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Summary

Water UK is the representative body and policy organisation for water and wastewater service providers across the UK. This response is on behalf of all wholesalers in England and Wales; if there are any differences or additional points individual wholesalers wish to highlight, they may be responding separately.

We recognise that in March and April 2020, the non-household retail market faced an imminent threat of systemic retailer failure under the financial pressures caused by the impacts of COVID-19.

While exit, as well as entry, is a normal part of competitive markets, systemic retailer failure would not have been in the best interests of business customers, so at that time emergency measures were appropriate. Wholesalers played a crucial role to protect business customers, providing 'bridging' liquidity to give retailers time to arrange alternative financing where needed.

While the impacts of COVID-19 on the economy and the water sector are far from over and the future path of the pandemic is uncertain, the circumstances have now changed. In particular, the economy has been progressively reopened as most lockdown measures have been relaxed, and retailers have had further time to consider their options in terms of securing further funding where needed.

We agree with the broad thrust of the consultation that in these changed circumstances, it is right that the emergency measures introduced in March and April should be withdrawn and unwound as soon as practical without disrupting the market and services to customers. We welcome the clear statements that deferred wholesale charges need to be repaid in full by the end of March 2021.

Wholesalers recognise that, while the primary responsibility for unwinding these emergency measures rests with retailers, wholesalers also have a part to play, and for example will work constructively with retailers during the unwinding of the temporary vacancy flag and to improve the accuracy of data in CMOS.

Below, we provide responses to questions 1-18 in the consultation. (Water UK does not feel that it would be appropriate to respond to the questions in Appendix 1 asked on behalf of the Panel, although individual wholesalers may do so.)

We would be pleased to both expand on these responses and to continue our productive and constructive engagement with Ofwat and other parties, with the aim of unwinding the emergency

measures and returning the market to normal operations as soon as practical, while also being conscious of the risks of a resurgence of COVID-19 during the remainder of this year and beyond.

We would also welcome engagement on how to ensure that in the future the market is more resilient to external shocks. As we collectively unwind the emergency measures put in place earlier in the year, we must not lose sight of the need to ensure that lessons are learnt from this year's experiences and that concrete steps are taken to reduce the risk of emergency measures being needed in the future.

Consultation question 1:

Of the three options identified in relation to extending liquidity support, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers interests and why?

We strongly support option 1, no extension of liquidity support post July 2020.

Retailers have now had several months to explore and put in place other forms of support, which as the consultation notes was the explicit intention of the temporary liquidity support. The limited extent to which this temporary liquidity support has been utilised in practice is positive, and suggests that the risk of systemic retailer failure has now passed. That only eight retailers have opted in, all deferring amounts significantly below the maximum that was allowed, and most having made additional payments beyond the minimum required, demonstrates that there is no pressing need for further emergency liquidity to be provided by wholesalers. We therefore agree with Ofwat's minded to position that option 3 should be ruled out.

Extending the period over which retailers could defer charges (option 2) would risk retailers delaying putting in place any additional finance they may need, and unnecessarily prolong uncertainty in the market. It would leave wholesalers unclear on the degree to which payments for primary charges would be made, at a time when wholesalers' available liquidity is increasingly likely to be needed to manage the impacts of household customer non-payment as the Government's Coronavirus Job Retention Scheme is progressively withdrawn and unemployment inevitably rises. This would not be compatible with furthering customers' interests.

Consultation question 2:

If we were to implement option 2, should we retain the existing capped amount of liquidity support (i.e. 40% of primary charges from March to July), or should this be reduced to a lower level (e.g. 30%, or 25%)? Please explain your answer and provide supporting evidence wherever appropriate.

As noted above, we strongly support option 1 and do not regard option 2 as being compatible with furthering customers' interests or necessary to prevent systemic retailer failure. If Ofwat were however to implement option 2, the unnecessary uncertainty this would generate should be reduced as far as possible by reducing the cap on liquidity support to as low as possible. From the information provided in the consultation on the usage of the scheme to date, the level that support was originally set at (40%) is clearly not required, and if Ofwat decided to proceed with option 2, the cap should therefore be reduced substantially.

