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Trust in water

# **Consultation on the Market Arrangements Code: decisions and responses**

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## About this document

At the moment only a small number of business, charity and public sector (“business”) customers across England and Wales can choose their water retailer and most business customers must use services provided by the monopoly water and/or sewerage companies. The Water Act 2014 (WA14) will allow more eligible business customers to choose their supplier of water and wastewater retail services from April 2017.

This means that for business customers who are supplied using the water supply or sewerage system of an appointed company whose area is wholly or mainly in England, the market will be extended to include all eligible business customers, regardless of their usage. However, for those who are supplied using the water supply or sewerage system of an appointed company whose area is wholly or mainly in Wales, the market will not be extended, reflecting the different policy position of the Welsh Government. This means that eligible business customers which meet the 50ML threshold will continue to be able to choose their water supplier but there will be no competition for the provision of sewerage services.

A new legal and regulatory framework is being put in place to facilitate the new business retail market, and provide the necessary market governance. This framework includes a number of codes which together set out the rules for the new market. It is intended that these rules will apply in England and Wales.

The Market Arrangements Code (“MAC”) is a key element of the regulatory framework for the new business retail market as it sets out the functions of the “Market Operator” and the “Panel” together with the modifications processes for the Wholesale-Retail Code (WRC) and the MAC.

We consulted on the proposed final version of the MAC between **9 November 2016 and the 16 December 2016**. This document provides a summary of the responses to that consultation and outlines our decisions, including some further minor changes which Ofwat plans to make to the MAC prior to formal designation.

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## 1. Background

The MAC is a non-statutory code which is established by conditions in Water Supply and Sewerage Licences (“WSSLs” and Instruments of Appointment (“IoAs”) (known as the MAC Condition in both WSSLs and IoAs). The MAC Condition is to be effective from market opening. The MAC applies to all Licensees and Appointees in England and Wales as a consequence of the MAC Condition. The MAC Condition places obligations on Licensees and Appointees to ensure that the MAC is established and maintained; and sets out the minimum requirements for what should be covered by the MAC. This includes the setting up of a Panel to help oversee the WRC and the MAC including any changes to these codes, the role and function of the Market Operator (MO) and the systems and processes to support the Panel and the MO.

Integrated Appointees (i.e. those who have not exited from the non-household retail market and therefore continue to provide wholesale and retail services) are subject to the provisions of the Stapling Condition (Condition R4 of the IoA). This condition requires them to put in place written arrangements between their wholesale and non-household retail businesses. These arrangements are required so that these Appointees are subject to the provisions of the WRC. However in order that the WRC can be applied proportionately to an integrated Appointee provisions in Schedule 8 to the MAC provide for interpretation of and derogation from obligations in the WRC. . If an integrated Appointee wishes to seek further derogations from the application of the WRC to its particular circumstances, application can be made to Ofwat in accordance with the Stapling Condition Derogation Process set out in the Derogations Guidance which has been revised to include these changes and was [consulted](#) on to allow market participants to raise any final concerns before the codes are finalised.

The consultation on the draft MAC sought views on any further changes that are required ahead of market opening; the opportunity to note changes that could be considered post market opening; and on some specific changes around the modification process proposed by Ofwat. A summary of the consultation is set out in Section 2 of this document. The key decisions we have made as a result of the consultation are set out in Section 3 of this document and a summary of the responses received and our decision in relation to each comment is set out in Section 4.

In parallel with the consultation, Ofwat undertook its own quality review of the MAC to ensure the MAC was ready for market opening. This has uncovered some minor matters which we consider it is appropriate to amend in the final version of the MAC. Given the minor nature of these changes and/or the consultation and engagement which has taken place on those matters to date, we do not consider it necessary to undertake further consultation. The changes and the reasons for them are set out in Section 5.

## 2. Consultation approach and questions

### Market Arrangements Code consultation approach

The MAC consultation ran between **9 November 2016 and the 16 December 2016** we received **14 responses**.

