

Customer Protection Code of Practice Change Proposal – Ref CP0008

Modification proposal	Customer Protection Code of Practice Change Proposal – CP0008
Decision	The Authority has decided to approve, with amendments, Change Proposal CP0008
Publication date	22 March 2021
Implementation date	26 March 2021

1. Background

To ensure that Non-Household Customers receive at least one accurate bill each year, Section 9.2.1 of the [Customer Protection Code of Practice](#) (“CPCoP”) requires Retailers to issue at least one accurate bill or invoice, each year, using a meter read where the supply is metered. The CPCoP confirms that a Retailer can choose to accept a read taken by the relevant Non-Household Customer. In October 2020, Castle Water raised a Change Proposal (CP0008), setting out its concerns with the practical constraints Retailers are experiencing with accessing and reading internal meters due to Covid-19 restrictions. This is resulting in a backlog of meters that require a meter reading to be scheduled. To address this issue, Castle Water proposed that a Retailer:

- may bill or invoice a customer based on ‘estimated consumption’ where:
 - the Retailer is unable to read an internal meter because of Covid-19; and
 - the customer has been asked to provide a read within a reasonable period but has been unable or unwilling to do so, or has not responded.

Castle Water stated that the rationale behind their Change Proposal was to enable Retailers to explain, and to allow customers to understand, the reasons for the need for customer reads and the use of estimation if they are not available. The intent of the Change Proposal was not to suspend the requirement in Section 9.2.1 in its entirety, but to allow circumstances where estimated consumption can be used where a meter read cannot be obtained and a customer does not provide one. Castle Water noted that if the amendments were not made then Retailers would be faced with a choice of being unable to comply with the requirements of the CPCoP and/or being prevented from issuing an accurate customer bill or invoice.

Along with its Change Proposal, Castle Water shared some trial data it had gathered in September 2020 on obtaining internal meter reads. The evidence suggested that a

significant number of its internal meters were not being read due to the meter reading contractor being unable to access the meter. In December 2020, we issued a [Call for Inputs \(CFI\)](#) to understand the impact that Covid-19 restrictions were having on all Retailers' capability to successfully obtain internal meter reads. The CFI also sought views on adding definitions to two terms in Section 9.2.1 of the CPCoP ('metered' and 'meter read') that we had identified were capitalised but did not have a corresponding definition.

After considering the evidence submitted by Castle Water and the information provided by stakeholders in response to our CFI, we noted that the ability to obtain meter reads varies considerably across the market. In some cases, Retailers are continuing to obtain meter reads to ensure customers' bills accurately reflect levels of consumption. In other cases, Retailers are reporting significant challenges in obtaining meter reads or engaging with their customers, for example, where business premises have completely closed. For these reasons, and in light of the exceptional circumstances currently being faced with the third national lockdown, we considered that a short, time-limited, amendment was necessary to the CPCoP. There were elements of Castle Water's proposal that we were concerned about (see further below). We therefore took Castle's proposal and amended this slightly to develop revised [proposals to amend the Customer Protection Code of Practice Change Proposal – CP0008](#).

We were concerned that as drafted, the Change Proposal submitted by Castle Water may diminish the responsibility on Retailers to adequately engage with their customers in an effort to obtain a meter read or even understand consumption at a premises. Our proposed amendments aimed to retain the requirement for Retailers to issue an accurate bill or invoice each year, but would allow Retailers a conditional and time-limited exemption from having to use a Meter Read (where the supply is Metered) to provide an accurate bill. Our proposed amendments also placed the onus on Retailers to ensure that they make all reasonable efforts to establish contact with the Non-Household Customer before utilising this exemption, and, in the event that Retailers are unable to make contact with the Non-Household Customer, provide a clear record of evidence that shows they have met the criteria for the time-limited exemption to be applicable. We considered that this approach was more appropriate for Retailers and ultimately Non-Household customers, for the reasons set out below.

We published our consultation on the amended Change Proposal on 15 February 2021. Because of the third national lockdown introduced in early January 2021, and in light of evidence we had received from Retailers that there are instances of non-compliance with the CPCoP and our duty to enforce against breaches, we considered it was urgent. In accordance with Section 5.2.2 of the CPCoP, we consulted for a period of 10 calendar

days¹. The consultation closed on 1 March 2021. This document sets out our decision on the Change Proposal and reasons, including the changes that we have made following consideration of the views provided in consultation responses.

Unless otherwise specified, words and expressions used in this decision document have the same meaning as in the CPCoP.