Consultation question 3:

If we were to implement option 2, should we continue to allow Retailers to opt into the scheme at any time up until October 2020? We also welcome stakeholder views on the most appropriate way a cap could be implemented into the current mechanism. Please explain your answer and provide supporting evidence wherever appropriate.

As noted above, we strongly support option 1 and do not regard option 2 as being compatible with furthering customers' interests. If Ofwat were however to implement option 2, the unnecessary uncertainty that this would generate should be reduced by substantially lowering the cap, as noted in the response to question 2, and not allowing additional retailers to opt in to the scheme after July.

We note that retailers will have made considered decisions on whether the additional reporting requirements and regulatory burdens of opting in were justified by their need for temporary bridging liquidity while they secured alternative sources of funding. It would be surprising if retailers who have not chosen to date to opt in would now wish to do so.

Should however Ofwat wish to prolong uncertainty in the market by allowing a further period where retailers could opt in, this should be for a short window and not until October 2020. A retailer's desire in the future to opt in should be supported by evidence of their need to access this type of liquidity (which should be used only as a last resort) and their inability to access other forms of liquidity – and only allowed if a retailer can demonstrate in advance why their circumstances have materially changed such that it is now in customers' interests that they should be able to opt in.

Consultation question 4:

Of the three options identified in relation to unwinding liquidity support, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers' interests and why?

We agree that option 3, Ofwat specifying a backstop repayment profile would provide the best balance, allowing for trading parties to agree terms where appropriate, while providing regulatory certainty through a clear backstop.

An orderly and smooth unwinding of the temporary liquidity support would be in the interests of customers. It would reduce uncertainty and enable both retailers and wholesalers to plan arrangements over the remainder of the financial year with confidence, and reduce the potential for a cliff edge of repayments in March 2021. We welcome the proposal for transparency with the publishing of the repayment profiles.

Consultation question 5:

Under option 3 do you agree that 33% of deferred wholesale charges should be repaid by end November 2020 and that 66% should be repaid by end January 2021? Please explain your answer and provide supporting evidence wherever appropriate.

We agree that Ofwat's proposed profile of a minimum 33% repayment by the end of November and 66% repayment by the end of January would be appropriate. This approach sets a clear and phased payment profile, while avoiding unnecessary complexity.

Consultation question 6:

Do you agree that the option for Retailers to use the temporary vacancy flag should be allowed to expire on 31 July 2020? Please explain your answer and provide supporting evidence wherever appropriate.

We agree that, in line with the nationwide easing of restrictions, the option to apply the temporary vacancy flag should expire at the end of July 2020.

This temporary flag was an emergency measure introduced at a point when there were significant challenges to obtaining accurate meter reads due to nationwide restrictions and a risk to elevated levels of estimated consumption being charged to retailers.

However, its use has been variable and has had a significant impact on the quality of data in CMOS and on the ability to recover charges from customers who have been consuming water and sewerage services while restrictions have been in place. Now that restrictions have been largely removed and meter readings can more easily be obtained than before, it is right that this emergency measure should be withdrawn.

Consultation question 7:

Do you agree that in the event of (1): reduced consumption, and/or (2) any local lockdowns, Retailers should seek to obtain meter reads to reflect actual consumption in the market (or in the event a meter read cannot be obtained engage with customers to obtain an accurate estimate of consumption (YVE))? Please explain your answer and provide supporting evidence wherever appropriate. If you do not agree, please set out an alternative proposal.

We agree that the priority should be for the retailer to obtain meter readings in a timely manner to reflect actual consumption for metered customers, so that charges appropriately reflect the services consumed as soon as possible.

Estimates of consumption (YVE) should only be used as a last resort when it is not possible to obtain meter readings. Any attempt to use any form of localised temporary localised COVID-19 vacancy flag would be overly complicated and difficult to manage with any degree of accuracy.

In addition, the number of properties being newly marked as being vacant should be closely monitored for variances with historic trends, and any outliers investigated. We also note and support Ofwat's comment that retrospective changes of status should be used where evidence now suggests that temporary vacant flags were incorrectly applied.

Consultation question 8:

Do you agree that following the expiration of the temporary vacancy flag Retailers will have until the end of September to remove these flags from CMOS? Please explain your answer and provide supporting evidence wherever appropriate.

