

Sarah Hendry  
Director, Floods and Water  
Department for Environment, Food and Rural Affairs  
Nobel House  
17 Smith Square  
London  
SW1P 3JR

11 August 2016

Dear Sarah,

**Ref: first Chair's letter from the Open Water Assurance Group**

I am writing to you in my capacity as Chair of the Open Water Assurance Group to summarise our views and observations so far on the work to open the new water retail market for non-household customers in April 2017.

The group has met on three occasions to date and all of its members (membership attached) have had the chance to feed their views into this letter. The group has a wide knowledge of the industry and the Open Water programme and represents a diverse mix of people from across the industry: wholesalers, retailers, customer representatives, regulators and policy-makers. Our discussions have revealed a good amount of consensus in some areas and a range of views in others. I must emphasise that our role is to provide a high level overview and not a definitive view of precise progress and readiness. However, I hope the following commentary can complement the evidence you will be gathering from the other strands of assurance activity in place across the programme.

In line with our terms of reference we understand that our commentary will help inform Defra's advice to Ministers but that Defra remain accountable for that advice. Our discussions have had regard to the programme's published success criteria. As our work develops we will refer to these from two perspectives: what the programme should realistically be expected to have in place for market opening, and what will need to be developed over time.

**Complexity and timescales**

1. Firstly, we underline that this is a complex programme of work operating to very challenging timescales. There is a range of interdependencies between the programme partners and market participants and their respective work programmes which makes meeting critical milestones all the more important. Some work has been delayed, notably the work to put in place the central IT systems (CMOS), and although some time has been clawed back there remains a lot to be done in a very short amount of time.

Over the course of our meetings however (March, June and July) we have been able to see the considerable progress made, especially by MOSL in developing the CMOS, and this is reassuring. We also note the significant investment the industry

has made in getting ready for the new market – structurally and commercially – and consider this a favourable signal that companies are doing all they can to be ready for the new market in April 2017.

## **Data and systems**

2. The group has noted the substantial progress made by MOSL in ensuring the CMOS will be ready for shadow market, but that there is still some nervousness about settlement. We appreciate that work on settlement is ongoing, and at the time of writing was not due to have been completed. However some companies are concerned that the earlier delays with the CMOS work have reduced the time they have to complete their own testing, including testing of their approach to settlement, before the start of shadow market. Perceptions vary about the success of the data uploads which companies have completed so far, and for some there is a concern therefore that the shadow market may not operate as effectively as intended.

Linked to these points, we have discussed the quality of data that will be in the new market, recognising the challenges in getting data completely right. The group feels that whilst data quality is ultimately the wholesalers' responsibility, all parties should be concerned by the impact poor data could have on customers' experience of the new market. We note the opportunities that the shadow market will provide to test and improve data completeness and accuracy.

## **Customer awareness and customer experience of the new market**

3. The group notes the programme is stepping up activity on customer awareness and supports this, but there is consensus that much more could be done to raise customer awareness of the new market. We are encouraged by the progress made by the programme Communications group in engaging with key business stakeholders and support the drive to develop a new website as an official, trusted source of information about the market. As there are now less than 9 months to go before the market opens, we would expect to see rapid progress with this, and increased engagement and awareness-raising activity with small and medium enterprises. This should continue beyond market opening to build even greater awareness over time.

No market will be perfect on day one and customer awareness and engagement will take time to build. Customers' ability to negotiate beneficial outcomes is likely to build over time. We would however expect to see the programme taking more of a leadership role in enabling and ensuring adequate awareness-raising activity, and this needs to happen in the immediate term.

## **Incentives for retailers (including new entrants) and customers**

4. We generally believe that the Open Water programme is putting in place the right foundations for the market to evolve and function effectively over time. Clearly, having the right incentives in place for all players in this market – including customers, retailers and wholesalers – will be key to ensuring that the full potential

of the competitive market is realised. At this stage, some members of the group feel that the margins available for retailers are not sufficiently attractive to encourage new entrant retailers to enter the market; or are not sufficiently confident that customers will switch.

