

July 2020

Covid-19 and the business retail market: next steps – decision document

Executive summary

The impacts of Covid-19 have been felt across the whole of the UK economy. Government and Regulators have been acting together to support businesses through this period, with Government providing substantial financial support to business, economy wide.

Over the past few months, working closely with the market operator MOSL and the sector, we have taken a number of steps to further protect the interests of business customers in the water sector. We committed to review and consult on next steps early in the summer and to this aim published a [consultation](#) on 9 July.

Reflecting both the [evidence received](#) in response to the public consultation and the [recommendation](#) of the Industry Codes Panel following its meeting on 28 July 2020, this document sets out and explains our decisions on next steps, including our decisions on Code changes CPW101 and CPM031, which will be implemented on Saturday 1 August at 8am. This decision document does not cover our decision on one element of our proposal, namely ongoing credit support requirements. Instead we are implementing all other aspects of our proposals, and will make a decision on credit support requirements separately on 3 August 2020. This is explained further in section 5.

Liquidity support

In April, we decided that Retailers should receive a time limited period of liquidity support, which allowed them to defer up to 40% of wholesale charges due between March and July 2020. This decision provided Retailers with time to establish what other support they could gain access to and how quickly, which we were clear should be the principal vehicle for managing the financial pressures resulting from Covid-19.

Based on the evidence from the public consultation and the views of the Industry Codes Panel, we have decided to allow a limited extension of liquidity until the end of October 2020. The extension is intended to provide Retailers with some additional flexibility where Retailers are still in the process of securing alternative sources of finance. The total amount any one Retailer will be allowed to defer will be subject to a cap equal to 40% of primary charges due from March-July 2020, effectively limiting the total amount of liquidity available to the amount that was made available in our April decision. Subject to this cap, Retailers can continue to defer up to 40% of wholesale charges due in August, September and October.

Retailers will not be able to opt into the scheme if they had not already opted in for amounts due under July 2020 invoices (the final invoice period covered by our May decision). Retailers who have opted to defer charges will be required to continue to submit Monthly Financial Reports to MOSL with minimum payments calculated using the higher of the X and Y factors currently set out in CPW096. Any minimum payment will be subject to the cap on the total amount of deferred payment.

With regard to the repayment of the deferred charges, we retain our view that all deferred wholesale charges must be paid off in full by the end of March 2021, failing which the Retailer shall be classed as a Defaulting Trading Party.

Trading parties are permitted to negotiate bilateral repayment profiles that are appropriate for their specific situations. To ensure transparency any negotiated repayment profile must be submitted to MOSL and will be published on its website. In the absence of an agreed repayment profile between Trading Parties Ofwat will set out a backstop repayment profile. The backstop profile sets out that Retailers should have repaid 33% of outstanding deferred income at 31 October by end of November, 66% by end of January and 100% by 31 March 2021¹.

For clarity these arrangements do not affect any existing Alternative Payment Terms which Retailers and Wholesalers may have agreed, and those Trading Parties can negotiate such equivalent repayment terms as are appropriate to them, provided that any outstanding deferred amounts is repaid by 31 March 2021.

Temporary vacancy flag

When businesses were closing as a result of Covid-19, it appeared likely that consumption of water and waste water services would reduce dramatically. Given the challenges associated with getting meter reads during lockdown, this meant that businesses were likely to be billed on the basis of (higher) historic meter reads. To ensure charges more accurately reflect (reduced) levels of consumption, in March we introduced a Code change (CPW091) that allowed Retailers to use a bespoke temporary vacancy flag where premises were: (a) completely closed to the public, visitors and workers; or (b) usual activities at the premises had fallen by 95% (as a proxy for a similar reduction in consumption).

¹ For example consider a Retailer had deferred a total of £20m charges at end October 2020. The maximum amount it could have outstanding at end November 2020 would be £13.4m; the maximum amount it could have outstanding at end January 2021 would be £6.8m; and the maximum it could have outstanding at end March 2021 would be £0m.

The situation going forward has changed in a number of respects. For example, the majority of businesses are now permitted to reopen, activities at premises are increasing, and despite social distancing measures this should result in levels of consumption that exceed 5% of historic levels. Retailers also now have experience of engaging with their customers in a lockdown scenario and so should be better able to prepare and anticipate what to do in the event of local or regional lockdowns. For these reasons and reflecting evidence received from the consultation as well as the views of the Industry Code Panel, we have decided to let the use of this temporary vacant flag expire at the end of July 2020.

Following the expiration of these vacancy flags on 31 July, we have decided to allow Retailers until the end of September to remove the flags in CMOS. In the event of reduced consumption or local lockdowns, Retailers should seek to obtain meter reads to reflect actual consumption, or where a meter read cannot be obtained, the Retailer should engage with the customer to obtain an accurate estimate of consumption.

We will introduce an incentive for the removal of the temporary vacant flag, coming into effect from October 1 2020. We expect this to be a financial incentive based on each supply point that has a temporary vacancy flag still applied to it. In developing this incentive, we will consider whether it would be appropriate to allow for a small proportion of supply points to be exempted from this charge. We are also minded to introduce an incentive this autumn to monitor inappropriate use of yearly volume estimates (**YVEs**) to encourage more accurate consumption data in the market. Where Retailers are inputting YVEs into the central market operating system (**CMOS**), they will be required to record supporting evidence, which may be required by the market auditor. We will update guidance to make the evidential requirements clear and consult on this in early August.

We sought views on how we can better incentivise Wholesalers to work constructively with Retailers during the unwinding of the temporary vacancy flag and to improve the accuracy of data in CMOS. We are still reflecting on the helpful feedback from respondents and note that Wholesaler incentives will also be picked up in our [review of incumbent support for effective markets](#), which we expect to publish in August.

We proposed some expectations to guide Trading Parties through the unwinding of the temporary vacancy flag, which emphasise the importance of Wholesalers and Retailers working collaboratively. On the basis of consultation responses we consider that these expectations remain appropriate to support the unwinding of the temporary vacant flag, and these will be reflected in the guidance to CSD0104.

Market Performance Charges

We temporarily suspended the invoicing and payment of market performance charges in the non-household sector to reflect that many charges – including in relation to meter reading – could be materially affected by business closures and social distancing measures implemented to combat Covid-19. This temporary suspension of Market Performance Charges is in place until the end of July.

Reflecting evidence received from the public consultation, including that Wholesaler performance in meeting Operational Performance Standards (**'OPS'**) facilitates and enables Retailers to meet customer facing standards, we have decided to allow the following further extensions:

- For OPS charges we have decided to extend the suspension of charges until the end of September 2020; and
- For Market Performance Standards (**'MPS'**) charges, we have decided to extend the suspension of charges until the end of October 2020.

Customer Protection Code of Practice

We consulted and made changes to the Customer Protection Code of Practice (**'CPCoP'**) on 8 April (**CP0006**) and then again on 1 June (**CP0007**) to ensure that business customers affected by Covid-19 were provided with relief and additional support where appropriate. Reflecting evidence received from the consultation we do not consider that any further changes are required to the CPCoP in light of the other proposals that we consulted on. When the temporary vacancy flags are removed from CMOS, customers affected by Covid-19 will continue to be protected by the requirement on Retailers to offer Covid-19 repayment plans, tailored to the needs of the affected customer. The Consumer Council for Water (**'CCW'**) will continue to work with Ofwat to monitor compliance with these provisions.

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1. About this document

Covid-19 and the associated restrictions on the movement of people and the operation of businesses has affected the whole of the UK economy, with some areas of the economy more impacted than others. Government and Regulators have been acting together to support businesses through this period, with Government providing substantial financial support to business, economy wide.

Our focus has been – and continues to be – to protect the interests of business customers affected by Covid-19, including by avoiding systemic Retailer failure and ensuring our interventions do not come at the expense of the financial viability of the Wholesalers. To be clear, protecting customers does not equate to preventing individual Retailers from exiting the market, as supplier exit is a feature of any functioning market. Nor does it mean absolving business customers of their requirement to pay for services they have knowingly and legitimately consumed in the operation of their business. But it does mean providing business customers with appropriate and targeted relief, for example by providing customers with additional time to pay their bills and making sure they are not charged for services they have not consumed and are not liable for.

The lockdown announced in March created immediate challenges to the ongoing operation of the business retail market – for example, it created a sudden reduction in demand amongst some business customers and meant some customers could face difficulties in paying their bills on time, potentially creating consequential cash flow issues for Retailers. To protect and provide continuity for non-household customers at a time of uncertainty, we worked closely with MOSL and the sector to implement a number of changes to the industry codes, which are summarised below.

- **CPW091: 'Temporary Changes to Vacancy'** allowed Retailers to temporarily apply the 'vacant' flag in the Central Market Operating System ('**CMOS**') to ensure charges more accurately reflect (reduced) levels of consumption where businesses had temporarily closed.
- **CPW093: 'Payment deferral interim measures'** allowed for a deferral of up to 50% of the charges due from Retailers to Wholesalers. This change covered amounts that were invoiced and due in March and April.
- **Customer Protection Code of Practice (CP0006)** made temporary changes to the CPCOP in order to afford all non-household customers added protections immediately following lockdown. These changes i) prohibited Retailers from requesting the disconnection of non-household customers for non-payment

due to the outbreak of Covid-19; ii) ensured that Retailers could not seek to recover any default interest for non-payment of invoices during a specified period which covered the outbreak of Covid-19; and iii) prohibited Retailers from seeking to enforce the non-payment of invoices against non-household customers until Ofwat permits this.

- **CPM023/CPW090: ‘Suspension of Performance Standard Charges’** suspended the requirement for the Market Operator to issue invoices on, and Trading Parties to pay MPS and OPS Charges for the months of March 2020, April 2020 and May 2020².
- **CPW096: ‘Payment Deferral (Medium Term)’**³ placed provisions into the market codes to set up an extended, time-limited period where Retailers could defer up to 40% of wholesale charges due between March and July 2020. This decision provided Retailers with time to establish what other financial support they could gain access to and how quickly, which we were clear should be the principal vehicle for managing the financial pressures resulting from Covid-19. Retailers who chose to opt-in to these arrangements have been required to pay the higher of either:
 - 60% of primary charges due to the Wholesalers; or
 - 94% of the cash they have collected from their customers.

