

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

01 March 2021

The ongoing coronavirus (COVID-19) outbreak is presenting unprecedented challenges to businesses and the wider economy in Scotland. Mindful of its statutory duties to promote the interests of customers, the Commission has consulted on measures to support non-household customers affected by the pandemic and transition the market back to its normal operations.

This document summarises responses received to the consultation and sets out the Commission's decision to extend current support measures until the new measures that are set out in this document come in place (no later than May 2021). This document also sets out guiding principles for the introduction of new measures in response to the pandemic.

This document has been sent to:

- All Licensed Providers;
- Scottish Water;
- The Central Market Agency Limited;
- The Scottish Government; and
- Citizens Advice Scotland.

This document is also available on the Commission's website: www.watercommission.co.uk

1. Background

The Commission is committed, within its statutory duties, to ensure that business and other non-household customers, many of which are facing unprecedented financial and other difficulties during this challenging time, can, as far as possible, receive appropriate support.

Since the outbreak of the pandemic, licensed providers and Scottish Water have been working together to ensure that affected customers could benefit from a partial deferral of their water charges. In line with the principles of Ethical Business Practice, some licensed providers have also pro-actively offered affected customers payment plans and revised payment arrangements. Scottish Water has also supported licensed providers by temporarily suspending the two-month wholesale prepayment requirement on licensed providers.

The [pandemic](#) has also brought into focus the need to ensure that the non-household retail market is appropriately resilient and that retailers are able to cope with unexpected shocks. The Commission therefore considers it important to ensure that, in future, market participants are in a more financially sustainable position. The Commission wants to ensure that the market will work well for customers and that the lessons from the Pandemic are learnt. To this end, in November 2020 the Commission launched a [consultation](#) on steps to transition the market back to its normal operations and to ensure that the recent experience of all stakeholders is used to improve the market framework.

2. Temporary extension of the existing support measures in response to the pandemic

Following an industry-wide roundtable hosted by the Commission on 4 December 2020, licensed providers established a Working Group, chaired by Citizens Advice Scotland, to develop proposals to address the issues set out in the consultation. The Working Group has been developing proposals around the introduction of a new scheme in support of businesses affected by the pandemic and additional measures to ensure that licensed providers are (and remain) financially resilient.

The Commission has been pleased to see licensed providers taking ownership for the market framework and working together constructively on a solution consistent with the Scottish Government's Principles of Charging for the water industry. The Commission would like to thank Citizens Advice Scotland for its efforts in chairing this Working Group.

As we consider how to phase out current support measures, we are mindful of our statutory duties to ensure an orderly functioning of the market and that there is no detriment to the core business of Scottish Water. During this period, it is important to preserve the operation and integrity of the market and to provide as much certainty as possible to businesses. The Commission also wants to ensure that the unwinding of the current support measures is done in a measured and proportionate manner.

In light of this, and given the ongoing uncertainties of the pandemic, the Commission is taking steps to ensure that customers and licensed providers continue to receive support throughout these challenging times. The Commission is, therefore, extending the existing wholesale deferral scheme until the new scheme is in place. The new scheme will come into force as soon as practical – in any event before the end of May 2021.

The Commission is also extending the temporary relaxation of the pre-payment requirement of wholesale charges. We expect the one-month prepayment to be reintroduced in July 2021 and the two-month prepayment by the end of 2021. These steps will also provide additional time to finalise proposals for additional support measures and ensure a smooth implementation.

3. Representations received

The Commission received responses from six licensed providers and from Citizens Advice Scotland. The Commission would like to thank all stakeholders for their representations.

The table below summarises the comments received from individual stakeholders and from the Working Group.

