

Everflow Water response to CPCoP consultation CP0009

The proposed changes to the CPCoP

1. A new definition of Covid-19 Affected Customers

“Non-Household Customers that are seriously affected by Covid-19 because all of its premises are not open or available to workers, the public or visitors. These are premises that are required to be closed under relevant government Covid-19 legislation.”

2. Offering repayment plans to affected customers

Retailers must take all reasonable steps to engage with non-household customers which may be eligible for a repayment plan under their Covid-19 Repayment Scheme and, where appropriate, offer those non-household customers a repayment plan under this scheme.

3. Pursuing debt collection from customers on a payment plan

Prior to removing a non-household customer from a repayment plan under a Covid-19 Repayment Scheme, retailers must be able to demonstrate that they have taken reasonable steps to engage with the customer.

Prior to pursuing, and at each stage of escalating, any debt recovery action against a non-household customer which has defaulted on its repayment plan under a Covid-19 Repayment Scheme, retailers must be able to demonstrate that they have:

- (a) taken reasonable steps to engage with the non-household customer to ascertain the circumstances that led to the default; and
- (b) considered whether, taking the non-household customer's circumstances and best interests into account, it would be more appropriate to amend the terms and conditions of the repayment plan than pursue any debt recovery action.

4. Publishing of information

Until 31 March 2021, or such other date as the Authority may notify to retailers in writing, retailers must publish the following information relating to their repayment plans on their websites, updated on a monthly basis:

- (a) the number of non-household customers who are on repayment plans under the retailer's Covid-19 Repayment Scheme;
- (b) the number of non-household customers who are on any other repayment plan that the retailer offers;
- (c) the number of non-household customers that are, or have previously been, on a repayment plan under the retailer's Covid-19 Repayment Scheme that the retailer has taken any type of debt recovery action against, and the type of action taken; and
- (d) Since 1 June 2020, the number of non-household customers on other repayment plans that the retailer has taken any type of debt recovery action against, and the type of debt recovery action taken.

Questions and Answers

In summary:

- We disagree with the proposal to amend the definition of 'COVID-19 Affected Customer'.
- We have no concerns with the expectation that retailers should be able to demonstrate that they are offering payment plans to customers who need support. We are doing this already.
- We have no concerns with the proposals around how customers who default on payment plans should be treated. This is in line with what we are already doing.
- We strongly disagree with the suggestion that retailers should publish the proposed information on their websites.

I. Do you think the amended change Proposal will achieve the following policy aims (and if not what changes would you suggest making to ensure that it does):

a) That those customers adversely affected by Covid-19 are provided with appropriate levels of support and protection.

We think it was right that the temporary vacancy scheme was linked to restrictions on debt recovery activity. The risk to retailers also needs to be considered.

We think the proposals go beyond what is appropriate. If Ofwat judges that customers do not need the support of a temporary vacancy scheme, then the proposed restrictions on retailers' ability to judge what action can appropriately be taken to manage bad debt are unfair. These proposals will simply frustrate retailers in their efforts to manage bad debt and prevent us from giving the most support to those who really need it (which may be to businesses which are not closed by law, but by circumstances and therefore unable to access support from other sources).

We need to manage the risk of bad debt. We still need to pay wholesale charges in full. We also need to repay deferred wholesale charges in the same period that Ofwat is proposing to limit our ability to collect charges that are owed. Ofwat has not given due consideration to the risk to retailers of its proposals, which in turn puts customers at risk.

Customers need to be incentivised to take responsibility for engaging with us, or we can't provide as much help.

Customers whose premises are closed must still take responsibility for engaging with their retailer about charges they owe. In our experience, most are able to afford paying something on a payment plan. Unfortunately, many of our customers have been confused and disappointed to find that the temporary vacancy scheme has not been made available for this period of tougher restrictions. Where absolutely necessary we are offering a pause in billing to customers who simply cannot afford to pay anything. However, we are concerned that these proposals could dilute our ability to continue giving this help those who really need it, as a lack of engagement with customers leaves us in the dark and less confident about the extent of support we can afford to offer.

