

December 2023

**Decision under sections 12A and
13 of the Water Industry Act
1991 to modify water
companies' licences to
introduce customer-focused
principles**

About this document

In October 2023, we published a [statutory consultation](#) on our proposal to modify each water company's¹ Instrument of Appointment (licence) by deleting existing Condition G and replacing it with a new principles based customer focused licence condition, and deleting existing Condition J.

We have reviewed the responses to the consultation and have accordingly decided to modify all water companies' licences as we proposed to:

1. introduce a new customer-focused licence condition for each water company in a new Condition G, replacing the existing Condition G; and
2. delete current Licence Condition J.

In this document, we set out our decision to modify Condition G and Condition J of company licences and explain both the effect of and the reasons for our modifications. Our modification decision is made under:

- [section 12A of the Water Industry Act 1991](#) (WIA91), for water companies whose areas are wholly or mainly in England (English water companies); and
- [section 13 of the WIA91](#), for companies whose areas are wholly or mainly in Wales (Welsh water companies).

This document summarises responses to the October 2023 consultation and our decision in the light of these responses.

The modification to each company's licence has effect from **12 February 2024**.

¹ For the purpose of this document, a reference to a water company or company means a company holding an appointment as a water and/or sewerage undertaker under the Water Industry Act 1991, including new appointments and variations (NAVs)

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1. Introduction

1.1 The problem we are addressing

This document sets out our decision to modify companies' licences to replace existing Condition G: Core Customer Information with a new customer-focused licence condition, and delete Condition J: Levels of Service Information and Service Targets, following on from our statutory consultation in October 2023.

Across England and Wales many people are satisfied with services they receive from their water company (or companies – if they have different suppliers for water and wastewater). And there are many examples of where water companies and their staff are going above and beyond for their customers.

However, as we discussed in our [consultation](#), there are many instances where customers feel let down, for example:

- **Overall satisfaction has fallen in recent years:** Trust in water companies has fallen, with customers feeling that companies do not have their interests at heart.
- **Negative experiences during events:** Companies often fail to support and/or communicate clearly with customers or manage complaints and compensation fairly when things go wrong.
- **Repeat failures:** Companies do not learn from mistakes leading to repeated failures which result in customer detriment.
- **Vulnerable customers left unsupported:** Companies sometimes fail to plan for or act quickly enough to support customers who need extra help.

The introduction of this new licence condition is an important addition to our regulatory toolkit and will strengthen our ability to drive improvements in customer service across the water sector.

The aim of the new licence condition is to drive a positive change in the levels of customer service in the water sector, and to hold companies to account where customers, including the most vulnerable, are harmed and / or repeatedly failed. It will also offer protection for non-household customers who are not served by a retailer.

1.2 Previous steps and context

We have carried out both formal and informal stakeholder engagement on the development of this new customer focused licence condition over the past 18 months.

In Autumn 2022 we carried out a series of workshops which were attended by water companies, customer representatives and charities, and wider stakeholders. Through these workshops we explored the scope and intended outcomes of the new licence condition as well as our approach to monitoring and enforcement in the context of Ofwat's wider toolkit.

We also observed and took learnings from approaches taken by other regulators, principally Ofgem and the Financial Conduct Authority, who have introduced similar requirements on the firms they regulate to protect customers and improve customer service.

In May 2023 we published our [preliminary consultation](#) to seek views on our approach, proposed wording, and the outcomes we hope to achieve through the introduction of the proposed licence condition.

The responses to this preliminary consultation informed our October 2023 [statutory consultation](#) which included the new customer focused licence condition in draft form. The statutory consultation also sought views on our proposal to move the current Condition G: Core Customer Information into guidance as well as the deletion of Condition J: Levels of Service Information and Service Targets from companies' licences.

We received 25 responses to our statutory consultation from stakeholders across and beyond the water sector, including from all water companies, with overwhelming support for the introduction of the new customer focused licence condition.

