
Wholesale Retail Code Change Proposal – Ref CPW099

Modification proposal	Wholesale Retail Code Change Proposal – CPW099 – Clarify the responsibilities of Trading Parties during a planned event
Decision	The Authority has decided to approve this Change Proposal
Publication date	11 February 2021
Implementation date	14 May 2021

Background

Part D of the Wholesale Retail Code (WRC) Schedule 1, Part 3 ‘Operational Terms’ sets out processes in relation to long-term planning, short-term planning and reactive activities carried out by Wholesalers in the provision of Water Services and/or Sewerage Services in the business retail market.

Different interpretations and expectations across individual Wholesalers and Retailers has resulted in a lack of clarity in roles and responsibilities in relation to planned activities. In addition, there has been a lack of consistency in the quality, terminology and delivery mechanisms used in communicating messages between companies. This has led to concern that Retailers may not be able to effectively relay information to Non-Household Customers and/or that Non-Household Customers may not be notified of planned activities carried out by the Wholesaler in a timely manner.

The issue

To address the issue of a lack of clarity in roles and responsibilities during planned events, the Retail Wholesale Group (RWG) developed a Good Practice Guide to improve the understanding of arrangements between Wholesalers and Retailers.

To align with the RWG ‘Planned Activities’ guidance, a Change Proposal has been raised by members of the RWG to enhance the clarity of the wording in the Operational Terms Part D (Planned activities and affected services) and improve the consistency of arrangements between Wholesalers and Retailers so that there is a common understanding across the market.

The Change Proposal¹

CPW099 seeks to add clarity to the roles and responsibilities of Wholesalers and Retailers during planned events. The proposed legal drafting is detailed in Attachment 2 (WRC Schedule 1 Part 3 Operational) of the Panel’s Final Report. The amendments have been summarised below:

- **Introduction and Summary – Section P (Sending and Receiving Notices)**
 - This section sets out the notice or notification to be given by the Wholesaler to a Non-Household Customer under Part D. It is expected that notification will primarily be through physical means (e.g. notices, leaflets, mail). Electronic means are also specified, but it not expected to be normal practice because Wholesalers may not hold customer email/contact address details.
- **Process D1** – The concept of materiality was introduced in Step 1 to reflect the reality of operating a water network – Wholesalers do not want to be in a position where there is an expectation to notify all customers of every event and instead there should be a judgement on the customer impact before notifications are sent. The timescale for notifying the Retailer has been amended to “At least three months in advance”. This moves away from an obligation to notify the Retailer every 3 months as to planned works, and there will now only be an obligation to give at least 3 months’ notice when works are planned to take place.

The separate provisions for Non-Public Health Related Site Specific Arrangements has been extended to Public Health Related Site Specific Activities to account for other Non-Household Customers that require steady composition of water, and for consistency purposes brought into Process D1 (previously only in D2 and D3).

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>

- **Process D2** - Step 3 of Process D2 has been extended to clarify the steps required when a Wholesaler is unable to commence or complete work for reasons outside of its control. The clarification of the 48-hour window rule protects customers by ensuring there is no scope for Trading Parties to misinterpret the timeframe for keeping them informed throughout the planned work.
- Revised process diagrams for planned activities and affected services have been provided in Attachment 4 to the Panel's Final Report.

Industry consultation and assessment

An industry consultation for CPW099 was not undertaken, with the Panel's Final Report stating that the solution outlined in CPW099 had been extensively developed and consulted on within the RWG and did not introduce any new formal obligations. As such, MOSL had considered that it was not necessary for there to be an industry consultation.

RWG member views

The Panel's Final Report set out a list of benefits the Change Proposal would achieve, from the viewpoint of RWG members, as follows:

- Provides clarity during planned events;
- Improves the overall consistency and understanding of responsibilities and roles;
- Ensures necessary operational interaction between Wholesalers and Retailers to work effectively;
- Ensures Non-Household Customers are informed of planned activities in a timely manner;
- Accommodates real world actions into the codes whereby Wholesalers communicate directly with Non-Household Customers on these matters;
- Aligns with principles of Part E Unplanned activities where Wholesalers already communicate with Non-Household Customers on these operational matters; and
- Maintains Retailer visibility of activities and opportunity to comment without the sole responsibility to notify customers.

