
Wholesale Retail Code Change Proposal – CPW082

Modification proposal	Wholesale Retail Code Change Proposal – CPW082 - Gap Site Incentive Scheme
Decision	The Authority has decided to approve this Change Proposal
Publication date	16 March 2020
Implementation date	1 April 2020

Background

Ofwat's [PR19 final determinations: Business retail market representations](#) appendix highlighted concerns raised by business retailers that bespoke performance commitments relating to the reduction of Gap Sites (which were included in some but not all Wholesaler business plans) could lead to increased costs for retailers who operate across different Wholesaler regions. Recognising that the introduction of multiple bespoke incentive schemes would go against the current direction of standardising and simplifying market interactions, a sub-group of the Retailer Wholesaler Group (RWG) was formed to consider how to provide administrative simplicity and consistency to the application of gap site incentives across the market.

The issue

This Change Proposal does not seek to mandate that Wholesalers must offer a Gap Site incentive, rather it aims to ensure administrative simplicity and consistency where a Wholesaler chooses to offer an incentive. The lack of a standard industry approach to administering Gap Site incentives could have a negative impact on market efficiency, transparency, simplicity and consistency.

This Change Proposal formally recognises the current [RWG Gap Site Incentive Scheme Good Practice Guide](#) as part of the Wholesale Retail Code (WRC) and introduces appropriate formal governance arrangements to ensure the ongoing maintenance of the scheme. This Change Proposal does not in any way change or override the bespoke performance commitments included in company final determinations – rather it seeks to ensure that where a Wholesaler does introduce an incentive to reduce the number of Gap Sites – that the administrative processes that sit underneath this are consistent across the market. It does not seek to ensure that all aspects of incentive design (e.g. incentive rates) are consistent.

The RWG sub-group has developed CPW082 to better support the delivery of the following customer outcomes, which are expected from the introduction of well-designed incentives to reduce Gap Sites:

1. **Affordability and fairness of charges** - The more customers that are paying for the service they receive, the lower the bills will be for all customers.
2. **Reducing leakage** - All water consumption needs to be accounted for, in order for leakage to be accurately measured and reported and thus for true leakage to be identified and rectified more effectively.
3. **Ensuring operational / service security** - All customers need to be visible within the market to ensure that they receive all necessary support and communication during planned and unplanned events and incidents.
4. **Providing customer choice** - All eligible premises need to be registered in the market to ensure that Retailers can provide services to all customers and all customers have the ability to switch. Smooth customer switching relies on accurate and complete market data in particular to avoid cost shocks at the point of transfer.

The change proposal

Change Proposal CPW082 seeks to make the following amendments to the WRC:

- Insertion of three new definitions to Schedule 1, Part 1, Objectives, Definitions and Principles:
 - Gap Site Incentive Scheme
 - Gap Site Incentive Scheme Guidance
 - Gap Site Incentive Scheme Payment
- Insertion of references to the above new definitions where appropriate in process C3 “Application in respect of Gap Sites proposed by the retailer” of Schedule 1 Part 3, Operational Terms;
- Removal/suppression of process H6 “Application for payment of Gap Site incentive payment” and H05 form from Schedule 1 Part 3, Operational Terms; and
- Insertion of new section 4.19 “Maintenance of Incentive Schemes” in Schedule 1 Part 4, Market Terms.

CPW082 proposes that formalising the scheme will provide consistency of approach and associated efficiencies. It also proposes the scheme will result in increased confidence and certainty for Trading Parties to support business decisions about their participation in the scheme.

Industry consultation and assessment

An industry consultation was issued for CPW082 and received 21 responses (13 Wholesalers, five Retailers, three others).

Views on the implementation of a standard industry Gap Site Incentive Scheme

All 21 respondents (13 Wholesaler; five Retailer; three other) agreed that CPW082 should be implemented. CC Water expressed concern that increasing activity in this area could lead to more Gap Sites being incorrectly identified with customers being double billed however noted that the Gap Site Incentive Scheme Guidance contains procedures around duplicate and erroneous applications to prevent this.

Views on whether the RWG Gap Site Incentive Scheme should be adopted into the WRC

19 respondents (12 Wholesaler; five Retailer and two other) agreed that the Gap Site Incentive Scheme should be formalised in the market codes.

