

## Wholesale Retail Code Change Proposal – Ref CPW074

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| <b>Modification proposal</b> | Wholesale Retail Code Change Proposal – Ref CPW074: Introduction of a Retailer SLA in relation to submission of Trade Effluent market forms to Wholesalers |
| <b>Decision</b>              | The Authority has decided to approve this Change Proposal, subject to minor modifications to the legal drafting  |
| <b>Publication date</b>      | 30 July 2020   |
| <b>Implementation date</b>   | 28 August 2020. <sup>1</sup>   |

### Background

Part G (Trade Effluent) of the Operational Terms sets out the processes to be followed by Wholesalers and Retailers in relation to the application for and modification of Trade Effluent Consents, the process for dealing with Trade Effluent enquiries, monitoring Trade Effluent discharges, and the discontinuation or termination of Trade Effluent Consents. It sets out the operational arrangements for the Trade Effluent Consent application process where an application is made by the Retailer on behalf of its Non-Household Customer or by a Non-Household Customer directly to the Wholesaler. The relevant Form to use for this process is either Form G/02 (Trade Effluent discharge application) or Form G/03 (Temporary Trade Effluent discharge application). In the text below, these are referred to collectively as Trade Effluent market forms.

Shortly after market opening, the Panel agreed to establish the Trade Effluent Issues Committee (**‘TEIC’**). Based on the experience of Wholesaler representatives at a TEIC workshop in November 2018 and Wholesaler members of the TEIC, delays are occurring in the submission of G/02 and G/03 forms to Wholesalers by Retailers, with delays sometimes being weeks or months after the Non-Household Customer initiated an application. This leads to unnecessary correspondence between Wholesalers, Retailers and Non-Household Customers in order to progress applications which result in time and cost implications for all parties. The Panel’s Final Recommendation Report indicates that delays in the processing of Trade

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<sup>1</sup> In the Panel’s Final Recommendation Report it gave two potential implementation dates. The date of 28 August 2020 has been agreed in consultation with MOSL.

Effluent market forms result in poor customer experience. It also affects the quality of market data associated with the relevant Trade Effluent processes and could affect Wholesalers carrying out their market and regulatory obligations effectively.

There is currently no prescribed time period in Part G (Trade Effluent) of the Operational Terms in relation to how quickly the Retailer must pass on Trade Effluent market forms to the Wholesaler.

## The Change Proposal<sup>2</sup>

A Change Proposal has been developed to introduce an additional service level agreement ('**SLA**') which Retailers must comply with in relation to the application process for Trade Effluent Consents in Part G (Trade Effluent) of the Operational Terms.

When a Trade Effluent market form is submitted or resubmitted by the Non-Household Customer to the Retailer for review and signing prior to submission to the Wholesaler, the Retailer will be required, within **five (5) Business Days** of its receipt, to submit the signed form to the Wholesaler or return it to the Non-Household Customer for further clarification or additional information and notify the Wholesaler with details and reasons for returning the form to the customer.

When the Non-Household Customer submits a Trade Effluent market form directly to the Wholesaler, the Wholesaler forwards a copy of the form ('**application copy**') to the Retailer for the Retailer to complete a Retailer Declaration that they accept liability for the Wholesale Charges in respect of the Trade Effluent Consent. The original proposal required the Retailer to notify the Wholesaler within two (2) Business Days of receipt of the application copy that they accept the Retailer Declaration. Following recommendation of the Panel, the final proposal requires the Retailer to notify the Wholesaler within **five (5) Business Days** of receipt of the application copy that they accept the Retailer Declaration.

The proposed changes seek to encourage more timely progression of the Trade Effluent Consent application process. The introduction of an additional SLA in relation to how quickly Retailers pass on the Trade Effluent market forms to Wholesalers aims to enhance the customer experience of the application process and allow Wholesalers to carry out their market and regulatory obligations more effectively.

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<sup>2</sup> The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

The Change Proposal would be effected by a change to the WRC Schedule 1, Part 3: Operational Terms and Annex G - Process diagrams for part G (Trade Effluent) to be implemented via CPW074.

## **Industry consultation and assessment**

A consultation for [CPW074 - Introduction of a Retailer SLA in relation submission of trade effluent market forms to Wholesalers](#) was held in November 2019. The consultation received 14 responses: six from Wholesalers, seven from Retailers and a response from the Consumer Council for Water (CCW).

