With regards to financial stability, we consider whether the applicant has sufficient financial resources to finance its obligations as a licensee and to deliver its plans to function as a licensee limited to self-supply.

4.3.2 Outline of areas to be addressed

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

- A copy of the applicant's latest available financial accounts. We request a copy of the latest financial accounts to enable us to review the financial performance of the applicant to satisfy ourselves that it can fund itself and is financially stable.
- Details of how it will fund the anticipated costs of operating and the anticipated internal costs of operating as a licensee limited to self-supply. To support our financial assessment, we will require applicants to provide us with the projected costs of administering a WSSL limited to self-supply and meeting its obligations, either by using a third-party or managing internally. This information is used to consider the ability of the applicant to operate in the market, if granted a WSSL.
- Details of any agreement with a third party to administer any of the regulated activities under the WSSL. This should include:
 - Details of the contract arrangements;
 - The anticipated costs of this service; and
 - How these costs will change over time.
- A populated 'Forecast of applicant's projected cost savings' (see table below) to demonstrate the applicant's forecast of projected cost savings for the first three years of operation, with a breakdown of the charges and volumes associated with the water and wastewater services. To support this, it should also provide an explanation of:

- The assumptions used to calculate the projected volumes, revenues, wholesale charges and any other costs provided in the table; and
- Details of any significant changes expected to its core business that could impact on its financial projections.

Table 2 - Forecast of applicant's projected cost savings

Line description	Unit ²	Decimal Places	Calculation rule	Year 0	Year 1	Year 2	Year 3
1 Charges from existing water company (£m)	[£m]	3	sum of lines 2 and 3				
2 - water	[£m]	3	input				
3 - wastewater	[£m]	3	input				
4 Volume	[M]	3	sum of lines 5 to 7				
5 - incoming mains water supplies	[M]	3	input				
6 - abstracted water from boreholes	[M]	3	input				
7 - volume of wastewater discharged	[M]	3	input				
8 Revenue allocation for payment of charges	[£m]	3	sum of lines 9 and 10				
9 - water	[£m]	3	input				
10 - wastewater	[£m]	3	input				
11 Wholesale charges	[£m]	3	sum of lines 12 and 13				
12 - water	[£m]	3	input				
13 - wastewater	[£m]	3	input				
14 Administrative costs to self-supply ¹	[£m]	3	input				
15 Projected total cost of operating as a licensee limited to self-supply	[£m]	3	sum of lines 11 and 14				
16 Projected cost savings from existing water charges	[£m]	3	line 1 less line 15				

¹ and if applicable, including those costs of a third party administering the WSSL limited to self-supply

² Please note the units in the Unit column should be amended as required to reflect for the data included in columns year 0 to years 3.

Generally, we would expect self-supply applicants to demonstrate that the cost of self-supply was the same or less than its charges from its existing retailer. However, if this is not evident in the table and/or it does not apply, the applicant should explain its non-financial reasons for its application, how it will fund the additional costs incurred

for the WSSL limited to self-supply, and briefly explain whether it has any capacity to raise funds in the future to fund any incremental costs to operate as a licensee limited to self-supply.

4.4 Technical competency

4.4.1 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 application.

4.4.2 Guidance on questions C1 and C2 of the application form

The applicant should be able to demonstrate that it has adequate knowledge of the requirements 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 limited to self-supply; and
- communicate emergencies and details of sensitive customers to the relevant appointed company.

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 the duties and obligations of a licensee, in particular in relation to the requirements set out by the DWI, NRW and EA. There is further guidance on the requirements from the DWI on the [DWI website](#) and in the application [guidance document](#).

Regulation	Description	Owner	How we are/will be addressing this
-------------------	--------------------	--------------	---

Water Industry Act				
39C	Drought plans: provision of information
Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008				
...
WSSL standard conditions				
...
Water Industry (Suppliers' Information) Direction 2012				
...
Water Supply (Water Fittings) Regulations etc.				
...

4.4.3 Requirements of the DWI

Whilst water quality and sufficiency of supply remain the relevant wholesaler's responsibility, the DWI is concerned to ensure that applicants for a WSSL with a retail authorisation that is limited to self-supply have an overall understanding of water supply and water quality issues, and the potential environmental impacts that can arise from its usage of supply systems so that the licensee's activities do not have a detrimental effect on an appointed company's supply system. The application form provides an opportunity for the applicant to 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 and the licensee limited to self-supply 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 arrangements 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 capabilities that will be in place to deal with such incidents; and
 - details of how sensitive premises 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) Regulations¹³;
- relevant security and emergency directions issued by Defra. 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 limited to self-supply;
- 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.
- In addition, the application should detail the provisions that the applicant has made to deal with emergency situations and issues of security of supply and the allowances have been made for the associated costs. For example, how will the applicant work with the wholesaler to manage and resolve emergencies such as drinking water contamination?

