



Code Change Committee Terms of Reference

21 March 2022

Version 1.0

These Terms of Reference (ToR) should be read in conjunction with the Market Arrangements Code (MAC). To the extent of any conflict or inconsistencies between the terms of the MAC and the ToR, the MAC will take priority.

Unless otherwise stated, words and expressions that are used in the ToR shall have the meanings and application attributed to them under the MAC.

Changes to the ToR can be proposed to the Strategic Panel at any time. All changes to the ToR will be voted on, in line with the Strategic Panel operating procedures.

1 Overview of the Code Change Committee Purpose and Approach

The Code Change Committee was established in accordance with Section 5 of the MAC to keep the market codes under review and make recommendations on proposed changes to Ofwat.

Relationship with the Strategic Panel

The Strategic Panel promotes, challenges and leads the operation and evolution of the market for the benefit of current and future non-household customers. It is the senior group responsible for overseeing the market codes, which govern the market.

The Code Change Committee is a committee of the Strategic Panel as defined in the Market Arrangements Code. The Strategic Panel sets the terms of reference for the Code Change Committee. The Strategic Panel sets priorities for the Code Change Committee with reference to defined market outcomes. It may also delegate specific tasks to the Code Change Committee from time to time.

The Strategic Panel will establish metrics to track the success of the Code Change Committee and the Code Change Committee will provide updates and progress reports to the Strategic Panel.

Scope

The Code Change Committee is responsible for making recommendations on changes to the core non-household market rules set out in the Market Arrangements Code (MAC) and the Wholesale Retail Code (WRC) – the market codes.

In making recommendations the Code Change Committee must have regard to the Code Objectives and Code Principles set out in the market codes. In particular, the Code Change Committee should ensure that the market codes are maintained, operated and developed in a manner that best seeks to protect and promote the interests of, and participation by, existing and future Non-Household Customers.

Prioritisation

The Code Change Committee should prioritise and de-prioritise market code changes based on the extent to which they align with the Strategic Panel's priorities and market outcomes in line with any guidance or direction provided by the Strategic Panel.

Other key inputs will include information and views from market stakeholders (including, but not limited to customers, trading parties, CCW and the market operator).

Prioritisation (or de-prioritisation) should be based on the extent to which market code changes address the outcomes that the Strategic Panel wants to see and improve the delivery for current and future customers (and other Code Principles).

Engagement

To ensure there is appropriate and proportionate engagement with the market when developing market code changes, the Code Change Committee is expected to take into consideration any feedback from the market stakeholders and groups with which it consults.

The Code Change Committee should take a reasonable approach to engagement, proportionate to the materiality of market code changes to ensure that change is progressed efficiently and allows all stakeholders a reasonable opportunity to comment on material changes.

The Code Change Committee must seek to ensure that all stakeholders are provided with reasonable opportunity to provide such evidence and input to support the evaluation of market code changes prior to Code Change Committee meetings. The Code Change Committee may consider evidence from consultations, cost-benefit assessments, input from other meetings and webinars or it could call on experts or others from both within the industry and outside the sector to provide evidence and information to the Committee.

Such contributions must be part of the document packs considered by the Committee when making recommendations on code changes.

Decision-making

The Code Change Committee should make evidence-based decisions. The Strategic Panel recognises that decisions of the Code Change Committee should not require consensus among members or stakeholders but must be based on robust evidence (including, wherever possible, on the costs and benefits and the impacts on consumers).

Powers

The Code Change Committee can:

- Prioritise (and de-prioritise) the assessment of changes

- Set timetables for the assessment of changes
- Commission appropriate assessment approaches via the Market Operator (either through assessment with MOSL, sub-groups and other committees)
- Consult with affected stakeholders and other parties (including those outside the sector as appropriate) on material changes to the codes
- Delegate recommendations on changes it considers to be low materiality or housekeeping to the Market Operator

Approach

The Code Change Committee will meet on a monthly basis to consider market code change proposals. Meetings may be cancelled where there is no substantive business to consider.

Urgent meetings may be convened as required to consider Urgent code changes in line with the provisions of the Market Arrangements Code.

The focus of the Code Change Committee should be on the outcomes and impacts of the proposed change with particular regard to benefits for current and future customers. It is anticipated that the detailed development and design of changes is undertaken elsewhere (e.g. by MOSL, sub-groups or committees working with change proposers).