2. The Change Proposal and reasons for the proposed changes

The proposed amendments to the CPCoP that Ofwat consulted on specifically focussed on:

- **Update to the definition of ‘Minimum Information Requirements’** - To ensure customers are aware of the basis on which their bill or invoice has been calculated based on an estimate.
- **Amendment to Section 9.2.1** - Retailers will still be required to provide an accurate bill or invoice to Non-Household Customers, regardless of whether an exemption applies, thereby reducing the risk of bill shocks to customers.
- **New Section 9.2.3 (a) and (b)** - Reflecting the impact of current Covid-19 restrictions on Retailers by providing a time-limited exemption to the requirement in Section 9.2.1, in specific circumstances where they are unable to collect a meter read sited internally to premises.
- **New Section 9.2.3(c)** - Enhancing the Change Proposal suggested by Castle Water, and thereby retaining strong customer protection measures, Retailers must make every effort to contact their customers to obtain a meter read. Retailers will be required to request a meter reading from a Non-Household Customer on two separate Business days. Noting that some Retailers only hold limited contact information for their customers, if possible, Retailers should use different communication methods to try and obtain these reads.
- **New Section 9.2.3(d)** - To ensure Retailers properly understand consumption at premises, Retailers must be able to evidence the basis for billing and invoicing.
- **New Section 9.2.4** - The exemption will only apply in limited circumstances and Retailers will be required to provide a clear record of evidence that such circumstances have been satisfied for every applicable customer. The commercial viability of attempting to read meters is not relevant for these purposes and it should be possible for evidence to be provided to Ofwat, MOSL and/or the CCW at short notice, if requested.

¹ The rationale for this proposal being considered to be urgent can be viewed in our consultation document.

We considered that our proposed amendments to the Change Proposal suggested by Castle Water were: consistent with our policy approach to meter reading whilst Covid-19 restrictions are in place; and support Retailers where necessary whilst not diminishing existing customer protections in the market.

Addition of missing definitions

We also consulted on our preferred approach to include the two definitions for “Metered” and “Meter Read” in the CPCoP, aligning with the WRC for consistency. We acknowledged that aligning with the WRC ensures consistency between the CPCoP and the WRC and enables Retailers to use all types of Meter Read set out in the WRC. We also did not consider it appropriate to leave these terms undefined as the ambiguity could result in a variance of Retailer billing approaches in the market, which ultimately could be to the detriment of customers.

3. Evidence considered

Our [consultation](#) was published on 15 February 2021 and closed on 1 March 2021. There were 11 respondents (seven Retailers, two Wholesalers and CCW). We set out in [Appendix 1](#) of this document the consultation questions and a summary of the responses we received. We discuss below key comments and themes from the responses, including those that have resulted in changes to the proposed CPCoP drafting. The final drafting, which incorporates changes as a result of the consultation, highlighted in blue, is set out in [Appendix 2](#).

4. Our decision and reasons for our decision

The Authority has decided to accept this Change Proposal with amendments. Retailers are still required to issue an accurate bill or invoice each year, but it will allow them a conditional and time-limited exemption from having to use a Meter Read (where the supply is Metered) to provide the accurate bill. The implementation of this Change Proposal will also place an onus on Retailers to ensure that they make all reasonable efforts to establish contact with the Non-Household Customer before utilising this exemption, and, in the event that Retailers are unable to make contact with the Non-Household Customer, provide a clear record of evidence that shows they have met the criteria for the time-limited exemption.

Further information about how we consider that the Change Proposal is consistent with our statutory duties and the General Principles of the CPCoP can be viewed in [Appendix 3](#) of this document.

4.1 Views on the exemption being available until 30 September 2021, or such other date as the Authority may notify in writing to Retailers

We noted that the majority of respondents were supportive of the proposed exemption being available until 30 September 2021, or by another date to be prescribed by Ofwat via a notification to Retailers. Although supportive of the proposed time-period, several respondents suggested Ofwat reduce the exemption period, if appropriate to do so, based on future developments in the lifting of lockdown restrictions. CCW stated that it was unclear why the proposed length of the exemption was until 30 September 2021 and urged Ofwat to monitor developments regarding the lifting of lockdown restrictions. In contrast, three Retailers suggested that the exemption period of 30 September 2021 was premature and should not be made shorter. Two Retailers proposed aligning the exemption period to 6-months after the end of the Government roadmap out of lockdown, for example December 2021.

We acknowledge the suggestions made by respondents on the appropriate length of the exemption period. This approach aligns with the [joint statement](#) we published with MOSL on 28 January 2021, noting that some ‘business as usual’ activities, such as reading meters, will prove difficult at this time. As such, we believe it appropriate to allow Retailers, a 6-month period from the end of the 2020–21 financial year to tackle the backlog of unread meters, where necessary, but does not diminish, unnecessarily, customer protections in the market. We also believe this period is suitable when taking into account the complexities Retailers face with businesses opening at different stages, in line with the Government’s roadmap.

On this basis, we will not be amending the length of exemption period. In light of the Government’s recently published roadmap, which set out a plan for the gradual easing of Covid-19 restrictions across England, we believe this is still appropriate for Retailers and ultimately, customers. We remind Retailers that this exemption should only be used in specific circumstances where they are unable to obtain a meter read sited internally to premises. If plans for lifting of lockdown restrictions were to change in future, the CPCoP drafting allows us flexibility to notify Retailers with a revised date.

