

Department for Environment, Food and Rural Affairs

Retail Market Opening – Open Water Programme

## Completing the Assurance Letters: Advice Note

Change Control:

Version	Date	Description
1	13.10.15	Initial version published with Assurance Framework
2	15.01.16	Updated to provide additional guidance for the planning letter (letter 1)
3	25.07.16	Updated to provide additional guidance for the interim letter (letter 2)
4	<b>09.12.16</b>	Updated to provide additional guidance for the final letter (letter 3)

This advice note has been produced to assist with completion of the Assurance letters and should be read in conjunction with the Assurance Framework and the letters themselves.

### Background - the Assurance Process

- The Open Water Programme has always had a clear commitment to put in place a transparent process of continuous assurance. This is important to build mutual confidence amongst all those involved in the Open Water Programme.
- Formal letters of assurance are required at different stages to inform advice to the Secretary of State for Environment, Food and Rural Affairs, who will take the final decision on retail market opening in 2017.
- The assurance framework is based on the principle that: **“the party responsible for delivery of any part of the programme is also responsible for providing assurance over its delivery”**.
- Assurance will need to be provided by everyone with responsibility for delivering part of the Open Water Programme.
- This includes: all prospective market participants, [the Department for Environment Food and Rural Affairs](#) (Defra), the Water Services Regulation Authority ([Ofwat](#)) and [Market Operator Services Limited](#) (MOSL). Each of the organisations involved in opening the new market has clearly defined responsibilities:

- Defra is responsible for setting the policy and implementing the legal framework and taking the decision about market opening;
  - Ofwat is responsible for the regulation of the market, such as licences, rules for charging and rules for behaviour and process ('codes');
  - MOSL is responsible for the systems and processes which will make the market technically function; and
  - Market participants are responsible for working with MOSL to set up the Market Operator function that will handle switching and settlement; and each participant is individually accountable for ensuring they are prepared for market opening.
- **Each party that is responsible for providing letters of assurance should start by reading the assurance framework available [here](#).**

## Who needs to provide a letter and when?

Which letters a market participant needs to provide depends on the participant's legal status and how it will operate in the new market:

1. If you are a wholesaler or an integrated incumbent retailer operating under an existing **Instrument of Appointment**, you are expected to submit a letter of assurance at all three phases of assurance.

You have a choice about whether to submit separate letters from your wholesale and retail businesses or a joint letter. It would be appreciated if you could let us know your intentions so we know roughly how many letters to expect.

2. If you are a new entrant retailer (including 'associate licensees') that will be operating in the new market under a **new WSSL**, you are only required to submit the final assurance letter (see Phase 3 below).

## What sort of Assurance is required?

At all phases of the assurance process market participants can choose the form of evidence they consider most appropriate to provide. The nature and source of the assurance for each piece of evidence chosen **must** be included in the relevant column of the 'Sources of Assurance' table in the planning letter itself.

## Governance

One of the key objectives of the assurance framework is to ensure that all programme participants put in place effective governance structures with:

- clear responsibilities and accountabilities for programme delivery,

- management of risks, issues and dependencies,
  - regular reporting of programme status; and that
  - sufficient resources with the required capabilities are assigned to the programme to ensure successful delivery on the part of that organisation.
- **In order to ensure effective engagement with the assurance framework on the part of both Board and Executive, early discussions on the form of assurance required and the nature of the evidence considered appropriate to support it, should be scheduled as a matter of priority.**

## Phases of Assurance and Timetable

- Letters of assurance are required from relevant market participants (see above – ‘*Who needs to provide a letter and when?*’), MOSL, Ofwat and Defra at three key phases in the run up to retail market opening in April 2017. This supports the principle of continuous assurance.
- The tiered approach to the assurance hierarchy means that, at each stage, deadlines are staggered to allow the recipients of the assurance letter to take account of their contents before providing their own letters of assurance.
- The Open Water Assurance project team will review the process after each phase, in line with the principle of continuous improvement, and feedback any learning to all those with an interest.

### Phase 1 – Planning – **completed in February 2016**

#### Aim

- The planning phase letters required each participant to provide formal assurance that they have appropriate plans and governance structures in place in order to ensure delivery of their responsibilities. Participants were asked to include copies of their programme plans and a summary of the milestones that would enable them to deliver the specific assurance components set out in sections 2 and 3 of their final assurance letter.
- The planning phase was completed on 19 February 2016 with Defra’s own letter going to the Secretary of State. The programme published [this summary note](#) about the planning phase on 4 March.

### Phase 2 – Interim – **completed in October 2016**

#### Aim

- The interim phase letters required each participant to **demonstrate that they have reviewed their progress against the milestones provided in the phase 1 planning**

**letter, and to confirm whether they are on track to be ready** for the opening of the market.

- The interim phase was completed on 21 October 2016 with submission of Defra's own letter to the Secretary of State. The programme published [this summary note](#) about the interim phase on 17 November.

## **Phase 3 – Final February 2017**

### **Aim**

- The final stage letter is the culmination of the assurance process. The purpose of the phased approach to assurance is to ensure that there are no significant surprises at this stage.
- The final stage letter requires each participant to confirm that they are on track to complete their programmes to prepare for implementation of the retail market and that all the interim milestones identified in their planning phase letter either have been achieved, or are on track to be achieved, when the market opens.