2. Consultation responses and our decision

2.1 Consultation responses

Table 1 Responses received

| Water companies | | |
|---|--|---|
| Based wholly or mainly in Wales | Based wholly or mainly in England | |
| Dŵr Cymru Hafren Dyfrdwy Albion Eco | Anglian Water Northumbrian Water Severn Trent Water (England) Southern Water South West Water (including Bristol Water) Thames Water United Utilities Water Wessex Water Yorkshire Water | Affinity Water Portsmouth Water South East Water South Staffordshire Water Sutton and East Surrey Water Leep Utilities BUUK Infrastructure ² ESP Utilities Group ³ |
| Other organisations | | |
| Consumer Council for Water Independent Networks Association The Worshipful Company of Water Conservators Scope Mencap | | |

2.2 Representations to our statutory consultation

Overwhelmingly, responses to the introduction of a new customer focused licence condition were positive. A few respondents raised some areas for further consideration, which we discuss below.

Three water companies raised concerns regarding our plan to implement the new customer focused licence condition in the shortest statutory timeframe, that being no less than 56 days from publication of our decision. One company raised concerns that the proposed timetable is challenging for companies to complete full gap analysis and work with partners and supply chain to ensure compliance.

We remain committed to implementation in a timely manner so that customers can benefit from the protection of the new licence condition as soon as possible (see section 2.6). We

² BUUK Infrastructure is the parent company of Independent Water Networks Ltd

³ ESP Utilities Group is the parent company of ESP Water Ltd

have been working with the sector in the development of this condition since summer 2022, and it is not entirely new, as it is a continued evolution of our approach to customer service expectations on companies over the past five years. These expectations include those on:

- [company complaints handling](#);
- [companies performance during Beast from the East storms](#);
- our work on [Paying Fair](#);
- our recent vulnerability guidance; and
- performance commitments within PR19⁴.

We therefore believe companies should be prepared for implementation of, and compliance with, the new customer focused licence condition in the timescale we proposed.

Two companies also requested that we issue further guidance to support the new customer focused licence condition, one of whom asked for further guidance to replace Condition J. Our consultation did not contain a proposal to replace Condition J with guidance and at this stage we do not intend to do so. The other asked for more guidance relating to Condition G, and specifically Core Customer Information guidance. We have recently published our draft guidance on [Core Customer Information](#), and have consulted on and published our [vulnerability guidance](#), Service for All. These provide further information in relation to our expectations on companies in how they comply with the new licence condition. We will keep the guidance, and whether more is required, under review.

One company sought assurance that the wording in proposed Condition G3.3 and G3.5, specifically “helps to put things right” and “appropriate support”, is not intended to compromise a company's position on legal liability (or absence thereof) in such circumstances, noting that companies have an obligation to act in a consistent manner towards all customers and to behave in a fiscally responsible way. We can confirm that we do not consider compliance with the new customer focused licence condition should impact a company's legal liability, or absence of legal liability, for matters outside Ofwat's regulatory framework.

Three companies noted that in our statutory consultation 'Annex 3 – Changes to proposed Condition G since our May 2023 consultation', G3.5 referred incorrectly to "appropriate support for customers needing extra help", rather than "appropriate support for vulnerable customers" as presented within the proposed modification drafting in 'Annex 1 – Proposed Condition G'. We can confirm that "appropriate support for vulnerable customers" is the correct language, as set out in the drafting in Annex 1, and we have decided to modify company licences with this drafting.

⁴ Customer service was one of the four key themes of our 2019 price review, where we introduced the Customer Measure of Experience (C-MeX) and performance commitment relating to numbers of customers on Priority Service Registers (PSRs)

One company commented on the potential burden on business of monitoring the new licence condition. In our preliminary consultation in [May 2023](#) we set out our aim to be proportionate in our monitoring and our requirements for reporting on compliance; we are mindful of the burden on companies. This remains our position. However, we do need to be able to quickly identify instances of customer harm, and where companies need to go further in delivering good customer service. Where there are gaps in our understanding, we will look for proportionate ways to gain further information which may include deep dives and reviews into areas of concern, research and working closely and in partnership with stakeholders including CCW.

We received responses from a number of individuals who mainly touched on issues outside the scope of our proposal to modify each company's licence. As such, we have not responded to their concerns in this document.

2.3 Our decision

Following our detailed review of the issues raised in responses, we do not consider any reasons have been put forward which cause us to reconsider our original proposals. We have decided, therefore, to make the modifications we proposed to Conditions G and Condition J of all companies' licences, with a minor change to the wording of Condition G of South West Water's licence, which we explain below. We make this decision under section 12A(2) of the WIA91 for each of the English water companies, and under section 13(1) of the WIA91 for each of the Welsh water companies.