### Consultation questions

We consulted on our approach to the MAC. Given the open governance arrangements which had been operating in relation to the MAC we sought broad feedback on the MAC as a whole as follows:

We would be grateful for comments on the MAC drafting set out in the Consultation. In addition, we would welcome any suggested improvements to the MAC for the purposes of Market Opening as well as issues such as the document hierarchy or Stapling Condition.

To aid our consideration of your comments or suggested drafting it would be helpful if you could ensure that you make a full reference to the MAC provision you are making a comment about or to which you are suggesting a change.

In addition you should explain the rationale for the comment or suggested change together with your view on whether the change is needed prior to Market Opening and why. You should also explain why this change has not be raised earlier to the ICP or indeed whether this change has already been considered by the ICP.

As well as the broad question asked above, as part of the consultation we also asked for views on some specific changes we proposed to make to the MAC in two areas: code change processes and the market architecture hierarchy which sets out the precedence of documents in the legal framework in the event of conflict between obligations in these documents.

**No responses to the consultation highlighted any issues that would prevent the market from opening on time and the majority of respondents were supportive of the**

**open governance approach through the Interim Code Panel) and the interaction and involvement they had in the development of the codes (WRC and MAC) to date.**

## **Code Change Processes**

As regards the specific proposals we made regarding the code change processes set out in the MAC, we set out in the consultation document that we considered that these changes were required to make sure that the code change process is robust and effective; and to comply with the provisions of the MAC Condition.

Specifically, we proposed to amend the draft MAC to address the following four issues:

- Ofwat being able to set a timetable and/or process for the Panel's considerations in certain circumstances;
- Requiring the Panel to provide a recommendation to Ofwat, to avoid the code change process stalling before Ofwat makes a decision;
- Adding provisions to allow the Panel to review and revise its Final Report, if necessary to correct any deficiencies in the report or to address any queries from Ofwat; and
- Adding provisions requiring the implementation of any changes to the MAC.

The consultation document outlined our proposed changes and set out how these had also been discussed with the Interim Codes Panel (ICP) and their comments had been considered and incorporated.

Overall, stakeholders were in agreement with the changes we proposed as part of our consultation on the MAC. There were two responses that related specifically to our proposal regarding Ofwat setting a timetable and/or process for a code change and how the impact of changes on systems etc would be considered. One of those stakeholders requested further detail on the enduring panel and the process through which change requests will go, and the other asked for further clarification on the voting process. We have provided further clarity on these comments as part of section 4 of this document.

As a result of this broad support from stakeholders, we have decided to make the proposed changes in the final version of the MAC. A summary of these proposed

changes can be found below along with the specific section references in the MAC where the changes will be made:

<b>Policy proposal</b>	<b>WRC change process (section 6)</b>	<b>MAC change process (section 7)</b>
<b>– Ofwat setting timetable for certain change proposals</b>	6.3.1 6.3.3	7.2.1 7.2.3
<b>Applicable Law change proposals (ie those required to implement law) must be accepted by the Panel and cannot be withdrawn without permission</b>	6.2.1 (e) 6.3.1(b)	7.1.2 € 7.2.1 (b)
<b>Change proposals to justify urgency</b>	6.2.1.(d)	7.1.2 (d)
<b>Panel recommendation required in all cases</b>	6.3.5	7.2.5
<b>Ability to revise and resubmit Report</b>	6.3.8	7.2.7
<b>Implementing changes</b>	N/A previous drafting already referred to Market Terms and CSD 0501 for implementation	7.2.9

## **Market Architecture Hierarchy**

In our consultation, we also outlined a legal hierarchy for consideration and 11 respondents agreed that the hierarchy in the consultation provided clarity as to which documents took precedence in the event of conflict.