We note and support the clear expectation that Ofwat has previously set that retailers should already be reviewing, and where appropriate updating, the status of their customer premises.

We agree that it is important a backstop date is set by which all temporary vacancy flags are removed from CMOS with an associated meter read or appropriately agreed YVE, and we agree that a backstop of

30 September, in line with the Codes, would be appropriate. For clarity, it would be helpful to confirm that this would mean a deadline of the close of business 30 September for all temporary flags to have been actually removed from CMOS.

In this context though it is important that retailers progress changes in a timely manner and do not simply wait until the deadline. Therefore, to incentivise the prompt removal of all temporary flags, two further measures could be taken:

- any temporary flags that remained at the deadline should be automatically removed centrally by MOSL, retrospectively to the date for which the property had been flagged as being temporarily vacant; and
- Ofwat could set an expectation that for each retailer a significant proportion, for example at least 50%, of temporary vacant flags should be removed by the end of August, the date for which Ofwat previously set an expectation in the market for the removal of temporary flags.

As noted above, the number of properties being newly marked as being vacant should be also closely monitored for variances with historic trends, and any outliers investigated.

Consultation question 9:

Do you agree that a new MPS should be introduced from 1 October that focusses on the timely removal of all temporary vacancy flags? If so, what are your views about how this standard should be designed? Please explain your answer and provide supporting evidence wherever appropriate.

We agree that it is important that there is a clear and meaningful incentive to ensure that all temporary vacancy flags are removed in a timely manner, to improve the accuracy of property status records as soon as possible.

A new MPS could be one way of doing this. However, if, as suggested above, any temporary vacancy flags that remain at the deadline of the close of business at the end of September were automatically removed, retrospectively to the date for which the property status had been flagged as being temporarily vacant, this would provide a simple and strong incentive for all temporary flags to be removed by the deadline.

This would avoid the need for a new MPS to be designed and introduced, avoiding adding further complexity to the market, and also avoid the risks of either incentive payments under a new MPS being treated as a cost of doing business, or of weakening the financial resilience of retailers.

Consultation question 10:

Do you agree that an additional MPS (or alternatively an API) should be introduced to monitor the use of YVEs in the market and incentivise the submission of more accurate consumption data? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation question 11:

If we were to introduce a financial incentive on YVEs, how could arbitrarily low YVEs entered into CMOS be identified in a proportionate way (for example via one or more simple rules)? If we were to introduce a reputational incentive on the use of YVEs, how could such a reputational incentive be strengthened?

We agree that the use of YVEs should be monitored and the submission of more accurate consumption data should be incentivised, and in particular that inappropriate use of low YVEs should be disincentivised. Individual wholesalers will provide their views on the most appropriate mechanism to achieve this aim, and we note that prompt and accurate meter reads will greatly assist in the rectification of YVE discrepancies when combined with the above proposals

Consultation question 12:

What are your views on how we can better (financially or reputationally) incentivise Wholesalers to work constructively with Retailers during the unwinding of the temporary vacancy flag and to improve the accuracy of data in CMOS?

Wholesalers fully support the aim of unwinding the temporary vacancy flag and improving the accuracy of data in CMOS as soon as possible. While the primary responsibility for this rests with retailers, wholesalers recognise that they also have a part to play.

If, for example, wholesalers have useful information that is not available to retailers, they will provide it to retailers as a matter of course; we are not aware of any need for there to be a specific new incentive. Wholesalers would naturally expect that retailers to take action in a timely manner in relation to information provided to them.

Consultation question 13:

Do you agree with the expectations set out above, which will guide trading parties through the unwinding of the temporary vacancy flag?

The expectations set out in the consultation seem reasonable and we confirm that wholesalers will work constructively with retailers, including sharing evidence that can support retailers in maintaining accurate occupancy status for their customers as well as delivering accurate and timely settlement. Wholesalers expect retailers to take action in a timely manner in relation to information provided to them.

It will be important for trading parties to be provided with clear guidance on the unwinding of the temporary vacancy flag – recognising that while in some cases it will be clear that either the use of the temporary vacancy flag was correct, or with the benefit of information now available it was clearly incorrect and so should be retrospectively removed, there will be some properties where the situation is less clear.

