Citizens Advice Scotland
Broadside
2 Powderhall Road
Edinburgh EH7 4GB

0131 550 1000
www.cas.org.uk

Competition Team
The Water Industry Commission for Scotland
First Floor, Moray House
Forthside Way
Stirling
FK8 1QZ

Measures in support of the retail market in light of the current pandemic

7 May 2021

Citizens Advice Scotland (CAS) uses research and evidence to put consumers at the heart of policy and regulation in the energy, post and water sectors in Scotland. We work with government, regulators and business to put consumers first, designing policy and practice around their needs and aspirations to ensure positive outcomes, for example:

- Consumers trust in their supplier
- Consumers can access the services they need and are charged a fair price
- When things go wrong, there is a clear and simple route to redress; issues are fixed first time

CAS welcomes the opportunity to respond to the Commission's Measures consultation. We believe that the Working Group process on measures has brought about greater collaboration and ownership of the retail market by group members, and we welcome the Commission's support of this. In particular we are pleased that there is a strong and clear consumer voice around the table to discuss options and support consumer-focused outcomes.

We believe that setting out criteria for the Measures Working Group, such as protecting the interests of customers, has helped to embed the tone and expectation in terms of outcomes by which options should be measured for customers, Scottish Water and other market players. CAS would welcome seeing these principles being applied across all future market-related discussion, including changes to the Market Code, to test decision-making against desired outcomes. We believe that by doing so, they will shape thinking and support a better understanding of how to design policy and practice that deliver outcomes that more closely reflect an ethical approach to business and strengthen trust between suppliers and their customers.

In response to the specifics as set out within the consultation paper, we note the following:

A strategic framework for the market

CAS has supported the formation of a proactive and inclusive forum for key stakeholders for some time; one that includes a strong consumer voice to embed a better understanding of what is required to deliver customer-focused outcomes. We believe that strong consumer outcomes provide the foundation for a healthy market that will deliver wider, economic benefits as a result of better customer retention, lower costs from resolving problems early or fewer regulatory penalties, good market reputation, etc.

We also believe that the Working Group process has been a good first step and has led to wider collaboration with CAS being asked to provide insight within other forums, such as the MPF and ad-hoc policy discussions, for example, on disconnections. This indicates that there is a degree of recognition amongst market stakeholders that our input will support more successful outcomes in terms of working ethically and delivering greater customer benefit.

We are encouraged by the collaborative approach to policy and process development that the Working Group has provided. We have witnessed co-design between licensed providers, Scottish Water and the CMA that allows for an agreed position to be reached that meets evidenced needs, within WICS' criteria. In addition, the Working Group process has highlighted the importance of ongoing dialogue to ensure change and compliance are fully understood and that a commonly agreed interpretation of language within the market and its framework is being applied by all parties.

Although the Measures Working Group process is drawing to a close, we believe that it has established a more progressive way of working that should be continued. We welcome the Commission's inclusion within the consultation paper of a senior stakeholder group. This will strengthen strategic overview and ownership of policy and decision-making within the market that will improve outcomes for all. We are keen to ensure this process includes a review of the role and responsibilities of each forum, such as the Working Group, the MPF and the TP and the formation of a clear framework within which the health of the market can flourish.

We are also keen to ensure that the market and its customers are embedded within Scottish Water's transformation planning process as part of 'Empowering customers and communities' and we will continue to work with Scottish Water to support this process.

Ownership for the market framework

CAS welcomes the expectation by the Commission of the need for all licensed providers to take greater responsibility for collaboration and driving market improvements. However, our research has found huge variance across the market in business practices leading to variable levels of customer experience, outcomes and satisfaction, even from the same licensed provider. The market needs to be supported and incentivised to more fully understand and embed basic ethical business practices to address 'low hanging fruit' i.e. identified customer issues, such as poor communication, that could be resolved relatively quickly. In addition, we would welcome a better understanding of the use of TPIs within the market, as recommended within our published report 'Full disclosure'. We believe that ethical practices should be applied and tested across the whole supply chain to eliminate unhelpful practices, improve consumer outcomes and create a healthier market

Presently, we expect that licensed providers not currently on the Working Group process may not be as far on in their EBP journey as those who sit on the Group. Clear EBP guidance or principles may need to be set out to ensure that its application is more clearly understood and so can drive change, which would improve outcomes for all customers and market participants.

Customer support measures

CAS undertook research during 2020 into the experiences of SMEs of the non-household market. Findings highlighted that despite a clear requirement from the Commission for licensed providers to extend support they had received from Scottish Water to customers affected by Covid-19, most customers said their supplier had not contacted them about the support available; and customers who tried to contact their providers proactively were largely unable to reach them or if they did, they were told that support was not available for them, and to continue to pay as normal. This would suggest that benefits afforded to licensed providers may not have been passed on to customers in need. It also demonstrates a lack of consistency of approach to supporting customers across the market place and suggests that one customer's experience of market offerings could be very different from another's because of who provides their water and sewerage services. Withholding essential support to customers that need it, when it is available, is not acceptable.

Interestingly, of the customers who were offered support by their licensed provider, the majority declined it, preferring to continue paying; some simply cancelled their direct debit to protect cash flow. Many considered the support package to be unhelpful as it simply deferred payment for a time, and they felt that they would not be any more likely to be able to repay accrued monies in a few months' time. Others did not understand the fixed / variable charge element and noted that they were not actually using water, so should not be charged over this period. This highlights a clear need for a simple scheme that is easy to administer, apply, understand and importantly, meets customers' needs. We welcome the 'like for like' principle set out by the Working Group and believe that greater flexibility and discretion around meeting customers' needs and encouraging them to re-engage with their licensed provider using the offer of simple repayment plans, is more likely to help the market and its customers to re-engage and recover from the impacts of Covid-19.

Additionally, we welcome the clear conditions that the Commission has set out around customer support measures, which includes an onus on licensed providers to evidence that they are proactively informing customers of available support. This process may require a tailored approach to engage with those who have stopped paying, as well as to offer support to those that may still be paying but are struggling financially. We would welcome further discussion with the Commission around how to ensure that any process of assessment of a customer's viability to receive additional support is consistent and fair across all licensed providers.

As part of the market health check process, we would also welcome a form of auditing to ensure that small and medium-sized customers in need are receiving it and that licensed providers not fulfilling support requirements are challenged. We are hopeful that all licensed providers will sign up to providing support to customers on a like for like basis using the new deferral scheme and welcome the robustness of the measures the Commission has set out to encourage such an approach.

Disconnections

Finally, the Commission's paper mentions 'potential options' to help address any increase in bad debt for licensed providers resulting from the temporary removal of disconnections for non-payment by Scottish Water. CAS is aware of concern amongst licensed providers who have used disconnection surveys, if not a full disconnection itself, as a means to secure debt recovery.

On the one hand, if disconnection, or the threat of disconnection, is no longer considered legal where sanitary requirements prevent it from taking place, customers have a right to be told this openly and transparently. It cannot be used as a threat where it can no longer be carried out.

On the other hand, if disconnection of supplies has been removed as a way of incentivising payment by those who can pay but are refusing to pay, the management of longer-term bad debt will require to be addressed. CAS is concerned that if changes are made to the wholesale / retail margin to accommodate any loss of income, that the cost of 'debt' will simply be shifted from those not paying to those customers that are continuing to pay. Asking customers to bear the burden of debt in this way seems unfair. We would welcome further discussion with WICS on this point.

We would welcome the opportunity to discuss any of the points above with the Commission in due course.

