

Call for Input: Customer Protection Code of Practice

Thank you for giving Business Stream the opportunity to contribute to Ofwat's review of the Customer Protection Code of Practice (CPCoP). We consider this to be an important document in setting the rules for how Retailers treat their customers and uphold standards of customer service. As an advocate of market-wide standards that all Retailers must follow we have frequently called for a similar code to be introduced in the Scottish market.

The CPCoP is one of three measures, regulated by Ofwat, that sets protections for NHH customers; the other two are the Guaranteed Standards Scheme (GSS) and the Retail Exit Code (REC). This suite of documents offers significantly more protection for customers in the competitive business water market than they received before April 2017 and more than domestic customers currently being served by incumbent water companies. Even with the proposed, customer-centric, licence condition for incumbent companies for domestic customers, Retailers will still be obligated to offer a greater level of protection in a competitive market than monopolies in the domestic market.

Through this review, Ofwat is considering if there is a case for making more fundamental changes to the CPCoP in order to strengthen protections for NHH customers. Our view is that while we recognise the benefit of setting minimum standards and we support the existing CPCoP, it is important that customer service standards are not over-prescribed as it may undermine competition. Service level is one of the few areas that Retailers are able to differentiate so given that customers already enjoy significant protections through the CPCoP, GSS and REC it is our view that competition should be used to provide additional protection through natural incentives.

While a flourishing competitive market will bring a greater incentive for Retailers to ensure they provide the best level of customer service to their customer base we accept that the market is not yet flourishing and customer engagement with the market is low in some segments. We remain hopeful that initiatives and regulatory interventions already underway such as MPF reform, PR24 (including the introduction of BR-MeX), central data cleanse and the Interim National Meter Strategy will further reduce market frictions and incentivise both Wholesalers and Retailers to ensure improved customer outcomes. We also recognise the need to raise customer awareness and appreciate that these inflight initiatives and interventions will not be sufficient so more is needed. However, first, we need to better understand whether there is a strong correlation between engagement levels and customer switching and why competition has flourished in some segments of the market and not others. For example, in Scotland, more than 50% of 0-0.5Ml sites have switched at least once but it currently does not have a Code of Practice nor mandated protections on engagement. Therefore, our preference is that there should be an increased focus on understanding the key drivers required to ensure the market is competitive in all segments, this would include allowing the current work (on MPF reform, BR-MeX, central data cleanse and development of the enduring Metering Strategy) to complete and then holding a wider discussion with market participants on how best to address the current lack of engagement, rather than introducing further significant regulatory protections in the CPCoP.

Having said that there are two areas where the existing CPCoP could be improved to ensure ambiguity is removed and there are no barriers to switching:

1. Much of the CPCoP is clear and concise but through direct experience, the wording on retrospective amendments in section 9.3, especially on back billing (9.3.1), is open to different interpretations. This review is an opportunity to ensure that ambiguity is removed from the text. Regrettably, on occasion, it is necessary to apply a catch-up read to accounts where the meter has not been read for an extended period of time and estimations of consumption are much lower than actual use. The wholesale charge on these increased consumption volumes will be paid by the Retailer through settlement. However, some customers assert that this is a back bill of consumption and therefore retail charges should be limited to consumption within the RF settlement process. This situation can on occasion be aggravated by customer behaviour in that some customers refuse site entry for meters to be read, or have removed the meter or obscured access to the meter by shop fittings or ground works. We would welcome rewording in this section to ensure its intention is clear, but also a consideration of how Retailers should apply any protection where customers have wilfully manipulated a situation to avoid payment by preventing Retailers from applying the protection.
2. It is important that customers can switch with ease, especially after the end of a fixed contract period. Given the findings from a recent review by MOSL on transfer behaviours, it is our view that the CPCoP should be amended to ensure that a Retailer's terms and conditions do not require a termination notice unless the customer is on a fixed-term contract.

While the CPCoP is considered the minimum standard for customer service provided by a Retailer, there is one significant area that requires wholesaler engagement but where there is no alignment through the market codes. It is the requirement for a Retailer to provide an accurate bill each year to a customer based on a meter read, where the supply point is metered (section 9.2.1.). There is no obligation on a Wholesaler to ensure that the meter can be read once a year which creates asymmetry and should be addressed. This can be done either by amending the CPCoP wording to only meters that can be read, perhaps through recognition of an open bilateral request or by amending the market codes to ensure Wholesaler alignment.