Deferred amounts must be paid back by the end of March 2021, with Wholesalers able to apply interest (at a maximum rate of 5.98%) on deferred amounts.

- **Customer Protection Code of Practice (CP0007)** set out that customers defined in the CPCoP as “Covid-19 Affected Customers” would continue to be protected from the prospect of disconnection, enforcement of debt and interest and late payment charges. For all other Non-Household Customers, Retailers are required to offer a Covid-19 Repayment Scheme which is tailored to reflect how seriously the customer has been affected by Covid-19. We also strengthened the requirements on Retailers to include clear and accessible information on their websites, including means of contact.

² Code changes CPM027/CPW098: ‘Extending the Suspension of Market and Operational Performance Standard Charges due to Covid-19’ extended the suspension of Market Performance Standard Charges and Operational Performance Standard Charges for the months of June and July 2020 or such other date if MOSL is notified by the Authority.

³ An urgent code change, CPW095, was approved on 15 April 2020. This change corrected an unintended consequence of CPW091 by maintaining credit support levels at pre-Covid levels, and was superseded by implementation of CPW096.

When we published our decisions on liquidity and bad debt on 30 April, we committed to review and consult on next steps early in the summer, which was the focus of our most recent consultation.

Having assessed the [evidence received](#) in response to this consultation, we proposed code changes (CPW101 and CPM031) to the Industry Panel aimed at establishing arrangements for the unwinding of the temporary measures and providing a step towards helping the market return to normal operation.

The Industry Panel met on 28 July to discuss CPW101 and CPM031. The Panel voted to recommend CPW101 and CPM031 for approval by Ofwat and set out areas where further clarity should be provided in making our final decision. These issues are set out in the [Panel's Final Recommendation Report](#) to Ofwat and we have addressed them in this document, where appropriate.

This document sets out and explains our decisions on next steps, including our decisions on Code changes CPW101 and CPM031, which will be implemented on Saturday 1 August at 8am. The changes to the legal drafting will be published on Friday 31 July. This decision document does not cover our decision on one element of our proposal, namely ongoing credit support requirements. Instead we are implementing all other aspects of our proposals, and will make a decision on credit support requirements separately on 3 August 2020. This is explained further in section 5.

This decision document is the culmination of a public consultation as well as numerous discussions and input from the entire sector. We would like to thank MOSL, the Industry Panel, Wholesalers, Retailers and the Consumer Council for Water (CCW) for their support in developing the decisions set out in this document.

The remainder of this document is structured as follows:

- Section 2 sets out our decisions on liquidity support;
- Section 3 sets out our decisions about temporary vacancy flags and YVEs;
- Section 4 sets out our decisions about market performance standards;
- Section 5 sets out our approach to making decisions about credit support requirements;
- Section 6 sets out our decision regarding whether the CPCoP requires further amendment;
- Section 7 details our next steps; and
- Appendix 1 sets out how our decisions on CPW101 and CPM031 will facilitate the principles of the Wholesale Retail Code.

Consultation responses

In response to our consultation, we received submissions from CCW, twelve Wholesalers, ten Retailers, Water UK, one Self Supplier and Waterscan. Many Wholesalers supported the submission from Water UK, sent on behalf of all wholesale water companies in England and Wales. The responses have been redacted and published on our website.

Terminology

Within this document, Wholesalers are the companies responsible for owning and maintaining the physical assets associated with supplying water and wastewater services to customers. Retailers are those responsible for billing non-household customers for their consumption, and for providing other customer-related services. Non-household customers are businesses (e.g. corner shops, hotels, laundrettes etc.), charities and public sector organisations that are using and paying for water and wastewater services and who are eligible under industry rules to choose their Retailer. The term Trading Parties is used to refer to Wholesalers and Retailers collectively in this document.

2. Liquidity support

2.1 Whether to extend temporary liquidity support

The liquidity support arrangements introduced by Ofwat in March 2020, and amended in May 2020, were intended to provide temporary relief if Retailers found themselves facing cash flow challenges as a result of Covid-19. The measures put into place were intended to ensure business customers were protected from the impact of systemic Retailer failure.

The measures were intended to provide support whilst Retailers established what other forms of financial support they can gain access to and how quickly. The arrangements were time-limited and not designed to be the principal vehicle for managing the financial pressures resulting from Covid-19.

What we said in the consultation

In our consultation we noted that only eight Retailers in the market had opted to defer payments of wholesale charges and all had deferred amounts significantly below the maximum 40% that could have been deferred. In addition, we had begun to see some Retailers take up other forms of financing from various sources and make additional voluntary payments on top of the minimum payment due.

Based on these findings we stated that we were of the view that no further increase in the total **amount** of liquidity was needed in the market beyond July 2020. We then set out two minded to options regarding the future of temporary liquidity support arrangements:

- Option 1: No extension of liquidity support post July 2020
- Option 2: Extend the period over which Retailers can defer charges, but do not increase the total amount of wholesale charges that can be deferred

In the case of option 2, we proposed to retain the other aspects of the current deferral scheme – for example in relation to the interest payable by Retailers who defer payment of wholesale charges. We also set out that we were minded to allow Retailers to opt into the scheme at any time and refine the reporting requirements on Retailers who choose to opt in.

Consultation question 1: Of the three options identified in relation to extending liquidity support, which option do you support and why? Please explain your answer

and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers interests and why?

Consultation responses

We received responses from the majority of Wholesalers and 10 Retailers on whether we should extend liquidity past July 2020, including six Retailers that have opted into the deferral scheme. Wholesalers and Retailers that responded to the consultation had varying views on whether an extension of liquidity measures after July 2020 was necessary.

Two Retailers that responded to our consultation did not comment on whether an extension was appropriate or not. Of the remaining eight, four respondents supported option 2, all of whom had opted into the deferral scheme. We received two responses from Retailers who had opted into the deferral scheme that preferred an end to liquidity measures (option 1). The two Retailers that expressed support for an end to liquidity measures stated that the scheme is not being fully utilised and that any extension may have negative impacts on the competitiveness of the market. This preference is also supported by two Retailers that responded to the consultation but have not currently opted into the deferral scheme.

Where Retailers have stated that an extension of liquidity until October is needed it is argued that the uncertainty in the market is expected to last into the autumn. Retailers argued that many customers are running at a reduced capacity and the economic conditions may mean that uncertainty in the market will not end with the easing of the lockdown. Some Retailers also noted that Retailers' liquidity risk will be affected should their ability to apply temporary vacancy flags be removed.

In addition to increased uncertainty in the economy some Retailers argue that in line with the CPCoP requirements, they will also be supporting customers affected by Covid-19 by agreeing repayment schedules. Retailers state that this will further impact cash demands as the wholesale charges will not reflect the delay in cash receipts.

The majority of Wholesalers⁴ set out a preference for no extension and an end to any further deferral post July (option 1). Wholesalers stated that the measures implemented from March to July have provided Retailers with sufficient time and flexibility to secure alternative forms of finance. In addition, it is argued that Retailers have not fully utilised the current liquidity measures and have opted to pay significant

⁴ Note that the majority of wholesalers responded through the industry body Water UK

voluntary amounts over the minimum payment required. Wholesalers concluded that this information suggests that the risk of systemic Retailer failure has passed.

Wholesalers also make the point that an extension in time (option 2) would lead to uncertainty in the market and leave them unclear on the degree to which payments for primary charges would be made. Wholesalers noted that this would come at a time when Wholesalers' available liquidity is increasingly likely to be needed to manage the impacts of household customer non-payment.

Three Wholesalers expressed support for option 2, however only one stated that option 2 was its preferred option, noting that this option strikes the right balance between supporting liquidity in the market and sending the right signal to Retailers that alternative forms of financing should be explored and put in place as soon as possible.

CCW supports option 2. It stated that option 1 could adversely impact customers if Retailers' ability to access funds to provide vital financial support to meet customers' needs is affected.

Consultation question 2: If we were to implement option 2, should we retain the existing capped amount of liquidity support (i.e. 40% of primary charges from March to July), or should this be reduced to a lower level (e.g. 30%, or 25%)? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

Retailers supported a cap of 40% and argued that a reduction in the cap to 30% or 25% is not appropriate given the considerable uncertainty in the light of potential further localised lockdowns, the risk of a second wave and the speed of businesses recovering. In addition, these Retailers argued that should the vacancy flag be removed they could see an increase in wholesale charges due in the coming months that may require them to draw on additional liquidity.

All Wholesalers that responded to our consultation argued that if option 2 is implemented it should be implemented with a cap at either 30% or 25% and Retailers should not be allowed to opt in post July 2020. Wholesalers set out that further opt in increases uncertainty and preventing this as well as implementing a lower cap would reduce uncertainty as far as possible. In addition, Wholesalers noted that Retailers' use of the liquidity measures so far is significantly below 40% of five months primary charges and any cap implemented should reflect this.

CCW supported a cap reduction to 30% given the current uptake of the scheme but cautioned against a cap below this citing uncertain economic conditions.

Consultation question 3: If we were to implement option 2, should we continue to allow Retailers to opt into the scheme at any time up until October 2020? We also welcome stakeholder views on the most appropriate way a cap could be implemented into the current mechanism. Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

The majority of Retailers that responded to the consultation felt that Retailers should continue to be allowed to opt into the scheme until October 2020 stating that this ensures all Retailers are treated fairly.

Wholesalers raised concerns that an extension would lead to increased uncertainty if Retailers are allowed to continue to opt into the scheme until October 2020. If Ofwat allow Retailers to opt in up to October it is suggested by Water UK that any Retailer opting in from July 2020 should need to provide evidence showing why they need access to the liquidity measures before they are allowed to opt into the scheme.

CCW was in favour of allowing Retailers to continue to opt into the scheme until October to provide support while the temporary vacant flag is unwound until the end of September, and enable appropriate funds to be in place to assist customers as they start to reopen their premises.

Our decision

As we have stated above, the liquidity support arrangements introduced were intended to provide temporary relief if Retailers found themselves facing cash flow challenges as a result of Covid-19 in order to protect customers from the risk of systemic Retailer failure.

