

Disputes Committee Findings on DIS0038 & DIS0039

Introduction

The Disputes Committee (DC) convened a closed session within DC19 on 18 May 2022 to hear ConservAqua Limited, an unassociated retailer, Severn Trent Water Limited, a water and sewerage wholesaler, and Waterplus, an associated Retailer, present their evidence in support of their positions on Disputes DIS0038 & DIS0039. In Dispute DIS0038, ConservAqua asserted that Severn Trent Water had failed to comply with the Operational Terms, Process H7, Part B Step 2, in that they “omitted/truncated submission data of ConservAqua by their automated process.” In respect of Dispute DIS0039 ConservAqua asserted that Waterplus had failed to comply with the Operational Terms, Process H7, Part B, Step 3 in that they had “neither reviewed the submission within the 20-day limit and their formal rejection of the vacant submission was invalid due to duplicate SPIDs not being deregistered and/or their evidence incorrectly dismissed”.

Considerations

[WRC-Schedule-1-Part-3-Operational-Terms](#) Process H7, Part B Step 2 requires that: -

Within **ten (10)** Business Days following receipt of an application for Vacancy Incentive Scheme Payment, the awarding Wholesaler will either:

- a) If the application is materially complete, and the relevant Supply Points satisfy the eligibility criteria set out in the Vacancy Incentive Scheme Guidance, submit the completed Form H/06, including the signed declaration of eligibility and any other supporting evidence received, to the registered Retailer, and inform the applying Retailer that it has done so; or
- b) Reject the application on the grounds that:
 - The Form H/06 is materially incomplete or contains incorrect information;
 - The Vacancy Premises is not Registered as a Supply Point in the Supply Point Register; and/or
 - The Vacant Premises does not meet the eligibility criteria set out in the Vacancy Incentive Scheme Guidance;And inform the applying Retailer that the application has been rejected, stating the reason for rejection.

[WRC-Schedule-1-Part-3-Operational-Terms](#) Process H7 Part B, Step 3 requires that: -

Within **twenty (20)** Business Days after receipt of an application for Vacancy Incentive Scheme Payment, the registered Retailer must either:

- a) Follow the process set out in Step 4;
- b) Follow the process set out in Step 5; or
- c) Follow the process set out in Step 6.

If the registered Retailer fails to complete (a) – (c) above, the applying Retailer may raise a challenge in accordance with the challenge process set out in the Vacancy Incentive Scheme Guidance.

Findings

In the case of Non-Trading Disputes the DC’s remit is to assess whether there has been a breach of the Codes. The DC reached a majority decision regarding DIS0038 and found that Severn Trent Water had breached Process H7, Part B Step 2 of the Operational Terms on the basis that the Code contains an obligation on the Wholesaler to provide materially complete data to the registered Retailer from the applying Retailer.

The DC noted that Severn Trent Water, for operational reasons, enabled applying Retailers to use an Excel Format of Form H/06 for submission, which ConservAqua had then completed, that is allowed under Section 2.2.8 of the Operational Terms. Severn Trent Water has a duty under Process H7 B. Step 2a to ensure that all application forms are materially complete, and that all data contained within the form, including the signed declaration of eligibility, and supporting evidence received is submitted to the registered Retailer.

The DC reached a majority decision regarding DIS0039 and found Waterplus had technically breached a stated SLA within Process H7, Part B Step 3 of the Operational Terms on the basis that it contains an obligation to act within 20 Business Days and a number of the responses to applications were outside of this timeframe. These applications had since been processed. The DC noted a review of the SLAs may be appropriate as in many instances they could not realistically be met, due to the complexity and volumes of the data, nor do they attract a consequence when they are not met.

The DC also considered ConservAqua’s assertion of invalid rejections of applications by Waterplus, but in this instance no breach of the Codes was found with the rejections and the DC noted that the parties had subsequently agreed a number of the disputed rejections and were continuing to discuss these. In addition, ConservAqua had not taken advantage of the challenge process provided in Process H7 Step 3, although issues with rejection statuses were not always being communicated accurately to ConservAqua and/or being received outside of Code SLA’s complicated this.

This decision has been based solely on the wording of the Codes set out above and does not extend to any other supplementary issues regarding Process H7 of the Operational Terms. This finding does not preclude either party from pursuing alternative routes for resolution of those issues that could not be addressed, if they feel this is appropriate.

The DC observed that the Dispute had highlighted the need for review of Process H7 and the associated Vacancy Incentive Scheme Guidance and resolved to consider further whether any recommendations for improvement should be escalated to the Code Change Committee.

The DC would expect all Disputing Parties to take any remedial action necessary, promptly, to ensure their continued compliance with the Codes and therefore their license obligations.