

September 2023

# **Business Retail Market: Proposals to update the Customer Protection Code of Practice (Tranche 1 Changes) – A Consultation**

**Ofwat**

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# 1. About this document

## 1.1 Introduction

The [Customer Protection Code of Practice \(CPCoP\)](#) sets out the minimum standards that all Retailers must comply with in their dealings with Non-Household (**NHH**) Customers. It also sets out the minimum standards of behaviour that we expect from Retailers, and compliance is a requirement of Retailers' licences, which is ultimately enforceable by Ofwat.

In April 2023, we published a [Call for Inputs](#) on how the CPCoP could be improved or strengthened. We received 22 responses, which covered an extensive range of issues. In light of the responses, we think that there is a case for making some immediate, minor, changes to the CPCoP in some areas, while in other areas we think that there is a case for more significant changes to be made which will require further consideration and consultation with stakeholders.

Given the large number of issues that we think deserve consideration, we have decided to split our proposals for changes into two tranches. The first tranche will cover straightforward and minor changes designed to ensure the CPCoP is up-to-date, comprehensible, and efficient. We expect these changes to be largely uncontroversial and could be implemented quickly. The second tranche will cover more significant and complex changes to the CPCoP intended to strengthen protections for NHH customers and better support the development of the market. We expect these changes will take longer to develop and consult on.

This document sets out, for consultation, Ofwat's proposal to make the first tranche of changes to the CPCoP. Subject to consideration of any comments received, we expect to publish a Decision in November 2023 concerning the proposals contained in this document. We expect to publish a consultation on the second tranche of proposed changes towards the end of the year.

## 1.2 Summary of proposals

The proposed amendments to the CPCoP cover an update of the email address Change Proposals should be sent to, removal of requirements linked to COVID-19, and clarification that "the Authority" and "the Council" are Ofwat and the Consumer Council for Water (**CCW**) respectively. Additionally, the proposed amendments would allow Ofwat to make non-substantive changes to the CPCoP without the requirement for a formal consultation, and require Ofwat to notify relevant parties when it receives or proposes a CPCoP Change Proposal.

## 2. Code governance arrangements and modification

This consultation on the proposed changes to the CPCoP has been issued in accordance with section 5.2.2 of the CPCoP. After this consultation has concluded, Ofwat will consider responses and will publish a final decision as soon as reasonably practicable.

In accordance with section 5.2.4 of the CPCoP, our final decision shall include in respect of each proposed change:

- The reasons for the proposed change;
- The scope and impact of the potential change, including consideration of potential risks;
- An evaluation against our statutory duties and the Code Principles;
- Any relevant evidence considered (including consultation responses received);
- Implementation timescales, which will take into account the likely impact on Retailers' existing systems and processes; and
- The date from which the change will take effect.

### 2.1 Urgency of the proposal

Section 5.2.2 of the CPCoP provides that consultations under this section should generally be for a minimum of 28 calendar days, except in the case of urgency. We do not consider that the proposed changes are urgent. Therefore, we shall be consulting on our proposed changes for 28 calendar days.

## 3. Responding to this consultation

We would welcome your comments on this Change Proposal by 5pm on Monday 23 October 2023. Please email them to [CPCOPcodechange@ofwat.gov.uk](mailto:CPCOPcodechange@ofwat.gov.uk) with the subject 'CPCoP Tranche 1 Consultation' or post them to:

CPCoP Tranche 1 Consultation Response  
Ofwat  
11 Westferry Circus  
Westferry House  
London  
E14 8RH

We intend to publish responses to this consultation on our website at [www.ofwat.gov.uk](http://www.ofwat.gov.uk). Subject to the following, by providing a response to this consultation you are deemed to consent to its publication.

If you think that any of the information in your response should not be disclosed (for example, because you consider it to be commercially sensitive), an automatic or generalised confidentiality disclaimer will not, of itself, be regarded as sufficient. You should identify specific information, explain in each case why it should not be disclosed and provide a redacted version of your response, which we will consider when deciding what information to publish. At a minimum, we would expect to publish the name of all organisations that provide a written response, even where there are legitimate reasons why the contents of those written responses remain confidential.

In relation to personal data, you have the right to object to our publication of the personal information that you disclose to us in submitting your response (for example, your name or contact details). If you do not want us to publish specific personal information that would enable you to be identified, our [Privacy Policy](#) explains the basis on which you can object to its processing and provides further information on how we process personal data.

In addition to our ability to disclose information pursuant to the Water Industry Act 1991, information provided in response to this consultation, including personal data, may be published or disclosed in accordance with legislation on access to information – primarily the Freedom of Information Act 2000 (**FoIA**), the Environmental Information Regulations 2004 (**EIR**) and applicable data protection laws.

Please be aware that, under the FoIA and the EIR, there are statutory Codes of Practice which deal, among other things, with obligations of confidence. If we receive a request for disclosure of information which you have asked us not to disclose, we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances.

## 4. Introduction and background to the Proposal

Since 2017, eligible NHH customers<sup>1</sup> in England and Wales have been able to choose the Retailer that provides their water, waste water, and other retail services<sup>2</sup>. The Business Retail Market can help deliver lower bills, encourage customers to use less water and lead to improved services and offers. At the same time, regulatory obligations remain on Retailers to ensure the interests of NHH customers are protected. One way that customers are protected is via the CPCoP, which sets out the standards that all Retailers must comply with in their dealings with NHH customers. These standards are deliberately set as minimum standards – Retailers can, and should, seek to offer customers a level of service that goes beyond the minimum requirements of the CPCoP. Many may seek to provide enhanced service offerings as part of their competitive offers in the market.

The CPCoP has been in place since market opening and has been updated several times to respond to challenges that customers have faced. For example, during the COVID-19 pandemic, Ofwat made several changes to the CPCoP to protect the interests of NHH customers. More recently, Ofwat introduced changes specifically focused on providing additional protections to NHH customers in relation to credit balances (see our [CP0010 decision](#)).

