

Business Retail Market: CP0012 – Proposals to update the Customer Protection Code of Practice (Tranche 1 Changes) – Decision

Modification proposal	Customer Protection Code Change Proposal – CP0012 – CPCoP Tranche 1 changes
Decision	The Authority has decided to accept this Change Proposal with modifications
Publication date	31 January 2024
Implementation date	1 March 2024

We are approving this proposal with modifications to the legal text in light of stakeholders' responses to the consultation.

In April 2023, we signalled our intention to review the efficacy of the Customer Protection Code of Practice (**CPCoP**), the market code that governs Retailers' interaction with their customers. Following an initial [Call for Inputs that sought stakeholders' views](#) on how the CPCoP could be improved or strengthened, we set out and consulted on our [proposals](#) to make a first tranche of changes to the CPCoP in September 2023.

This document sets out our decision to implement all of our proposed changes, modifying the legal text in some cases. Most significantly, having taken into account responses to the consultation, we have decided to modify our proposal to allow non-substantive changes to be made to the CPCoP without consultation. In light of concerns raised by respondents, including that the definition of non-substantive could be open to interpretation and that Trading Parties may miss the chance to provide views on a change that could impact them, we have amended the legal drafting of this change so that all change proposals must be consulted on. In the case of non-substantive changes, we have amended the legal text so that Ofwat has the discretion to run the consultation for less than 28 days, which we think will improve the efficiency of the change process while ensuring all stakeholders continue to have the opportunity to provide input into proposed changes to the CPCoP.

We have also decided to implement changes that require stakeholders be notified when Ofwat receives a CPCoP Change Proposal, and make explicit in the CPCoP that references to 'the Authority' and 'the Council' mean Ofwat and CCW respectively, subject to minor modifications to the drafting of the legal text. Finally, we outline our decision to implement, as initially proposed, changes to the email address code change proposals should be sent to and remove all requirements linked to COVID-19.

We think these changes will further the interests of customers by ensuring the CPCoP is clear, up-to-date, and can be amended efficiently, supporting Retailers' understanding of their obligations to customers under the Code.

Separate to Tranche 1, we are in the process of consulting on our thoughts to make a second tranche of changes to the CPCoP. Subject to consultation responses, we intend to bring forward a Change Proposal for Tranche 2 changes later in the year.

1. Background

Since 2017, eligible non-household (**NHH**) customers in England and Wales¹ have been able to choose the supplier that provides their water, waste water, and other retail services. The Business Retail Market can help deliver lower bills, encourage customers to use less water and lead to improved services and offers.

Ofwat has a legal duty to make sure that eligible customers are protected in the market.² One form of protection for NHH customers is via the [Customer Protection Code of Practice \(CPCoP\)](#), which sets out the minimum standards of behaviour that Retailers must adhere to in their interactions with NHH customers. Compliance is a condition of Retailers' licences, which is ultimately enforceable by Ofwat.

The CPCoP has been in place since the market opened in 2017. It has been updated several times to respond to specific challenges faced by customers, including protections related to the COVID-19 Pandemic³ and customer credit balances.⁴ Now that the market has been in operation for over six years, and we have a better grasp of evolving customer expectations and the challenges facing market development, we think that it is appropriate to conduct a more holistic review of the CPCoP. We think it is necessary to assess the extent to which the CPCoP is providing effective protection for customers, and hence whether revisions may be warranted, in line with our statutory duty to protect the interests of current and future NHH customers.

In April 2023, we published a [Call for Inputs](#) on how the CPCoP could be improved or strengthened. We received 22 [responses](#) covering a range of issues which varied in complexity. After considering the responses to the CFI, we came to the view that there is a case for making changes to the CPCoP. Given the large number of issues that we thought deserved consideration and given their variation in complexity, we decided to split our proposals for changes into two tranches. We published a consultation on our proposed [first tranche of changes](#) in September 2023, and published a consultation on our ideas for a [second tranche of changes](#) in December 2023.

We have now considered [all responses](#) to our Tranche 1 Change Proposals. This document sets out our decision on those proposals in accordance with Section 5.2.4 of the CPCoP.

¹ See [eligibility guidance on whether non-household customers in England and Wales are eligible to switch their retailer](#). In Wales, only NHH customers who use more than 50 megalitres of water per year can currently switch their water retail supplier.

² Water Industry Act 1991, Part 1 Section 2 (2A and 2B)

³ See our [CP0006 decision](#), [CP0007 decision](#), [CP0008 decision](#), and [CP0009 decision](#).