One 'other' respondent who disagreed felt that this scheme would not be doing enough and that these Gap Sites should have been in the data at market opening. The Wholesaler who disagreed in their response felt that the market codes were not the appropriate place for detailed arrangements of an incentive scheme, and that the Gap Site Incentive Scheme did not need to be mandated. This Wholesaler felt that although it was fair that customers receiving a service should pay, the burden of this should not be borne entirely by Wholesalers. We note it appears that this Wholesaler may have misinterpreted whether the Gap Site Incentive Scheme is mandatory. As set out in the Change Proposal, it will not be mandatory for Wholesalers to provide an incentive to Retailers; rather, the proposal is to mandate the application of the Gap Site Incentive Scheme Guidance if the Wholesaler chooses to provide an incentive.

Views on red line drafting

The majority of respondents (18 in total: 11 Wholesaler; four Retailer and three other) agreed with the proposed red line changes and felt that they reflected the intent of CPW082.

Five respondents disagreed (four Wholesaler and one Retailer). One Wholesaler disagreed on the basis they disagree that the Gap Site Incentive Scheme should be adopted into the WRC. The second Wholesaler mentioned that the current drafting was not sufficiently specific about the timing of Panel reviews. The third Wholesaler considered that the drafting should get thoroughly reworked and that it was not

necessary to include a Panel obligation. The Retailer did not consider that the Gap Site Incentive Scheme as drafted incentivises Retailers to take part.

MOSL has addressed the second Wholesaler's concerns and has included a timetable in the legal drafting.

Views on whether the costs of this change

Some Wholesalers said costs would be minimal while others said they had not yet determined costs. Retailers noted any payments offered by Wholesalers must provide a sufficient incentive to outweigh the costs in identifying any Gap Sites.

Views on whether the benefits of this change will outweigh the implementation and operational costs

The majority of respondents (13 Wholesaler; 5 Retailer and 3 other) agreed that the benefits of implementing CPW082 will outweigh the operational costs; four could not provide a definite answer and for three respondents this was not applicable.

Only one Wholesaler mentioned that it does not see the benefits of implementing CPW082 outweighing the operational costs of the change. This was the same Wholesaler who disagreed that the Gap Site Incentive Scheme should be adopted into the WRC.

Views on an implementation date of 1 April 2020

Almost all respondents (12 Wholesaler; 5 Retailer and 3 other) agreed with the proposed date of implementation. One Wholesaler disagreed on the basis they disagree that the Gap Site Incentive Scheme should be adopted into the WRC.

Proposer's response

The Proposer reviewed the consultation feedback and agreed with some of the suggestions given by the respondents, and MOSL made the necessary amendments to the legal text. The Proposer stated that the general support for an implementation of the Gap Site Incentive Scheme from 1 April 2020 would also allow Trading Parties to work to the same standard from the beginning of the next 5 year regulatory period.

Furthermore, the Proposer stated that it is very pleasing to see the high number of responses received to this consultation and the level of support for the proposed change as this reflects the collective appetite of Trading Parties to develop standard approaches to bilateral processes and interactions and the associated efficiencies that this will deliver. Finally, the Proposer gave testament to the work of the RWG

sub-group in developing an incentive scheme which strikes a good balance between individual Retailer and Wholesaler priorities with the benefits of adopting a single approach across the industry.

Panel recommendation

The Panel considered this Change Proposal at the Panel Meeting on 28 January 2020. The Panel voted unanimously to recommend this to the Authority for approval. This recommendation has been made on the basis of improving the objectives and principles of efficiency, transparency, simplicity, cost-effectiveness and security, non-discrimination, customer participation, customer contact, seamless markets, Operational Terms Objectives and Market Terms Objectives. The recommended date of implementation is 1 April 2020.

Our decision

We have considered the issues raised by the Change Proposal and the supporting documentation provided in the Panel's Final Report and have decided to approve this change subject to modifications to the legal text being made as set out in Appendix A. Specifically, we have suggested modifications to the legal text in Schedule 1 Part 1: Objectives, Principles and Definitions to simplify the proposed definitions and ensure consistency with other provisions in the WRC. We have also suggested modifications to section 4.19 of Schedule 1 Part 4: Market Terms to clarify that the Panel will not be able to make changes to the Gap Site Incentive Scheme Guidance unilaterally; instead changes must be made via the usual Change Proposal procedure. Our modification also ensures the governance arrangements set out in this section can be used for similar future schemes if necessary. We have concluded that the implementation of CPW082 will better facilitate the principles and objectives of the WRC Code detailed in Schedule 1 Part 1 Objectives, Principles and Definitions, and is consistent with our statutory duties.