2.4 The modifications, their effect and the reasons for our decision to make them

The wording of the licence modifications we have made can be found in the Appendix at the end of this document.

In introducing this new customer focused licence condition we have taken account of our statutory duties in the round, as explained in Section 3 of our October 2023 consultation and made clear in our reasons set out in this decision document, including our duties to further the consumer objective to protect the interests of consumers, and secure that companies properly carry out their functions. We also had regard to the principles of best regulatory practice, including proportionality.

The modifications we have made establish a new regulatory basis for how companies treat their customers, including customers in vulnerable circumstances, in the form of a dedicated condition in the licence of each water company in England and Wales. This new licence condition addresses a significant gap in our regulatory toolkit and will place enforceable obligations on each water company.

In order to meet the principles of the licence condition, companies will need to put the customer experience at the heart of any decision they make and, in the process, deliver the good service that customers want, and are entitled to receive where they do not do so, Hence the licence condition provides an important level of protection.

With respect to Condition J, we did not receive any responses objecting to our proposal to delete Condition J from those company licences that contain the condition. We have therefore decided to delete Condition J for the reasons set out in our October consultation, including that this will improve clarity and simplicity of the licence.

2.5 Change to proposed modification drafting

With respect to South West Water's licence only, the proposed modification drafting set out in Annex 1 to our October 2023 statutory consultation included wording at Condition G4 that "Unless Ofwat notifies the Appointee otherwise, and until 31 March 2025, paragraphs G1, G2 and G3 must be read as also applying to Customers of Eligible Premises on the Isles of Scilly." However, in its response, South West Water noted that this was out of line with our approach for non-household customers not served by a retailer, and that Condition G4 needs to be amended so that only G3.1 – G3.5 apply to non-household customers on the Isles of Scilly. We agree with South West Water. We have accordingly decided to amend Condition G4 in the company's licence to read "Unless Ofwat notifies the Appointee otherwise, and until 31 March 2025, paragraphs G1, G2 and sub-paragraphs G3.1 to G3.5 of G3 must be read as also applying to Customers of Eligible Premises on the Isles of Scilly."

2.6 Date when the licence modification takes effect

Under statute, if, following the procedure set out in [section 12A](#) of WIA91, we decide to make the proposed modification, it will have effect from the date we specify in relation to that modification. Under s12A(11) of WIA91, that date must usually be not less than 56 days from publication of the decision to make the modification. We have decided that the modifications will have effect from [12 February 2024](#).

Modifications under [section 13](#) of the WIA91 for licences held by Welsh water companies are not subject to the same timeline requirements. For consistency, however, we have decided that the modifications for the companies concerned will also have effect from [12 February 2024](#).

Appendix – The licence modifications

Condition G for companies operating wholly or mainly in England and have exited the retail market⁵

Introduction

This Condition requires the Appointee to adopt high standards of customer service and appropriate support for the full diversity of its customers' needs. It requires the Appointee to deliver the principles for customer care set out at paragraph G3.

Nothing in this Condition has the effect of removing or affecting the functions of the Consumer Council for Water in relation to the investigation of individual customer complaints.

Interpretation and application

- G1 In this condition:
- G1.1 an 'incident' means an event or situation which causes or may cause damage, disruption, distress or inconvenience to the Appointee's customers in their capacity as such which is not trivial.
 - G1.2 References to customers in principles G3.1 to G3.6 means the Appointee's customers in their capacity as occupants of Household Premises.

