



The voice for water consumers
Llais defnyddwyr dŵr

CCW response to the Ofwat Customer Protection Code of Practice Call for Inputs

Date: June 2023

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1. Introduction

CCW (the Consumer Council for Water) is the independent voice for water consumers in England and Wales. We welcome the opportunity to submit our views on this call for inputs to the Customer Protection Code of Practice (CPCoP).

2. Key points

We are supportive of Ofwat's decision to undertake a holistic review of the protections afforded to business customers by the CPCoP. We referenced the need for change in our recently published report on 'Business Customers' Experience of the Water Retail Market – Five Year Review'¹.

We set out below the key changes we would like to see occur as part of the CPCoP review.

- Automatic refunds of credit balances on a date agreed with a customer or at the end of the contract year
- Bills based on two actual meter reads a year, allowing customers to monitor consumption more easily, control cost and encourage water efficiency
- Extension of the “reasonable period” for back-billing charges from 12 months to 24 months
- Extension of extra protections within the CPCoP to all Group One customers
- Take learnings from the energy sector in relation to the treatment of vulnerable business customers and
- Take learnings from the energy sector regarding the promotion of information about switching
- Strengthen the requirements so the final bill is produced quicker than the current six-week target
- Mandate communication between retailers and the customer when a switch request is blocked
- Improve and shorten the change approval process so that no change requests take longer than six months from submission to decision
- Clarity on how Ofwat will monitor and enforce non-compliance with the CPCoP

These points are expanded upon in more detail in our responses to the call for input questions below.

¹ [CCW Business Customers Experiences of the Water Retail Market – Five Year Review 2023](#)

3. Response to Call for Input Questions

1. What views do you have on the adequacy of the current requirements as they stand. Do you think they could or should be strengthened, and if so do you have views on how they might be amended and any costs that may be incurred by doing so?

The CPCoP is important in ensuring business customers are protected and receive a good level of customer service. There are a number of sections in the code where we want to see it further strengthened for the benefit of businesses. In particular, we want the following amendments to be made:

Provision of information by a Retailer to its Non-Household Customers (CPCoP Section 7)

CCW remains of the opinion that there should be an automatic annual refund of any credit balances to a business customer's account(s) on a preferred date agreed with the customer or at the end of the contract year, unless the customer chooses to opt out. This review of the CPCoP is an opportunity to include this necessary requirement and publicise the importance of having effective communication of customers' rights in respect of credit balances.

Billing (CPCoP Section 9)

Complaints to CCW from business customers, our Testing the Waters research, and the contact we have with business customers through our forums demonstrates that, alongside poor customer service, inaccurate billing is one of the main drivers of customer dissatisfaction. We believe that retailers should be required to issue at least TWO accurate bills – based on actual meter readings - each year. This would be an amendment to section 9.2.1 of the code. More frequent, accurate, billing would allow customers to monitor their consumption more effectively, giving them greater control over their costs and this would drive greater focus on water efficiency. A requirement for more frequent billing also drives retailers to place more emphasis on ensuring they collect regular meter readings and take steps to address long unread meters. In the medium to long term, the roll-out of greater smart metering penetration in the water sector should allow this to be achieved without substantial additional meter reading costs, but we believe it is an issue that needs to be tackled now.

As we previously stated in our response to the consultation on Code Change CP001, we believe that the “reasonable period” for repayment of a back-billing amount should be up to 24, rather than 12, months. We remain of the opinion that this would allow greater flexibility for customers affected by the unexpected bill shock of a backdated bill. In addition, as retailers are permitted, in some circumstances, to back-bill customers up to 24 months, it is reasonable that customers have the same period of time to repay. We also feel that this option should be open to SMEs as well as micro-business since many of these smaller businesses may struggle to cope with a significant additional payment. This is particularly the case as customers may now be struggling with the impact of the Covid-19 pandemic

restrictions and the cost of living crisis, both of which have occurred subsequent to the original change to the CPCoP in 2019.