As a result of this broad support of stakeholders, we have decided to include the hierarchy in the final version of the MAC. The order of precedence shall be:



- (i) any Law other than any Appointment, any Licence, the Market Arrangements Code, the Wholesale Retail Code, the Interim Supply Code, the Retail Exit Code and the Customer Protection Code of Practice;
- (ii) any Appointment or Licence;
- (iii) the Market Arrangements Code;
- (iv) the Wholesale-Retail Code;
- (v) the Interim Supply Code and the Retail Exit Code; and
- (vi) the Customer Protection Code of Practice.

## **1. Decisions on questions in the MAC consultation**

This section summarises the points raised directly to the consultation questions and any other significant concerns that were received. A more detailed list of comments and the Ofwat response can be found in section 4 of this document.

### **1.1. Suggested improvements to the MAC for the purposes of Market Opening**

As part of the consultation we asked for comments from stakeholders on improvements that could be made to the MAC which would facilitate the efficient operation of the market and which would be required for market opening.

Details of these comments are contained in Section 4 but, in general, these comments concerned improvements which participants thought could be made to some governance processes, in particular the market operator's governance and funding.

We note that market participants have already been going through processes with a view to there being a Market Operator (“MO”) and a Panel in place for market opening. We recognise that experience of these initial processes will have enabled market participants to identify areas which could be improved in the future.

Our quality review of the MAC also highlighted that it may be appropriate to distinguish the process relating to the first MO and the Panel from the arrangements for future appointments.

For example, some of the drafting in the MAC relating to the MO and the Panel presumed that these arrangements would occur after the MAC came into effect. As set out in our transition note [transition note](#) and [panel election information note](#)

Ofwat and market participants have been progressing these matters so that arrangements are in place in time for the MAC coming into effect.

Given comments from stakeholders and our own quality review, we consider that it would be appropriate for the MAC drafting to distinguish the first arrangements from future arrangements and for the processes relating to the first arrangements to be

aligned with the processes which have been and are currently being followed by Ofwat and market participants.

These arrangements could persist for a period after market opening and would give time for market participants to consider improvements to the future arrangements and progress proposals either through the code change process or through their membership of the MO and its own governance arrangements.

Our proposals in relation to the initial market arrangements are described further in section 5 below. We do not consider it appropriate to make changes to the future governance arrangements in advance of market opening without such changes following a fuller consultation process. We are satisfied with the current provisions of the MAC and note they have been widely consulted upon through the Open Water Programme. However, we support market participants in seeking to learn lessons from the early processes undertaken and welcome any improvements which market participants may bring forward following market opening.

## **1.2. Comments on the document hierarchy**

As part of the consultation we asked stakeholders to provide comment on the proposed hierarchy. Of the responses that mentioned the hierarchy all were supportive and there was general agreement that it provided clarity.

One stakeholder did, however, highlight that if the structure were to change from that proposed in the consultation the hierarchy may need to be revisited and amended to ensure that it was accurate and correct.

Given the above, we will continue with the approach we outlined.

## **1.3. Comments on the Schedule 8 to the MAC and how it relates to the Stapling Condition**

We received no comments from stakeholders on the interaction between the Stapling Condition and Schedule 8 to the MAC and whether Schedule 8 should contain general derogations from the WRC as it applies to the written arrangements between the wholesale and retail business of integrated Appointees. As part of our own review and finalisation of our derogations processes we did identify that further clarity could be provided within Schedule 8 of the MAC with regards to the

implementation of derogations from the Stapling Condition, including those which may be granted under our Stapling Condition Derogations Process.

As a result of the Derogations Consultation, Schedule 8 has been divided into three Parts. Part 1 is Interpretation, Part 2 General Derogations and Part 3 Specific Derogations. The original text from Schedule 8 has been reviewed and applied to either Part 1 or Part 2 of the restructured Schedule 8. Section 5 includes a summary of our approach to the drafting for Schedule 8 of the MAC as a consequence of the Derogations Consultation.

### **Outcome from consultation**

Following feedback from stakeholders and consideration of the points raised, we have issued a change marked and clean final versions of the MAC alongside this document. We propose to designate this version as the Market Arrangements Code for the purposes of the MAC Condition. As previously indicated, the MAC Condition will take effect at market opening.

