

Compliance Code for Wholesale/Retail Interfaces

October 2018

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Compliance Code for Wholesale/Retail Interfaces

1. Purpose of the document

Since the introduction of the Competition Act 1998, we have taken all necessary steps to fully comply with the law and ensure appropriate behaviour, which is not anti-competitive. We believe it is important to demonstrate compliance with legislation and that there is a culture of compliance. Therefore it is critical that guidance is in place for all of our employees in the form of a Compliance Code, which is a requirement of Condition R.

Severn Trent Water (STW) is in a dominant position in the water and waste water wholesale market. This magnifies our responsibilities under competition law. Competition in the water industry is developing; and the Competition Act 1998 prohibits the following anti-competitive behaviour:

- any agreement which has as its object or effect the prevention, restriction or distortion of competition; and
- any conduct which amounts to an abuse of a dominant position.

The document sets out Severn Trent Water's arrangements to:

- demonstrate we are able to comply with the confidentiality obligations under Condition R;
- protect commercially sensitive information received from, or in relation to licensees;
- demonstrate that transactions between STW and related companies (such as Water Plus) are conducted at arm's length;
- provide clear information to STW personnel on their individual obligations; and
- ensure we are carrying out our functions without discriminating against customers or licensees.

This document forms a part of Severn Trent's 'Doing the Right Thing' principles, which can be found on our website [here](#).

2a. Background to the Water Supply Market

From 1 April 2017 retail competition was extended to all non-household premises in England, so other retailers and new entrants are able to purchase wholesale water and sewerage services from Severn Trent and sell these to eligible customers. The new retail market replaced retail licences under the WSL regime with a new water supply and sewerage licensing (WSSL) regime. In addition a non-household customer may choose to self-supply its own retail services. Existing retailers, new entrants and self-supply customers have to obtain a new WSSL to provide services to customers as "the licensee". More information on the new market can be found on Open Water's website (<https://www.open-water.org.uk/>)

A third party with a combined licence can continue to use the existing Network Access Code to supply water from its own source from Severn Trent's network, for onward sale to a downstream retail customer.

Ahead of market opening, STW migrated its existing non-household retail customer base to Water Plus, a joint venture company with United Utilities. STW formally exited the retail market in July 2018 following completion of licence modifications to align the boundaries of STW and Hafren Dyfrdwy to the political boundaries of England and Wales respectively.

STW is required to comply with Condition R and ensure that our dealings with licensees are conducted in a compliant manner that does not discriminate against other market participants.

2b. Background to Condition R and Condition S

Licence Conditions R and S of our Instrument of Appointment support the duties placed on water undertakers (sections 66A-66C of the Water Industry Act 1991). Condition R was amended by OFWAT to move some of the obligations into Condition S in particular, our obligations to maintain a Network Access Code¹

Licence Condition R and S requires that STW as a water undertaker:

- produces, publishes and updates as necessary a code for access (Network Access Code) which follows Ofwat's access codes guidance;
- does not unfairly or unduly discriminate between customers connected to the water undertaker's network, regardless of which licensee they are served by;
- does not obtain an unfair commercial advantage because of its activities under this Condition; and
- produces, publishes and updates as necessary a Compliance Code which follows Ofwat's compliance code guidance²

STW publishes (and annually updates) a Network Access Code on its website. This Compliance Code is published alongside this and both documents can be found [here](#).

¹ <http://www.ofwat.gov.uk/wp-content/uploads/2017/04/Notice-of-Reasons-Condition-S-mods.pdf>

² Ofwat Guidance on Compliance Codes, August 2008

3. Scope of the Compliance Code

This section details the specific measures introduced to address concerns in the following areas:

Area	Description
Compliance with Licence Condition S	This document provides a clear statement of STW's approach to compliance with Licence Condition S.
Obligations about information	Provisions on how information received from or in relation to a licensee will be handled; procedures for sending information to licensees; provisions to ensure that STW does not gain an unfair commercial advantage from exchanges of information required for the operation of the retail market.
Arm's length trading	With the creation of our joint venture company Water Plus with United Utilities, STW legally separated its non-household wholesale and retail activities. This section details how transactions between Water Plus and STW, and other associated licensees and STW are carried out at arm's length.
Monitoring or audit process	Details of procedures to evaluate the Compliance Code and identify areas of risk to be addressed.
Personnel training	Details of the approach for training provided to STW employees in relation to compliance and the Compliance Code.
Disciplinary Process	Procedures in place to investigate and manage any potential breach of Condition R and action to be taken in the event that breaches are found.
Customer facing personnel - Policy and Procedures	STW has included a section to detail policy and key messages for personnel dealing with eligible customers.

4. Information handling obligations and provisions

STW has the following information obligations when dealing with data forwarded by a licensee to progress contractual terms for access to our water network.

