



**Consultation under section 8 of the
Water Industry Act 1991 on the
proposal to terminate Cholderton
and District water Company's licence
and to change the area to which
Wessex Water Services' licence
relates**

An Ofwat consultation paper

1.0 Introduction

The Consumer Council for Water ('CCWater') is the statutory consumer organisation representing water and sewerage consumers in England and Wales. The Consumer Council for Water has four regional committees in England and a committee for Wales.

We welcome the opportunity to respond to Ofwat's consultation on:

- a. the proposed termination of Cholderton and District Water Company ('Cholderton')'s Licence; and,
- b. the change to the area to which Wessex Water Services ('Wessex Water')'s Licence relates.

2.0 Executive Summary

CCWater is aware of the difficulties Cholderton has had in managing the demands of regulation over many years. Its relative size within the regulated sector has limited the resources it can commit to management processes, and we accept that it will be difficult for the company to be able to deliver the workload of the next Price Review and associated regulatory obligations.

We agree with Ofwat that the arguments for and against the proposal to allow Cholderton to become a private water supplier operating outside the regulatory system are finely balanced. We therefore support the proposition that the change in Cholderton's status must be supported by the company's customers and that, before providing their view, they must be fully informed of the consequences for them of the company terminating its Licence.

We consider it is vital that customers retain protections with regard to price and service levels in the event that Cholderton's Licence is terminated. We are encouraged by the company's stated intention to ensure customers will retain the same service and price protections they currently enjoy under the Water Industry Act 1991 as customers of a regulated water undertaker.

However, we are concerned about how these protections will be entrenched and enforced after the termination of Cholderton's Licence. Cholderton has stated its intention for an enhanced oversight role for its Customer Challenge and Advisory Group ('CCAG') and that the private water company will become part of a Trust to include the wider Cholderton Estate. Whilst incorporation within the proposed Trust may offer some degree of service and price protection, it is by no means certain. Moreover, the slow progress in setting up the Trust means that any decision to terminate the company's Licence places customers without any form of protection in the interim.

We therefore suggest that Ofwat gives consideration to deferring termination of Cholderton's Licence, if that is the chosen option, until such time as the Trust is in place and service and price protections for customers are enshrined within its articles of association.

3.0 Termination of Cholderton's licence

As stated in Ofwat's consultation document, CCWater's view of the proposal to terminate Cholderton's Licence was summarised as follows:

'It recognises the future challenges that Cholderton faces but CCWater's main concern is the continued protection of Cholderton's customers. CCWater, like Ofwat, would lose its statutory powers to protect customers if Cholderton became a private supplier. In the absence of its preference for Cholderton being taken over by another regulated company, it considers that customer protections could be best maintained by transferring the company to the proposed Charitable Trust as soon as possible, preferably contemporaneously with the move out of the WIA91 framework.'

We appreciate the difficulty which Cholderton faces in continuing to manage the demands of the regulatory framework given its very small size and its limited management resources. We agree that regulation places a disproportionate burden on Cholderton and recognise its preferred option to terminate its licence and exit the regulated sector rather than face the extra demands that will arise during the forthcoming Price Review.

Nevertheless, as the statutory consumer body, CCWater has a duty to represent the interests of customers of regulated water companies. As such, we are concerned that Cholderton's customers will lose the protections they currently enjoy, in particular those relating to water quality, price and services.

3.1 Water quality

We have no particular concerns about water quality issues following the termination of Cholderton's licence given that:

- Private water supplies are monitored by the public health department of the local authority, and are enforceable under the Private Water Supplies Regulations, and
- Cholderton's intention to continue to outsource water quality testing to Wessex Water's laboratories.

3.2 Price

Currently Cholderton's prices are determined at each Price Review giving customers certainty of future rises that take into consideration the company's plans for future investment and its costs. Cholderton has indicated that, as a private company, prices will be determined annually through an approval process overseen by the Customer Challenge and Advisory Group (CCAG), which could include referencing to prices applicable in a nearby village served by Wessex Water. We consider that this may not be a sustainable approach to price setting. While this may work when there is a steady level of maintenance needed on the network, it will be exposed when Cholderton is required to make significant

investment to improve services, for example in response to tighter water quality standards or to replace a major main.

At that point, the CCAG will be asked to scrutinise and approve costings. Unless they are able to call upon relevant engineering expertise, they may unwittingly accept a poor value or high cost scheme. Either way, customers could suffer detriment.

3.3 Customer services

Water companies operating within the regulated sector are required to abide by a series of Water Acts and by a set of Licence Conditions, some of which protect customers against poor service. Where poor service does occur then companies are required, in certain circumstances, to make automatic compensatory payments. In other instances customers can claim compensation.

Customers are also able to make use - free of charge - of the services that CCWater offers all customers of regulated water companies. This could involve providing advice or guidance on a water issue or investigating an unresolved complaint against their company.

These protections and service offerings will no longer be available to Cholderton's customers once the company's licence is terminated.

We are aware of, and welcome, Cholderton's stated intentions to maintain current levels of service to customers so that they are no worse off, and that they will retain current protections once the company becomes a private water supplier.

However, CCWater is concerned about how Cholderton's stated intentions can be entrenched and enforced given the absence of an oversight body with relevant powers.

3.4 Trust status

We are aware of Cholderton's intentions that the functions of the water company will be incorporated into a Trust covering the wider Cholderton Estate. While this may offer some protections, this is by no means certain.

Moreover, we are disappointed that progress towards establishing the Trust is slow, and we are concerned that it will not be in place at the time of termination of Cholderton's Licence. This will result in an indeterminate time during which customers will have no formal price or customer service protections and will be reliant on the continuing goodwill of Cholderton's owners.

In light of this we suggest that Ofwat gives consideration to deferring termination of Cholderton's Licence, if the proposal is accepted, until such time as:

- the Trust has been set up;
- the water company can be incorporated within it immediately on the formal termination of its Licence; and,
- Customer service and price protections are entrenched within the articles of the Trust.

This would give customers continuing protections and incentivise Cholderton to progress formation of the Trust.

3.5 Future of the CCAG

Cholderton has proposed that on becoming a private water supplier its CCAG will continue with an enhanced role in the management of the company and in the representation of customers.

As members of the current CCAG we will continue to provide support and advice and help prepare the body for its new role up to the point of Licence termination.

While we welcome this proposed role for the CCAG, as with other intentions of Cholderton we would want to see its constitution and powers formally established prior to the termination of Cholderton's Licence, so that customers can be confident it is able to carry out the role intended for it on their behalf.

3.6 Customers' views

We agree with Ofwat that the change should only take place if Cholderton's customers support it. We therefore welcome the steps the company is taking to publicise the proposal, what it will mean for customers and to canvass their views. We note the assistance Ofwat has provided to Cholderton, particularly in the provision of information notices.

We will need to consider the outcome of Cholderton's engagement with its customers once results are known and would welcome the opportunity to discuss these with Ofwat to establish an appropriate level of response to, and acceptability of, the proposal.

4.0 Change to Wessex Water's Licence

All areas of England and Wales need to be covered by a licenced water company. We support the variation of Wessex Water's licence to include as an 'unserved area' the area currently covered by Cholderton, in the event that the proposal to terminate Cholderton's licence is accepted.

The change to Wessex Water's Licence will give customers of Cholderton the security of a 'supplier of last resort' should Cholderton become unable to supply them.

Enquiries

Enquiries about this consultation response and requests for further information should be addressed to:

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