4.2 Concerns relating to Retailers contacting customers on 2 separate Business days and by different forms of communication

The majority of respondents agreed with the minimum requirements on Retailers to seek contact with a Non-Household Customer in the proposed drafting of 9.2.3(c), although some suggestions to amend the CPCoP drafting were put forward.

One Retailer acknowledged that attempting prior consent with the customer was necessary but as well as recognising the constraints arising from the contact details a Retailer may hold on a customer, it is also important from a privacy and data protection

perspective to recognise any preference the customer has expressed on how it is to be contacted. We have considered this comment by the Retailer, and agree that the proposed CPCoP drafting should be amended to account for this possibility. Amending the drafting to account for this will not dilute the obligation as Retailers will only be able to limit communication methods where their customers have requested this and hold a record of such a request. As such we have amended the drafting of 9.2.3(c)(ii) to also include reference to 'any preferences expressed by the Non-Household Customer'.

We noted that a Retailer and Wholesaler suggested that the requirement to attempt to contact each customer on two separate "Business days" (section 9.2.3 (c)(i)) should follow the definition "Business Day" in the Wholesale-Retail Code (WRC). Our proposal used the current definition of 'Business day' in the CPCoP. This definition is identical to the definition of 'Business Day' in the WRC. Accordingly, we see no reason to amend the proposed drafting.

One Retailer asked for clarity on whether a meter reader attempting to obtain a read is included in the minimum requirement of Retailers seeking contact with a Non-Household Customer. We can confirm that a meter reader attending the premises of a Non-Household Customer would count towards one of the contact points and a record of this (attempted) contact should be retained by the Retailer.

We noted that a Retailer suggested that the proposed drafting in 9.2.3(c) that referenced 14 Business days would imply a period of two weeks and four days rather than a more conventional two weeks. They suggested amending the proposed text to 14 calendar days. Whilst we recognise the intent to apply a more standardised period, we consider '10 Business days' is more appropriate to allow for Bank Holidays to be taken into account. We will amend the CPCoP drafting from fourteen (14) to ten (10) Business days' as set out in **Appendix 2** to accommodate this.

Two Retailers did not support the minimum requirements on Retailers to seek contact with a Non-Household Customer on different days. One of the Retailers stated that the implementation of a rigid and inflexible minimum requirement in contacting customers does not represent a proportionate response to the challenges faced by the market. A different Retailer raised concerns on the additional costs and resource this requirement would have on their current operational processes. They explained that if a meter reader has been unable to obtain a read and they have customer email and/or mobile phone number data, a request will automatically be triggered to ask the customer to provide a meter read. Where they do not hold an email and/or mobile phone number, they can manually outbound call customers using landline phone numbers. The Retailer stated that the proposed requirements meant that where they have already automatically triggered a request for a customer to provide a meter read, they will additionally need to manually outbound call customers on a different day. Where they have no email or mobile phone number data, they will need to manually

outbound call customers using landline phone numbers on one day and send a postal communication on a separate day. They believed postal communications do not seem cost-effective or a good use of valuable resources, especially where premises are closed.

Whilst we acknowledge the concerns raised by the two Retailers in relation to contacting Non-Household Customers on two separate Business days via different forms of communication, we would like to highlight that this change provides an exemption from usual requirements and as such requires sufficient safe guards to ensure customers remain protected. Retailers are not obligated to use the exemption. The requirement in section 9.2.3 takes into account circumstances where Retailers may not have multiple forms of customer contact details. Whilst we acknowledge that the use of postal communications may not be efficient at this time, we have clarified above that a meter reader attending premises would be considered one form of contact, and there are multiple other forms of contact that Retailers can use ahead of resorting to postal communication. The intent of the requirement is to encourage Retailers to make every effort to contact their customers, on multiple occasions, to obtain a meter read. We suggest Retailers continue to make it their priority to seek different forms of contact information for their customers where this is not currently available. This approach is in accordance with the work of the RWG unplanned events sub-group, which has recently been looking at ways to encourage Retailers to collect more methods to contact their customers during emergencies. We are supportive of this ambition and encourage Retailers to be engaging with the sub-group's work.

CCW agreed with the requirement for Retailers to undertake a minimum amount of contact with customers, stating that issuing an estimated bill instead of one based on an actual read should only be undertaken as a last resort. CCW recommended that Section 9.2.3(c) should be amended to state that two separate Business days was a 'minimum' number, in order to encourage Retailers to attempt further contact beyond this point if they have been unsuccessful so far. We agree with CCW that this should be a minimum expectation on Retailers. The CPCoP will not restrict Retailers from doing more. On this basis, we will not be making amendments from the proposed CPCoP drafting but encourage Retailers to make every effort to make contact with their customers, for the reasons explained above.

4.3 Views on the methodology for estimation on customer bills

CCW supported updating the 'Minimum Information Requirements' section of the CPCoP which would require Retailers to include their methodology for estimation on the customer bill. They recommend making it clear that this would need to be in 'plain and simple language' to ensure customers fully understand what has been outlined. This view was also shared by a Retailer who stated that a 'simple' methodology should be considered on the basis that some Retailers can overcomplicate their billing. We

support this view. Retailers are already required to do this by reference to CPCoP General Principle 4.1.2 which requires that Retailers communicate with customers using plain and clear language.

