



Call for evidence consultation - Guaranteed Standards Scheme (GSS)

An Ofwat Consultation

Consumer Council for Water Response

September 2018

1 Introduction

- 1.1 The Consumer Council for Water (CCWater) is the statutory consumer organisation representing water and sewerage consumers in England and Wales. CCWater has four regional committees in England and a committee for Wales.
- 1.2 CCWater has called for a review of the Guaranteed Standards Scheme (GSS) to be undertaken. As such we welcome this consultation and the opportunity to provide evidence.
- 1.3 We note that Ofwat has given priority to reviewing the 'supply not restored' standard. However we believe a full review of all aspects of the GSS regulations is long overdue, and should be undertaken as soon as possible.
- 1.4 We believe improvements are needed across the scheme. In particular the following should be reviewed:
- All compensation levels, taking into account all available evidence
 - The balance of compensation between household and non-households
 - Guidance on payment responsibilities, exemptions and the need to consider higher levels of compensation in certain circumstances
 - The current 48 hour exemption for supply interruptions due to strategic mains failures
 - The failure of the current scheme to reflect the greater customer impact associated with longer supply interruptions
 - The treatment of incidents where supplies are restored for short intermittent periods
 - The absence of standards relating to the provision of alternative supplies and the delivery of supplies to those registered as having that need
 - The current absence of standards relating to temporary use bans and water quality incidents
 - The need to consider the widening of the scope of the scheme to include additional standards relating to key customer complaint areas
 - Requirements in terms of methods of payment
 - The need for the scheme to reflect current practice in terms of appointments and changes in communication channels

2 Our response

Q1: Adjusting the levels of compensation for supply not being restored under the GSS arrangements.

- a) Should the levels of compensation for supply not being restored under the GSS arrangements be maintained or increased?
- b) Could an increase in the minimum level result in companies paying less compensation to customers than they currently do by encouraging them to not exceed a higher minimum? If so, how could this be addressed?

a)

- 2.1 The levels of compensation for this service failure should be increased. Current payment levels were set in 2001 and so have not kept pace with inflation. Customer views on what represents a reasonable level of compensation for a loss of service may also have changed during that time. A full review of payment levels, taking account of these factors and available evidence, should be undertaken. That should include a review of the relative levels of compensation for households and non-households, to ensure future arrangements are adequate.
- 2.2 In responding to the significant 'freeze/thaw' supply interruptions which occurred during late February and March 2018 many water companies recognised the inadequacy of existing GSS arrangements. They paid compensation which both exceeded GSS levels, and which escalated in a way better reflecting the customer impact of lengthy supply interruptions.
- 2.3 The inadequacy of GSS compensation levels contributed to a lack of consistency in terms of the baseline compensation available to customers. For example, during the freeze/thaw incident, one company did not pay out any more than standard GSS for more than 48 hours off supply, meaning those customers only received £30, which we believe is inadequate. However most companies paid compensation which significantly exceeded GSS standards.
- 2.4 CCWater's research on the freeze/thaw incident¹ (conducted with customers of companies which all made compensation payments exceeding GSS) found that the majority of households (84%) were satisfied with the amount of compensation they expected to receive. However, significantly fewer businesses were satisfied (62%) with the compensation settlement. Many businesses felt it would fail to cover their losses. We would suggest using these findings and the levels of compensation paid as a basis for calibrating revised compensation standards.

b)

- 2.5 The GSS provides 'back-stop' protections to customers in terms of a guarantee of reasonable compensation for service failures. However there will often be occasions where the specific circumstances of an incident, or its impact on customers, will mean higher levels of compensation are warranted. That will remain the case following any review of GSS and any increase of payment levels provided by it.
- 2.6 CCWater has had considerable success in securing such enhanced compensation for customers, including during this year's freeze/thaw incidents, and in many water quality incidents (such as 'Boil water notice' and 'Do not drink' events) where GSS does not currently provide an automatic right to compensation. We will continue to represent customers' interests in relation to such incidents, including by ensuring the compensation paid to customers adequately reflects the circumstances of each case.