Issue	Representation	The Commission's response
Current measures	Extend the current deferral scheme until the end of March 2021 to support the introduction of a new scheme in April 2021.	The Commission supports an extension of the existing scheme and has decided to extend the wholesale deferral scheme until the new scheme is fully operational to allow sufficient time to finalise the implementation of the new measures.
	Defer the reintroduction of the wholesale prepayment requirement on LPs.	The Commission agrees with this proposal. This will provide LPs additional time to prepare for the implementation of the financial resilience measures and continue to support their customers.
New measures	<ul style="list-style-type: none"> - A new scheme that allows LPs to offer tailored support to small and medium customers affected by the pandemic. LPs who offer deferrals to their customers could receive a wholesale deferral from Scottish Water over the same time period, on a like for like basis. - Scottish Water would charge LPs an interest on the wholesale deferred monies in line with the allowed for rate of return. - Scottish Water may cap the amount of wholesale deferred charges taking into account the creditworthiness of each LP in light of the increased exposure to bad debt risk. - The scheme would operate from April 2021. All deferred charges (and interest) would be repaid in full by March 2023. 	The Commission agrees with this proposal. The Commission's view is that the repayment of any deferred amount from the current scheme could also be postponed and aligned with the repayment of any charges deferred through the new scheme.
	The existing deferral scheme should be unwound in February 2021. A new debt relief mechanism funded by the Scottish Government should be introduced. Under this proposal any shortfall of charges would then be recovered through future adjustments to Scottish Water's wholesale charges.	The Commission considers that this proposal is not consistent with the Principles of Charging set out by the Scottish Ministers.
Financial resilience	LPs should demonstrate their financial strength through the introduction of a new licence condition.	The Commission agrees with the introduction of a new licence condition that would require LPs to satisfy Scottish Water and the Commission of their financial resilience.
	For transparency, LPs should seek advice from an external advisor on the appropriate level of financial resilience required. Funds from the market performance charges could be used to this end.	The Commission disagrees with such an approach. It considers that it cannot be bound by any advice expressed by third parties. It is not likely to be practical for any such expert to come to a definitive view on the financial resilience of the licensed providers given the complexity of many of the financial structures that exist. However, we can see merit in Scottish Water setting out its approach to assessing LPs' financial strength and creditworthiness. Its terms of trade should be a function of the financial resilience that can be evidenced (on an on-going basis) by a licensed provider. The Market Health Check (MHC) could then be used to verify on an ongoing basis LPs' financial position. We propose that the market standard performance charges could be used to fund the MHC during this transitional period as the exit from Covid response measures is implemented.
	LPs' ability to pay Scottish Water on time is a sufficient indication of their financial strength and allow for an effective and prompt regulatory response were they to enter financial distress.	The Commission disagrees. Based on the experience of previous LPs' failures, the Commission is acutely aware that it can take some time before LPs enter an insolvency process and/or that the Provider of Last Resort Process is triggered and the licence is finally revoked (or transferred). If such a time lag were to occur this could cause detriment to Scottish Water. The steps taken to temporarily suspend wholesale prepayments has further exacerbated this risk. It is, therefore, important that LPs can demonstrate their financial resilience to external shocks <i>ex-ante</i> .
Transparency of LPs' activities	Standard Licence Condition A9 could be augmented to require a Board assurance from LPs that Scottish customers are not unduly disadvantaged by the activities undertaken in the English water retail market. Such a statement could be audited ex-post through the MHC.	The Commission agrees with this proposal.

Issue	Representation	The Commission's response
Disconnections	The temporary removal of disconnections for non-payment by Scottish Water leaves LPs exposed to increased bad debt risk.	Scottish Water has arranged a workshop with LPs to look at its approach to disconnections. The Commission will continue to monitor this and review whether any charging adjustments should be considered.
General remarks	A Senior Stakeholder Forum could be established with representatives from key stakeholders to support the implementation of the Ethical Business Practice in the market and improve the effectiveness of the market framework.	The Commission supports this proposal. It is important that LPs take ownership for improving the market framework and believes that establishing a senior stakeholder group would represent a positive step towards the implementation of ethical business practice.

