

October 2023

# **Notice of the Water Services Regulation Authority's Proposal to Make a Final Enforcement Order to Olympos Water**

## About this document

This document provides notice under section 20(1) of the Water Industry Act 1991 (the **Act**) that the Water Services Regulation Authority (the **Authority**) proposes to make a final enforcement order (the **Order**) to Olympos Water Limited (**Olympos Water**) under section 18(1) of the Act, to secure its compliance with the Water Supply and Sewerage Licence Standard Conditions (the **SLCs**), Part A, Condition 4 (**SLC A4**).

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## 1. Introduction

- 1.1 This document provides notice under section 20(1) of the Water Industry Act 1991 (the **Act**) that the Water Services Regulation Authority (the '**Authority**') proposes to make a final enforcement order (the '**Order**') to Olympos Water Limited ('**Olympos Water**') under section 18(1) of the Act, to secure its compliance with the Water Supply and Sewerage Licence Standard Conditions (the '**SLCs**'), Part A, Condition 4 ('**SLC A4**'). The draft Order is attached in Annex 1.
- 1.2 Section 5 explains how to make representations or objections on the draft Order. The deadline for making them is 5pm on 7 November 2023 (21 days after the publication of this notice, in accordance with 20(1)(c) of the Act). Except as otherwise provided in this Notice, words and expressions used in this Notice have the same meaning as they have in the Act.

## 2. Background

### 2.1. Olympos Water

2.1.2 The Authority granted Olympos Water a Water Supply Licence with a retail authorisation and a Sewerage Licence with a retail authorisation on 13 June 2019 (together for the purpose of this document the '**Licence**'), in accordance with sections 17A and 17BA of the Act. The Licence came into force on 14 June 2019 and is subject to the [SLCs](#). The Licence permits Olympos Water to supply eligible business, charity and public sector customers in England with Water Retail Services and Sewerage Retail Services.<sup>1</sup>

### 2.2 Relevant Legal Provisions

2.2.1 SLC A3 requires a licensee to ensure that all necessary arrangements have been made for securing its ability to continue to meet its licence and statutory obligations relating to its licensed activities, and that it has sufficient product and public liability insurance to cover those activities.

2.2.2 SLC A4 concerns licensees' provision of certificate of adequacy. Under SLC A4, paragraph (1) a licensee must provide the Authority with a certificate of adequacy by 1 April each year (an 'Annual Certificate'), and any additional certificate of adequacy requested by the Authority under that condition (an 'Additional Certificate'). By these, the licensee must certify that it has, and will have for the following 12 months, all necessary arrangements in place, including management, financial, technical, operational, and other resources needed for securing that it is able to meet its obligations under SLC A3.

2.2.3 SLC A4, paragraph (4) enables the Authority to require licensees to supplement certificates submitted under this condition by such verification reports, as may be reasonably required.

2.2.4 Under SLC A4, paragraph (5) a licensee must notify the Authority immediately it becomes aware that it would not be able to provide a certificate under SLC A4 if required to do so or anticipates a change of circumstances which would prevent it from being able to provide such a certificate.

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<sup>1</sup> For the purpose of this document, Water Retail Services and Sewerage Retail Services have the same meaning as set out in the [Wholesale Retail Code](#).

2.2.5 Subject to the provisions of sections 18(2), 19 and 20 of the Act, under section 18(1) of the Act, where the Authority is satisfied that a licensee is contravening or is likely to contravene any condition of its licence (i.e. the SLCs), or any statutory requirement enforceable under section 18, it has a duty to make, by final enforcement order, such provision as is requisite for securing compliance with that condition or requirement.

2.2.6 Failure to comply with a final enforcement order which is not the subject of a legal challenge under section 21(1) of the Act is one of the circumstances listed in SLC A10 under which the Authority may revoke a licence granted under section 17A and/or section 17BA of the Act.

## 2.3 Ofwat's Approach to Enforcement

2.3.1 Ofwat has published its approach to enforcement, which sets out its duties with respect to enforcement, and the approach we take to using our enforcement powers. The companies we regulate must comply with their statutory and licence obligations. If a company fails to comply with its obligations, we will take appropriate action to incentivise and secure compliance.