[redacted]

Citizens Advice Scotland

Castle Water Scotland Limited
Lismore House
32 Miller Road
Ayr
KA7 2AY

Contact Us
t 0330 333 6510
e customersupport@castlewater.co.uk

07 May 2021

Alan Sutherland
Chief Executive
Water Industry Commission for Scotland
First Floor, Moray House
Forthside Way
Stirling
FK8 1QZ

Dear Alan,

Measures in Support of the Retail Market in Light of the Current Pandemic

In reply to the consultation document sent out on 2nd April 2021 in respect of the above. Castle Water Ltd supports the principles set out within the consultation and welcomes the proposed assistance scheme, which will allow licensed providers to defer wholesale charges in parallel with the support they are providing to their customers in most need of assistance by way of deferred retail charges.

Castle Water Ltd also supports the proposed measures to ensure that licensed providers operating in the market are sufficiently financially resilient and we are satisfied with the measures proposed by Scottish Water in their draft "LICENSED PROVIDER DEFERRAL CAP, CREDIT SECURITY AND FINANCIAL RESILIENCE POLICY" provided on 30th April 2021. We welcome the opportunity for licensed providers to negotiate tailored payment terms with Scottish Water, but believe this must be managed with appropriate transparency. We encourage the use of cash-based metrics as used by the recognised Credit Rating Agencies (e.g. Moody's, S&P, Fitch), their being more sophisticated than measures employed by providers of credit services (e.g. Experian). The methodologies of the Credit Rating Agencies are recognised or regulated in every one of the G7 nations other than the UK, and we believe these represent a more robust measurement of financial resilience over unregulated methodologies used by organisations such as Dun & Bradstreet. A tiered scoring system based on averages across different financial ratios will allow for fair comparison across companies with different financial structures and accounting policies. We would also highlight the importance of not discriminating against licensed providers with favourable credit metrics, but whose modest turnover or independence from a group prohibits them from obtaining an investment grade credit rating. We would advocate the use of standby Letters of Credit due to their cash equivalence.

Castle Water Ltd believes the proposals regarding reintroduction of wholesale prepayments, the permissable level of customer prepayment and access to the Market Health Check and negotiable credit terms are fair and consistent with the guiding principles laid out in the consultation. We are satisfied that any required points of clarification or concern are sufficiently addressed in the Working Group's response to the consultation. Castle Water Ltd are committed to providing the support required by our customers due to the ongoing coronavirus (COVID-19) crisis and intend to fully commit to the proposed financial resilience and customer support measures.

I trust this is satisfactory and look forward to receiving your comments.

Yours sincerely

[redacted]

Everflow Water response to WICS document: Measures in support of the retail market in light of the current pandemic – May 2021

We welcome the opportunity to respond to the Commission's invitation to comment on its latest publication regarding measures to support the market through the ongoing coronavirus pandemic.

The document covers a number of subjects which we would like to comment on.

Transitioning the market back to normal operations

Firstly, we would like to recognise the way in which the Commission has responded to the unpredictable nature of the COVID-19 pandemic by flexing the timescales over which the schemes introduced in May 2020 would be unwound, and communicating regularly with Licenced Providers about this.

We agree with and support the latest proposed timetable for unwinding the 2020 schemes.

New wholesale charges deferral scheme

The revised version of the wholesale charges deferral scheme has the potential to help meet the needs of customers most in need of support during the aftermath of the COVID-19 pandemic, by giving customers temporary relief from a substantial proportion of their charges.

We share the view of the working group that the scheme should be targeted to customers who really need the support, by providing extended payment terms. Where customers are able to keep paying their charges, it is important that they do continue to pay, so that those who cannot manage their costs are able to benefit from the support they need. We do not want to encourage customers to build up debt if this can be avoided.

We therefore do not agree that the new scheme should be widely advertised or made available to all customers. LPs are well positioned to identify which of their customers are particularly impacted by the pandemic and to make all eligible customers aware of the availability of support, through more targeted communications. We frequently encourage all of our customers to contact us about additional support options if they are struggling to pay their charges, so there is no reason why any customer would lose out on the opportunity to benefit from the scheme.

Financial resilience

We agree that the market should be resilient to financial shocks. We would suggest that the COVID-19 pandemic has demonstrated a strong degree of financial resilience, at least in our case. The measures that were put in place to benefit customers (i.e. the removal of prepayment and the wholesale charges deferral scheme) have been used to entirely benefit customers, not our own business. Despite offering very low prices in the market, we have not needed to raise any further capital to support our Scottish operations over the past 12 months.

Given the resilience we have shown as an organisation, we would expect the resilience tests put in place as part of the new licence condition to have no detrimental impact on our business; rather we would like to see greater recognition of our financial resilience.

From what we have seen of the resilience tests proposed by Scottish Water, they appear fair and proportionate, and will recognise the financial resilience we have shown. We would be prepared to sign up to a licence condition requiring us to meet these tests on an ongoing basis.

Separation of Scottish and English operations

The Commission has set out its intention to require our Board to provide annual assurances to the Commission that we:

- Are conducting our affairs in way that Scottish customers are not unduly disadvantaged by activities in the English water retail market and that the English activities are not being subsidised by Scottish customers.
- Are committed to ensuring that charges in both markets reflect the underlying costs of operating in each market.
- Accept an ex-post verification of the above written assurances through the use of the Market Health Check.

In principle, we are likely to accept a new licence condition along these lines. As the exact wording of the licence condition (to be added to Licence Condition A9) is not yet available for comment, we assume that we will be given the opportunity to further comment on this before it is implemented.

Recognising the risk of increased bad debt

Finally, we would like to reiterate our concerns about the risk of increased bad debt following on from the pandemic. Not only will this be impacted by the ongoing restrictions on retailers' ability to disconnect customers for persistent non-payment of charges; retailers will be exposed to increased bad debt risk by the introduction of the new wholesale charges deferral scheme. If customers who opt in to the scheme are unable to later repay their deferred charges, the cost of this will fall on the retailer.

We ask the Commission to consider the issue of increased bad debt risk again in light of the above, and look at possible ways of recognising this increased risk, for example through an adjustment to default charges.

COVID-19 Support Measures

LP Working Group Response to WICS's April Consultation

(including changes introduced at the WICS Workshop of 27th April)

1. Introduction

Background

In February 2021, the LP members of the Working Group, proposed a package of measures designed to address the challenges posed by the Commission in its November consultation paper on the impacts of COVID-19 on the NHH water market. WICS subsequently published its response on 1st March, setting out objectives, guiding principles and timescales for the implementation of new support measures, and invited the Working Group to discuss and finalise proposals within this context. There was a further response from the Working Group in March, which was then followed by an April consultation from WICS.

This paper sets out the response of the LP Working Group to WICS's April consultation document and the changes and updates which were shared at the workshop on 27th April. Since the Commission's publication of revised proposals in April, LPs have been working with other members of the Working Group (CAS, Scottish Water and CMA) to progress the proposals for:

(i) a support scheme for customers affected by COVID, and a wholesale charge deferral scheme that provides reciprocal support to LPs; and

(ii) measures to ensure the resilience of the market as we transition back to normal operations.

The Working Group is conscious of the need to represent all LPs, large and small, and welcomes the engagement of all LPs in discussions about the future operation of the market.

Modified proposals

The proposals contained in WICS's consultation paper and the slide presentation circulated following the workshop on 27 April, differ from the original proposals of the Working Group in a number of key respects, which we've expanded on in sections 2 and 3 below.