4. Objectives of the measures in response to the pandemic

The Commission has been pleased to see licensed providers working together to develop proposals in response to the issues identified in its consultation document. The Commission will continue working closely with Scottish Water and licensed providers on the development of the new measures. It is also important to remind stakeholders of the objectives that the Commission has followed in introducing the current support measures in response to the pandemic:

- Businesses and other organisations impacted by the current pandemic fully benefit from the support measures.
- Licensed providers operate in line with the principles of Ethical Business Practice and support customers affected by the pandemic.
- There is no cost or detriment to customers as a result of the support that is being provided to businesses and other organisations.
- The arrangements are sufficiently flexible that these can be adjusted if required.

The Commission considers that any new measures should also be consistent with these objectives and its primary duties to promote the interest of customers and to ensure there is no detriment to the core business of Scottish Water. In light of these principles, the Commission believes that it is helpful, at this stage, to set out some guiding principles and timescales for the implementation of new measures in response to the pandemic:

- Support measures continue to be targeted at medium and smaller businesses which are likely to be the most affected customers. To this end, the new wholesale deferral scheme should allow licensed providers to apply to Scottish Water for a deferral of future wholesale charges for any non-household premises with a meter size of 25mm or smaller, any unmeasured premises and those premises with surface drainage only.
- The arrangements for the new scheme should be sufficiently flexible to allow licensed providers to defer a portion (or all) of the primary wholesale charges for a given customer, depending on the specific support offered at retail by each licensed provider to their customers. It is also important that all customers can receive the support made available. A full deferral of charges would, therefore, be made available on request by the customer.
- Licensed providers should provide a like-for-like support to their customers and pass on the benefits from the deferral of wholesale charges to their customers. Licensed providers should also make all reasonable endeavours to publicise and communicate to their customers the availability and benefits of the scheme. Industry-wide communications will also be developed to support implementation.
- Customers should not be worse off as a result of scheme. Licensed providers should levy no fee or penalty on any customers in relation to the implementation, exit from and/or operation of the new scheme.

- No detriment to the core business of Scottish Water is made. Scottish Water would charge an annual interest of 3.5% on any deferred charges and may cap the amount that each licensed provider is allowed to defer based on licensed providers' creditworthiness and financial position.
- Licensed providers should demonstrate their financial resilience to withstand external shocks to Scottish Water and the Commission through a new licence condition. The Commission plans to introduce measures on financial resilience by July 2021 and expects such measures to come into effect by April 2023 at the latest.
- Support measures are unwound in a manner that does not increase the burden on businesses and organisations when they start to recover from the pandemic. To this end, the repayment schedule for the deferred wholesale charges through the existing scheme should be further extended and aligned with the repayment of charges that are being deferred through the new scheme.
- The new measures should be transparent and auditable. The Market Health Check will be used to audit the operation of the new scheme and licensed providers' financial strength in line with the new arrangements. The Commission plans to work with stakeholders and finalise the arrangements for the Market Health Check process by October 2021.

5. Next steps

The Commission is committed to work closely with licensed providers to help ensure that the proposals developed by the Working Group can meet our statutory duties and are consistent with the Scottish Government's Principles of Charging and the guiding principles set out in this document.

To ensure progress is made and to allow a smooth implementation of the new measures in response to the pandemic, the Commission expects the Working Group to submit a final proposal by 15 March 2021. The Commission will then review the proposal and issue a final decision.

The table below sets out a high-level timetable for the implementation of measures in response to the pandemic.

Date	Milestone
15 March 2021	The Working Group submits a final proposal to the Commission
31 March 2021	The Commission issues a final decision on the new measures
End of March 2021	An industry-wide workshop on the implementation of the new scheme
By mid-April 2021	Industry-wide communications are developed
May 2021	New deferral scheme goes live (as soon as practical)
July 2021	First month of wholesale charge pre-payment reinstated by Scottish Water
July 2021	Approach to financial resilience and associated licence condition is finalised through public consultation
October 2021	Market Health Checker is appointed
April 2023	New financial resilience measures go live including revised Wholesale Services Agreements between licensed providers and Scottish Water
April 2023	All accrued wholesale charges are repaid.