

Wholesale Retail Code Change Proposal – Ref CPW085

Modification proposal	Wholesale Retail Code Change Proposal – Ref CPW085: Premises Vacant transaction link to Discharge Point Identifier (DPID)
Decision	The Authority has determined that it cannot properly form an opinion on the approval of this Change Proposal and requests that the Panel revises and resubmits the Final Report.
Publication date	10 December 2020
Implementation date	N/A

Background

Retailers are responsible for maintaining the occupancy status of Supply Points in the Central Market Operating System (“CMOS”), as stipulated by CSD 0104 of the Wholesale Retail Code - Maintain SPID Data. The Water Industry Act 1991 obliges Wholesalers to manage Trade Effluent Consents. Currently, Retailers can amend the occupancy status of a Supply Point to Vacant Premises without first validating that there is not an active Trade Effluent (“TE”) Consent attached to the premises.

Retailers use Process G6 of the Operational Terms to request that a Wholesaler terminates a TE Consent when a customer advises that they are no longer occupying the relevant premises. Currently, there is also no prescribed time period within Process G6 for Wholesalers to process these requests from Retailers.

The issue

The Final Recommendation Report states that an increasing number of sites within the market are registered as Vacant Premises but maintain a live TE Service Component. The situation is more likely to occur where the Water Retailer is different from the Sewerage Retailer – the Water Retailer is responsible for the Occupancy Status and it may not be aware that there is an active Discharge Point Identified (DPID) associated with the premises. The Proposer has provided evidence of Eligible Premises that are so registered.

Where Vacant Premises have active DPIDs in CMOS, this may lead to unnecessary contact with customers seeking to resolve the incorrect data and could also result in

significant bill amendments. Furthermore, if Sewerage Wholesalers are not being contacted to terminate a DPID when a Supply Point is changed to vacant, this might result in incorrect Wholesaler regulatory reporting as well as issues with settlement accuracy which could impact Wholesalers' income and/or cash flow.

Finally and in addition to the issue as detailed in the Final Recommendation Report, another issue that the proposal appears to be seeking to address is that under Process G6 of the Operational Terms, there is currently no prescribed timeframe for Wholesalers to process requests from Retailers to terminate DPIDs. This may result in delays in Wholesalers terminating DPIDs after customers have vacated the premises. In turn, this could result in Retailers incurring unrecoverable charges as they would be unable to pass on charges incurred after a customer vacated the premises.

The Change Proposal¹

The below version of the proposal has been taken from section 3.1 of the Final Recommendation Report. However, please note our comments in our decision section of this document – in particular the lack of clarity about what is included in the 10 Business Days SLA.

Firstly, it is proposed that validation is introduced to CMOS which would prohibit Retailers from changing the occupancy status of a premises to vacant if there are DPIDs that have not been terminated and do not have a NULL tariff on the premises.

Secondly, Wholesalers would also be prevented from creating a new DPID when the Occupancy Status of a premises is 'Vacant Premises' so that a DPID would not overlap with a vacancy.

Thirdly, a validation would also apply whenever a Wholesaler submits a transaction that attempts to pair a Sewerage Services Supply Point to a Water Services Supply Point.

Finally, the Final Recommendation Report also states that “where there is a request to terminate TE Consent then the Wholesaler must notify the Retailer and NHH Customer within 10 Business Days of its decision whether to proceed with the request. This notification must also include the reasons behind the decision.”

It is added that, as there is already a number of Discharge Points in CMOS that have active periods overlapping with a vacant Occupancy Status, these will need to be

¹ The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

removed before the change is implemented. It is proposed that the MOSL's IT service consulting firm (CGI) will identify all such cases and provide a report to MOSL. MOSL will then communicate with Trading Parties who will be required to make corrections before an implementation of this Change Proposal. Section 3.1 specifies that this will require relevant Retailers and Wholesalers to agree as to whether the vacant Occupancy Status or the active Discharge Point is correct, and amend the data using a relevant transaction.

The Change Proposal would be effected by a change to the CSDs 0104, 0206, 0301, WRC Schedule 1 Part 3 Operational Terms and Annex G: Process G6 Termination of TE Consent, to be implemented via CPW085.

Industry consultation and assessment

This section outlines key points raised during a consultation for [CPW085 Premises Vacant transaction link to DPID](#) which was held in February 2020 and the responses provided by the Proposer – the Trade Effluent Issues Committee (TEIC). The Panel's Final Recommendation Report includes the verbatim consultation responses and provides a more detailed summary of these. The Panel's Final Recommendation Report can be found on [MOSL's website](#).