In summary, our position on each of WICS two main proposals is as follows:

- ***Customer support scheme***: although the detail of the support scheme outlined in Scottish Water's document 'COVID New Deferral Scheme Summary' is not as flexible to customer needs as the original LP proposal, which we recognise is partly as a result of implementation system constraints, the scheme will nevertheless provide a greater level of support for customers and for LPs than was afforded by the WCDS; and
- ***Market resilience***: we recognise that COVID has exposed the NHH market to extreme stress, and we understand and support the Commission's intent to ensure that the market is more resilient to any similar shocks in the future. Our remaining concern is that the financial resilience proposals could be especially onerous for small players and new entrants, even if they sign up to the new licence conditions. Additionally, the latest proposal from WICS and Scottish Water is that the measures would be introduced a year earlier than LPs proposed and a year earlier than set out in the April consultation document from WICS – we outline this in more detail in section 3 below.

Key principles of the Working Group

In the interests of achieving a robust and transparent outcome for the market as a whole, we have captured below the key principles that we sought to apply both to the proposals themselves and in the process of developing them, and to which we remain committed:

- Retailers should have flexibility to provide targeted support for those COVID-affected customers who need it most;
- Customers who can pay, should pay;
- Customers should be encouraged to pay amounts that they can afford to pay, when they can afford to pay them, rather than accumulating more debt through the deferral of charges;
- Practical solutions for implementation: keep it simple, cost-effective and transparent;
- Interaction between all market stakeholders, and across processes, should be transparent and should support collaborative working to deliver against key criteria;
- Decisions and policy development should be based on evidence;
- Inclusion and trust are paramount;
- Retailer involvement during policy implementation is essential to ensure that the needs of customers remain at the heart of service delivery and practice; and
- All market players should be proactive not reactive to emerging or known market issues.

In the following sections we have highlighted some outstanding concerns about the customer support scheme and the financial resilience proposals, and have outlined proposed changes to address these issues. We have also provided further detail on two new licence conditions proposed by WICS and thoughts on the future role of a senior stakeholder forum. Proposed amendments to Standard Licence Condition A9 to improve transparency of operations across both markets, will be shared with WICS early next week.

2. Customer Support Scheme

The final scheme proposed is not as wide-ranging or as flexible in terms of its ability to meet customers' needs as LPs originally proposed, following revisions made by WICS and modifications made by Scottish Water as a result of practical constraints within the central system.

- ***Targeted relief***: Our initial intent was that LPs would be able to offer tailored support to meet the needs of customers' most impacted by the pandemic, in the form of extended payment terms.

  All members of the Working Group (including Scottish Water, CAS and the CMA) agree that it is a key principle of the market that where customers can afford to pay, they should do so. Customers should not be encouraged to defer payment and accrue more debt if it can be avoided. Indeed, there are some customers who have told LPs when offered a deferral of charges, that they would prefer to continue paying rather than accrue debt. Our preference is to encourage customers onto flexible repayment plans, over an extended period of time, which are affordable and provide financial support to customers as they begin to re-establish trading.

  Consequently, we propose that LPs should be able to target support to those customers who need it most, and in a form appropriate to that particular customer's needs. Rather than proactively offering a charging deferral scheme to all eligible customers (as defined in the April consultation paper), it is proposed that:

  - LPs would use proactive and tailored communications to contact those customers most affected by COVID, offering them access to the COVID support scheme with a range of extended payment options available. The aim would be to encourage re-engagement where customers have previously ceased paying; and

- LPs make all eligible customers aware of the availability of COVID support, for example through their websites or bill messaging. This will ensure that in the event that a customer's circumstances change, they are aware of, and able to access support.

All members of the full Working group fully support the proposals outlined above.

- ***Practical implementation:*** the support scheme will be implemented through the CMA settlement system to ensure transparency. Whilst our aim is to ensure that the scheme is as simple and cost-effective to administer as possible, the practical constraints of the settlement system will mean that the arrangements for wholesale charging relief won't in all cases be able to match the arrangements that an LP will offer to its customers.

  Following discussions, all members of the full Working Group, including Scottish Water, recognise and accept that the process for applying relief at a wholesale level through the settlement system may differ from the way in which the relief is applied by retailers for the benefit of their customers. The key stipulation is that the relief must apply to the same SPIDS and must cover the same time period. Where a customer chooses to exit the scheme early, or repays all of their outstanding debt, retailers must notify Scottish Water so that the wholesale charging relief for that customer can be unwound.

- ***Non-engaged customers:*** Following discussion at a meeting of the full Working Group on 4 May, Scottish Water has agreed that in order to reflect the terms of the Disconnection Code, the period for the deferral of wholesale charges for 'non-engaged' customers should be a maximum of 6 months rather than 3 months, as proposed in their draft policy statement.

  LPs' original proposal to align the deferral period for these customers with the Disconnection Code timescales was based on the assumption that if a customer had not paid by the end of this period, they could be disconnected (or that an alternative to disconnection would be in place). Given that there remains a question over LPs' ability to disconnect for non-payment, and the recognition in WICS's consultation (para 4.7) of the potential for the temporary removal of disconnections to increase LPs' bad debt costs, we would propose that if the disconnection issue has still not been resolved by the end of the 6 month deferral period, then the period of wholesale charge deferral for non-engaged customers should be revisited. In the meantime, we would welcome any update from the Commission on the timescale for the disconnection question to be resolved.

3. Financial Resilience

We recognise WICS's concerns about the vulnerabilities of the market revealed by the COVID crisis and we understand and support the concept of ensuring that LPs, and the market as a whole, are sufficiently resilient to withstand a shock of similar scale in the future. However, the final proposal made by WICS and SW differs from our original proposal in a number of respects and there remain a number of areas on which we would welcome further clarity, as set out below.

- ***Implementation date***: The key difference is the implementation date. Our understanding was that the new financial resilience measures would apply from April 2023, to dovetail with the unwinding of the customer support mechanism and the repayment of deferred wholesale charges to Scottish Water, allowing a period of recovery and transition for LPs. Although the Commission's April 2021 consultation paper says (page 10) that the new financial resilience measures will be effective from April 2023, the Scottish Water draft policy document proposes that the new wholesale payment terms, requiring up to 14 weeks pre-payment, will be effective from April 2022, which shortens the transition period by a year.

We had previously worked on the basis that the new financial resilience requirement should not put undue pressure on LPs while the financial impact of the pandemic is still evident, as long as they were continuing to provide extended repayment plans and support to COVID-affected customers – and we continue to believe this is an important principle. Consequently, in order to ensure that we don't penalise LPs who may be stretched as a result of supporting customers during recovery, we propose that:

- those LPs who sign up to the new customer support and financial resilience licence conditions, would revert to 2 months wholesale charge pre-payment as proposed, but, in recognition of their willingness to work to ethical business principles, for any LPs assessed as higher risk (tier 3), the requirement to pre-pay 3 months wholesale charges would not be effective until April 2023. This would give them the opportunity to improve their financial resilience and credit score as we transition back to normality;
- any LP not prepared to sign up to the two new license conditions would transition to the new requirement for 3.5 months pre-payment of wholesale charges from April 2022.

- ***Evidence-based policy***: We would welcome further clarity and transparency from WICS on the evidence base supporting the requirement for 12-14 weeks advance payment. From our discussions with LPs not represented on the WG, we know this is a significant area of concern. We are keen to ensure this can be explained in a way that provides transparency, rationale and buy-in.

  Would it be useful to ask LPs to provide information on their funding arrangements in order to understand how many have taken on new debt/equity over the last 12 months and if so, how much was required as a result of COVID? This would give the Commission evidence of the financial implications of the pandemic for each market player and may help Scottish Water to further develop their thoughts on assessing financial resilience and the corresponding credit arrangements.