As set out in the MAC Condition, the MAC is structured so as to require market participants to bring it into effect and be bound by it, by signing a MAC Framework Agreement.

We anticipate the MAC Framework Agreement being signed on 8 March 2017, and details will be communicated to market participants soonest.

## 4. Summary of responses and decisions made

Summary	Our response
<p>There were 10 comments where participants highlighted that, with the open governance process, they had been actively involved in the development of the codes and so felt they were ready for market opening.</p>	<p>We agree that the open governance of the codes has aided their development and the companies understanding of their role in the market. The enduring process will continue with open governance arrangements but using the MAC processes more fully than was adopted by the Interim Codes Panel.</p>
<p>There were 11 comments made by participants where they agreed with our proposed amendments to the MAC and the inclusion of a hierarchy.</p>	<p>Given positive comments we intend to make the changes we outlined as part of the MAC consultation.</p>
<p>One stakeholder highlighted that the document Hierarchy assumes that the Wholesale Retail Code (WRC) consultation proposals are ratified in terms of the definitions and structure. Specifically with regards to the Wholesale Contract being amalgamated to into the Wholesale Retail Code. They highlighted that if these change were not taken forward the hierarchy would need to be reviewed.</p>	<p>We agree that the proposed hierarchy was consistent with the proposals we were making regarding the structure of the WRC. Having considered responses to our WRC consultation and as set out in our WRC consultation response document, we have decided to take forward the proposals. Therefore there is no need to reconsider the hierarchy set out in Schedule 1 to the MAC.</p>
<p>One stakeholder commented that a concise, customer friendly summary of the market codes that sets out clearly the levels of service they should expect in the market would be useful for customers.</p>	<p>We are aware that the codes are currently detailed technical documents which is appropriate for the parties bound by them. However we are also alive to the need for customers to engage with the market and how access to information about the structure of the new market arrangements could be helpful. We are aware that some third parties have started to draft 'guides' to the market codes. Ofwat is currently considering how best to engage with customers and provide information and advice, for example by using the <a href="#">Open Water website</a>.</p>
<p>One participant asked that processes for providing clarity on points of contention in the future with the codes should be communicated and made as clear as possible. This was also emphasised by another participant that</p>	<p>There will be an enduring Panel and any disputes/queries that required a code modification by companies would need to be submitted via the enduring codes process so impacts could be</p>

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<p>would like further clarity on the enduring panel and how this will operate the enduring change process.</p>	<p>assessed. The operational processes to be followed by the enduring panel within the provisions of the MAC e.g. the amount of information to be provided to stakeholders as part of any consultation run by the Panel, will be established following the appointment of the new Panel. In addition, as Ofwat makes the ultimate decision on code changes, we may also consult relevant stakeholders before making our decision.</p>
<p>One stakeholder commented that a review of the codes concluding 18 months after market opening would be useful to improve efficiency and simplify the codes. It also suggested that a requirement for periodic strategic code reviews be introduced.</p>	<p>We note that, under the WIA91, we are may review statutory codes and issue revised codes. We agree that a periodic review of the MAC may also be beneficial, but we are not proposing a timeframe at this stage.</p>
<p>One stakeholder commented that it would be beneficial for Ofwat to set out under what criteria changes will be considered urgent and minor given that these types of changes will not involve the enduring Panel.</p>	<p>We note that “urgency” can be considered both by the Panel in deciding the process to follow in progressing a code change proposal and in the context of minor and urgent changes to the WRC under the Water Industry Act 1991. As regards the latter, we are aware that a consequence of Ofwat deciding that a WRC change is minor or urgent is a lack of consultation and this is likely to influence how we consider urgency i.e. the change would require to be so urgent that the Panel and wider consultation could not be undertaken. Once we have experience of code changes after market opening, we may be in a position to provide criteria for urgency but we do not propose to do so in advance of market opening.</p>
<p>One stakeholder suggested that we create a single searchable PDF version of all the market codes.</p>	<p>To ensure consistency with the development of the codes they have been left in the structure market participants recognise from the Open Water Programme. However, making the codes more user friendly could be something considered in the future possibly by using web versions for example.</p>
<p>Two stakeholders raised that there needs to be a formal process to appoint the market operator and this should be periodically re-approved based on a tendering process.</p>	<p>Given concerns expressed by stakeholders during the Open Water Programme regarding the procurement law implications for a market operator if Ofwat was involved in the MO appointment,</p>