CCW also stated that they wanted to see good quality estimation being used by Retailers in the event that they meet the exemption criteria outlined in CPCoP Section 9.2.3. As such, we have updated the legal drafting in **Appendix 2** (9.2.3 (d)(i)) to specify that Retailers are to use the best available data to establish the bill or invoice. In addition, to ensure consistency is maintained, CCW urged the expectations around the use of estimation to be made clearer in the CPCoP drafting, or an Appendix added to the CPCoP. Whilst we recognise the need for clarity on the use of estimation in the market we do not think it would be appropriate to provide specific criteria surrounding this in the CPCoP. Instead, we would encourage Retailers to refer to [the MOSL guidance document on managing estimation using yearly volume estimates \(YVEs\)](#) that was published in February 2021.

We noted that two Retailers did not agree with adding new information on customer bills in relation to the method for estimation used. One Retailer stated that it was not clear what benefit this would bring customers. They stated that they use complex and detailed estimation methodology calculated by their billing system and believed it would be inappropriate to include on customer bills. A different Retailer raised concerns and stated that adding further granularity would not be deliverable in the short term. They further advised that this would require significant and costly technical change within their billing system or additional manual work. We acknowledge the concerns raised by Retailers regarding including the methodology where the bill is based on estimation and have amended the legal drafting to allow for Retailers to provide a summary of the basis for the estimated bill, rather than a detailed methodology. We believe it appropriate for customers to understand the basis of their bill and therefore expect Retailers to provide a description on how their estimated bill has been calculated, in a simple and plain English manner. For example, based on previous consumption, type of business premise etc.

4.4 Views on Retailers retaining records of compliance

In relation to the requirement on Retailers to retain a clear record of compliance with Section 9.2.3, where they have relied on the exemption (Section 9.2.4), a Retailer made a suggestion that the requirement to record these individual aspects “On each occasion” should instead be applied to each account. The rationale provided was that there may be different contact points for different accounts held by one customer. We agree with this amendment and the rationale provided, and have updated the proposed CPCoP drafting so that Section 9.2.4 will read ‘For each account where the Retailer...’. This is reflected in the drafting at **Appendix 2**. The Retailer also stated that due to the granularity of this requirement, to produce these records within two Business Days of a

request seemed unreasonable and disproportionate. We recognise the concern raised and have updated the timescale from ‘within two (2) Business days to ‘within five (5) Business days’, as set out in [Appendix 2](#).

We noted that a Retailer suggested that the proposal would benefit from the explicit retention period of records being reiterated. Whilst we acknowledge this feedback, we believe this may fall foul of GDPR requirements and individual company policies. As such, we have not amended the legal text to address this point.

Finally, we noted that a Retailer stated that they did not currently record when they ask a customer for a customer read in their billing system, and it would not be possible to provide reporting or data on this. They also raised concerns that in light of the temporary nature of this change the requirement to be able to ‘identify, record, evidence and explain’ the circumstances of each use of the exemptions would require significant time investment. Whilst we acknowledge the technical constraints raised by this Retailer we would like to remind Retailers that the use of the exemption in Section 9.2 should be by exception (i.e. a last resort) as Retailers should be making every effort to obtain meter reads where possible. We do recognise that these requirements are seeking additional records to be maintained by Retailers, but only where this exemption is used. As such, we have suggested a short implementation date of this Change Proposal – please see section below.

4.5 Implementation date

We note that the majority of respondents agreed that the implementation date be the same date as when Ofwat published the Change Proposal decision document i.e. as soon as practically possible. In contrast, one Retailer stated that the implementation date would allow no time for implementation and it would take that Retailer between 2 and 4 weeks to identify how many customers will fall under the requirements and implement the necessary additional delivery processes. A different Retailer stated that they disagreed with the proposed implementation date on the basis that further development and understanding of the impact on the Retailer will be required.

In light of the above, we have decided that the implementation date of this decision should be **26 March 2021**. We consider it appropriate to allow Retailer three Business days’ notice to implement the requirements set out in Appendix 2. As explained above, the use of the exemption in Section 9.2 should be by exception (i.e. a last resort). As such, we believe the implementation of the Change Proposal should occur as soon as possible. We intend to publish an updated version of the CPCoP ahead of this date.

Decision notice

In accordance with paragraph 5.2.4 of the CPCoP, the Authority accepts this Change Proposal.