- ***Transparency***: We would welcome further clarity from WICS on a number of points:
  - SW's Policy document says that LPs may '*apply for an individual assessment of their financial resilience by Scottish Water based on financial ratios'*. This suggests that bespoke arrangements may be available for individual LPs. In order to ensure transparency and that there is no discriminatory treatment, we propose that any bespoke arrangements would require to be published and that the terms would be made available to other LPs who are able to demonstrate similar levels of financial strength.
  - Slide 9 of WICS's slide deck refers to Scottish Water '*reviewing LPs ongoing financial position*', but it is not clear what this would entail, including the format and frequency of the review and the implications for an LP.
  - Slide 9 of WICS side deck refers to additional requirements being placed on LPs with more than 30% market share, but it is not clear what these requirements are and whether any additional requirements would place those LPs at a disadvantage compared to other LPs of similar financial strength.
  - There is an inference in Scottish Water's draft policy document 'Licence Provider Deferral Cap, Credit Security and Financial Resilience Policy' (and reiterated in their response to the consultation document), that the financial resilience measures will mitigate the need for any future market support, in the event of a shock of similar scale to COVID. Our understanding from the Commission was that although this measure is *intended* to mitigate future risk, it does not rule out the possibility of some form of

support, should it be needed in the event there is a material impact on the market from an event of a similar scale occurring at a later date.

4. New Licence Conditions

The Working Group (WG) was asked in the April consultation document to submit draft licence conditions to the Commission covering (1) financial resilience and (2) customer support. The Commission instructed a law firm, Shepherd & Wedderburn, to assist and in mid-April a joint call took place between Shepherd & Wedderburn (S&W), the Commission, Citizens Advice Scotland and a representative of the Working Group. Shepherd & Wedderburn produced a note (attached at Appendix I) for consideration by the Working Group, which was a helpful development. Since that date there have been some amendments to the proposals outlined in the Commission's consultation document, primarily arising from the workshop on 27 April, which have yet to be reflected in the Shepherd & Wedderburn draft. A number of those points are highlighted below along with comments from the Working Group on S&W's bullet points:

Financial resilience

1. LPs have 3 options when it comes to the financial resilience and customer support licence conditions:
    a. they can agree to comply with both the financial resilience and customer support conditions; or
    b. they can agree to comply with only the financial resilience condition; or
    c. they can choose not to sign up to either.

    In light of these options, as proposed by S&W, we agree that there should be two separate conditions, one for financial resilience and one for customer support.

    The Commission has made clear that it expects all LPs to sign up to both conditions. Those who do, will benefit from a more gradual unwinding of the support provided previously in relation to wholesale prepayment. According to the additional details provided in WICS's document "Consultation on Covid Measures Update", LPs will be subject to different prepayment requirements (or, in some cases have the option of alternative forms of credit security) dependent on two things – which of the above options they select; and their credit rating/score which will be assessed according to the document attached at Appendix II "SW Credit Security and Financial Resilience" which Scottish Water shared with LPs on 30 April.

2. In light of the changes outlined at 1. above, it is no longer the case that "*LPs would be obliged to have in place at all times arrangements complying with the requirements of the financial resilience statement*". Page 3 of the "SW Credit Security and Financial Resilience" no longer contains any prescribed criteria as such. An LP, whether or not they sign up to the financial resilience licence condition will, by default, be given a risk level based on their credit score which, together with their decision as to whether or not to sign up to the licence condition, will determine the level of prepayments (or credit security, where relevant) that is required. Alternatively, LPs can also apply for an individual assessment of their financial resilience by Scottish Water based on financial ratios, which would require the provision of full audited and more recent interim financial information by the LP and would be subject to approval by the Commission.

3. It may be that the only requirement for the financial resilience licence condition is an obligation for an LP to:

    a. notify Scottish Water and the Commission whether it has decided to sign up to the financial resilience obligation; and,
    b. if it has, notify Scottish Water and the Commission whether:
        i. it wishes to rely on the credit score assessment as set out in Table 2; or
        ii. to provide evidence of a recent credit score assessment as set out in Table 2 of the SW Credit Security document.

4. As referenced in section 3 of this response:
    a. There is some inconsistency in the implementation date for financial resilience, the initial proposal was April 2023, but Scottish Water's policy document proposes that the new wholesale payment terms requiring up to 14 weeks pre-payment are effective from April 2022.
    b. The Working Group believes that the implementation date should be April 2023. However, if the decision is made to bring that forward, our proposal is that any LP signing up to the financial resilience and customer support licence condition and thereby demonstrating that it wants to do the right thing for its customers, should have until April 2023 to transition to the new arrangements.

    The Working Group suggests that the licence condition should refer to an effective date from which it will be applicable.

5. The bullet points refer to "*a document published from time to time by Scottish Water (with the approval of WICS) for the purpose of allowing LPs to evidence their financial resilience*". The Working Group suggests that changes to the document are also made with the agreement of the senior stakeholder forum or similar LP representative body (an obligation to "act reasonably" can be added if required but if so, that should be for all parties involved).

6. Is it the case that all LPs have credit scores? Could smaller and/or newer entrants have a low credit history resulting in low credit scores? If so, whilst we note there is the ability to apply for an individual assessment as set out above, smaller LPs may not have full audited accounts available.

7. The Commission has stated on page 7 of the "Consultation on Covid Measures" that LPs not signing up to the licence condition would have no access to the Market Health Check and would be kitemarked as a "high risk provider" on their website and on Scotland on Tap. Further information on this will be required in the interests of transparency.

Customer Support

1. We would welcome further consideration of implementing a time limit so that this part of the licence condition falls away once the support scheme has been unwound. Charges can only be deferred where they relate to services provided from May 2021 to 31 March 2022, and all wholesale charges have to be paid by March 2023.

2. Scottish Water has agreed that:
    a. the scheme is intended to give LPs flexibility in their arrangements with customers and that repayment plans, whereby customers are encouraged to pay regular affordable amounts, however small, are preferable to charging deferrals;
    b. the proposed operation at wholesale level is not intended to exactly mirror the timing of retail payments, as to attempt to do so would be unworkable in practice given the constraints of the central system.

3. The proposal that customers whose LP does not sign up to the support scheme would be allowed to transfer regardless of their debt could encourage the wrong type of customer behaviour. It would also significantly reduce the ability of the LP to recover that debt after the customer has switched and is inconsistent with the principle applied under the Market Codes and the WCDS, that customers must clear their debt before being allowed to change supplier.

4. All consequences of failure to sign up to the licence condition again need to be transparent.

Finally, LPs are of the view that they need to see the final versions of both licence conditions and the financial strength criteria before being asked to commit to them and, in particular, to have clarity on the implementation date for the financial resilience condition.

5. Future Role of the Working Group

The Working Group has been a positive forum for developing and discussing proposals over the recent months. We have been able to identify shared principles and common expectations about the way we want the market to work for all stakeholders and our customers, and to test the practical implications of ideas and options. We agree with the Commission that there is a continued role for a senior stakeholder forum, to develop a collaborative and transparent process for proactively identifying and addressing market issues as we move forward.

In order to ensure that we learn from our experience of the last few months and are able to build on both the strengths and the weaknesses of the Working Group process, we propose to arrange an independent review of the process to date, including interactions with the wider stakeholder community. This should strengthen the starting point for the new forum.

Once this review is completed, we would be happy to draft terms of reference and propose governance arrangements for the new group. We are keen to ensure that interaction across the market is transparent and supports collaborative working that is built on openness and mutual trust. Retailer involvement during policy development and implementation is key to ensuring that the needs of the customer remain at the heart of service delivery and practice.

We are conscious of the very short timescales before the new scheme is implemented and would welcome a discussion with WICS on the issues raised above, before the proposals are finalised.

SHEPHERD+ WEDDERBURN

FINANCIAL RESILIENCE AND CUSTOMER SUPPORT LICENCE CONDITIONS

BULLET POINT NOTE

1. The purpose of this note is to set out in bullet point form a suggested approach to (a) the drafting of two proposed licence conditions (one on financial resilience and one on customer support) for consideration by the working group and (b) consequential / related drafting points to give effect to the Commission's April 2021 consultation (see summary attached).