⁴ See our [CP0010 decision](#).

We will take forward our work on our Tranche 2 Change Proposals separately. We are currently consulting on our initial ideas and expect to issue a finalised Tranche 2 Change Proposal later in 2024.

2. About this document

This document sets out our decision on the proposals we made in our Tranche 1 consultation. For each proposal, we outline our initial proposal, feedback provided in consultation responses, our decision, and how we think the change aligns with our statutory duties and any of the General Principles of the CPCoP, as per the requirements of Section 5.2.4 of the CPCoP.

A copy of the [updated CPCoP](#) which reflects our decisions has been published alongside this document. For reference, a full list of the General Principles is provided in Appendix 2.

3. Proposal A – Allow Ofwat to make non-substantive changes to the CPCoP without a requirement to consult on the change for 28 days

Proposed change

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 a minimum of 28 calendar 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.

In light of this, we think that there is scope for the CPCoP change process to be made more efficient. We therefore proposed that Ofwat be allowed to make non-substantive changes to the CPCoP without being required to consult on the change for 28 days. We proposed a non-substantive change be defined as "Changes or proposed changes to [the CPCoP], that are non-material and do not impact existing underlying obligations". We also proposed that Trading Parties or any other party we consider appropriate could object to a change being considered non-substantive by writing to us within 20 days of publication of the decision notice setting out their reasons for objecting. If we were satisfied that there was a clear and valid reason provided for the objection, the standard Change Proposal process would be initiated and the Proposal would not take effect.

Consultation responses

Business Stream, CCW, Pennon Water Services, Everflow, Hafren Dyfrdwy, MOSL, and United Utilities expressed support for, or agreement with, the change. United Utilities highlighted that as protections from inappropriate changes being made are dependent on companies being notified, it is important that a proper notification process be followed. It argued this process should include:

- A notice being clearly identifiable as being a notice provided under the specific regulation or legislation;
- The notice being published in a clear place on Ofwat's website;
- An appropriately titled email being sent to a predetermined email address and a secondary address; and
- If any change is made, this must be clear.

WaterPlus said that it had some reservations about the proposal as "it is not certain that any definition of 'non-substantive' would align to market expectation and it is possible that a non-material change for most in the market might have a more material

impact on others." While it welcomed the opportunity to challenge proposals, it remained concerned that this was subject to Ofwat decision-making, and would prefer a process whereby a Trading Party challenge would automatically lead to the initiation of the consultation process, provided the challenge was not vexatious. It said further to Proposal A, there "will need to be a higher level of visibility and communication of changes made outside of a consultation process, as currently these consultations additionally act as notice of a potentially upcoming change."

Castle Water said that it strongly objected to the change for the following reasons:

- The definition of a non-substantial change is open to interpretation;
- The case for making this change is not supported by reference to past changes that would have qualified against the criteria or by a substantive description of how they would be applied. No other regulatory precedent, such as from other sectors, is adduced for the change;
- Experience of the way in which WRC changes are classified as "housekeeping" or "clarificatory" demonstrates that these classifications are elastic, and therefore the Better Regulation principle of consistency cannot be assured;
- The MAC/WRC analogue is misplaced as the principles that govern Ofwat's use of its regulatory powers are not synonymous with those that govern the WRC and MAC. Ofwat's decisions on changes to the WRC and MAC may be referred to the CMA for redetermination under Section 207A of the Water Industry Act 1991. There is no specific route for appeal on changes to the CPCoP, or on changes that might be made under the current proposal; and
- The proposal to 'notify' the making of an Ofwat Change Proposal and to publish correspondence only after a decision is made to reject an objection does not provide "appropriate checks and balances". It also does not meet the Better Regulation principles of transparency and accountability, and there is no explanation as to how those principles are applied.

Business Stream also noted that the definition of a Non-substantive Change had not been inserted alphabetically in the table of definitions in Section 1.

Our decision

We have decided to approve this element of our Change Proposal, subject to modifications to the legal text to address some of the concerns raised by stakeholders in response to the consultation. We remain of the view that the change process would benefit from being more agile and flexible, in particular to reflect the variation in complexity of Change Proposals whilst also ensuring that the change process is robust and Trading Parties have sufficient opportunity to provide input.

Our modification means that all CPCoP Change Proposals will continue to be consulted on, but that in the case of non-substantive changes, Ofwat has the discretion to consult for a period shorter than 28 days. This aligns with the provisions for urgent changes.