Complaint handling and dispute resolution (CPCoP Section 10)

The CPCoP should be explicit that each retailers' complaint process must highlight the right of customers to refer unresolved complaints to CCW. The CPCoP only currently mentions a redress scheme. This is particularly important since, currently, ADR schemes are only binding on retailers, placing a reliance on CCW to mediate a solution where there is a dispute between wholesalers and retailers over complaint resolution. It is vital that business customers know their rights and we want to see retailers advise them of this through a strengthened requirement in the CPCoP. Ultimately, we believe that the ADR scheme needs to be overhauled to place responsibility on both retailers and wholesalers in order for there to be a comprehensive, effective, solution for customers. We want to work with Ofwat to make the necessary changes to water companies licence conditions, which was one of the recommendations in our Five Year review of the water retail market report. We will contact Ofwat separately about this matter.

2. Do you think the General Principles of the CPCoP should be modified to ensure a stronger focus on the interests of customers, and if so how?

The existing General Principles are currently focused on the interests of customers, but we would welcome an explicit recognition that those business customers who are smaller and less engaged in the market may need extra protection. The Principles could be strengthened to place an onus on retailers to recognise that some customers, by virtue of their size and level of engagement, may need extra protection, so retailers should offer an enhanced version of the existing standards contained in the Principles to this particular subset.

There have also been issues since market opening relating to the interaction between retailers and wholesalers, particularly when dealing with (and disputing responsibility for) customer complaints. We would like to see a general principle added to the CPCoP for retailers to work collaboratively with wholesalers. This will support not only complaint resolution but also the delivery of water efficiency targets and smart metering for businesses.

We also believe that the principles could reinforce section 9.3.3 by further stating that any refunds due to customers must be made as soon as possible.

With the exception of the addition suggested above, we believe that the General Principles are sufficiently customer focused. However, while it is important to assess the Principles themselves, it is just as important to ensure that retailers are applying them correctly when providing services to their customers. In determining whether retailers are meeting their obligations under the CPCoP, Ofwat need to not only assess compliance with the specific standards, but also measure them against the Principles.

3. What views do you have on the CPCoP offering differing levels of protection to customers as described above?

We would be supportive of extending the protections offered within the CPCoP to a wider sub-set of customers. As we mention above in our comment on back-billing repayments, we think that many SMEs face similar challenges to micro-businesses and they are likely to have a similar profile in terms of engagement with and awareness of the market². Using the Group One customer definition seems a reasonable way to determine which group of customers should be afforded this extra protection.

While we support the idea that the CPCoP should offer greater protections to smaller customers who are less engaged in the market, this should not result in diluting protections to those who are larger or more engaged. Standards such as the right to access an effective complaints procedure should be minimum standards that all business customers should expect, not just the vulnerable ones.

- 4. What views do you have on extending additional protections to particular vulnerable customers, and what extra protections do you think it would be appropriate to consider adding to the CPCoP for these customers?**
- 5. What views do you have on whether the CPCoP should include protections for customers with critical infrastructure?**
- 6. What views do you have on how the CPCoP could be strengthened to deal with emergency events?**

We have answered these three questions as a group as there are clear links between them. We agree that the CPCoP could specify additional protections for business customers identified as being in vulnerable circumstances and those with critical infrastructure. The responsibility for ensuring continuity of service and additional services for these customers is likely to reside with wholesalers, but retailers have an important role to play in signposting key information and making sure business customers get the help and service levels that they need and expect.

In addition, the 2018 Out in the Cold review³ found there was a lack of communication between retailers and wholesalers during incidents, which led to confusion for customers. The CPCoP could set out minimum standards for such communications.

The Lending Standards Board and Money Advice Trust produced a [joint report in 2018](#) that highlighted that “*people who run small businesses are no less likely to be in a vulnerable situation than personal customers*”. Ofwat should consider the recommendation from this report when considering extending protections for customers in vulnerable circumstances. This support must also include other organisations in the market – such as charities and community centres. CCW receives many complaints from these customers. They are often

² [Testing The Waters 2022 - CCW](#)

³ [Out in the Cold 2018 Ofwat/CCW](#)

run by volunteers or have limited staff numbers and may not have the resources and time to engage effectively with the complexities of the market.

In terms of small businesses, a vulnerable situation is never black and white, and businesses are by their very nature volatile. Not every trigger will equate to a small business customer suffering harm and so every customer needs to be treated on a case-by-case basis. Personal characteristics have an important part to play in how business owners respond to difficult situations.