	<p>Ofwat has regarded the process for the appointment of the MO to be a matter for market participants who are subject to the MAC Condition. If procurement law or market participants' internal procurement protocols require a tendering process for the appointment or re-appointment of an MO, Ofwat has no objection to participants choosing to use such a process. Ofwat's concern is to ensure that there is at all times an appropriately constituted body appointed by wholesalers and retailers which can perform the role of the MO under the MAC and WRC.</p> <p>We understand from Market Operator Services Limited ("MOSL") that market participants took part in a process to appoint MOSL as the MO on 15 December 2016. Ofwat is in the process of writing to market participants to seek their confirmation of this appointment for the purposes of ensuring compliance by Appointees and WSSL holders with the MAC Condition and the MAC.</p> <p>It will now be for market participants to ensure that their selected MO is compliant with and can fulfil the functions of the MO under the MAC and the WRC.</p>
<p>Two stakeholders commented that it is important that there is a clear process for approving the Market Operator's Budget. It was suggested this could be achieved by adding requirements into Sections 3.2, 4.6.2 and 10.2 of the MAC.</p> <p>For example it was suggested that section 4.6.2(d) states of the MAC which states " the Market Operator will approve the Market Operator Budget and Market Operator Charges, list of Additional services and Additional Services Charges after considering all comments received from the Panel" could be redrafted to state that "Trading Parties should vote on the budget and the majority decision accepted."</p>	<p>Where a company has appointed a market operator it will be subject to the funding and budgetary arrangements that that operator has in place as part of its role of performing the duty and functions of a market operator as set out in the MAC and the WRC.</p> <p>We understand from MOSL that its operational budget for 2017 has been approved in accordance with its own governance arrangements.</p> <p>This is one of the areas where Ofwat identified that there may be a need to align the first budget approval with the process followed rather than the process set out in the MAC (see section 5 below).</p>

	<p>As regards future budget approvals, we support market participants learning lessons from the initial processes and proposing improvements through the MAC change proposal process. We consider that there would be time for such improvements to be made via the code change process in advance of the next budget approval process and that such proposals would benefit from consultation. Therefore, we do not consider it necessary to make further modifications in advance of market opening.</p>
<p>One stakeholder highlighted that the voting majority at the Panel should be reviewed, in order to avoid a situation where a significant decision on a Code change proposal, largely approved by Panel members, is not passed due to the vote of one single member. They suggested that one possible solution would be to specify that the qualifying majority described in paragraph 5.10.2 should be set at the number of attendees, minus two (2).</p>	<p>We note that the development of the constitution of the Panel has been widely consulted upon throughout the Open Water Programme and that the threshold for a change proposal to be recommended to Ofwat is high. However, we are also aware that Ofwat could make a change to the codes even if that change was not recommended by the Panel and so the qualified majority voting does not necessarily prevent a change being made. If Ofwat chose to make a change in the absence of a Panel recommendation of that change and market participants objected to Ofwat's decision, we anticipate that they would be able to appeal to the Competition and Markets Authority.</p> <p>Nevertheless we intend to monitor how the Panel arrangements operate in the enduring market. If we or any market participants considered that proposals were routinely not being recommended when there was only one dissenting member, a change proposal could be made. In addition we could look to refine the constitution of the Panel to reflect better the structure of the market e.g. to reflect the extent of retail exit which has not involved associated licensees.</p>
<p>One stakeholder suggested that at the moment, whatever change is proposed by the Regulator, cannot be appealed. It was suggested that as would be expected in other areas of markets there should be the option to appeal to the CMA any change.</p>	<p>We note that, as the MAC does not bind the CMA, it is not an appropriate place to insert a right of appeal. Defra has consulted and published a response document on draft regulations pursuant to which an appeal to the CMA would be available in respect of Ofwat's decisions to amend the MAC and/or the WRC.</p>



