

## Acceptance and Prioritisation

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### Data/Report Release to Public Bodies (CPM061/CPW158)

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#### Proposer

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Andrew Johnson  
MOSL

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#### Summary of the change

CPM061/CPW158 seeks to align the market codes with legislation and clarify when the Market Operator can provide data to public bodies.

#### Any Questions?

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##### Contact:

Rasika Joshi  
[codechange@mosl.co.uk](mailto:codechange@mosl.co.uk)  
07709841123

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#### Purpose



##### The Code Change Committee is invited to:

- **AGREE** the change proposal passes the Acceptance & Prioritisation Criteria
- **AGREE** the CPM061/CPW158 change plan
- **AGREE** the scope to be considered in the assessment
- **AGREE** the Assessment Plan
- **PROVIDE** views on the proposed PIR rationale.

#### Impacts



##### Impacts on:

- Public Bodies
  - MOSL
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## Contents

1	Executive Summary .....	3
2	Problem Statement .....	5
3	Assessment against the Initial Acceptance Criteria .....	8
4	Assessment against the Acceptance and Prioritisation Criteria .....	10
5	Desired Outcome.....	11
6	Assessment Plan .....	13
7	Proposed Timetable .....	15
8	Provisional Implementation date.....	15
9	Post Implementation Review .....	15
10	Market Operator Recommendation .....	15
11	Recommendation .....	15

This paper informs the Code Change Committee (CCC) decision whether CPM061/CPW158 passes the Acceptance and Prioritisation Criteria and if so, how it should be progressed.

This document has one attachment:

- Attachment A is the CPM061/CPW158 change proposal form.

The Code Change Committee will consider this change at its meeting on 16 January 2025. It will determine whether to accept the plan for progressing CPM061/CPW158 or recommend rejecting it.

For further information, please see the Change Proposal Log on the MOSL [website](#) or contact the Code Change Secretariat at: [codechange@mosl.co.uk](mailto:codechange@mosl.co.uk)

## 1 Executive Summary

The estimated reading time for this paper is around 30 minutes.

### 1.1 Ask of the CCC

The Code Change Committee (CCC) is invited to decide if CPM061/CPW158 has met the Acceptance and Prioritisation Criteria. If so, it is invited to approve the assessment plan set out in [section 6](#).

### 1.2 Recommendation on Acceptance and Prioritisation Criteria

MOSL recommends the following judgement against the Acceptance and Prioritisation Criteria:

<i>Criteria</i>	<i>CPM061/ CPW158</i>	<i>Rationale</i>
<b><i>Evidence based problem</i></b>	<i>Pass</i>	<i>Based on received requests from different government agencies/bodies</i>
<b><i>Legislative or regulatory imperative</i></b>	<i>Pass</i>	<i>Aligning codes with legislation which requires the Market Operator to provide data to certain public bodies.</i>
<b><i>Case for change</i></b>	<i>Pass</i>	<i>Requests from public bodies usually seek evidence to support policy development in the interest of customers or wider society. Recently these have included managing water resources and promoting water sector resilience. This change seeks to make such requests more efficient.</i>
<b><i>High level drivers</i></b>	<i>Pass</i>	<i>Delivering the Strategic Panel's <a href="#">roadmap to a flourishing market</a> may sometimes require the Market Operator to provide data to public bodies. For example Defra may require data to complete action D1 to define incentive schemes to reduce demand.</i>
<b><i>End state</i></b>	<i>Uncertain</i>	<i>The Market Operator will bear an ongoing cost servicing requests from public bodies. In many cases primary legislation mandates this so this change seeks to improve their efficiency.</i>

		<i>Widening the scope of requests from public bodies may be in the interests of customers and wider society but will further increase the cost to the market.</i>
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### 1.3 Assessment Plan

Based on the Guidelines for Engagement on Code Change, formal consultations and surveys are recommended as good approaches for seeking Trading Party and stakeholder contributions to developing the solution for this change

For more information see [section 6.2](#) and the [Guidelines for Engagement on Code Change \(GECC\)](#).

### 1.4 Post Implementation Review

A PIR is planned to take place 12 months after implementation to assess the benefits gained from this change.

### 1.5 Recommendation

The Code Change Committee is invited to:

- **AGREE** CPM061/CPW158 meets the Acceptance & Prioritisation Criteria
- **AGREE** the scope to be considered in the assessment
- **AGREE** the Assessment Plan
- **PROVIDE** views on the proposed PIR.

## 2 Problem Statement

### 2.1 Background

The Market Operator holds valuable market data that is frequently requested by a range of government bodies and agencies for purposes like water efficiency, analysis and bench marking.