Ten respondents agreed with the proposed change (five Wholesalers and five Retailers) and three respondents disagreed with the proposed changes (one Wholesaler and two Retailers). Those who agreed noted that the SLA will encourage timely submission of Trade Effluent market forms which will improve efficiency of the process and enhance customer experience. One Retailer stated that the proposed five Business Days seems an acceptable timescale to complete a form, noting that Retailers should be giving priority to bilateral transactions. The main point raised by the respondents who disagreed with the proposal was in relation to the proposed timescale. Two respondents proposed a change to ten Business Days as a more realistic timescale due to the complexity of the Trade Effluent application process and to mitigate the potential risk of incomplete applications. One Retailer argued that the proposed timeframe would create a negative customer experience by insisting a customer return their application within five Business Days. Two respondents noted that further work was needed on how compliance with the SLA would be monitored.

CCW agreed with the proposed solution but questioned whether the proposed timescale considers the possibility that some Trade Effluent submissions are complex and require more rigorous examination before being submitted to the Wholesaler. It also agreed that a reduction in delays should improve the customer experience, but noted that it is unclear whether setting an SLA of five Business Days would accomplish this, stating that reasons for delayed submissions might also be due to Retailers having insufficient Trade Effluent knowledge or a high incidence of incorrect forms being received, which then require amending.

## **TEIC response to points made in the consultation**

In response to concerns about the proposed timeframe of five Business Days, the TEIC clarified the intended process, namely that if a Trade Effluent market form is materially incomplete, the Retailer's obligation is, within five Business Days, to contact the customer and let the Wholesaler know that it needs more time to engage with the customer.

In regards to the challenge of compliance monitoring, the TEIC explained that considering current market priorities, it does not consider the proposed SLA requires monitoring at the moment, but this will be reconsidered should it not drive an improvement in behaviour. In response to concerns on how compliance with the SLA will be monitored, the TEIC proposes monitoring could be included as part of the future development of a bilaterals solution where Retailers can capture application submission dates. In response to CCW's points about the reason for delays, TEIC noted that it has produced a guidance document to support Retailers in assisting customers to complete Trade Effluent market forms.

The Panel's Final Recommendation Report sets out the consultation responses and proposer's response in more detail. The Report can be found on [MOSL's website](#).

## **Panel recommendation**

The Panel considered this Change Proposal at its meeting on 25 February 2020.

Panel Members questioned whether a requirement for the Retailer to submit a signed form to the Wholesaler within five Business Days provides enough time for the Retailer to properly consider the application. The TEIC clarified that the requirement within the SLA is for Retailers to either submit the form to the Wholesaler or to return to the customer for further clarification/additional information and notify the Wholesaler (with details and reasons for return).

As indicated above, the consultation included a proposal that where a Wholesalers initiate the process, Retailers must, within two Business Days of receipt of the application copy, sign the Retailer Declaration accepting liability for charges. Panel Members questioned whether this provided enough time for the Retailer. Although TEIC explained that the Wholesaler would have already verified the technical completeness of the application form, the Panel challenged that a Retailer may need time to check non-technical sections of the form and decided to recommend that the timeframe be extended to five Business Days. The legal text has also been amended to clarify that the obligation to forward a form to the Wholesaler within five Business Days only applies for correctly completed applications. If a form is not correctly completed, the obligation is simply to notify the Wholesaler that an application has been received from the Non-Household Customer.

During the meeting, the Panel agreed on clarifications to the legal text. On the basis of those amendments, it agreed, by majority decision (vote of eleven (11) in favour and one (1) against), to recommend that the Authority approve this proposal. This recommendation was made on the basis that the change better facilitates the Objectives and Principles of the Wholesale Retail Code.

The Panel Member who voted against the proposed change argued that the proposed solution could have gone further by removing the Retailer from the Trade Effluent process as the current requirements bring unnecessary interaction between Wholesalers and Retailers. It expressed concern that the obligation to “Return to the Non- Household Customer for further clarification or additional information and notify the Wholesaler (with details and reasons for return)” was not sufficiently prescriptive and would not reduce the risk of inconsistent working practices.