Financial resilience drafting

2. The (new standard) licence condition would provide as follows:

   a. Condition would only be applicable with the agreement of the LP; could be achieved by providing that condition would be "switched on" by WICS on LP request.

   b. LP would be obliged to have in place at all times arrangements complying with the requirements of the 'financial resilience statement', being a document published from time to time by SW (with the approval of WICS) for the purpose of allowing LPs to evidence their financial resilience.

   c. In developing / approving the statement, SW / WICS would be able to take account of particular concerns, e.g., around level playing field considerations.

Customer support drafting

3. The (new standard) licence condition would provide as follows:

   a. Condition would be partly applicable depending on preference of the LP; could be achieved by providing that Part A of condition would be "switched on" (and Part B of condition would be "switched off") by WICS on LP request.

   b. LP would be obliged:

      i. under Part A (if "switched on" (and Part B "switched off")), to pass on to its customers the benefits from the deferral of its wholesale charges under any wholesale charges deferral scheme; or

      ii. under Part B (if not "switched off"), to communicate to customers in plain and simple terms to explain lack of support to them and to facilitate switch without penalty or cost and with no ability to debt block.

   c. Condition would define a wholesale charges deferral scheme as the scheme established by SW for the deferral of wholesale charges in response to the COVID-19 crisis and any replacement scheme(s).

Consequential / related drafting

4. It will be necessary to provide for modification of each wholesale services agreement so as to reflect the consequences of LPs' choices as regards the two licence conditions as follows:

   a. where the financial resilience condition and Part A of the customer support condition are applicable to LP, wholesale prepayment of one month reintroduced in July 2021 increasing to two months in December 2021 (with additional flexibility to agree tailored credit credits consistent with financial resilience condition);

   b. where the financial resilience condition, but not Part A of the customer support condition, is applicable to LP, wholesale prepayment of one month reintroduced in July 2021 increasing to two months in October 2021; and

   c. where neither the financial resilience condition nor Part A of the customer support condition is applicable to LP, wholesale prepayment of one month reintroduced in July 2021 increasing to two months in September 2021 and three months in January 2022.

   The modification would be developed by SW and approved and directed by WICS in light of the position adopted by the LP as regards application of the two licence conditions.

5. It will also be necessary to modify the existing standard licence conditions so as to deal with customer prepayments as follows:

   a. where the financial resilience condition and Part A of the customer support condition are applicable to LP, it would be entitled to collect prepayments without limit of time;

   b. where the financial resilience condition, but not Part A of the customer support condition, is applicable to LP, it would be entitled to collect up to a maximum of three months' of prepayments from customers; and

   c. where neither the financial resilience condition nor Part A of the customer support condition is applicable to LP, it would not be entitled to receive any prepayments from customers.

6. Lastly, it will be necessary to make provision in the market code as regards inability of LP to debt block in event that Part B of new customer support licence condition is not "switched off".

[redacted]

Summary of proposals in April consultation document

	A licensed provider commits to financial resilience and customer support measures	A licensed provider provides commitments only to the financial resilience measures	A licensed provider does not provide commitments on financial resilience and customer support measures
Wholesale prepayments	Reintroduce one-month prepayment of wholesale charges due to Scottish Water in July 2021. Reintroduce two-month prepayment of wholesale charges due to Scottish Water in December 2021.	Reintroduce one-month prepayment of wholesale charges due to Scottish Water in July 2021. Reintroduce two-month prepayment of wholesale charges due to Scottish Water in October 2021.	Reintroduce a one-month prepayment of wholesale charges due to Scottish Water in July 2021 and a two-month prepayment in September 2021. Increase, thereafter, the prepayment requirement to three-months of wholesale charges due to Scottish Water in January 2022. Scottish Water would continue to pay an interest on the balance of any prepayment held.
Customer prepayments	Lift the cap on customer prepayments that the Commission recently introduced as an additional customer protection measure.	Licensed providers would only be allowed to collect up a maximum of three month of charges in advance from their customers.	Given the risks associated with customer prepayments and in the absence of robust evidence of a licensed providers financial resilience, the Commission is proposing to impose a complete ban on customer prepayments. Licensed providers would, therefore, not be allowed to take any payments in advance from their customers for any new contract agreed from 1 June 2021 onwards.
MHC	Pending the outcome of the MHC, the Commission could provide a quality kitemark of the performance of the licensed provider.	The Commission plans to take into account in its commentary whether that licensed provider has taken reasonable steps to support its customers affected by the pandemic.	The licensed provider would not access the Market Health Check process and, as a result of this, would fall in the lowest of the three-tier level. The Commission would therefore kitemark the retailer as a ‘high

	Licensed providers who commit to these licence requirements and can successfully complete a MHC would likely be in the top tier.		risk provider' and would incorporate this commentary on Scotland on Tap and on its website.
Credit terms	Offer licensed providers the flexibility to agree with Scottish Water tailored credit term arrangements that are consistent with the financial resilience requirements.		
Other		Licensed providers would also highlight on their website and write to all potentially affected customers in plain and simple terms explaining why it is not providing any Covid-19 support to its affected customers. The licensed provider would also facilitate any customer to switch to an alternative licensed provider without any penalty or cost to the customer, irrespective of the contract that is in place or of any outstanding debt.	Licensed providers would also highlight on their website and write to all potentially affected customers in plain and simple terms explaining why it is not providing any Covid-19 support to its affected customers. The licensed provider would also facilitate any customer to switch to an alternative licensed provider without any penalty or cost to the customer, irrespective of the contract that is in place or of the outstanding debt.

COVID New Deferral Scheme Outline

1. Background and Purpose

Following proposals from the LP Working Group, WICS' consultation on 2 April 2021 confirmed plans for a new deferral scheme which would supersede the 2020 WCDS to provide continuing support to business customers impacted by COVID.

The purpose of this paper is to provide an overview of the proposed operation of the new deferral scheme. Detailed process and procedural documentation will follow separately.

2. Scope of new Deferral Scheme

The scheme is targeted at small and medium-sized businesses so will allow Licensed Providers to apply to Scottish Water for a deferral of wholesale charges for Supply Points with a maximum meter size of 25mm or smaller, unmeasured services or those charged for surface drainage only.

The new scheme will allow licensed providers to defer some or all of the primary wholesale charges for a given Supply Point to reflect extended payment terms which have been agreed at a retail level with that customer ('**Deferred Customers**').

Licensed Providers are also able to apply for deferral of some or all wholesale charges for Supply Points where retail charges are unpaid and:

- the customer has not engaged with the LP during COVID (so has not agreed to extended payment arrangements);
- at the date of application for deferral recovery actions have been initiated; and
- not more than 3 months have elapsed since the start of recovery actions (being the timescales set out in the Disconnections Document from non-payment of invoice to disconnection) ('**Non-engaged Customers**').

Charges relating to services provided from 1 May 2021 until 31 March 2022 can be deferred under the new scheme i.e. there will be no deferral of charges relating to services provided prior the start of the scheme or from 1 April 2022 onwards.

3. Cap on Deferrals

As set out separately in Scottish Water's draft Deferral Cap Policy, deferrals would be capped at 10% of a Licensed Provider's eligible charges in any given settlement report. Eligible charges are those associated with all Supply Points registered to the Licensed Provider which would be eligible for deferral under the terms of the scheme (i.e. <=25mm metered, unmetered or surface drainage only Supply Points).

4. Applying for Deferrals

Licensed Providers will be able to apply for deferrals using the same application process as the existing WCDS scheme. This involves submitting a file containing details of all SPIDs to be deferred via e-mail. Multiple SPIDs can be submitted in a single bulk application. SW is simplifying the process and the necessary supporting information per SPID is being significantly reduced compared with WCDS.

