

**Response from the National Disability Authority**

**to the**

**Commission for Energy Regulation**

**Water Charges Plan Consultation**

**CER/14/366**

**August 2014**

## Introduction

The National Disability Authority (NDA) is the independent state body providing expert advice on disability policy and practice to the Government and promoting Universal Design in Ireland.

In response to this consultation, the NDA is answering only those questions where it can make a relevant contribution to the process

**Q13. Do you agree with our proposed approach to incentivising improvements in quality and customer service? Are there any other aspects of Irish Water's customer service that you would expect to see covered in the proposed reporting and incentive mechanism?**

It should be a key goal of Irish Water to meet the needs of as many existing and potential customers as possible. Universal Design provides a way to achieve this goal. It promotes designs that are accessible to, usable by and understandable by as many end-users as possible.

The CER's support was one of the main reasons why the National Standard Authority of Ireland's **SWiFT 9: 2012 Universal Design for Energy Suppliers**<sup>1</sup> was produced. This standard provides guidance and requirements to energy suppliers on how to apply Universal Design in the development of accessible and usable products and services for household customers.

Along with the consumer protection obligations set out for gas and electricity suppliers in Regulation 3(3) of S.I. No. 463 of 2011<sup>2</sup>, the **SWiFT** should form the template for all customer interactions on behalf of Irish Water.

This is the standard by which all of Irish Water's customer service should be measured.

The customer service experience – including any communication, and the provision of information – should be designed to be readily accessible to and understandable by all customers, regardless of age, ability, disability or size. In

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<sup>1</sup> [http://www.standards.ie/cgi-bin/main\\_frames?DATA=53FDBAFB](http://www.standards.ie/cgi-bin/main_frames?DATA=53FDBAFB):

<sup>2</sup> European Communities (Internal Market in Electricity and Gas) (Consumer Protection) Regulations of 2011.

other words, the National Disability Authority recommends a Universal Design approach to the design of customer services, information and communication. This can be readily achieved by applying the principles set out in the NSAI Swift Standards and associated guidance, that were developed in relation to the energy sector and the tourism sectors respectively, and adapting them as required to the particular circumstances of the water/wastewater sector. These standards and guidance were developed in partnership between our centre for excellence in Universal Design, the National Standards Authority of Ireland, and the relevant sectors. Here are the relevant links:

<http://www.universaldesign.ie/guidelinesampstandards/universaldesignforcustomerengagementinenergyservices>

<http://www.universaldesign.ie/tourism>

Universal Design prioritises the customer's ability to understand and use the information and services provided which in turn will reduce downstream costs required to support disabled end-users who require assistance to understand or use the service provided. Applying the principles of Universal Design to customer services is a positive approach towards meeting the obligations of public bodies under the Disability Act 2005 to provide information, services and communication that are accessible to people with disabilities, and towards meeting the obligations of all service providers under the Equality Acts to reasonably accommodate service users with disabilities.

The more flexible a service is, and the more options it provides to customers, the higher the probability of that service meeting the diverse needs of as wide a customer base as possible.

Universal Design should be considered throughout the entire customer experience from when the customer first reads or hears about Irish Water right through to when they are a full paying customer and whether they need to use Irish Water's complaints procedure.

By incorporating a Universal Design approach Irish Water should reduce the requirement for costly and wasteful retrofitting and to create a sustainable service that meets the needs of all people regardless of their size, age, disability or ability who wish to use it.

## **Q20. Do you agree that flexibility to pay on a monthly basis should be provided for domestic customers?**

Flexibility to pay is essential to customers who, for whatever reason, will encounter a difficulty in paying their water charges.

People with disabilities of working age have an employment rate half that of non-disabled people (33% v 66%).<sup>3</sup> This implies that the majority of people with disabilities of working age are in receipt of some form of welfare payment.

According to the Dept of Social Protection's own statistics, 294,012 people were in receipt of some form of illness, disability or caring payment at the end of 2013.<sup>4</sup> The Department's household benefits package is paid to 410,000 customers.<sup>5</sup> It is clear that there is a large potential pool of customers who will need flexible payment options alongside the annual payment of €100 the Government has promised to add to the household benefits package to cater for water charges.

On the wider issue of the frequency of bills, the international evidence shows that access to frequent real-time information is what most changes customer behaviour. This is supported by recent research<sup>6</sup> by ESRI economists which showed that consumer behaviour is most responsive where householders have an in-home display of their usage. The research also shows that monthly information has more effect on consumption than information received at quarterly intervals. Research shows that clear feedback is a necessary element in learning how to control utility use more effectively over a long period of time and instant, direct feedback combined with frequent, accurate billing is required as a basis for sustained demand reduction.

The CER should encourage Irish Water to move from a quarterly billing period towards real-time information billing as the metering project nears completion and solid water usage data is compiled over the first two year of billing. The NDA has already submitted **Technical Guidelines for the Universal Design**

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<sup>3</sup> Census 2011, people aged 20-64

<sup>4</sup> <http://www.welfare.ie/en/downloads/Social-Stats-AR-2013-SectionE.pdf>

<sup>5</sup> Written reply to Parliamentary Question 29711/14, 8 July 2014.