While these targeted changes to the CPCoP have strengthened protections for customers over recent years in specific areas, we think that now is an appropriate time to undertake a holistic review of the CPCoP to ensure the protections that are in place for all customers are appropriate and robust for the longer term as the market continues to develop and mature and customers' expectations evolve.

We published a [call for inputs \(CFI\)](#) in April 2023 to help us understand stakeholders' views of the CPCoP as it stands, and whether changes could be beneficial. The responses to our CFI covered a broad range of issues and indicated there is a case for changes to be made to the CPCoP.

Given the range of areas covered by the CPCoP and the variance in the complexity of potential changes, we have decided to split proposals for changes into two tranches. This first tranche will cover minor changes designed to ensure the CPCoP is up-to-date, comprehensible and efficient. The second tranche will cover more complex and substantive changes to the CPCoP which will be intended to strengthen protections for NHH customers and better support the development of the market. This document concerns the first tranche of changes, and we intend to consult on the second tranche later in the year.

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<sup>1</sup> [Eligibility guidance on whether non-household customers in England and Wales are eligible to switch their retailer](#)

<sup>2</sup> Retail services include meter reading activities and other customer facing activities

The proposed legal drafting to reflect the changes proposed in this document has been published alongside this consultation. It is outlined in Appendix 1.

## 5. Evidence considered

Our CFI closed on 26 June 2023. In total, [we received 22 responses](#) from a mix of Retailers, Wholesalers, CCW, and other representative bodies. In the CFI we invited stakeholders to provide a view on 21 questions. Questions 17, 18 and 19 related to Tranche 1 changes. A summary of responses to these questions is outlined below.

### **17. Do you agree that a similar process to the Wholesale Retail Code (WRC) / Market Arrangements Code (MAC) changes should be introduced to replace the current CPCoP change process?**

Several respondents said the current CPCoP change process was sufficient and did not require change. It was noted that historically most changes to the CPCoP have been proposed by Ofwat, and therefore there is little need to filter proposals before the consultation stage. It was also noted that the addition of COVID-19 provisions evidenced that rapid change can be made if necessary. Other respondents argued that the CPCoP change process should be updated to allow housekeeping changes to go through a simplified process, but the standard process should remain for all other changes. One respondent said that the WRC/MAC changes should be introduced, and one said no change should be made until it is clear if the WRC/MAC changes are successful.

CCW told us it was in favour of an approach that allows Ofwat to accept minor housekeeping alterations and remove redundant clauses without the need for a 28-day consultation period, "provided there is a failsafe process to revert to a consultation on removals if any market participants raise objections". CCW also said that greater transparency was needed in the CPCoP change process, and Ofwat should have clear timelines for evaluating a Change Proposal and consulting on its decision. CCW suggested six months was a reasonable timeframe for Change Proposal decisions to be made. One Retailer told us it supported this suggestion. CCW added that it is necessary for Change Proposals to be supported by evidence of the problem, but if there is disagreement between Ofwat and the proposer over whether this had been demonstrated, there should be an additional step within the process to obtain the view of interested parties. This would reduce the chance of changes that could benefit customers being rejected due to a lack of evidence, which could be built upon through further investigation as part of the change process.

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

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

Many respondents said that the Code's COVID-19 provisions are now redundant and should be updated, have sunset clauses applied to them or be removed completely. One respondent

said, however, that these provisions should be replaced with more generic protections for customers experiencing financial hardship.

One respondent suggested that the Code's references to "relevant undertakers" or their statutory duties "should be removed because there are no Retailers which have yet to go through the Retail Exit process and remain part of a relevant undertaker."

CCW said that the Code references the "Authority" and "Council" but is not explicit that this refers to Ofwat and CCW respectively. CCW suggested this should be made clear.

One respondent commented that "timely" and "appropriate" are used throughout the CPCoP. They argued that these terms are subjective and fail to provide a consistent, clear, or enforceable code. They suggested these terms should be replaced with specific requirements for different scenarios.

A number of respondents told us that the wording in section 9.3 concerning Retrospective Amendments is unclear, as it could be interpreted that an unplanned settlement is actually a back-bill of consumption and therefore should be limited to the back billing period.

One respondent suggested that Ofwat could produce a short-form version of the CPCoP to increase accessibility of the Code to customers.

## 6. Our proposals for Tranche 1 changes

Following consideration of the CFI responses to questions 17, 18, and 19, we are proposing to update the CPCoP in the following ways.

**a) Allow Ofwat to make non-substantive changes to the CPCoP without a requirement to consult on the change for 28 days.**

Ofwat will be able to issue a decision on non-substantive Change Proposals from appropriate parties without consulting for 28 days. If Ofwat itself wishes to make a non-substantive change to the CPCoP, it will be able to do this without issuing a Change Proposal and without consulting on the change for 28 days. Ofwat will be required to issue a decision notice setting out the non-substantive change. Changes will be implemented 20 calendar days after a decision notice is issued.

Non-substantive changes shall be defined as those that are non-material and do not affect existing underlying obligations. If a Trading Party or any other party Ofwat deems appropriate believes that a change signalled by Ofwat as non-substantive is in their view substantive or may affect underlying obligations, they should write to Ofwat within 20 calendar days of the publication of the decision notice. They should set out why they believe the change is substantive or affects underlying obligations. If we believe there to be a clear and valid reason provided, the standard Change Proposal process must then be initiated for the change. If we do not think that the reason provided is valid or clear, we will implement the change and write to the relevant party to explain why we disagree with their reasoning. We will publish this correspondence. Changes that have been objected to will not be implemented until we have issued a decision on whether the standard Change Proposal process should be initiated.

**b) Require Ofwat to notify relevant stakeholders when we receive or make a CPCoP change proposal.**

Ofwat will be required to notify persons we consider appropriate that we have received or have proposed a CPCoP Change Proposal. This notice will be provided in advance of any consultation.

**c) Remove all requirements linked to COVID-19**

We will remove all requirements related to COVID-19, including the requirement that Retailers offer a COVID-19 Repayment Scheme (which expired in March 2021) and COVID-19 Interest Suspension. Any existing contractual repayment plans will continue to be honoured by Retailers and customers as per the terms of the contract.

