

28 February 2022

Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

Dear Ofwat

Statutory consultation on proposed changes to our Eligibility Guidance and Supplementary Eligibility Guidance

Thank you for providing Wave an opportunity to comment on the proposed changes to Eligibility Guidance.

Whilst Wave welcomes revised Eligibility Guidance at this time, we are surprised that the RWG Eligibility Group has not had more involvement in the drafting. Wave was supportive of the RWG group and successfully nominated someone to participate, yet we understand only an introductory meeting was held and no further discussion or consideration of eligibility issues and experiences materialised. It's not clear why that was the case and we feel that an opportunity has been missed to produce improved guidance based on a greater span of experiences.

1) Do you have any concerns about our proposed changes?

We support merging the Eligibility and Supplementary Guidance together as these have always needed to be used in tandem previously, so it makes sense to have all the information together. In addition, we support the separation of guidance into England and Wales to differentiate between the different legal arrangements which makes it simpler for everyone to understand.

The above points are presentational and non-contentious, we have found it very difficult to identify what is materially different in terms of content because there is no list of amendments just a general comment that the scenarios have been refreshed. It would have been beneficial if the lessons that have been learnt over the previous 4.5 years, particularly those that have not already been shared through determinations and which the RWG Eligibility Group participants would have been aware of, had been highlighted and associated amendments made to the guidance as a result. That would have helped us to identify whether the difficult issues we have experienced with eligibility have been addressed.

2) Is there anything in respect of eligibility for the business retail market that the proposed updated guidance does not cover that you consider would be useful? If so, please provide details of why this would be useful.

The most complex issue in our experience arising from the Eligibility Guidance is trying to resolve disputes with shared supplies, particularly those including households. The fundamental issues are:

- i) the inability to accurately measure volume for each consumer which is key to accurate charging so that customers are willing to pay; and

- ii) the inability to disconnect when required.

Cases have reached an impasse for some customers despite Retailer efforts and the exhaustion of many avenues over a prolonged period of time. There are many supply points which should never have been put into the market in the way they have because the operational supply issues are causing customer billing issues and subsequent debt issues and complaints. There are examples where Retailers have billed in good faith the entity identified by the Wholesaler at market opening but that entity disputes they are the correct bill payer because of the eligibility of the site and will not pay.

To date difficulties have arisen in England and Wales where the Wholesaler considers the premises to be a private distribution network meeting the definition of common management co-located premises. The guidance for England and Wales has removed this definition which is helpful. The guidance would be improved further if it specifies what happens when there is a single supply to a private distribution network and no evidence of a billing agreement. In that circumstance, the guidance should state that this isn't a single premises and therefore each consumer of water from that supply point should be considered as having a separate premises and be put into or deregistered from the market and billed separately.

In our experience, where a customer on a shared supply has asked to be billed directly, the Wholesaler has refused to register individual supply points and pointed to the customer having to request a new supply (via the New Connections process) accepting the usual terms and conditions and corresponding fees of new pipework. This is often cost prohibitive leaving the customers frustrated and unwilling to pay their bills and Retailers with few options to resolve. Wholesalers have no incentive to resolve because they continue to receive wholesale charges and have no contact from the customers involved. The guidance does not go far enough in saying "Where there are any complexities, we expect retailers and wholesalers to work constructively and collaboratively to resolve them." The guidance should say "Wholesalers are expected to work with Retailers on a case-by-case basis to put in place separate supplies at the Wholesaler's cost addressing the historic arrangements as far as possible, focussing on the customer outcomes."

3) *Are the scenarios provided in the updated guidance comprehensive enough? Are there any missing that would be helpful, or are there some scenarios that are no longer required? If so, please provide details of why you believe this to be the case.*

The guidance doesn't address what should happen when there are households within a shared supply in England and Wales. This is problematic when the non-household customer receiving the bills does not pay or if the non-household customer wants a disconnection. If there was a single supply to a single non-household customer, then Retailers would be able to disconnect. But when there are households within the shared supply, it is legally not possible to disconnect leaving the Retailer unable to recover its revenue or fulfil the customer's wishes. Disputes of this kind have sometimes been ongoing since before market opening which Retailers are still trying to resolve but there is no incentive for Wholesalers to take any action. The guidance should say that in these scenarios Wholesalers are expected to put in place a separate supply to the households at the Wholesaler's cost and these household premises be deregistered and billed directly by the Wholesaler from an agreed date.

We have tried to initiate the process for registering a gap site in relation to shared supplies, but this has been rejected by the Wholesaler because it is not accepted that the scenario is a gap site. This is because it is not a gap in the market but a known shared supply to a number of consumers. The guidance needs to go further and be expanded to

include additional explanation why the gap site process is suitable and specifically how it can be used and what happens to resolve any impasse.

The guidance doesn't go far enough to assist with scenarios involving mixed use premises where meter reading is a problem due to the inaccessibility of the meters. We've provided the following examples to illustrate the difficulties. All are considered eligible mixed-use premises by the Wholesaler:

- i) Example 1, single supply to a convenience store with a flat above and the meter is in the upstairs flat. Prior to market opening the Wholesaler read the meter. Neither Wave as the retailer nor the non-household customer is able to access and read the meter to facilitate accurate billing. The Wholesaler no longer reads the meter. The guidance should say that in this circumstance, the Wholesaler should install a sub-meter for the convenience store and continue to read the meter in the upstairs flat and put the meter reads into the market.
- ii) Example 2, single supply to two shops downstairs, a flat upstairs and a business upstairs – the meter is in one of the downstairs shops which is vacant. The landlord cannot be found and no-one has been able to access and read the meter to facilitate accurate billing for any of the occupants. The guidance should say that in this circumstance, the Wholesaler should install a sub-meter for each shop, the business and the flat and read the sub-meter in the flat and put the meter reads into the market.
- iii) Example 3, single supply to two shops downstairs (each with a different Retailer) and a flat above, with the main meter in shop 1, a sub-meter in shop 2 and a sub-meter in the flat. Prior to market opening the Wholesaler read all the meters and all received separate accurate bills. Now the customer with the main meter in shop 1 is taking all reads himself and submitting them to us to put into the market, which he finds utterly ridiculous. The guidance should say that in this circumstance, the Wholesaler should read the sub-meter in the flat and each Retailer should read the meter/sub-meter for which they have responsibility.

For scenarios where meters haven't been able to be read since before market opening, ideally these should be taken out of the market by the Wholesalers and set up again with arrangements appropriate for the market.

We hope that our response is useful. Do let me know if you would like to discuss further.

Yours faithfully

