



Minutes of TDC Meeting 29

CONFIDENTIAL

16 October 2019 | 10:30 – 12:00 | Skype Teleconference

Status of the Minutes: Final

MEMBERS PRESENT

Name	Role
Elsa Wye	Chair
Wendy Monk	Committee member (Retailer)
Martin Mavin	Committee Member (Wholesaler)
Cleo Acraman	Committee Member (Retailer)
Jesse Wright	Alternate Committee Member (Wholesaler)
Dylan Freeman	Committee Member (Wholesaler)
Joseph Fortune	Committee Member (Retailer)
Julian Tranter	Committee Member (Wholesaler)
Patrick McCart	Committee Member (Retailer)
Tom Daborn	MOSL (Presenter)
Miles Robinson	MOSL (Observer)
Hannah Allardice	Meeting Secretary (MOSL)

APOLOGIES

Name	Role
Neil Pendle	Committee Member (Retailer)
Paul Stelfox	Committee Member (Wholesaler)



1. Welcome and Introductions

PURPOSE: FOR INFORMATION

- 1.1. The chair welcomed members to the Trading Disputes Committee (TDC) meeting.
- 1.2. With all members welcomed the chair proceeded with the meeting.

2. Outstanding actions and review of previous meeting minutes

PURPOSE: FOR DECISION

- 2.1. The chair asked whether members had any comments regarding last month's meeting minutes. Members had no additional comments, TDC 28 meeting minutes were therefore approved and the TDC moved onto discussing outstanding actions.
- 2.2. Action 28_01: MOSL investigated the responsibilities for the TDC regarding rectification plans and the follow up required from the committee for overseeing the completion of the plan. MOSL confirmed that under Schedule 9 of the Business Terms, the codes were ambiguous on the extent of follow up on the plan. The codes did confirm the following:
 - The TDC could decide on the rectification plan
 - All trading parties involved were obliged to follow the rectification plan

MOSL asked the committee if they believed the TDC should be actively participating in the completion of the rectification plan and whether they believed a code change was required or if these plans should only be reviewed on a case by case basis.
- 2.3. One of the members advised the committee that when a performance rectification plan gets implemented by the Market Performance Committee (MPC), MOSL will monitor the plan, request additional information when required and report back to the MPC on a 'by exception basis'. Other members suggested that an appropriate way forward would be on a case by case basis, depending on the nature of the dispute and its complexity. Other members stated that the TDC should see the plan through and be actively involved throughout the process. It was also noted by committee members that the process steps for the rectification plan process should be clarified for trading parties to ensure that the deadline for the plan is met. Members went on to suggest that MOSL would report to the TDC on a monthly basis to provide updates on the plans therefore the Committee would be aware on an ongoing basis of how rectification plans were progressing.
- 2.4. A member questioned what the process was for recovering costs, not only those incurred as a result of the dispute that would not be corrected through an unplanned settlement run (USR) or picked up in a later settlement run but also any consequential losses. Members confirmed that this was not part of the TDC's remit but agreed clarification was required on the process relating to these types of losses ss. MOSL took an action to review this process and relay findings at the following meeting.

A29_01
- 2.5. Action 28_02: MOSL informed the committee that open disputes (TD0033, TD0035, TD0040, TD0041, TD0042 and TD0043) between Castle Water Limited and Thames Water Utilities Limited had now surpassed the 20 Business Day extension requested by the initiator of the dispute with no further communication received. MOSL informed the committee that these disputes had been open from a range of 300 – 500 days. MOSL asked the committee, since the



initiator of the dispute had failed to engage with MOSL, if members felt that the disputes should be escalated to the TDC or if the disputes should be closed.

- 2.6. The chair asked the committee whether they believe the dispute should be closed or escalated. The committee ruled in favour of the disputes to be closed but during the vote, concerns were raised by some members. One member questioned that since the trading party raised the dispute, does the TDC have the authority to close it. Other members stated that if the initiator was notified of the no contact process and had failed to respond to MOSL within the indicated timelines, then this was enough for MOSL to close down the dispute.
- 2.7. The chair asked members if they felt an additional five business days should be given to the initiator to provide an update. MOSL noted that in the new guidance documentation, that was agreed by the TDC and has now been executed by MOSL to the market, it states that under the no contact section, MOSL may close and escalate the dispute the trading party's behalf. These terms were stated in the contacts sent to Castle Water Limited when requesting an update. MOSL asked the committee to consider the benefit of chasing for an additional time window. TDC members concluded that this was not appropriate in this instance and that the disputes should be closed.
- 2.8. A member asked if the disputes should be removed from the website once closed and if not, what wording should be used in cases where the dispute is closed under the new no contact policy. MOSL confirmed that it was code obligation to publish all disputes to the MOSL website but agreed that the exact wording would need to be clarified to correctly reflect the changed status of the disputes. It was recognised that the website should provide information on all disputes, open or closed to ensure transparency of information on the relevant SPIDs to Trading Parties. MOSL took an action to confirm what wording should be used when a dispute was closed due to no contact with the initiator and feed back to the committee by 30 October 2019.