STW **must**:

- ensure that neither it, nor any related company, obtains any unfair commercial advantage from any exchange of information between itself and a licensee. For example, STW may have access to confidential information about a licensee's activities which it **must not** share with personnel in Water Plus or any other licensee;
- only use the information a licensee provides for the purpose for which it is supplied;
- take steps to protect the information that it receives from misuse within the company and prevent inappropriate disclosures to third parties;
- set out how such information received from, or in relation to, licensees will be handled and provide details of the person or team responsible for this information;
- set out procedures for sending information to licensees. For example a licensed supplier should be provided with information reasonably required to:
 - apply for, negotiate and conclude an access agreement
 - comply with any condition of its water supply licence, or any statutory requirement imposed in consequence of its water supply licence
 - comply with any reasonable request for information made by the Environment Agency
 - comply with any reasonable request for information made by the licensee.

STW **must not**:

- request from a licensee, or from a person supplied or seeking to be supplied by a licensee, more information than it reasonably requires;
- charge the licensee for providing copies of documentation used to transfer a customer or clarifying its policy and information requirements.

STW has taken the following actions to demonstrate that it is able to meet these obligations:

1. **Created Water Plus, a joint venture company with United Utilities, which will be responsible for all non-household retail activity in STW's 'in area' business.**

STW opted for a complete legal separation of people, systems and geographical location for non-household retail activities. Both STW and Water Plus have been issued with guidance on what can and cannot be shared between parties, creating an information barrier. STW formally exited the retail market in July 2018 following completion of licence modifications to align the boundaries of STW and Hafren Dyfrdwy to the political boundaries of England and Wales respectively.

2. **Created the Wholesale Market Unit Team, to be the key point of contact and responsible for all information exchanges between STW and licensees.**

This role ensures an organisational separation between enquiries and applications from licensees, and those parts of Severn Trent Water responsible for direct relationships with customers eligible to switch supplier.

3. **Established a secure and dedicated e-mail address for the transfer of information between licensees and STW.**

All STW correspondence with licensees comes through a dedicated email address: WMU@severntrent.co.uk. The Wholesale Market Unit Team controls access to this account.

4. **Detailed the information required from licensees to enable a full assessment of an application. STW has also set out the rationale for the provision of that data to justify our need for it.**

The data requirements for licensees applying for network access are available on our website in our Network Access Code. STW will not ask for further information to support an application without a clear rationale for its need. Where an applicant cannot provide more information STW will continue to process the application within the timeframe agreed using the best information available.

5. **Detailed accountability and responsibility for handling applications from licensees, in order to control the movement and handling of data necessary to assess any application (see Appendix 1).**

Employees in these roles assess various areas of the licensee's application, and their documented responsibilities set out the role they must play in protecting and controlling the data provided to them.

6. **Established a secure database, with access controlled by the Wholesale Market Unit Team to manage data transfer.**

Access to this database is limited to those employees who need to see the data and is only with prior approval of the Head of Customer Strategy and Experience.

7. **Tailored policy and training for managers and personnel in day-to-day contact and communication with eligible customers in the contestable market.**

Our approach sets out how STW personnel should behave if a customer contacts them with information on its dealings with licensees and how approaches to eligible customers should be undertaken. A summary is found in Section 9.

5. Arm's Length Trading Provisions

A water undertaker that is related to a licensee must ensure that transactions between the two are carried out at arm's length; that is, as though the parties are unrelated (paragraph 5(1) of Condition R).

STW legally separated non-household retail activity to 'Water Plus', a Joint Venture company with United Utilities, which is headquartered in Stoke-on-Trent. As part of the transaction, STW's respective 'in-area' business was acquired by Water Plus to fulfil the respective non-household retail obligations. The transaction was unconditionally approved by the CMA.

With the creation of Water Plus, STW has completely separated people, systems and geographical location for non-household retail activities, which ensures a level playing field and arm's length trading. STW non-household customers were migrated to the Water Plus billing system and now have the ability to switch to any retailer. Water Plus is completely standalone in terms of typical shared and corporate services. We put in place a number of measures during the transition to full separation to ensure that we maintain an arm's length relationship with Water Plus while recognising that some business teams are required to interact with Water Plus to fully complete the non-household retail separation. These measures were:

Measure	Description
Transitional services agreements	Setting out service terms and arm's length charging arrangement.
Information protocols	Including system access restrictions, and tailored training for key employees.
Employee training and guidance	Provided to employees in customer facing and relevant support service roles, including specific guidance for employees who are involved in TSA processes.

STW must comply with competition law, our regulatory conditions (including Condition F and Condition R) and the Regulatory Accounting Guidelines, which ensure compliance in our financial dealings with Severn Trent Plc group companies and non-appointed functions. The purpose of these instruments is to prevent the customers of STW's appointed business from being disadvantaged by any financial transactions for services provided to and from STW and other Severn Trent Plc companies. Any services provided to licensees by STW will be in line with the requirements of Licence Condition F.