The market codes state that market personal data can only be shared for the market purposes<sup>1</sup>, unless required by law. However, the codes are not clear on what data can be shared by the Market Operator and with whom. This ambiguity in the codes makes it difficult for the Market Operator to decide whether it is appropriate to share this data.

The codes<sup>2</sup> explicitly state that the Market Operator is permitted to share data with Ofwat, Drinking Water Inspectorate (DWI), Environment Agency (EA) and Natural Resource Wales, albeit for the latter three, only with the authority of the MOSL board.

### 2.2 The issue

MOSL has identified that ambiguity in the codes regarding data sharing and thus had to put a temporary solution<sup>3</sup> in place to address requests from public bodies. The purpose of these requests is primarily to share anonymised high level market data for water security and sustainability programs and other objectives allied to strategic priorities.

Under the Water Industry Act 1991 s86 (WIA), the DWI can legally compel the Market Operator to share data but under the codes<sup>4</sup>, the Market Operator could do so only with prior approval of its board. This provides the board the ability to refuse the request, and thus conflict with the WIA. Moreover, seeking approval from the board each time is inefficient and not practical. Therefore, the codes stipulate an internal Market Operator process that could conflict with legislation.

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<sup>1</sup> Market Arrangements Code (MAC) - 15.4

<sup>2</sup> Market Terms s1.2.7 a & b

<sup>3</sup> Legally binding agreement signed by both the parties before sharing the data

<sup>4</sup> Market Terms, s.1.2.7b

The codes explicitly state that the Market Operator can share data with the EA, with prior approval of the board. The EA is an executive non-departmental public body, and part of Defra. Therefore, it is illogical for the EA to be named in the codes, but not Defra as the two bodies work together on projects for water scarcity and water efficiency. This anomaly makes it difficult for MOSL to manage requests from Defra or its agents.

This issue also impacts other public bodies like local authorities and members of parliament who are working towards water efficiency aims. Delays in processing these requests and sharing the data are inevitable due to the lack of clarity in codes.

### **2.3 Evidence of the issue**

- MOSL has been approached to share market data by Defra and the EA. This was to assist with the Cambridge Water Scarcity Pilot (segmentation and water credit trial). This project was looking at water credits and water efficiency measures and required local consumption and benchmarking data.
- Water Resource Management Planning (WRMP) groups, such as Water Resources East have requested data to better understand customer usage. Again, because of this code ambiguity a data sharing agreement was required and MOSL had to determine what data it could share.
- The Minister of Water asked for data for use in a discussion with industry and customers on water security. Defra had to sign a confidentiality agreement with MOSL, on behalf of the Minister. This is an underlying risk when sharing data as MOSL had to decide how to interpret the broad provisions of the codes and whether to release the data. MOSL's legal team considered the benefits of sharing the data, the risk of this being challenged by the trading party, or the regulator, and the fact that the Secretary of State could demand the data in any event.
- MOSL was asked to share data with a contractor working for Defra and the EA on the Cambridge project. This included SPIDs and their water consumption in the Cambridge area. The lack of clarity in the codes meant that data sharing was permitted with board approval but only with the EA, rather than their contractor.

- The Climate Change Committee, Greater London Authority, local councils (such as Horsham) and other government departments have also requested data to support water sustainability work, planning and demand management.

#### **2.4 Impact of not addressing the issue**

Public bodies often work together to enhance the water market by studying consumption data from previous years. This data can be used to implement new schemes that benefit the customer by saving money and water, such as the Cambridge project. Local government tend to use this data to study non-household customers who might be having issues related to water supply or leakage. Due to the current code obligations, such projects can be delayed.

The Market Operator faces risk in deciding if and what data can be shared. Keeping in mind data privacy of customers and commercial interests of trading parties, data binding agreements are drafted to share high-level data. Whilst this workaround would be acceptable if the number of such requests were limited, increasing numbers of requests makes it difficult to seek board approval and draft agreements each time.

### 3 Assessment against the Initial Acceptance Criteria

The Market Operator considers that CPM061/CPW158 passes the Initial Acceptance Criteria and is ready for presentation to the Code Change Committee. The problem statement is clearly articulated and supported with sufficient evidence and is the only inflight change with this problem in scope.