Reasons for our decision

Having reviewed the evidence provided by the Panel in its Final Recommendation Report, we understand and agree with the rationale for recommending this Change Proposal. Having carefully considered the proposed legal drafting, we believe amendments need to be made to make the legal text clearer and remove duplication. We are therefore approving this code change, subject to modifications being made to the legal text as set out in Appendix A.

We welcome the collaborative work that has been done by the RWG sub-group to provide administrative simplicity and consistency to the application of gap site incentives across the market and to work with MOSL to codify the process. We are

also grateful that retailers highlighted this as an issue in their representations on the PR19 draft determinations.

We suggest that MOSL and the MPC monitor the impact of the Gap Site Incentive Scheme to understand whether a common incentive for business properties should be introduced at some point in the future – for example as part of the work to reform the Market Performance Framework (MPF).

We have set out below our views on which of the code principles are better facilitated by the change proposal.

Efficiency

We agree with the rationale provided by the Panel and Proposer that the introduction of an industry standard approach will help reduce market frictions and improve efficiency of interactions between Retailers and Wholesalers.

Transparency

We consider this Change Proposal to improve transparency of Gap Site Incentive Schemes being offered in the market as well as encouraging consistency in approach.

Simplicity, cost-effectiveness and security

We believe this Change Proposal supports improved simplicity in the market by introducing a standard approach to Gap Site incentives to help resolve market frictions.

Non-discrimination

We agree that the introduction of a standard approach to Gap Site incentives will provide clear and consistent rules for all Trading Parties as it encourages best practice to be adopted.

Customer participation

We support the implementation of the Change Proposal as it facilitates incentives designed to bring new customers into the market and improve the fairness of charges.

Decision notice

In accordance with paragraph 7.2.8 of the Market Arrangements Code, the Authority approves this Change Proposal.

Georgina Mills

Director, Business Retail Market

Appendix A: Amendments to legal drafting

To the proposed draft definitions relating to the Gap Site Incentive Scheme in Schedule 1 Part 1, Objectives, Principles and Definitions of the WRC:

“Gap Site Incentive Scheme”

the scheme established by the Gap Site Incentive Scheme Guidance ~~as produced, maintained as published by the Panel under section 4.19 of the Market Terms and updated on an annual basis, no later than September in each financial year;~~

“Gap Site Incentive Scheme Guidance”

the best practice guidance for the operation of the Gap Site Incentive Scheme ~~produced maintained and published~~ reviewed by the Panel and published by the Market Operator under section 4.19 of the Market Terms ~~as updated on an annual basis, no later than September in each financial year;~~

“Incentive Scheme Guidance”

a collective term for the guidance produced, published and maintained in accordance with Section 4.19 of the Market Terms; specifically, the Gap Site Incentive Scheme Guidance;

To the proposed text in section 4.19 of Schedule 1 Part 4, Market Terms:

4.19 Maintenance of Incentive Scheme **Guidance**

4.19.1 The Panel has produced Incentive Scheme Guidance.

4.19.2 The Market Operator shall, with the assistance of the Panel, provide the enduring **change** governance for ~~the Gap Site~~ Incentive Scheme **Guidance**.

4.19.3 The Market Operator shall publish the ~~Gap Site~~ Incentive Scheme Guidance ~~produced by the Panel~~, together with any associated documents on its website in a manner that is accessible to all Trading Parties.

4.19.4 The Panel (or a group nominated by the Panel) shall **regularly** review the ~~Gap Site~~ Incentive Scheme Guidance to ensure that ~~each~~ it is fit for the purpose of promoting market functioning **regularly and** ~~The Panel shall update the Gap Site Incentive Scheme Guidance on an annual basis,~~ no later than September in each ~~financial y~~Year.

~~4.19.5 The Panel must notify the Market Operator of any change which it makes to the Gap Site Incentive Scheme Guidance.~~

4.19.5 Within ten (10) Business Days of the Authority approving ~~receiving notification that the Panel has made~~ a change to ~~the Gap Site~~ Incentive Scheme Guidance ~~under Section 4.19.4 above~~, the Market Operator shall publish the updated ~~Gap Site~~ Incentive Scheme Guidance together with any associated documentation on its website in a manner that is accessible to all Trading Parties.