To further ensure arm's length trading Severn Trent Water formally 'exited' from the retail market on 1 July 2018.

6. Compliance monitoring and audit procedures

STW has put in place a monitoring programme that:

- tests whether the processes and procedures are fit for purpose to handle applications from licensees; and
- tests whether relevant employees are aware of their responsibilities and trained to process these applications in line with the Compliance Code and Network Access Code and any internal market operation documentation.

The Head of Compliance is responsible for setting a framework to ensure compliance, and a culture of compliance.

The Head of Customer Strategy and Experience/Head of Internal Audit are responsible for maintaining an audit programme and keeping a record of audits.

The audit programme can identify risks and recommend changes including, but not limited to, the following areas:

- whether the various steps in handling applications from licensees have been allocated to the correct employees;
- the levels of training and awareness for personnel responsible for processing applications;
- resource requirements;
- improvements to existing processes; and
- conflicts of interest.

7. Personnel training

STW's Network Access Code details the approach we will take when processing a licensee's application.

To support the effective processing of applications, key roles have been identified from around the business to take responsibility for particular technical aspects of each application.

The responsibilities of each of these roles have been documented and agreed with each of the individual employees. Where practical, these responsibilities have been incorporated into role descriptions and performance and development objectives for these employees.

The Wholesale Market Unit (WMU) team will identify specific training needs arising as a result of the following circumstances:

- changes to occupants of the roles detailed in Appendix 1;
- training needs identified from routine audits of application handling procedures;
- training needs identified from routine handling of licensee applications;
- training needs arising from changes to Ofwat guidance and STW processes; and
- training needs identified following investigation of complaints and/or disciplinary action.

The Head of Customer Strategy and Experience is responsible for ensuring access to available training materials for relevant personnel.

8. Disciplinary procedures

All employees have a duty and responsibility to comply with this Compliance Code. It is the responsibility of each of our managers/person in a supervisory capacity to ensure personnel are adequately informed of this Compliance Code and administer its operation within their teams. Failure to comply with this Compliance Code, whether highlighted by audit, application handling or complaints from licensees, will be investigated by STW. We take non-compliance or any action preventing or discouraging others from complying with this Compliance Code very seriously and this may result in disciplinary action up to and including dismissal.

Details and the procedure for making representations can be found in the [Disciplinary Policy Investigating Manager Guidelines](#) document.

9. Policy and Procedures - Specific compliance guidelines for managers and personnel in day-to-day contact with eligible non-household customers

STW must operate a 'level playing field' to other licensees and not show preferential treatment to any licensee. There is a risk that information received by a licensee could be used to gain an unfair competitive advantage against another competing licensee.

To manage this risk:

- the WMU team acts as the key point of contact for all enquiries from a licensee. They, and any other personnel involved in a licensee's application, **must not** forward any confidential information gained in the operation of the market;
- if the customer requests information on the WSSL regime from a member of the WMU, or otherwise discusses the WSSL regime or a licensee, the relevant meeting or discussion **must** be documented and any information kept on file is factual and the source is identified and recorded;
- for all personnel, a pre-agreed set of messages must be used to communicate factual messages about the competition regime; and
- the WMU has a set of standard policy documents, which explains how each activity should be undertaken and the policies relating to that standard. These are held in a central location and help ensure that all customers are treated in a fair and consistent manner.

Non-household customers may approach STW personnel with questions or concerns about how retail market opening will affect their bill and supply. STW personnel have been issued guidance on what information can be shared, i.e. factual only. Our personnel **must not**:

- suggest to customers that moving to a new licensee will any way result in restricted access to our network or water resources in the future;
- suggest to customers that there will be any change in water quality; and
- discuss the financial or technical competence of licensees.

If personnel are in any doubt about how to proceed in a particular circumstance they must contact the WMU or legal team for advice.

Appendix 1: Roles and Responsibilities

Decisions or Activities	Director of Strategy and Regulation	Head of Customer Strategy and Experience	Economic Regulation Manager	Head of Compliance	Finance Business Partner	Legal	Head of Comms	Head of Internal Audit
Approving Confidentiality Agreement		A/R					C	
Approving Wholesale Retail Contract		A/R						
Maintaining Network Access Codes	A	R	C	C			C	
Calculating Annual Access Prices	A		R					
Updating Policy Documents and Processes		A/R	C	C		C	C	
Implementing the Customer Transfer Protocol (CTP)		A/R						
Producing Case Specific Access Prices	A		R					
Revenue Collection and Reconciliation					A/R			
Compliance Monitoring	A	C		R			C	
Audit programme and records		A/R						R
Implementing Disciplinary Processes		A/R		C		C		
Training of Key Personnel		A/R		C		C		
Maintaining the Website	A						R	