Georgina Mills

Director, Business Retail Market

Appendix 1 – Summary of consultation responses

1. What is your view of our proposed decision to amend the Change Proposal suggested by Castle Water?

In total, 9 of the 11 respondents supported our decision to amend the Change Proposal suggested by Castle Water. One Retailer stated that the amendments are measured and a fair refinement of Castle Water's proposal, balancing the interests of an effective market and serving the customer. A different Retailer stated that they were fully supportive and having a time bound amendment with rigorous criteria provides customer certainty and security in very uncertain times. They further noted that it seemed a very pragmatic solution to a challenge that is not being experienced equally across the market and provides protection for those customers who are impacted. Without a time limitation there is a risk that estimated readings would become the 'norm' for those customers with meters that are difficult to access, which may have led to undetected leakage, bill shocks and reduced the ability to address water efficiency which is contrary to the market's objectives.

A Wholesaler which also provides meter reading services in their supply area, stated that during the 6-month period from September 2020 to February 2021 their meter reading teams had noted a missed meter reading rate, due to access restrictions, at 38% for meters read twice per year. They highlighted that they would usually expect missed meter readings rates to be in the low single digit percentages. However, they noted that they had significantly more success with monthly read meters, being in excess of 90%, but advised that this was likely a reflection of the scale of these businesses and services they provide.

Two Retailer respondents did not support our proposed decision to amend the Change Proposal and stated that they preferred the original proposal raised by Castle Water. One Retailer raised a number of concerns and stated that the additional cost associated with the requirements are no longer proportional to the outcome and the concerns the Change Proposal is seeking to address. They highlighted that Retailers are highly incentivised to obtain accurate meter reads through the market performance framework under the WRC. Further, due to their current operational processes the amendments to the Change Proposal which requires contact on two separate Business days and (where possible) using different communication methods, will require significant additional costs for Retailers. In addition, they noted that where premises are closed, the use of landline numbers and postal communications are unlikely to be effective. Finally, the Retailer noted that adding new information on bills to include the methodology for estimation where the bill is based on estimated consumption, was not clear what benefit this would bring customers. They stated that they use complex and detailed estimation methodology calculated by their billing

system and believed it would be inappropriate to include on bills. The Retailer suggested that a customer friendly version could state that an estimated bill is based on historical consumption (where available) combined with market data.

The second Retailer who did not support our proposed amendments stated that the new requirements placed technical constraints on the Retailer which could delay customers receiving a bill or invoice, and the requirements placed a significant regulatory burden on Retailers. The Retailer raised concerns that the updated “Minimum Information Requirement” to provide further granularity will not be deliverable in the short term. This would either require significant and costly technical change within their billing system or additional manual work. The Retailer also highlighted that in light of the temporary nature of this change the requirement to be able to identify, record, evidence and explain the circumstances of each use of this exception will require significant time investment from trading parties that is difficult to justify within the current circumstances. They stated that they supported the original change proposal on the basis that it provided a small measure of regulatory relief to constrained Retailers without clear detriment to other stakeholders. The amendments would instead represent an increase on the burden of Retailers who may be unable to deliver against a new expected standard. Finally, the Retailer stated that it was not clear how beneficial the amended change would be for customers, noting that there may be increased delays between invoices, which will reduce the customer’s visibility of their charges incurred.

CCW stated that they broadly agreed with the amendments Ofwat made, noting that they do not want to see Retailers encouraged to increase their use of estimation in the long term, thereby eroding the principle behind the current CPCoP provision. They reiterated their CFI response that they strongly believe the exemption should be a time-limited provision and encouraged Ofwat to remove this exemption earlier than 30 September 2021 if there is evidence that meter read accessibility has improved across the market.

CCW also supported the proposal to introduce specific criteria that Retailers would need to meet in order to be exempt from the existing provision. They highlighted that it is important the principle of billing based on actual consumption is maintained, with good quality estimation used only where absolutely necessary. They noted that the proposed requirements for a specific level of engagement with customers, and the evidencing of any estimation methodology used, were welcomed from a customer protection perspective. CCW also agreed with Retailers explaining their estimation methodologies, but noted that it is also vital that the chosen methodology produces a good quality estimate. For example, it may not be appropriate to base on previous meter readings if the customer’s usage has significantly changed. As such, CCW suggested that the proposal to be strengthened in so that clear expectations around the quality of estimation are made clearer.

Finally, CCW stated that they supported the requirement for Retailers to keep a record of compliance, and the statement that this may be shared with Ofwat, CCW and MOSL. They welcomed the opportunity to be involved in ensuring Retailers are correctly adhering to changes to the CPCoP. They also supported the clarification that the 'commercial viability' of certain meter reading activity will not be an acceptable reason for meeting the exception criteria.

2. Please provide your views on the proposed length of the exemption being until 30 September 2021, noting that Ofwat, may by notice to Retailers, shorten or lengthen the exemption period.

The majority of respondents were supportive of the proposed exemption date being until 30 September 2021, or by a date prescribed by Ofwat notice. Reasons cited included that the requirement for Ofwat to give notice to lengthen/shorten the period provided flexibility to allow Ofwat to monitor developments. One Retailer states that given the Government roadmap to reduce restrictions, the timeframe seemed sensible and it was logical for Ofwat to have the ability to reduce or lengthen the period based upon evidence that it is appropriate to do so. A Retailer stated that whilst they recognised that there will be a backlog of meter readings to resolve for some Retailers, and that there will still be some difficulties obtaining meter readings as businesses reopen, they advocated the pressing need for accurate billing for business customers. One Wholesaler highlighted that they would prefer the time period to be shorter than this however, due to the continued uncertainty regarding when commercial activities may return to normal after the pandemic, the proposed date of 30 September 2021 was acceptable.