The causes of a vulnerable situation can be multiple and complex and may not always derive from personal circumstance alone but from a number of sources, including the business itself. There is often a direct link between a business in, or at risk of, financial difficulty and the personal susceptibility of the owner to vulnerability. Financial difficulty can stem from the impact of external factors on the business that often sit outside of the business owner's control. The complexities of running a business, coupled with the current market conditions, may mean that these drivers do not exist in isolation.

When considering extending additional protections to particular vulnerable customers, we recommend that Ofwat should require retailers to:

- consider how they will evaluate how their policies and processes continue to operate in a manner that delivers consistently fair customer outcomes for business customers in vulnerable circumstances
- have specialist teams to help vulnerable businesses. These should be trained to encourage business owners to discuss any difficulties they are experiencing and empathetic solutions should be offered
- signpost to support organisations such as Business Debtline.

When considering impact, retailers should have regard to the fact that businesses are led and run by people, and therefore these individuals are just as susceptible to a vulnerable situation as the rest of us. A recent review of statistics by the Federation of Small Businesses (FSB) into the health of its members identified that orthopaedic issues, mental health and cancer constitute over half of the referrals to its medical care and advice centre.

Whilst the practical consequences of these conditions may vary, for some this might mean time off work for treatment, prolonged periods of absence, and in the case of mental health, a reduction in the ability to make informed business decisions or even reduced capability to run the business itself. The ability of the customer to understand, remember, weigh up and make informed business decisions, and the degree to which this might be impaired by the situation. The nature and longevity of the vulnerability is likely to affect the customer day-to-day, and their ability to engage with the market or interact with the retailer. Finally, the sustainability of the business should be considered. This is particularly relevant when a service failure by a wholesaler has a significant impact on the businesses ability to continue to trade as usual e.g. loss of supply incident, flooding.

Whilst we recognise the difficulties in identifying vulnerability early on, retailers should have processes in place to support and encourage timely identification of business customers in vulnerable circumstances.

7. Do you have any thoughts on how the CPCoP could be strengthened to improve customer experience?

As mentioned in response to question one, CCW continues to campaign for automatic annual refunds of credit balances for business customers. We provide more evidence to support our change request in response to question 14 below.

Providing requirements for additional support for customers is also a way to enhance the experience of customers in the market.

8. Do you think the CPCoP could be strengthened to improve how Retailers provide customers with information relating to the end of their contract and terms of supply?

We strongly believe that making a customer wait up to six weeks to receive a final bill does not represent a good level of customer service. It is important that this bill is accurate, since billing errors are a significant driver of complaints in the market, and therefore we accept that it is reasonable for a retailer to have some time to gather the relevant information to close an account down correctly. However, we believe customers should expect a resolution in a much shorter timescale and would expect four weeks to be sufficient for an efficient retailer to issue a final bill based on an actual read.

Providing a customer with a minimum of 30 days' notice of any changes (or roll-over) to their T&Cs is reasonable, so long as this is communicated clearly and unambiguously. However, we would also recommend sending a reminder to the customer after 15 days, over multiple channels, where necessary, to give greater assurance that the customers has received this important information.

9. Are there any service areas that are missing from the current CPCoP that we could consider for inclusion when updating it?

Generally, customers who go through the switching process find the experience to be straightforward. However, our synthesis report by Blue Marble identified a number of perceived barriers to switching that put customers off, in particular SMEs. These included a belief that the cost would outweigh any benefits, the market was too complex to engage with and that businesses simply did not have the time to put effort into looking for savings or switching.

Of the customers who do switch, or attempt to switch, one of the main areas of complaint we see is where the retailer has blocked this switch. Blocked requests to switch generally

arise when there is an outstanding debt on the account. The complaints that we receive are often due to there being a dispute about the legitimacy of this debt and customers feeling they are being held against their will. However, the complaints that CCW handle arise from customer frustration at being both unable to resolve an on-going billing dispute with their retailer and being unable to act on their dissatisfaction with the handling of the dispute by taking their business elsewhere. We would expect retailers to resolve the reason for a disputed bill promptly to enable customers to switch in the future. Clear, effective communication to the customer (and the potential new retailer) about the reasons for the blocked switch request is required to allow all parties to move towards a resolution. Mandating such communication within the CPCoP would help in this respect. This should be a requirement for the existing retailer to set out how they intend to work with the customer to achieve a resolution to any dispute. Failure to communicate this should mean they are no longer able to block a switch request.

