

By email: customerfocus@ofwat.gov.uk

Customer Licence Condition Consultation
Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Dear Customer Policy Team

Putting water customers first - a consultation on introducing a customer-focused condition into the licences of all water companies in England and Wales

Affinity Water is committed to providing high standards of customer service for all customers and meeting customer needs, particularly those who are vulnerable or who have different requirements.

We support the consultation and desired outcomes through the introduction of a newly defined licence condition, together with a principles-based approach and detailed guidance for companies. We believe that this will focus companies on delivering the best service for customers whilst giving them sufficient flexibility to develop their own policies and processes to meet customers' needs.

We have set out our detailed responses to the consultation questions in the table below. As a general point we respectfully consider that the proposed drafting of condition G is unclear and requires strengthening. We have provided further detail below in our response to the consultation questions. We are concerned that Ofwat intends to set out requirements in the guidance, which we consider to be inappropriate. Whilst guidance is a useful and flexible tool for informing companies about Ofwat's expectations of good practice and compliance, it should not be used to implement what effectively are conditions. Such conditions should only be implemented into the licence following the proper statutory process set out in the Water Industry Act 1991 and the guidance should not be used to circumvent that process. We therefore consider that Ofwat needs to review its proposals and to clarify which elements are appropriate for guidance and those requirements that should be set out in the licence.

With regard to the development of guidance, we consider that Ofwat should focus on consolidating its existing guidance alongside the development of the new guidance. Having multiple guidance documents risks conflicts and makes it more difficult and

confusing for companies to understand its various obligations. We also propose that Ofwat commit to a periodic review of the guidance, to ensure that it remains up to date. A mechanism or process for customer, stakeholder, and company views to be sought and considered would mean that the guidance always meets the diverse needs of customers, whilst giving more certainty to companies.

Lastly, we are concerned that the timescale for implementation and the expectation of full compliance in Q3 2023/24 will be challenging, depending on the final wording and licence condition. We strongly suggest a period of time to allow companies to fully assess the licence condition and guidance and implement any necessary changes to its policies and processes. This would also provide Ofwat with time to develop the guidance further post final consultation. We believe that this approach will ultimately benefit customers and give companies sufficient time to ensure all customer journeys and processes are analysed, evaluated and any necessary changes are made.

Please find attached a detailed response to the questions posed within the consultation document issued in May 2023.

Yours sincerely

Rebecca Froud
Director, Customer Experience

Questions

		Proposed response
1	Do you have any comment on the outcomes or examples?	<p>In general, we support the proposal to have less prescriptive conditions with principles and that the guidance be used to support compliance with the conditions.</p> <p>We do not have any comments on the examples, they appear to be relevant and consistent with standard types of customer contact.</p>
2	Do you have any suggested changes to the proposed wording of the principles to meet our specified outcomes for household?	<p>With regard to G4.4, it is not clear how we will be able demonstrate that we have learnt from a past mistake and how we will be expected to share this with other sector players. In particular how will we be expected to capture the learning and then show that we did not repeat it?</p> <p>With regard to the proposed drafting of the principles, we do not consider that they are drafted in such a way as to convey a set of principles, rather they are drafted in such a way as to denote a set of conditions.</p> <p>The condition to comply with the principles is set out in G.3, therefore we consider that it would be more appropriate to simply set out the principles at G4, e.g. "the provision of proactive communications to ensure that customers receive the right information at the right time, including during incidents."</p>
3	Do you agree with our proposed approach to exclude non-household from the condition relating to customers struggling to pay or in debt, consistent with corresponding non-households served by a retailer?	<p>Currently all of our non-household customers are served by a retailer therefore we do not consider ourselves to be affected by the proposal to exclude non-household from this condition. However, as a general principle, we agree with the proposed approach to exclude non-household from Condition G4.6.</p> <p>We note however, that as currently drafted, condition G4.6 still applies to "customers of the Appointee" and therefore it will apply to non-households without a retailer.</p>
4	Do you agree with our proposed approach that the remainder of the licence condition apply to non-household customers without a retailer?	<p>As stated at question 3, we do not have any non-household customers, therefore we do not consider ourselves to be affected by the proposal to include non-household in conditions G4.1-4.5.</p> <p>As a general principle we agree with the proposed approach to have conditions G4.1-4.4 apply to non-household customers without a retailer.</p> <p>With regard to the proposals around condition G4.5 we do have some observations:</p>

