

Policy

Take Ownership

Condition R Compliance Code

Purpose

Thames Water Utilities Limited (“Thames Water”) is subject to legal and regulatory obligations set out both in legislation and our Instrument of Appointment. We take these obligations seriously and expect our employees and contractors to do the same.

One requirement set out in our Instrument of Appointment is to produce and circulate this Compliance Code,¹ prepared in accordance with guidance from Ofwat,^{2 3} showing how we comply with Instrument of Appointment Condition R. Condition R relates to Thames Water’s obligations concerning the water supply market to retailers holding a Water Supply and/or Sewerage Licence (“WSSL”), who are referred to in this document as “licensees”.

This Compliance Code sets out Thames 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 Thames Water and any associate licensee are at arm’s length;
- provide clear information to staff on their individual obligations; and
- ensure we are carrying out our functions under the WSSL regime fairly and without discriminating against customers or licensees.

Key Principles

Thames Water and its employees are committed to adhering to:

- understanding and acting in accordance with the rules of the legal and regulatory framework affecting competition at all times;

¹ Paragraph 7(4)(a) of Condition R of the Thames Water Instrument of Appointment requires water companies to have in place a compliance code which adheres to Ofwat guidance

² Ofwat Guidance on Compliance Codes, July 2008

³ Expectations for company compliance codes IN 16/01 March 2016

- maintaining a culture of competition compliance throughout the company in adherence with its Competition Compliance Policy;
- not unduly discriminating against or showing undue preference to any party; and
- taking account of these principles in the continuing development of our customer and business relations

Scope

Table 1: Authorisation and sign off

Area	Description
Section 1: Arm's length trading	This section details the procedures put in place by Thames Water to ensure that transactions between the regulated business and all licensees (including the associated licensee Thames Water Commercial Services Limited ("TWCSL")) are carried out at arm's length.
Section 2: Information handling obligations and processes	Provisions to ensure that Thames Water does not gain an unfair commercial advantage from exchanges of information required for the operation of the Non-Household retail market.
Section 3: Compliance Monitoring and audit procedures	Details of procedures to evaluate the Compliance Code and identify areas of risk to be addressed.
Section 4: Staff training	Details of training provided to Thames Water employees in relation to compliance and the Compliance Code
Section 5: 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.
Section 6: Specific compliance guidelines for managers and staff in day-to-day contact with eligible customers	Thames Water has included a section to detail principles and procedures for staff dealing with eligible customers.

Background

Condition R

Thames Water's Instrument of Appointment includes Licence Condition R. This requires that Thames Water as a water undertaker:

- executes the statutory Wholesale Retail Code (as specified by Ofwat and changed from time to time) which constitutes the Terms and Conditions of the Wholesale Contract.
- does not unfairly or unduly discriminate between customers connected to the water undertaker's network, whether or not they are supplied by a licensee or Thames Water.
- does not obtain an unfair commercial advantage because of its activities under this Condition.
- produces, publishes and updates as necessary a Compliance Code (this Condition R Compliance Code) which follows Ofwat's compliance code guidance; and
- be a party to and comply with the Market Arrangements Code ("MAC") (as required by Licence Condition R1) and take all steps in its power to ensure that the MAC facilitates the MAC principles.

Background to the Water and Sewerage Supply Licensing Market

Thames Water is a supplier of water and wastewater services and an appointed water undertaker established as such by the Water Act 1989. The Water Act 2003 then amended the Water Industry Act 1991 ("WIA91") to allow access to companies holding a Water Supply Licence ("WSL") to procure water from undertakers and, acting as a retailer, to sell services on to business customers. This was restricted to customers with high usage, initially > 50 megalitres per year in England and Wales, reduced later in England to 5 megalitres per year. Some companies were also (using a Combined Licence) licensed to use water undertakers' supply systems in order to supply to eligible business customers.

The Water Act 2014 (effective 1 April 2017) allows all eligible business, charity and public sector customers (with no volume restriction) who use the water supply or sewerage systems of an appointed company whose area is wholly or mainly in England, to choose their supplier of water and wastewater services from retailers holding a WSSL.

The 50 megalitres per year usage limit continues to apply to business customers served by an appointed company whose area is wholly or mainly in Wales.

The WSSL has six forms:

- **Retail authorisation (water):** This is a water supply licence that authorises the holder to use the supply system of an appointed water company whose area is wholly or mainly in England to supply the eligible premises of its customers, persons associated with the licensee, or the licensee itself.
- **Restricted retail authorisation:** This is a water supply licence that authorises the holder to use the supply system of an appointed water company whose area is wholly or mainly in Wales to supply the eligible premises of its customers only.
- **Retail authorisation (sewerage):** This is a sewerage licence that authorises the holder to use the sewerage system of an appointed sewerage company whose area is wholly or mainly in England for the purpose of enabling the licensee to provide sewerage services in respect of the eligible premises of its customers, persons associated with the licensee, or the licensee itself.