Members of the Code Change Committee should have regard to and follow the code of conduct set out in the Appendix to these terms of reference.

2 Delegated Responsibilities

Core Responsibilities

The Strategic Panel has specifically delegated the following responsibilities to the Code Change Committee:

1. To keep the contents of the MAC and WRC under review
2. To make recommendations to Ofwat on change proposals as to whether they further the principles and objectives of the market codes
3. To prioritise consideration of change proposals that further the Strategic Panel's priorities and the principles of the market codes (and deprioritise those that do not)
4. To communicate a Change Programme/Roadmap that delivers the Strategic Panel Priorities

Ancillary Responsibilities

The Strategic Panel has also delegated the following ancillary responsibilities to the Code Change Committee

- Approval of forms, and supporting documents that MOSL is required to produce under the CSDs
- Review and Approval of ‘provisions of information’ as required by the code

Review of the Code Change Mechanism

The Strategic Panel has requested that the Code Change Committee complete a review of the Code Change Mechanism within its first year of operation.

This review should seek to overhaul the Change Mechanism to enable appropriate triage, prioritisation and agile development and assessment of change in a transparent way with appropriate engagement of stakeholders to support robust, evidence-based decisions.

The review should include consideration of the potential to not progress a change proposal that fails to meet current priorities. This decision should use an appropriate assessment mechanism. The implications for such provisions should be carefully considered including the need for appropriate checks and balances (for example, an appeal mechanism where changes are halted).

In undertaking the review, the Committee should develop options and decide on the appropriate approach. Progress and findings of the review should be reported to the Strategic Panel.

3 Objectives and Principles

The MAC and WRC place obligations on the Code Change Committee to conduct its business with a view to achieving a number of Objectives consistent with specified Principles which can be found in Part 1 of the WRC and Schedule 1 of the MAC.

These principles require all Code Change Committee Members to place an unrelenting focus on customers and no decision should be to the detriment of the primary principle that:

- “The Market Codes shall be maintained, operated and developed in a manner that best seeks to protect and promote the interests of, and participation by, existing and future Non-Household Customers”

4 Role and Functions

The Code Change Committee shall carry out its functions in accordance with the MAC.

The Code Change Committee’s functions include, but are not limited to:

- The Code Change Committee will make recommendations to Ofwat on behalf of the Strategic Panel as to whether change proposals further the principles and objectives of the market codes ([Wholesale-Retail Code](#) (“WRC”) and the [Market Arrangements Code](#) (“MAC”)).

- The Committee shall delegate recommendations on changes it considers to be low materiality or housekeeping to the Market Operator.
- The Committee will commission appropriate assessment of change proposals by MOSL, sub-groups and other committees and consult with affected stakeholders on material changes to the codes.
- The Committee will prioritise change proposals that further the Strategic Panel's priorities and the principles of the market codes and de-prioritise those changes that do not.
- Reporting to the Strategic Panel on progress delivering agreed strategic priorities.

5 Membership

Code Change Committee Members are appointed in line with the MAC. The Code Change Committee shall comprise the following voting Members:

- the Code Change Committee Chair;
- two (2) Retailer Code Change Committee Members;
- two (2) Wholesaler Code Change Committee Members;
- two (2) Independent Code Change Committee Members;
- one (1) Customer Representative Code Change Committee Member; and
- one (1) Alternative Customer Body Code Change Committee Member.

5.1 Affiliated Members

In accordance with the MAC, the following Affiliated Members are entitled to attend and speak, but not vote, at any Code Change Committee meeting:

- CEO of the Market Operator, or an alternate
- Representative of Ofwat

5.2 Strategic Panel Member Code Change Committee Link

A Strategic Panel member may be identified to be a designated point of contact for the Code Change Committee Chair to ensure that the work of the Strategic Panel and Code Change Committee are kept in alignment.

5.3 Alternates

Where a trading party or customer representative member is not able to attend, the member may propose an Alternate. Alternates should possess sufficient knowledge and expertise to act as a Code Change Committee Member. The Alternate must be notified to the Panel Secretary as soon as reasonably practical before the Code Change Committee meeting, to ensure the Alternate Member has sufficient time to refer to any associated papers. Subject to the approval of the Code Change Committee Chair, the Alternate may attend the Code Change Committee Meeting and vote and speak as a Code Change Committee member. Alternates are bound by the provisions of the codes and must act impartially, in the best interests of the market as a whole and shall be guided by the Principles and Objectives, and should not be

representative of or have regard to the interests of any body or person, including the Code Change Committee Member that appointed them.

