



South Staffs Water

incorporating



Condition R compliance code

April 2019

Version 4.0

South Staffs Water

(incorporating Cambridge Water)



About this document

Since 1 April 2017, many businesses in England (including charities, public sector bodies and not-for-profit organisations) have been able to choose which company provides retail services for their water, sewerage and trade effluent. This is part of a Government initiative called OpenWater. It also allows new entrants the ability to purchase a wholesale supply of water from an incumbent undertaker in order to supply to eligible business customers.

This document sets out the expectations of South Staffs Water (SSC) and its employees in ensuring that it complies with obligations under both existing competition law and within its licence which sets out its duties in respect of dealing with licencees (condition R). It is important that as a monopoly supplier, the Company does not operate in an anti-competitive manner.

It is necessary that all employees have an understanding of the obligations under condition R, why it is important and the consequences for both themselves and the Company if the condition is breached.

In April 2019, a new licence condition, E1, came into effect prohibiting water companies from showing undue preference or discrimination to market participants in the new wholesale markets, the Self-Lay Provider (SLP) market and the New Appointments and Variations (NAV) market. As this new licence condition is very much aligned to the principles within Condition R, this compliance code also covers dealings with these customers in section 4.

If there are any questions or concerns on compliance, please contact the regulation team at: regulation@south-staffs-water.co.uk

1. Requirements of Condition R

Condition R of the Company's licence defines a number of requirements regarding providing access to licensees and ensuring that there is a level playing field for new entrants into the market.

The specific conditions are set out below along with the procedures the Company, its managers and employees must adhere to:

The Company produces, publishes and updates as necessary a code for access (including prices) in compliance with the access code guidance.

The Company updates and publishes its access code and associated pricing in October of each year. The latest code is available on the website below:

<https://www.south-staffs-water.co.uk/business/competition>

The Company does not discriminate between licensed retailers (or their customers) and their other customers or obtain an unfair commercial advantage because of their activities under this condition. Any transactions between the Company and its related licensed water retailer is at arm's length.

In dealing with actual or potential customers or any licensed retailer, employees must not make a distinction between:

- The Company's retail activities and other licensed retailers
- Different licensed retailers
- Customers connected to the Company's network, whether or not they are supplied by a retail licensee.

Specific guidance and procedures are set out in the rest of this document.

The Company publishes and updates a compliance code which follows Ofwat's guidance

This compliance code is published on our website and must be reviewed at least on an annual basis and in any case where revised guidance on Condition R is published by Ofwat. It is the responsibility of the Company's Regulation team to ensure the code is updated each year.

More information on Condition R contained within the Company's licence can be found at the following link below:

<http://www.ofwat.gov.uk/regulated-companies/licences/>

2. Arm's length trading

Condition R requires that where a water company is related to a licensed retailer, any transactions between the two are carried out at arm's length. This means that the related licensee is treated in the same way as if it was an unrelated business.

In November 2016, SSC announced that it would be forming a joint venture with Pennon to combine both non-household retail businesses in a joint venture operating as Pennon Water Services Limited (PWSL) to create the fourth largest water retailer with 180,000 accounts. This was formally approved by the Competition and Markets Authority (CMA) in March 2017.

This joint venture operates from Bournemouth and has led to a complete separation of people, systems and geographical location from SSC. In practice this means:

- Access to the joint ventures' billing system for eligible customer in SSC's regions is restricted so that no employee of SSC has access.
- Employees of the joint venture covering the SSC regions are physically located in a different part of the building with no physical access rights to SSC.
- Guidance has been issued to employees on when and how SSC should engage with the joint venture.
- The Wholesale service delivery team is the key point of contact and responsible for all information exchanges between SSC and Licensees including PWSL.

3. Obligations about information

The Company (and any related licensee) must ensure that any information received from licensees is not used to gain an unfair commercial advantage. This information may include:

- Customers supplied by the licensee
- A licensee’s water resources
- The volumes of water supplied
- Security of supply information
- Meter reading details

Employees of SSC should not request information that is not required in order to comply with all relevant legislation and guidance and any information held should only be used in relation to the WSL regime.