5. Controls

Deferral of wholesale charges is being made available to enable Licensed Providers to provide a like-for-like support to their customers and pass on the benefits from the deferral of wholesale charges to their customers. Whilst the supporting information for applications is being significantly reduced compared with WCDS, Licensed Providers will still be expected to retain evidence that wholesale deferral has only been requested where corresponding support has been provided at a retail level or where a retail customer has not engaged during COVID that recovery action has been initiated and has not yet concluded. This evidence will be subject to audit by [Scottish Water/the Market Health Checker].

6. Application of Deferrals in the Central Systems

All deferrals will be applied at a per SPID level via the Central Systems. Deferrals will be applied in the Central Systems by setting the D2006 Section 29E discount to a value of up to 100% at affected SPIDs, effective from 1 May 2021 at earliest.

7. Invoicing and Deemed Charges

The reduction in wholesale charges resulting from deferral will be reflected in any subsequent settlement reports for the periods covered by the deferral. As is the case with the existing WCDS scheme, Scottish Water will additionally issue invoices to Licensed Providers for deemed charges which are an estimate of the value of the deferred charges. These invoices will [not be payable at the time of issue] and ensure that Scottish Water has a claim against any deferred charges should the LP become insolvent prior to repayment.

Deemed charges will be based on additional reports run by the CMA as a value added service for the relevant SPIDs in a test version of the Central Systems with no discount applied. LPs will be provided with the relevant supporting details for any SPIDs registered to them which have deferral applied.

The deemed charges will be cancelled at the time that the deferred charges become repayable and are invoiced via the normal settlement processes (further details below).

8. Repayment of deferred charges – change of circumstances

Licensed Providers should notify Scottish Water when:

- a **Deferred Customer** has agreed that no further charges will be deferred, in which case the the D2006 Section 29E discount will be reverted to 0% effective from the date that retail deferrals have ended
- a **Deferred Customer** has paid deferred retail charges, in which case the D2006 Section 29E discount will be reverted to 0% with backdated effect, removing any previously applied wholesale deferrals
- a **Non-Engaging Customer** has engaged with the LP and agreed extended payment terms in which case the SPID will be re-designated as a **Deferred Customer**
- a **Non-Engaging Customer** has paid outstanding retail charges in which case the D2006 Section 29E discount will be reverted to 0% with backdated effect, removing any previously applied wholesale deferrals

Where 3 months have elapsed since the date of application for a **Non-Engaging Customer** and the Licensed Provider has not notified Scottish Water of the agreement of extended payment terms with the customer, the D2006 Section 29E discount will be reverted to 0% with backdated effect, removing any previously applied wholesale deferrals.

Following the removal of deferral in any of the scenarios described above, the wholesale charges will become due via the normal settlement process i.e. following the next scheduled settlement run for the period for which deferral has been removed.

9. Repayment of deferred charges – end of the scheme

All deferred charges which remain outstanding will be repaid in instalments over 2022/23 via additional R4 settlement runs by the CMA. Ahead of each R4 run the D2006 Section 29E Discount will be reduced to 0% by Retrospective Amendment for the month which is about to be re-run so that the settlement report includes the previously deferred charges. ***Section 12 below sets out proposed timing of R4 runs.***

10. WCDS Deferrals

Deferrals under the existing WCDS scheme (i.e. relating to charges for the period from March 2020 up to April 2021) will be paid in monthly instalments as originally planned following R4 settlement runs in which the deferrals will be removed. ***Section 12 below sets out proposed timing of R4 runs.***

11. WCDS Support for unmeasured customers

Support for unmeasured customers impacted by COVID with volumetric charges will continue to be available to all LPs under the WCDS. The conditions of that support and the application process will be unchanged.

12. R4 settlement schedule for repayment of both WCDS and new deferral scheme

R4 runs will be issued starting with the publication of the March 2020 R4 report at the start of June 2021 as set out in the current settlement timetable. Runs would be compressed during 2021/22 with more than one R4 run per month so that the March 2021 R4 report is run in January 2022, ahead of the 2020/21 RF run.

R4 runs for 2021/22 could either be run monthly between February 2022 and January 2023 or could start from April 2022 with a slightly compressed timetable to ensure that the March 2022 R4 report is run in January 2023, ahead of the 2021/22 RF run.

This approach retains the planned timing of RF runs ensuring LPs awaiting credits not related to the deferral scheme are not disadvantaged by delays. It also ensures that the RF report reflects the final settlement position, maintaining the integrity of regulatory reporting and that all deferrals are unwound by March 2023 as planned.

See separate Excel schedule for detailed proposed timetable.

7 May 2021

SCOTTISH WATER

Castle House
6 Castle Drive
Carnegie Campus
Dunfermline
KY11 8GG

Andrea Mancini
Assistant Director
The Water Industry Commission for Scotland
First Floor
Moray House
Forthside Way
Stirling FK8 1QZ

Dear Andrea,

Measures in support of the retail market in light of the current pandemic

Scottish Water welcomes the opportunity to respond to this consultation. We recognise the importance of implementing a new scheme to support Licensed Providers (LPs) and business customers. In the spirit of ethical business practice, we have already started to work with the LP working group to design this scheme, and have found that to be a productive approach.

Underpinning principles

We note the steps that the Commission has already taken to support the market. We agree that any proposals for improving the market framework should ensure that benefits are passed on to business customers and should not lead to Scottish Water bearing bad debt risks that it is not financed for.

Scottish Water agrees that LPs need to be appropriately financially resilient so that, once the current situation has stabilised, they can withstand unexpected shocks without recourse to new market support measures. We note that the Commission has stated that LPs will need to provide adequate prepayment or credit security for charges that they are liable for. In the absence of other evidence, LPs should be able to provide 3.5 months of prepayment. Where LPs have signed up to the appropriate conditions, Scottish Water will negotiate tailored agreements for alternative payment terms as set out in Sections 4.2 – 4.4. Scottish Water has published a draft policy on its approach.

Measures to transition the market back to its normal operations

Scottish Water agrees that a new deferral scheme should be targeted at small and medium-sized business most likely to be affected by Covid-19 restrictions, that is, sites with no meter larger than 25mm or which have only unmeasured or drainage charges. We agree that the scheme should allow LPs to arrange further deferral and repayment plans, provided that the benefits are passed on to their respective customers.

To ensure that there is no detriment to Scottish Water, we agree that the level of deferrals should be capped and that deferrals should only be allowed for charges relating to services supplied from the opening date of the new scheme. This means that charges already deferred under the existing scheme should not be eligible for further deferral, and will, therefore, be expected to fall due during the operation of the new scheme.

It would be appropriate for deferred amounts to be calculated by the CMA on a SPID-level basis.

We note that an LP's participation in the scheme is dependent on their agreeing to the proposed new licence conditions on customer support and financial resilience. In relation to the financial resilience condition, we would like to agree the conditions for financial resilience with the Commission so that they can be effectively monitored through the market health check.

We also agree that it would be appropriate to amend the Standard Licence Condition A9 to increase the transparency of LPs' activities across the GB market.

Timetable

Scottish Water has published draft guidance documents and will finalise these in line with the timetable set out in the consultation. We plan to amend individual WSAs to wind up the existing scheme and implement the new scheme by way of individual notices to each LP. In order to implement the scheme in May, we consider that all LPs will need to have notified Scottish Water of their intended participation in the new scheme by 10 May to enable the production of individuals WSAs.

Conclusion

Scottish Water is supportive of this policy approach and considers that the proposals are appropriate in the circumstances. We would be happy to provide further explanation or detail should that be helpful. We are happy for this response to be put into the public domain.