10. Is there is scope to update or standardise the existing Letter of Authority arrangements?

We have no comments to make on this question.

11. Should any changes to the CPCoP falling under questions 7 to 10 be differentiated by size or type of customer?

Information on switch blocking and contract T&Cs is likely to be of most use to micro and SMEs who may not have the time and resources to proactively seek out this material.

12. Do you have any views or suggestions as to whether and how the CPCoP might be used to improve customer awareness and engagement in the market?

We welcome the proposal to review and update the Open Water website and make information about the right to switch more prominent on customer bills. This should include some of the potential price and service benefits of switching – there are examples from the energy sector that could be used to design a template for retailers to utilise (the annual CTM (Cheapest Tariff Message)).

A question introduced to this year's 'Business Customer Insight' research showed a clear disparity in awareness of the market between businesses that were active before 2017 and those set up after the market opened - 59% awareness for pre-2017 businesses compared to 33% among more recently set up operations. The market needs to do a better job of making itself visible to its customers and explaining some of the potential benefits of switching tariff or supplier. While retailers and wholesalers communicated with business

customers ahead of the market fully opening in 2017, it is important that market information continue to be promoted. We, therefore, welcome the CPCoP making this a requirement.

It is also important that business customers are able to access information about potential price and service benefits easily. As mentioned above, many SMEs are put off by perceptions that switching will be complex and time consuming.

13. Do you have views on whether and how the implemented changes have impacted your business and delivered on the intended aims. To what extent do you consider that these changes have resulted in a noticeable difference in customer awareness in terms of credit balances or alternative payment options available?

We have helped to generate awareness of the implemented changes around credit through working with the FSB, Chambers of Commerce and a presentation to MEUC members, as well as through social media. However, we are concerned that a noticeable difference in awareness is a long way off. More is needed and we will continue to do our part. We are interested to hear retailers' views on this and will continue to monitor evidence from complaints.

14. Do you consider there are merits of introducing any of the options described above (further protections for smaller customers, ring-fencing credit balancing, obliging Retailers to provide annual letter/notifications or obliging Retailers to refund customer credit balances on an annual basis) and why? Please provide your views of possible pros and cons on any options, including any possible implementation challenges, costs, or unintended consequences that Ofwat would need to consider.

Between 1 April 2022 – 1 June 2023, complaints about retailers failing to refund credit balances accounted for 25% of all those received about disputes concerning refunds. This category includes complaints about an allowance due, the value of a backdated charge and disputes about whether a credit has been calculated correctly.

We have included in an appendix to this response some examples of the complaints we have received from business customers. While these examples highlight specific customers' experiences, the main causes of these complaints have been summarised below:

- The length of time being taken for retailers to progress a refund request is a common cause of customers complaining to both their retailer and CCW. Often, customers quoted a period of several weeks for this to take place, but in some cases, it has not been processed for months, despite the customer making repeated contact.
- In a number of cases, customers have had to make a written complaint in order to try and progress the issue. Retailers should be refunding credit in a timely manner, and

communicating the timescale clearly to customers. No one should have to resort to either raising a complaint, or contacting CCW, to ensure their money is returned to them.

- It is evident from some complaints that retailers lack sufficient processes for handling credit refund requests. System errors, or a failure to record the request, have been identified as some of the reasons for delays.

We believe our change proposal request to the CPCoP, submitted in July 2022, would go a long way to reducing the number of complaints in this area in the following way:

- By requiring retailers (as a backstop) to refund customer credit on a date agreed with the customer, where possible, or at the end of the contract year. This will reduce the scope for unreasonable delays in refunds being processed in response to customer requests.
- If credit balances are automatically refunded on a given date, then this would manage customers' expectations, and therefore reduce the likelihood of complaints being raised.
- A requirement to refund credit balances would mean retailers having to implement a robust process to facilitate those refunds. The system improvements made should reduce the scope for error and the associated impact on customers.

We would also be happy to explore further the option of ring-fencing credit balancing.

15. Are there any other options we could consider or anything we can learn from other sectors or markets on this issue? If so, please provide your views on possible pros and cons on any suggested alternative approaches, including implementation challenges, costs, or unintended consequences that Ofwat would need to consider.

We are keen for Ofwat to take the lead on protecting businesses customers of all sizes. We believe that greater protection is needed until awareness increases and market frictions, that could impact retailer stability, are addressed.