These proposals could do more harm than good

The summary of Ofwat's findings suggests that companies are, by and large, showing an appropriate level of judgement and treating customers on a case by case basis, so it is unclear what improvement will really be delivered by these changes. If the aim is to provide a mechanism for dealing with instances where companies act inappropriately, then this already exists. CCW may intervene on the customer's behalf.

Alongside this, we think the proposals would disincentivise customers who are struggling from engaging with their retailer and would disincentivise some customers who can pay from paying.

Our alternative proposal:

Given the national lockdown has now ended, the suggested code change proposals will not offer any protection to the vast majority of customers. We propose an alternative option which would offer appropriate protection to all customers and incentivise the right behaviour:

Customers should be allowed 14 days to engage with companies before late payment charges are applied and before enforcement action or disconnection is initiated. This would allow customers struggling to pay their charges a reasonable 'grace period' in which to make contact or respond to our attempts to contact them.

b) Customers who are able to pay should be incentivised to pay in a timely manner.

We think the proposals will disincentivise some customers from paying in a timely manner, where they are closed but actually able to afford a payment plan. Early engagement with customers about debt is absolutely key to recovery and significantly reduces the risk of bad debt. Protecting customers who are closed from any consequences invites them to avoid contact and delays the inevitable – sooner or later they will have to pay. Or we end up with an increase in bad debt because action was delayed.

Our proposal (above) would incentivise customer to engage with us so we can arrange to put them on an appropriate payment plan at an early stage.

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

The proposal suggests that retailers are not doing this, although the evidence Ofwat summarised from its RFI shows otherwise. The proposal is actually at odds with this principle as it proposes to automatically confer protections on all closed businesses regardless of need, whereas it offers no protection to the much larger number of customers who may benefit from retailers committing to a minimum 'grace period' for the customer to get in touch with their retailer and agree a payment plan.

2. In addition, we would welcome the views of respondents on:

a) The costs and associated risks of implementing the amended change proposal within the proposed timeframe;

We do not have concerns about immediate costs or the practicality of implementing the changes proposed, but there are longer term costs (i.e. increased bad debt) that the proposals may generate.

b) The scope and operational impact of the amended change proposal;

As above, we are not concerned by operational impacts, except that we will be prevented from managing cash collection effectively and inhibited from being able to provide support to those who need it most.

c) Whether the respondents consider that the proposal is in line with the principles of the code and our statutory duties.

We do not consider that the proposals strengthen our ability to deliver on the principles of the code. We suggest our alternative proposals will be more 'effective for non-household customers' (4.1.6) and align better with the principle of fairness (4.1.1). Retailers need to be allowed the freedom to provide support where it is most needed, and manage debt effectively. See also our answer to question 4.

This proposal is in conflict with Ofwat's statutory duty to ensure that retailers can 'finance the proper carrying out of their statutory functions', by restricting our most basic right to collect cash that is properly owed.

3. Do you have any comments on our proposed implementation date?

No.

4. Do you have any other comments on our proposed change to the CPCoP as set out in Appendix I?

The final component to the proposal, around publishing information on the support we are giving to customers alongside information about our debt recovery activities, is in our view unreasonable and unhelpful. It goes beyond preventing retailers from taking action on unpaid charges and would deter retailers from escalating debt recovery activity for customers who do not keep to their payment plan, and suggest to customers that it does not matter if they default on a payment plan. This could lead to increasing levels of bad debt.

The information that retailers choose to publish on their website is carefully selected to provide customers with the information they need, and of course to promote our business. No company would choose to publish this information on their website voluntarily. Its presence would suggest that retailers have been behaving incredibly irresponsibly (which is untrue) and that the regulator has therefore felt compelled to act in a heavy-handed way to force improved performance. This will not help to build customer trust and confidence in the sector.

We question the benefits of taking this course of action, by contrast with the harm it could do.

Our alternative proposal:

We understand the desire for transparency (code principle 4.1.4) and that customers may wish to know how their retailer's response to COVID-19 compares with other retail providers. We simply do not think companies' websites are the right place for this information to be shared.

We would instead be willing to report the information to Ofwat and CCW on a monthly basis, so that they can challenge companies from an informed position and take further action if this is judged necessary. We believe this would achieve the desired outcomes without doing unnecessary harm.