**d) Update the email address which Code Change proposals should be sent to**

We will update the Code to make it clear that Code Change proposals should be emailed to [codechange@ofwat.gov.uk](mailto:codechange@ofwat.gov.uk)

**e) Clarify that references to "the Authority" and "the Council" in the Code refers to Ofwat and CCW respectively**

We will clearly set out in the Code that any references to "the Authority" refer to Ofwat, and any references to "the Council" refer to CCW.

## 7. Reasons for the proposed change

### 7.1 Governance and non-substantive changes

Under the current CPCoP change process, all Change Proposals are required to go through the same governance process, which requires Ofwat to consult on a proposal for 28 days (except in the case of urgency). As we noted in our April CFI, this differs to the MAC and WRC change process, which allows changes that are non-substantive to be fast-tracked by MOSL to Ofwat for consideration. Since we published our April CFI, the Code Change Committee (CCC) has finalised its proposals for improving the MAC and WRC change process, with a view to prioritising strategic change that brings benefits to customers and better functioning of the market.

The views and evidence we received in response to our CFI largely argued that the current CPCoP Change Process is sufficient, though some respondents did express support for a more streamlined change process for non-substantive changes. We also recognise that historically, the current change process has largely worked effectively and is flexible enough to deal with urgent changes, such as with the addition of COVID-19 provisions. In light of this, we do not feel it is necessary to completely overhaul the governance process. However, we do feel there is room for the change process to be made more efficient by allowing non-substantive changes to bypass the currently required 28 day consultation. This change will enable Ofwat to ensure the CPCoP is kept up-to-date without the associated resource burden required to take changes through the current consultation process. Allowing Trading Parties or other parties we deem appropriate to object to a change being considered non-substantive ensures this change will not grant us unrestricted discretion to change the CPCoP without appropriate checks and balances.

We recognise the concern raised by CCW that there is a lack of transparency in the current CPCoP change process. We agree that the process could be more transparent, but do not think that the introduction of timelines would be appropriate. This is because many factors can affect the length of time between a Proposal being submitted and a decision being issued, including the complexity of the Proposal and whether substantial legal advice is required, availability and prioritisation of resources, and the quality of the evidence supporting the Proposal. Rather than introduce a set timeline for the change process, we are proposing to introduce a requirement that we notify relevant stakeholders when we receive or make a CPCoP Change Proposal.

We also note the suggestion of CCW that if there is disagreement between Ofwat and the proposer over whether evidence of a problem has been sufficiently demonstrated in a Change Proposal, there should be an additional step within the change process to obtain the view of interested parties. We do not think there is a case for adding this additional step, as it would undermine the principle of proposers owning and submitting well-evidenced proposals and add unnecessary complexity to the change process. We also note that currently the onus is

on the proposer to provide evidence to support their Change Proposal. Adding an additional step could reduce the responsibility and incentive on proposers in this context and divert Ofwat's resource inefficiently. We are however willing to work with relevant parties before the submission of a Change Proposal to discuss areas of the CPCoP stakeholders feel could be improved.

## **7.2 Complex or redundant elements and definitions**

### **COVID-19 provisions**

Respondents to our CFI strongly supported the idea that the CPCoP's requirements related to COVID-19 should be removed or have sunset clauses applied. No respondents told us that there would be any risks or unintended consequences as a result of this. We think that removing requirements related to COVID-19 will maximise the Code's clarity and ensure it is up-to-date. We are satisfied that any risks of harm to customers as a result this change will be minimised as Retailers will continue to be required to honour any repayment contract they currently have in place with a customer, as per the terms of the contract.

### **Updating the code change proposals email address**

Updating the email address that change proposals should be sent to will similarly ensure the Code is clear and up-to-date.

### **Unclear or redundant terms**

We recognise the point made by one Respondent that the use of "timely" and "appropriate" in the Code is non-prescriptive and therefore may present challenges to assessing compliance. However, these terms are used exclusively in the "General Principles" section of the Code. Given this section is deliberately general rather than prescriptive in detail, we think that the use of "timely" and "appropriate" is suitable. We also expect Retailers to own their relationship with their customers, and therefore think it is appropriate they have discretion to interpret the General Principles in a manner best suited to meet the needs of their customers. We will consider if further prescription in some areas is appropriate in our Tranche 2 consultation, given that we sought views on the General Principles in our CFI.

We also note the point made by one respondent that references to "relevant undertakers" or their statutory duties are redundant. It is our view however that these references are not redundant as they continue to apply to NAVs and Welsh companies who have not (to date) exited the market.

We acknowledge the point made by some Respondents that section 9.3 of the Code, concerning Retrospective Amendments, could be made clearer to avoid confusion around whether Retrospective Amendments should be considered back-billing. We have decided to

address this issue in our Tranche 2 Change Proposal alongside other issues concerning meter reads and billing.

### **Customer awareness and engagement**

We note the point made by one respondent that we could create a short-form version of the Code which can aid awareness and use of the Code by customers. We are keen to find ways that can further engage customers, and will explore ideas for improving awareness and engagement in Tranche 2.

### **7.3 Impact on customers and retailers**

Ofwat considers that this Change Proposal will have a positive impact on Non-Household Customers by ensuring the Code is clear and does not contain redundant or outdated elements, which may be confusing or misleading. Changes to the governance process will ensure future non-substantive changes can be made efficiently, helping to ensure the Code remains up-to-date and clear in the future.

We also consider that this Change Proposal will have a positive impact on Retailers. By reducing the number of Change Proposals requiring consultation, we will reduce the regulatory output sent to Retailers. Our Change Proposal will also ensure that the requirements of the Code are clear and that Retailers' obligations are clear.

As referred to above, Retailers will not lose the opportunity to provide their views on Code change decisions as they will have the option to object to a change being considered non-substantive if they think the change is substantive or affects underlying obligations. This could lead to the standard Change Proposal process being initiated if the reason for the objection is clear and valid. Retailers will also benefit from greater transparency around the change process, and an awareness of any Change Proposals under consideration.