¹ [Customers' experiences of water supply interruptions following the freeze-thaw events of March 2018](#) - CCWater 2018

- 2.7 We are disappointed to note that Ofwat does not make reference to the role played by CCWater in this regard, but instead refers to companies working with their Customer Challenge Groups (CCGs) in determining appropriate compensation levels. We are supportive of the contribution that CCGs make to water companies' business planning process and CCWater is represented on all the company groups. However we would wish to highlight that CCGs represent a wide range of stakeholder groups, unlike CCWater who has a single focus on consumer interests, as the statutory consumer body.
- 2.8 Companies which stick slavishly to GSS payment levels where a higher level of compensation would be appropriate face significant reputational risk. CCWater would certainly highlight instances where companies have failed to do what is right for customers. The new C-Mex incentive mechanism (including as it does a measure of customer perceptions) should also help drive positive company behaviours in this regard.
- 2.9 The guidance relating to the GSS should give a strong signal to companies that the standards and payment levels only represent baseline requirements and that companies must offer enhanced levels of compensation to household and business customers where that is appropriate. There should be a clear expectation that companies should be receptive to considering individual claims for enhanced compensation. The need to consult with CCWater on such matters should also be highlighted.

Q2: Payment thresholds and exemptions for supply not being restored.

- a) Should these thresholds be changed in any way (e.g. brought forward, reduce the length of time between graduations)? If so, how and why?
- b) Should compensation increase by a larger amount the longer disruption lasts (i.e. exponential)?
- c) Should there be any changes made to the current exemptions to the GSS for supply not being restored?

- a)
- 2.10 The current standard relating to supply interruptions due to problems with strategic mains is not acceptable from a customer impact perspective. It is unreasonable that customers are not compensated for interruptions lasting up to 48 hours simply because these can be more complex for companies to resolve.
- 2.11 We believe no distinction should be made in the case of strategic mains, and that compensation should be paid in all cases where supplies are not restored within 12 hours. The focus of the scheme should be the end result for customers and compensating them where their service has not been good enough.
- 2.12 The GSS definition of a strategic main is, in any event, problematic. Firstly, it refers to conveying "water in bulk"; secondly, it refers to "centres of population"; and thirdly it refers to "no other supply that can fully meet normal demand". All of these things can be interpreted in different ways leading to a potential for inconsistency, and this should be addressed in any review of GSS regulations.

b)

- 2.13 Longer supply interruptions are disproportionately more impactful for consumers. Most consumers tend to be able to work around shorter supply interruptions but this becomes increasingly hard the longer they are without water.

Our Freeze/Thaw research found perceptions of how badly household were affected was influenced by duration of interruption - with 35% of household respondents who experienced an interruption of more than 12 hrs considering themselves to have been badly affected, compared with just 5% of those who experienced an interruption lasting 12 hours or less.

- 2.14 One option could be for compensation levels to be subject to a multiplier based on the time taken to restore supplies. For example the following multiplier might apply to additional payments over and above the initial amount - x1 after 24 hours x2 after 48 hours and x3 after 72 hours. Thus a 72 hour interruption would attract compensation 7 times that of a 12 hour interruption. The payments would need to be accompanied by communication that laid out the approach to compensation, because our research found that customers were confused about why some customers got a different level of compensation to them.
- 2.15 We believe these changes would produce better outcomes for customers affected by supply interruptions. At the same time they would also increase the incentive for companies to restore supplies promptly.

c)

- 2.16 In some instances there can currently be contradictory views from companies on whether exemptions to the scheme apply. As such we believe there is scope to tighten up the regulations to avoid doubt over whether compensation should be paid. In particular where exemptions require an element of judgement (such as where exceptional circumstances are cited) it would be useful to state that companies will be required to seek confirmation from Ofwat that the circumstances are exceptional.
- 2.17 We believe there is a case for the weather exemption to be removed completely as companies should be taking steps to ensure their networks are resilient to all conditions, including more extreme circumstances. Additionally, 'extreme' for one company could be regarded as 'business as usual' for another, merely by way of location. Allowing a weather exemption can disadvantage a company that has worked hard to avoid an impact on its customers, relative to a company that hasn't. It may, however, be appropriate to allow potential extreme weather exemptions in relation to non-urgent appointments on health and safety grounds.

Q3: Other areas to consider relating to compensation for supply not being restored.