As the primary responsibility for maintaining accurate occupancy status records for their customers is retailers', and given that it is not Ofwat's intention to absolve business customers their requirement to pay for services that they have knowingly and legitimately consumed in the operation of their business, one option to provide clarity would be for the default position to be that unless the retailer can demonstrate that the premises has used <5% consumption, the temporary flag is removed retrospectively to the date on which it first came into effect.

To ensure a timely and accurate return to market activity it is important that the current unique circumstances are recognised in the settlement timetable. For example, the use of vacant flags will potentially force volumes into settlement periods in the autumn and winter of 2019; the consumption would then not be settled until 2021. This would artificially delay the recovery of accurate settlement.

To address this, it is proposed that the number of settlement reconciliation runs is increased to correct this anomaly. To mitigate the impact on the trading parties it is proposed that individual wholesalers are given the right to settlement reconciliation runs on a frequency they choose for all months starting with November 2019 and extending to November 2020.

Consultation question 14:

Should Market Performance charges come back into effect from end September 2020 or end October 2020? Please explain your answer and provide supporting evidence wherever appropriate.

We agree that it is important that MPF charges are reintroduced in the near future, as part of the unwinding of the emergency measures taken earlier in the year. To avoid introducing unnecessary complexity into this unwinding process, our view is that all existing MPF charges should be reintroduced at the same time, and on balance the end of October 2020 would seem reasonable.

Consultation question 15:

Should OPS charges be introduced before MPS charges? Please explain your answer and provide supporting evidence wherever appropriate.

To avoid unnecessary complexity in the unwinding process, and to be equitable between trading parties, all MPF charges should be reintroduced at the same time; OPS charges should therefore be reintroduced at the same time as MPS charges.

Consultation question 16:

Should non meter reading MPF charges come into effect before meter reading MPF charges? Please explain your answer and provide supporting evidence wherever appropriate.

Increasing the number of accurate meter reads in the market is crucial to the unwinding of the emergency measures. It would therefore be inappropriate to delay the reintroduction of meter reading incentives; our view is that to avoid unnecessary complexity, all existing MPF charges should be reintroduced at the same time.

Given the importance of securing accurate and timely meter readings for properties that have had the temporary vacancy flag, it may be appropriate for there to be specific mechanism to incentivise meter reading for these properties.

Consultation question 17:

Note – responses to this question will be shared with MOSL. Of the 3 options identified in relation to credit security requirements, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers interests and why?

We support Ofwat's minded to position (option 2, maintaining credit support requirements at March 2020 until all the temporary vacancy flags are switched off, subject to the *clarification* and the *addition* below). The purpose of code change CPW095 was to mitigate risks from the use of the temporary vacancy flag; once these flags are removed from CMOS, then it will be possible to return to normal market rules for credit support.

As Ofwat note, this will also provide additional incentives for retailers to remove the temporary vacancy flag and get meter readings into the market so that their credit support requirement is more closely aligned to actual consumption levels going forward. This will be in customers' interests as it provides a further incentive for retailers to return customers' premises to the correct occupancy status, ensuring greater accuracy of charging.

The *clarification* is to ensure that this incentive applies equally to individual retailers, and that retailers who remove their temporary vacancy flags earlier can benefit from this sooner. To achieve this, it would be appropriate to clarify that all credit support requirements for an **individual** retailer would be maintained at March 2020 levels until all temporary vacant flags for that **specific** retailer have been removed from CMOS.

The *addition* is that it would also be appropriate for credit support requirements for any retailer that has opted in to the emergency liquidity arrangements to be maintained at March 2020 levels until all wholesale charges deferred by that retailer have been repaid, providing a further incentive for the prompt repayment of deferred wholesale charges.

Consultation question 18:

Do you agree that the CPCoP does not require amendment in light of the proposals set out in this document? Please explain your answer and provide supporting evidence wherever appropriate.

Like Ofwat, we do not see an immediate need to change the CPCoP in light of the proposals set out in the consultation. We do however view it as being important that retailers have the tools that they feel are appropriate to be able to incentivise payment by business customers and manage business customer debt effectively and efficiently; retailers' views on this question will therefore be of particular relevance.