

**Amendment to independent ADR Review Panel's Terms of Reference ratified 20 January 2022**

**ADR REVIEW PANEL**

**TERMS OF REFERENCE**

**1. INTRODUCTION**

This document sets out the Terms of Reference for the panel (the **Panel**) established by these Terms of Reference to oversee the establishment and operation of an alternative dispute resolution scheme for the Water Industry, the Water Redress Scheme (WATRS).

**2. DEFINITIONS**

2.1 In these Terms of Reference:

2.1.1 the following definitions apply in addition to those definitions included elsewhere in these Terms of Reference:

- (a) **ADR Service Provider** means the alternative dispute resolution provider appointed by RWD to resolve disputes between consumers and Water Companies;
- (b) **Independent** means not involved or interested in the provision of water and/or sewerage services to consumers in England and Wales in any manner whatsoever (including, without limitation, as an officer or employee of, consultant to or investor in a Water Company, or otherwise involved in the provision of water and/or sewerage services to consumers in England and Wales, other than (i) as a consumer or (ii) as a Member, following his or her appointment);
- (c) **Member** means a member of the Panel appointed in accordance with these Terms of Reference;
- (d) **RWD** means Resolving Water Disputes Limited, a company incorporated in England and Wales with registered number 9094187 and whose registered office is at 36 Broadway, London SW1H 0BH;
- (e) **Water Company** means a company holding an appointment or a licence under the Water Industry Act 1991 (as amended) to provide water and/or sewerage services, which subscribes to WATRS; and

- (f) **Water Industry** means those entities involved in the provision of water and/or sewerage services to consumers in England and Wales including the Water Companies

Words in the singular shall include the plural and vice versa.

### **3. PURPOSE OF THE PANEL**

3.1 The purpose of the Panel is to:

3.2 preserve the independence and effectiveness of WATRS. For the avoidance of doubt the role of the Panel is purely advisory. RWD will be responsible for entering into the contract with the ADR Service Provider and will be responsible for all decisions made in relation to the appointment of the ADR Service Provider.

3.2 provide insight and advice to the water sector on matters relating to water complaints with the purpose of driving improvements in end to end complaints handling.

3.3 The Panel shall:

3.3.1 make recommendations on the procurement process (including without limitation, the tender documents) for the appointment of the initial ADR Service Provider (with such initial procurement process being undertaken by RWD) and the appointment of any replacement ADR Provider;

3.3.2 recommend to RWD the ADR Service Provider to be appointed to run WATRS, based on the procurement process referred to in paragraph 3.2.1;

3.3.3 make recommendations on the terms of the contract to be entered into between RWD and the ADR Service Provider, including with any replacement ADR Provider, and any amendments to any such contracts;

3.3.4 seek to ensure that WATRS follows the Principles set out in the Appendix hereto, as amended by RWD from time to time;

3.3.5 monitor the operation of WATRS and the performance of the ADR Service Provider, including without limitation, reviewing the specifications for WATRS;

3.3.6 prepare or approve, as necessary, and publish reports concerning the operation and effectiveness of WATRS;

3.3.7 make recommendations to RWD as set out in paragraph 5.9;

3.3.8 review, and make recommendations for amendments from time to time, to the code of compliance to be adopted by each Water Company subject to WATRS, such code to set out the principles regarding WATRS with which such Water Companies will agree to comply.

3.4 The reports referred to in paragraph 3.2.6 and any other publication by the Panel shall include such information as the Panel may decide and shall be published at such time or times, and in such manner, as the Panel shall determine from time to time.