The consultation received 15 responses from: eight Wholesalers, five Retailers, CCW and a confidential respondent².

Vacancy pertaining to DPIDs as a market issue: All respondents to the consultation agree this is a market issue. CCW noted that it has minimal number of TE related complaints, so is unable to gauge if it is a market issue. However, it considered that the issue may relate to where there are separate Water and Sewerage Retailers/Wholesalers.

The proposed solution: Ten respondents (seven Wholesalers, two Retailers and one confidential respondent) agreed with the proposed changes and noted that the changes will allow Wholesalers to manage their TE Consent responsibilities and will help prevent data inconsistencies within the market. The introduction of a 10 Business Day Service Level Agreement ("SLA") will support Retailers in updating the occupancy status in a timely manner. Five respondents (one Wholesaler, three Retailers and CCW)

² The confidential respondent stated their response should be shared with Ofwat only and so it is not included in the Panel's Final Recommendation Report.

disagreed – the main concerns and queries, as well as TEIC response to those are listed below:

- A concern was raised that the change could breach the Water Industry Act 1991 (“WIA”). The TEIC responded that the change does not breach the WIA as it only removes the ability to allow the SPID status to change to vacant if there is a DPID attached. It was confirmed that the consultation respondent had been contacted with the TEIC’s response and no further query had been received. No Panel Members raised any concerns about this change breaching the WIA. The Authority sought further clarification on the concerns regarding a potential breach of the WIA through an enquiry to the Panel Secretariat. The Panel Secretariat attempted to contact the consultation respondent to clarify the concerns however no reply was received. The respondent’s concerns therefore remain unclear.
- Another concern was raised that the need for a DPID may continue even when a site has become vacant. According to TEIC, this is incorrect as someone will still be responsible for the site if it is still operating, so charges would still need to be raised against it.
- A query was raised as to what happens when there is no one to sign the G6 Termination form, for example, if the occupier has gone into administration or liquidation. In response, the TEIC stated that different closures or terminations require different processes and it was agreed that this change proposal is not changing this aspect of the issue raised.
- Another query was that, if the DPID is removed from a site becoming vacant, this could result in a delay to the new customer if a DPID is required as the current SLA is 60-business days. TEIC replied that this change is not saying a DPID should be terminated without prior checks given changes to occupancy or legal status; thus, this scenario shouldn’t be experienced. It agreed that there is a 60-day lag which cannot be avoided. But noted that there is an inherent conflict related to this and due to differing opinions between Wholesalers and Retailers, a resolution to this issue is not included within the scope of this Change Proposal.
- Another concern related as to whether the functionality of transaction TCORR121 could be impacted by the proposed validation. The respondent outlined specific concerns around the use of the transaction for the cleanse activity and SPID consolidation. In response, TEIC advised on the best way forward (i.e. changing SPID so that it was not vacant for a specific period) and explained that this issue was discussed and a conclusion reached that a TCORR transaction can be used in such circumstances. TEIC also advised that there should not be a move of one DPID to another with a vacant status attached as it potentially was not be vacant. It agreed that there should be a retrospective update on the Occupancy Status on a SPID to avoid the move to the new SPID. It also agreed that there

was a fix for this issue, but those issues did not come up very often and were very low in number.

- Another remark stated that, under the proposed change, Retailers would remain liable to some wholesale charges if the DPID remained in force, even though the site was vacant as the Retailer would be unable to change the Occupancy Status without changing the DPID, which would have turned off the wholesale charges. Without a customer, the Retailer would have to absorb this charge leading to a significant cost. This cost could continue for an unspecified period of time, with no compulsion on the Wholesaler to remove the DPID. No SLAs have been proposed with this suggested solution. Another respondent noted that the proposed change would mean that Retailers were penalised whilst they waited for a Wholesaler to complete the required work. In response, TEIC stated that it was confirmed that there is an SLA for the Wholesaler, under step three of process G6. This obligated the Wholesaler to provide notice within 10 Business Days of either their intention to not proceed with the termination, along with the reasons why, or the effective date of the termination. There was no SLA for the DPID to be removed due to investigations that may have been undertaken by the Wholesaler, such as site visits. An addition was made to the drafting so that the Wholesaler, when terminating the TE Consent, must do so ‘using the best available date to reflect customer activity’.