We recognise the argument from Wholesalers that Retailers have had a number of months to put in place alternative forms of finance. Retailers are required to inform MOSL of their access to alternative finance, including government support within Schedule R7 of the Monthly Financial Report. We have seen from these data submissions and through responses to our consultation that organising alternative sources of liquidity support, particularly government support, can take time and can require significant engagement with a Retailer's bank and other lenders. We note that some Retailers are actively in the process of putting into place alternative

arrangements but some of these will not be ready until later in the summer. We also acknowledge that some limited additional liquidity support could provide additional flexibility to Retailers who have not yet secured other forms of finance as they switch off the temporary vacancy flags.

Option 2 caps the maximum amount of total wholesale charges that can be deferred at no higher than the amounts set out in our April decision and all deferred charges would still need to be repaid in full by end March 2021. An extension in line with option 2 should not therefore create further risk or uncertainty to Wholesalers beyond that which was provided for in April.

Given the above points **we have decided to allow a time limited extension of liquidity support until October 2020 subject to a cap on a Retailer's overall deferred balance. Subject to this cap, Retailers can continue to defer up to 40% of wholesale charges due in August, September and October.** The extension will allow any residual financing to be put into place by Retailers to ensure they can withstand future economic uncertainty and any impacts from the unwinding of the temporary vacancy flag, reflecting that liquidity support will end in October.

Reflecting evidence received in response to our July consultation **we have decided to prevent any further opt in from Retailers post July 2020.** Most Retailers that responded to our consultation setting out a preference that further opt in should be allowed have already opted into the scheme and have not provided sufficient evidence that further opt in is necessary, instead focussing arguments related to fairness. We have not received a response from any Retailer that outlines an intention to opt into the scheme over the next three months.

Our main reason for allowing an extension of liquidity support is to allow Retailers additional time to put in place alternative sources of liquidity support. Retailers that have not currently opted into the scheme were faced with the prospect of no additional liquidity support being available post July 2020 and are therefore presumed to have already secured alternative sources of liquidity support where these are required and are available. With the exception of one Retailer who opted into the deferral scheme in June 2020 (and notified its intention to do so in May), the remaining seven opted in Retailers all opted in from May 2020.

We have received the Monthly Financial Report submissions from MOSL that set out the level of deferment Retailers are expecting to make for the month of July. The

below table sets out the level of deferred charges expected to be outstanding at the end of the month as a percentage of cumulative primary charges⁵.

Table 1. Percentage of cumulative primary charges outstanding at end of July

Retailer type	Percentage of primary charges estimated to be outstanding at the end of July
Associated retailer	0.0%
Independent retailer	11.8%
Associated retailer	12.1%
Associated retailer	15.0%
Associated retailer	23.1%
Independent retailer	26.8%
Independent retailer	29.0%
Independent retailer	35.8%

Given the level of deferrals set out in the table above, reducing the cap to either 25% or 30% would contradict our policy objective to provide Retailers with some limited additional flexibility over the next three months. Reducing the cap in this way would leave some Retailers with very little headroom and could require some Retailers to begin making repayments from August.

We have therefore decided to set a cap on the total amount any one Retailer can defer equal to 40% of primary charges due between March and July 2020. This will ensure no individual Retailer can defer more than the maximum amount allowed for in our April decision. For example where a retailer has cumulative primary charges of £1m from the period March to July, its total deferred amount at any one time cannot exceed £0.4m. Reflecting views from the Industry Codes Panel, Ofwat and MOSL are reviewing the legal text in paragraph 29.7.3 of the Business Terms regarding the application of the cap to ensure it delivers the intent of the policy proposal. If any changes to the legal drafting are required, these will be published on Friday 31 July.

Retailers who have opted to defer charges will be required to continue to submit Monthly Financial Reports to MOSL with minimum payments calculated using the higher of the X and Y factors that were set out in CPW096. For clarity, the cap and X

⁵ It should be noted that the percentages in table 1 relate to the Retailer financial reports and we have previously seen large differences between these levels of deferral and the final settlement amounts (due early August).

and Y factors will not affect those Trading Parties on Alternative Payment Terms (pool C of the monthly financial report). Retailers will continue to pay interest on any deferred amounts up to a maximum rate of 5.98%. We have updated schedule R7 of the Monthly Financial Reports that will explicitly set out the questions Retailers will need to respond to regarding their access to alternative sources of finance including government support. The questions will be as follows:

1. Please confirm whether or not you have access to government finance and support. If you cannot access this support please provide an explanation to why this support is not available and include supporting evidence.
2. Please provide a breakdown of the types of facility included and the contribution they make to the total figure. Examples of the types of facility may include: revolving credit facility, overdraft facility, government support or debt service reserve facility.

2.2 How to unwind the liquidity arrangements

What we said in the consultation

Our July consultation set out three potential options for unwinding the liquidity arrangements, identifying option 3 as our minded to proposal. Option 3 set out that Retailers and Wholesalers would be encouraged to agree bilateral agreements regarding the repayment of the deferred wholesale charges, however in the absence of an agreement, the Code would also provide a backstop repayment profile.

The backstop arrangement set out in our consultation comprised of two ‘check-in’ points prior to March 2021, set at a percentage of total deferred wholesale charges outstanding when the deferral scheme ended. In the absence of a negotiated agreement, Retailers would be required to meet the repayments – failure to do so would result in the Retailer being classified as a Default Trading Party. Our initial view on the check-in points were as follows:

- End November 2020: 33% of the total deferred amount of wholesale charges must be repaid to Wholesalers
- End January 2021: 66% of the total deferred amount of wholesale charges must be repaid to Wholesalers

In addition we noted that where Wholesalers and Retailers agree a bespoke repayment profile, we will require the agreement to be published on MOSL’s website.

Consultation question 4: Of the three options identified in relation to unwinding liquidity support, which option do you support and why? Please explain your answer and provide supporting evidence wherever appropriate. Which option is most compatible with furthering customers' interests and why?

Consultation responses

All Wholesalers and the majority of Retailers supported our minded to position (option 3), stating that it strikes the correct balance between providing certainty to the market and allowing Trading Parties to negotiate commercial agreements.

Of those Retailers that expressed support for other options:

- Two Retailers expressed support for option 2 and would like Ofwat to specify a repayment profile. One Retailer stated that this option provides the most certainty to both parties in respect to the repayment of the deferred amounts.
- Two Retailers expressed support for option 1 (responsibility sitting with the Trading Parties for agreeing a repayment profile), with one stating that there has already been substantial repayment without the presence of a prescriptive payment plan.

Consultation question 5: Under option 3 do you agree that 33% of deferred wholesale charges should be repaid by end November 2020 and that 66% should be repaid by end January 2021? Please explain your answer and provide supporting evidence wherever appropriate

Consultation responses

The majority of Wholesalers supported the proposed repayment profile set out in the consultation document. It was felt that this approach sets a clear and phased repayment profile, while avoiding unnecessary complexity. One Wholesaler suggested an alternative approach could be for repayments to be linear over a longer time e.g. 33% repaid by October 2020, 33% repaid December 2020 and the final payment of 33% in February 2021.

One Wholesaler highlighted that it would prefer no residual cash payments to be left to the end of the financial year, with these being resolved one month prior to the end of the financial year.

Several Retailers agreed with the proposed repayment profile and timings. However, others felt that the timescales should be aligned with the ability to recover deferred customer payments. One Retailer proposed a different timeline that involved 20% of deferred charges being repaid by the end of November 2020, 50% of deferred charges being repaid the end of January 2021 and 100% of deferred charges being repaid by the end of March 2021. This Retailer argued that this profile would reflect a more accurate profile of anticipated cash receipts.

One Retailer agreed with the proposal, but suggested framing it within the terminology of the existing scheme (Y factors) to create the same effect of the backstop.

Our decision

Taking into account evidence from the consultation **we have decided to allow Trading Parties to agree bespoke repayment profiles which ensure all outstanding amounts are repaid by 31 March 2021 and we will specify a repayment profile that will apply in the absence of a negotiated agreement⁶**. To ensure transparency, any bilaterally negotiated repayment profile must be submitted to MOSL and will be published on its website. Where Wholesalers negotiate different repayment profiles for different Retailers, they must be able to objectively justify the differential terms.

Reflecting evidence received from the consultation **we have decided to set that the backstop profile will set out that Retailers should have repaid 33% of outstanding deferred charges at 31 October by end of November, 66% by end of January and 100% by 31 March 2021.**

The table below shows an example of how the backstop protection would apply to a Retailer that has deferred a total of £20m charges at the end of October 2020. The table shows the maximum amount outstanding that a Retailer will be allowed under the backstop protections.

Month	Maximum amount allowed to be outstanding
End November 2020	£13.4m

⁶ To clarify, any agreement made between Trading Parties will supersede the backstop check-in points set out by Ofwat, provided the full amount is repaid by March 2021.

End January 2021	£6.8m
End March 2021	£0.0m

Leaving it to Trading Parties to agree a repayment profile carries the risk to both customers and Wholesalers that a Retailer may exit the market in March 2021 having not repaid any of the outstanding balance of wholesale charges it deferred. Ensuring that some repayments are made earlier can uncover issues where a Retailer may not be in a financial position to repay the deferred amount by March 2021. On the other hand if we set a detailed repayment profile, this carries the risk that the profile is too stringent, which could force a Retailer into default. A hybrid option, where Trading Parties can agree a repayment profile and we specify a backstop should provide a balance of flexibility whilst ensuring a clear trajectory for full repayment by March.

We note the suggestion by a Retailer that only 50% be due in January 2021 but are concerned that this level of repayment would leave a substantial amount unpaid two months before the final due date. We therefore do not think this is an appropriate repayment profile to identify if there are material issues with a Retailer's ability to pay all deferred amounts by March 2021. In addition we note that the repayment profile set out in the codes is a backstop protection only and we are encouraging Trading Parties to agree alternative profiles that suit both parties.

We disagree with the Retailer that suggested implementing our proposal for the repayment profile by reference to the Y factor alone. The Y factor only relates to primary charges and not the total amount deferred. Retailers who have deferred only a small proportion of wholesale charges would therefore not pay back any charges until much later in the year, which would reinstate the risk that we were seeking to avoid with the repayment schedule.