### **7.4 Alignment with statutory duties and Code principles**

We consider that this Change Proposal is consistent with our statutory duties, particularly our objective to protect the interest of consumers. Ensuring that the Code is up-to-date and clear will ensure that Retailers are clear about their obligations to customers and the protections customers are afforded. Ensuring the Change Process is efficient will help ensure future changes to the CPCoP that could benefit current and future NHH customers can be made efficiently.

## 8. Proposed date of implementation

We propose that the implementation date for this change will be one month after the date of our decision. We propose publishing an updated version of the CPCoP on the same day as our decision document. As our proposals would not have a significant impact on the operation of the market, we think that a one-month period between decision and implementation is appropriate.

## 9. Next steps

We invite Trading Parties and any other interested parties to comment on our proposed changes to the CPCoP by 5pm Monday 23 October 2023. Subject to considering any confidentiality requests, we aim to publish all the responses we receive to this consultation.

Subject to consideration of any comments received, we expect to issue a decision on this Change Proposal in November 2023.

## Appendix 1 – Legal drafting

### 1. Definitions and interpretation

1.1 In this code, unless the context otherwise requires:

Term	Definition
1991 Act	means the Water Industry Act 1991;
2014 Act	means the Water Act 2014;
Advance payment	Where customers make payments towards their bill before a water and/or sewerage service is actually received
Appointment	means the instrument of appointment granted to a relevant undertaker under section 6 of the 1991 Act;
Back-bill	means a recalculated bill or invoice for water supplied and/or services provided in the 24 Months preceding the date of that bill or invoice;
Business day	the period of 08:00 to 18:00 hours on any day other than a Saturday or Sunday, or Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971;
Cancellation	has the meaning given in the Wholesale–Retail Code;
Cancellation Notice	means a notice to cancel Terms and Conditions of Supply issued by a Micro-business pursuant to Section 6.2;
Code Principles	means the general principles of this code set out in Section 4;
Complaints Handling Process	means a procedure which sets out how a complaint from a Non-Household Customer can be made to, handled and progressed by a Retailer;
<del>Covid-19 Affected Customers</del>	<del>means a Non-Household Customer for whom all of its premises have been designated as Vacant Premises by the Retailer in accordance with section 3.1.6 of CSD 0104 of the Wholesale-Retail Code, unless the exception applies. The exception is where a Retailer can provide robust evidence that the Non-Household Customers' ability to pay is unaffected by Covid-19. Where a Non-Household Customer has multiple premises but only some of which have been designated Vacant Premises, this definition does not apply;</del>
<del>Covid-19 Repayment Scheme</del>	<del>means the scheme produced by a Retailer that set out the reasonable steps it must take to enable Non-Household Customers to pay where they can, and over a time period that they are able to afford;</del>

Customer Protection Code Change Proposal	means a proposal in respect of a change to this code, made in accordance with Section 5.1;
Delivery hours	means 09:00 to 17:00 on a day which is not a Saturday or Sunday or Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971;
Eligibility Guidance	has the meaning given in the Wholesale–Retail Code;
Eligible Premises	has the meaning given in the Wholesale–Retail Code;
Exit Regulations	means The Water and Sewerage Undertakers (Exit from Non-Household Retail Market) Regulations 2016;
Final Settlement Report	has the meaning given in the Wholesale–Retail Code;
Non-substantive Change	changes or proposed changes to this code, that are non-material and do not impact existing underlying obligations;
Incoming Retailer	has the meaning given in the Wholesale–Retail Code;
Invoice Period	has the meaning given in the Wholesale–Retail Code;
Metered	has the meaning given in the Wholesale–Retail Code;
Meter Read	has the meaning given in the Wholesale–Retail Code;
Minimum Information Requirements	means the following information: (i) the Non-Household Customer’s SPID(s); (ii) the tariff and details of how the bill has been calculated, including, for example, a summary of the basis for estimation where the bill is based on estimated consumption; (iii) whether the Terms and Conditions of Supply are pursuant to a Scheme of Terms and Conditions or the statutory duties of a relevant undertaker; (iv) any expiry date of the applicable Terms and Conditions of Supply; (v) ways to pay any outstanding debt; (vi) details of the relevant Retailer’s Complaints Handling Process; (vii) contact details for the relevant Retailer; (viii) other useful third party contact details, including the Authority and the Council;
Month	has the meaning given in the Wholesale–Retail Code;
Licence	means a Water Supply Licence or a Sewerage Licence;
Licensee	means the holder of a Licence;
Market Operator	has the meaning given in the Wholesale–Retail Code;
Material Terms	means the provisions of any Terms and Conditions of Supply which meet the requirements set out in Section 6.1.1(a) to (g) inclusive;
Micro-business	means a Non-Household Customer where the number of employees is less than ten (10) on the earlier of the date on which

	a relevant Transfer Registration Application is submitted and the date on which Terms and Conditions of Supply are agreed;
Non-Household Customer	means a person who may be identified as the customer of a Retailer for any Eligible Premises in light of any relevant Eligibility Guidance;
Non-Primary Charge	has the meaning given in the Wholesale-Retail Code;
Outgoing Retailer	has the meaning given in the Wholesale-Retail Code;
Outstanding Debt	has the meaning given in the Wholesale-Retail Code;
Post RF Settlement Report	has the meaning given in the Wholesale-Retail Code;
Primary Charge	has the meaning given in the Wholesale-Retail Code;
Reasonable Repayment Plan for a Back-bill	means a process for repayment of a Back-bill which meets the following criteria pursuant to Section 9.3.2: (a) it does not incur interest on the amount due; (b) it offers the relevant Non-Household Customer time to pay that amount by agreed instalments, over a period nominated by the Non-Household Customer being no longer than: (i) the period during which the debt accrued, if it accrued over a period of less than 12 Months; or (ii) 12 Months, in any other case;
Reasonable Repayment Plan for an Outstanding Debt	means a process for repayment of an Outstanding Debt pursuant to Section 7.1.4 which offers the relevant Non-Household Customer time to pay that amount by agreed instalments, over a period nominated by the Non-Household Customer being no longer than: (i) the period during which the debt accrued, if it accrued over a period of less than 12 Months; or (ii) 12 Months, in any other case;
Renewal Notice	means a notice to renew Terms and Conditions of Supply issued by a Retailer containing the information set out in Section 7.1.3(a) to (g) inclusive;
Redress Scheme	means a scheme under which a complaint from a Non-Household Customer can be made to and determined by an independent person;
Retailer	means either: (i) a relevant undertaker who does not hold an Appointment in relation to a retail exit area; or (ii) a Licensee;
Scheme of Terms and Conditions	means one or all of the following (as the context requires): (i) a scheme containing terms and conditions which, in the absence of agreed terms and conditions are to apply to a supply of water and/or provision of sewerage services and which is required to be made by a Licensee pursuant to the Exit Regulations;

