

Smarta Water response to:

Ofwat Consultation: Covid-19 and the business retail market: Proposals for Customer Protection Code Change Proposal

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Table of Contents

Foreword	3
1. Do you think the Change Proposal will achieve the following policy aims:	4
a. Covid-19 Affected Customers should continue to be protected. <i>Seriously Affected Customers</i>	4
<i>Affected Customers</i>	4
b. Customers who are operating normally and can pay should be subject to normal debt recovery processes.....	4
c. Retailers should take the necessary steps to differentiate between those customers who genuinely need support and those who should be expected to pay.	4
2. What is your view of the proposal that the protections relating to disconnection, suspension of enforcement, late payment and interest charges will only automatically apply to Covid-19 Affected Customers?	5
3. What do you think should be included in a Covid-19 Repayment Scheme? Do you have any examples of similar schemes that you have offered and/or have considered as a result of Covid-19? Please provide details.....	6
Eligibility	6
Assessment Criteria	6
Debt Liability	6
Interest and Late Payment Fees	6
Contact details	6
4. .. What are your views on our proposals to require Retailers to clearly provide a method of contact on websites, as set out in section 4.3?	7
5. What is your view of the legal drafting for the Change Proposal (see appendix 1)?	8
6. .Do you consider that the Change Proposal promotes and facilitates the General Principles of the CPCoP (section 4 of the CPCoP)?	9
7. What is your view on our assessment that the impact of implementing the changes on Retailer’s systems will be low? What is your view of the proposed implementation date of the Change Proposal being 1 June 2020?	10

Foreword

Smarta Water welcome the invitation to respond to the consultation paper issued by Ofwat in relation to the impact of Covid-19 on the business retail market.

In providing our response to the proposals presented to the Customer Protection Code – CP0007 we have taken a balanced and pragmatic approach.

In reviewing the paper and through discussion with UKWRC, Ofwat and MOSL we believe that there needs to be cross market burden sharing in order to keep the market operating however this requires a balanced perspective for Customer, Retailers and Wholesalers alike.

We believe that a consolidated whole market perspective by Ofwat through the consultation process is imperative not only to address short term Covid-19 related issues but also take a longer term perspective and initiate a review of a longer-term perspective to strengthen the business retail market as a whole and we hope the information we continue to provide is beneficial in attaining balanced, informed and considered solutions.

1. Do you think the Change Proposal will achieve the following policy aims:

a. Covid-19 Affected Customers should continue to be protected.

Seriously Affected Customers

We believe that customers who are seriously affected by Covid-19 should continue to be protected. Retailers have the ability through CPW091 – Temporary change to vacancy/CSD 0104 to flag premises as Vacant for customers not open or available to workers/visitors or have had significant reduction >95% and we see this as a positive interaction between the codes and the CPCoP.

It should also be noted that in some instances for premises marked vacant that have had minimal water consumption Smarta have been approached by the Wholesaler to remove the temporary vacant flag despite the consumption having decreased beyond 95% less than normal consumption which is an area for concern to both Customers and Retailers.

Affected Customers

For customers that are affected by Covid-19 we see this as a little more ambiguous and open to potential abuse by some customers.

With differentiation being at the discretion of individual Retailer policies this may lead to discrepancies in interpretation and application between retailers which Ofwat and CCWater should anticipate.

In particular this could be used as a mechanism for customers with pre-covid payment issues utilising to the CPCoP to engineer further delay. Customers in this category do have access to Government support packages available and as such should be able to evidence, they have exhausted these means prior to non-payment of utility suppliers, in this particular case water Retailers.

b. Customers who are operating normally and can pay should be subject to normal debt recovery processes.

Yes, we fully agree.

c. Retailers should take the necessary steps to differentiate between those customers who genuinely need support and those who should be expected to pay.

Having reviewed the proposals and while we highlight the second part of our response to section a of this question, we believe it is correct for Ofwat to leave this to retailer however suggest a broad framework of areas retailers will consider and apply on a case by case benefit may be beneficial to support Retailers and create an increase balance between customer protection and retailer commercial position.

2. What is your view of the proposal that the protections relating to disconnection, suspension of enforcement, late payment and interest charges will only automatically apply to Covid-19 Affected Customers?

We fully support this for Seriously Affected Customers whose premises can be marked as Vacant.