As a demonstration of this, if we increased the Y factor at 80% Retailers would no longer be able to defer charges over 20% of cumulative charges. This would mean some Retailers would be required to pay back some of the amount deferred, however any Retailer that has deferred less than 20% would not be required to pay off any of its outstanding balance.

We do not think it would be appropriate to specify that 100% of deferred charges should be repaid a month earlier – by end February 2021. Instead the Code will specify that deferred wholesale charges must be paid off in full by the end of March 2021, failing which the Retailer shall be classed as a Defaulting Trading Party with immediate effect. All other amounts due to the Wholesaler by the Retailer shall remain subject to the default provisions of section 10 of the Business Terms,

including where a Retailer fails to meet the minimum repayment levels in either November 2020 or January 2021.

3. Temporary vacancy flag and the use of YVEs

In March, we introduced a Code change (CPW091) that allowed Retailers to mark a premises as temporarily vacant (making it exempt from fixed and in some cases volumetric charges), if a premises was completely shut or activities at the premises had fallen by at least 95%. The intention of this Code change was to ensure that customer bills more accurately reflect reduced levels of consumption where businesses were temporarily closed, due to Covid-19, by providing Retailers with a workable proxy to identify reductions in consumption of 95% or more when there were significant challenges to obtaining accurate meter reads. We confirmed in June that Retailers could continue to use this temporary vacant flag until end July 2020 and would use this consultation to decide on next steps.

3.1 Should the temporary vacancy flag be allowed to expire?

What we said in the consultation

In the consultation we analysed data on Retailers' use of the temporary vacancy flag and explained the implications for customers associated with both potential under and over use of the flag. We noted that use of the temporary vacancy flag and the rate at which these are being removed varies by Retailer.

We reiterated that the intention of introducing the Covid-19 temporary vacant flag was to ensure that customer bills more accurately reflected reduced levels of consumption where businesses were temporarily closed due to Covid-19, by providing Retailers with a workable proxy to identify reductions in consumption of 95% or more when there were significant challenges to obtaining accurate meter reads. Given the nationwide easing of restrictions, we were minded to allow the option to apply the temporary vacant flag to expire at the end of July 2020.

Consultation question 6: Do you agree that the option for Retailers to use the temporary vacancy flag should be allowed to expire on 31 July 2020? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

17 stakeholders (11 Wholesalers, five Retailers and CCW) agreed that the option for Retailers to use the temporary vacant flag should be allowed to expire on 31 July

2020. Many Wholesalers also referenced and supported the response provided by Water UK.

Several Wholesalers provided detailed evidence to highlight cases where the flag may have been overused in their respective regions. Several Wholesalers suggested that the removal of the flags needed to be accompanied by continued efforts from Retailers alongside collaboration with Wholesalers to ensure meter reads are submitted on a timely basis. Respondents also said that clear guidelines should be made available to enable the smooth and consistent unwinding of the flags.

The majority of Retailers (seven) who responded to the consultation disagree with the proposal and argued for an extension of the use of the temporary vacant flag. The suggested extensions ranged from three months to the end of March 2021. The reasons given for this extension included:

- The risk of localised lockdowns or a second outbreak of the Covid-19 pandemic, as well as uncertainty of the future and the impacts of an economic downturn on business customers;
- The inability of some businesses to open, either due to social distancing making opening impossible or some premises not being allowed to open from a legal perspective;
- The risk of an increase in customer bad debt due to customers being switched to an occupied status and exposed to fixed charges following the expiration of the temporary vacant flag.

While several Retailers agreed with the proposed date of 31 July, they suggested that there was need for alternative measures to be put in place for businesses that remain closed. Some Retailers sought clarity around what action should be taken where properties remain closed as they cannot comply with the government guidelines on how to open and operate safely. One Retailer suggested an alternative approach could be to allow businesses previously marked as temporarily vacant to use the original vacant flag if they are unable to re-open and meet the first two criteria of CSD 0104 3.1.4.

CCW agreed that the temporary vacant flag could expire on 31 July 2020 but want assurance that Retailers would strive to obtain meter reads to ensure customers' bills accurately reflect correct levels of consumption. CCW expressed concern about customers potentially experiencing bill shocks as the temporary vacancy flag is unwound.

Consultation question 7: Do you agree that in the event of (1): reduced consumption, and/or (2) any local lockdowns, Retailers should seek to obtain meter

reads to reflect actual consumption in the market (or in the event a meter read cannot be obtained engage with customers to obtain an accurate estimate of consumption (YVE))? Please explain your answer and provide supporting evidence wherever appropriate. If you do not agree, please set out an alternative proposal.

Consultation responses

All Wholesalers (12) expressed support for the proposed approach and agreed that the priority should be for Retailers to obtain meter readings and that estimates of consumption should be used as a last resort. Three Wholesalers highlighted the importance of collaboration and data sharing between Wholesalers and Retailers. One Wholesaler suggested there should be more emphasis placed on customer reads as an effective route to getting accurate consumption data as quickly as possible.

Two Retailers agreed with the proposal and there was general agreement that obtaining meter reads is the most effective action to ensure charges are set accurately. However, most Retailers (eight) highlighted that significant challenges remain to do that and some suggested that customers may not be able to provide accurate estimates when contacted. One Retailer highlighted in particular that additional reads above business as usual levels are expected to be limited due to resource constraints.

Several Retailers (five) disagreed explicitly with the proposed approach in the instance of further local or nationwide lockdowns. Three suggested that using the temporary vacant flag is the best solution, one suggested the introduction of a new temporary vacancy flag for businesses that cannot be categorised definitively and one Retailer thought the most appropriate method would be to use YVE adjustments in local lockdowns.

CCW suggested that businesses that are not able to re-open or subject to local lockdowns should be prioritised in ensuring they are charged accurately. One respondent, on behalf of the self-supply community, agreed with the proposal and suggested it would be beneficial to have clarification and guidance regarding the evidence requirements for YVE adjustments. One self-supplier noted that businesses who have not resumed activities, or are just about to do so, may not be well placed to engage effectively.

At its meeting on 28 July 2020, the Industry Codes Panel asked for further clarity on what falls within the standard definition for vacant under the Codes. For example, where a premises is permitted to open but chooses not to do so. It was also

suggested that there remains some uncertainty on how the criteria of the temporary vacant flag should be applied.

Our decision

After considering the views and additional evidence received in response to the public consultation and the views of the Industry Panel, **we have decided to let the temporary vacancy flag expire at the end of July 2020.**

As we highlighted in our consultation, the decision to introduce the Covid-19 flag was a temporary measure, required for an unprecedented time. The intention of which was to ensure that customer bills more accurately reflected reduced levels of consumption where businesses were temporarily closed due to Covid-19, by providing Retailers with a workable proxy to identify reductions in consumption of 95% or more when there were significant challenges to obtaining accurate meter reads.

When the temporary vacancy flag was introduced in March the measures being introduced to tackle Covid-19 were unprecedented and being implemented at pace. The situation going forward has changed in a number of respects.

For example the majority of businesses are now permitted to reopen, there is greater activity at premises and despite social distancing measures this should result in levels of consumption that exceed 5% of historic levels. We acknowledge that some Retailers were not convinced that ONS data was the right source to use, highlighting that some businesses trading at the end of June could have been doing so remotely while their main premises were closed. For some businesses, adapting to a new normal – during an economic downturn with social distancing measures in place – could have a material impact on their activities and consumption of water and waste water services at particular premises. For others, the impact may be much less pronounced. In any case, we would expect levels of consumption at the premises of businesses that have reopened to exceed 5% of historic levels.

Retailers also now have experience of engaging with their customers in a lockdown scenario and so should be better able to prepare and anticipate what to do in the event of further local or regional lockdowns. As a result we do not believe that the temporary vacant flag is appropriate in the event of a local lockdown. After 31 July 2020, in the instance of a local lockdown, the existing vacant and occupied flags, under the Codes should be applied.

Some Retailers highlight that removing the temporary vacancy flag could increase customer bad debt. We acknowledge that some customers have benefited from the use of the vacancy flag by being relieved from having to pay for fixed charges for up to four and a half months. However, the aim of the temporary flag was to ensure charges more accurately reflect reduced levels of consumption, it was not to provide customers with relief which was the focus of changes made to the CPCoP. When the temporary vacancy flags are removed, the CPCoP will continue to require Retailers to offer customers affected by Covid-19 with repayment plans tailored to their needs.

We are aware that meter reading activity has picked up again, although this varies by geography and metering company. Where meters cannot be read, Retailers should continue to work with customers to request a meter read, if it is safe to do so. We encourage Retailers and Wholesalers to work together to seek meter reads and upload them into the market. In our [15 June decision to extend use of the temporary vacancy flag until end July, we noted that many businesses were starting to reopen](#) and we expected Retailers to be reviewing, and where appropriate updating, the status of their customer premises.

The Industry Codes Panel sought clarity on the standard definition of vacancy and several Retailers made reference in their consultation responses to potential legal considerations regarding the removal of the temporary vacancy flag and the use of the vacancy flag as defined under the Codes.

Some Retailers referred to section 3.1.5 of CSD 0104 which provides that “A property that is prohibited by law from being occupied, for example an unsafe property, is also considered to be a Vacant Premises”. They suggested that this could apply where a pronouncement is made, such as that on 16 March, where the Government ordered certain businesses to close. This was later underpinned by legislation. To be clear, while we are aware of legislation requiring businesses or parts of businesses to close and enabling restrictions to be imposed on the occupiers of premises, we are not aware of any legislation that has prohibited premises from being occupied (e.g. by being used by the owner or occupier’s to store its property). If Retailers are relying upon this section of the Codes to mark properties as vacant following the expiration of the temporary vacant flag, they need to be very clear about the specific legal provision they are relying on in doing so and assure themselves that such legislation is entirely consistent with the requirements for the standard definition of vacancy.