#### **4. MEMBERSHIP OF THE PANEL**

##### **Composition**

4.1 The Panel shall consist of nine Members, comprising:

4.1.1 three representatives from Water Companies (being one representative from a water and sewerage undertaker (a WaSC), one representative from a water only company (a WOC) and one representative from a water supply and/or sewerage licensee or, in the event that there is no representative from a water supply and/or sewerage licensee, a further representative from either a WaSC or a WOC);

4.1.2 one representative appointed by Ofwat;

4.1.3 one representative appointed by the Consumer Council for Water (CCWater);  
and

4.1.4 four independent Members

##### **Chairperson**

4.2 The chairperson of the Panel (the **Chairperson**) shall be one of the Independent Members. In the event that the Chairperson is unable to attend a meeting a Deputy Chairperson shall be appointed to chair the meeting in question by majority vote of the Panel.

4.3 The Chairperson shall be appointed for an initial term of four years extendable by RWD subject to the approval of the Panel for a further period of two years.

4.4 Any replacement Chairperson shall be appointed by RWD from the independent members subject to the approval of the Panel. In the event that neither of the independent members is willing or able to be so appointed RWD shall, subject to the approval of the Panel, appoint the Chairperson applying the principles of merit, fairness and openness set out in paragraph 4.7 below.

##### **Changes to the Panel**

4.5 In the event that a representative from Ofwat or CCWater ceases to be a Member (whether as a result of a matter set out in paragraph 4.8, 4.9 or otherwise), the relevant appointor shall be entitled to appoint a representative to the Panel to fill a vacancy for their representative by giving written notice to the Chairperson.

4.6.1 Notwithstanding paragraph 4.9 a company representative may take a leave of absence from the Panel for up to twelve months in line with absence from their job for maternity, paternity, paternal leave or sickness absence and shall, subject to the approval of the Chair, be entitled to appoint a representative from his or her own company to take their place during that period of leave. Any such appointee shall sign a temporary appointment letter requiring them to comply with these terms of reference.

4.6.2 In the event that a representative from a Water Company ceases to be a Member (whether as a result of a matter set out in paragraph 4.8, 4.9 or otherwise), RWD shall call for nominations and be entitled to appoint a replacement representative to the Panel applying for the principles of merit, fairness and openness set out in paragraph 4.7 below,

4.7 Any replacement Independent Member of the Panel shall be appointed by RWD subject to the approval of the Panel, applying the principles of:

4.7.1 merit – successful candidate shall be those whose skills, experience and qualities have been judged best to meet the needs of the Panel;

4.7.2 fairness – the selection process shall be objective, impartial and applied consistently to all candidates, and all candidates shall be assessed against the same published criteria; and

4.7.3 openness – information about the requirements of the post and selection process shall be publicly available and all appointments shall be publicly advertised in a way that is designed to attract a strong and diverse field of suitable candidates,

4.8 Any Member shall cease to be a Member in the following circumstances:

4.8.1 he or she resigns his or her office by written notice to the Chairperson (or, in the case of the Chairperson, by written notice to each other Member); or

4.8.2 he or she becomes bankrupt or makes any arrangement or composition with his or her creditors generally.

4.9 Subject to paragraph 4.6.1 above any Member can be removed by RWD in the following circumstances:

- 4.9.1 he or she shall for more than two consecutive meetings have been absent from meetings of the Panel;
  - 4.9.2 in the case of an Independent Member, he or she ceases to be independent in the view of RWD;
  - 4.9.3 he or she acts in a way that would or would be likely to bring RWD and/or WATRS and/or the Panel into disrepute or otherwise affect adversely the reputation of RWD and/or WATRS and/or the Panel; and
  - 4.9.4 if RWD otherwise resolves that such person shall cease to be a Member.
- 4.10 The Independent Members (other than the Chairperson) shall be appointed for an initial term of two years and six months, extendable subject to approval by the Panel by agreement between the relevant Independent Member and RWD for a further period of two years.

#### **Fees and Expenses**

- 4.11 The Independent Members shall be entitled to remuneration for their services on or in connection with the Panel. For the avoidance of doubt no other Members shall be entitled to remuneration for their services on or in connection with the Panel.
- 4.12 Each Member shall be entitled to all documented travelling and other expenses properly incurred by him or her in connection with his or her attendance at a meeting of the Panel or otherwise in connection with the discharge of his or her duties as a Member.
- 4.13 Any remuneration to be paid to the Independent Members and any expenses to be paid in accordance with 4.12 above shall be paid by RWD.