We now turn to each of the questions raised in the CFI:

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?

Business Stream is an advocate for the CPCoP. We consider it an important document that compels all Retailers to follow the same set of minimum rules on how we treat our customers. With one exception we are comfortable with the level of protection offered to customers through the CPCoP. The CPCoP in conjunction with the GSS and REC offers NHH customers unparalleled protection in the Anglo-Scottish water markets, including the comparison to domestic customers. Our view is that while we recognise the benefit of setting

minimum standards and we support the existing CPCoP, it is important that customer service standards are not over-prescribed as it may undermine competition. Service level is one of the few areas that Retailers are able to differentiate so given that customers already enjoy significant protections through the CPCoP, GSS and REC it is our view that competition should be used to provide additional protection through natural incentives. Unlike in the domestic market, NHH customers are the ultimate arbiters; they can switch Retailers if they do not like the way they are being treated.

Therefore, what is important is that customers can switch with ease, especially after the end of a fixed contract period. The recent review by MOSL on transfer behaviours identified an issue with the terms and conditions of three Retailers. They have clauses within their terms and conditions that at the end of a fixed term contract, should no new contract be agreed upon, the customer is bound by the same terms and conditions as they were within their fixed term thus requiring a need for a termination notice to be provided in order to transfer to a different Retailer. While there may be commercial considerations during the fixed-term contract we do not consider clauses requiring a termination notice post-contract to be fair or in the spirit of a competitive market. Arguably this could be addressed through the non-price protections in the REC, however, we would welcome consideration by Ofwat of an enhancement to the CPCoP to protect customers post-contract.

We would also welcome more clarity around section 9.3.1 as it is open to interpretation as described in our response to question 19. Furthermore, as discussed in our response to question 21 we consider there to be an asymmetry between a Retailer's responsibility in 9.2.1 for ensuring a meter is read at least once a year and a Wholesaler's obligation on providing a meter that can be read.

We appreciate that through this CFI, Ofwat is ascertaining if there are issues with the current CPCoP. It is likely to receive a range of opinions, so, should any changes be made to the CPCoP, Ofwat will need to be clear on what it is trying to achieve and why.

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?

We consider the current General Principles to be well-defined and place appropriate focus on the protection of customers with no modification required.

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

We would not be supportive of a differentiated approach. Our rationale for this is described below and in our response to questions 4, 5 and 6.

Size of customer

We agree it is appropriate to provide protection to NHH customers and we consider that through the CPCoP, GSS and REC they currently have a level of protection that far exceeds that of domestic customers. In this suite of documents smaller customers whether by

number of employees or consumption already receive additional protections, we consider this additional level of protection to be sufficient and proportionate.

We are also concerned that it will be difficult to identify different sizes or categories of customers, and then maintain the correct designation. The current requirements for micro-businesses in the CPCoP are only achievable because we are able to identify the number of employees at the point of acquisition and then confirm the position again at renewal. Applying new and differentiated protections to an established customer base would be exceptionally challenging.

These challenges would include a requirement to make changes to our systems so that we could flag the different customer groups to enable frontline staff to recognise the level of service that different customer groups should receive. These flags would then need to be regularly maintained and updated, which may require active engagement with the customer which is not always possible.

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?

The market codes already offer protection for those described as “sensitive customers” which includes hospitals and other places occupied by the sick, elderly and disabled, and schools. For this identified customer group, the Wholesaler has obligations under the Security and Emergency Measures Direction (SEMD). Our view is that if Ofwat considers additional protections are required it should propose changes to the Market Terms to ensure that Wholesalers take responsibility for this extended group of customers under SEMD.

We would not be in favour of further regulation in the competitive NHH market to compel Retailers to provide additional protections to vulnerable customers, especially as in its CFI, Ofwat has included many different types of vulnerability, including health, wellbeing or finances. This could be a wide and diverse group of customers requiring different and tailored solutions.