In order to ensure compliance, the Company has put the following requirements in place:

Requirement	Process in place
Separate e-mail address for information to be submitted between licensees and SSC	SSC has created a wholesale service desk as the key contact point for any information exchanged between SSC and licensees. There is also a dedicated e-mail address for all information requests to be sent and received: wsd@south-staffs-water.co.uk
Detail of information requested of licensees in any Access Code application.	SSC only requests information in relation to an application for the completion of the Access Code and the associated common contract. These documents can be found on our website at the link https://www.south-staffs-water.co.uk/business/competition
Responsibility for handling Access Code applications from licensees.	All applications are dealt with by the Company’s Regulation department. All information is stored in a secure SharePoint area with access limited to three employees in the Regulation department and the SharePoint administrator in the Group I.T. department in SSPIC. This information is not shared and cannot be accessed by anyone else.

The Company will also send information to licensees which is reasonably required as part of any application and transfer process. No charge will be made by SSC for providing this information.

4. New wholesale markets, New Appointments and Variations (NAVs) and Self Lay Providers (SLPs)

In April 2019, licence condition E1 came into effect prohibiting water companies from showing undue preference towards, or undue discrimination in relation to the provision of certain services to help ensure a level playing field, to support the development of new markets and to bring about a change in water companies' behaviour in relation to the self-lay and NAV markets. Section 4.1 to 4.3 sets out how we ensure that we are meeting this licence obligation.

In addition there was also a licence modification to restrict the use of information provided to water companies by third parties in order to ensure that there is no unfair commercial advantage. This is addressed in section 4.4.

4.1 New Wholesale markets

There have been recent developments in opening up parts of the wholesale business to new markets. For example, the water resources market has scope for third parties to either sell water directly to retailers using our distribution system (bilateral market) or to provide water to us as an alternative to our own in-house solution (bidding market).

We have published a bidding framework which sets out guidance for third parties wishing to engage with SSC about:

- providing a solution to a potential water deficit;
- making us aware of an innovation that will drive efficiency in the processes around producing and distributing water;
- making us aware of an innovation that will drive efficiency in water usage; and
- using our network to transport water.

This document also explains how our processes support the principles of, transparency, non-discrimination and proportionality. It can be found at at the link below:

<https://www.south-staffs-water.co.uk/media/2575/ra08-bid-assessment-framework.pdf>

4.2 NAV market

A NAV appointment (formerly known as an Inset appointment) allows an alternative supplier to serve an area previously part of an existing water undertaker's area of supply. There are three criteria in order for a NAV appointment, of which at least one must be met:

- The site supplies a single non-household customer using greater than 50,000m³ of water per annum;
- The site is not already served by an existing incumbent supplier;
- The existing undertaker agrees to the change.

As part of the process, potential NAVs are likely to require a bulk supply of water from the incumbent. This means that there will be an ongoing relationship between the two parties and there is a risk that information received from a competitor could be used to gain an unfair commercial advantage.

In order to ensure that we do not show undue preference or discrimination we have the following requirements in place.

- Employees should not request information that is not required in order to deal with a NAV application
- The e-mail address developerservices@south-staffs-water.co.uk should be used as the contact point
- All applications should be reported to the Regulation department who will support the process to ensure that there is no undue preference and undue discrimination in relation to the provision of services by NAVs
- Offering the same income offset to NAVs as would be offered to developers and self-lay providers
- Allowing the income offset to be netted against any payment due for infrastructure charges to ensure that NAVs cash flows are not adversely affected
- The publication of a bulk charge for NAVs where they require a supply of water from SSC. This charge is in line with Ofwat's guidance on how bulk charges should be set to ensure a level playing field and can be found on page 22 of our latest developer charges publication here: <https://www.south-staffs-water.co.uk/media/2470/developer-services-charges-2019-to-2020.pdf>

4.3 SLP market

When a new developer requires connection services, they can choose between the incumbent water company or a Self Lay Provider (SLP) to provide the services.