2.3.2 When we consider the appropriate action to take, we consider the effects of the contravention on the company's customers, customers in general and the regulatory framework (paragraph 27). In line with our risk-based approach to regulation, we take a stepped approach (paragraph 7), first exploring informal regulatory action with the company concerned where that is the most appropriate means of making sure it meets its obligations. If this does not achieve the desired result, we may take formal regulatory action, including enforcement. Where we take enforcement action, we expect it to act as an incentive on the company in question to change its behaviour so that it becomes compliant. Imposing an enforcement order indicates to the company in question, and to others in the sector, that certain behaviours are not acceptable and are sufficiently serious to attract a formal sanction (paragraphs 22-24).

2.3.3 In this case, informal regulatory action was initially pursued through engagement with Olympos Water. This was followed by us formally writing to the company to put it on notice of our concerns regarding its compliance. As detailed below, Olympos Water has continued to be in breach of its obligations under the SLCs, resulting in the decision to now progress formal enforcement action. We are aware that Olympos Water does not currently serve any customers in the business retail market, and therefore risks to customers arising from this non-compliance are currently low. However, due to it holding a licence there remains a risk that Olympos Water may acquire new customers. The absence of its annual certificate means that Olympos Water has not sufficiently assured the Authority that it has the means of fulfilling its obligations to customer or

more generally of its licence. This is unacceptable for a regulated company, regardless of its current customer number.

### 3. Contraventions of Legal Obligations

- 3.1. The Authority considers that the acts and omissions identified below constitute contraventions of SLC A4 (Certificate of adequacy), with respect to failure to provide an Annual Certificate, as required under SLC A4, paragraph (1), and failure to provide a verification report required to supplement that Annual Certificate, as required under SLC A4, paragraph (4). We consider these contraventions mean that it is requisite to make the Order.
- 3.2. On the 3 February 2023, the Authority sent a reminder to all retail licensees, including Olympos Water, that their Annual Certificate for the period between 1 April 2023 and 31 March 2024 was due to be provided by no later than 1 April 2023. As required by SLC A4, paragraph (2), this Annual Certificate must be signed by an authorised director of the licensee, having been given such authorisation by its board, and must be submitted alongside a certified copy of the minutes of that board meeting. In its reminder on 3 February 2023, the Authority requested that all licensees provide the Annual Certificate and supporting verification report by the same date.

On 8 February 2023 Olympos Water submitted to the Authority a signed certificate of adequacy dated 30 March 2022, stating it was for the 12 month period to 1 April 2023. This did not meet the requirement set out in SLC A4, paragraph (2), for the certificate to cover the period until 31 March in the following year, nor the requirement for the certificate to be accompanied by a certified copy of the relevant board minutes. Olympos Water did not provide the request verification report to supplement its certificate.

- 3.2.2 On 13, 20 and 21 April 2023, the Authority contacted Olympos Water to remind it of its obligation to provide a correctly dated Annual Certificate and provide a supplementary verification report. Olympos Water responded and sent the same incorrectly dated Certificate of Adequacy and no supplementary verification report.
- 3.2.3 On 26 April 2023, the Authority sent Olympos Water another reminder of its obligation to provide an Annual Certificate and on 22 May 2023 a letter was sent from Ofwat's Director of Enforcement requesting that Olympos Water provide an accurate Annual Certificate and explaining that failure to provide this could result in enforcement action by Ofwat in order to secure Olympos Water's compliance with its obligation.

The Authority received no response from Olympos Water to these various reminders. On 16 June 2023, the Authority called Olympos Water and left a message to the same effect but did not receive a response.

3.2.4 On 22 August 2023, the Authority wrote to Olympos Water via email and recorded delivery regarding its obligation to provide an Annual Certificate and supplementary verification report, and to serve final, 14-day notice for its payment of outstanding licence fees it is required to pay under SLC 9. In that letter the Authority set out that if Olympos Water failed to pay its required licence fees, the Authority would have grounds to revoke its licence. It explained that the Authority considers timely and accurate responses to regulatory requirements to be an important responsibility for licensees, and that Olympos Water's failure to provide the required annual certificate and to respond to requests is concerning and unacceptable. The letter set out that should Olympos Water pay its licence fees within the following 14 days' notice period, the Authority's concerns in relation to its compliance with SLC A4 would remain, and it would commence steps to prepare and issue a proposed enforcement order to secure Olympos Water's compliance.