In terms of the programme's aim to encourage a diverse market and reduce barriers to entry, we have discussed how a lack of motivated retailers, or conditions and processes that smaller and new entrant retailers feel impact on the viability of their entering the market, may limit the effectiveness of competition in the new market. In turn, this may impact on customer perceptions of the amount of choice they feel they have - particularly if cost-savings are the key motivator for customer switching. On the other hand, we note that there are independent retailers that are currently applying for licences and market entry, and competition among incumbents is also to be expected.

The group appreciates that the specific issue of retail margins used in price controls falls under Ofwat's remit in its role as independent economic regulator of the new market, and that Ofwat, after consultation, considers retail margins are appropriate for the transitional price control. However, against the backdrop of the group's discussion I felt it was important to note it in this letter, and it should be an issue that is reviewed once there is experience of the market, if we want a market working to its full potential.

### **Visibility and market participant readiness**

5. We feel it is genuinely difficult to have full visibility of market participant readiness at this stage, and it is a critical part of an effective market opening. The opening and operation of the shadow market will be crucial to building a more complete picture and the group will be watching that closely. There are several strands of assurance activity in place across the programme, all producing different sorts of evidence at different times. We expect to see these coming together over the course of this summer and autumn to build mutual confidence across programme stakeholders.

### **Contingency**

6. The final thing we wish to point out at this stage is linked to our observations in my first paragraph. In our view, it is only normal for a programme of this size and complexity to consider the options available to it should expectations of delivery change. We have also seen how the programme is able to respond to issues as they arise – such as those around data protection – which suggests there is an ability to flex and adapt plans where needed. We are generally reassured that the opening of the shadow market is set to go ahead as planned. Nevertheless, there is little time left and still a lot to do, and we would encourage the programme to continue its work to identify contingency options for the period from shadow to market opening. This will leave the programme well placed to respond to any new issues that may emerge over the coming months. It is our view that understanding the implications of contingency options would provide an added incentive on all Open Water stakeholders to be ready for the new market in April 2017.

## Conclusion

In the few months that this group has been in existence we have seen real progress and at our last meeting on 20 July the group considered that the key ingredients are in place for market opening in April 2017. Indeed the programme is now sufficiently developed that to delay market opening would cause real problems and be very costly. However, this is a very complex undertaking and so enormous vigilance and oversight needs to continue on the systems; on the readiness of participants; on the competitiveness of the market; and on customer awareness. In terms of the group's general oversight it will be important for us to have access to real-time information and data as the programme progresses. We will meet again in early October and offer further views, including early views on progress during shadow market.

Yours sincerely,

Richard Macdonald

## Annexes:

- A: Group membership
- B: Summary notes from meetings held to date

## Annex A: Assurance Group membership

Member	Title	Organisation
Richard Macdonald, Chair	Non-Executive Director, EA	Independent
John Reynolds	Chair of Audit Committee	MOSL (Castle Water)
Aileen Armstrong	Senior Director of Finance & Governance	Owat
Jon Rathjen	Water Industry Team	Scottish Government
Michael Roberts	Chief Executive	Water UK
Colin Skellett	Chief Executive	Wessex Water
Phil Newland	Managing Director	South Staffordshire Water
Johanna Dow	Chief Executive	Business Stream
Nicola Smith	Company Director	Clear Business Water
Alan Lovell	Chair	Consumer Council for Water
Richard Hudson	Utilities Business Manager	Customer Representative – YPO (Yorkshire Purchasing Organisation)

Annex B: Summary notes from meetings held to date

## **Summary Note of Assurance Group meeting held 9<sup>th</sup> March and follow up call 24<sup>th</sup> March 2016**

### **Present**

On the 9<sup>th</sup>: Richard Macdonald (Chair), Sarah Hendry (Defra), John Reynolds (MOSL and Castle Water), Jon Rathjen (Scottish Government), Colin Skellett (Wessex Water), Jo Dow (Business Stream), Alan Lovell (CC Water), Richard Hudson (YPO), Holly Yates (Defra) and Jess Keedy (secretariat, Defra).