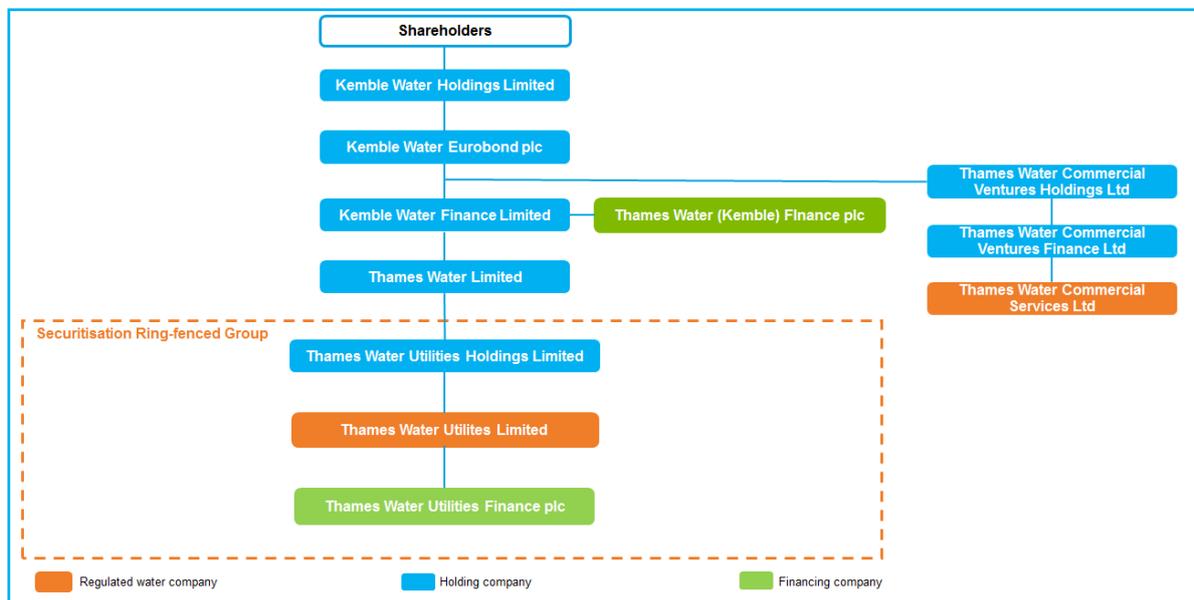
- **Wholesale authorisation:** This authorises the holder to introduce water into the public water networks of water undertakers whose areas are wholly or mainly in England in order to supply the licensee’s own customers if their non-household premises consume at least 5 megalitres of water a year.
- **Supplementary authorisation:** This licence authorises the holder to introduce water into the public water networks of water undertakers whose areas are wholly or mainly in Wales in order to supply the licensee’s own customers if their non-household premises consume at least 50 megalitres of water a year.
- **Retail restricted to self-supply (water and/or sewerage) authorisation:** This is a licence that authorises the holder to supply their own sites and those of persons associated with them, but would not allow them to become a retailer for any other sites.

1. Arm’s Length Trading Provisions

Under paragraph 5(1) of Condition R, 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.

As at the date of adoption of this Compliance Code, Thames Water is related to Thames Water Commercial Services Ltd (“TWCSL”), a subsidiary of Kemble Water Eurobond plc (see Figure 1 below).

Figure 1: Kemble Water Holdings Limited Group Structure



Ofwat has granted TWCSL a WSSL to retail and supply water and/or sewerage services to eligible customers in England and Wales.

TWCSL is also the holder of a retail licence granted by the Water Industry Commission for Scotland to offer retail services to eligible customers in Scotland. To ensure arm’s length dealing is maintained between Thames Water and TWCSL, Thames Water has:



- reviewed and updated its compliance procedures and Compliance Code to introduce greater safeguards to prevent the potential for misuse of information gained by Thames Water's wholesale functions (details in section 9);
- taken steps to ensure that any provision of services by Thames Water to TWCSL are in line with Competition Law and Thames Water's licence conditions, including Licence Condition F and Ofwat's Regulatory Accounting Guidelines; and
- ensured that any services provided to TWCSL by Thames Water will be in line with the requirements of Licence Condition F and Ofwat's Regulatory Accounting Guidelines, which specify that its financial dealings with group companies and non-appointed functions are properly costed and designed to ensure that Thames Water's regulated customers are not disadvantaged.