	(ii) a scheme containing terms and conditions which, in the absence of agreed terms and conditions are to apply to a supply of water and which is required to be made by a Licensee pursuant to section 63AE of the 1991 Act; and /or (iii) a scheme containing terms and conditions which, in the absence of agreed terms and conditions are to apply to the provision of sewerage services and which is required to be made by a Licensee pursuant to section 110N of the 1991 Act;
Settlement Report	has the meaning given in the Wholesale–Retail Code;
Supply Point Identifier or SPID	has the meaning given in the Wholesale–Retail Code;
Terms and Conditions of Supply	means the terms and conditions on which a supply of water or sewerage services are provided or are to be provided by a Retailer pursuant to: (i) an agreement between the Retailer and a Non–Household Customer, including a special agreement; (ii) a Scheme of Terms and Conditions; or (iii) the statutory duties of a relevant undertaker;
Trading Party	has the meaning given in the Wholesale–Retail Code;
Transfer	has the meaning given in the Wholesale–Retail Code;
Transfer Registration Application	has the meaning given in the Wholesale–Retail Code;
Transfer Read	has the meaning given in the Wholesale–Retail Code;
Unplanned Settlement Report	means a Settlement Report carried out following a WRC Dispute or a Post RF Settlement Report;
Vacant Premises	has the meaning given in the Wholesale–Retail Code
Wholesaler	has the same meaning as Contracting Wholesaler given in the Wholesale–Retail Code;
Wholesale–Retail Code	means the code of that name issued by the Authority under sections 66DA and 117F of the 1991 Act;
WRC Dispute	has the same meaning as ‘Dispute’ in the Wholesale–Retail Code.

1.2 In this code, unless the context otherwise requires:

1.2.1 references to ‘this code’ are to this Customer Protection Code of Practice;

1.2.2 references to ‘the authority’ means to Ofwat

1.2.3 references to ‘the council’ means to the Consumer Council for Water

1.2.4 references to ‘Sections’ are to sections of this code unless otherwise expressly stated;

- 1.2.5 references to a Retailer will refer to all Retailers, unless otherwise specified;
- 1.2.6 words imparting a gender include every gender and references to the singular include the plural and vice versa;
- 1.2.7 words denoting persons include individuals and bodies corporate, partnerships, unincorporated associations and other bodies (in each case, wherever resident and for whatever purpose) and vice versa;
- 1.2.8 save as otherwise expressly provided references to time are to local time;
- 1.2.9 references to 'writing' or 'written' shall include email;
- 1.2.10 references to 'day' and 'calendar day' mean the same as one another;
- 1.2.11 references to the Customer Protection Code of Practice or any other document are to this Customer Protection Code of Practice or that document as in force for the time being and as amended, supplemented, varied, modified, renewed, replaced or extended from time to time in accordance with the requirements of this Customer Protection Code of Practice or that document (as the case may be);
- 1.2.12 a reference to any body is:
  - (a) if that body (statutory or otherwise) is replaced by another organisation, deemed to refer to that replacement organisation; and
  - (b) if that body (statutory or otherwise) ceases to exist, deemed to refer to that organisation which most substantially serves the same purposes as the original body;
- 1.2.13 a reference to a statute or statutory provision shall, save as otherwise expressly provided, be construed as including:
  - (a) a reference to any orders, regulations and subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) made from time to time under the statute or statutory provision whether before or after the effective date; and
  - (b) a reference to that statute, statutory provision or subordinate legislation as in force at the effective date and as from time to time modified or consolidated, superseded, re-enacted or replaced (whether with or without modification) after the effective date;
- 1.2.14 references to a person shall, except where the context requires otherwise, include its successors in title and permitted assignees;

- 1.2.15 a reference to a particular condition of a Licence and/or Appointment shall be construed at any particular time as including a reference to any modification of that condition in force at that time;
- 1.2.16 any words or expressions used in the 1991 Act or the 2014 Act shall, unless the contrary intention appears, have the same meaning when used in this code;
- 1.2.17 headings and the contents table in this code are for convenience only and do not affect its interpretation;
- 1.2.18 the words 'other', 'includes', 'including' and 'for example' do not limit the generality of any preceding words, and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible; and
- 1.2.19 the words 'for the time being' mean at the relevant time now or in the future.

## 5. Code governance arrangements and modification

### 5.1 Who may make a Customer Protection Code Change Proposal?

- 5.1.1 The Authority may propose a change to this code at any time by consulting with each affected Retailer and any other person the Authority considers appropriate. Any such consultation shall contain the same information as a Customer Protection Code Change Proposal (see 5.1.2 below for details).
- 5.1.2 Where any Retailer or any other person the Authority considers appropriate wishes to propose a change to this code, such party shall submit a Customer Protection Code Change Proposal. A Customer Protection Code Change Proposal should be sent to [codechange@ofwat.gov.uk](mailto:codechange@ofwat.gov.uk) and should contain and/or be accompanied by the following information:
  - (a) the name of the person or persons proposing the change;
  - (b) a description (in reasonable but not excessive detail) of the enhancement, issue or defect which it seeks to address;
  - (c) a description (in reasonable but not excessive detail) of the change proposed, its nature and purpose and the likely impact of the change on Retailers and Non-Household Customers, including confirmation of how it is consistent with the Code Principles;
  - (d) whether the Customer Protection Code Change Proposal is considered urgent and, if so, why; ~~and~~

- (e) whether the Customer Protection Code Change Proposal is a Non-substantive Change; and
- (f) a description of any consultation carried out or supporting evidence gathered in advance of submitting the Customer Protection Code Change Proposal.

