

Minutes of Disputes Committee Meeting 43a

21 March 2025

Via MS Teams

Status of the Minutes: Approved

MEMBERS PRESENT

Rick Hill	RH	Chair	Dylan Freeman	DF	Committee Member (Wholesaler)
Matthew Glover	MG	Committee Member (Retailer)	Barry Matthews	BM	Committee Member (Wholesaler)
Peter Strain	PS	Committee Member (Retailer)	Matthew Rix	MR	Committee Member (Wholesaler)

OTHER ATTENDEES

Monica Falasca	MF	MOSL Presenter	Alexander Cowie	AC	Disputes Secretariat
Andrew Johnson	AJ	Disputes Secretariat	Markus Lloyd	ML	Disputes Secretariat
Charles Unvala	CU	Disputes Secretariat			

APOLOGIES

Neil Pendle	NP	Committee Member (Retailer)	Sarah McMath	SM	MOSL Affiliate Member
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1. Welcome and Introductions

Purpose: For Information

- 1.1. The Chair welcomed all attendees to the Disputes Committee (“Committee”) Meeting 43a and noted that apologies for absence were received and accepted from NP and SM. The Chair confirmed that the meeting was quorate.
- 1.2. The Chair drew attendees’ attention to the need to comply with applicable law, notably competition law and that any actual or perceived conflicts of interest should be declared at

the start of the meeting or at such point as it becomes apparent to any member that there may be a conflict. No conflicts of interest were declared.

2. Minutes

Purpose: For Information / Decision

- 2.1. The Committee noted that the minutes of the last meeting had been circulated ahead of the meeting and agreed to approve the minutes as an accurate record of the meeting.

3. CPM054 & CPW145 Deductions and Withholdings Under formal Disputes Process

Purpose: For Decision

- 3.1. MF provided an overview of the feedback to the consultation on the CPM054 & CPW145 Deductions and Withholdings Under formal Disputes Process (“CPM054 & CPW145”) change proposal, which ran from 11 November 2024 to 11 December 2024.
- 3.2. MF noted that at its November meeting, the Committee had asked that the consultation deliver feedback from market participants on: the scale of the issue; the fairness of previous and existing withholdings; and the need for change and preferences between the existing provisions and the proposed solution.
- 3.3. RH thanked MF for her work on the change and noted that as the change was raised under the old change process he had acted as proposer on behalf of Committee as the Committee did not have the right to raise a change at that point. RH noted that as proposer he would be minded to follow the Committee’s lead on whether to continue with the change or withdraw it based on the evidence provided in consultation feedback.
- 3.4. MF noted that feedback from the consultation indicated that:
 - 50% of respondents viewed the withholdings they had experienced as reasonable and that for the 25% who had experienced unreasonable withholdings the reasons given were either that the withholding value was too low to justify the cost of the resource and time required to resolve it or that the withholdings were non-compliant with the WRC Business Terms.
 - Of those that responded, most wholesalers and CCW supported need for change while retailers did not. The feedback provided indicated that should the provisions be changed

it was unlikely that there would be any direct customer benefits but that there may be some potential indirect benefits.

- Of those that responded, all retailers and one wholesaler were of the view that no change was needed. Most wholesalers and CCW favoured changing the provisions although views were split as to whether the proposed solution was the preferred approach or whether amendments to the solution or a different solution were preferred.

- 3.5. The Committee acknowledged that withholdings are not a market-wide issue at present but might be a risk if their frequency was to increase. Feedback in the consultation that stated there was a reduced risk of retailer default under the proposed solution, which would have been a direct customer benefit, was discussed with the Committee concluding that the evidence suggested that this risk was low in the first place..
- 3.6. The Committee considered that customer benefits or impacts would largely depend on the retailer's billing approach rather than on Disputes over amounts invoiced by the wholesaler. The Committee noted that retailers' billing approach was outside the scope of the change proposal.
- 3.7. It was observed that there had been instances where new entrant retailers were unclear on the rules around deductions and withholdings. There was general consensus that, as a point of principle, clarity reduces inefficiencies and is of benefit to the market. However, if the principal issue with the existing provisions was a lack of clarity, this could be addressed through guidance rather than a code change that fundamentally altered the provisions. In this context it was observed that feedback from the consultation indicated that the proposed solution would not result in any direct customer benefit, as such benefits mainly depend on the retailers' approach to customer billing, and that all proposed changes would need to be assessed against the Primary Principle.
- 3.8. It was noted that five market participants (two wholesalers and three retailers) had acknowledged the consultation and opted not to provide a response and that this was likely to be an indication that they had not experienced any issues and were content with the existing provisions.
- 3.9. It was observed that the consultation feedback which stated that withholdings experienced were unreasonable on the basis that the withholding value was too low to justify the cost of the resource and time required to resolve it was from a wholesaler and that views on this were likely to differ significantly between wholesalers and retailers due to their relative sizes.

One member noted that this comment indicated why the existing provisions were more suitable than the proposed solution.

- 3.10. There was consensus among Committee members that feedback from the extensive consultation had been presented fairly, and that the evidence presented indicated that a code change was not necessary.
- 3.11. The Committee noted that while there was not sufficient evidence to support a code change, good practice guidance should be developed and that this should be on the agenda at the next Committee meeting along with what could be done to publicise the existing process and steps that could be taken to ensure that the Disputes Secretariat is notified of any withholdings so that the level and use of withholdings could be monitored on an ongoing basis.
- 3.12. In the context of the development of any good practice guidance, the comment from Anglian Water in response to question four of the consultation stating that they would like more information on the withholding, its rationale and the extent of it was noted as something that should be considered.
- 3.13. It was also noted that CCW had expressed support for the change proposal and that it would be worth going back to CCW to discuss how the points raised by them would be addressed.
- 3.14. Following discussion, the Committee:
- **AGREED** to recommend that the proposer withdraw change proposal CPM054 & CPW145.
- 3.15. MF outlined the next steps for the change proposal, which would be for a paper to be put to the Code Change Committee setting out the proposal to withdraw CPM054 & CPW145, including the proposer's rationale for withdrawing the change (which would include the feedback from the Committee). The Code Change Committee would then decide whether to accept or reject the withdrawal. If the withdrawal is accepted there would be a ten business day window for a new trading party proposer to come forward and pick up the change. If nobody came forward to pick it up then the change would be withdrawn.

4. Recruitment Update

Purpose: For Information

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers.



- 4.1. The Chair thanked the longstanding members of the Committee who would shortly be stepping down and confirmed that the Strategic Panel had appointed four new Wholesaler Members of the Committee following the conclusion of a recent recruitment process.
- 4.2. The Chair noted that, while the window for retailer nominations remained open, no new Retailer Members had been appointed and that unless and until new nominations were received and successfully appointed then the Committee would need to use the ability to co-opt members of the Strategic Panel and its formal Committees in order to meet quorum.
- 4.3. While efforts to find new Retailer Members would continue, the Chair encouraged members to reach out to their own networks to encourage suitable candidates to be put forward.

5. Any Other Business (AOB)

Purpose: For Information

- 5.1. The Chair reiterated his thanks to all of the members who would be stepping down from the Committee on 1 April 2025 for their time and expertise in support of the Committee over an extended period, noting that the success of industry self-governance was dependent on the commitment of industry representatives.
- 5.2. There being no further business the Chair closed the meeting.

The next Disputes Committee meeting is scheduled for: 26 June 2025 and will be held virtually via MS Teams