On the follow-up call on the 24<sup>th</sup>: Michael Robertson (Water UK), Nicola Smith (Clear Business Water), Phil Newland (South Staffordshire Water), Holly Yates (Defra) and Jess Keedy (secretariat, Defra).

Apologies received from Clive Elphick (independent) and Ofwat.

### **Role and functioning of the group**

Sarah Hendry gave an introduction to the role of the Assurance Group as providing a more qualitative input to Defra's advice to the Secretary of State on readiness for market opening. The group will provide challenge and scrutiny of the programme's progress with implementation and consider progress against the programme success criteria.

Richard Macdonald, the group's Chair, explained that the group should be an open, honest and solutions-focussed forum with its work conducted transparently and collaboratively between members. Defra clarified that it remained accountable for the advice provided to the Secretary of State and that the group's input would take the form of views, judgements, and commentary on any emerging themes.

### **Context, progress and other strands of Assurance activity**

Holly Yates gave an overview of the Open Water programme to date, explaining the programme's governance structure and how the Assurance Group fits within that. Group members suggested that, given there were several strands of assurance activity happening across the programme, it would be useful to publish a note specifically on the role and membership of this group.

The group noted the programme's progress to date: that a substantial amount of the legislative and regulatory framework was now in place and the focus was now on MOSL's work to build the central IT systems and the companies' own readiness work. They discussed the critical path and the limited contingency available in the programme, noting there were still areas where it was felt more detail or visibility was needed.

The group agreed that the next phase of Defra's assurance framework (the second 'letters of assurance') would be a key point for the programme when progress is mapped against plans, and an important marker for this group's work.

## Key issues for the group

Defra asked the group to consider the programme's published [success criteria](#) as headlines to guide its work. The group had a broad discussion about the importance of distinguishing between a successful market opening and a successful market beyond that, recognising that the market will not be perfect on day one but will evolve over time.

The group discussed the criteria one by one, suggesting that for its purposes, it would be useful to separate for each one what the programme needs to have in place (i.e. for market opening) from what the market will look like further down the line. The group thought that the word 'success' could be unhelpful, and that their judgement against the criteria would be based more on 'readiness' and quality of readiness.

Other specific observations included that customer-awareness is crucial and should be a key consideration for the group, as should diversity of entry.

## Terms of Reference (ToR)

In addition to the comments made on the programme success criteria and how the group would use those to guide its work, the group recommended that the ToR clarify Defra's accountability and the group's role as one of expressing views and judgements. The group also suggested that the requirements for a meeting to be quorate should include the mix as well as the number of attendees.

The secretariat took an action to write-up the group's interpretations of the programme success criteria and amendments to the ToR and share those for further comment and agreement.

## Practicalities

The group discussed its deliverables and agreed that a collective, iterative approach would be needed to produce the Chair's letters. All members asked that Defra provide clear and high quality information and documentation ahead of meetings in order for the group to function as effectively as possible, and that an additional or earlier meeting than currently scheduled would be beneficial. Meetings will be extended to allow more time for in-depth discussion and analysis.

## Summary Note of Assurance Group meeting held 16<sup>th</sup> June at Defra

### Present

Richard Macdonald (Chair), Sarah Hendry (Defra), John Reynolds (MOSL and Castle Water), Jon Rathjen (Scottish Government), Colin Skellett (Wessex Water), Jo Dow (Business Stream), Alan Lovell (CC Water), Richard Hudson (YPO), Michael Roberts (Water UK), Nicola Smith (Clear Business Water), Phil Newland (South Staffordshire Water), Andy Duff (Ofwat, representing Aileen Armstrong), Holly Yates (Defra) and Jess Keedy (secretariat, Defra).