Initial Acceptance Criteria	Judgement	Rationale
<p>The problem statement is incomplete or insufficiently clear on any of the following: Issue; Root cause of the issue; Actors involved in the environment of the problem; How the problem impacts the proposer customers and wider market; How the problem inhibits the delivery of MAC and WRC objectives and principles.</p>	<p>Pass</p>	<p>The change proposal form clearly explains there is a gap in the codes and an increasing demand from the public bodies to share data. This data is eventually used to make decisions that are beneficial for the customers and overall market. This issue was identified when MOSL saw an increase in data requests which needed legally binding agreements and board approval to share.</p> <p>Additionally, the ambiguity in codes makes it complicated to decide on what data can be shared. This means that the market codes are not effectively addressing this issue and not effectively providing the Market Operator freedom to share data in current and future customers' interest.</p>
<p>The problem that is seeking to be addressed is not materially different from an active problem statement that has not yet been decided upon by the CCC.</p>	<p>Pass</p>	<p>No current changes are focused on the challenges of data requests from government agencies like Defra and CCW that are omitted from the codes (Market Terms s1.2.7 a &amp; b) or <a href="#">Water Industry Act 1991 s85 (WIA)</a>.</p> <p>'Customer and Third-Party Access to Consumption data' (CPM060/CPW156) is focussed on requests from commercial organisations rather than public bodies</p>



Initial Acceptance Criteria	Judgement	Rationale
		and only at an aggregated level. Requests from public bodies have occasionally required premises level data e.g. Defra requested data to benchmark water use by schools.
The problem statement concerns matter that are outside the scope of the MAC and/or WRC.	Pass	The change proposal is within the scope of market codes.
The problem is being separately considered within the scope of an existing or scheduled improvement programme by the Market Operator.	Pass	No current programme covers this issue
The problem is being separately considered within the scope of an existing or scheduled policy review by the Authority.	Pass	MOSL is currently unaware of any policy review either current or future that Ofwat is planning that would affect this change.

## 4 Assessment against the Acceptance and Prioritisation Criteria

The Market Operator has drafted the following assessment of CPM061/CPW158 against the Acceptance and Prioritisation Criteria:

<b>Criteria</b>	<b>CPM061/CPW 158</b>	<b>Rationale for why it has passed or failed</b>
<b>Evidence based problem</b>	Pass	<i>Based on received requests from different government agencies/bodies.</i>
<b>Legislative or regulatory imperative</b>	Pass	<i>Aligning codes with legislation which requires the Market Operator to provide data to certain public bodies.</i>
<b>Case for change</b>	Pass	<i>Requests from public bodies usually seek evidence to support policy development in the interest of customers or wider society. Recently these have included managing water resources and promoting water sector resilience. This change seeks to make such requests more efficient.</i>
<b>High level drivers</b>	Pass	<i>Delivering the Strategic Panel's <a href="#">roadmap to a flourishing market</a> may sometimes require the Market Operator to provide data to public bodies. For example Defra may require data to complete action D1 to define incentive schemes to reduce demand.</i>
<b>End state</b>	Uncertain	<i>The Market Operator will bear an ongoing cost servicing requests from public bodies. In many cases primary legislation mandates this so this change seeks to improve their efficiency.</i>  <i>Widening the scope of requests from public bodies may be in the interests of customers and wider society but will further increase the cost to the market.</i>

#### 4.1 Evidence Based Problem

Different requests from public bodies/organisations are outlined in [section 2.3](#).

#### 4.2 Legislative of regulatory imperative

Misalignment of the codes to current legislation is set out in Section 2.2.

#### 4.3 Case for Change

Requests from public body representatives are experiencing delays that need to be addressed. It is an overly bureaucratic process to draft a data sharing agreement and seek board member's approval each time. This in turn can delay implementing policy decisions for purposes like water efficiency. This can create a negative experience for MOSL's stakeholders. The ambiguity in the codes regarding the data that can be shared also adds uncertainty and delay.

#### 4.4 High Level Drivers

This change supports the Strategic Panel's [roadmap to a flourishing market](#). Clarity and efficiency in providing data to public bodies will assist action D1 for Defra to define incentive schemes to reduce demand.

#### 4.5 End State

If nothing is done to address the issue, delays and uncertainty will continue to occur. The Market Operator has a large responsibility in deciding what data can be shared. Ambiguity in the codes also forces MOSL to draft legally binding agreements which vary from request to request.

### 5 Desired Outcome

CPM061/CPW158 seeks to achieve the following outcomes:

- A defined process in place to handle requests to share data with public authorities will help reduce delays.
- Clarity in the codes to advise what data can be shared and with whom.
- A framework for identifying the purpose to which the requested data can be used for.

- Improve service delivery by the Market Operator and a positive impact in the overall market.

### 5.1 Draft Solution

The requirement to obtain MOSL board approval each time would be removed for EA, DWI and Natural Resources Wales requests. This is an internal operational and governance matter for the Market Operator.

The codes should explicitly state the process for considering requests from public bodies (including Members of Parliament, water resource groups and contractors working for public bodies).

This would include the considerations the Market Operator should take into account when determining whether a data request can be granted. This would be facilitated by identifying the reason for which the data will be used, the body requesting it, and the confidentiality and data protection/security risks being addressed. It is proposed that data only be shared where there is a benefit that accords the code principles.