### **Expectations**

- For Market Participants this involves confirming that they have successfully completed all market entry requirements including obtaining licences, acceding to codes and completing market trialling successfully.
- All parties will need to confirm that they are not aware of any issue, for which they are responsible, that would prevent their successful participation in the market.
- The Final Stage Assurance Letter provides a detailed list of statements reflecting the specific components of the Assurance Framework that are relevant to each class of participant. These relate to the roles and responsibilities set out above. Not all parties expected to submit a letter are required to provide assurance against each component. As noted above, the signatories will need to have identified the form of evidence which they consider enables them to provide the required assurance.
- Market Participants are not asked to provide assurance that all work streams have been completed by February. They are asked to provide assurance that their board and executive is confident that all actions will be complete when the market opens and to identify any remaining risks and mitigations.
- **It is expected that all participants use the phase 3 pro-forma letter provided.** To note that not all sections of the pro-forma letter apply to all participants; the pro-forma highlights where there are differences.
- In terms of supporting documentation, you are asked to submit a final summary of progress against the milestones and plans shared in the earlier phases of assurance. This can take the format you wish; a simple table format is perfectly acceptable.

## Deadlines

- ✓ Market Participant Final Phase Letter: 03.02.17
- ✓ MOSL Final Phase Letter: 10.02.17
- ✓ Ofwat Final Phase Letter: 10.02.17
- ✓ Defra Final Phase Letter: 17.02.17

## Issues to consider

### Evidence

- At each stage in the process each participant will need to consider what form of assurance is most appropriate to provide the signatories (their Board, Executive, and Audit and Risk Committee or appropriate equivalent) with the level of confidence they require in order to provide the required assurance.
- The nature of assurance should be categorised as one of:
  - External, independent assurance or expert analysis – please specify what sort of external assurance you have used, who provided it and the date it was received (e.g. ‘Assurance Report on progress against plans, Ernst & Young, 15.01.17’)
  - Internal expert or peer review
  - Internal process or internal data audit
  - Management review
  - In-team peer review
  - Self assessment
- In order to ensure the coherence of the assurance process all participants are advised to review all the components set out in the final phase letter at the beginning of the process. They should ensure that these are factored into the plans provided as part of the planning phase. The specific milestones identified at the planning stage will subsequently be tracked through the interim and final phase letters.

## Risks, Issues or Slippages and associated action plans

Section 4 of each letter of assurance deals in more detail with risks, issues and any slippages that participants may have identified in reviewing progress against their plans and milestones.

Section 4 is divided into two parts. **The first part focuses on participants’ own achievement of company readiness**, and asks participants to either:

- Positively state they have not identified any matters which have had or are expected to have a significant impact on their readiness for retail market opening;

- Or, where this is not possible, to set out the matters that they expect to have a significant impact on their readiness for retail market opening. **In selecting this second statement participants are required to set out appropriate action plans for mitigation/recovery alongside the letter of assurance.**

The second part of section 4 focuses on **the overall programme**. Participants are asked to either:

- Positively state they have not identified any matters that have had or are expected to have a significant impact on the implementation of the retail market as set out in the overall programme;
- Alternatively, to set out any matters they wish to highlight which they expect to have a significant impact on the implementation of the retail market as set out in the overall programme.

## **Important notes on the company letter submission process**

- We are expecting letters and evidence to be submitted by email by 4pm on the due date and have set up a joint programme mailbox for this purpose: [AssuranceLetters@ofwat.gsi.gov.uk](mailto:AssuranceLetters@ofwat.gsi.gov.uk). Please do not send paper copies by post – only emailed submissions will be accepted.
- PLEASE NOTE: emails to this mailbox have a limit of 25MB so you may need to zip your attachments. If you have problems with this please get in touch.
- In the letter please include a contact name and details (such as a mobile phone number) in case we need to contact you during the assurance letter period.
- There is no need to copy your letters to individuals in the three partner organisations – the above mailbox will be managed jointly.
- Letters addressed to more than one recipient (e.g. market participants' letters to MOSL and Ofwat) need only be sent to the mailbox once (per phase of assurance) – multiple copies are not required.
- Please be assured that your data will be protected and company submissions considered confidential by programme partners. Information submitted as part of the assurance process will be shared across the three programme partners unless participants expressly state otherwise, together with a clear statement about which parts might not be shared and the reasons why this should be the case.

## **Feedback and future timeline**

- We will confirm receipt of letters as they arrive.

- We will not be able to give feedback on individual assurance letters but will publish a summary progress report as per the published Assurance Framework.
- We will provide an update through the Workplan Review Group following each phase.
- The Secretary of State will receive advice based on all the outputs of the Assurance Process at each of the three stages. We will publish a summary progress report after each phase.

### **For further help:**

If you have any questions about this process, please feel free to contact your MOSL portfolio manager, drop us a line at [AssuranceLetters@ofwat.gsi.gov.uk](mailto:AssuranceLetters@ofwat.gsi.gov.uk) or get in touch with one of the project team. Details of the main contacts per partner organisation are included below:

MOSL: Steve Lyon  
07734 450907  
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