<p>A new paragraph should be included that states:</p> <p>"If a trading party disputes a code change, except minor or urgent changes, then it may submit it an appeal against the code change to the CMA. This must be submitted within 20 working days from the day the proposed change was consented"</p>	<p>The regulations have now been <a href="#">published</a>.</p>
<p>One stakeholder suggested that within the Market Operator Conduct (Section 10.9) of the MAC there should be a vetting process and outline as to what the audit of the market operator should look like. They suggested the section should be updated to read:</p> <p>"An audit of the market and Market Operator should be conducted on a regular basis. The scope of the audit should be agreed by the Trading Parties".</p>	<p>Ofwat is currently satisfied with the governance arrangements in place in the MAC to ensure that the market operator performs its duties as required by the market codes. This does not prevent market participants agreeing other performance benchmarks as part of the MO's own governance arrangements and any other arrangements in place between market participants and the MO, although these may affect the costs of the MO and therefore its budget.</p> <p>If in the future the ability of the market operator was called into question or if participants felt that there was a significant risk as a result of the current arrangements they may put forward a change request through the code change process to propose more stringent measures to be put in place.</p>
<p>One stakeholder raised an issue with regards to the timing of a code change, the implementation of the change in the CMOS system and how companies may therefore not be able to comply with a change until that change has been implemented in the CMOS system.</p> <p>Specifically they felt that Section 7.2.9 should be amended to ensure that a pragmatic approach to implementation is achieved, where an obligation is placed on the Market Operator to effect an efficient and expedient implementation. They suggested that a practical implementation timetable should be made for each change and then the Market Operator is required to deliver the change in line with the agreed implementation timetable.</p>	<p>We feel a change is not necessary, we believe the current drafting is sufficient and considers the necessary processes that would need to occur to implement changes.</p> <p>We note that for WRC changes, these become "Approved Changes", which become subject to CSD0501 under the WRC.</p>

The implications of such changes is that if a change to the code is made but the CMOS system is not yet updated, participants may not be able to comply with the obligation in the code.

They suggested that;

1 - clause 6.3.5 (e) (I) should be amended to ensure a practical Implementation Timetable for any recommended changes and specifically one that recognises the requirements of CSD0501. Such as:

“The Market Operator shall implement any Market Arrangements Code Approved Change, including any resultant amendments required to the Central Systems in an efficient and coordinated manner with due regard for the changes required to Trading Parties systems and CSD0501.”

2 - a change to Clause 7.2.9 to include a recognition that the implementation of changes will be aligned to CSD0501. Such as:

“the time and date on which the Panel believes the Change Proposal or Charging Change Proposal could be implemented with due regard for the changes required to Trading Party systems and CSD0501; and”

## 5. Issues and drafting amendments identified as a result of Ofwat’s quality check of codes

In parallel with our consultation on the MAC, we conducted our own quality and consistency check of the MAC. This uncovered some non-material drafting issues which we have decided to correct for market opening. Such changes fall into two categories:

- Changes necessary to deal with the transition to the enduring governance arrangements on which there has already been stakeholder engagement and/or publication of information;
- Changes to Schedule 8 as a consequence of our Derogations Consultation; and
- Housekeeping changes where we have noticed typographical errors, capitalised terms that were not defined in the MAC (most were defined in the WRC and therefore the intended meaning was clear) or cross referencing errors or omissions.

These changes are summarised in the table below, together with the reason for the change.