[redacted]

[redacted]

[redacted]

Alan Sutherland
Water Industry Commission for Scotland
First Floor, Moray House
Forthside Way
Stirling, FK8 1QZ

07 May 2021

Dear Alan

Consultation: Measures in support of the retail market in light of the current pandemic

Thank you for your recent letter regarding measures in support of the retail market in light of the current pandemic. Overall, we are in support of both conditions of the voluntary license and would sign up to both of these conditions. Please find below our feedback on the consultation.

<u>3.1 A new deferral scheme</u>

Following a review of the principles of the new deferral scheme, we are overall in support of the introduction of a new deferral scheme. We already provide a tailored 'above and beyond' deferral scheme to our customers depending on their requirements, and will continue to do so under the new scheme to ensure that we support our customers as best as we can. We have (and continue to) provide additional support such as extended payment terms to some large customers who are not eligible for the current or new deferral scheme due to their meter size, but have been significantly impacted by the pandemic.

We would like to suggest the inclusion of some additional eligibility criteria for customers to ensure that the scheme only benefits those who genuinely need a deferral of some (or all) of their water charges. This would be in line with the current Wholesale Charge Deferral Scheme and it was not clear to us if this would continue in the new deferral scheme. For example, we do not believe that it would be appropriate for a bike shop which has likely traded well throughout the pandemic to be eligible for a deferral of charges, however a nightclub which is still unable to open should be able to access a full deferral whilst their business remains closed.

We would also like to highlight the significant impact that this new scheme will likely have on the bad debt position of Licensed Providers in the market. Whilst we have not had a very high uptake in customers taking advantage of

Veolia Water Projects Limited
1 Masterton Park, South Castle Drive,
Dunfermline, KY11 8NX

Tel: +44(0)203 567 8120
Email: businesswater@veolia.co.uk

www.veolia.co.uk

Registered Office:
210 Pentonville Road, London, N1 9JY
Registered in England & Wales: 2490118

A group company of
Veolia UK Limited

our current deferral scheme, we have not received any payments from those who have signed up to the scheme, and one customer has entered liquidation. This means that we have had to write off all debt whilst incurring the wholesale costs for these customers. Had we opted to defer the wholesale charges for these customers, we would have also paid interest charges without receiving any income and therefore have additional losses associated with that customer.

3.2 Financial Resilience

Following the additional information which was provided by Scottish Water in regards to Financial Resilience, we are happy that using an independent credit check or audited year end accounts would suffice to determine a Licensed Provider's financial resilience.

Yours Sincerely

[redacted]

Veolia Water Projects Limited
1 Masterton Park, South Castle Drive,
Dunfermline, KY11 8NX

Tel: +44(0)203 567 8120
Email: businesswater@veolia.co.uk

www.veolia.co.uk

Registered Office:
210 Pentonville Road, London, N1 9JY
Registered in England & Wales: 2490118

A group company of
Veolia UK Limited

Water plus
with you every drop of the way

Water Plus
Two Smithfield
Leonard Coates Way
Stoke-on-Trent
Staffordshire
ST1 4FD

7th May 2021

Emailed to: competitionteam@watercommission.co.uk

Reference: Measures in Support of the Retail Market in Light of the Current Pandemic

Dear Sir/Madam,

Thank you for providing us with the opportunity to comment on the proposed approach to unwinding the existing measures in support of customers in the Water Retail market in Scotland. This consultation sets out the intentions that WICS will follow when establishing the next steps to transition the available support in the industry at a high level, however we believe more detail will be required for Licenced Providers to make the absolute commitments listed.

Whilst Water Plus will not be in a position to make either of the commitments until full definitions and detail on the associated schemes and processes (namely the upcoming "deferral scheme" and the "Market Health Check") are made available, there are some challenges and questions that we would like to discuss at this stage.

We have included in the appendix below our high-level thoughts, priorities and concerns that we believe should be considered as the process develops. These include:

- **Supporting those who need it** – any support to the market needs to be focussed on helping customers who have been negatively impacted by Covid-19. In its current form, the lack of eligibility criteria could result in these customers not getting the level of support they need in favour of other customers who have not been negatively impacted.

- **Customer switching despite contract or debt status** – we are concerned that not only will this present a risk of customer abuse, but, as it is contrary to existing customer contractual arrangements and increases the bad debt burden on retailers, it may be open to legal challenge against the regulator.

- **Justification of an extended pre-payment period** – as the payment of wholesale charges are already set to return to several months of pre-payment, the effective risk of bad debt will return to sitting with the Licensed Provider. The extension of these terms appears more punitive than aligned to risk.

- **Flexibility in delivering the deferral scheme** – the priority for Licensed Providers must be to ensure that the scheme is easy and simple for the customer base to access, and as such we would appreciate additional clarity around the phrase 'like-for-like' within the commitment and what flexibility may be available.

- **Further engagement on the deferral scheme** – We are keen to engage further in the development of the wholesale charge deferral scheme, and have presented our position on how best to deliver this for customers, Licensed Providers and the wider market in general. In particular, we believe the scheme must be developed to include clear and valid 'rejection criteria' to prevent potential abuse of the system.

- **Further engagement on market health checks** – Whilst we do not foresee any major challenges in this area, we are eager to work with the Regulator to ensure this process is fair and effective for the market.

We would be more than happy to discuss these points in more detail, so please do not hesitate to contact me or someone from the Legal and Regulation team (contact details below or simply email [redacted]).

Yours sincerely,

[redacted]

Appendix 1: Water Plus Views

Supporting the customers who need it

It is particularly important that the market continues to work for, and support, customers who have been negatively impacted by the on-going pandemic. That said, it is also important that the market returns to normal for those who are unaffected or are otherwise sufficiently able to engage and pay. A critical balance will need to be struck to enable Licenced Providers to return to recovering charges where it is fair, without creating undue pressure on suffering businesses.

The introduction of support measures and the financial impact of charge deferral will inherently add cost and complexity to the market, therefore it will be key for the proposed system to ensure that any and all support is tailored to work for those who need it. To ensure that any mechanism is fit for purpose, we would encourage WICS to provide clarity around customers needing to be affected by Covid-19 to receive such benefit. This approach would allow Licensed Providers to recover payment from those who are able to pay, and ensure that unaffected customers do not benefit at the cost of the wider market interests.

As the process of reopening is now well underway, and the Scottish Government has already begun the process of relaxing restrictions across the country, we believe that to some extent the case for an outright 'deferral' has weakened for a number of customers. For a number of customers, the worst impacts will have already have been felt by this stage and there is limited benefit to a 'deferral scheme' relative to agreement of reasonable terms for repayment. We would encourage WICS to consider whether for the majority of customers, ensuing the availability of repayment schemes may be more appropriate.

Per the round-table on the 27th of April, we welcome the discussion on and expectation that Licensed Providers will engage in some element of filtering applications. That said, a key risk remains given the current position that customers are able to switch away without penalty (despite contract or debt). We believe that it is important that valid and uniform rejection criteria be developed to ensure that there is some standard for rejection that, once satisfied, prevents a customer attempting to switch away to abuse the system.

Customer switching despite contract or debt status

"The licensed provider would also facilitate any customer to switch to an alternative licensed provider without any penalty or cost to the customer, ***irrespective of the contract that is in place or of the outstanding debt."***

As identified in the cover note above, we do not believe that the introduction of a requirement for licensed providers to facilitate switching away to an alternative provider represents a tenable position in all current potential circumstances.

We recognise the role of the retailer in ensuring support is available to the customer base who needs it, however as listed this requirement appears to represent significant regulatory overreach. As currently drafted, this would effectively devalue all contracts with the customer base without clear justification. There is a risk that such an opportunity may be open to abuse from the customer base to avoid payment of outstanding debt, which will be particularly acutely felt considering the current lack of requirements to evidence the impact of the on-going pandemic to apply for such a scheme.