5.4 Observers

Meetings of the Code Change Committee shall be held in open forum, in line with the MAC, except where the Code Change Committee Chair determines that a meeting or agenda item relates to a commercially sensitive or personal privacy matter.

Observers may request to attend an open Code Change Committee meeting, by notifying the Panel Secretary on Panel.secretariat@mosl.co.uk who will agree with the Code Change Committee Chair whether they attend and for which parts of the meeting.

While meetings are held in open session, contributions from observers at Code Change Committee meetings will be at the discretion of the Chair and will only be invited by exception.

5.5 Other attendees

The Code Change Committee Chair may, from time to time, invite other individuals to attend and speak at a Code Change Committee meeting.

5.6 Panel Secretary

The Market Operator will appoint the Panel Secretary, who will be entitled to attend and speak, but not vote, at all meetings of the Code Change Committee as stated in the MAC.

5.7 Deputy Code Change Committee Chair

If the Code Change Committee Chair is unable to be present at a Code Change Committee meeting, he or she may designate one of the Independent Code Change Committee Members to act as Chair of that meeting.

6 Quorum and Decision Making

No business is to occur at the meeting unless a quorum in accordance with the MAC is present.

If a quorum of Code Change Committee Members has not confirmed attendance at a meeting, the Code Change Committee Chair may cancel the meeting and notification will be issued to Code Change Committee Members no later than five (5) Working Days prior to the meeting. The meeting will be deemed as cancelled if no Code Change Committee Member has notified the Panel Secretary that he or she objects to the cancellation, not later than three (3) Working Days before the meeting.

In the event that a meeting of the Code Change Committee is convened and a quorum is not present within one hour, the meeting will be adjourned and re-scheduled by the Panel Secretary at the earliest convenience.

6.1 Voting Procedure

The Code Change Committee will decide matters by consensus in the first instance. Where consensus cannot be agreed a member may request the Code Change Committee members and chair vote in line with the MAC. Any matter, other than removal of a Code Change Committee Member, shall be decided by a simple majority of votes cast (an abstention is not counted as a cast vote).

7 Secretariat

The Market Operator will provide secretariat services as set out in the MAC.

The Panel Secretary is the officer of the Code Change Committee responsible for its administration. Like Code Change Committee Members, the Panel Secretary must have integrity and must not only be, but also be seen to be, impartial and free from proximity to vested interests.

8 Meetings

The Panel Secretary will publish a calendar of meetings six (6) months in advance in accordance with the MAC.

8.1 Papers

Unless otherwise agreed by Code Change Committee Members, the Code Change Committee Secretary will circulate papers for meetings no less than five (5) business days in advance of meetings.

8.2 Urgent Meetings

Where the Panel Secretary, with the agreement of the Code Change Committee Chair, is of the opinion that an urgent meeting is required, the ten (10) Working Day notice period shall be waived, in accordance with the MAC.

The Panel Secretary will notify Code Change Committee Members by email and/or telephone as soon as reasonably practical prior to an urgent meeting.

8.3 Meetings via Teleconference

A Code Change Committee Meeting may consist of a tele- or video-conference between Code Change Committee Members. A Code Change Committee Member taking part in such a conference or telephone call is deemed to be present in person and is entitled to vote and be counted in the quorum accordingly.

8.4 Minutes of Meetings

The Panel Secretary shall minute the proceedings and resolutions of all Code Change Committee meetings, including the names of those in attendance. Draft minutes will be circulated to all Code Change Committee Members as soon as reasonably practical after the

meeting for comments and approval ex-committee. Subject to Code Change Committee approval, minutes will be published on the the Market Operator's website within 15 business days of meetings.

8.5 Recording and Broadcasting

The Code Change Committee Secretariat may make audio and/or video recordings of Code Change Committee meetings and broadcast Code Change Committee meetings by webinar. No other participant should make audio or video recordings unless previously agreed with Code Change Committee Members. The agreed policy regarding recording and webinar broadcasting will be approved by the Strategic Panel and published on the Market Operator website.

9 Transparency and Confidentiality

Code Change Committee papers will usually be published on the MOSL website. In the event of closed meetings or agenda items, the necessary paperwork will be circulated to Code Change Committee Members only and will not be published on the MOSL website.

