

Centre City Tower, 7 Hill Street, Birmingham B5 4UA
11 Westferry Circus, Canary Wharf, London E14 4HD

By email

31 January 2023

Dear []

Thank you for your email of [] in response to our request for information dated 17th June 2022 in relation to your compliance with the Retail Exit Code (“the Code”).

We have reviewed your response and note that [] applies price protections afforded to Group One and Group Two customers in the Code as an average protection. As we noted in our covering letter to the June RFI, this interpretation is not consistent with the Code which clearly sets out in annexes one and two that the protections are to apply to each customer on an individual basis. As a result of [] not following this requirement, some customers have been paying more than the maximum charge afforded to customers by the Code.

In light of this non-compliance with the Code, attached to this letter is a Direction to comply, issued under Regulation 30 of The Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016 (“the Regulations”). This Direction shall come into effect on 1 April 2023.

In reaching this decision we have taken into account that the Retailers, including but not limited to yourselves, that have applied the price protections as averages appear not to be deliberately non-compliant with the Code. In addition, they do not appear to have benefited from the approach as we have no evidence to suggest that they have over recovered revenue from customers in their totality. We do however consider this is a breach of a Retailer's duty to comply with the Code, and it is imperative Retailers remain compliant with their obligations. For the avoidance of doubt, the price protections afforded to customers by the revised Code, coming into effect from 1 April 2023 continue to be on a per-customer basis.

In line with our decision document published on 15 December 2022 we expect each Retailer to submit a statement of compliance in June 2023, relating to the charges they set for 2023-24. In addition to this we require [] to respond to this letter setting out their plan for returning to compliance with the Code in advance of the 2023-24 Charging Year. The response should be submitted by 5pm 20 February 2023.

Going forwards you are reminded that it is your responsibility to ensure that you understand and are compliant with your obligations as a Licensee.

In accordance with Regulation 30(4) it is the duty of [] to comply with these Directions. This duty is enforceable by Ofwat under Section 18 of the Water Industry Act 1991. Ofwat will look to review the need for this direction within two years of its issuance.

Yours sincerely

Shaun Kent

Director, Business retail market