## 5.2 What happens when a Customer Protection Code Change Proposal is received by the Authority or the Authority consults on its own proposed changes?

5.2.1 The Authority will consider responses to the consultation under Section 5.1.1 or any consultation carried out under Section 5.1.2. The Authority will consider and evaluate each Customer Protection Code Change Proposal to decide whether or not:

- (a) it agrees with the Customer Protection Code Change Proposal;
- (b) the Customer Protection Code Change Proposal is urgent or a Non-substantive Change;
- (c) to propose amendments to the Customer Protection Code Change Proposal; and
- (d) to seek further information from Retailers, the Council, experts or other relevant persons, conduct research or commission reports before making a decision,

in each case having regard to whether or not its decision is consistent with its wider statutory duties.

5.2.2 The Authority will notify persons they consider appropriate upon receipt, or proposal of a CPCoP Change Proposal. This notice will be provided in advance of any consultation.

5.2.3 Except for Non-Substantive Changes, The Authority shall consult on its proposed decision to accept, reject or amend each Customer Protection Code Change Proposal for a proportionate period of time taking due account of its complexity, importance and urgency.

5.2.4 The consultation period under Section 5.2.3 will generally last for a minimum period of 28 days, except for urgent Customer Protection Change Proposals. The Authority will not consult upon Non-substantive Customer Protection Change Proposals.

5.2.5 A consultation under Section 5.2.3 will be issued to each affected Retailer and any other person the Authority considers appropriate. Such consultations will have a clear mechanism for responding, and raising queries. In certain circumstances, in particular in relation to a decision pursuant to Section

5.2.1(d), the Authority shall support processes which enable users to discuss and develop complex modifications as well as collect and share any evidence with the Authority.

5.2.6 Following consultation responses (if applicable), the Authority will issue a ~~final~~ decision as soon as reasonably practicable including, where appropriate, the date on which the proposed change to this code shall take effect. The Authority's decision shall include the following:

- (a) the parties who raised the change proposal;
- (b) the reasons for the proposed changes;
- (c) the scope and impact of the potential change, including consideration of potential risks;
- (d) an evaluation against the Authority's statutory duties and Code Principles;
- (e) any relevant evidence considered (including consultation responses received);
- (f) implementation timescales, which will take into account the likely impact on Retailers' existing systems and processes; and
- (g) the date from which the change will take effect.
- (h) whether the change is a Non-substantive Change, and if so, the deadline for Trading Parties to raise an objection.

5.2.7 If a Trading Party or any other party The Authority deems appropriate believes that a change signalled by Ofwat as non-substantive is in their view substantive or may affect underlying obligations, they should object to Ofwat within 20 days of the publication of the decision notice setting out why they feel the change is substantive or affects underlying obligations. Such an objection should be emailed to [codechange@ofwat.gov.uk](mailto:codechange@ofwat.gov.uk).

5.2.8 If the Authority believes there to be a clear and valid reason provided for the objection, the standard Customer Protection Change Proposal process must then be initiated in accordance with Section 5.2.3 and the Customer Protection Change Proposal will not take effect.

- 5.2.9 If the Authority does not think that the reason provided is valid or clear, the Customer Protection Change Proposal will take effect after The Authority publishes its response to the objection, setting out the reasons for its decision.

## 7. Provision of information by a Retailer to its Non-Household Customers

### 7.1 Provision of information to Non-Household Customers about Terms and Conditions of Supply.

- 7.1.1 Retailers shall be transparent with their Non-Household Customers about the Terms and Conditions of Supply which apply to them and any proposed changes to those Terms and Conditions of Supply.
- 7.1.2 Where Terms and Conditions of Supply are in writing, Retailers shall ensure they are in plain and clear language.
- 7.1.3 The Retailer must include in the Terms and Conditions of Supply details of how it will comply with the obligation in paragraph 9.3.3 to pass on any payment from a Wholesaler to the Retailer following a recalculation of the Primary Charge or Non-Primary Charge;
- 7.1.4 If the Terms and Conditions of Supply are due to expire, Retailers must write to the relevant Non-Household Customer at least 30 calendar days prior to the expiry date advising them of the following:
- (a) the upcoming expiry of the Terms and Conditions of Supply and the expiry date;
  - (b) whether the Non-Household Customer can renew the Terms and Conditions of Supply on the same basis and, if so, how;
  - (c) other Terms and Conditions of Supply available from the same Retailer (if any), in particular the Retailer's current charges and whether the Non-Household Customer is on the Retailer's cheapest deal available for that Non-Household Customer;
  - (d) that the Non-Household Customer will be moved onto a Scheme of Terms and Conditions (if the Non-Household Customer is in a retail exit area) or the Retailer's standard, general or default Terms and Conditions of Supply (if the Non-Household Customers is not in a retail exit area) if the Non-Household Customer does not respond to the Renewal Notice;
  - (e) the Minimum Information Requirements;
  - (f) if the Non-Household Customer is in a retail exit area, that the Authority can direct a Licensee other than the Non-Household Customer's current

Retailer to supply them on the terms contained in a Scheme of Terms and Conditions; and

- (g) if the Non-Household Customer is not in a retail exit area, that a relevant undertaker may provide Terms and Conditions of Supply.

7.1.5 Retailers shall inform their Non-Household Customers of their right to raise a formal dispute with them in relation to sums due under the relevant Terms and Conditions of Supply, how to do so, the deadline by which such a dispute must be raised, whether a Reasonable Repayment Plan for an Outstanding Debt is available and the consequences of failing to pay or raise such a dispute, in particular that the Retailer may submit a Cancellation Request in certain circumstances.