## **Our decision**

The Authority has considered the issues raised by the Change Proposal in the Panel’s Final Recommendation Report and has decided to approve it, subject to minor modifications to the legal drafting which are included in Appendix 1.

We are of the view that the implementation of CPW074 will better facilitate the principles and objectives of the WRC detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and is consistent with our statutory duties.

## **Reasons for our decision**

Having reviewed the Panel’s Final Recommendation Report, we consider that the Change Proposal should improve the efficiency of the Trade Effluent Consent application process by reducing the potential for delays in submitting Trade Effluent market forms by Retailers to Wholesalers. This is a step towards enhancing the customer experience of the Trade Effluent process overall.

We also consider that the introduction of this SLA could contribute towards addressing market frictions: 1) improvements towards better Wholesaler-Retailer interactions by addressing unnecessary interactions between Retailers, Wholesalers and Non-Household Customers for status updates in order to progress an application, and 2) allowing Wholesalers to perform their market and regulatory obligations related to the Trade Effluent process more effectively.

We consider that the potential positive impact on customers and the minimal impact and cost on Trading Parties and MOSL seem proportionate to address the identified issue of delays occurring in submission of G/02 and G/03 forms to Wholesalers by Retailers. We approve the Change Proposal with the expectation that it should enhance customer experience of the Trade Effluent process. We agree the proposed SLA does not require active monitoring at the moment, but this should be reconsidered should it not drive an improvement in behaviour.

Our changes to the legal drafting do not change the substance of the decision. Rather, they ensure that there is clarity on the intended meaning of the change proposal. The changes do the following:

- The first clarifies that all 3 of the applications covered by the G2 process, are subject to the new SLA.
- The second clarifies that the G3 process is for variation applications.
- The third changes the order of the paragraphs. The introductory paragraph (purpose and scope) does not speak of the customer being able to initiate a discontinuation so the added paragraph has no introductory context. The relevant context is there but below the added text.
- One change is made to the process diagrams for Part G. This is to remove an incorrect reference.

## **Decision notice**

In accordance with paragraph 6.3.7 of the Market Arrangements Code, the Authority approves this Change Proposal.

**Georgina Mills**  
**Director, Business Retail Market**

## Appendix 1: Modifications to the legal drafting for CPW074

### Wholesale Contract, Schedule 1, Part 3: Operational Terms

#### On page 108, Process G2, Purpose and Scope of G2:

“Trade Effluent Consents are granted by the Wholesaler to certain owners or occupiers of Eligible Premises. This process sets out the operational arrangements for the Trade Effluent Consent application process where an application is made by the Retailer on behalf of its Non-Household Customer, or by a Non-Household Customer directly, either for a new Trade Effluent Consent or temporary Trade Effluent Consent or for re-activation of a discontinued Trade Effluent Consent (collectively referred to in this Process G2, as Trade Effluent Consents).”

#### On page 111, Process G3, Step 1, second paragraph:

“Where the Retailer on behalf of its Non-Household customer wishes to initiate a variation is shall make a request to the Wholesaler for such variation using Form G/02, including providing reasons and any necessary supporting evidence. If the Retailer receives an application for a variation of a Trade Effluent Consent from the Non-Household Customer, or resubmission of an application for a variation following amendments, the Retailer shall within five (5) Business Days of its receipt of Form G/02 or Form G/03 either:

- Submit the signed application to the Wholesaler; or
- Return the variation application to the Non-Household Customer for further clarification or additional information and notify the Wholesaler (with details and reasons for the return).”

#### On page 114, process G5, Step 1, the new paragraph should become the second paragraph, as follows:

“The Non-Household Customer, or the Retailer on behalf of its Non-Household Customer, may request the Wholesaler to discontinue the Trade Effluent Consent to the specified Eligible Premises using Form G/02.

If the Retailer receives the request to discontinue the Trade Effluent Consent directly from the Non-Household Customer, or resubmission of an application following amendments, the Retailer shall within five (5) Business Days of its receipt of the Form G/02 either:

- Submit the signed application to the Wholesaler; or
- Return to the Non-household Customer for further clarification or additional information and notify the Wholesaler (with details and reasons for return).”

### Operational Terms: Annex G – Process diagrams for part G (Trade Effluent)

On page 5, process G2, the first column (Step/time), remove reference to process h from the additional text:

“(h, j) Within 5 BD of receipt of application.”