<b>MAC Section</b>	<b>Change made</b>	<b>Reason for change</b>
Introduction	Completion of cross references to the MAC Condition in WSSLs and IoAs.	We consider it clear that the cross references were always intended to be inserted in advance of market opening and the MAC condition itself was widely consulted upon before being included in the WSSL standard conditions and modification notices for IoAs.
1.1.1 and use of Effective Date	Replace all uses of “Effective Date” throughout main body of the MAC and Schedule 1 to the MAC with “Go Live Date”. Leave	It was clear from the drafting note at the definition of "Effective Date" that this was intended to reflect the date that the WRC was also effective ie Go Live Date. The Secretary of State will decide when the market will open

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	Effective Date as defined in the Framework Agreement at Schedule 2.	which is currently anticipated to be the 1 April 2017 and the definition of "Go-Live Date" incorporates this date, consequently we consider it appropriate to use this term throughout the MAC.
3.1.1(c)	Replace "as set out in" with "as modified by the provisions of"	A consequence of restructuring Schedule 8 following the derogations consultation it is clear that obligations as anticipated by the original drafting are not set out in Schedule 8 but may have been modified by the provisions in schedule 8.
4.4.3	Amend text in 4.4.3 "The first Board shall be that which was appointed in accordance with the governance processes of the Market Operator. The first Board Nomination Meeting shall be held within 6 months of the Go Live date."	MOSL as the appointed MO already has a Board in place and plans to align the Board with the provisions of the MAC as soon as practicable after market opening. A time limit of 6 months post Go Live has been added.
5.1.2	New paragraph inserted as follows: "Notwithstanding any other provision of this Section 5, the Trading Parties agree and acknowledge that, at the Go-Live Date, the first Associated Retailer Panel Members, Unassociated Retailer Panel Members and Wholesaler Panel Members have been appointed in accordance with a process determined by the Authority The terms of appointment of Panel Members appointed pursuant to this Section 5.1.2 shall be for two (2) years from the Go-Live Date.	The drafting of the MAC anticipated that the MAC may be effective before industry governance arrangements came into effect. Now that the MAC and the industry governance arrangements come into effect at market opening, it is necessary for the preparation for the governance arrangements to commence in advance of market opening. Ofwat has been following a transparent process for Panel elections, following a process which is substantially similar to that in the MAC. This is the process determined by the Authority for this purpose and therefore we consider it appropriate that this is acknowledged in the MAC. We consider this to be a housekeeping matter since the process that was followed was advised to and supported by participants.
5.6.2	Deletion of reference to the first Panel Nomination Meeting and insertion of "following the Go Live Date" as the reference date.	As the first Panel nominations are being conducted by Ofwat, this is a consequential change from 5.1.2 above. The MAC provisions will apply from market opening. We consider this to be a housekeeping matter.
7.2.8	Typographical error in spelling of "decides" corrected.	Housekeeping amendment.
10.1.3 and 10.2.10	Insertion of the following new paragraph 10.2.10 (and reference to it in new 10.1.3) in relation to the initial budgetary process for the Market Operator:	The MAC drafting anticipated there being a Market Operator prior to their budget being approved and also the Panel being in place to be consulted about the budget. As the transitional arrangements on which there has

