

March 2020

**Call for Inputs: Customer Protection
Code of Practice – ease of access
to audio records**

Executive Summary

The [Customer Protection Code of Practice](#) (“**CPCoP**”) sets out the rules that all retailers must follow to ensure that Non-Household Customers are protected in the new market. It sets out the minimum standards that all Retailers must comply with in their dealings with Non-Household Customers, and compliance with the CPCoP is a legal obligation under all Retailers’ [standard licences conditions](#).

Following implementation of [CP0002](#), the CPCoP enables Micro-businesses (i.e. a Non-Household Customer where the number of employees is less than ten) to orally conclude contracts. This document is a Call for Inputs in relation to a Customer Protection Code Change Proposal which has been raised by the Utilities Intermediaries Association (“**the Proposer**”). The Proposer has suggested that amendments are made to the CPCoP to ensure ease of access to audio records where a contract has been orally concluded by a Micro-business (“**the Change Proposal**”). The CPCoP requires Ofwat to consult on its proposal to accept, reject or amend a Customer Protection Code Change Proposal.

Whilst we support the principle of the Change Proposal as it is seeking to further the customer protections that are currently provided by the CPCoP, to be able to make an more informed assessment of the impact of the proposed changes we are seeking further evidence on the potential impacts.

Except as otherwise provided in this Call for Inputs, words and expressions used have the same meaning as they have in the CPCoP.

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1. Responding to this Call for Inputs

We welcome your views on the questions detailed in section 4 of this document by **5pm on 1 April 2020**.

Please submit email responses to CPCOPcodechange@ofwat.gsi.gov.uk, with the subject “**CPCoP: Call for Inputs – ease of access to audio records**” or post them to:

CPCoP: Call for Inputs – concluding oral contracts
Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

We will publish responses to this consultation on our website at www.ofwat.gov.uk, unless you indicate that you would like your response to remain unpublished. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation – primarily the Freedom of Information Act 2000 (FoIA), the General Data Protection Regulation 2016, the Data Protection Act 2018, and the Environmental Information Regulations 2004. For further information on how we process personal data please see our [Privacy Policy](#).

If you would like the information that you provide to be treated as confidential, please be aware that, under the FoIA, there is a statutory ‘Code of Practice’ which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential and also provide a confidential version of your response. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

2. Why are we publishing this Call for Inputs?

In September 2018, we received a CPCoP Change Proposal from Clear Business Water Limited. It had proposed amendments to the CPCoP to enable Micro-businesses to orally conclude contracts (“**CP0002**”). In March 2019, we published a [consultation](#) on our proposed decision to accept CP0002. Following the consultation and after consideration of the responses received, we approved CP0002 to enable Micro-business customers to orally conclude contracts.

Where this option to orally conclude a contract is used by a Micro-business, there is a requirement for Retailers to ensure that they have an audio recording of the conversation. Section 6.1.3 (a)(i) and (b)(i) of the CPCoP requires that before submitting a Transfer Registration Application (requesting a switch), Retailers must ensure they have:

“a clear audio recording of the full conversation with the relevant Micro-business including its oral acknowledgement that it has heard and understood the information provided to it pursuant to Section 6.1.1”

The Proposer responded to our consultation on CP0002 and made recommendations that it considered strengthened the proposed change. Its recommendations were considered and we provided our response to these in our [CP0002 decision document](#). We concluded that its recommendation to strengthen the provisions in section 10 ‘Complaint handling and dispute resolution’, to ensure that Micro-businesses can easily access the relevant audio records where they elect to conclude contracts orally, fell outside of the scope of CP0002 because it was not seeking to review the complaint handling and dispute resolution sections of the CPCoP. We therefore invited the Proposer to submit a Customer Protection Code Change Proposal. Subsequent to this, on 3 September 2019, the Proposer submitted this Change Proposal which is seeking to ensure ease of access to audio records where a contract has been orally concluded by a Micro-business.