		<ul style="list-style-type: none"> • It is not clear how companies can be expected to account for the vulnerabilities of all non-household customers. In general, we do not obtain the individual details of all owners of non-household customers. Such a requirement would take time to develop in order to obtain the necessary information. • It is understood from the consultation that Ofwat also proposes that condition G4.5 will apply to non-households serving vulnerable communities. This appears to be regardless of whether the non-household customer itself is considered to be vulnerable. • It is currently unclear from the condition and guidance how far “vulnerable communities” is to be defined – for example would it include schools or other educational establishments and whether it includes non-household customers who directly and/or indirectly serve vulnerable communities. It would be useful if Ofwat could provide further guidance on this scope. • It would also be useful to have further guidance on what Ofwat considers to be “appropriate support” in relation to “customers who serve vulnerable communities.” It is unclear how far companies are expected to determine which customers require extra support. There may also be instances where the customer serves vulnerable people but is not a vulnerable company in and of itself. <p>We note that as currently drafted, “customers in vulnerable circumstances” only applies the principle to individual customers and does not apply to the wider intended context of customers serving vulnerable communities. If it is the intent of Ofwat that appropriate support should be provided to customers who serve vulnerable communities, then the drafting should be amended accordingly.</p>
5	Should any areas of customer service be prioritised in our development of the guidance? If so, which areas?	It is noted that Ofwat intends to rely on significant tranches of existing guidance. Whilst these guidance documents are a useful tool, they will not refer to the new licence conditions and there may be overlaps, inconsistencies or incompatibilities with the new conditions. It would be useful to understand if Ofwat intends to review the current guidance to ensure that they are still valid. We consider that Ofwat commits to periodically review the current and any new guidance,

		<p>which should give companies more certainty of when changes to the guidance may take place.</p> <p>It would also be useful if Ofwat could prioritise consolidating some of the guidance. There are currently many different guidance documents, and it is understood that further guidance will follow, which could make it confusing for Companies to understand which documents have priority. Consolidation would make it easier for companies to follow and understand their various obligations.</p> <p>We also consider that Ofwat should prioritise developing guidance in areas where no guidance currently exists so as to provide more clarity to companies in developing their policies and processes for meeting the new licence conditions.</p> <p>For example, as set out in our response to question 4 above, it would be useful to have guidance in relation to vulnerable customers, including customers serving vulnerable communities.</p>
6	Which matters/company activities will benefit from having more detailed guidance and which less?	Please refer to our response to question 5
7.	Do you agree with our proposal to include reference to CCW as a consultee within guidance?	<p>Inclusion of CCW as a consultee is consistent with the process under the current condition G and other industries with customer focused licenced conditions. Therefore, we do not disagree with the proposal to include reference to the CCW as a consultee, however the actual role of the CCW needs to be made clearer.</p> <p>We note that there is some confusion in the consultation as to the purpose and use of the guidance. Whilst the consultation mostly sets out that guidance will provide a guide to companies, there are instances where the consultation indicates that the guidance will be used to set out certain requirements. The role of CCW as set out at page 28 of the consultation is such an example of where Ofwat state that guidance will be used to implement a requirement (ie that "guidance should require companies to consult CCW prior to finalising their policies or procedures on specified matters").</p> <p>We do not consider it appropriate for conditions to be contained in the guidance. Whilst guidance is a useful and flexible tool for informing companies about how they can comply with conditions, it should not be used to implement conditions. Such conditions should be implemented into the licence following the proper statutory process set out in the Water Industry Act 1991.</p>

		<p>Therefore, if it is the intent of Ofwat that companies must consult CCW, then we consider this should be set out as a condition in the licence. This would be consistent with the current requirement in condition G.</p> <p>Regarding the proposed condition G5, we do not consider that the drafting is sufficiently clear and only makes a statement that Ofwat may issue and revise guidance, which is not appropriate for a company's licence. Condition G5 therefore does not currently set out a condition. We would consider the following to be more appropriate: "In complying with conditions G3 and G4, the Appointee shall have due regard to any current, issued or revised guidance published by Ofwat."</p> <p>To note, there is also currently no reference to existing guidance which Ofwat intends to rely upon.</p> <p>It is also not clear what is intended from the term "take its representations into account" currently set out in condition G5. This wording suggests that appointees will be required to incorporate any representations made by CCW. We suggest that "have regard to," or "consider" any representations would be more appropriate wording.</p>
8.	How can we gather further insight on company performance in this area?	Companies could provide examples of where it complies with the requirements/guidance/principles.
9.	What are your views on annual reporting requirements to monitor compliance against the licence condition?	<p>The consultation suggests that annual reporting will be a requirement. As set out in our response to question 7, we do not consider it appropriate to set out such conditions only in guidance.</p> <p>If it is the intent of Ofwat that annual reporting will be a requirement, then it would be more appropriate to set this out in the licence rather than in guidance.</p>
10.	What are your views on our proposed timescales for implementation?	<p>We consider that Ofwat's expectation that companies will be fully compliant upon the condition G being introduced in Quarter 3 2023/24 is onerous and unreasonable.</p> <p>It is understood that Ofwat will be holding further workshops in October 2023, which will only give companies a couple of months to implement changes.</p> <p>We suggest that Ofwat allow for a period of implementation, e.g. to commence implementation in Quarter 3 2023/24 but not expect full compliance until the start of the new control period in April 2025. This would give Ofwat more time to develop its guidance and further will give companies more time to implement changes in line with this more developed guidance.</p>

11.	What are your views on consequent changes to other changes in licences and are there any other changes we should make?	<p>We consider that principles G4.5 and 4.6 may be affected by the obligations set out in condition E, which prohibits any undue preferences or discrimination in charges. Consideration therefore needs to be made as to whether the requirement to provide adequate support for customers in vulnerable circumstances, is constrained by the current interpretation of condition E.</p> <p>Similarly, consideration should also be had for the undue preference and discrimination requirements for particular services set out in condition E1.</p>
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