<sup>6</sup> Di Cosmo, Lyons and Nolan (2014) Estimating the impact of Time-of-Use pricing on Irish electricity demand. The Energy Journal, volume 35, no. 2

of In Home Displays<sup>7</sup> to the CER backed up by a **Research Report on the Universal Design of In Home Displays.**

**Q23. Do you agree with the proposal to apply a default tariff to customers that do not validate before the end of the campaign?**

**Q24. Do you agree that, where a customer is late to validate, allowances should only be applied from the date the customer validates and that the allowance prior to that date would not be available to the customer?**

There may be an issue with regard to a customer validation campaign where it meets people with limited capacity to make decisions for themselves – such as vulnerable customers with mental health conditions, intellectual disabilities or dementia. Irish Water will need to be mindful of the current Assisted Decision Making (Capacity) Bill 2013.

The purpose of the Bill is to reform the law and to provide a modern statutory framework that supports decision-making by adults and enables them to retain the greatest amount of autonomy possible in situations where they lack or may shortly lack capacity.

The Bill provides for:

- changes the existing law on capacity, shifting from the current all or nothing status approach to a flexible functional one, whereby capacity is assessed on an issue- and time-specific basis. The Bill replaces the Wards of Court system with a modern statutory framework to assist persons in exercising their decision-making capacity
- a statutory framework enabling formal agreements to be made by persons who consider that their capacity is in question, or may shortly be in question, to appoint a trusted person to act as their decision-making assistant to assist them in making decisions or as a co-decision-maker who will make decisions jointly with them

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<http://www.universaldesign.ie/guidelinesampstandards/productsampservices/technicalguidelinesfortheuniversaldesignofinhomedisplays>

- the making of applications to court in respect of persons whose capacity may be in question to seek a declaration as to whether those persons lack capacity and for the making of consequent orders approving co-decision-making agreements or appointing decision-making representatives
- protection from liability for informal decision-makers in relation to personal welfare and healthcare decisions made on behalf of a person with impaired capacity where such decisions are necessary and where no formal decision-making arrangements are in place. It modernises the law relating to enduring powers of attorney

Where the issue of capacity emerges during the validation period Irish Water will need to judge them on their merits and, if necessary, deal with them on a case-by-case basis.

### **Q25. Do you agree that the cap on customers' bills should be extended where a leak is identified?**

The NDA welcomes the principle of having a “cap” in place on water charges for customers who have requirements for using water due to a medical condition and/or disability. Careful consideration would need to be given to how that will be established and applied. If one is considering the route of having a list of medical conditions and/or named disabilities it is not possible to be exhaustive with such an approach.

It is not possible to provide a definitive list of all possible disabilities or medical conditions which give rise to hardship in meeting associated costs of use of water. An attempt at such a definitive list would undoubtedly result in individuals with equally grave or complex conditions but not on the named list presenting for a “cap” to costs to be applied in their particular set of circumstances. Many medical or disabling conditions can present with a range of different functional impairments (e.g. from mild vision impairment requiring glasses to total blindness) so that a diagnosis may not be a good guide as to the degree of functional impairment or special requirements.

In addition, many people with disabilities have more than one form of impairment. Taking the list of functional difficulties listed in the Central Statistics Office's **National Disability Survey 2006**, people with disabilities surveyed had on average 2.6 forms of impairment.<sup>8</sup> Therefore, there may be people who do not have a condition which would named in a final list of conditions but who

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<sup>8</sup> National Disability Survey 2006, vol I, Table 2.9 p. 25

could have considerable cumulative need for water usage linked to multiple impairments.

The NDA is concerned that there are potential risks and unintended consequences from linking eligibility to having a “cap on water charges” with a definitive list of specific diagnoses.

A consequence of a definitive list would be the diversion of resources and energies into seeking to have a diagnosis confirmed from one of the conditions of the list – ‘diagnosis shopping’. As our research on the current Assessment of Need process under the Disability Act 2005 has shown,<sup>9</sup> the link between education supports and specific diagnoses has been a distorting factor on this assessment process, with a disproportionate share of limited therapy resources caught up in assessment as against treatment. In the education field, the move is now away from linking resources to specific diagnoses.<sup>10</sup>

In light of this, the National Disability Authority suggests that a functional approach be taken where need for significantly above average water consumption related to a medical or disabling condition is established, rather than specifying a list of particular conditions.

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<http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/7F0DC1DE581DE9F7802579BB00432928?OpenDocument>

<sup>10</sup> National Council for Special Education (2013) ‘Supporting students with special education need in schools’ recommended a move away from diagnosis as the basis for allocation of resources. NCSE (2014) ‘Delivery for students with special education needs’ sets out an alternative model to achieve that.