

WATER SERVICES REGULATION AUTHORITY
NOTICE OF REVOCATION OF THE WATER SUPPLY AND
SEWERAGE LICENCES OF TOR WATER LIMITED

This Notice of Revocation is served on Tor Water Limited by the Water Services Regulation Authority, revoking Water Supply Licence number 071/2018/WL and Sewerage Licence number 070/2018/SL, with effect at 6pm on 19 February 2020.

On 29 June 2018, the Water Services Regulation Authority (“**Ofwat**”) granted a water supply licence with a retail authorisation to Tor Water Limited (“**Tor Water**”) (Water Supply Licence number 071/2018/WL) under section 17A of the Water Industry Act 1991 (“**WIA91**”). On 29 June 2018, Ofwat granted Tor Water a sewerage licence with a retail authorisation (Sewerage Licence number 070/2018/SL) under section 17BA WIA91 (together the “**Licences**”).

The Licences are subject to the Water Supply and Sewerage Licence Standard Conditions issued by the Secretary of State under sections 17H and 17HA WIA91 (the “**SLCs**”).

Having received repeated notifications from South West Water that Tor Water had become a Defaulting Trading Party¹ under the Wholesale Retail Code (the “**WRC**”), on 29 May 2019 Ofwat issued a Direction to Tor Water requiring it to:

- pay outstanding and undisputed invoices or statements in accordance with the WRC; and
- cease to be a Defaulting Trading Party.

This Direction prohibited Tor Water from providing retail services to any new premises whilst it remained a Defaulting Trading Party.

Tor Water continued to become a Defaulting Trading Party each month following the issue of the Direction. On 9 January 2020, Ofwat issued a notice of a proposal to make final enforcement orders to Tor Water which set out the concerns it had with Tor Water’s compliance with a series of its statutory and licence obligations, and Ofwat’s proposals to address these. The consultation on this notice closed on 31 January 2020.

Having correctly identified Tor Water as a Defaulting Trading Party under section 10.1.1 (Late Payment) and 10.1.2 (Persistent Failure to Pay) of the Business Terms of the WRC, on 15 January 2020 South West Water issued a termination notice to Tor Water in accordance with the Business Terms of the WRC. This notice advised

¹ Defined at Schedule 1 Part 1 Objectives, Principles and Definitions of the WRC.

Tor Water that its Wholesale Contract² would be terminated on 30 January 2020 unless it paid its outstanding invoices and ceased to be a Defaulting Trading Party under the cited classifications (the '**Contract Termination**'). Tor Water did not pay the outstanding invoices, and the Contract Termination took effect at 5pm on 30 January 2020.

Having correctly identified Tor Water as a Defaulting Trading Party under section 10.1.1 (Late Payment) and 10.1.2 (Persistent Failure to Pay) of the Business Terms of the WRC, on 3 February 2020 Wessex Water issued a termination notice to Tor Water in accordance with the Business Terms of the WRC. This notice set out that termination will take effect at 6pm on 19 February 2020. Termination will occur automatically unless Wessex Water's termination notice is withdrawn. As at the date of the issue of this Notice of Revocation, the outstanding amount owed by Tor Water to Wessex Water has not been paid.

Bristol Water informed Ofwat on 14 February 2020 that Tor Water had not met its December 2019 and January 2020 payments.

MOSL informed Ofwat on 13 February 2020 that it had not received Tor Water's market operator charges for February 2020.

Ofwat commenced the transfer of customers affected by the Contract Termination on Monday 3 February 2020. The [Allocation Notice](#) confirms that affected customers were transferred to Pennon Water Services Limited following a competitive process on 10 February 2020.

Between 31 January 2020 and 14 February 2020 Ofwat sought information from Tor Water, as detailed below.

Date / Time	Correspondence Type	Read Receipt Received	Response Received
31 January 2020, 2:08pm	Email, RFI*	No read receipt requested	x
3 February 2020, 10:15pm	Email, RFI	No read receipt requested	✓
3 February 2020, between 3:15pm and 4pm	2 phone calls	N/A	x
3 February 2020, 5:13pm	Email, RFI	✓	x
5 February 2020, 3:45pm	Email, RFI	✓	x
11 February 2020, 11:20am	Phone call	N/A	x
11 February 2020, 3pm	Phone call and voicemail	N/A	x
11 February 2020, 4:37pm	Email, RFI	✓	x

² Defined at Schedule 1 Part 1 Objectives, Principles and Definitions of the WRC.

Date / Time	Correspondence Type	Read Receipt Received	Response Received
13 February 2020, 10:43pm	Email, RFI	✓	x
14 February 2020, delivered to registered office at 7:35am; delivered to office at 10:22am	Special delivery post, RFI	N/A	x

*RFI: Request for Information under SLC A8 of the SLCs.

Initially, Ofwat sought information from Tor Water about the customers affected by the Contract Termination, which may have assisted in gaining enhanced customer protection measures. The response Tor Water provided to our email of 3 February 2020 did not answer the questions asked, but instead set out why it was not possible to provide the requested information within the timeframe, citing that its information controller was on holiday until 5 February 2020. The requested information has not since been provided.