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	<p>“Sections 10.2.1 to 10.2.9 above are without prejudice to the initial budgetary process for the Market Operator, which the Trading Parties acknowledge and agree has been carried out in accordance with the governance processes of the Market Operator”.</p>	<p>been wide communication and engagement involve all arrangements taking effect at market opening, we consider it appropriate that an alternative first budgetary process be followed.</p> <p>In this case we are aware that a process was followed by MOSL on the 15th December.</p>
10.5.1(c)	<p>Delete “and” and all of (c). Insert “and” after text in (a). Delete “and 10.5.1(c)” in final sentence and insert “and” after 10.5.1(a)</p>	<p>Deleted text refers to Transitional Charges which were deleted following ICP change proposal 007 which was approved on 13 October 2016. This change proposal removed references to transitional charging as unnecessary. We consider that these deletions are consequential on this earlier MAC change and therefore are housekeeping amendments.</p>
13 Termination of the Market Arrangements Code	<p>This text of this clause has been deleted and has been replaced with “not used”. Consequential amendments made to 1.1.1(g) and 3.2.3</p>	<p>As a code required by the MAC condition in Appointments and WSSLs it is inappropriate for it to terminate while that condition remains in effect. Having decided that the MAC is subsidiary to the WSSLs and Appointments in the legal hierarchy on which we consulted in the MAC Consultation, it is appropriate that this inconsistent provision is deleted.</p>
Schedule 1 definition of Board Indicated Date	<p>Definition deleted.</p>	<p>MOSL as the appointed MO has a Board in place and is not following the process set out in the MAC which uses this term. We consider this to be a housekeeping matter as a consequence of the change to 4.4.3 above.</p>
Schedule 1 definition of Effective Date	<p>Definition deleted.</p>	<p>The effective date of the MAC is the Go Live date and as such there is no need for an additional term to Go Live Date. We consider this to be a housekeeping matter.</p>
Schedule 1, definition of Nominations Committee	<p>The definition of Nominations Committee has been amended as follows:</p> <p>“The meaning given in the Articles of Association of the Market Operator from time to time.”</p>	<p>This definition has been updated to refer to the Market Operator’s Articles rather than a cross reference to a specific article. We consider this to be a housekeeping matter.</p>

Consultation on the Market Arrangements Code: decisions and responses

Schedule 1, definition of Panel Indicated Date	Definition deleted.	Definition is no longer used given changes to first Panel election process since the MAC was originally drafted and the fact that this term is not used. We consider this to be a housekeeping matter.
Schedule 1, definition of Sewerage Retail Services	New definition inserted as follows: "any or all of those services provided by a Licensee under an authorisation of the type described in paragraph 1 of Schedule 2B to the Water Industry Act".	This capitalised term was used in other terms (such as the definition of "Retail Services") but was not defined. We consider this to be a housekeeping matter.
Schedule 1, definition of Sewerage Retailer	New definition inserted as follows: "a Licensee who provides Sewerage Retail Services".	This capitalised term was used in other terms (such as the definition of "Retailer") but was not defined. We consider this to be a housekeeping matter.
Schedule 1, definition of Trading Party	Square brackets removed and text "and that have satisfied the Trading Conditions" retained.	We have removed the square brackets but feel the term continues to provide clarity. We consider this to be a housekeeping matter.
Schedule 1, definition of Transitional Charges	Definition deleted.	On 13 October 2016 a Change Proposal 007 was approved. This removed references to transitional charging as unnecessary. We consider that these deletions are consequential on this earlier MAC change and therefore are housekeeping amendments.
Schedule 1, definition of Water Retail Services	New definition inserted as follows: "any or all of those services provided by a Licensee under an authorisation of the type described in paragraph 3 or paragraph 6 of Schedule 2A to the Water Industry Act 1991."	This capitalised term was used in other terms (such as the definition of "Retail Services") but was not defined.
Schedule 1, definition of Water Retailer	New definition inserted as follows: "a Licensee who provides Water Retail Services".	This capitalised term was used in other terms (such as the definition of "Retailer") but was not defined.
Schedule 7, Proposal Forms	The references to parts of the WRC have been updated.	This is a consequence of the Authority's decision to re-structure the WRC (as consulted upon in the WRC Consultation).

Schedule 8	This Schedule is now structured into 3 parts; interpretation provisions, general derogations and specific derogations.	This structural change was consulted upon in our <a href="#">Derogations Consultation</a> and the restructuring is a consequence of the decisions made as a result of that consultation. The text which is now in Parts 1 and 2 is based on the original text in Schedule 8 which was in fact a place saver pending a full review. That review has now taken place and text has been added where section references were missing and where we consider fuller explanation was needed. Two provisions have been deleted because differential treatment is not in fact required for integrated undertakers. All other deletions are the result of text being moved.
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