One Retailer considered that if there is evidence that a premises is unoccupied, under section 144 of the Water Industry Act 1991 no charges (wholesale or retail) may be levied as only the occupier can be liable to pay them. Section 144 does not apply to business retail market charges between Retailers and their customers or

between Wholesalers and Retailers, but only to direct charges between Wholesalers and occupiers of premises in the household market. Nor is there any equivalent statutory, licence or Code provision governing Retailer charges to their customers or Wholesaler charges to Retailers other than the Code provisions in relation to vacancy.

Where temporary vacancy flags are removed, Retailers will need to mark the premises as occupied or vacant. Where a premises is marked as vacant, Retailers will need to assure themselves that the premises meets the original criteria for being classified as vacant (which is clearly defined under sections 3.1.3 to 3.1.5 of CSD 0104) and mark the premises as 'evidenced' in CMOS. Retailers are required to maintain evidence in support of their conclusions that each of those vacant premises which it records as 'evidenced' fulfil the vacancy criteria and this evidence may be audited for compliance. Reflecting views from the Panel, we will work closely with MOSL to update guidance including to make the evidential requirements clear and consult on this in early August. The updates to the guidance will also provide clarity on the evidential requirements for using YVEs in the event a premises is occupied but a meter read cannot be obtained.

We confirm that in the event of reduced consumption or future local lockdowns, Retailers should seek to obtain meter reads to reflect actual consumption in the market. In the event a meter read cannot be obtained, Retailers should engage with customers to obtain an accurate estimate of consumption.

We acknowledge that in some cases it may be challenging for Retailers to engage with some of their customers over the coming months and note that this was raised as an argument for retaining the use of temporary vacancy flag, or creating a new alternative temporary flag. But we consider that such an approach undermines the objective of introducing the temporary vacant flag, which was to improve the accuracy of the settlement process and data quality in CMOS. We acknowledge there will be circumstances where it may not be possible to obtain meter reads or engage with customers, but such a scenario will be better dealt with by the appropriate use of YVE adjustments rather than continued use of temporary vacancy flags.

We note several respondents have highlighted the importance of Trading Parties collaborating effectively. We strongly encourage this and we have included constructive collaboration in our expectations on Trading Parties working on the removal of temporary vacancy flags which will be reinforced in the guidance document to CSD 0104.

3.2 When should all temporary vacant flags be removed from the market?

What we said in the consultation

Following the expiration of the temporary vacancy flag, the Codes stipulate that Retailers have two months to revert premises back to a status of occupied, unless they meet the original criteria for being classified as vacant.

We proposed two potential options in our consultation – removal of all temporary flags should be completed by either the end of August, or the end of September.

We had already signalled to the market in our [decision](#) to extend the use of the flag until the end of July, that with the easing of restrictions and reopening of businesses, we expected Retailers to be reviewing, and where appropriate updating, the status of their customer premises. In line with the increase of meter reading activity in the market, we suggested that an end of August deadline for removing all flags from CMOS might provide a strong driver for correcting the status of premises at the earliest opportunity. However, we also acknowledged that there could be practical challenges that Retailers would face in engaging with some of their customers over the next couple of months. On balance, our minded to position was that all temporary vacant flags should be removed from CMOS by the end of September. We considered that this longer deadline should provide sufficient time for more actual meter reads to be submitted and enable Retailers to properly engage with their customers while at the same time providing sufficient incentive for Retailers to act swiftly where they are able to do so.

To further encourage the removal of temporary vacant flags, we were minded to introduce a new MPS that would incentivise Retailers by applying a charge for every SPID that remains flagged as temporary vacant beyond the end of September 2020.

Consultation question 8: Do you agree that following the expiration of the temporary vacancy flag Retailers will have until the end of September to remove these flags from CMOS? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

All Wholesalers that responded to the consultation viewed the end of September 2020 to be sufficient. There were proposals that the flags are removed centrally by MOSL for any premises still showing as vacant at the deadline.

Three Retailers also agreed with the end of September deadline for removing the temporary vacancy flags. One Retailer suggested that the end of September 2020 should be a backstop and that the aim should be to remove the flag as early as possible. The majority of Retailers (six) disagreed with the proposed deadline in the consultation. Two Retailers suggested the end of January 2021 or the end of November 2020 as alternative deadlines. Most Retailers suggested that it will be very challenging to contact customers whose premises have been identified as temporarily vacant and there isn't much capacity for meter service providers to step up activities.

The response from the self-supply community agreed with the proposed timings and noted they were in effect quite generous. CCW urged that Retailers engage with customers early so there is an opportunity for them to understand their circumstances and consumption levels.

One Retailer noted that backdated temporary vacant flags should be able to be entered after 31 July 2020 to allow all customers this benefit when returning to vacant properties. At its meeting on 28 July 2020, the industry Codes Panel also noted that there was a need for clarity on how retrospective adjustments to the temporary vacancy flag should be made.

Consultation question 9: Do you agree that a new MPS should be introduced from 1 October that focusses on the timely removal of all temporary vacancy flags? If so, what are your views about how this standard should be designed? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

Water UK and six Wholesalers believe that encouraging the removal of the temporary flag can be done without the need for a new MPS standard. They suggested that any temporary flags remaining in CMOS after September should be automatically removed, retrospectively to the date the property was flagged as being temporarily vacant.

Three Wholesalers supported the concept of introducing a financial incentive to remove the temporary flag from 1 October 2020. Two Wholesalers supported introducing a new measure for the removal of this flag but considered it should be reputational only. One Wholesaler suggested that introducing penalties could lead to arbitrary updates being made and incorrect data being added to the market.

The majority of Retailers were opposed to the introduction of a new MPS measure. Several Retailers suggested that they have a natural incentive to remove the flag in order to be able to pursue and collect revenue from customers.

It was suggested by some Retailers that a new measure would add to complexity in the market. It was also suggested that penalties would not encourage the right behaviours. One Retailer suggested that an MPS that would apply a charge against every SPID that remained flagged as temporary vacant from 1 October 2020 onwards would have a bigger impact on smaller Trading Parties.

Several Retailers suggested that the removal of the flag would be better incentivised by MOSL and Ofwat monitoring activity in the market and taking action where necessary.

We did note support for the introduction of a new MPS from four Retailers. They noted that the charging levels needed to be carefully considered when developing this measure as well as the implementation date.

CCW also expressed cautious support for a new MPS measure while noting the need for Retailers to properly engage with their customers before rushing to update their occupancy status and YVEs.

Our decision

After considering the views and additional evidence received in response to the public consultation and the views of the Industry Panel, **we have decided that Retailers will have until the end of September 2020 to remove all temporary vacancy flags from CMOS.**

We have noted the concerns raised by Retailers and we appreciate the timely removal of the flags will not be without its challenges. However, in our [15 June decision](#) to extend the use of the flag until the end of July, we indicated that we could require all Covid-19 temporary vacancy flags to be removed from the market by the end of August 2020 and encouraged Retailers to review and update the status of any business premises where the requirements for a temporary vacant flag no longer

applied. So Retailers would have had – in total – three and a half months to engage with their customers and remove the temporary vacancy flag by the end of September. Retailers were required to obtain evidence in support of switching on the temporary vacancy flags and presumably did so by the end of April (as required by the guidance), so we consider that three and a half months should provide sufficient time for Retailers to engage with their customers and remove the flags in a measured and evidence based manner.

As we explained in our consultation, while the temporary vacancy flag will cease to have any effect from 1 August 2020 onwards, Retailers will be able to make retrospective adjustments to the flag beyond the end of July, but those retrospective changes can only apply to a period (or subset of the period) 16 March 2020 - 31 July 2020. It is worth noting that any retrospective changes will need to be made before the final settlement (RF) run. We acknowledge that this may mean that some temporary vacant flags will remain in the market for the September settlement run. We anticipate, however, that the later scheduled settlement runs will ensure that any impacts of the flag (such as the suppression of fixed charges) are only applicable until the end of July 2020.

This ability to apply retrospective changes will allow Retailers to consider where temporary vacant flags were incorrectly applied and update the status of premises accordingly. Importantly, it will also allow Retailers to retrospectively apply the temporary vacant flag for premises that were incorrectly flagged as occupied during this period.

We would like to reiterate that it is important for Wholesalers and Retailers to collaborate effectively. Sharing data and information can improve the quality of data in CMOS and reduce the time it takes to remove the temporary vacancy flags.

We will work closely with MOSL to introduce an incentive for the removal of the temporary vacant flag, coming into effect from October 1 2020. Our current intention is to levy a financial charge against this incentive and we will consider whether it would be appropriate to allow for a small proportion of supply points to be exempted from this charge.

We note that several Wholesalers and Retailers have suggested that rather than introducing a new financial incentive all flags should be removed from CMOS automatically or by MOSL. We understand that the removal of the flag cannot be automated or undertaken by MOSL and will need to be initiated by Retailers.

Several Retailers have suggested that instead of a new MPS measure the removal of temporary flags could be monitored by MOSL and Ofwat, with appropriate action

taken as required. While we agree that the ongoing monitoring of the removal of flags will be necessary we do not consider that existing escalation processes, such as Initial Performance Rectification Plans (IPRPs) or Ofwat enforcement action, are suitable or proportionate methods for incentivising the removal of temporary vacant flags from the market at the pace that is required.

3.3 Encouraging high quality consumption data

What we said in the consultation

In our consultation we noted that we wanted to avoid the risk that a new MPS, which is aimed at incentivising removal of temporary vacancy flags, inadvertently incentivises the submission of inaccurate estimates (e.g. in the form of arbitrarily low YVEs). With this in mind we welcomed stakeholders' views on whether we should introduce an additional MPS (or alternatively an API) that would incentivise Retailers to replace arbitrarily low YVEs with meter reads or at the very least more accurate estimates based on the best available evidence.

We also recognised that Wholesalers have a role to play in assisting Retailers in establishing the correct status of customer premises. We welcomed views on what more could be done to incentivise Wholesalers to constructively contribute towards the unwinding of the temporary vacancy flag and getting more accurate meter reads in CMOS.

Consultation question 10: Do you agree that an additional MPS (or alternatively an API) should be introduced to monitor the use of YVEs in the market and incentivise the submission of more accurate consumption data? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation question 11: If we were to introduce a financial incentive on YVEs, how could arbitrarily low YVEs entered into CMOS be identified in a proportionate way (for example via one or more simple rules)? If we were to introduce a reputational incentive on the use of YVEs, how could such a reputational incentive be strengthened?