On 8 September 2023, Olympos Water informed the Authority that it had since paid its licence fee but did not acknowledge or respond on the requirement for its Annual Certificate and verification report. The Authority has not received a notification from Olympos Water under SLC 4 paragraph (5) notifying it of reasons why the company is unable to provide such a certificate. Therefore, Olympos Water's Annual Certificate for 2023-24, and its supplementary verification report, remain outstanding.

## **4. Considerations in relation to Ofwat's Proposal to make a Final Enforcement Order**

### **4.1 The Authority's status as enforcement authority**

4.1.1 The Authority is the enforcement authority in relation to the SLCs applicable to Olympos Water's Licence.

### **4.2 Section 19 of the Act**

4.2.1 The Authority does not consider that any of the exceptions to the duty to enforce are relevant in this case.



**OFWAT THEREFORE PROPOSES MAKING A FINAL ENFORCEMENT ORDER UNDER SECTION 18(1)  
OF THE ACT IN THE TERMS SET OUT IN THE ATTACHED DRAFT ORDER ADDRESSED TO  
OLYMPUS WATER LIMITED**

## **5. Effects of the proposed Order**

5.1. Under the Order Olympos Water will be required by no later to provide, in sufficient detail and to the satisfaction of the Authority:

(a) the outstanding Annual Certificate under SLC 4 paragraph (1), or give notification of why it cannot provide such a certificate under SLC 4 paragraph (5)

(b) the outstanding supplementary verification report required under SLC 4 paragraph (4).

Failure to comply with a final enforcement order which is not the subject of a legal challenge under section 21(1) of the Act is one of the circumstances listed in SLC A10 under which the Authority may revoke a licence granted under section 17A and/or section 17BA of the Act.

Per Section 22 of the Act, failure to comply with this enforcement order shall be actionable in the courts by any person who may be affected by a contravention of the order, and/or the Enforcement Authority.

## How to Make Representations or Objections

We would welcome any comments on this document. Please email them to [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk) or post them to:

Casework, Enforcement & Customers  
Ofwat  
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7 Hill Street  
Birmingham B5 4UA

The closing date for this consultation is 5pm on 7 November 2023. If you wish to discuss any aspect of this consultation, please contact [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk).

We intend to publish responses to this proposed enforcement order on our website at [www.ofwat.gov.uk](http://www.ofwat.gov.uk). Subject to the following, by providing a response to this proposed enforcement order 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 and 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

## Annex 1: Draft Enforcement Order

### OFWAT HEREBY MAKES A FINAL ENFORCEMENT ORDER UNDER SECTION 18(1) OF THE ACT IN RELATION TO OLYMPOS WATER LIMITED AS SET OUT BELOW

#### [Draft] Final Enforcement Order in relation to Olympos Water Limited

This document constitutes a [draft] final enforcement order (the '**Order**') given by the Water Services Regulation Authority (the '**Authority**') to Olympos Water Limited (the '**Licensee**') under section 18(1) of the Water Industry Act 1991, as amended (the '**Act**').

Except as otherwise provided in this Order, words and expressions used in this Order have the same meaning as they have in the Act.

On [xxx] Ofwat gave notice under section 20 of the Act of its proposal to make an order under section 18(1) of the Act in relation to the Licensee (the '**Notice**').

The purpose of this Order is to secure compliance by the Licensee with its obligations under its Water Supply Licence and Sewerage Licence (together for the purpose of this document the '**Licence**').

As set out in the Notice, the Licensee has contravened its Licence by failing to comply with the Water Supply and Sewerage Licence Standard Conditions (the '**SLCs**'), Part A, Condition 4.

This Order takes effect as of [xxxx]

1. The Licensee is required to comply with its obligations under Part A of the SLCs, to the satisfaction of the Authority, by:
  - a. providing the annual certificate as required by SLC A4 paragraph (1). If the Licensee is unable to provide the annual certificate, it must set out its reasons for this as required by SLC A4 paragraph (5); and
  - b. providing the verification report requested under SLC A4 paragraph (4).
2. The Licensee must comply with the obligations by no later than 5pm on [xxx]
3. A failure to comply with this Order may result in the revocation of the Licence.

**Dated:**

**Signed on behalf of the Authority by**

**Duly authorised for that purpose by the Authority**

**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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