Business Stream has been investigating how best to support our most vulnerable customers but considers that this should be done on a voluntary basis to allow for service differentiation. For example, Business Stream has a vision of “making a positive difference” to our customers, our people, local communities and the environment. How we support vulnerable customers will be included in our customer quadrant.

5. What views do you have on whether the CPCoP should include protections for customers with critical infrastructure?

The market codes already offer protection for those described as “sensitive customers” which includes hospitals and other places occupied by the sick, elderly and disabled, and schools. For this identified customer group, the Wholesaler has obligations under the Security and Emergency Measures Direction. Our view is that if Ofwat considers additional

protections are required it should propose changes to the Market Terms to ensure that Wholesalers take responsibility for this extended group of customers under SEMD.

6. What views do you have on how the CPCoP could be strengthened to deal with emergency events?

Wholesalers have obligations under the Security and Emergency Measures Direction. However, we recognise that there is an issue with how best to get important and timely information to the NHH customer during an emergency. There is no easy answer, however, we are aware that the RWG is working on a solution and our suggestion would be for the group to conclude its work before any consideration is given to amending the CPCoP.

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

While we recognise the benefit of setting minimum standards and we support the existing CPCoP, it is important that customer service standards are not over-prescribed as that may undermine competition. Service level is one of the few areas that Retailers are able to differentiate so given that customers already enjoy significant protections through the CPCoP, GSS and REC it is our view that competition should be used to provide additional protection through natural incentives.

For example, under our Making a Positive Difference customer quadrant (please see the response to answer 4 for more information) we are considering how we widen customer access to information to improve their customer experience.

We have also made suggestions on improving customer experience in response to other questions such as ensuring customers can switch without the need for a termination notice if they are not on a fixed term contract.

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?

As described in our response to question 1 we do consider there is an issue with the post-fixed term contract conditions with some Retailers but we don't consider that the provision of additional information would resolve the issue. Our view is that a customer not on a fixed-term contract should be able to switch without the need to serve a termination notice on their Retailer.

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

The Scottish NHH water market is considering the introduction of a Code of Practice and there is currently a draft version being reviewed. Many of the service areas are common

between the two; however, the Scottish version has a section on debt recovery. At a time of increased pressure for NHH customers, a section on debt recovery could prove beneficial.

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

While we appreciate the rationale for additional protection for micro-businesses, a prescribed and templated letter of authority for this group of customers can cause friction and dissatisfaction if the letter received from the third party is incorrect. Therefore, our preference is to provide guidance on what the letter of authority should contain without it having to be templated by the Authority.

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

Our response to question 3 confirms we are not supportive of a differentiated CPCoP based on size or type of customer. However, should this be introduced, as with the price and non-price protections in the REC there could be an argument to remove protections for the largest customers.

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 share Ofwat's objective of improved customer awareness and engagement; however, we do not consider the CPCoP to be the correct vehicle for this. Our view is that we need an industry-wide discussion on how to achieve improved engagement and a better understanding of where competition has flourished and why. For example, in Scotland, more than 50% of 0-0.5MI sites have switched at least once but there is currently no Code of Practice nor mandated protections on engagement.

Therefore, our preference is an increased focus on ensuring a successful competitive market including allowing the current work (on MPF reform, BR-MeX, central data cleanse and development of the enduring Metering Strategy) to be completed and a wider discussion held on engagement rather than the introduction of further significant regulatory protections in the CPCoP.

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?

Ahead of CPCoP CP0010, Business Stream was supportive of increased awareness by customers of credit balances to enable them to make an informed choice on requesting a refund. Our view has not changed. We agree that customers should be aware of the risks to their credit balances in the event of a Retailer becoming insolvent. As these are non-household customers, running and operating their own businesses, we expect that they will

have some awareness of business risk but Retailers have a role to ensure that customers are informed of credit balances and options customers may take in order to mitigate any residual risk. This allows customers to make informed decisions that meet their appetite for risk and needs.

In preparing our response to CP0010, we examined root cause analysis of enquires and complaints to establish if customers are concerned about credit balances and found no evidence of this. We have recently undertaken a similar exercise to support our information provision to Ofwat on the RFI on credit balances and have found no change. This is despite increased awareness over the last two years of the impact of failing suppliers in the energy markets and the cost of living crisis.