CCW stated that it was unclear on why the proposed length of the exemption was until 30 September 2021 and supported the option of shortening the exemption period if necessary. They urged Ofwat to monitor developments regarding the lifting of lockdown restrictions, and if necessary, to carry out a further Call for Inputs to determine whether the meter reading access has changed.

One Retailer suggested that the exemption should be no shorter than 30 September 2021 and advised that it was a suitable decision point for continuing or discontinuing the measure, given the Government's announcement on the gradual easing of the Covid-19 restrictions and the associated timescales. They suggested that any shortening this timeframe would send the wrong message and would be inconsistent with the expectations of customers, and the growing backlog in reading of internal meters.

Two Retailers suggested the exemption may be premature and aligning the exemption to 6-months after the end of the Government roadmap timeline should be considered, for example December 2021.

3. Do you agree that the minimum requirement should be on Retailers to seek contact with a Non-Household Customer in the proposed legal drafting to 9.2.3 (c) Specifically: a. on two separate Business days; and b. where possible due to the contact information held by the Retailer, using different communication methods.

The majority of respondents agreed with the minimum requirements on Retailers as proposed in the legal drafting to 9.2.3 (c), although some suggestions to amend the proposed CPCoP drafting were put forward.

One Retailer acknowledged that attempting prior consent with the customer was necessary but as well as recognising the constraints arising from the contact details a Retailer holds on a customer, it is important from a privacy and data protection perspective to recognise any preference the customer has expressed on how it is to be contacted. The Retailer also suggested that the requirement to attempt to contact each customer to be on two separate “Business days” should follow the definition “Business Day” in the WRC. This view was also supported by a Wholesaler. The same Retailer also stated that the requirement to record these individual aspects “On each occasion” should instead be applied to ‘each account’, since there may be different contact points for different accounts held by one customer. Further, this level of granularity makes a requirement to produce these records within two Business days of a request unreasonable and disproportionate and suggested that five Business days was more reasonable.

One Retailers asked for clarity on whether a meter reader attempting to obtain a read is included in the minimum requirement.

A Wholesaler, whilst supportive of the minimum requirements around contacting Non-Household Customers, suggested that it would like to see this information maintained in an auditable format, available to MOSL and Ofwat to ensure that the process has been applied correctly and only in cases where necessary. They highlighted that monitoring of resubmission rates of initially rejected meter reads in CMOS would be a sensible measure to ensure that good quality checking on the part of the Retailer has taken place when Customer submitted meter reads are utilised.

Two Retailers stated that they did not support Ofwat’s amendments for the reasons they provided in response to question 1. One of the Retailers added that the implementation of a rigid and inflexible minimum requirement in contacting customers does not represent a proportionate response to the challenges faced by the market. The Retailer noted the nature of the requirements included within the amended proposal will require Retailers to further develop separate operational and reporting processes for a short term, time limited exception. They advised that they were currently engaging in a number of approaches to drive customer reads such as social media or wider text campaigns. Further, their view was that such campaigns

represented a far more effective and efficient process to drive this change. They suggested that Ofwat to consider alternatives in this area.

CCW agreed that Retailers be required to undertake a minimum amount of contact with customers, in order to allow opportunity for a customer read to be provided, or access to the premises to be granted for the Retailer to obtain a meter reading. They noted that issuing an estimated bill instead of one based on an actual read should only be undertaken as a last resort. They also welcomed the requirement for a minimum number of attempts to be made to contact a customer and this being on two separate business days. However, CCW advised that they would expect Retailers to allow a sufficient number of days between requests to allow customers the chance to respond to attempted contact. Further, CCW noted that they would expect Retailers to exhaust all contact methods they have for customers within the 14 day period before determining that they meet the exclusion criteria.

4. What is your view on whether the amended Change Proposal promotes and facilitates the General Principles of the Customer Protection Code of Practice (section 7 of the CPCoP) and Ofwat's statutory duties?

In total, 9 of the 11 respondents agreed that the amended Change Proposal promotes and facilitates the General Principles of the CPCoP and Ofwat's statutory duties. Reasons cited included fairness, transparency and honesty would be better served following this amendment. In addition, Ofwat's statutory duties, which include protecting the interests of consumers and securing that water supply licensees and sewerage licensees properly carry out their licensed activities and statutory functions, would be met.

CCW stated the amended Change Proposal broadly promotes and facilitates the Code Principles. The requirements on Retailers to engage fully with their customers, and evidence how bills have been calculated promotes greater communication, transparency and fairness. In addition, the emphasis on recording more details of how charges may be calculated should ensure that more accurate information is available to customers. They noted that ensuring sufficient regulation and oversight of a change that may otherwise result in an erosion of customer protection falls within Ofwat's statutory duties.