Consultation responses

A majority of Wholesalers supported the proposal to introduce a measure to monitor the use of YVE's and incentivise submission of more accurate data. Most favoured the introduction of an API as opposed to a new MPS.

Two Wholesalers supported the introduction of an MPS standard. Both parties suggested that the introduction of any penalties should be preceded by an initial period where performance is monitored with only reputational incentives in place.

Several Wholesalers suggested potential areas where an API could be implemented, these included:

- Using existing market analysis to monitor YVE adjustments by all Trading Parties based upon pre and post Covid-19 market performance.
- Setting a timescale for the replacement of all YVEs with an actual meter reading by a set date (for example, by the end of December).
- Investigating cases where a set % SPIDs (to be established based on market analysis) have settled against the YVE cap. It was suggested that a fast tracked version of the IPRP process could be employed to address outliers.

The majority of Retailers did not support introduction of a new API or MPS measure. A range of concerns were expressed by Retailers, these included:

- What would be considered as an arbitrarily low YVE? It was noted that YVE assumptions are based on customer information and inaccuracy is not necessarily the fault of the Retailer.
- It was suggested that it is not in the commercial interests of Retailers to under-estimate customers' consumption or collect less revenue.
- One Retailer also noted that being penalised for arbitrarily low YVEs could undermine its ability to support customers who remain in need. Several Retailers suggested that YVE's only become relevant where meter reads have been attempted but were not obtainable.

Two Retailers were supportive of YVEs being monitored but did not support the introduction of penalties. One Retailer suggested that an end-of-year analysis of YVEs billed to customers compared to actual consumption could be carried out. Based on this analysis MOSL could incentivise Retailers to lower their YVE depending on the level of discrepancy.

One self-supply Retailer was supportive of any proposal that incentivises more accurate consumption data but expressed concern about how the quality of the data would be assessed and highlighted that there might be legitimate use of YVEs.

CCW considered that the submission of accurate consumption data should take precedence. Though they acknowledged that where meter reads are unavailable the importance of accurate YVEs increases. In this context CCW welcomed any measures designed to improve the accuracy of estimated consumption. CCW also suggested that an YVE API could be linked to customer experiences. They highlighted that CMOS data on YVEs could be cross-referenced to billing complaints data to give a better picture of customer impact.

Consultation question 12: What are your views on how we can better (financially or reputationally) incentivise Wholesalers to work constructively with Retailers during the unwinding of the temporary vacancy flag and to improve the accuracy of data in CMOS?

Consultation responses

All Wholesalers fully supported the aim of unwinding the temporary vacancy flag and improving the accuracy of data in CMOS. Many referenced the response provided by Water UK which said it is not aware of the need for a specific new incentive to be introduced to encourage Wholesalers to work constructively with Retailers.

One Wholesaler suggested that mechanisms are already in place which, alongside additional monitoring, could provide significant support. It was noted that pairing improvement plans have been successful and could be employed to support the unwinding of the Covid-19 mitigations. Another Wholesaler suggested that R-Mex will address Retailers' satisfaction with Wholesalers and encouraged Ofwat to place financial incentives on this measure.

Retailers provided a range of suggestions on how Ofwat can better (financially or reputationally) incentivise Wholesalers to work constructively with Retailers, these included:

- A framework in the form of the R-MeX, enabling Retailers the opportunity to comment on Wholesaler engagement;
- League tables based on feedback on the support Wholesalers are providing to the industry and during the Covid-19 pandemic;
- Increased transparency on who adopts existing incentive schemes;

- A new industry standard requiring physical evidence, rather than ‘virtual’ information, to validate the occupancy status of a property; and
- Wholesaler evidence on reoccupation to be subject to market audit, with financial penalties applied where evidence is poor or misleading.

It was noted that the lack of timely and accurate consumption data is a core issue in the market. With this in mind, several Retailers suggested putting full or partial responsibility for meter reads back to Wholesalers or an agreed independent provider. One respondent suggested that Wholesalers could act as a ‘meter reader of last resort’, meaning if a Retailer cannot get a read they can request one (at a price equal to the current MPS fine level) from the local Wholesaler.

Several Retailers stressed the role of bilateral communications and stated Wholesalers need to be incentivised to resume normal service on bilateral transactions. One Retailer noted that a barrier to effective cooperation has been the high level of inconsistency in communication processes across Wholesalers and encouraged Ofwat to provide further guidance to reduce this existing friction.

Our decision

We are grateful for the input provided by stakeholders to both of these questions. **We remain minded to introduce an incentive this autumn to monitor inappropriate use of yearly volume estimates (YVEs) and to encourage more accurate consumption data in the market.** We will consider the suggestions provided and will look to consult further with MOSL and Trading Parties on our thinking over the next few months. Many of the suggestions that we received on how to better incentivise Wholesalers to work constructively with Retailers during the unwinding of the temporary vacant flag touched upon some broader considerations relating to Wholesaler - Retailer interactions. We intend to discuss these points further in August, when we will publish the outcomes of our [review of incumbent support for effective markets](#).

3.4 How should all temporary vacant flags be removed from the market?

What we said in the consultation

In our consultation we proposed some expectations to guide Trading Parties through the unwinding of the temporary vacancy flag. These included:

- Expectations of Retailers to ensure they follow appropriate and robust processes and communicate effectively with their customers;
- Expectations that Trading Parties should work constructively together; and
- Expectations of the roles of MOSL and Ofwat.

Consultation question 13: Do you agree with the expectations set out above, which will guide Trading Parties through the unwinding of the temporary vacancy flag?

Consultation responses

There was general agreement in the responses with the proposed expectations. Several parties touched upon process considerations or areas where clarification may be required to ensure a consistent approach is followed throughout the market.

Suggestions from Wholesalers included:

- Further guidance regarding the backdating of associated charges where the flag was used in good faith, but incorrectly;
- Clarity regarding backdating of occupancy status where consumption was more than 5% of usual level;
- One respondent suggested that an expectation could be included stating that unless a Retailer can demonstrate that the premises has used <5% of usual consumption, the temporary vacant flag is removed retrospectively to the date on which it first came into effect. The assessment of occupancy would still be critical in ensuring that fixed charges are applied correctly, so more clarity is needed to ensure consistent approaches in “grey areas” are applied.
- Two respondents suggested that the number of settlement reconciliation runs is increased to correct the impacts of the use of vacant flags. They noted that the use of vacant flags will potentially force volumes into settlement periods in the autumn and winter of 2019 and the consumption would then not be settled until 2021.

Two Retailers made similar suggestions:

- An industry-wide set of rules are needed for “grey areas”, for example where there has been consumption over 5% of usual levels in order to favour the customer. It was also suggested that there should be a common approach to what “usual” consumption is – proposing it is based on consumption over 12 months to account for seasonal variations.
- One Retailer urged for clarity for customers, asking what happens if a flag is removed but they are still not open for business due to Covid-19 or because it is not economically viable to open.

One Retailer sought clarification on whether amendments to CMOS, in cases of customers entering into administration/not-reopening, should continue to be marked with the status showing “COVID-19 Ceased Trading” as per CPW091.

CCW was particularly concerned about the impact on customers being incorrectly categorised (e.g. occupied or temporary vacant). CCW supported the expectation that in marginal cases decisions should go in favour of the customer and that Trading Parties should work together constructively. CCW noted that it is likely that Retailers may make decisions on a business premises’ occupancy status that customers disagree with. They considered that as well as ensuring that customers understand the impact on bills, there should be a clear appeals process which would clarify the type of evidence that will be considered by a Retailer.

The response from the self-supply community indicated that they considered the expectations to be clear.

Our decision

We set out expectations to guide Trading Parties through the unwinding of the temporary vacancy flag and to supplement the [existing guidance](#) on the use of temporary vacancy (updated in June 2020).

On the basis of the responses we have received to this consultation we continue to consider that these expectations are appropriate to support the unwinding of the temporary vacant flag. We acknowledge that stakeholders have raised a range of process related points, which we will consider in updating the guidance.

4. Market Performance Charges

4.1 Reintroducing MPF Charges

What we said in the consultation

In March 2020, we set out and implemented our decision to suspend the invoice and payment of Market Performance charges ('MPS' and 'OPS') levied under the Market Performance Framework ('MPF'). The invoicing and payment of these charges is currently suspended until the end of July. The suspension reflects that many charges – including in relation to meter reading – could be materially affected by business closures and social distancing measures implemented to combat Covid-19.

We consulted on when and how these market performance charges should be brought back into effect.

Noting that there was some evidence that meter reading activity had increased in recent weeks, reintroducing charges at an earlier date could reinforce incentives for Trading Parties to meet industry standards. Insofar as these charges incentivise Trading Parties to act differently, switching them back on could benefit customers.

On the other hand, some MPF charges relate to the timeliness of submission of data to CMOS; switching these on at a later date could make it more likely that relevant data (e.g. meter reads) are entered into CMOS, improving the quality of market data and hence benefiting customers. A later date may also reflect that there remain factors outside Trading Parties' control and ability to meet MPF Standards.

We also considered that there may be a case for phasing in charges for different elements of the MPF ahead of others. In particular, there may be a case for switching on OPS charges ahead of MPS charges, and non-meter reading ahead of meter reading market performance charges.

Consultation question 14: Should Market Performance charges come back into effect from end September 2020 or end October 2020? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

Most Wholesalers said they are content for market performance charges to be reintroduced at the end of October 2020. In the main this is because they think it allows sufficient time for the Covid-19 vacancy flags to be adjusted and then for Retailers and Wholesalers to deal with any consequential data changes.

Most Retailers, given the choice between September and October, reluctantly favour October and many would prefer later. They cite a number of reasons for a later date including their views that:

- There remains a lack of clarity, for example it is unclear how many customers will remain closed, regarding the timetable, and the time needed for transitioning out of Covid-19 measures;
- Meter reading providers are not yet operating at full capacity, or may continue to face difficulties obtaining reads;
- Retailers are dependent on Wholesalers (e.g. to fix broken or faulty meters), but haven't yet seen Wholesalers' backlog rectification plans;
- Reintroduced Market Performance charges would simply be an additional cost burden.

