

Water market governance arrangements – a discussion document

Q1 Do you agree that existing code(s) (including from other sectors) may be a useful starting point for creating the new codes?

We do agree that the Scottish Water Code would be the best starting point to develop a water market code. We are wary of trying to use any other sectoral code, as experience has shown that translating across sectors is often complex and difficult. One of the benefits of starting with the Scottish Code is that several of the Open Water working group members should be familiar with it, thus minimising the learning curve and potentially expensive consultancy / advisory fees.

Q2 How do we ensure that the competing interests of different parties are balanced during the governance of codes, including creating and modifying codes?

No individual organisation can be allowed a right of veto, but neither should any code creation or amendments be made by one group of participants without the support of others.

For a code amendment to be passed, it should require majority support of each of the two main groups of participants – wholesalers and retailers. It may be further necessary to split the retailers into two groups – incumbents and new entrants.

Q3 Do you think that a governance panel is needed to consider proposed code modifications?

There will need to be an advisory governance panel. It should have representatives from all parties, including customer groups.

Q4 If so, what should be the membership of the panel?

- How should we deal with a large number of companies and keep it a manageable size?
- Do we need membership on a constituency basis? How might we include independent members from outside the water sector and customer representatives?

It is difficult to predict which organisations might be able to commit to the duties of the panel. Rather than try to define membership too tightly, it might be more appropriate to invite open nominations, then have some kind of constituency weighting and possibly a voting process.

Q5 What should be the panel's role?

The panel's role should be advisory. It will need to assess submissions and requests, summarise them, lay out the possible benefits and difficulties and share those with stakeholders.

A level playing field for the water market – a discussion document

Q1 Do you consider that further regulation, beyond that provided by existing tools, is required to ensure a level playing field?

We strongly support the development of industry market codes. This should allow a level playing field for new entrants, but also ensure a level playing field across all wholesalers.

Market codes are a good way of providing guidance to prevent competition legislation breaches before they happen, which is preferable to lengthy ex poste investigations.

Q2 If so, what form do you think such regulation should take?

Q3 How might we measure the effectiveness of the arrangements?

Q4 How do you think the arrangements might evolve over time?

As per our response to Water market governance arrangements – a discussion document, we feel the appropriate form would be a market code with associated governance.

The effectiveness of the arrangements might be measured as minimising the number of ex post completion investigations.

Payment terms between wholesalers and retailers – a consultation

Q1 Is our proposal to set standard terms, but to allow companies to agree to vary these terms, appropriate?

We agree with the proposal to set standard terms. This gives the best assurance that all parties are being treated equally by the wholesaler.

Q2 Are our proposals around publication of non-standard payment terms appropriate?

The default publication of non standard terms seems appropriate. Retailers must have confidence they are being treated fairly.

Q3 Is a settlement period of one day appropriate?

Q4 Is it reasonable to apply the same payment terms to all products and services in the markets?

It seems reasonable to apply the same payment terms to all products and services.

Q5 Are the details of the standard payment terms – billing period, payment period and collateral requirements – appropriate?

The payment period of the latter of 30 days after the billing period or 15 days after the invoice is received seems appropriate. This is in line with current integrated arrangements and should involve the minimum of incidence effects. We note that payment by the retailer in arrears does mean there is some bad debt risk for the wholesaler – retailers can become insolvent, particularly if they themselves have a large customer default on them.