Section 5.2.2 of the CPCoP requires that Ofwat must consult on its proposed decision to accept, reject or amend each Customer Protection Code Change Proposal. Whilst we support the principle of the Change Proposal as it is seeking to further the customer protections that are currently provided by the CPCoP, to be able to make a more informed assessment of the impact of the proposed changes, we would value evidence from stakeholders about the potential impacts of the Change Proposal. We would usually expect to receive this evidence directly from the proposer of a Customer Protection Code Change Proposal. However, whilst we consider that it is an appropriate body to submit a Customer Protection Code Change Proposal because of the work it does with third party intermediaries in the

business utilities sector, because of the nature of the Proposer we understand that it would not hold, nor is it able to easily access or gather the evidence that would inform our decision. As such, on this occasion, we are publishing a Call for Inputs to obtain information and evidence that will assist us in reaching a decision upon which to consult under section 5.2.2 of the CPCoP.

3. The Change Proposal

The Proposer has recommended that the complaint handling and dispute resolution provisions of section 10 of the CPCoP are modified to:

- include a requirement for Retailers to co-operate with requests from Micro-businesses or their appointed representative to access all relevant audio records in a timely manner and in a format that is easily readable and transferable; and
- where a request has been made by a Micro-business for audio records to be provided, the Proposer has recommended that these should be made available within a timeframe of five Business Days.

3.1 Reasons for the Change Proposal

The Proposer has identified that some customers in the energy retail market, where the ability to agree contracts orally is permitted, have difficulties in obtaining access to audio records in the event of a dispute or complaint. It has indicated that responses by energy suppliers to requests for access to audio records are inconsistent. It has suggested that customers are being forced to wait for over 28 working days before the relevant information is provided. The Proposer has also indicated that where audio records are provided, access to that audio recording can be convoluted and may make it difficult for customers to share or pass to another party, which they might want to do for example if they are seeking support or legal advice.

The Proposer considers that providing timely and easy access to recordings in the business retail market for water and sewerage would enable any potential issues or disputes to be investigated and remedied promptly, minimising the potential customer harm of the kind it has reported in the gas and electricity markets.

The Proposer contends that this proposal would further strengthen protections under CP0002.

3.2 Our initial view

We are supportive of the principle of the Change Proposal as it is seeking to build on the customer protections that are provided by the CPCoP for Micro-business customers, in light of the modifications made to it by approval of CP0002. However, we do not currently have sufficient information on which we can reach a decision on whether to consult on approving, rejecting or modifying the proposal. In particular,

we do not have currently have evidence about the potential impacts of the proposal and whether it is the most appropriate means of achieving the desired outcome. As such, this Call for Inputs is being published to obtain information and views from relevant consumer bodies, market participants and any other interested stakeholder.

4. Call for Inputs – information, questions and next steps

We consider the Change Proposal could bring benefits for customers through enhanced protections where they choose to conclude contracts orally. We also note that the Proposer has identified that some customers in the energy retail market - where the ability to agree contracts orally has been permitted for longer than it has in the business retail market - have difficulties in obtaining access to audio records in the event of a dispute or complaint.

However, in order to further understand the costs and benefits associated with this Change Proposal we request responses to the questions below. Answers should be supported with evidence. We are also interested in evidence from other sectors where this is relevant. We appreciate that some of the below questions can only be answered by certain parties and therefore we understand that not all respondents will reply to every question.

1. Do you consider that the Change Proposal addresses the identified issue; that in the event of a complaint or dispute some customers have difficulty obtaining audio recordings in a timely way and obtaining them in a format that is easy to share/transfer?
2. What is your view of how the Change Proposal promotes and facilitates the General Principles of the Customer Protection Code of Practice (section 4 of the CPCoP)?
3. What is your view of the proposals that in the event of a complaint or dispute Retailers should be required to:
 - a. cooperate with requests for audio records;
 - b. provide audio records in an easily readable and transferrable format; and
 - c. provide audio records in a timely manner (the Proposer has suggested five Business Days).
4. Do you consider that the Change Proposal would have any impacts on business processes, systems or have costs implications for Retailers? If so, please provide evidence to support your response.
5. What is your view of whether the Change Proposal should apply to all records rather than just audio records?

This Call for Inputs on the Change Proposal will close at 5pm on **1 April 2020**.

Following the closure of this Call for Inputs, we will consider responses prior to issuing a consultation under section 5.2.2 of the CPCoP on our proposed decision in respect of the Change Proposal.

Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.

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