At the date of opening of the extended Non-household retail market (1 April 2017) TWCSL had no Non-household customers within Thames Water's appointed area or that of any other undertaker, as of the effective date of this policy this continues to be the case. Thames Water believes that the measures which have been put in place, including staff training, are adequate to ensure that no licensee will be disadvantaged by dealings with Thames Water's associated retailer, TWCSL.

2. Information handling obligations and processes

Thames Water has established the following information handling processes when dealing with data forwarded by a licensee for whatever purpose:

- Thames Water will 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, Thames Water may have access to confidential information about a licensee's activities which it will not use to gain an unfair advantage;
- Thames Water will not request from a licensee, or from a person supplied or seeking to be supplied by a licensee, more information than it reasonably requires;
- Thames Water will only use the information a licensee provides for the purpose for which it is supplied;
- information provided will be held only for the period specified in Thames Water's Information Retention Schedule;
- Thames Water will take steps to protect the information that it receives from misuse within the company and prevent inappropriate disclosure to third parties;
- Thames Water will 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;
- Thames Water will set out procedures for sending information to licensees. For example a licensee will be provided with information reasonably required to:
 - apply for, negotiate and conclude a Wholesale Contract
 - comply with any condition of its WSSL, or any statutory requirement imposed in consequence of its WSSL; and
 - comply with any reasonable request for information made by the Environment Agency.

- The information provided to Thames Water by a licensee will not be used to unreasonably disrupt arrangements the customer is seeking to make with the licensee.

Thames Water has taken the following more detailed actions to demonstrate that it is able to meet these obligations:

Table 2: Actions to demonstrate ability to meet obligations

Action	Description
Created a Wholesale Market Service function within Thames Water, responsible for all market-related queries between Thames Water and licensees which is separate from Thames Water's Retail activities.	The role of this team is to ensure that there is one clear point of contact to the Wholesale business for all licensee service access requests that is completely separate to Thames Water's Retail activities and TWCSL activities. This role ensures organisational separation.
Established secure and dedicated means for the transfer of information between licensees and Thames Water.	All Thames Water correspondence with WSSLs comes through either: The dedicated e-mail address: wholesaleservices@thameswater.co.uk . Or The WMS Retailer portal The Wholesale Market Service function controls access to both the WMS Retailer portal and the e-mail account. There are facilities available for the encryption of data sent to or from the e-mail account and portal as required.
Detailed the information requested of licensees to enable processing of communications. Thames Water has also set out the rationale for the provision of that data to justify its need for it.	Thames Water will not ask for further information without a clear rationale. Where a licensee cannot provide more information, Thames Water will continue to process requests within the timeframe agreed where possible.
Detailed accountability and responsibility for handling communications to and from licensees.	Accountability and responsibility for handling applications from licensees is with the Wholesale Market Services function
Established a secure database, with access controlled by the Wholesale Market Services function to manage data transfer.	Access to this database is limited to those employees who need to see the data. Managers are not able to delegate access to this database without the prior approval of the Contract Manager within the Wholesale Market Services function.
Tailored policy and training for	Our approach sets out how staff from the

managers and staff in day-to-day contact with licensees.	Wholesale Market Services team should behave when contacted by the licensee. A summary is found in Section 6.
Set out terms of a confidentiality agreement as a first step to reach agreement on the final access terms with a licensee, in advance of any information exchange.	Details of the standard confidentiality agreement can be found on the Thames Water website.

3. Compliance monitoring and audit procedures

Thames Water has put in place an audit program, that tests whether:

- processes are fit for purpose to handle dealings with licensees;
- employees are aware of their responsibilities and trained to process these applications in line with the Thames Water Compliance Code and all other Policies and internal market operation documentation; and
- processes are being followed as specified.

The Head of Wholesale Market Services and the Head of Internal Audit are responsible for maintaining an audit program and keeping a record of audits.

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

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

Audit reports will be stored in the licensee database as part of a developing knowledge bank for access and use by relevant employees.

4. Staff Training

The Head of Wholesale Market Services has identified that specific training needs may arise as a result of the following circumstances:

- routine communications to and from licensees;
- changes to Ofwat guidance and Thames Water Policies and/or processes;
- following investigation of complaints and/or disciplinary action; and
- changes to occupants of the roles detailed in Appendix A.

Employees who have been identified as being involved in licensee related activities undergo compliance training so that they are aware of the compliance procedures they are expected to follow.

The Head of Wholesale Market Services is responsible for ensuring access to available training materials for relevant staff.

In addition to the above, specific training was provided as follows in preparation for the opening of the expanded Non-household retail market.