In an Ofwat commissioned review of the NAV market published in October 2017, it was found that some water companies did not treat their requests for connections and infrastructure on a level playing field with SLPs in relation to requirements, costs and speed of response. In order to ensure we are compliant in the way we deal with SLPs, our developer charges publication sets out:

- the options available to developers including using SLPs and NAVs
- all applicable charges and payments to developers, SLPs and NAVs. This ensures transparency and certainty of cost so that they can make an informed decision about a particular development.
- the timescales we will work to in responding to requests from initial quote to final payment on adoption of the assets

- a redress scheme where we fail to meet our agreed service levels
- A link to Water UK's Developer Services level of service report which sets out our monthly performance: <https://developerservices.water.org.uk/latest-reports>

4.4 Restriction of use of information

We understand the importance of holding confidential data securely. We will only hold data for its required purpose and in line with our retention policy, which aligns to ISO 27001:2013.

Where possible, data is anonymised and stored for the appropriate time period as defined by applicable regulations and laws, such as financial governance. When paper-based data is identified as appropriate for destruction, it is done safely and securely on site to remove the risk of a data breach. All hardware is stored securely by the business once it has been decommissioned. It is then collected for WEEE disposal by a third party with the appropriate certification for the secure destruction of the assets.

Information received in relation to water resource markets is treated in exactly the same way as any other tender process. This is compliant with the water resources planning guidelines, EU Regulations and general competition law.

5. Staff training

The Regulation department within SSC fully understand the requirements of the compliance code. New staff involved in any aspect of business where the compliance code is applicable will be provided with internal training as part of their induction.

Training covers the following:

- The requirements of Condition R and the need for a compliance code
- The Company's policy and the expectations on its employees
- The disciplinary process for any breaches of the code
- The need to read the Company's compliance code every time an updated version is published, and in any case at least every 12 months
- A contact point in case there are any questions or concerns over the code

Following the opening of the retail market, SSC employees may be contacted by non-household customers for a variety of reasons including billing queries, meter reads or supply issues. All relevant staff have received specific training on how to deal with any such contact in order to ensure they operate on a level playing field. In particular, staff must not:

- Make any comments that may prejudice the customers' view of one retailer compared to another
- Suggest that changing retailer would impact on the wholesale service they receive
- Respond to a customer's specific questions around the competency of a retailer
- Discuss any queries on billing and charges
- Show preference for one retailer over another with regards to the communication of a supply or water quality incident

If an employee is unsure how to respond then they should contact the wholesale service desk for guidance.

6. Monitoring the effectiveness of the compliance code

It is important that the effectiveness of the code is monitored to ensure that it is fit for purpose and that any areas of risk identified are addressed.

As part of this process, an annual review is undertaken of the code and the process for dealing with licencees to ensure that the controls in place are effective and to identify any actual breaches or any risks of a breach of the code.

The audit will cover the following areas in particular:

- Testing the process where a request has been received during the year, identifying the employees involved in the process and the information requested
- Reviewing the data held and the security processes in place
- Identifying any conflicts of interest of those dealing with the application
- The process of training all employees involved has been undertaken and documented
- Reporting on any breaches of the code and recommending any improvements to ensure that it does not happen in the future

7. Disciplinary process

The Company takes the breach of this compliance code extremely seriously. This is because it could put the Company in breach of both the competition act and its own licence condition. Ofwat can use their powers to impose financial penalties of up to 10% of turnover where it is found to be in breach.

Any breach of this code, either identified through audit, day to day handling of an application or through a complaint from a licensee may result in disciplinary proceedings being taken against the employee involved. The level of action taken by the Company will depend on the seriousness of the breach.

South Staffs Water
Green Lane
Walsall
WS2 7PD

www.south-staffs-water.co.uk

Tel: 01922 638282