Two Retailers who did not support Ofwat's proposed amendments stated that they did not believe the Change Proposal to be proportionate to what it is seeking to achieve, given the additional costs and resources needed. One Retailer stated the rigidity of requirements and potential delays in billing would prevent Retailers putting the interests of the customers at the heart of their business. Further noting that the change may reduce the opportunity for customers to contact Retailers or challenge

consumption used, which would further weakens the principle of enabling informed choices.

5. What is your view of the legal drafting for the amended Change Proposal? Please provide rationale to support your answer.

The majority of respondents agreed with the proposed CPCoP drafting of the amended Change Proposal, although some suggestions were put forward in line with comments submitted to the previous questions. The two Retailers who did not support Ofwat's amended Change Proposal stated that they would like to see their previous comments reflected in the proposed drafting.

One Retailer that supported the proposed drafting, stated that the word "simple" could be used when talking about the methodology as some Retailers can over complicate their billing. A different Retailer reiterated the need for clarity on whether the meter reader attempting to read the meter is included in the minimum requirement.

A Retailer suggested amendments to the proposed drafting, which are summarised below:

- 30 September should be the earliest date to end the measure.
- Change "Business days" to calendar days for the period between contact and use of estimation. It noted that if it were "Business Days" as defined in the WRC, this would imply a period of two weeks and four days rather than the more conventional two weeks (ten business days).
- The use of "accounts" in place of the term "occasion". For example, one customer might have separate contact details for different accounts on different sites.

A Retailer stated that the proposed drafting was clear and unambiguous in its intent and application, but stated that the proposal would benefit from the explicit retention period of records being reiterated. The Retailer also noted that it may be necessary to consider further provision for those internal meters which require replacement to ensure a correct, accurate read. It advised that a number of Wholesalers or their metering contractors have risk assessed internal work, and reconciled that it is currently not safe to carry out internal work unless a supply or health related emergency. Similarly, the customer may risk assess such work to be unsafe if the work is not essential for continued supply until such time the risk position improves.

CCW supported amending the 'Minimum Information Requirements' section which would require Retailers to include their methodology for estimation, but recommend making it clear that this would need to be in 'plain and simple language' to ensure customers fully understand what has been outlined. CCW also stated that it wanted to

see good quality estimation being used by Retailers in the event that they meet the exemption criteria outlined in the proposed revision to section 9.2.3. To ensure some consistency is maintained, they urged for more clarity on the expectations around this, either in the proposed drafting, or in a further Appendix to the CPCoP. In addition, CCW recommended amending sub-section 9.2.3(c) to state that two separate business days is a 'minimum' number, thereby encouraging Retailers to attempt further contact beyond this point if they have been unsuccessful so far. Finally, CCW stated that they would like assurances that the proposed amendment to section 9.2.3 requires Retailers to issue 'an accurate bill or invoice' in the event they are unable to obtain an actual read and asked Ofwat to consider making the requirement to issue an accurate bill clearer in the proposed drafting, or in the decision document.

6. What is your view of the proposed implementation date?

The majority of responses agreed that the implementation date be the same date as when Ofwat published the Change Proposal decision document i.e. as soon as practically possible.

A Retailer stated that the proposed implementation date would be unachievable and it would take that Retailer between 2 and 4 weeks to identify how many customers will fall under the requirements and implement the necessary additional delivery processes. A different Retailer stated that they disagreed with the proposed implementation date on the basis that further development and understanding of the impact on the Retailer will be required.

A Wholesaler stated that they were not aware of what the implementation was as specified in the consultation document however, if approved, suggested that this should take effect from 1 April 2021.

CCW noted that they had no objections to the proposed implementation date, but would recommend that the Change Proposal be strengthened in some areas. This is with particular reference to the need for any increase in estimation to be of good quality, and based on sound methodology.

Appendix 2 – Legal drafting

Section 1, Definition and interpretation

Metered	has the meaning given in the Wholesale-Retail Code;
Meter Read	has the meaning given in the Wholesale-Retail Code;
Minimum Information Requirements	means the following information: (i) the Non-Household Customer's SPID(s); (ii) the tariff and details of how the bill has been calculated, including, for example, the methodology a summary of the basis for estimation where the bill is based on estimated consumption; (iii) whether the Terms and Conditions of Supply are pursuant to a Scheme of Terms and Conditions or the statutory duties of a relevant undertaker; (iv) any expiry date of the applicable Terms and Conditions of Supply; (v) ways to pay any outstanding debt; (vi) details of the relevant Retailer's Complaints Handling Process; (vii) contact details for the relevant Retailer; (viii) other useful third party contact details, including the Authority and the Council;

Section 9, Billing

9.2 Billing accuracy and frequency.

9.2.1 Retailers shall issue at least one accurate bill, or invoice each year. This bill or invoice must use a Meter Read where the supply is Metered unless Section 9.2.3 below applies.