10 External Communication

Code Change Committee Members may be approached by members of the press or requested to speak at public events either on behalf of the Code Change Committee or in a personal capacity. Code Change Committee Members are required to follow the Strategic Panel Communication Policy which will be approved by the Strategic Panel and published on the Market Operator's website.

11 Evaluation and Performance

The Secretariat will maintain the metrics of Committee performance consistent with those established by the Strategic Panel.

The Code Change Committee Chair (working with the Secretariat) will provide updates and progress reports to the Strategic Panel.

Code Change Committee Members and Affiliate Members (including Alternate Members) should abide by the agreed Code of Conduct consistent with Strategic Panel Members Code of Conduct (see appendix to these ToR).

The Code Change Committee will undertake regular effectiveness reviews to consider its own performance and the performance of its members.

12 Review of Terms of Reference

The Code Change Committee Terms of Reference will be reviewed annually by Code Change Committee members and approved by the Strategic Panel.

Date of next review: February 2023

Appendix 1 – Code Change Committee Member Code of Conduct

Principles

Code Change Committee members agree to abide by the following principles:

- **Selflessness:** Members shall act impartially, in the best interests of the non-household market as a whole and shall be guided by the Principles and Objectives set out in the Market Arrangements Code and Wholesale Retail Code.
- **Integrity:** Members shall not be representative of and shall act without regard to the particular interests of the company, body or person by whom they are employed or by whom they were nominated or appointed. Members will not act or take decisions to gain financial or other material benefits for themselves, family, or friends. Members will declare and resolve any interests and relationships.
- **Objectivity:** Members will act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** Members are accountable to customers for their decisions and actions and will submit themselves to scrutiny necessary to ensure this.
- **Openness:** Members will act and take decisions in an open and transparent manner. Information will not be withheld from market participants or customers unless there are clear and lawful reasons for so doing.
- **Honesty:** Members will be truthful.
- **Leadership:** Members will exhibit these principles in our own behaviour. Members will give and accept feedback to support and learn from each other in promoting these principles.

Roles and responsibilities

Members will:

- accept that their role is strategic and so will focus on strategic considerations rather than involve themselves in day-to-day management;
- be candid but constructive and respectful when holding senior leaders to account;
- consider how decisions may affect the non-household market and the water sector more generally;
- take collective responsibility for delivering the Code Change Committee purpose and objectives;

- will speak up and bring to the attention of the relevant authorities if decisions and actions conflict with the Principles;
- only speak or act on behalf of the Code Change Committee if they have the authority to do so;
- follow established procedures when making or responding to complaints;
- strive to uphold the Code Change Committee's reputation in private communications (including on social media); and
- not discriminate against anyone and will work to advance equality of opportunity for all.

Commitment

Members will demonstrate commitment to the role by:

- involving themselves actively in the work of the Code Change Committee;
- making every effort to attend all meetings in person and where they cannot attend explain in advance why they are unable to;
- arriving at meetings prepared, having read all papers in advance, ready to make a positive contribution and observe protocol;
- raising and sharing concerns and questions with other members before meetings;
- getting to know and understand the non-household market well; and
- participating in induction training and taking responsibility for developing individual and collective skills and knowledge on an ongoing basis.

Build and maintain relationships

Members will:

- develop effective working relationships with non-household market stakeholders;
- express views openly, courteously and respectfully in all communications with Strategic Panel, Committees and MOSL both inside and outside of meetings;
- work to create a safe, inclusive and productive environment where members listen and understand each other's contributions; and
- support the chair in their role of leading the Code Change Committee and ensuring appropriate conduct.

Confidentiality

Members will:

- observe complete confidentiality both inside and outside of the Code Change Committee when matters are deemed confidential or where they concern individuals;

- not reveal the details of any vote;
- ensure all confidential papers are held and disposed of appropriately; and
- maintain confidentiality even after leaving office.

Conflicts of interest and transparency

Members will:

- declare any business, personal or other interest they have in connection with Code Change Committee business, and record these in the register of interests;
- declare any conflict of loyalty at the start of any meeting should the need arise;
- offer to leave the meeting for the duration of discussion and any subsequent vote if a conflicted matter arises in a meeting;
- accept that the Register of Interests will be published on MOSL's website; and
- accept that in the interests of open governance, full names, date of appointment, terms of office, roles, attendance records, relevant business and pecuniary interests, category of member and the body responsible for nomination and appointment will be published on the MOSL website.