Perhaps this could be explained by Business Stream always being transparent on credit balances, our refund policy, or our ownership model or level of financial stability, but we are not identifying that concerns about credit balances are an issue for our customers. It is also worth highlighting that Business Stream has only a limited advance payment proposition and that the vast majority of our customers are billed in arrears. Furthermore, we operate the following processes which support a customer if there is a credit balance:

- An 'automatic' refund process where an account is closed with a credit balance.
- For open accounts, all of our bills detail any carried forward credit on the account. The value of the new bill is then applied, resulting in a net closing balance. The customer can request a refund if the closing balance is a credit.
- Through our 'equalisation' process, we regularly review direct debit amounts to ensure they accurately reflect the customer's consumption, adjusting the payments up or down as required.

Our view is any further interventions in this regard should be proportionate to the risk, should consider the net costs and benefits involved and most importantly, should be targeted at those Retailers that are considered to be at greatest risk of default. Ofwat currently has an RFI on Retailer financial resilience which will become a twice-yearly request and therefore it will soon be able to make a risk-based judgement on which Retailers to target.

14. Do you consider there are merits of introducing any of the options described above (further protections for smaller customers, ringfencing 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.

We are aware of some of the details associated with CCW's change request in August 2022. We were contacted by CCW ahead of the submission requesting Business Stream's view. We suggested that the changes as a result of CP0010 should have time to embed and then a risk assessment should be undertaken on whether any further changes are required. We suggested that the assessment should consider four factors to assess whether the sum at risk is commensurate with the cost of implementing and administering the change. We suggested the following issues are considered:

- Minimising the risk of fraud. Most companies like Business Stream are moving away from issuing cheques, preferring to make a payment directly to a customer's bank account, improving the speed and security of payment. Unfortunately, we don't hold verified bank account details for customers who pay via BACS or cheque, which means we can't automatically refund those customers. These customers make up the majority of our customer base.
- Increase the outstanding balance on the next bill. Depending on when the customer is next due to be billed, this proposal may inadvertently increase the outstanding balance the customer will be required to pay by refunding a credit balance just before the next bill is due. In our experience, most customers when asked, would prefer to offset a credit balance against their next bill if the bill is due imminently.
- Increase in inbound demand. The customer hasn't requested and therefore won't be expecting to receive a refund, which may result in customers being confused, resulting in contact with their retailer to clarify the situation.
- Suitability of a retailer's business model. Some retailers bill customers in advance of consumption (annual unmeasured billing, for example), and some retailers contract customers on a two-month advanced payment model; those customers will almost always have credit balance on their account.

For all the reasons above, it is our view that mandating credit balances be refunded annually would not be proportionate to the risks or the benefits from a customer perspective. There would also be operational challenges of implementing such a change. Should an annual automatic refund be introduced, except where the customer has opted out, Retailers would need to change their systems to record the refund opt-out (if there is a credit balance) and then write to customers to establish if they would like an automatic refund. We have estimated that it would take three months to test and implement the new configuration and conclude the customer communications.

In addition, Retailers would have to implement appropriate reporting and processes to enable the refunding of credit balances annually. We have estimated an eight-week implementation timescale for this. Other planned enhancements to our Business Insights and Analytical reports would have to be deferred to accommodate this change.

The implementation and ongoing administration costs would likely be significant. The proposal will increase the volume of refunds being issued, including those for modest balances that the customer could otherwise opt to use to offset against future billing.

It is also worth noting that the process change won't protect customers if the Retailer defaults just before the annual refund process.

We have highlighted in our response to question 13 our current business processes that support customers with credit balances, we consider this approach is more effective, efficient and timely than the proposal to automatically refund balances annually.

In its CFI, Ofwat also discusses further protections for smaller customers, ringfencing credit balances and obliging Retailers to provide annual letters/notifications. Our view remains that as these are non-household customers, running and operating their own businesses, they will have some awareness of business risk. Therefore, Retailers should keep them informed

of credit balances and the options they can take to allow them to make informed decisions that meet their appetite for risk and needs. As referenced in our response to Q13 above, our view is any further interventions in this regard should be proportionate to the risk and targeted at those Retailers that are considered to be at greatest risk of default. Ofwat currently has an RFI on Retailer financial resilience which will become a twice-yearly request and therefore it will soon be able to make a risk-based judgement on which Retailers to target.