Red line changes: The majority of the respondents agreed with the legal drafting. There was a query on what should be completed with the 10 Business Days SLA and TEIC responded that the 10 Business Days SLA was a target for work to be completed or to be reported back as to why it cannot be completed. It agreed that the solution and the legal drafting would need reviewing to ensure this was reflected correctly. There was a disagreement on the 10 Business days SLA by one Wholesaler and another suggested the removal of “Retailer” from part of the SLA legal drafting as the request could only have been initiated by the customer. TEIC confirmed that the legal text has been updated to reflect that the request could be made by either a Retailer or a customer. There was also a suggestion for the inclusion of the ability for Retailers to make retrospective amendments once the TE Consent has been formally ended. In response, TEIC agreed that Retailers cannot change the vacancy status if there is a DPID attached to it, which is the point of the Change Proposal. Changes could be made as long as a SPID was outside of a consent period. It was agreed that if the SPID was inside of a vacancy state, there should be no need to change the data.

Implementation and ongoing costs: The majority of respondents agreed that the implementation of the proposed changes would require no or minimal changes with no or low cost to implement. One respondent stated a low cost and two respondents advised medium costs. The majority of respondents expected minimal to low ongoing costs. Two Retailers expressed similar concerns. One stated that they expected significant continuation in Wholesale Charges from not being able to charge the

customer as a result of this change. Another explained that it would incur Primary Charges for sites that should have been marked as vacant but which it was unable to alter to the agreement being between the Wholesaler and customer.

Benefits vs costs: The majority of respondents agreed that the benefits of the proposed changes outweigh the costs, but two Retailers disagreed as this will put Retailers in the position of having to pay Wholesale Charges without being able to reimburse this through retail charges. One of them added that TE was a consent between the customer and Wholesaler and Retailer should not be penalised waiting for the Wholesaler to carry out the necessary action. CCW was not convinced that the changes would produce a benefit.

Change better facilitating the WRC Objectives and Principles: The majority of respondents agreed that the proposed change better facilitates the Objectives and Principles of the WRC. Three Retailers disagreed, one of whom was generally supportive but required clarification of its previously expressed concerns. CCW believed the change partially better facilitated the Objectives and Principles but more clarity on the process was needed.

Panel recommendation

The Panel considered this Change Proposal at its meeting on 21 July 2020. During the meeting, one Panel Member queried whether this change could be amended so that the vacancy responsibility was moved to the Wholesaler and TEIC confirmed that this had been considered but it would result in a significant change in the setup of the market.

A concern was raised about the impact on customers by delayed changes in vacancy. TEIC agreed this change could result in a delay for the customer, but noted that it should ensure that the correct decision is made and better inform the Retailer. It also noted that resolving issues retrospectively created more delays and the need for an unnecessary customer contact.

It was noted that there currently were 20,000 sites marked as vacant but with live DPIDs. This highlighted the extent of the issue within the market, although it was also noted that COVID-19 related temporary vacancies would have inflated that figure. The Proposer advised that they had run two projects with their principal Retailer to resolve vacancy/DPID discrepancies and the majority of sites were found to be incorrectly set as vacant. These projects resulted in the number of these discrepancies being reduced to five, but had risen to over 300 since then.

The Panel agreed, by a majority decision (vote of nine in favour, one against and two abstentions) to recommend that the Authority approves the proposal. It recommended

an implementation date of 14 May 2021. 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 explained that they felt it wasn't the right solution to the issue concerned and that the burden of TE Consent management was being passed to the Retailer in a situation where Water Retailers should not be expected to be aware of sewerage arrangements.

Two Panel Members abstained from voting as, whilst they were in favour of the change, the customer impact was not clear, in particular, the scope for bill shocks when addressing historical data in CMOS and how Retailers would support customers through this.

CCW felt that the Panel's Final Recommendation Report did not make clear what the impact of the change on the customer journey was. For example, what support would be offered to customers if the proposed changes resulted in bill shocks due to reasons outside a customer's control, and what would be the customer impact of addressing historic data in CMOS?

Our decision

We have reviewed the Panel's Final Recommendation Report and, following further correspondence seeking clarification, the Authority has decided that it is unable to properly form an opinion on the Change Proposal. We are therefore returning it to the Panel for it to revise and resubmit its final report.

The reason for our decision is that we remain unclear on what the proposal regarding the introduction of the SLA into Process G6 of the Operational Terms is intended to achieve. The Final Recommendation Report at section 3.1 states:

“Where there is a request to terminate Trade Effluent Consent then the Wholesaler must notify the Retailer and NHH Customer within 10 business days of its decision whether to proceed with the request. This notification must also include the reasons behind the decision.”