Apologies received from Aileen Armstrong, Ofwat.

### Recap and context-setting

Richard Macdonald gave thanks for the full attendance and a brief update on membership of the group, welcoming Andy Duff representing Aileen Armstrong for Ofwat and noting Clive Elphick's decision to step-down as independent member due to diary constraints. He reminded the group of its strategic role and set the tone for an open and collaborative debate. Richard reiterated the importance of the group acting as a 'critical friend' to the programme and the desire to ensure a range of perspectives were heard and fed through the wider governance structure – both in terms of the group's judgement of how things are going at the moment, and in terms of whether the right foundations are being put in place for the future. The group ratified its Terms of Reference.

The meeting then started with an exchange of headline programme updates and reactions, with the group acknowledging market participant readiness, and visibility of this, as the main focus and challenge. Holly Yates touched briefly on the other strands of assurance activity happening across the programme – which whilst normal for a programme of this size and complexity – created the challenge for programme partners to communicate clearly on the purpose and outputs of each of them. The group supported this.

### Programme progress

Holly Yates gave an update on progress across the programme since the last meeting, highlighting the huge amount of work that MOSL have completed towards getting the systems ready, Ofwat finalising the regulatory framework and Defra now taking the Retail Exit Regulations through Parliament. The group were interested to hear an update on the independent review, including concerns that the different strands of assurance activity happening across the programme might be causing confusion, and reiterated the need for a programme communication to tie them all together.

On market participant readiness, the group noted concerns not about data per se – their feeling was that market participants knew what they had to do in terms of getting their data ready – but more that the settlement side, and readiness of market settlement systems, was still quite an 'unknown'. The group also highlighted customer awareness as a concern.

The group returned to the balance needed between acknowledging not everything will be perfect on day one, whilst sending a clear signal that everyone should be making best efforts to be ready. They took the view that Ofwat's licence condition and targeted review would help pinpoint where more work was needed. The group thought it would be helpful

for the programme to have a clear grip on contingency options in the likelihood of different degrees of readiness by different parties. The group felt that being pragmatic and transparent about contingencies would help all programme stakeholders. They also considered that increasing understanding of the implications of any delays would provide an added incentive to being ready for April 2017.

## Customer Awareness

Jess Keedy gave an update on the programme's plans for raising customer-awareness on behalf of the Communications group, sharing some of the achievements so far but recognising that the programme had not so far given customer-awareness a big push, partly from concerns to get the timing right. Alan Lovell shared the CC Water perspective, noting that awareness had increased but was still generally low, and advising that from their research, the '9 months to go' milestone was the ideal time to start increasing awareness-raising activity. In particular Alan observed that the Open Water website was currently not widely known about, and welcomed plans to revamp it. The group agreed that alongside companies' own communications plans, a central, official site, segmented by audience and with clear, authoritative information that customers can trust was crucial.

Richard Hudson shared some feedback from recent events he had attended and the feeling that there were different levels of understanding and awareness even within the same organisations, and also that whilst the big non-household customers tended to be aware of the new market, SME customers generally were not. Finally, the group discussed how best to manage customer expectations around pricing whilst keeping the core message around the benefits of retail competition for customers.

## Review of key themes

The group referred back at the programme's published [success criteria](#) in light of its discussions, and recommended not taking too aspirational an approach to thinking about success; setting realistic expectations was key. The group agreed that it could usefully give views as to its expectations for the market on day one, and then beyond that. These would likely be based around capability (how the systems work and what they enable) and functionality (what can customers do and how easily) and would consider the balance of benefits vs. risks, and whether in its view the programme is putting in place the right foundations for the market in the long term. The group discussed the idea of identifying key actions to ensure that the market is monitored effectively post-opening, but recognised that the Open Water programme itself concluded at market opening and that monitoring the new market would be Ofwat's role.