The self-supply community and CCW favoured end September. Waterscan and CCW for example noted that this date aligns with the end of temporary changes, and Waterscan also noted that meter reading activities have increased significantly and will continue to do so over the coming weeks.

Some Retailers said they would prefer any reintroduction to be subject to some form of glide path, aimed at mitigating the financial impact of the reintroduction. One Retailer suggested this could be given as a retention of the 2019/20 cap levels and/or a phased ramping up of the level of fines over the remainder of the financial year.

One Retailer said it would “appreciate further clarity from the regulator as to how the reimplementation of charges will be practically implemented”. To give a specific example, MPS charges are incurred on the basis of failing a standard against a specified time ‘window’.” This Retailer said it would appreciate clarity on whether this ‘window’ will reset from the date of charge reimplementation, or effectively rollover from the pre-Covid-19 period.

Consultation question 15: Should OPS charges be introduced before MPS charges? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

Concerning whether OPS should be introduced ahead of MPS, Wholesalers in the main favoured the simultaneous reintroduction. Many suggested that this would be simpler, clearer and/or fairer. One Wholesaler for example noted “there are similar issues in relation to operational activities, including that of key worker safety and entry to premises that have impacted operational performance. Therefore, we suggest a similar timeframe to return to business as usual for operational activities and performance charges”. Another Wholesaler noted that Wholesalers’ “response to OPS is in part dependent on the quality of Retailer data in making requests. We see that OPS and MPS activities are likely to coincide (for instance requests to check / replace stopped meters linked to the unwinding of Covid vacancies).”

Retailers in the main favoured OPS ahead of MPS, citing between them the following views:

- Retailers’ MPS performance depends in part on Wholesalers’ performance,
- Incentives on Wholesalers – it could help incentivise Wholesalers to prepare and adhere to plans to address the operational backlogs that have developed during lockdown, to improve service on bilateral transactions , to adhere to OPS which will have a positive impact on MPS,
- Majority of OPS work is predominately dominated by more Health and Safety concerns that can be mitigated by Wholesalers,
- OPS has a more direct impact on end customers.

One Retailer said it favoured reintroducing OPS ahead of MPS only if the Wholesalers are reluctant to process forms. Few Retailers provided a detailed view on the appropriate time delay needed between the reintroduction of OPS and MPS or rationale for this. One Retailer however suggested one month prior, and another said MPS charges associated with meter reading should for example not recommence before any backlogs relating to meter exchanges have been cleared.

The self-supply community and CCW said they favoured reintroducing OPS and MPS simultaneously. Waterscan for example noted that “this is about everybody playing their part and delivering their responsibilities so it should be done as one.”

Consultation question 16: Should non meter reading MPF charges come into effect before meter reading MPF charges? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

Concerning whether non-meter reading market performance charges should be introduced ahead of meter reading market performance charges, Wholesalers, the

self-supply community and CCW clearly favoured the simultaneous reintroduction. Water UK for example, responding on behalf of a number of Wholesalers, said that increasing the number of accurate meter reads in the market is crucial to the unwinding of the emergency measures and that it would therefore be inappropriate to delay the reintroduction of meter reading incentives. CCW set out its belief that the continued easing of lockdown restrictions will result in fewer difficulties in obtaining meter reads by Trading Parties and that consequently there is a case for all MPF charges to be re-introduced in line with a more 'business as usual' position and continued service delivery to customers.

Most Retailers favoured introducing non-meter reading MPF charges ahead of meter reading MPF charges. Reasons included:

- Retailers' MPS performance depends in part on Wholesalers' performance,
- Incentives on Wholesalers - it could help incentivise Wholesalers to prepare and adhere to plans to address the operational backlogs that have developed during lockdown,
- Difficulties with obtaining meter reads / meter reading providers need to catch up with the backlog of reads,
- Non-meter reading MPF charges are more about portfolio administration and may not involve meter reading,
- Less justification for further delays to performance charging where a site visit is not necessary.

Few Retailers provided details of the appropriate delay for meter reading market performance charges behind non-meter reading market performance charges, though views included the following:

- It will take six months from the point when normal meter reading services resume to recover meter reading rates to pre-Covid-19 level. Hence meter reading market performance charges should be reintroduced from April 2021.
- Early indications are that Wholesalers are adopting a cautious approach to ramping meter reading activities back up and that it will be several months before they approach near normal levels.

One Retailer did not set out a preference, but noted that the only other MPF charges aside from meter reading are MPF charges associated with making SPIDs tradeable. This Retailer said it would be concerned if, without notice and as a result of a surge in activity following relaxation of Covid-19 restrictions, Wholesalers started to send Retailers large transaction volumes associated with new connections. The Retailer said the transaction volumes would need to be carefully managed to ensure each

party is capable of responding within the required timescales, and that it would expect there to be dialogue to ensure this. The Retailer suggested that once this is established then MPF charges for making SPIDs tradeable can come back into effect, and that the earliest that this could be achieved is likely to be October.

In addition to the responses to the July consultation summarised above, we also received views from Panel members following the 28 July 2020 Industry Code Panel. Some Panel Members expressed concern that OPS performance charges would be reintroduced before MPS performance charges. Other Panel Members queried if the proposed extension of the suspension of performance charges was sufficient for Parties to recover performance and for meter reading activities to return to appropriate levels. The Panel therefore asked Ofwat to carefully consider the timing of the re-introduction of performance charges.

Our decision

We have decided to extend the suspension of market performance charges for OPS to the end of September, with recommencement from 1st October 2020. This represents a two month extension against our original suspension, set out originally in March and extended again in June via Code changes CPW098 and CPM027. We note that during the period of suspension of OPS charges, Wholesalers have been subject to the same performance standards and our expectation is that they would have endeavoured to meet these standards, to the extent that Covid-19 measures allowed this.

We further note that Wholesaler performance in meeting OPS standards should facilitate and help enable Retailers to meet customer facing standards, particularly concerning meter reads. Recommencement of OPS charges from 1 October will sharpen incentives for Wholesalers to provide the necessary service levels, including tackling any operational backlogs that may have developed, with consequent improvements for effective market functioning as well as direct customer benefits. For these reasons we also think it is reasonable to recommence OPS charges one month prior to the reactivation of MPS charges. We encourage Wholesalers to work collaboratively with Retailers so all Trading Parties are better placed to comply with the market performance standards – for example by Wholesalers sharing their backlog rectification plans with Retailers.

The suspension of all MPS charges should be extended to end October, with recommencement from 1st November 2020. This represents an additional three month extension (beyond end July). We think a one month additional period – compared to OPS – is warranted for MPS charges, for the following reasons:

- The additional extension gives Retailers time to ramp up meter reading capabilities and manage any backlogs that may have built up, which we understand is already happening or beginning to happen for a number of Retailers.
- The MPS charges are in part based on meeting deadlines for submission of data such as meter reads; an additional month gives Retailers time to submit data to CMOS without incurring financial penalties for late submission. This could otherwise be a perverse incentive not to submit such data.
- During the period of MPS charge suspension Retailers and Wholesalers have in any case been subject to an ongoing obligation to meet MPS standards. Recommencement of charges from beginning of November, following a further three month extension, provides a sharpening of incentives for both Wholesalers and Retailers to meet their obligations and so provide more effective market functioning and better customer outcomes.
- As we note above concerning the reasons for the expiry of the vacancy flag, Trading Parties now have experience of engaging with their customers in a lockdown scenario. This also means that they should be better able to prepare and anticipate what to do in the event of any local or regional lockdowns that may occur.

Noting that our decision already represents an extension to the suspensions of MPF charges originally granted in March and June, we see no justification for a 'glide path' to, or softening of, financial penalties to apply to Retailers from 1 November.

Concerning whether non-meter reading market performance charges should be introduced ahead of meter reading market performance charges, we consider that – in line with our view on reintroducing MPS market performance charges from 1 November, and noting that meter read data is key to effective market functioning and better customer outcomes – it is appropriate following a three month extension of MPS charges to reintroduce financial incentives to meet MPS standards. **We therefore see no reason why meter reading market performance charges should not be reintroduced alongside non-metering market performance charges, from end October.**

In reintroducing market performance charges, we recognise that it will be helpful to the market for clarifications to be provided in due course on a number of practical aspects and effects, and for Retailers and Wholesalers to work together constructively where relevant. Concerning for example:

- the issue of any reset of the specified time 'window' for meeting a standard in the context of the date of charge reimplemention, we note that this question

could apply in principle to MPS 16 and 17 (transfer reads) and MPS 18 and 19 (cyclic meter reads). For these standards, SLAs are in any case frozen where the relevant SPID is or has been marked vacant, including any temporary vacancies set due to Covid-19 pandemic. Our expectation therefore would be that SLAs that have been tracked through as normal would be subject to charges according to the usual timeframes, and those subject to vacancy status would be frozen for the duration of the vacancy.

- the risks of a sudden increase in new connections transactions volumes following relaxation of Covid-19 restrictions, we would expect Retailers and Wholesalers to work together to ensure volumes are manageable. We understand in any case that work has continued on this where possible with Wholesalers and Retailers, so reducing the likelihood of a sudden surge in volumes.

5. Credit support requirements

Retailers who choose to pay their primary charges in arrears ('post-pay') are required to provide a form of credit support⁷ to Wholesalers. The value of credit support required by each Retailer is normally based on the value of each settlement report between the Retailer and the Wholesaler(s) it has contracts with. Settlement reports are calculated based on the consumption of Retailers' customers in each given region.

Code change CPW091 enabled Retailers to mark premises as temporarily vacant within CMOS. At the same time, CPW093 enabled Retailers to defer payment of a proportion of wholesale charges. The combined effect of these changes increased the bad debt risk to Wholesalers as the credit support requirements were based on settlement reports which would have been substantially lower due to increased vacant premises, while at the same time Retailers that chose to defer a proportion of their wholesale charges would owe Wholesalers more money.