For transparency, the Market Operator records each request and shares a summary on a regular basis with the Performance Assurance Committee.

### 5.2 Expected benefits and impact

Stakeholders	Current Experience	Post-Implementation Experience
Non-Household Customers	Customers are not currently directly involved, however, public bodies request data from MOSL in order to fulfil their obligations to customers, such as DWI following up on customer complaints about water quality	A clear basis in the codes for MOSL to share data with public bodies, were needed for them to perform their functions. It will simplify the arrangements, which currently are ambiguous.
Market Operator	The Codes are not explicit on sharing data with either Defra or its agency, the EA.	A more transparent and clear process for sharing data with public bodies primarily for water efficiency programmes, and other objectives allied to the strategic priorities and the objectives and principles of the codes.

Stakeholders	Current Experience	Post-Implementation Experience
Codes Panel	None	Facilitating the strategic panel's flourishing market roadmap
Others (Public bodies like Defra, EA, CCW)	Delays getting data or having to make requests through other organisations	Simplified process to request data

### 5.3 Estimated Cost

The estimated cost to assess this change is £6,600. This assumes that a working group is not required to develop this change, but stakeholders will be consulted on the recommended solution.

## 6 Assessment Plan

### 6.1 Proposed Assessment Plan

This change will consider the following as part of its assessment:

- Expected resource from MOSL to address the data requests and the time needed to process them. Assessing the costs required for these and its impacts once the change gets implemented.
- Define what a 'public body' means. Studying its impacts by directly engaging with the public bodies like CCW and other similar groups.
- Formal consultation with trading parties and stakeholders seeking their opinions on high level data sharing with public bodies.
- Assessing impacts on data privacy and Data Protection Act compliance.
- Impact of the current and proposed processes on the Market Operator.
- Data assurance assessment by ensuring appropriate safeguarding measures is in place for all the shared data and making amendments to the codes.

## 6.2 Proposed Engagement Plan

This is a functional change as it introduces a new process to address existing requests from public bodies. The change aims engage on ‘Impacts on Industry’, ‘Impacts on Customers’, ‘Solution Creation’ and ‘Solution Confirmation’.

**Table 1:** Stakeholder Engagement Matrix

Change Type	Engagement Aim					
	Raise Awareness	Impacts on Industry	Impacts on Customers	Solution Creation	Solution Refinement	Solution Confirmation
<b>Structural change</b>	Webinar	Formal Consultation	Direct Engagement (CCW, Other customer groups)	Workshops	Workshops/ Formal Consultation	Workshops/ Formal Consultation
<b>Functional change</b>	Present at Forum/ Inform	<b>Formal Consultation /Survey</b>	<b>Direct Engagement (CCW, Other customer groups)</b>	<b>Workshops/Interviews</b>	Formal Consultation	<b>Workshops/ Formal Consultation/ Objection Windows</b>
<b>Housekeeping change</b>	Inform	N/A	N/A	N/A	N/A	Objection Window
<b>Non-substantive Change</b>	Inform	N/A	N/A	N/A	N/A	Objection Window

Stakeholder Engagement Matrix is a framework to connect with stakeholders by means of various methods outlined. This is useful in understanding the impacts of the change on customers, Trading Parties and the over all industry. Depending upon the type of change the matrix helps in solution development by using formal ways of reaching out the market. CPM061 & CPW158 being a functional change will be facilitated by the seeking consultation survey on the finalised solution. Therefore, this matrix helps is designing the change plan for solution development.

## 7 Proposed Timetable

Change Proposal Timetable	Date
Acceptance and Prioritisation CCC	16 January 2025
Design	3 March - 23 May 2025
Consultation/survey	June 2025
CCC Recommendation	17 September 2025
Provisional implementation date	8 December 2025

## 8 Provisional Implementation date

Provisional implementation date assuming no market systems are impacted:

- 8 December 2025, if Ofwat's approval is received by 17 November 2025.

## 9 Post Implementation Review

### 9.1 Proposed rationale

Based on an initial assessment, a PIR should take place 12 months after implementation. The PIR will seek to assess the impacts of the change in sharing high level data due to requests from public bodies. This will be assessed by seeking feedback from stakeholders who requested the data as well as MOSL representatives who processed the request.

## 10 Market Operator Recommendation

The Market Operator recommends the CCC accept CPM061/CPW158 as it passes the Acceptance and Prioritisation Criteria as outlined in section 4 and accept the engagement plan as outlined in [section 6.2](#).

## 11 Recommendation

The Code Change Committee is invited to:

- **AGREE** CPM061/CPW158 meets the Acceptance & Prioritisation Criteria.
- **AGREE** the scope to be considered in the assessment.
- **AGREE** the Assessment Plan.

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



- **PROVIDE** views on the proposed PIR rationale