#### ~~7.1.6 Covid 19 Repayment Scheme~~

~~Until 31 March 2021, or such other date as the Authority may notify in writing to Retailers, Retailers must have in place a Covid 19 Repayment Scheme:~~

~~This scheme must set out:~~

- ~~(a) the steps a Retailer will take to consider a Non-Household Customer's circumstances, particularly the Non-Household Customer's reasonable ability to pay outstanding amounts, including interest on those amounts and / or late payment charges, as a result of Covid 19;~~
- ~~(b) the specific terms and conditions of the different repayment plan offerings it will make to take account of those different circumstances; and~~
- ~~(c) contact details that a Non-Household Customer should use to contact its Retailer where it disagrees with the Retailer's assessment of its circumstances, and the type of evidence it may provide to assist the Retailer in any re-assessment.~~

~~No repayment plan under a Covid 19 Repayment Scheme may be less generous to Non-Household Customers than those offered by the Retailer from 1 January 2020 onwards in accordance with a Reasonable Repayment Plan for an Outstanding Debt.~~

~~Retailers must take all reasonable steps to engage with:~~

- ~~(a) Non-Household Customers which may be eligible for a repayment plan under their Covid 19 Repayment Scheme and, where appropriate, offer those Non-Household Customers a repayment plan under this scheme.~~
- ~~(b) Non-Household Customers which are already on a repayment plan under their Covid 19 Repayment Scheme, to ensure the terms and conditions of~~

~~the repayment plan remain appropriate on an on-going basis and as circumstances change.~~

~~Prior to removing a Non-Household Customer from a repayment plan under a Covid-19 Repayment Scheme, Retailers must be able to demonstrate that they have taken reasonable steps to engage with the Non-Household Customer.~~

~~Prior to pursuing, and at each stage of escalating, any debt recovery action against a Non-Household Customer which has been adversely affected by Covid-19, Retailers must be able to demonstrate that they have:~~

- ~~(a) taken reasonable steps to engage with the Non-Household Customer to ascertain the circumstances that led to the default; and~~
- ~~(b) considered whether, taking the Non-Household Customer's circumstances and best interests into account, it would be more appropriate to amend the terms and conditions of the repayment plan than pursue any debt recovery action.~~

~~From 20 January 2021 and on a monthly basis thereafter, Retailers must submit to the Authority and the Consumer Council for Water a report including the following information:~~

- ~~(a) the number of Non-Household Customers who are on repayment plans under the Retailer's Covid-19 Repayment Scheme;~~
- ~~(b) the number of Non-Household Customers who are on any other repayment plan that the Retailer offers;~~
- ~~(c) the number of Non-Household Customers that are, or have previously been, on a repayment plan under the Retailer's Covid-19 Repayment Scheme that the Retailer has taken any type of debt recovery action against, and the type of action taken; and~~
- ~~(d) Since 1 June 2020, the number of Non-Household Customers on other repayment plans that the Retailer has taken any type of debt recovery action against, and the type of debt recovery action taken.~~

#### 7.1.7—Disconnection

- ~~(a) For Covid-19 Affected Customers, Retailers shall include a clause in their Terms and Conditions of Supply that shall remain in effect until they cease to be Covid-19 Affected Customers that specifies:~~

~~“No amounts owed by the Non-Household Customer to the Retailer are “due” or shall be treated as “due” by the Retailer for the purposes of a disconnection notice under section 61(1ZC)(b) of the 1991 Act, and for these purposes only. All~~

~~other rights and obligations under these Terms and Conditions of Supply are unaffected by this clause [Retailer to insert relevant clause number]”.~~

~~(b) For all other Non-Household Customers, until 31 March 2021 or such other date as the Authority may notify in writing to Retailers, prior to the issue of a disconnection notice, Retailers must comply with their Covid-19 Repayment Scheme.~~

~~7.1.8 Retailers must include in a prominent position on their website from 1 June 2020 a notice that explains that where a Non-Household Customer qualified as a Covid-19 Affected Customer the Non-Household Customer will not be:~~

~~(a) served disconnection notices for the non-payment of bills or invoices;~~

~~(b) subject to default interest or late payment charges for the non-payment of invoices issued from 1 June 2020; and~~

~~(c) subject to enforcement proceedings for the non-payment of invoices.~~

~~Retailers must be clear in this notice that the measures at (a) to (c) will only apply to Covid-19 Affected Customers to extent they fall within that category, and that when that ceases to apply they shall be eligible for the Retailer’s Covid-19 Repayment Scheme.~~

~~The notice shall include:~~

~~(a) a clear definition of those Non-Household Customers that are Covid-19 Affected Customers;~~

~~(b) the circumstances in which their premises may be classed as Vacant Premises due to Covid-19; and~~

~~(c) how a Non-Household Customer can obtain a copy of the Retailer’s Covid-19 Repayment Scheme.~~

~~Retailers must provide a clear method in a prominent place on their websites for Non-Household Customers to be able to contact them, by way of:~~

~~(a) a form that enables Non-Household Customers to leave their name, address, email address and phone number to enable a call back from Retailers; or~~

~~(b) a contact email address; and~~

~~(c) a contact telephone number.~~

7.1.6 Information relating to Credit Balances

- (a) Where a customer has agreed to pay for services in advance, the Retailer is required to advise the customer ahead of agreeing the terms and conditions of supply that they could potentially lose any credit accrued against their account should the Retailer become insolvent.

Retailers are required to include the following standard text when clearly communicating this information to their customers:

"Advance payment arrangements can provide customers with a useful way to manage their bills and customers may benefit from improved terms if they pay in advance.

However, advance payment customers should be aware that any credit accrued for services that have not yet been delivered might not be recoverable in the unlikely event that their Retailer becomes insolvent.

There are a number of payment arrangements available in the market. Customers can therefore explore what type of available payment arrangement best meets their needs"

- (b) For customers that are already on payment in advance terms, Retailers are required to provide the above information to the customer in writing within 3 months of the updates to the CPCoP being implemented.
- (c) Retailers will then be required to communicate the standard text to all of their advance payment customers at a minimum of once every 12 months.