- an e-learning module was made available for all Thames Water staff and contractors entitled “Core competition training” which provided a base level awareness/understanding of the competitive market implications, for completion prior to Market Opening date and for new employees as part of their induction;
- an “Advanced competitive market & regulatory compliance” module, specific training developed by Strategy and Regulation and Legal and delivered face to face. This was targeted at people in “high risk” roles who required more detailed understanding of competition law and regulatory compliance, for delivery prior to Shadow Market opening and on-going for staff moving into such roles; and
- role/function specific training, locally developed and tailored by role / function e.g. to train staff in new market-compliant processes and systems. Content, delivery and timing defined and delivered by local business teams.

A series of Group Policies for the new Non-household retail market were developed to ensure that there were clear instructions on Thames Water’s obligations and how management required these to be met. Business group level Policies and processes were then confirmed as being compliant with the Group policies, to help make sure that all training to Thames Water staff was consistent with meeting our statutory and regulatory obligations.

5. Disciplinary process

The compliance statement in Section 1 of this Code states that:

“Failure to comply with this policy or any action preventing or discouraging others from complying with this policy may result in disciplinary action up to and including dismissal.”

Any failure to comply with this Compliance Code, whether discovered by management, highlighted by audit, application handling or complaints from licensees, will be investigated by Thames Water.

In the first instance, the Head of Wholesale Market Services will carry out an investigation. Following this initial investigation, a recommendation may be made for appropriate action and depending on the level of the non-compliance; an investigating manager or internal audit may be appointed to carry out a more formal investigation. Issues will be escalated to the Regulatory Compliance Team, as well as the Legal Team and relevant Directors.

If the investigating manager is satisfied that there is a case to be heard on completion of the investigation, a disciplinary hearing will be arranged.

Outcomes can include no case to answer, the issue of first or final written warning or dismissal and other disciplinary sanctions in line with the HR policy.



The employee has right of appeal against a decision.

6. Specific compliance guidelines for managers and staff in day-to-day contact with eligible customers.

Where a licensee approaches Thames Water to seek a contract to supply a premise, there is a risk that information received from the licensee could be used by Thames Water inappropriately.

To manage this risk, Thames Water's Wholesale Market Services Team will ensure there are clear accountabilities so that data received from the licensee will be received directly into the Wholesale Market Services Team, a team that is functionally separated from the Thames Water retail business.

Any information received into the Wholesale Market Services Team in relation to the switching of an eligible premise will be treated as confidential.

All employees within the Wholesale Market Services Team will be trained to recognise that this data is confidential.

All applications for contracts and associated switching documentation will be recorded in the secured document storage area.

Computers containing data relating to the above information will be locked and password protected when computers are left unattended.

The above data and information will not be printed, where possible.

If it is necessary to print data, it will be kept secure at all times, and at no time, be left unattended.

All printed documents related to a customer switching licensee will be kept in a locked cupboard or disposed of in confidential document shredding containers.

All information, held electronically or in printed form, will be held only for the period specified in Thames Water's Information Retention Schedule.

Roles and responsibilities

Table 3: Roles and responsibilities associated with Condition R Compliance

Role	Function	Purpose
Contract Manager	TWUL Wholesale Market Services	Responsible for managing information from retailers
Head of Wholesale Market Services	TWUL Wholesale Market Services	Accountable for Compliance with the policy by the Retail facing market services team.
Regulatory Policy Manager	Strategy and Regulation	Responsible for documenting compliance requirements relating to statutory and company licence obligations.
Head of Legal	Finance & Commercial	To ensure the Compliance Code is consistent with our legal obligations and Competition law compliance policy.

Reference & Further Information

If you would like any further detail, or have any questions on our Condition R Compliance Code, please contact the Wholesale Market Services Team on wholesalemarketservices@thameswater.co.uk or phone us on 0800 0093975.

Approvals and Review Date

Document Owner	Kate Haycock Regulatory Compliance Manager	Issued Date	21 January 2019
Document Approver	Nick Fincham Director of Strategy & Regulation David Hughes Company Secretary	Approval Date	21 January 2019
Next Review Date	December 2019		

This policy has also been reviewed by other interested functions as appropriate including:

- Mark Holloway – Head of Wholesale Market Services
- Julian Wildsmith – Eversheds Competition Lawyer

Document Control

Version	Change	Date
Version 1:	Initial Code published	October 2008
Version 2:	Annual update: no material change	October 2009
Version 3:	Annual update: no material change	October 2010
Version 4:	Annual update: no material change	October 2011
Version 5:	Update due to acquisition of WSL Licence	July 2013
Version 6:	Annual update: no material change	July 2014
Version 7:	Update following re-organisation of company	July 2015
Version 8:	Annual update: including update for removal of in-area trading ban	July 2016
Version 9:	Update to reflect the opening of the extended Non-household retail market	July 2017
Version 10:	Annual update – minor changes to reflect current operations.	January 2019