We have decided to maintain the definition of non-substantive as set out in our initial proposal – that a non-substantive change is one that is non-material and does not impact existing underlying obligations. We have moved the position of the definition in the Section 1 table so that it is inserted alphabetically.

The updated legal drafting is outlined in Appendix 1.

Reasons for our decision

We recognise the concerns of WaterPlus and Castle Water that whether a change is non-substantive is open to interpretation, which presents a risk that a change determined by Ofwat to be non-substantive, but not viewed in this way by other parties, could be passed through a streamlined process without consultation. We have therefore decided to require that all changes are subject to consultation, but that non-substantive changes can be consulted on for a period shorter than the standard 28 days at Ofwat's discretion. We think that this will improve the efficiency of the change process while ensuring Trading Parties will always continue to have the opportunity to make representations on a change. It will also support transparency in the change process through ensuring all relevant parties continue to be made aware of any change Ofwat is considering making to the CPCoP and the reasoning behind any such consideration.

Castle Water raised the concern that we did not provide an indication of the type of changes we would consider non-substantive. In the interests of clarity, the types of changes we expect we would consider non-substantive would be those such as Proposal D in this document (update the email address Change Proposals are sent to), or Proposal Y in our [Tranche 2 consultation](#) (update the definition of a Renewal Notice to refer to the correct Section of the CPCoP).

Alignment with our statutory duties and the General Principles of the CPCoP

We consider that this Change is consistent with our statutory duty to further the consumer objective. We think it will allow the CPCoP to be kept up-to-date in an efficient manner, which will ensure Retailers are clear on their obligations to customers. We think if Retailers are clear on their obligations to customers, they will be able to act in a way that is transparent, furthering the General Principle of the CPCoP

that Retailers shall be fair, transparent, and honest; while putting the customer at the heart of their business.

4. Proposal B – Require Ofwat to notify relevant stakeholders upon receipt or proposal of a CPCoP Change Proposal

Proposed change

Under the current drafting of the CPCoP, eligible parties⁵ can propose changes to the Code by submitting a Change Proposal to Ofwat. Ofwat is required to consult on its proposed decision to accept, reject or amend the Change Proposal before issuing a final decision. The CPCoP does not stipulate a timeline for this process.

In response to our April CFI, CCW argued that the lack of a timeline can mean a Change Proposal "can sit with Ofwat for an undetermined amount of time, which could delay a change that could substantially improve services for businesses". It called for greater transparency and a timeline to be set for Ofwat to issue a decision on Change Proposals.

In our Tranche 1 consultation, we outlined our view that the introduction of timelines would be inappropriate as many factors can affect the length of time between a Proposal being submitted and a decision being issued. However, we agreed that the process could be made more transparent, and therefore proposed that the Code should be amended to require Ofwat to notify appropriate stakeholders when a CPCoP Change Proposal is received or made in advance of the publication of any consultation.

Consultation responses

Six respondents said that they supported or agreed with the proposed change. Wave commented that "for Retailers, Ofwat should use the registered points of contact [it] holds for each Retailer as 'the persons they consider appropriate'" to contact. While it agreed with the proposed change, CCW additionally said it remained concerned at the lack of a definitive change process timetable, as this "effectively allows a change request to be delayed indefinitely". It said that while there may be circumstances where a change proposal is complex and requires additional information to be gathered in order to progress, this should be by exception and not prevent a timetable from being fixed.

Castle Water said the change is insufficient as it does not meet the Better Regulation principles of transparency and accountability. It also said the change is prejudicial as "being notified if Ofwat *receives* a Change Proposal enables a stakeholder to make representations; being notified of Ofwat *making* a Change Proposal effectively occurs

⁵ See Section 5.1.2 of the CPCoP. Any retailer or any other person the Authority (Ofwat) considers appropriate is able to propose a change to the Code.

after the event, subject only to the inadequate process of Ofwat being able simultaneously to reject and publish objections."

Our decision

We have decided to approve this element of our Change Proposal subject to modifications to the legal text. These modifications involve clarifying that it is only if Ofwat receives a Change Proposal that it will notify relevant parties of its receipt. This change is outlined in Appendix 1.