A29_02

- 2.9. Action 28_03: MOSL had an action to submit an RFI regarding the MAC/Non-trading disputes process. MOSL stated that an RFI had not been sent but deferred while discussions had been held internally at MOSL regarding MAC/Non-trading disputes and the possibility of consolidating all disputes processes under one committee. **This issue to be discussed in further detail in the later agenda item on Disputes.**
- 2.10. With no additional comments from the TDC, the chair moved onto the next agenda item.

3. Update on new and open trading disputes

PURPOSE: FOR INFORMATION

- 3.1. MOSL confirmed that there had been no further updates on the outstanding trading disputes.
- 3.2. The chair asked if MOSL had any additional information, relating to trading disputes TD0033 and TD0035. MOSL confirmed that Castle Water Limited had previously agreed that these two disputes may be closed but had failed to provide clear information regarding the outcome. TD0035 was particularly interesting as the response received suggested that the dispute may have been escalated to arbitration. If this was the case, then Castle Water Limited and Thames Water Utilities Limited would not have followed the code obligated process steps. Action MOSL to clarify.

- 3.3. MOSL confirmed that no new trading disputes had been submitted since the last TDC meeting.
- 3.4. With no additional comments from the TDC, the chair moved onto the next agenda item.

4. Non-trading disputes

PURPOSE: FOR INFORMATION

- 4.1. Since the last TDC meeting, MOSL confirmed that internal discussions had been held with the MOSL Market Design Team in relation to expanding the TDC's remit on disputes and creating a unified disputes process. MOSL informed the TDC that from initial discussions, MOSL can see no clear barriers that would prevent the extension of the TDC's remit into all dispute types. MOSL confirmed that the internal discussion led to the idea of a concept being developed that would look to create one disputes process for all dispute types, overseen by one committee. MOSL informed the TDC that they would look to produce a strawman paper to be submitted to the TDC in time for the December TDC meeting. MOSL asked if the committee had any feedback, they would like included within this process.
- 4.2. A committee member asked whether this idea was based on the feedback from trading parties. MOSL explained that an RFI had not yet been issued, as the Market Design team had explained that an RFI would be sent as part of the change process. It was decided that an initial RFI would not be submitted at this moment in time to avoid any duplication of work. A member raised concerns that an RFI would be useful to indicate low interest for this change and MOSL may be carrying out work unnecessarily, but also commented that they could understand the reasoning for this and if MOSL were happy to go forward then they had no objections. All members were happy for MOSL to proceed with providing a paper together ready for the December TDC meeting.

A29_04

- 4.3. The chair asked if MOSL was asking for any particular feedback to help guide them with the paper. MOSL confirmed that any and all feedback was welcomed from committee members. It was agreed that members may submit their feedback to MOSL no later than the end of October.
- 4.4. The chair asked if MOSL were able to provide any figures in relation to non-trading disputes. MOSL confirmed, at present, there was eight active disputes under this category. Five of which had been open for over 300 days, with the three most recent disputes being raised over May, June and October. MOSL advised that a more in-depth analysis would be conducted within the paper concept of a unified disputes process.
- 4.4. With no additional comments from the TDC, the chair moved onto the next agenda item.

5. Any other Business (AOB)

PURPOSE: FOR INFORMATION

- 5.1. No additional items from MOSL.



- 5.2. No additional items raised from TDC members.
- 5.3. The chair reminded members that the next TDC was to take place on 20 November 2019.
- 5.4. With no additional comments, the chair closed the meeting.

Actions:

- A29_01** MOSL to confirm the process for recovering costs, including any consequential losses incurred by trading parties as a result of a trading dispute that would not be recovered through an unplanned settlement run.
- A29_02** MOSL to provide clarity to the TDC on the wording that will be published on the MOSL website when a dispute is closed due to no contact.
- A29_03** MOSL to clarify with Castle Water Ltd on the rectification of TD0035
- A29_04** MOSL to produce a paper and submit to the TDC providing details of a concept for a unified disputes process.

The next TDC meeting is scheduled for: **20 November 2019, 10:30 – 12:30, teleconference**