For Affected Customers the government has brought forward a range of measures to support businesses during the COVID-19 crisis, including employee retention schemes, cash grants and payment deferrals. Here's a quick overview of all the support available:

- Coronavirus Business Interruption Loan Scheme, with loans of up to £5 million for SMEs affected by the crisis
- Coronavirus Job Retention Scheme
- Statutory Sick Pay relief for SMEs
- 12-month business rates holiday for retail, hospitality, leisure and nursery businesses in England
- The option to defer VAT and Self-Assessment payments
- £10,000 cash grants for SMEs in receipt of small business rate relief or rural rate relief
- £25,000 cash grants for retail, hospitality and leisure businesses with property rateable in the value of £15,000 - £51,000
- Time to Pay Scheme from HMRC

Where Customers have liquidity support through these or other methods such as shareholder support, we do not believe that it is appropriate for Retailers to be prohibited from charging fair and appropriate interest and late payment fees.

We recommend Ofwat consider approval for mirroring the interest and late payment fees approved from application from Wholesalers to Retailers where they are supporting liquidity through the Wholesale Payment Deferral. In particular we believe consideration should be made to the position of Retailers with pre-covid related debt.

We believe that it is fair and appropriate for Customers to provide evidence they have exhausted these means prior to non-payment of utility suppliers, in this particular case Water Retailers.

3. What do you think should be included in a Covid-19 Repayment Scheme? Do you have any examples of similar schemes that you have offered and/or have considered as a result of Covid-19? Please provide details.

Eligibility

A requirement for customers to certify that their business and ability to make contractual agreed payments has been adversely impacted by Covid-19.

An example of a situation in which a payment deferral/repayment scheme may be appropriate is where there is or will be a temporary reduction in Customer income that would have otherwise been used to make payments.

Assessment Criteria

The key criteria/information requirements that the Retailer will utilise in making an assessment to extend a Covid-19 Repayment Scheme to a requesting Customer.

Debt Liability

It should be clear that the customer remains liable for all of the debt

Interest and Late Payment Fees

We believe Retailers should not be prevented from continuing to charge interest and/or late payment charges. These should be clearly communicated in the repayment scheme enabling the Customer to assess the most effective means of liquidity for their particular circumstance which may well lie with attaining Government grants or loans or more cost effective means of liquidity such as shareholder funds.

Contact details

To be used for requesting access to Covid-19 Repayment Scheme, ongoing administration through the duration of the scheme, or to challenge a Retailers assessment of eligibility.

4. What are your views on our proposals to require Retailers to clearly provide a method of contact on websites, as set out in section 4.3?

We agree with the proposals however draw to Ofwat's attention that the ease of change and implementation will be variable between Retailers some of whom may have marketing teams whether internally or externally resourced on furlough and as such unavailable.

5. What is your view of the legal drafting for the Change Proposal (see appendix 1)?

Our review backs the drafting in principle.

We do not agree with the restriction for Retailers not to be able to apply interest of late payment charges as set out in section 9.4 sub section 9.4.1.

It is our belief that this places Retailers in a position of supporting customer debt and mandating Retailers incurring loss through unrecoverable provision of liquidity to customers. There is a clear mismatch and disparity between the ability for Wholesalers to recover cost for liquidity provision to Retailers, which also aims to encourage Retailers to seek alternative means of liquidity and the inability for retailers to recover cost for liquidity provision to Customers, which does nothing to encourage Customers to seek alternative means of liquidity.

6. Do you consider that the Change Proposal promotes and facilitates the General Principles of the CPCoP (section 4 of the CPCoP)?

Yes – We believe the proposal fully upholds the General Principles of the CPCoP (section 4 of the CPCoP).

7. What is your view on our assessment that the impact of implementing the changes on Retailer's systems will be low? What is your view of the proposed implementation date of the Change Proposal being 1 June 2020?

We do not concur with the assessment that the impact of implementing the changes on Retailer's systems will be low.

We support the implementation date to bring clarity to the market as a whole however recommend that consideration is given when assessing the application fully in light of individual Retailer staffing positions through Covid-19.

8. Do you consider that the amendment to Part I13 of Operational Terms is still required to protect Self-Supply Retailers from disconnection?

We believe that an extension should be made to protect Self-Supply Retailers from disconnection mirroring the protection to the wider NHH market.