Reasons for our decision

As outlined in our Tranche 1 consultation, we agree with CCW that there could be greater transparency in the change process to increase Ofwat's accountability and provide greater clarity for Trading Parties and other relevant stakeholders of proposed changes to the CPCoP at an earlier stage in the process. We have considered CCW's continued concern regarding the lack of a timetable for the Change Process, but maintain that the introduction of such a timeline would be inappropriate as many factors can affect the length of time between a Proposal being submitted and a decision being issued. This can include 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. We think providing one timeline for all Change Proposals would fail to appreciate these circumstances, and allowing exceptions to a timeline, as CCW suggests, would undermine its value. Instead, we think that a requirement to notify relevant parties upon receipt of a Change Proposal is a suitable way to increase transparency and accountability.

We note Castle Water's concerns that the change does not meet the Better Regulation principles of transparency and accountability. However, as outlined above, we disagree as we think notifying relevant parties when we have received a Change Proposal will improve the transparency of the change process and increase Ofwat's accountability in making Change Proposal decisions. We also note Castle's concerns that the change is prejudicial due to the language of notification upon receipt or proposal of a CPCoP Code Change, and that this would impact opportunities for Trading Parties to make representations. In practice, notification would only be given after a Change Proposal had been received from a relevant party, as if the change was proposed by Ofwat, notification would be provided in the form of a consultation. To prevent ambiguity on this point, we have decided to modify the legal text. To be clear, Trading Parties and other relevant stakeholders have, and will continue to have, the opportunity to make representations on all CPCoP Code Change Proposals, regardless of whether the proposal originates from Ofwat or another source, through the CPCoP's requirement for

all proposals to be consulted on. Trading Parties will continue to be notified of all Change Proposal consultations.

We note Wave's point that registered points of contact should be used to provide notification. We are working internally to design a notification process that is clear and effective, and we expect this will include contacting registered points of contact.

Alignment with our statutory duties and the General Principles of the CPCoP

We consider that this Change is consistent with our statutory duty to further the consumer objective. We think it will increase transparency and accountability in the change process by providing a more transparent insight into what Change Proposals Ofwat has received and when. We think this will support effective and efficient decision-making regarding CPCoP Change Proposals. We also have regard to the principles of best regulatory practice, including that regulatory principles activities should be transparent, accountable, proportionate, consistent, and targeted. Additionally, we think increased transparency and accountability in the change process will support the General Principle of the CPCoP that Retailers shall be fair, transparent, and honest; while putting the customer at the heart of their business, through increasing sight of proposals made by Retailers.

5. Proposal C – Remove all requirements linked to COVID-19

Proposed change

Currently, the CPCoP contains a number of provisions related to the COVID-19 Pandemic, largely under Sections 7.1.6, 9.2.3, 9.4, 9.5, and 9.6. These provisions have now expired or are no longer relevant. We therefore proposed to remove all requirements linked to COVID-19.

Consultation responses

All but one respondent expressed support for this Change Proposal. WaterPlus said that it particularly supported this change as "the amendment to remove references to COVID-19 will provide clear benefit to the market and Customers as its continued inclusion in the CPCoP has led to some recent confusion."

Castle Water said that it continues to receive complaints from customers about meter reads missed in the past due to COVID-19. Therefore, "it would serve a useful purpose to retain the relevant sections, labelled as for reference and no longer used, for example as an Appendix. An alternative would be to brigade them together and introduce a sunset provision".

Our decision

We have decided to approve this element of our Change Proposal.

Reasons for our decision

The CPCoP should be clear about the obligations it places on Trading Parties, so that they can ensure compliance. We think removing requirements linked to COVID-19, which no longer have effect or relevance, will improve clarity in the Code.

We recognise Castle Water's point that issues related to the COVID-19 Pandemic can still surface in the present day, and therefore it may be useful to retain relevant sections in the CPCoP for reference. However, we note that all versions of the CPCoP are [available on our website](#) and can be viewed for reference in this way.

Alignment with our statutory duties and the General Principles of the CPCoP

We consider that this Change is consistent with our statutory duty to further the consumer objective. We think it will add clarity to the Code to help ensure Trading

Parties are clear on their obligations to customers. 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. We think if Retailers are clear on their obligations to customers, they will be able to act in a way that is transparent, furthering the General Principle of the CPCoP that Retailers shall be fair, transparent, and honest; while putting the customer at the heart of their business.

6. Proposal D – Update the email address which Code Change proposals should be sent to

Proposed change

Currently, the CPCoP stipulates in Section 5.1.2 that CPCoP Change Proposals should be sent to CPCOPcodechange@ofwat.gsi.gov.uk. This email address is outdated and no longer used by Ofwat. We therefore proposed that the Code be amended to state that Change Proposals should be sent to codechange@ofwat.gov.uk.