- a) Should GSS be expanded beyond supply interruptions to cover supply restrictions, such as temporary use bans?
- b) Are there any other changes to the arrangements we should consider relating to payments for supply not being restored to ensure that customers receive fair, fast and free from hassle compensation?

a)

- 2.18 Separate provisions within company licences require them to pay compensation to customers where essential household water supplies (such as cooking, washing, drinking and flushing the toilet) are interrupted as a result of drought restrictions. Companies who levy a specific additional charge for hosepipe usage must make an adjustment to those charges where a Temporary Use Ban (TUB) is imposed.
- 2.19 We would support further consideration being given to the customer impact associated with the introduction of a temporary use ban also being recognised through GSS compensation payments. We believe it would be useful to research customer views on this issue in order to inform decisions on this point.
- 2.20 If this standard was added there would be a need for appropriate scrutiny of drought plans to ensure companies do not set trigger levels at an unreasonable point to reduce the risk of having to make GSS payment, and which might create greater risk of more serious supply interruptions at a later date.

b)

- 2.21 In calculating compensation some companies take account of the extent to which individual customers have experienced other disruptions of service within a period of time. This takes account of the cumulative impact to the customer. As such we believe GSS should also follow this approach.
- 2.22 We also believe GSS regulations should stipulate a minimum period of time between supply interruptions which must occur before they can be considered separate incidents. In instances where supplies are interrupted within that time period the duration of each should be combined for the purposes of determining eligibility for GSS payments. This would ensure the true experience of consumers is taken into account and that companies cannot restore supplies for short periods in order to avoid liability for GSS payments.
- 2.23 CCWater's research into this year's freeze / thaw supply interruptions found that almost three quarters of homes and businesses we interviewed, did not receive an emergency supply of water. A new GSS standard requiring the provision of emergency supplies within a defined distance of all impacted consumers could be useful in protecting consumers and incentivising companies to improve performance in this area. Where a main central hub is impractical due to remote location; emergency water should be provided directly to customers.

Q4: Adjusting all payments under the GSS by inflation.

- a) All payments could be increased by inflation retrospectively from 2001 when the levels of compensation were last changed. Would this approach be reasonable and proportionate?
- b) All payments could be price inflated automatically in future. Would this approach be reasonable and proportionate?

a)

2.24 A fundamental review of all aspects of the GSS (including appropriate levels of compensation) is warranted given the time which has elapsed since this was last done. All payments levels should be individually reviewed, including a review of the relative levels for households and non-households, and compensation for missed payments which should have been paid but were not. The effect of inflation should be considered as part of that review along with other considerations and evidence, such as customer expectations (for example the findings from our research with consumers following the freeze/thaw event).

b)

2.25 Going forward it would make sense to adopt mechanisms for both annual increases in compensation, in line with inflation, and more fundamental reviews of the scheme and compensation levels at fixed intervals. Rounding should be applied to compensation amounts increased with inflation in order to avoid 'odd' payment amounts, which might be questioned by customers.

Q5: GSS arrangements for different types of customers.

- a) Should the arrangements differentiate between compensation for businesses of different sizes (e.g. big businesses and SMEs)? If so, what approaches could be adopted in order to do differentiate fairly?
- b) Should there be different compensation arrangements for customers in vulnerable circumstances? If so, what approaches could be adopted in order to do differentiate fairly?

a)

2.26 Even if revised, standard non-household payments due under GSS are likely to be considered trivial to many medium and large businesses for whom the financial impact of any service failure is potentially much greater. The purpose of the scheme is to provide reasonable compensation payments for service failings and as such it is an unsuitable mechanism for providing specific compensation for losses arising from an interruption to business or production losses. Since the opening of the non-household market in 2017 customers now have the option to agree bespoke arrangements with retailers which best meet their needs and reflect the impact of any supply interruptions. For example, through the offer of an insurance backed scheme.

Nevertheless GSS rules should be clear that, for businesses as well as households, companies will be expected to be open to paying additional compensation where that is justified, and should respond positively to any such claims.

b)

- 2.27 Our freeze/thaw research found people in vulnerable circumstances were not catered for adequately during the incident. 93% of consumers who felt they were in vulnerable circumstances did not get any additional support from their company during the incident. Generally any additional compensation for customers in vulnerable circumstances would be best considered as an additional payment taking account of the particular impact on the customer. Different circumstances will warrant different levels of compensation.
- 2.28 However we believe there should be a GSS standard linked to the failure to deliver bottled water (within reasonable time) to those registered with that as a need on a company's Priority Service Register (and to those who advise of that need during the incident). This would help ensure companies give adequate priority to meeting their commitments to these customers. Of course, companies must also look beyond priority service customers in ensuring they meet the needs of all those who are potentially vulnerable during a supply incident.

Q6: Are there any other changes to the arrangements we should consider relating to all compensation payments under the GSS to ensure that customers receive fair, fast and free from hassle compensation?