9.2.2 Retailers can choose to accept Meter Reads, including any Transfer Read, taken by the relevant Non-Household Customer.

9.2.3 Until 30 September 2021, or such other date as the Authority may notify in writing to Retailers, Retailers shall be exempt from the requirement to use a Meter Read where the supply is Metered for the provision of an accurate bill or invoice where all of the following sub-sections apply:

- (a) the meter is sited internally to a premises (including external to a building but within the boundary of a premises), requiring consent of a Non-Household Customer for access; and

(b) due to restrictions on movement of people or access to premises imposed by guidance or legislation issued by the UK government due to Covid-19, the meter reader is not legally permitted to access, or the Non-Household Customer or its representative declines access to, the meter; and

(c) the Retailer has requested:

- (i) on two (2) separate Business days; and
- (ii) where possible due to the contact information held by the Retailer and any preferences expressed by the Non-Household Customer, using different communication methods,

that the Non-Household Customer provide a meter reading and the Non-Household Customer has not done so within fourteen (14) Business days of the final request being submitted; and

(d) where the Retailer uses another method by which to provide an accurate bill or invoice, for example estimated consumption, the Retailer has:

- (i) ~~and used the best available data to establish the bill or invoice:~~
and
- (ii) evidenced the methodology underlying the bill or invoice estimate which may include but is not limited to methodologies based on previous meter reads, type of premises, or previous or on-going contact with the relevant Non-Household Customer.

9.2.4 ~~On each occasion~~ For each account where the Retailer has relied on the exemption at section 9.2.3, the Retailer must retain a clear record which demonstrates compliance with section 9.2.3. For the avoidance of doubt the exemption at 9.2.3 will not apply where a Retailer does not carry out, or attempt to carry out, meter readings because it does not consider it to be commercially viable. The Authority, Market Operator or the Council may request this record from the Retailer with five (5) Business days' notice.

9.2.3~~5~~ Any final bill to be issued to a Non-Household Customer shall be issued within six weeks of the earlier of the Transfer or the termination or expiry of the Terms and Conditions of Supply.”

Appendix 3 – Reasons for our decision

We set out below our views on how the proposed change is in line with our statutory duties and which of the CPCoP General Principles are better facilitated by it.

Statutory duties

Under section 2 of the Water Industry Act 1991, we must carry out our prescribed powers and functions including:

- the granting of water supply and sewerage licenses (under sections 17A and 17BA of the WIA91); and
- the enforcement of a licence (under section 18 of the WIA91)

imposed on us as an economic regulator in the way we consider will best:

- further the consumer objective to protect the interests of consumers, wherever appropriate by promoting effective competition;
- secure that water companies (meaning water and sewerage undertakers) properly carry out their statutory functions;
- secure that water companies can (in particular through securing reasonable returns on their capital) finance the proper carrying out of their statutory functions;
- secure that water supply licensees and sewerage licensees properly carry out their licensed activities and statutory functions;
- further the resilience objective to secure the long-term resilience of water companies' water supply and wastewater systems as regards environmental pressures, population growth and changes in consumer behaviour; and to secure that they take steps to enable them, in the long term, to meet the need for water supplies and wastewater services to consumers.

Subject to our main duties above, we must also regulate in the way we consider will best:

- promote economy and efficiency by water companies in their work;
- secure that no undue preference or discrimination is shown by water companies in fixing charges;
- secure that no undue preference or discrimination is shown by water companies in relation to the provision of services by themselves or by water supply licensees or sewerage licensees;
- secure that consumers' interests are protected where water companies sell land
- ensure that consumers' interests are protected in relation to any unregulated activities of water companies;

- contribute to the achievement of sustainable development.

We must also have regard to the principles of best regulatory practice. These include that regulatory activities should be transparent, accountable, proportionate, consistent and targeted.

We consider that the proposed changes to the CPCoP comply with our statutory duties for the reasons detailed in the ‘decision and reasons for our decision’ section of this document.

CPCoP General Principles

This Change Proposal is consistent with the following CPCoP General Principles:

- **4.1.4 – ‘Retailers shall be fair, transparent and honest; while putting the customer at the heart of their business.’**
- **4.1.3 – ‘Retailers shall ensure they provide appropriate and timely information to Non-Household Customers to enable them to make informed choices.’**
- **4.1.4 – ‘Any information provided to Non-Household Customers shall be complete, accurate and not misleading.’**

We believe the amendments to the CPCoP will ensure that Retailers continue to be fair, transparent and honest with Non-Household Customers when calculating their bills. Retailers remain obligated to provide an accurate bill to their customers, whether the exemption is used or not. The changes will ensure that Non-Household Customers are kept informed about how their bills are calculated, enabling them to make informed choices, for example by providing a meter read where they haven’t previously or by switching to a Retailer that is able to read their meter. The requirement for Retailers to retain a clear record of evidence for the basis of the use of the exemption for each customer will ensure that this exemption is not misused and used only as a last resort, thereby retaining adequate customer protection measures.