

Information notice

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Opening a new retail market for non-household customers – establishing an interim code panel

This information notice provides an update on the approach to establishing an interim code panel to support the opening of a new retail market for water and wastewater services for non-household customers in England – and those eligible in Wales – by April 2017. We also invite applications for membership of that panel.

Background

Currently only non-household customers using more than five million litres of water a year in England – or fifty million litres a year in Wales – are able to choose their supplier of water services. The [Water Act 2014](#) enables the creation of a new market that will allow all non-household customers in England – and those eligible in Wales – to choose their supplier by April 2017.

In 2012, the UK Government established a group of key stakeholders (the ‘High Level Group’), which includes us, to help prepare for a new retail market and other market reforms. The High Level Group (HLG)

established the [Open Water](#) programme to deliver this work.

In December 2013 the HLG established Open Water Markets Limited (OWML) – a company limited by guarantee and with an appointed board of directors – as the entity to take forward and govern that programme of work.

We announced in February 2015, that the [OWML will be wound down in May 2015](#). OWML’s board has agreed to move forward on the basis that it will continue until 31 May 2015 subject to sufficient resources and funding being made available and there being a clear plan for transition beyond the end of May.

OWML’s tasks will be allocated to Market Operator Services Limited (MOSL) – a private company – and Ofwat. We also highlighted that the allocation of roles and responsibilities after May was subject to further discussion and engagement and that we would inform stakeholders of the new arrangements as soon as possible.

One of the new arrangements is that Ofwat will establish an interim code panel (interim panel).

Below we summarise:

- the role of the interim panel;
- its membership; and
- how it will work.

Further information is available on in the [interim code panel](#) page on the [retail market opening](#) section of our website.

Interim panel

Role

The interim panel will comprise elected representatives who will consider and make recommendations to Ofwat on any changes that are needed to the documents that set out how the markets will work (market codes). The market codes include:

- the wholesale-retail code (WRC), a statutory code which sets out the business, market and operational terms that will apply to all two-way arrangements between a wholesaler and a

This is a formal document that alerts our stakeholders to a change in the way that we regulate the water sector in England and Wales.

- licensed retailer; and
- the market arrangements code (MAC), a non-statutory code which sets out the arrangements to establish a market operator and advisory codes panel, including the process for establishing, joining and operating the market operator.

The interim panel will eventually be replaced by an enduring panel following market opening.

Ahead of the enduring panel being established, the interim panel will:

- provide a formal and effective change control process for the market codes;
- improve acceptance and buy-in to the final market documents by market participants; and
- give the water sector in England and Wales some experience of how a panel should operate.

Members

The interim panel will have the following members:

- two members elected by wholesale companies;
- two members elected by associate retailers (retailers associated with wholesale companies);
- two members elected by new entrant retailers;
- one independent Chair; and
- two independent members.

In addition to the interim panel members, there will be a panel secretary (with a non-voting role), plus several invited observers

which should include Ofwat, the Water Industry Commission for Scotland (WICS), MOSL and a consumer representative.

There will be a process for wholesale companies, associate retailers and new entrant retailers to vote for their members on the panel.

The secretary of the panel will be provided by Ofwat.

We consider that we should appoint the Chair of the panel directly. This is consistent with the approach taken in other regulated sectors. For example, the Chair of the [Balancing and Settlement Code in energy](#) is appointed by the Gas and Electricity Markets Authority.

We will be seeking to appoint an individual who:

- has the confidence of all stakeholders in the market; and
- has not been employed or engaged by any appointee or holder of a Water Supply Licence during the past five years.

We will prepare a list of potential independent members of the panel. The Chair will then select two appropriate candidates. We would expect the independent members to be experts with relevant experience of panels in other regulated utilities.

How it will work

The interim panel will agree its working practices before it begins

its work. Its meetings will be public. Ofwat will procure any external resources that are required and these will be funded by the Open Water licence fee that Ofwat charges licensed companies.

The interim panel will follow the process set out in sections 6 and 7 of the [Market Arrangements Code](#). If the panel considers this process needs to be simplified to allow more streamlined decision making, it can make recommendations to Ofwat.

Anyone will be able to propose changes to the market codes. This includes:

- market participants – either through their elected representatives on the panel or directly;
- Ofwat and WICS; and
- MOSL (these changes are likely to be primarily focused on the feedback from the systems vendor and any outstanding changes from the legal consultation process on the market architecture plan version 3 (MAP 3)).

The interim panel will evaluate each change proposal. It will vote on the proposal and then make a recommendation to Ofwat on whether and when to approve each potential change.

Next steps

We invite wholesale companies, associate retailers and new entrant retailers to identify

potential candidates to be the representatives for their respective group on the interim panel by 22 May 2015. We will also write to all relevant parties formally seeking nominations before holding a meeting for any elections in early June.

We also hope to appoint a Chair for the interim panel by early June 2015 – and to appoint the two independent members by the end of June, after the Chair has selected them.

Our aim is to have all members of the interim panel in place by the beginning of July 2015. This should allow the interim panel time to meet to agree working practices, before taking responsibility for changes to the codes in mid-July – after the publication of the latest market architecture plan. This will include the latest versions of the wholesale-retail code and the market arrangements code.

Enquiries

If you have any questions about this information notice or any of our requirements, please send them to retailmarketopening@ofwat.gsi.gov.uk.

Timeline for interim panel work

Step	Target Date
Invite companies to participate in the forming of an interim panel	30 April 2015
Ofwat writes to parties seeking nominations by 22 May	08 May 2015
Notice of nominations meeting	11 May 2015
Deadline for proposing candidates for election to the interim panel	22 May 2015
Elections meeting	Early June 2015
Appoint Chair	Early June 2015
Identify potential candidates for the independent members positions	Mid June 2015
Appoint independent non-executive directors	End of June 2015
Interim panel in place and meets to agree working practices in advance of taking responsibility for considering change proposals	Early July 2015

More information

Water Act 2014, www.legislation.gov.uk

[Retail market opening](#) web page

[Interim code panel](#) web page

Latest [integrated market opening plan](#)

[Letter from Ofwat Chief Executive Cathryn Ross to water companies to update them on the opening of the non-household retail market, February 2015](#)

[Open Water](#) website

[Central Market Agency Scotland](#) website

[Elexon](#) website

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Phone: 0121 644 7500
Fax: 0121 644 7533
Website: www.ofwat.gov.uk
Email: mailbox@ofwat.gsi.gov.uk
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