The Final Recommendation Report also includes consultation queries and the TEIC's response to these, most of which we outlined above in the industry consultation and assessment section of this document. On pages 10 and 11 of the report, the table includes two contradictory responses from the TEIC in reply to consultation queries regarding the same issue:

Consultation query	TEIC response
“No SLA requirement for the DPID to be removed, therefore Retailers will continue to incur costs as Wholesalers are charging for this service.”	“It was confirmed that there is an SLA for the Wholesaler, under step three of process G6. This obligates the Wholesaler to provide notice within 10 business days of either their intention to not proceed with the termination, along with the reasons why, or the effective date of the termination. There is no SLA for the DPID to be removed due to investigations that may be undertaken by the Wholesaler, such as site visits. An addition was made to the draft so that the Wholesaler when terminating the TE Consent do so ‘using the best available date to reflect customer activity’.”
“What should be completed within the 10-day SLA.”	“The Committee clarified that the 10-day SLA is a target for work to be completed or to be reported back as to why it cannot be completed. They agreed the solution and the legal drafting will need reviewing to ensure this is reflected correctly.”

The red line drafting suggests that the 10 Business Days SLA is for the Wholesaler to provide a notification to the relevant Retailer that it will terminate the DPID or that it will not terminate the DPID and to provide its reasons for this decision. The red line drafting does not suggest that any ‘work’ would need to be completed within the SLA, other than the provision of the relevant notification.

We sought clarification from the Proposer via the Panel Secretariat on two occasions regarding this contradiction, but the responses were not sufficient to enable us to make a decision on the Change Proposal.

Regarding the TEIC response to the first consultation query in the table above, the Proposer’s response highlighted that there was an error in the Final Recommendation Report and suggested that the SLA was for the DPID to be removed. Further, it stated that “an SLA for DPID Termination was deemed to be integral to having a timely and smooth SPID / DPID Vacancy process”. Whilst the Proposer’s response highlighted that there was an error in the Final Recommendation Report, we note that a drafting amendment was made in response to this consultation query. It appears that the addition of the requirement for Wholesalers to use ‘the best available date to reflect customer activity’ when terminating the DPID was made to take account of there being no SLA for this activity.

Regarding the TEIC response to the second consultation query in the table above the Proposer stated³ that “the Wholesaler has to terminate the DPID and inform the Retailer of the termination and the associated effective from date. They must respond to the Retailer within 10 days of this. They will then have an additional 2 [Business Days] to input this information into CMOS”. The two Business Days SLA referred to in the Proposer’s response is for CMOS to be updated following termination of a TE Consent, this SLA is an existing SLA which is set out in Process G6, Step 4 of the Operational Terms. The Proposer’s response suggests that it is after the notification (which it is proposed must be provided within the 10 Business Days SLA) that the Wholesaler must update CMOS within the two Business Days SLA. The two Business Days SLA was not referred to in the Final Recommendation Report. Whilst the Proposer’s response regarding the purpose of the 10 Business Days SLA appears to be consistent with the second response from the TEIC detailed in the table above, it does not seem that this is consistent with the red line drafting.

From the information provided, including responses to the additional queries we raised, it is not entirely clear what is covered by the 10 Business Days SLA and whether this is consistent with the red line drafting. It is also not apparent whether the solution was appropriately presented to and understood by the consultation respondents and the Panel Members.

Additionally, in response to the consultation, some Retailers expressed concern that if the SLA is for the Wholesaler to provide a notification of how it intends to respond to the request, rather than for the actual DPID to be terminated in CMOS, then Retailers may receive Trade Effluent charges from Wholesalers for periods after the customer has vacated the premises up until the DPID is terminated. The Retailer respondents highlighted that Retailers would be unable to recover these charges from the relevant customer as they would no longer be occupying the premises. As the intention of the proposed SLA is unclear, we have been unable to conclude whether or not this would be the case.

Given the above, and despite a number of attempts to clarify the proposal, we have been unable to draw the necessary conclusions which would allow us to make a decision on this Change Proposal. It is also not apparent whether the solution was appropriately presented to and understood by the consultation respondents and the Panel Members. The Panel should reconsider this proposal once the purpose of the proposed SLA has been clearly set out (consideration should also be given to consulting

³ by reference to the Operation Terms, Step 3, bullet point one of Process G6/ the corresponding part of the process diagram, part (f)

again, if necessary). The Final Recommendation Report, including the red line drafting, should be revised accordingly before this is resubmitted to the Authority.

Decision notice

In accordance with paragraph 6.3.8 of the Market Arrangements Code, the Authority is unable to properly form an opinion on this Change Proposal and is therefore returning it to the Panel for it to revise and resubmit its Final Report.

Georgina Mills

Director, Business Retail Market