### **5. OPERATION OF THE PANEL**

#### **Overriding principle**

- 5.1 The Panel shall, at all times, act in an independent, impartial and transparent manner, consistent with the purposes set out in paragraph 3.1. The Panel shall do all such things as the Panel considers necessary for acting in such manner.

#### **Decision making**

- 5.2 Decisions of the Panel shall be made by consensus or a majority vote of the Panel. In the event of a deadlock the Chairperson shall have a casting vote.
- 5.3 Meetings of the Panel shall be held as often as the Members see fit, but the Panel shall meet at least once per year. Any Member may request the Chairperson to call a meeting of the Panel by giving written notice to each other Member.

5.4 Meetings of the Panel may be held in any manner in which the Members are able to communicate with each other.

5.5 The quorum for a meeting shall be five Members provided always that if at the time of any meeting the number of Panel Members is six or fewer, the quorum for the meeting shall be four Members and further provided always that at all times the Members appointed as representatives of the Water Companies shall be a minority of such Members present.

5.6 The Panel may pass a resolution in writing, provided that such a written resolution is signed by all the Members or signed by a majority of those Members who are not appointed as representatives of the Water Companies.

#### **Conflicts of interest**

5.7 Where a Member has an interest, direct or indirect, in any actual or proposed matter which conflicts with the interests of the Panel, RWD and/or WATRS or where a Member becomes aware that an entity for which he or she works or provides services (or an affiliate of such an entity) has such an interest, that Member shall declare such conflict to the Panel. The fact that a Member works for a Water Company shall not, by itself, constitute a conflict required to be declared to the Panel under this paragraph 5.7.

5.8 Any such conflict shall not automatically preclude the involvement of such Member in the participation to or decision making of the Panel but may be a factor taken into account by the Panel for the purposes of paragraph 4.9.3 and/or 4.9.4.

#### **Publications**

5.9 The Panel shall make recommendations to RWD in relation to WATRS. RWD shall take into consideration such recommendations but shall not be bound by them. The Panel shall, from time to time, publish, on an appropriate website within one calendar month of the relevant meeting, the recommendations it makes to RWD and whether such recommendations have been implemented.

5.10 Minutes of meetings of the Panel shall be taken and published on an appropriate website within one calendar month of the relevant meeting.

### **6. AMENDMENTS TO THESE TERMS OF REFERENCE**

6.1 RWD may amend these Terms of Reference from time to time, subject to the approval of the Panel.

## **Appendix - ADR Scheme Principles**

The principles which must be met by WATRS are:

- Independence

It must be independent of water companies and any other stakeholder (e.g. a consumer advocate) with a conflict of interest.

- Fairness and impartiality

It must be able to take a neutral, objective and balanced view, and deliver outcomes based on clear policy/rules.

- Proportionality

It must undertake analysis and make decisions proportionate to the scale and nature of the problem.

- Consistency

It must ensure that decisions are clear and consistent from case to case.

- Transparency

It must ensure that decisions are public so that they are seen to be made without prejudice; highlight systemic failings in policy or practice; have a deterrent effect and drive service improvements. The process must, however, maintain the confidentiality of individual complainants.

- Effectiveness

It will meet its objectives and do so in a way that provides value-for-money through cost-effective, timely delivery.

- Accountability

It must be monitored and tested to ensure that it delivers efficient and effective outcomes for consumers, and that it is accountable to its users and the water industry.

- Accessibility

It must be available to all eligible complainants and easily available to consumers with different needs through the most appropriate channel (for example telephone, e-mail, website and letter); and it must ensure that its role is made clear so that consumers understand the process and know who to contact.