
Retail Market Opening: Transition Arrangements- Elections to the enduring Panel and appointment of Independent Members

The Panel

The process for nominating candidates for the enduring Panel is now open. This document describes how the process will work.

Background

In preparation for Market Opening Ofwat needs to establish the enduring Panel by seeking nominations for candidates to be Panel Members. Panel Members will serve for a period of two years from Market Opening.

In view of the fact that the Market Arrangements Code (“MAC”) has not yet been finalised and the Market Operator (“MO”) has not been appointed and notwithstanding the provisions in the draft MAC setting out the process for the First Panel Election, Ofwat has decided to create an alternative process for this election. We consider this to be a fair process for the First Panel Election particularly in view of the other calls on Appointees’ and Licensees’ time at present. As a consequence of the amended process the draft MAC will be amended to reflect this amended process.

This process is described below with the main differences being that Ofwat is conducting the process and not the Panel Secretary and the election will be by email rather than at a Panel Nomination Meeting.

To start the process Ofwat is seeking nominations for Panel Members as follows:

- Three Associated Retailer Panel Members (from either the retail businesses of appointed companies, or affiliated WSSLs)
- Three Unassociated Retailer Panel Members (from WSSLs that are not affiliated to an appointed company)
- Three Wholesaler Panel Members (from the wholesale businesses of appointed companies)

Nominations Process

Candidates for Panel Member can be nominated by completing the [Candidate Nomination Form](#). The process for nominating candidates will run until 5.00pm on 30 November. Any company who wishes to nominate a candidate for the Panel may do so by sending a nomination form, by e-mail to retailmarketopening@ofwat.gsi.gov.uk by 5.00pm on Wednesday 30 November. The title line for the e-mail should be “Panel Member Nomination”.

Eligibility to Nominate

Since the MO has not been appointed and as a consequence Appointees or Licensees cannot be Members of the MO as required by the draft MAC, Ofwat has created specific eligibility criteria for this election. To be able to nominate a Panel member, you must, at the time of the nomination, and no later than 30 November 2016, either hold an IoA or a WSSL, or (for retailers) to have submitted a trading application to MOSL and an application for a WSSL to Ofwat. You will only be eligible to nominate a candidate for the category within which your organisation is included and in due course you will only be eligible to take part in any election for that same category. Similarly any candidate you nominate must be employed by an organisation which meets these eligibility criteria.

You will be asked to confirm the category for which you are making the nomination in the [Candidate Nomination Form](#).

Supporting documents

The [Candidate Nomination Form](#) requires the Candidate, if elected, to provide:

- a written confirmation to Ofwat for the benefit of the Market Operator and Trading Parties that he will act as a Panel Member in accordance with the requirements in section 5.7.1 of the MAC Ofwat will provide this letter to the Market Operator once appointed;
- a letter from his employer to Ofwat confirming the candidate may act as a Panel Member and acknowledging that the requirements of section 5.7 of the MAC shall prevail over his duties as an employee. Ofwat will provide this letter to the Panel Secretary once appointed.

The [Candidate Nomination Form](#) at Part E requires the nominated Candidate to list all Affiliated Companies as defined in the MAC

Confirmation of Candidates and Election Process

Ofwat will assess the nominations for each category on 1 December 2016 and will produce a list of candidates for each category.

If the number of nominations within a particular category of Panel Member matches the number of vacancies, then those individuals nominated will be appointed without the need for an election.

Where the number of candidates nominated exceeds the number of Panel Member vacancies, an election will take place. Ballot papers for each category of Panel Member confirming the names of the candidates, will be sent by email on 1 December to all appointees and/or licensees eligible to vote for each category of Panel Member.

Voting will be by preference vote as set out in the MAC and the candidates will be ranked on the ballot paper. Ofwat will produce a list of the candidates in each category according to the 1st preference votes cast with the individual with the greatest number of 1st preference votes at the top of the list. The individual with the least 1st preference votes will be removed from the list. Ofwat will transfer the votes of the excluded candidate to the next preference candidate on each affected ballot paper. Ofwat will then produce a revised list of the candidates and remove the candidate with the least votes, transfer the votes as before and continue the process until three candidates in each category remain.

Completed ballot papers should be sent by email with the title “Panel Election – Ballot Paper” to retailmarketopening@ofwat.gsi.gov.uk by 5.00 pm on Wednesday 14 December.

Election Results

Ofwat will announce the results of the election by email on 15 December 2016.

Information for Candidates

Before accepting a nomination, you should consider the following information:

- Panel Members will be expected to act impartially, in the best interests of the water retail market as a whole. Panel Members are not to act as a representative of the particular interests of the company that provided their nomination or their employer but rather to provide expertise for the group in which their nomination was received
- It is expected that Panel Members will attend periodic meetings of the Panel (possibly as frequently as monthly) and be fully prepared to discuss the agenda. Including preparation time, Panel Members should be prepared to commit around 30 days per year to the role, spread across the year
- Panel Members will be expected to have the capability to contribute to the Panel governance processes set out in MAC and the development of an effective operating market, and to challenge budgetary and operating assumptions
- The role is not remunerated, although reasonable travel expenses will be reimbursed

Independent Panel Members

As well as the elected Panel Members, the Panel will include three suitably qualified Independent Panel Members selected and appointed by the Chair. The recruitment process for Independent Panel Members will be run by MOSL, and is separate to this process.

Independent Panel Members will be expected to bring expertise and balance to the work of the Panel. Independent Panel Members cannot be employed by or associated with a current or future market participant. The time commitment will be the same as that for other Panel Members.

Expressions of interest to be an Independent Panel Member should be forwarded to MOSL by 2 December, using the e-mail address icpsecretariat@mosl.co.uk with “Independent Panel Member” in the title.