7.1.10 Where a customer has accrued credit against their account Retailers are required to clearly communicate the following information to the customer in writing, at a minimum of once every 3 months:

- a) the amount of credit that they have accrued against their account
- b) what the credit relates to (e.g., Security deposit, an allowance refund, money paid in advance of services delivered, etc.).
- c) the customer can contact the Retailer should they wish to explore alternative payment terms or if they can obtain a credit refund (if available); and
- d) subject to contractual terms and conditions, customers can switch to an alternative Retailer if they are not satisfied with the terms on offer.

The requirements under section 7.1.10 apply to all customers that have accrued credit against their account, not just those on advance payment terms.

## 9. Billing

### 9.1 Information to be provided on each bill.

- 9.1.1 Each bill issued to a Non-Household Customer by a Retailer shall contain the Minimum Information Requirements.

### 9.2 Billing accuracy and frequency.

- 9.2.1 Retailers shall issue at least one accurate bill or invoice each year. This bill or invoice must use a Meter Read where the supply is Metered unless Section 9.2.3 below applies.
- 9.2.2 Retailers can choose to accept Meter Reads, including any Transfer Read taken by the relevant Non-Household Customer.

~~9.2.3 Until 30 September 2021, or such other date as the Authority may notify in writing to Retailers, Retailers shall be exempt from the requirement to use a Meter Read where the supply is Metered for the provision of an accurate bill or invoice where all of the following sub-sections apply:~~

- ~~(a) the meter is sited internally to a premises (including external to a building but within the boundary of a premises), requiring consent of a Non-Household Customer for access; and~~
- ~~(b) due to restrictions on movement of people or access to premises imposed by guidance or legislation issued by the UK government due to Covid-19, the meter reader is not legally permitted to access, or the Non-Household Customer or its representative declines access to, the meter; and~~
- ~~(c) the Retailer has requested:
  - ~~(i) on two (2) separate Business days; and~~
  - ~~(ii) where possible due to the contact information held by the Retailer and any preferences expressed by the Non-Household Customer, using different communication methods, that the Non-Household Customer provide a meter reading and the Non-Household Customer has not done so within ten (10) Business days of the final request being submitted; and~~~~
- ~~(d) where the Retailer uses another method by which to provide an accurate bill or invoice, for example estimated consumption, the Retailer has:
  - ~~(i) used the best available data to establish the bill or invoice; and~~
  - ~~(ii) evidenced the methodology underlying the bill or invoice which may include but is not limited to methodologies based on~~~~

~~previous meter reads, type of premises, or previous or on-going contact with the relevant Non-Household Customer.~~

~~9.2.4 For each account where the Retailer has relied on the exemption at section 9.2.3, the Retailer must retain a clear record which demonstrates compliance with section 9.2.3. For the avoidance of doubt the exemption at 9.2.3 will not apply where a Retailer does not carry out, or attempt to carry out, meter readings because it does not consider it to be commercially viable. The Authority, Market Operator or the Council may request this record from the Retailer with five (5) Business days' notice.~~

9.2.5 Any final bill to be issued to a Non-Household Customer shall be issued within six weeks of the earlier of the Transfer or the termination or expiry of the Terms and Conditions of Supply.

9.2.6 Following the Transfer or the termination or expiry of the Terms and Conditions of supply, Retailers will be required to clearly communicate to their customers

- an estimate of the final credit or debit against the customer's account; and
- any additional information they require from the customer in order to issue a credit refund (where applicable).

9.2.7 Retailers, where they can do so, are required to refund credit balances within 60 calendar days of issuing the final bill, as per the conditions under section 9.2.5.

Retailers are required to retain a log of instances where they have not been able to refund credit balances within 60 calendar days of the final bill being issued. Each Retailer's log should clarify the reason why the refund was late or unsuccessful.

### 9.3 Retrospective Amendments

9.3.1 Retailers shall not bill or invoice a Non-Household Customer for or recover charges in respect of water supplied or sewerage services provided to that Non-Household Customer for any Invoice Period for which a Final Settlement Report has been provided by the Market Operator unless the following circumstances apply:

- (a) the bill or invoice is for a negative sum; or
- (b) where:
  - i. the Market Operator has issued an Unplanned Settlement Report in respect of the relevant Invoice Period;
  - ii. the bill or invoice is in accordance with the Unplanned Settlement Report; and
  - iii. the bill or invoice is issued within the eight (8) Month period following the issuing of the Final Settlement Report.

9.3.2 Retailers shall offer a Micro-business a Reasonable Repayment Plan for a Back-bill.

9.3.3 Where the Retailer receives a payment from the Wholesaler following a recalculation of a Primary Charge or a Non-Primary Charge the Retailer is obliged to pass on this payment on to all Non-Household Customers in the same proportion to which the recalculation has affected their invoices or bill.

#### ~~9.4 — Covid 19 Interest Suspension~~

~~9.4.1 — Notwithstanding their contractual right to do so, Retailers may not charge any default interest or impose late payment charges for the non-payment of any bills or invoices issued to Covid 19 Affected Customers from 1 March 2020 until they cease to be Covid 19 Affected Customers.~~

~~9.4.2 — Retailers may, for all Non Household Customers other than Covid 19 Affected Customers, apply interest and/or late payment charges in accordance with their Covid 19 Repayment Scheme.~~

#### ~~9.5 — Enforcement~~

~~9.5.1 — Notwithstanding their contractual rights to do so, Retailers may not seek to enforce non-payment of invoices against Covid 19 Affected Customers whilst they remain Covid 19 Affected Customers.~~

~~9.5.2 — Retailers must, for all Non Household Customers other than Covid 19 Affected Customers, comply with their Covid 19 Repayment Scheme when determining whether to take enforcement action.~~

#### ~~9.6 — No waiver~~

~~The prohibitions in sections 9.4 and 9.5 do not constitute and should not be interpreted as a waiver by Retailers of their contractual rights other than as required for limited period prescribed by the prohibitions. Retailers will be able to exercise their contractual rights again once the Authority has removed relevant prohibitions from this Code.~~

**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

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