There is further guidance on the [DWI website](#) and in the application [guidance document](#).

4.4.4 Requirements from the EA/NRW

Whilst sewerage systems and treatment remain the relevant wholesaler's responsibility, the EA and the NRW are concerned to ensure that applicants have an overall understanding of the potential environmental impacts that can arise from their usage of water supply and/or sewerage systems. Applicants will 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

¹³ The Water Supply (Water Fittings) Regulations 1999 (SI 1999/1148, amended by SI 1999/1506 and SI 2005/2035).

effect on the appointed water undertaker'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;
- an understanding of the responsibilities with regard to 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); 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 systems (SuDS) and details of proposed 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.

4.4.5 Further areas to be addressed

The applicant should set out:

- How it intends to manage its key relationships (e.g. with its wholesaler(s), the DWI, NRW and the EA as appropriate)? This information is to support the

declaration signed by a responsible person to state that they will work with CCWater, DWI, NRW and EA as appropriate (see section 4.5.4 below).

- What provisions it has 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?

4.5 Declarations

Except in the case of an individual applicant, we would expect the declarations listed in sections 4.5.1, 4.5.4 and 4.5.5 below to be made by one of the persons named in response to question A5 of the application form. This should preferably be by the person occupying the most senior executive position within this group.

4.5.1 Application form declaration (section F)

The declaration in Section F of the application form is a personal declaration made by the person signing the application form. Where that person is not an individual applicant for a licence, 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.

4.5.2 Statement of any unspent criminal convictions

The applicant must provide details of any criminal cases which involve the applicant (and 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.

4.5.3 Declarations of ‘fit and proper’ status

A ‘fit and proper’ declaration must be provided as an enclosure to the application form by all persons concerned with the direction or management of the applicant. The declaration must state 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; and
- 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.

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

The applicant is required to provide a declaration that, if granted a licence, it will work positively with the CCWater, DWI, NRW and the EA, and that it will provide information that the organisations request.

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 licensee, where a customer has been unable to resolve the matter directly. 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 functions¹⁴. 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.

4.5.5 Declaration that the applicant is aware of the responsibilities of licensees under the WIA91, including responsibilities in relation to security issues under section 208 WIA91, and the requirements under the MAC, WRC and REC.

The requirement for this 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. The declaration also provides reassurance that the applicant is aware of the responsibilities under the market codes.

¹⁴ See section 27H of the WIA91.

Glossary of terms

Application fee: The 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 instrument of appointment under the WIA91 as a water and/or sewerage undertaker for a defined geographic area of England and Wales. An appointed company is the wholesaler for its defined geographic area.

Associated Persons: Persons associated with a licensee limited to self-supply as set out in Schedule 2A to the Water Industry Act 1991.

Business customers: Eligible business, charity and public sector customers.

CCWater: The Consumer Council for Water is the statutory consumer body for the water industry in England and Wales.

CPCoP: Business customer protection code of practice.

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.

ISC: Interim Supply Code.

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 (WSSL).

Licensee limited to self-supply: 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.

MAC: Market Arrangements Code.

MEAC: Market Entry Assurance Certification

MOSL: Market Operator Services Limited is the market operator.

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.

REC: Retail Exit Code.

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: A licence granted by the WICS pursuant to the Water Services etc (Scotland) Act 2005.

Standard Licence Conditions: The standard licence 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.

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.

Undertaker: A company appointed under section 6 of the Water Industry Act 1991.

WA14: Water Act 2014.

WIA91: Water Industry Act 1991.

Wholesale Charges: The charges which the Contracting Wholesaler applies in accordance with its Wholesale Tariff Document comprising Primary Charges and Non-Primary Charges and any charges in respect of Special Agreements.

WICS: The Water Industry Commission for Scotland.

WRC: Wholesale Retail Code.

WRMP: Water Resources Management Plan. Every five years statutory WRMPs set out an appointed company's intended approach for at least the next 25 years.

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

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Phone: 0121 644 7500
Fax: 0121 644 7533
Website: www.ofwat.gov.uk
Email: mailbox@ofwat.gsi.gov.uk

May 2018

ISBN 978-1-911588-35-1

© Crown copyright 2018

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3.

Where we have identified any third party copyright information, you will need to obtain permission from the copyright holders concerned.

This document is also available from our website at www.ofwat.gov.uk.

Any enquiries regarding this publication should be sent to us at mailbox@ofwat.gsi.gov.uk.

