



**The Consumer Council for Water's response
to
The Department for Business, Energy and
Industrial Strategy's
Consumer Green Paper: Modernising Consumer
Markets**

4 July 2018

Introduction

The Consumer Council for Water (CCWater) is the statutory consumer organisation representing water and sewerage consumers in England and Wales. CCWater has four regional committees in England and a committee for Wales.

We welcome the opportunity to comment on BEIS' consumer green paper: Modernising Consumer Markets. This document sets out CCWater's response. Please note, we have not answered every question, so some responses are deliberately missing.

Overall, we welcome the focus on sectors working together to improve the service and provision that consumers in vulnerable circumstances receive.

Chapter 2: Better outcomes in regulated markets

Consultation Question 1. In which regulated markets does consumer data portability have the most potential to improve consumer outcomes, and for what reasons?

Data portability has the potential to improve consumers' outcomes in all regulated markets, because if a consumer is in vulnerable circumstances in one regulated sector, there is a good chance he or she is in vulnerable circumstances in others.

Collaboration across all sectors is the key to improving outcomes for all consumers but particularly those facing vulnerable circumstances. Consumers do not only face vulnerability for financial reasons, but also because of 'life change' moments, such as being made redundant or having a baby; and because of mobility or health issues, physical and/or mental.

Consultation Question 2. How can we ensure that the vulnerable and disengaged benefit from data portability?

Utility companies have access to some customer data and can seek out additional information, such as credit reference agency data and demographic data. They can use this data to benefit customers.

In relation to financial vulnerability, data can be used to target their approach to supporting these households, including identifying if they might benefit from assistance through a more affordable tariffs or through other forms of financial support. The water sector now has potential access to data on benefit entitlement, due to provisions included in the Digital Economy Act 2017. This should allow data to be provided to water companies by the Department of Work and Pensions (DWP).

Companies also have the ability to offer a lowest price bill guarantee to customers. Some are using this to encourage customers to switch to a water meter, helping them overcome the fear that bills might actually rise. Our independent water meter calculator¹ can help consumers understand what their bill could be on a water meter. Companies could perform annual reviews to check customers are paying the lowest bill possible.

To ensure consumers are benefiting from data portability, measures relating to vulnerability can be tracked using tools such as our Water Matters² annual tracking survey, which can help gauge whether customers are aware of the additional support available and whether they are receiving appropriate support.

¹ CCWater's water meter calculator. Link [here](#).

² CCWater research - Water Matters tracking survey. Link [here](#)

We believe data sharing can also help the delivery of wider vulnerability support, not just financial vulnerability. In particular companies can do more to support customers by sharing their data with their consent. For example, the water and energy industry are working together to implement arrangements to register customers for both water and energy priority services at the same time where they consent to this.

Consultation Question 4. What is the best way to publish performance data so that it incentivises firms to improve and can be used by consumers when taking decisions? Should firms also offer discounts or compensation for poor performance?

We believe publishing performance information is really important in order to incentivise companies to improve, as there is a significant reputational impact if they do well or conversely do particularly poorly. Also, where competitive markets exist, publishing this data may allow consumers to consider performance as they make decisions about alternative providers.

We publish information on what consumers think of their water company on issues such as satisfaction with service; value for money and trust³. We also monitor and publish water companies' performance on complaints⁴, and we use this to press the poorer performing companies to improve. Similarly, we track and publish data on how they are dealing with operational issues such as leakage, or sewage flooding in separate reports⁵.

The water retail market for non-household consumers in England has now been open for just over a year. In July, we will publish⁶ a company by company review of retailers' complaints performance in the first year (2017-18). This, along with our local interventions with retailers, will press the poorer performing retailers to improve and reduce the need for business consumers to complain.

Companies should offer compensation for poorer performance. Ofwat has recently published its 'Out in the Cold' report⁷ into the 'Beast from the East' that meant much of the country suffered from snow and then a rapid thaw in March 2018. This led to water supply interruptions of over 4 hours for over 200,000 customers in parts of England and Wales. We pushed for compensation to be over an above the minimum payments prescribed in the statutory Guaranteed Standards Scheme (GSS), and many of the water companies responded to this.

However, our research⁸ into the incident found that significant numbers of consumers did not get compensation, despite losing their water supply. Additionally, business consumers were not as satisfied with the compensation levels they received, compared to householders. We have stated publicly that we believe a review of the statutory Guaranteed Standards Scheme is now required, and we are pleased that Defra, Welsh Government and Ofwat appear to share this view.

Chapter 3: Digital markets that work for consumers

Consultation Question 11. Should terms and conditions in some sectors be required to reach a given level of comprehension, such as measured by online testing?

³ CCWater research - Water Matters tracking survey. Link [here](#)

⁴ CCWater report on water company complaints. Link [here](#). Also other performance data [here](#).

⁵ CCWater reports into vulnerability; waste water resilience and water resilience. Link [here](#).

⁶ CCWater information on retail performance, which will include during July the first annual review of retailer performance. Link [here](#).

⁷ <https://www.ofwat.gov.uk/pn-26-18-hard-lessons-water-sector-following-beast-east-review/>

⁸ CCWater research - Customers' experiences of water supply interruptions following the 'Beast from the East' in March 2018. Link [here](#).