CCW views

The Panel's Final Report stated that CCW supported the widening of scope of Part D: Planned Activities of the Operational Terms to include wider disruption caused by Wholesaler activities, as well as planned interruptions. They noted that it is an important recognition that any planned work has the potential to cause disruption for Non-Household Customers, including disruption which does not relate directly to their water supply. Requiring Wholesalers to assess the potential for customer disruption across a much broader scope of activities should help improve customer communication.

CCW agreed with the amendment to Process D1 obliging Wholesalers to notify Retailers within a set timeframe of specific events, rather than the current 'subscription like' requirement of "every 3 months". They stated that the change should allow Wholesalers to use resources more effectively and provide more definitive communication to ensure affected Non-Household Customers are kept fully informed.

They also supported the extended wording added to Process D2 Step 3. CCW noted that if Wholesalers are unable to complete work for reasons outside of their control, it is sensible to clarify that notification should be provided to Retailers regardless of when they became aware. Further, while Retailers need to be the primary source of information for their Non-Household Customers, it had been noted that Wholesalers are required to directly notify them, as well as Retailers, in situations of an urgent nature.

Panel recommendation

The Panel considered this Change Proposal at its meeting on 29 September 2020 and agreed unanimously to recommend CPW099 to Ofwat for approval, as well as the implementation dates as set out in the Panel's Final Report.

Some Panel Members were concerned that this change had not been formally consulted upon on behalf of the Panel. The RWG had consulted prior to it being formally raised but the legal text had significantly changed since the consultation. After a detailed discussion, the Panel agreed that even if the legal text had been extensively changed, the principle behind the change had not been altered. The Panel voted not to consult (11 in favour, 1 against, 1 abstain).

The Panel agreed that the proposed solution served greater benefits for Non-Household Customers by providing a more structured timeframe for

communications. The Panel also believed that the change codified RWG good Practice Guidance which was in line with recommendations in Ofwat's Review of incumbent company support for effective markets (RISE report).

Our decision

We have considered the issues raised by the Change Proposal and the supporting documentation provided in the Panel's Final Report, and have decided to approve the proposal.

Reasons for our decision

We acknowledge the points raised by the Panel, CCW and the Proposer and have concluded that the implementation of this Change Proposal will better facilitate the principles and objectives of the WRC in terms of efficiency and transparency.

We agree with CCW and the Panel that CPW099 will provide clarity and transparency to Non-Household Customers in terms of information of planned event activities, and will enable them to be informed in a timely manner. We also support the legal drafting that enables Wholesalers and Retailers to work better together with clearer understanding of roles and responsibilities during a planned event. This allows for more effective and efficient operational interactions between Trading Parties, and a more consistent approach across the market.

We do however agree with the concerns raised by Panel members that CPW099 was not formally consulted upon by the Panel. As highlighted in previous decision documents, the principle should be that all changes should be consulted upon, or a valid reason should be clearly set out in the Panel's Final Report. We accept in this instance that the Change Proposal is to align with the RWG good Practice Guidance, which has been consulted upon with industry previously. In future, we expect that such supporting evidence of previous consultations and industry feedback is included as part of the Panel's Recommendation Report.

Finally, in relation to Process D1, where the concept of materiality has been introduced to reflect the reality of operating a water network, we suggest the RWG keeps this under review and considers whether it may be prudent to include some indicative examples in the Good Practice Guide in the future. For

example, building on experience of how this works in practice, once it is in place. In addition, we would like to remind Trading Parties that the RWG guidelines are intended to set minimum standards on important aspects of Wholesaler policy. Wholesalers are therefore reminded that they are able to go above and beyond the RWG good practice standards to deliver improved outcomes for business customers.

Decision notice

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

Georgina Mills
Director, Business Retail Market