16. Do you agree that a similar process to the WRC/ MAC changes, should be introduced to replace the current CPCoP change process?

We are in strong agreement with the need to improve the change process for the CPCoP. There is currently no defined period between a proposer submitting their change request to Ofwat and Ofwat evaluating the proposal. This can mean a change request can sit with Ofwat for an undetermined amount of time, which could delay a change that could substantially improve services for businesses. We want greater transparency introduced into the change process for the CPCoP, with clear timelines by which Ofwat must have

evaluated a change proposal and consulted on its decision. We expect a change request to take no longer than six months to be considered, consulted on and a decision made.

We are also in favour of an approach that allows Ofwat to accept minor housekeeping alterations without the need for a full 28 day consultation period. This should also apply to Ofwat's ability to remove redundant clauses from the CPCoP, provided there is a failsafe process to revert to a consultation on removals if any market participants raise objections.

We were generally supportive of the proposals for changes to the WRC/MAC and have raised concerns previously that approved change proposals may still be subject to a long implementation period. Therefore, changes to the CPCoP need to be explored to shorten the journey from proposal to implementation.

We accept the need for any change proposal to be supported by evidence of the problem it is seeking to resolve. However, if there is disagreement between the proposer and Ofwat over whether this has been demonstrated, we recommend an additional step within the process to obtain the view of market participants, and other interested parties such as business customers, about whether the proposal is, theoretically, sound. This would lessen the chances of changes that could benefit customers in the market being rejected due to a disagreement over the strength of evidence – something that could be built upon through further investigation as part of the change approval process.

17. Do you consider that the current CPCoP has redundant or unnecessarily complex elements? If so, do you have any suggestions to reduce complexity or redundant elements of the CPCoP?

To avoid confusion, we believe redundant elements of the code should be removed. We do not want retailers inadvertently continuing to base their service levels on a clause that was added for a limited amount of time, for example, reading internal meters during COVID-19 restrictions. It is important that the Code is as clear and current as possible to ensure business customers are properly protected.

18. Do any definitions contained within the CPCoP need updating or amending?

The CPCoP makes reference to 'the Authority' and 'the Council' but never actually specifies that these mean Ofwat and CCW (except where the Consumer Council for Water is written in full under 7.6.1.). We would recommend making this clear in the code.

19. Do you have any views on whether we could protect customers better by taking further steps to increase our assurance that Retailers are compliant with their obligations as set out in the CPCoP and if so what in your view is the most effective way to do this?

As the consultation states “*compliance with the CPCoP is crucial in ensuring customers receive good levels of service*”. However, it is not clear what the current “*proportionate and risk-based approach*” that Ofwat refers to means in practice.

As a minimum, it would be helpful for each retailer to submit a written assurance that it will comply with the CPCoP, supported with evidence where appropriate. This should be an annual requirement and should not be particularly onerous. Requiring such an assurance will mean that each retailer has had to give due consideration to each requirement under the CPCoP and demonstrated compliance.

Ofwat should also set out the enforcement action it would take if a retailer were found to be in breach of the CPCoP. This could be a sliding scale from providing an undertaking to reach compliance by a certain date, to more punitive action for repeated failures to comply. In our Five Year Review report we set out that we want to see Ofwat clarify the circumstances and criteria where it will take action against retailers who do not follow the CPCoP. We recognise that CCW can play an important role in this process, given the value of our complaints evidence and we look forward to working closely with Ofwat on this .

20. Do you have any views on any areas that have not been considered by this CFI that you believe could improve or strengthen the CPCoP?

In addition to our support for the overhaul of the Open Water website, we recommend the website including a step-by-step guide to switching. This could help demystify the process and is likely to help engage more business customers in market.

Section 9.3.3 details the process for retailers passing on refunds from wholesalers. This section should be strengthened to say refunds should be made as quickly as possible.

We are aware that, when accepting a new customer, some retailers will update their own billing systems with the correct information but sometimes fail to do the same to the central CMOS system (if for example the business name has changed). Given the difficulties that have been caused in the market by poor data we believe it is imperative that retailers are mandated to ensure that any change to SPID information that they are made aware of is immediately entered into CMOS.

Enquiries

Enquiries about this consultation should be addressed to:

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Date: 26 June 2023