- 2.29 Given the time which has elapsed since the last review of GSS, and the experience of the freeze/thaw incident we believe a full review should be a priority and undertaken at the earliest opportunity. In addition to reviewing existing commitments and payment levels we believe the review should consider whether additional standards should be added, including some of those currently offered as discretionary service commitments by some companies.

Additional Standards

- 2.30 Issues which are of most significance to customers, and which generate most complaints, should be a key factor in deciding what standards should be added to the scheme. Possible additions in terms of account management could include guaranteed compensation for:

Incorrectly issuing a summons
Direct Debits taken in error
Wrongly registering a default with a credit reference agency
Sending out unusually high bills without prior checks

Water Quality Standards

- 2.31 In addition we believe that the GSS should be extended to include compensation for water quality incidents. Water quality, and confidence in it, is a key issue for customers, and this should be reflected in the statutory compensation scheme. We would wish to see standards added to compensate customers for incidents where customers are impacted by the appearance, taste or odour of their drinking water.

- 2.32 We also believe customers should be automatically eligible for baseline levels of reasonable compensation if their company serves them with a 'boil water' or 'do not drink' notice. Such incidents represent a major impact in terms of the services provided to customers, and this should be reflected in the GSS. While we recognise that there may be concerns, from some, that a requirement for compensation could influence company decisions on imposing such notices as precautionary measures, we do not consider this is likely in practice. There is currently a clear expectation that companies should compensate in the event of such incidents despite this being a void in terms of statutory requirements. Moreover we would expect the Drinking Water Inspectorate, as the water quality regulator, to be able to police companies in this respect, and are confident that they will do so. The threat of harsh regulatory or legal penalties significantly outweighing the costs of compensation, and the risk of considerable reputational damage, should be effective in ensuring companies do not take any risks with public health.

Appointments

- 2.33 The regulations need to be updated to reflect modern practices in terms of appointments. Companies make a range of different appointments, for example 30-minute appointments and appointments in the evening. Under the current wording all appointments are treated as taking place in the morning or afternoon (unless the consumer requests a 2-hour appointment).

Methods of Payment

- 2.34 The scheme should be more prescriptive about methods of payment, rather than leaving this to company choice. For example it might stipulate that payments are made in the following priority order depending on the details held for the customer:

Bank account transfer
Cheque
Bill credit

Our freeze/thaw research can help support a review of this aspect of the scheme. 91% of the household customers we interviewed were happy with the method used to make their compensation payment. So, it may simply be a case of formalising the practice currently being followed by most companies.

- 2.35 The requirement for companies to credit customers' accounts in the event of them being in arrears should be lifted. Companies could retain the right to do this rather than being obliged to do so. This would allow companies to address instances where customers, including those who are financially vulnerable, need to be compensated to cover costs as a result of a service failure. It would also make the payment process less complex for companies and help prevent delays in payment.

Improved Clarity on Retailer and Wholesaler Responsibilities

- 2.36 We believe there would be benefit in a revised GSS including wording which better ensures both companies and customers have a clear understanding of the circumstances under which non-household retailers are liable to pay compensation or where this is the responsibility of wholesalers.

Improved Clarity on Payments to Bill Payers and Occupiers

- 2.37 The current wording of the GSS regulations indicates that both the bill payer and the occupier, where different, are entitled to GSS payments. If this is not the intention of the regulations the regulations should make clear which should receive the payment to avoid confusion.

Sewer Flooding Exemptions

- 2.38 There is currently an exemption on the sewer flooding standard where “the customer was not materially affected by the incident”. The scheme provides guidance where this should apply by listing six things which should be taken into account, for example the duration and extent of the flooding, but it doesn’t actually define what is or isn’t material. As such there remains a lack of clarity concerning when the exemption should apply. The most appropriate action might be for this exemption to be removed completely.

Changes in Channels of Communication

- 2.39 The way in which customers communicate with their water companies has changed considerably since the GSS regulations were last reviewed. As such there is a need to examine whether arrangements adequately reflect these changes and the channels of communication (emails and social media, webchat and SMS) now used.

GSS and Other Penalties

- 2.40 Finally, any broader review of the GSS should consider where the scheme sits in relation to other regulatory penalties for service failures. Some service failures might result in companies also incurring outcome delivery incentive penalties and regulatory fines. GSS payments would generally represent the least significant of these. Consideration should be given to whether this balance is correct.