All company communications with consumers should be clear and tested to ensure easy comprehension for all consumers. Online testing, however, could potentially exclude the insights and opinions of those who are unable to participate online. Regarding terms and conditions specifically, these are only of limited use in the water sector as householders do not have a contract with their water company. Water and sewerage companies have a duty to provide the services, and protections are provided to consumers within the relevant legislation and within terms of the companies' operating licences. However, we give feedback to water companies on the quality of the information they provide to consumers, including their websites, bills, letters and leaflets.

Contracts in the non-household retail market act as terms and conditions for the price and service for consumers who have switched, or 'deemed contracts' for consumers who have not. It is important that consumers are aware of the contract and the terms they contain, so ensuring that terms and conditions are understandable.

Chapter 4: Improving enforcement of consumer rights

Consultation Question 12. How can we improve consumer awareness and take-up of alternative dispute resolution (ADR)?

The complaint process as a whole needs to be easy to access for consumers:

- An ADR process needs to be easy to understand - consumers want to know what happens next at each complaint stage and to have the outcomes explained in plain English, not legal or industry jargon.
- Easy to understand forms, as complex form filling or multiple criteria to fulfil eligibility can be off-putting for consumers.
- Consumers should be assured of the independence and impartiality of the provider.
- A short process, with warm handovers (meaning the consumer does not have to start back at the beginning of the story with every new body it approaches) between parties could help reduce complaint fatigue, which can prevent consumers who are unhappy with an outcome from escalating the matter.

All water and sewerage companies serving household consumers in England and Wales are signed up to the Water Redress Scheme (WATRS). Retailers in the non-household water retail market in England are required under the market codes to sign up to an ADR scheme. WATRS is not a stipulation on retailers, so they are free to choose a different provider.

To improve awareness, we signpost consumers to the WATRS service at the end of all of our case investigations. We also offer to help the consumer by submitting an application on the consumer's behalf, which has improved the number of consumers who then go on to WATRS.

We also use these tools to improve take-up and awareness of the ADR scheme:

- signpost ADR in all correspondence, and talk it through with consumers during telephone conversations;
- mention signposting early in our final letter to the customer; and
- ensure information is available online and set out in leaflets which are shared with consumers at the start of any complaint.

We believe the complaints process in the water sector can be improved for consumers. Together with Ofwat and Defra, we advocate an end to end review of the process. However, Water UK is carrying out a partial review of the end part of the process only, as they will be tendering the ADR scheme in due course. We advocate an end to end review of the complaints process, because this could identify a number of improvements which could improve take up and awareness of ADR.

Consultation Question 13. What model of alternative dispute resolution provision would deliver the best experience for consumers?

As described above, ADR provision should be easy for consumers to access and straightforward for them to use; delivered promptly and fairly. The provider should be independent of the companies/businesses it adjudicates on.

The model should also allow the information the ADR provider has to highlight any systemic or chronic industry issues, to allow the industry to address this and thus prevent the same issue recurring for consumers.

Chapter 5. A regulatory and competition framework for the future

Consultation Question 17. Do you agree with the initial areas of focus for the Consumer Forum?

We agree with the initial areas of focus for the Forum. What was surprising, given the focus of the Forum, was the lack of representation anticipated from consumer groups and consumer advocacy bodies, such as CCWater, Citizens Advice and Which?,

The forum should be independent and its membership should include consumer representatives, (invited from consumer user groups and consumer advocacy bodies), who can provide evidence of consumers' views and suggest solutions.

We fully support the initial focus on consumers in vulnerable circumstances. However, this scope needs to be wider than just financial vulnerability. This needs to consider vulnerability in the round, such as the needs of consumers with physical and mental health conditions, and mobility issues, and to consider consumers with transient vulnerability.

During the recent 'Beast from the East' weather event in March this year, we saw water consumers who would not usually consider themselves as vulnerable, put in a vulnerable position due to the heavy snow and their water supplies being interrupted. In particular, they experienced difficulty in getting the alternative water supplies provided by the water companies, partly because the water locations could be some distance away and partly because water is very heavy to carry.

The 'transient vulnerable' in that situation included those facing mobility problems; those unable to transport or carry water; those with new bottled fed babies; and those with medical conditions who needed a supply of water for hygiene reasons. This emphasises the need to consider vulnerability in a broad manner and that there is a clear need for water companies to make improvements in this area.

Minimum Standards for consumers with mental ill health, cognitive impairments and dementia should across sectors

We are leading on work to integrate the requirements of the Mental Capacity Act⁹ within the water sector. We would be happy to engage with UKRN on this work.

We support having a minimum set of standards for consumers in vulnerable circumstances; and an additional set targeted at those with mental ill-health, cognitive impairments and dementia. The regulated sectors should have capacity to include standards as part of their PSRs. This would allow these needs, along with other vulnerabilities, to be considered during incidents such as provision/supply interruptions which are either planned or unplanned.

⁹ The Mental Capacity Act (MCA) is designed to protect and empower people, aged 16 and over, who may struggle to make decisions about their own care. It applies to people aged 16 and over.

As a minimum all consumers on the companies' PSRs should have their tariff reviewed annually, so they pay the lowest possible bill. This would include in the water sector, as this could involve a review of the help available, or whether a meter would be beneficial. Ideally, all consumers should have an annual review.

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