Whilst framed as 'ethical based regulation', we are concerned that this approach cannot be deemed reasonable or 'voluntary'. The ability for Licensed Providers to uphold their contracts and chase debt is critical for operation in the market, and the removal of this ability is not optional. We would encourage WICS to review their position and consider introducing a better specified position (i.e. better aligned to impact of Covid) as a wider requirement rather than attached to a theoretically optional commitment.

Further to the above, we would challenge the requirement for a Licenced Provider to explain to their customer base why they are 'not providing support' if this specific commitment is not made as is currently proposed. Objectively and indisputably we are providing Covid support to our customer base, regardless of support from the regulator, market operator or wholesaler and such a binary requirement is not reflective of actual practice.

Clarity on "Like-for-like" basis

The technical development and operational cost of a Licensed Provider offering such scheme specifically as described remains unclear. Our experience from the previous rollout of such a scheme identified that the listed approach did not offer the best *value for money* for either the customer or the Licensed Provider. We strongly encourage WICS to consider clarifying the wording of this commitment to ensure that LPs are not unduly constrained to providing a specific type of support where alternative more effective approaches may be possible.

It is our perspective that any such commitment should be to ensuring that the level of support made available to customers is *at least as generous* as the listed scheme. This will provide opportunities for Licensed Providers to better ensure cost efficiency of delivery, whilst keeping customer interest at its core.

Justification of 3 month extended pre-payment terms

Whilst we currently expect to make the associated commitments to financial resilience, and therefore do not expect to be required to make payments in line with the extended pre-payment terms, we would still challenge the basis for their introduction.

By the time of introduction, wholesale charges will already be returning to being paid by licenced providers in advance of the services being delivered to the customer base. In addition, there is already a Provider of Last Resort process to replace an outgoing Licenced Provider should one fail. Due to the combination of these factors, once the market has moved back towards normality we do not believe that the 'bad debt risk' sufficiently sits with Scottish Water to justify this extended pre-payment period.

If this extended pre-payment term is instead intended to be an incentive toward engagement with the Market Health Check process, we believe there may be more appropriate options available. We would welcome further discussion in this area.

Continued Engagement – New Deferral Scheme:

We expect that as these proposals and schemes continue to be developed and progress, they will be subject to further industry discussion and Water Plus will have additional opportunity to raise challenges or provide comment on the specific details.

In previous consultation responses, we listed three key criteria that we believe any transition arrangements would need to follow to ensure the process is fit for purpose for the industry, ensuring that any scheme remains:

- Flexible and Responsive – To retain effectiveness throughout the unwinding process and able to react to any potential significant change in circumstances.
- Simple for the end-user – To ensure that a clear and simple message can be communicated to the customer, minimising nuisance and reducing barriers to customer uptake.
- Cost-effective for all stakeholders – To ensure that any mechanism is deliverable and does not create additional risk of failure.

We would encourage WICS to ensure that these principles remain at the core of policy development within the established Working Group, and it is likely on these principles that we would judge our ability to make any commitment to following the to be established scheme.

Continued Engagement – Market Health Checks:

We look forward to hearing more information around the upcoming Market Health Check process, and currently expect to be able to make the listed commitment without significant challenge at this stage. We will continue to monitor this position as the policy develops and are willing to discuss or engage further should this be beneficial.

At a high level, we believe that the priorities for any such market health check will be to ensure that the process is not only fair for all participants but also cost effective for all parties involved. As such, we are encouraged by the preliminary alignment towards existing financial standards and believe that the use of existing processes will minimise cost and burden on Licensed Providers.

Priory House
Abbey Road
Pity Me
Durham
DH1 5RR

07 May 2021

Alan Sutherland
Chief Executive
The Water Industry Commission for Scotland
First Floor
Moray House
Forthside Way
Stirling
FK8 1QZ

Dear Alan

Measures in support of the retail market in light of the current pandemic

Following release of the consultation on 2 April 2020 regarding measures in support of the retail market in light of the current pandemic, we have considered the issues and have set out our views below.

Disconnection for non-payment

The current stop by Scottish Water on disconnection for non-payment fundamentally increases risk for Licensed Providers making the market in Scotland significantly less attractive. The removal of the threat of disconnection leaves Licensed Providers with no mechanism to cease the supply to a non-paying customer, meaning a customer will see no consequence of not paying their water bill. At the same time, Licensed Providers are required to continue to pay Wholesale Charges to Scottish Water. Removing the ability to manage this issue will adversely impact the integrity of the market because the costs arising from those who don't pay ultimately have to recovered from those who do pay. This is not the interests of customers. There isn't another market where suppliers are expected to continue to supply without any ability to take action for non-payment. As a principle, it should be a basic right to stop supplying.

The impact will be exacerbated by the pandemic because deferral schemes, which have provided support to customers particularly adversely affected by the pandemic through deferral of payment, are building up customer debt and delaying the start of enforcement and disconnection processes. Without the ultimate sanction of disconnection, this debt is a larger amount and at a greater risk than usual of non-payment.

Inability to disconnect for non-payment is also creating a dampening effect on customer switching because without the disconnection threat, levels of debt are building and Licensed Providers will not allow customers with debt that has built up to switch to another supplier.

Consequently, at a time when bad debt costs for Licensed Providers are already increasing due to the impact of the pandemic on Scottish businesses, the impact of the inability to disconnect for non-payment is compounding this further. We note that the Working Group proposed that retail margins be increased through a mid-year amendment to default charges to recover the increase in risk and cost. Wave's view is that no increase in retail margins will be sufficient to address this degree of increased risk, so this can only be an interim short-term solution. The root cause of the problem is the legislation and Scottish Water's (re)interpretation of it. Given that Scottish Water has indicated that it cannot amend its current interpretation and we understand that no viable technical alternative has been identified, then the market needs Scottish Water to begin the process of amending the legislation to reinstate the ability for Licensed Providers to

Registered Office
Northumbria House, Abbey Road
Pity Me, Durham, DH1 5FJ

Registered in England and Wales
Company Number 03017251
Anglian Water Business (National) Ltd

request temporary disconnections for non-payment. Given the importance of the issue and recognising that it will take some considerable time to complete, the market should expect a firm commitment from Scottish Water to begin this process urgently, supported by an appropriate timescale which can be monitored.

Customer pre-payment

Wave is surprised to see the change in direction on customer pre-payment given that the Commission's policy decision in April 2020 said

> "allowing pre-payments in excess of three months would be inappropriate. Were [the Commission] to allow for longer pre-payment options, there is a material risk that, if any individual retail entity is not appropriately capitalised, it could expose the customers of that retail entity to a material loss in the event of the entity's entry into administration."

Greater clarity on how the Commission will satisfy itself that it would be appropriate to relax this restriction and be confident that there will be no mis-use of the pre-payment option would be welcomed.

Increased transparency of licensed provider's activities

Evidence from the published accounts of Licensed Providers operating in both the Scottish and English markets show that some Licensed Providers are loss-making, most likely as a result of the market design and current working arrangements in the English market. Consequently, there is a high likelihood that there are subsidies between the Scottish and English markets. Therefore, we anticipate that the only way in which Licensed Providers operating in both markets could provide the assurances proposed in relation to cross-subsidies, is if changes are made to the English market to enable Licensed Providers to recover their efficient costs and make a reasonable margin. In the absence of these changes in the English market, it is unlikely that this proposal is viable in the Scottish market.

We hope our comments are useful and look forward to hearing the outcome of this consultation in due course.

Yours sincerely

[redacted]