

Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

By email: [REDACTED]

28 February 2022

Dear Ofwat,

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

Thank you for the opportunity to review and respond to your consultation on proposed changes to the Eligibility Guidance and Supplementary Eligibility Guidance in relation to the business retail market.

Yorkshire Water welcomes Ofwat's attention in this area. We have been actively involved in the Retailer Wholesaler Group (RWG) sub-group on Eligibility, whose purpose is to provide clarity around eligibility of premises for the business retail market, exploring edge cases and striving for harmonisation of approaches across England. Our contributions to date enable us to provide a market-focussed response to the proposals. Please see our thoughts on the questions below.

Q1. Do you have any concerns about our proposed changes?

Overall Yorkshire Water is comfortable with the updated Eligibility Guidance as proposed. The clearer definition of extent of premises split between England and Wales and the updated flowcharts are especially welcomed. The revised guidance does go some way to addressing the issues reported in the RWG Eligibility sub-group, mainly in relation to the mixed-use properties, extent of property, universities, and temporary supplies.

We do have observations around **A1.19 Temporary Supply for Developers**, which we believe would benefit from further clarity. We understand our views outlined in

this response are commonly shared with the RWG Eligibility sub-group and industry wide. We consider the guidance as worded may not deliver a positive outcome for customers or market participants. We remain concerned that where on a housing development, the houses under construction and readiness are connected for water and sewerage but are not yet occupied, under the proposed Eligibility Guidance they are not used as a home are therefore eligible to go into the business retail market. Once the properties are completed and are ready to be occupied a home, wholesalers would then have to take them out of the market (de-register them).

We believe the approach (should that be the intention of the guidance) may in time create a significant number of registration and de-registration activities within the market that are both costly and effectively wasteful for trading parties and these could create poor service and experience episodes for many hundreds of household customers each year across England, for example where deregistration's are not correctly actioned.

We offer an alternative proposal in respect to eligibility based on the planned or intended principal use of a newly connected property. So, where the newly connected property is to be solely for use as a domestic home, then it should be treated as ineligible for the business retail market. Simply because a property is yet to be used as a house, we do not believe the default is that it is therefore a business premises and eligible for the retail market. If a house is being refurbished or is currently not fit for habitation, this does lead to it becoming qualified to being eligible for the business market, and we do not see a rationale to have such a differential approach to new build houses.

This approach could still allow for a 'show home' to be entered into the market as it is used for commercial purposes for a substantial period in advance of it being sold or occupied by household customers. In addition, 'temporary building supplies' (i.e., a supply of water/sewerage put in place for the specific purpose to serve a development site on a non-permanent basis during its construction) should be considered discretely, and typically would be for commercial use and eligible to go in the business retail market. Wholesalers can set and apply charges for appointed retailers for water and/or sewerage supplies used in construction accordingly within Ofwat's charging rules.

We propose the following drafting change is considered for inclusion in the updated Eligibility Guidance:

"A1.19 Temporary supply for developers ~~[delete] The current principal use of the relevant premises is used to establish its eligibility. This means that where a house has not been completed, its current principal use cannot be as a home and so it should be eligible for the business retail market".~~ [Insert] *"Usually, the current principal use of the relevant premises is used to establish its eligibility. The exception to this is new build connected properties in development where planning permission has been obtained for a domestic dwelling only and this will be the premises intended principal use."*

Q2. Is there anything in respect of eligibility for the business retail market that the proposed guidance does not cover that you consider would be useful? If so, please provide details of why this would be useful.

Our response to this question is addressed in question 1 comments above.

Q3. 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.

Yorkshire Water believes the scenarios in the updated Eligible Guidance document are comprehensive. The guidance is much clearer where premises have been combined into similar scenarios, for example care homes and nursing homes, Housing Associations, tenanted properties, and Local Authorities housing. The new scenarios for churches, gyms, stables, and self-supply retailers are beneficial and will make trading party decisions easier to make without recourse to Ofwat to determine the eligibility of a premises.

Should you have any further questions or require more information please let me know via email at 

Yours faithfully,