Tor Water informed Ofwat by email on 5 February 2020 that it would "be appointing a receiver to undertake the liquidation of this business". The various correspondence from Ofwat to Tor Water following this email:

- continued to request information that may have assisted with enhanced customer protection measures for customers affected by the Contract Termination;
- requested information about customers that would be affected by the liquidation of Tor Water, notably those in Wessex Water and Bristol Water's areas;
- sought clarification on the next steps that Tor Water was proposing to take in light of its email of 5 February 2020;
- sought confirmation that Tor Water had not itself organised for the transfer of its remaining customers to another supplier through a sale of the business, and that it would therefore be appropriate to plan for an interim supply event in relation to these customers;
- sought financial information from Tor Water, whether it was insolvent, and details of the liquidator it had appointed so that Ofwat could liaise with them about the interim supply process; and
- in the final correspondence, sent by email and letters on 13 February 2020, confirmed to Tor Water that unless it informed Ofwat to the contrary, it would assume that the company is or is likely to be unable to pay its debts, that the director is in the process of liquidating the company, and that it no longer requires its Water Supply and Sewerage Licences.

Ofwat received a read receipt to its email of 13 February 2020, and has confirmation that the letters were delivered to both its registered office and main office. Ofwat received no response to this correspondence.

Tor Water has breached the requirements of SLC A8 by failing to provide requested information which Ofwat sought for the purpose of carrying out its functions under the Water Industry Act 1991. Ofwat sought information within restricted timeframes because of the nature of the information requested and the circumstances surrounding the information requested: the Contract Termination and the need for Ofwat to comply with its statutory duties to protect the interests of customers – in this context, the requirement of Ofwat to transfer affected customers to a new retailer; and details of Tor Water's next steps and financial position following its email of 5 February 2020.

For the reasons given above, Ofwat considers that there has been a contravention by Tor Water of its principal duty under SLC A8 that is serious enough to make it inappropriate for it to continue to hold its Licences.

Tor Water has been the subject of the Contract Termination where it owed South West Water in excess of £5,000³ and had demonstrated a persistent failure to pay. As at the date of this Notice of Revocation Tor Water remains a Defaulting Trading Party subject to notice of a Wholesale Contract termination by Wessex Water as it owes it in excess of £5,000 and has demonstrated a persistent failure to pay. The amount currently owed to Bristol Water does not exceed £5,000, but Tor Water has nonetheless failed to make required payments. Given the series and persistence of Tor Water's recent outstanding payments with wholesalers, and more recently its failure to pay its Market Operator charges, Ofwat considers that Tor Water is or is likely to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts).

Ofwat has notified Tor Water of its conclusions by email and post and explained that it would take a failure to respond to these conclusions within a specific timeframe as confirmation from Tor Water that they are correct. Ofwat has received confirmation that its email has been read and no response has been received.

The above circumstances are grounds under SLCs A10(2)(c) and A10(2)(l) for Ofwat to revoke Tor Water's Licences.

On 17 March 2017, the Secretary of State issued a general authorisation to Ofwat to revoke water supply and sewerage licences. The general authorisation came into effect on 1 April 2017.

Standard Licence Condition 11 provides that in issuing a notice of revocation, Ofwat must set out the matters it relies on to justify the revocation and the date the revocation will take effect. It also provides that the revocation may not come into effect until 30 days after the notice is issued, except in certain circumstances, including where it is necessary to revoke the licence urgently or it is being revoked because the licensee is unable to pay its debts. In such circumstances, the licence may be revoked on 24 hours' notice.

³ A licensee will be classed as a Defaulting Trading Party under section 10.1.1 of the Business Terms of the WRC where it has failed to pay an undisputed amount of more than £5,000 over the course of a defined period of time.

Ofwat's considers that it is necessary to revoke this licence urgently because of the need to protect Tor Water's remaining customers. The limited correspondence we have had with Tor Water indicates that it no longer considers itself to be a trading party within the business retail market. We have concerns about the unresolved future of customers with premises in Bristol Water's area should the termination of Tor Water's Wholesale Contract with Wessex Water go ahead, particularly those with premises in both Wessex Water's and Bristol Water's areas. It would be much less disruptive to them if steps are taken to reallocate all of their premises at the same time through a simultaneous revocation of Tor Water's Licences and termination of Wessex Water's Wholesale Contract.

For the reasons given above Ofwat notifies Tor Water that unless Wessex Water withdraws its termination notice because Tor Water agrees suitable credit arrangements with Wessex Water, or that termination notice falls away because the relevant outstanding amounts have been paid before 6pm on 19 February 2020, Ofwat will revoke its water supply licence and sewerage licence at 6pm on 19 February 2020 without further notice.

The grounds upon which Ofwat will revoke the licence are:

- **SLC A10(2)(c) – there has been, is or is likely to be such a contravention by Tor Water of any principal duty, not being a contravention in respect of which a notice has been served under section 19(3) of the Act (notice that one of the exceptions to the duty to enforce applies), as is serious enough to make it inappropriate for the Licensee to continue to hold its Licence; and**
- **SLC A10(2)(l) – Tor Water is or is likely to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts).**

Date: 17 February 2020



**Sally Irgin
Director of Enforcement
Water Services Regulation Authority**

