

# Information notice

IN 15/14 November 2015



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.

## Notice of withdrawal of information notice IN 13/21 'Payment terms between wholesalers and retailers'

This information notice provides notice that we are withdrawing information notice IN 13/21 'Payment terms between wholesalers and retailers', which we published in November 2013. IN 13/21 came into effect on 1 April 2015 and we are withdrawing it with immediate effect.

### Background

In IN 13/21 we notified you of the decisions we had made on the form of assumed payment terms, which were to apply between wholesale businesses ('wholesalers') and retail businesses ('retailers').

The core purpose of information notice IN 13/21 was to set out our assumptions in relation to payment terms between wholesalers and retailers. This was so in 2014 we could set limits on prices, and other aspects of the incentive framework under which monopoly water and wastewater and water-only companies in England and Wales would operate in the period 2015-20. We called this the '[2014 price review](#)'.

We needed to make assumptions about payment terms between wholesalers and retailers in order to assess the appropriate

allocation of risk between the wholesale and retail parts of the monopoly companies. This is so we could effectively set the appropriate financial returns for them. We told companies in IN 13/21 to use the common terms we set out to inform their business plans for 2015-20, which they submitted to us as part of the 2014 price review.

In IN 13/21 we also stated that we would update our access code guidance and other relevant market documents in conjunction with the [Open Water programme](#) by 1 April 2015. The Open Water programme is a single programme of work that brings together all of the key organisations to design and deliver a new market that will allow eligible non-household customers to choose their supplier of water and wastewater services from April 2017.

Some of the documents describing how the new market will work are now well developed and drafts are publicly available. This includes the following.

- The [Wholesale-Retail Code \(WRC\)](#), a statutory code which sets out the business terms, market terms and operational terms that will apply to all two-way arrangements between a wholesaler and a licensed retailer
- The [Market Arrangements Code \(MAC\)](#), a non-statutory code which sets out the arrangements to establish a market operator, including the processes for joining and operating the market operator and for establishing a code panel.

The credit arrangements contained within these market documents have not yet been finalised but will be before the market codes come into force. However, we do not anticipate that these new market documents will be fully in force before the market opens in April 2017.

Stakeholders have told us that this has led to some confusion, with some companies relying on IN13/21 to propose changes to their common contracts for providing existing retailers ('water supply licensees') access to their water supply networks. This was not our intention. Indeed, as we said clearly in that information notice:

**“However, water supply licensees will not have to change their existing agreed payment terms unless their customers want to change the terms.”**

Also, in IN13/21 we stated that we intended to set out new terms in the market documents

and issue amended access code guidance in the future. In particular, we stated that:

**“After enactment and implementation of the relevant sections of the Water Bill:**

- **water companies will be required to offer these payment terms to water supply licensees; and**
- **sewerage companies will be required to offer these terms to sewerage licensees.**

**We intend to do this by setting the terms out in the market documents.”**

Until the new market documents are finalised, and we issue the new access code guidance, all monopoly companies should continue to apply the existing access code guidance (dated September 2011), which includes the template for the common contract. The [current access code guidance](#) is available on our website.

## **Withdrawal of information notice IN 13/21**

Following the finalisation of monopoly companies' price controls for 2015-20 and in the absence of a new set of market documents for the retail market, we have decided to withdraw formally the information notice IN 13/21. This will be effective immediately.

IN 13/21 signalled our intention to amend the access code guidance in the future following the publication of finalised market documents. IN 31/21 did not amend the access code guidance nor did it prescribe enforceable substantive terms of supply. We will continue

to develop the new access code guidance and other market documents in conjunction with the Open Water programme.

We envisage that the market documents currently being discussed will, among other things, set out the payment terms that will apply between wholesalers and retailers. These terms will then be included in a contract and wholesalers and retailers will have to comply with the market codes as a requirement for continued operation in the market.

We do not expect the arrangements to differ significantly from the terms set out in IN 13/21. The current draft proposals build on those set out in IN 13/21 and seek to offer a wider range of terms. However, until all relevant market documents are finalised, the existing access code guidance remains valid. This means:

- a water supply licensee has a right to be supplied on the terms set out in the common contract attached to the current access code guidance;
- any change to the common contract may only be implemented if that change is agreed between both parties; and
- any existing supply contracts that were offered to licensees on terms other than the terms set out in the common contract will, on the request of the licensee, need to be amended to bring

those contracts in line with the common contract.

So, water companies should continue to ensure that their access codes conform to the current access code guidance.

## Next steps

The withdrawal of information notice IN 13/21 will take effect immediately.

We will continue to develop the new access code guidance and other market documents in conjunction with the Open Water programme.

## Enquiries

If you have any questions about this our approach to payment terms between wholesalers and retailers, please send them to [retailmarketopening@ofwat.gsi.gov.uk](mailto:retailmarketopening@ofwat.gsi.gov.uk).

## More information

[IN 13/21 'Payment terms between wholesalers and retailers'](#), Ofwat, November 2013

[2014 price review](#), Ofwat webpages

[Choosing you supplier](#), Ofwat webpages

[Links to monopoly companies access codes](#), Ofwat webpage

[Access Code guidance \(including the common contract\)](#), Ofwat, September 2011

[Open Water website](#)

[Index of Codes](#), Open Water website

[Wholesale-retail code part 1: objectives, definitions and principles](#), Open Water website

[Wholesale-retail code part 2: business terms](#), Open Water website

[Market arrangements Code](#), Open Water website

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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