The group added that the customer experience would be a key form of assessing 'success' – including customers knowing whom to contact in cases of service problems/emergencies – and that customers' perceptions of how the wholesaler / retailer relationships work were an important piece in making it all work.

## Issues for future meetings

The group agreed that updates on market and company readiness, customer-awareness activities and contingency planning would be useful for its next meeting, at which the contents of the first Chair's letter will be discussed.

## Summary Note of Assurance Group meeting held 20<sup>th</sup> July at Defra

### Present

Richard Macdonald (Chair), Sarah Hendry (Defra), Aileen Armstrong, (Ofwat), John Reynolds (MOSL and Castle Water), Jon Rathjen (Scottish Government), Colin Skellett (Wessex Water), Jo Dow (Business Stream), Alan Lovell (CC Water), Richard Hudson (YPO), Michael Roberts (Water UK), Nicola Smith (Clear Business Water), Holly Yates (Defra) and Jess Keedy (secretariat, Defra).

Apologies received from Phil Newland (South Staffordshire Water).

### Context setting

Richard Macdonald welcomed attendees and set the context for its third meeting as the group's opportunity to agree the key content for the first Chair's letter to Defra. Richard recapped some of the key themes from previous discussions and the group agreed to return to these after an update on programme progress.

Sarah Hendry gave a brief update on changes to the ministerial team at Defra following the referendum and reassured the group the wider political changes would not affect the work of the Open Water programme.

### Programme and other updates

Holly Yates gave an overview of progress across the programme since the last meeting, in particular noting MOSL's return to an 'Amber' status and the number of milestones achieved over the last month. The group welcomed the progress made and commented that this reflected a general direction of travel it had observed since the group first met in March.

Holly also reported back on a number of actions noted at the June meeting: the independent review and the programme response due to be published alongside the report by the end of the month; the draft note on strands of assurance activity that was also near completion. In terms of the group's recommendation around contingency options, Holly ran through the work completed to date. The group welcomed the news that programme partners see no barriers to shadow market opening as planned, and were keen to hear more as this work progresses.

Aileen Armstrong then shared some of the headlines that have emerged from Ofwat's targeted review work so far: broadly, that companies were making different levels of progress across the different areas explored in the questionnaire, but overall no major concerns were emerging.

John Reynolds talked the group through some key numbers showing market participants' progress through MOSL's pre-market entry assurance processes. Again, some companies

are further ahead than others but the overall picture is that everyone is progressing. The group reflected that there did now seem to be a clear commitment across market participants to market opening and noted the significant progress and investment that companies had made – which in itself gives assurance that parties are making best efforts to be ready.

## Data and systems

The group noted the substantial progress made by MOSL in ensuring the market systems would be ready for shadow market, but did note that there was still some nervousness about settlement. Linked to this, the group discussed the quality of data that would be in the new market, recognising the challenges in getting data completely right. The group felt that whilst data quality was ultimately the wholesalers' responsibility, all parties should be concerned by the impact poor data could have on customers' experience of the new market. The group noted the opportunities that the shadow market would provide to test and improve data completeness and accuracy.

## Customer Awareness

Jess Keedy gave a brief update on the programme's most recent awareness-raising and engagement activity. The group welcomed the progress made and raised a number of points: the importance of making rapid progress with the website; the need to factor in retailers' readiness to help raise awareness – and know who the retailers are; and the clarity required on the national campaign, its scope and timescales. The group agreed that customer-awareness was still a concern, and should remain a point of focus post market-opening.

## Themes for Chair's letter

The group had a roundtable discussion on the content for the first Chair's letter and the key themes it would want to include: data, customer awareness and experience, and incentives for customers and retailers among them, as well as general recognition of the complexity of the programme and the timescales in which it operates. Richard agreed to circulate a first draft for comment the following week.

## Issues for future meetings

The group will next meet in person in October and will start considering the second Chair's letter in that meeting. To facilitate that, the group asked that the agenda include updates on general programme progress, shadow market and customer awareness.