Consultation responses

No respondents raised any objection to this change, with respondents choosing either to either voice support for the change or not provide comment.

Our decision

We have decided to approve this element of our Change Proposal.

Reasons for our decision

The Code should be up-to-date and accurate about where Change Proposals should be sent. This ensures all Change Proposals, which could benefit customers, are received by Ofwat. Updating the email address to which Code Change Proposals should be sent is therefore necessary.

Alignment with our statutory duties and the General Principles of the CPCoP

We consider that this Change is consistent with our statutory duty to further the consumer objective. We think it will add clarity to the Code to help ensure Ofwat receive Change Proposals, which could ultimately benefit customers. Additionally, we think this change will support the General Principle that Retailers shall be fair, transparent, and honest; while putting the customer at the heart of their business, as Retailers will be clear on where Change Proposals that could benefit customers should be sent.

7. Proposal E – Clarify that references to "the Authority" and "the Council" in the Code refer to Ofwat and CCW respectively

Proposed change

The current CPCoP refers on several occasions to "the Authority" and "the Council". However, at no point is it made explicit that this means Ofwat and CCW respectively. In response to our April CFI, CCW proposed this be made clear. We agreed and proposed the CPCoP be amended to make this explicit.

Consultation responses

No respondents raised any objection to this change, with respondents choosing either to either voice support for the change or not provide comment. Castle Water said that, for internal consistency, "the Authority" and "the Council" should be capitalised and "means" should be replaced by "are". The issue of capitalisation was also noted by Business Stream.

Our decision

We have decided to approve this element of our Change Proposal, subject to modifications to the legal text. These modifications involve ensuring capitalisation is correct and the use of "are" rather than "means", and are outlined in Appendix 1.

Reasons for our decision

We consider that this Change is consistent with our statutory duty to further the consumer objective, as it will add clarity to the Code, which should help ensure Trading Parties and customers are clear about the Code's provisions. We think if Retailers are clear on their obligations to customers, they will be able to act in a way that is transparent, furthering the General Principle of the CPCoP that Retailers shall be fair, transparent, and honest; while putting the customer at the heart of their business.

8. Implementation

We do not think the approved changes will have any material impact on the day-to-day operation of Trading Parties. Therefore, the changes will be implemented one month after the date of our decision, on 1 March 2024.

An [updated version of the CPCoP](#) that will be implemented on 1 March 2024 can be found alongside this document.

9. Decision notice

In accordance with paragraph 5.2.4 of the CPCoP, the Authority accepts this Change Proposal with the modifications outlined.

Dan Mason
Director, Business Retail Market

Appendix 1: Final changes to the legal text

Section 1 – Definitions and interpretation

Covid-19 Affected Customers	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;
Covid-19 Repayment Scheme	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;
Non-substantive Change	changes or proposed changes to this code, that are non-material and do not impact existing underlying obligations;
Trading Party	has the meaning given 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' are to Ofwat

1.2.3 references to 'the Council' are to the Consumer Council for Water

Section 5 – Code governance arrangements and modification

5.1 Who may make a Customer Protection Code Change Proposal?

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 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;
- (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; ~~or~~ **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 of a CPCoP Change Proposal. This notice will be provided in advance of any consultation.

5.2.3 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 ~~the subject of the change its complexity, importance and its urgency. Except in the case of urgency, the consultation period will generally be for a minimum of 28 calendar days.~~

- 5.2.4 ~~The consultation period under Section 5.2.2 will generally last for a minimum period of 28 days, except for urgent Customer Protection Change Proposals or non-substantive Changes whereby the Authority may consult for a shorter period.~~
- 5.2.5 A consultation under Section 5.2.2 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, 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 an urgent or non-substantive change.~~

Section 7 – Provision of information by a Retailer to its Non-Household Customers

~~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.~~

Section 9 – Billing

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.~~

9.2.1 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.

9.2.2 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).

9.2.3 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.~~

Appendix 2: General Principles of the CPCoP

Section 4.1 of the CPCoP lists the General Principles of the CPCoP as the following:

- Retailers shall be fair, transparent and honest; while putting the customer at the heart of their business;
- Communication with Non-Household Customers shall be in plain and clear language;
- Retailers shall ensure they provide appropriate and timely information to Non-Household Customers to enable them to make informed choices;
- Any information provided to Non-Household Customers shall be complete, accurate and not misleading;
- Retailers shall respond to Non-Household Customers in an appropriate and timely manner; and
- Customer service arrangements and processes shall be accessible to and effective for Non-Household Customers.