To address an unintended consequence of code change CPW091, through code change CPW096, credit support requirements were maintained at pre-Covid (that is, March 2020) levels for all Retailers. The rationale for this was to mitigate the increased risk to Wholesalers arising from a potential reduction in the level of credit support required through Retailers' applying the vacant flag, and, for prudential reasons, to protect Retailers from encountering a cliff-face in the provision of credit support when vacant flags are switched off and consumption begins to rise.

In our consultation, we were minded to require Retailers to maintain credit support requirements at March 2020 levels until they have removed all their temporary vacancy flags from CMOS in accordance with the Code. Those that do so would then go back to being subject to standard credit support requirements which are calculated based on consumption levels and thus primary charges that are due from the next invoice period. The first invoice period for which a Retailer would be able to qualify to return to standard credit support requirements is October. For clarity, we would not require all temporary vacancy flags in the market as a whole to be removed before standard credit support requirements apply to an individual Retailer, or for that Retailer to have repaid all outstanding deferred wholesale charges.

As explained above, at its meeting on 28 July 2020, the industry Codes Panel considered change proposal CPW101 and recommended it for approval by Ofwat in

⁷ The various forms of credit support are set out in Schedules 2 and 3 of the Business Terms of the Wholesale-Retail Code

its entirety, inclusive of our proposals on credit support requirements. However, at the same meeting, the Panel also considered change proposal CPW100, raised by Castle Water. This change seeks to reduce the credit support requirements for Retailers who have not deferred any of their wholesale charges, and in our consultation we asked questions on behalf of the Panel to inform its recommendation on this proposal.

The Panel discussed CPW100 and voted to recommend this change proposal for rejection by Ofwat. However, whilst we note and acknowledge the discussion and subsequent Panel vote, we are concerned that the Panel was not entirely clear on the nature of the proposal and the interdependencies with CPW101. For example, we note that some Panel Members voted on the basis that the two changes could be implemented in parallel, which is not the case and was not the intent of either change.

We have not amended our original change proposal in relation to credit support requirements. However, we are keen to avoid any potential confusion around the effects of a proposed change or the basis on which a Panel recommendation was made. We have therefore decided to remove proposals and legal drafting relating to credit support requirements from our decision on this portion of CPW101 to enable the Industry Panel to reconsider our proposal alongside CPW100. The changes to the legal drafting will be published 31 July. We expect to receive the Panel's final recommendation report on these proposals on 31 July so will publish our decisions in relation to credit support requirements on 3 August 2020.

6. Customer Protection Code of Practice

What we said in the consultation

Once the temporary vacancy flag is removed in CMOS, customers will no longer be Covid-19 Affected Customers⁸ under the CPCoP. Therefore, the additional protections that are currently available to customers whose premises have the Covid-19 vacancy flag applied in CMOS will cease to be applicable.

However, following removal of the temporary vacancy flag, all customers that have been affected by Covid-19 will automatically become eligible for a Covid-19 Repayment Scheme⁹ which requires Retailers to agree a repayment plan over a time period that is affordable for the customer. Customers are therefore protected from being asked to pay outstanding amounts in full straight away.

Given the protections that remain in place once the temporary vacancy flag is removed, we did not consider that further changes to the CPCoP were required.

Consultation question 18: Do you agree that the CPCoP does not require amendment in light of the proposals set out in this document? Please explain your answer and provide supporting evidence wherever appropriate.

Consultation responses

22 out of the 24 responses received to this question agreed that no amendments are required to the CPCoP in light of the proposals detailed in the July consultation. Two Retailer respondents neither agreed nor disagreed.

All Wholesalers that responded to this question agreed that no amendments are required. Many referenced the response provided by Water UK which provided support for our proposal but stated that Retailer responses to this question would be

⁸ Covid-19 Affected Customer means “a Non-Household Customer for whom all of its premises have been designated as Vacant Premises by the Retailer in accordance with section 3.1.6 of CSD 0104 of the Wholesale Retail Code, unless the exception applies. The exception is where a Retailer can provide robust evidence that the Non-Household Customers’ ability to pay is unaffected by Covid-19. Where a Non-Household Customer has multiple premises but only some of which have been designated Vacant Premises, this definition does not apply;”

⁹ Covid-19 Repayment Scheme means “means the scheme produced by a Retailer that set out the reasonable steps it must take to enable Non-Household Customers to pay where they can, and over a time period that they are able to afford;”

important as they need appropriate tools to incentivise customers to pay and manage bad debt.

10 out of the 12 Retailer respondents agreed. Two did not state whether they agreed or disagreed. One Retailer also suggested that the requirement to have a Covid-19 Repayment Scheme should be considered in relation to any decisions about the extent of protection provided to Retailers for bad debt. It suggested that continued availability of the Covid-19 Repayment Scheme will impact Retailers' ability to repay all deferred wholesale charges by 31 March 2021. Another Retailer suggested that it is incumbent of Ofwat to explain fully to customers the impacts of the removal of the Covid-19 vacancy flag and reflect it expressly in the CPCoP.

CCW supported our position that no further amendments are required to the CPCoP. CCW highlighted concerns at the slow speed with which some Retailers complied with the requirements to update their websites, stating that some websites contain either no information, inaccurate or out of date information for a number of weeks after the changes came into effect on 1 June 2020. CCW will continue to work with Ofwat to monitor compliance with these provisions.

Our decision

In light of consultation responses and given that customers affected by Covid-19 will automatically become eligible for a Covid-19 Repayment Scheme that is tailored to their needs, **we have decided that the CPCoP does not require amendment.**

We expect Retailers to engage effectively with customers regarding the impacts of removal of the temporary vacancy flag. Retailers are best placed to do this given they are responsible for managing the relationship with their own customers. Retailers should agree appropriate repayment plans which are tailored to the customer's circumstances so that the impact of removal of the vacancy flag is mitigated. It is not appropriate for the CPCoP to explain the impacts of temporary vacancy flag removal.

All customers that are affected by Covid-19 will be eligible for a Covid-19 Repayment Scheme up until 31 March 2021, or such other date that Ofwat notifies in writing to Retailers. For clarity, this is not the date that all repayments must be made by, but instead is the date by which customers may be placed onto a Covid-19 Repayment Scheme. Retailers will need to manage their cash flow to ensure all deferred wholesale charges are repaid by end March 2021.

7. Next steps

Following publication of this decision document code changes CPW101 and CPM031 will be implemented on Saturday 1 August at 8am. For the reasons explained above, we have removed proposals relating to credit support requirements from CPW101 to enable the Industry Panel to reconsider our original proposal alongside another proposal on credit that has been put forward by a Trading Party (CPW100). We expect to receive the Panel's final recommendation report on these proposals on 31 July and to publish our decisions in relation to credit support requirements on 3 August 2020.

Where temporary vacancy flags are removed, Retailers will need to mark the premises as occupied or vacant.

- Where a premises is marked as vacant, Retailers will need to assure themselves that the premises meets the original criteria for being classified as vacant and mark the premises as 'evidenced' in CMOS. Retailers are required to maintain evidence in support of their conclusions that each of those vacant premises which it records as 'evidenced' fulfil the vacancy criteria and this evidence may be audited for compliance.
- Where a premises is marked as occupied, Retailers should seek to obtain meter reads to reflect actual consumption in the market. In the event a meter read cannot be obtained, Retailers should engage with customers to obtain an accurate estimate of consumption (YVE). Where Retailers are inputting YVEs into the central market operating system, they will be required to record supporting evidence, which may be required by the market auditor.

We will work closely with MOSL to update the guidance to make the evidential requirements clear and consult on this in early August.

We will also work closely with MOSL to: introduce an incentive for the removal of the temporary vacant flag, coming into effect from October 1 2020; and explore with the Market Performance Committee (MPC) how we might introduce an incentive this autumn to monitor inappropriate use of yearly volume estimates (YVEs), with the aim of encouraging more accurate consumption data in the market. We will continue to consider the use of incentives targeted at Wholesaler support for the market, noting that this is also relevant to our forthcoming report on incumbent company support for effective markets.

Bad debt

Our [April 2020 Decision document](#) set out a number of decisions concerning the question of bad debt that may arise for Retailers as a result of business customers delaying or defaulting on payments following the introduction of measures to combat the Covid-19 pandemic. The April Decision document set out our intention to monitor the level of additional Covid-19 related bad debt emerging in the business retail market and to provide regulatory protections for a portion of the exposure where bad debt across the market is likely to exceed the 2% threshold.

Our July 2020 Consultation noted that the April Decision document did not however specify the approach we would take to assessing the need for, nor the form of, any revised regulatory protections. Accordingly the July Consultation set out our plans and timetable for addressing these issues. We have not received responses to our July Consultation that in our view have warranted changes to this plan or timetable, and consequently our timetable remains as follows:

Date	Milestone
Autumn 2020	Call for Inputs published – seeking views on the range of possible approaches to amending any regulatory protections and mechanisms for refunding appropriate bad debt costs to Retailers
January/February 2021	Consultation published – setting out and consulting on Ofwat’s preferred option for any amendment regulatory protections
April 2021	Proposals for any amendment to regulatory protections published
2021/22	Where relevant, any amended regulatory protections become operational

Note, in accordance with the timetable set out in our July consultation document, we have already written to Retailers to seek information and data concerning indicators of the likely scale of outturn bad debt that may crystallise following the introduction of measures to combat the Covid-19 pandemic. We have asked Retailers to respond by Friday 21st August 2020.

Appendix 1

We have concluded that the implementation of CPW101 will better facilitate the principles of the Wholesale Retail Code as detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and is consistent with our statutory duties.

We think that the implementation of CPW101 furthers the principle of Efficiency as it provides a flexible approach to unwinding the temporary arrangements and is a step towards helping the market return to normal operation.

The repayment backstop solution seeks to enable specific wholesale-retail pairings and so is proportional across all Trading Parties. On the removal of temporary vacancy flags and MPF charges, the solution applies equally to all Trading Parties and so for these reasons we think that the solution furthers the Proportionality principle.

Finally, we think that the modification furthers the principle of Simplicity, Cost-effectiveness and Security as the solution is simple and modifies the existing deferral arrangements. The proposed solution is familiar to Trading Parties and provides further clarity on returning to pre-Covid-19 operating conditions.

The changes to the legal drafting will be published on Friday 31 July.

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July 2020

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