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 have examined the domestic water and energy markets as well as the Scottish NHH water market and we did not identify any additional protections that we would recommend.

Many customers in the domestic energy market are encouraged to maintain a fixed monthly direct debit value throughout the year and therefore are highly likely to acquire significant credit balances in the summer months to help offset winter usage and associated charges.

With improved access to financial resilience data which it will receive every six months, Ofwat will be able to focus attention on Retailers that are at risk of default. Our preference, therefore, is instead of universal protection Ofwat considers a targeted approach. We consider this to be a proportionate response that allows customers additional protections while avoiding the unintended working capital and cashflow consequences that will occur from an automatic refunding solution.

16. There is no question 16 in the CFI

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

We support the principle that the governance around housekeeping changes to the CPCoP should be simplified. Furthermore, recent history with Ofwat's response to COVID-19 has shown that where urgent changes are required to protect customers, the governance process can be accelerated.

18. 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?

As suggested in the consultation, we agree that the CPCoP should be simplified by sunsetting the Covid-19 specific clauses.

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

Much of the CPCoP is clear and concise but through direct experience, the wording on retrospective amendments in section 9.3, especially on back billing (9.3.1), is open to different interpretations.

Regrettably, on occasion, it is necessary to apply a catch-up read to accounts where the meter has not been read for an extended period of time and estimations of consumption are much lower than actual use. The incremental wholesale charge on these increased consumption volumes will be paid by the Retailer through settlement. However, some customers assert that this is a back bill of consumption and therefore retail charges of the consumption should be limited to a billing period within the RF settlement process.

Clarity on the definition of back-billing along with guidance on how catch-up reads should be treated would be welcome. While we want to avoid bill shock, our view is that a catch-up read and subsequent re-bill is not a back-bill and does not come under the spirit of section 9.3.1 as wholesale charges will be paid on the full consumption.

This situation can on occasion be aggravated by customer behaviour in that some customers refuse site entry for meters to be read, or have removed the meter or obscured access to the meter. We would welcome rewording in this section to ensure its intention is clear, but also consideration of how Retailers should apply any protection where customers have wilfully manipulated a situation to avoid payment by preventing Retailers from applying the protection.

20. 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?

Ofwat has or will soon have access to a lot of insight and data on each Retailer. This includes:

- Financial resilience data on a twice-yearly basis
- Switching data (MOSL)
- Complaints data (CCW)
- Holistic reporting which includes meter reading performance (MOSL)
- Market audit results (MOSL)
- Annual Certificate of Adequacy confirmations

This insight in conjunction with any ad hoc reports of issues or problems, whether self-reported or from another trading party, should provide Ofwat with information to assess risks of non-compliance with the CPCoP.

However, the CPCoP could be amended so that customers could write directly to Ofwat with concerns regarding non-compliance with the Code.

21. 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?

While the CPCoP is considered the minimum standard for customer service provided by a Retailer, there is one significant area that requires wholesaler engagement but where there is no alignment through the market codes. It is the requirement for a Retailer to provide an accurate bill each year to a customer based on an actual meter read, where the supply point is metered (section 9.2.1.). There is no obligation on a Wholesaler to ensure that the meter can be read once a year, nor on the Wholesaler to read a non-market meter.

We consider there are two ways in which this asymmetry can be addressed:

1. Section 9.2.1 could be amended so that the obligation is only on meters that can be read; or
2. Consideration given that for any regulatory obligation on a Retailer in the CPCoP that requires alignment with a Wholesaler, that there is an equivalent obligation placed on the Wholesaler through the market codes or other regulatory mechanisms. This could operate in a similar way to GSS where the market codes have been aligned to the standards to ensure appropriate Wholesaler activity.

Thank you once again for the opportunity to contribute to your review of the CPCoP. We note in the CFI that Ofwat may also seek to engage directly with some stakeholders. Business Stream would be happy to participate.


Senior Regulation and Compliance Manager