Principles for customer care

- G2 The Appointee must:
- G.2.1 develop or have in place policies and approaches to meet the principles for customer care set out in paragraph G3, consulting with the Consumer Council for Water where appropriate;
 - G.2.2 implement or continue to follow those policies and approaches in a way that meets the principles for customer care set out in paragraph G3; and
 - G.2.3 explain in a manner that is effective, accessible and clear how it is meeting the principles set out in paragraph G3.
- G3 The principles for customer care are:
- G3.1 The Appointee is proactive in its communications so that its customers receive the right information at the right time, including during incidents.
 - G3.2 The Appointee makes it easy for its customers to contact it and provides easy to access contact information.
 - G3.3 The Appointee provides appropriate support for its customers when things go wrong and helps to put things right.
 - G3.4 The Appointee learns from its own past experiences, and shares these with relevant stakeholders. The Appointee also learns from relevant stakeholders' experiences and demonstrates continual improvement to prevent foreseeable harm to its customers.
 - G3.5 The Appointee understands the needs of its customers and provides appropriate support, including appropriate support for customers in vulnerable circumstances, and including during and following incidents.
 - G3.6 As part of meeting principle G3.5 above, the Appointee provides support for its customers who are struggling to pay, and for customers in debt.

⁵ The companies whose licences we have modified with this text pursuant to s.12A WIA91 are Anglian Water Services Limited, Affinity Water Limited, Northumbrian Water Limited, Portsmouth Water Limited, Severn Trent Water Limited, South East Water Limited, Thames Water Limited, South Staffordshire Water plc, Southern Water Limited, South West Water Limited, Sutton and East Surrey Water plc, United Utilities Water Limited, Wessex Water Services Limited, Yorkshire Water Services Limited, ESP Water Ltd, Severn Trent Services (Water and Sewerage) Ltd and Veolia Water Projects Ltd.

South West Water's licence contains the additional transitional provision

Eligible Premises on the Isles of Scilly

- G4 Unless Ofwat notifies the Appointee otherwise, and until 31 March 2025, paragraphs G1, G2 and sub-paragraphs G3.1 to G3.5 of G3 must be read as also applying to Customers of Eligible Premises on the Isles of Scilly.

Condition G for companies operating wholly or mainly in Wales or who have not exited the retail market⁶

Introduction

This Condition requires the Appointee to adopt high standards of customer service and appropriate support for the full diversity of its customers' needs. It requires the Appointee to deliver the principles for customer care set out at paragraph G3.

Nothing in this Condition has the effect of removing or affecting the functions of the Consumer Council for Water in relation to the investigation of individual customer complaints.

Interpretation and application

- G1 In this condition:
- G1.1 an 'incident' means an event or situation which causes or may cause damage, disruption, distress or inconvenience to the Appointee's customers in their capacity as such which is not trivial.
 - G1.2 References to customers in principles G3.1 to G3.6 means the Appointee's customers in their capacity as occupants of Household Premises.
 - G1.3 References to customers in principles G3.1 to G3.5 means the Appointee's customers.

Principles for customer care

- G2 The Appointee must:
- G.2.1 develop or have in place policies and approaches to meet the principles for customer care set out in paragraph G3, consulting with the Consumer Council for Water where appropriate;
 - G.2.2 implement or continue to follow those policies and approaches in a way that meets the principles for customer care set out in paragraph G3; and
 - G.2.3 explain in a manner that is effective, accessible and clear how it is meeting the principles set out in paragraph G3.
- G3 The principles for customer care are:
- G3.1 The Appointee is proactive in its communications so that its customers receive the right information at the right time, including during incidents.
 - G3.2 The Appointee makes it easy for its customers to contact it and provides easy to access contact information.
 - G3.3 The Appointee provides appropriate support for its customers when things go wrong and helps to put things right.

⁶ The companies whose licences we have modified with this text pursuant to s.13 WIA91 are Hafren Dyfrdwy, Dŵr Cymru and Albion Eco Ltd. The companies whose licences we have modified with this text pursuant to s.12A WIA91 are Albion Water Ltd, County Water Limited, Icosa Water Services Limited, Independent Water Networks Ltd and Leep Networks (Water) Ltd.

- G3.4 The Appointee learns from its own past experiences, and shares these with relevant stakeholders. The Appointee also learns from relevant stakeholders' experiences and demonstrates continual improvement to prevent foreseeable harm to its customers.
- G3.5 The Appointee understands the needs of its customers and provides appropriate support, including appropriate support for customers in vulnerable circumstances, and including during and following incidents.
- G3.6 As part of meeting principle G3.5 above, the Appointee provides support for its customers who are struggling to pay, and for customers in debt.

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

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA
Phone: 0121 644 7500

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Any enquiries regarding this publication should be sent to mailbox@ofwat.gov.uk.

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