



## Minutes of TDC Meeting 38

15 July 2020 | 10:30 – 12:00 | Teleconference

Status of the Minutes: Final

### MEMBERS PRESENT

Name	Role
Elsa Wye	Chair
Wendy Monk	Committee member (Retailer)
Martin Mavin	Committee Member (Wholesaler)
Paul Stelfox	Committee Member (Wholesaler)
Dylan Freeman	Committee Member (Wholesaler)
Peter Strain	Committee Member (Retailer)
Tom Daborn	MOSL (Presenter)
Ivy Mandinyenya	MOSL (Presenter)
Miles Robinson	MOSL (Presenter)
Joe Smith	MOSL (Observer)

### APOLOGIES

Name	Role
Julian Tranter	Committee Member (Wholesaler)
Neil Pendle	Committee Member (Retailer)
Patrick McCart	Committee Member (Retailer)



## 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. MOSL began with a review of the previous meeting minutes and asked Members for comments. With no comments from Members, the minutes were approved.
- 2.2. Action 34\_02 – MOSL to confirm the data security and privacy credentials of the Kissflow system. MOSL shared the data policies with Members as part of the update provided for TDC meeting 37. MOSL participants confirmed that they now have a direct contact for the third party company that conducted a systems maturity report on Kissflow. IT Labs are looking into Kissflow in further detail as the initial report was at standard 'surface' level. No definitive timeframe was set for this report to be completed but it was agreed that this would be discussed offline with the Chair. The Chair asked whether this information could be shared with the GDPR Committee as they are also looking at using Kissflow. MOSL confirmed that the GDPR Committee would be informed of any information provided by IT Labs. The action was kept open while MOSL carries out additional actions. MOSL took two actions to organise a timeframe to receive this information from IT Labs and complete the action and also to share any information with the GDPR Committee.

**A38\_01**

**A38\_02**

- 2.3. Action 36\_01 – MOSL to outline how it will handle disputes in which MOSL are a disputing party. MOSL confirmed that it had recruited a new Governance Manager who would look to act impartially to MOSL in matters where a dispute had been raised against MOSL. Members confirmed that they were happy with this outcome and the action was closed.
- 2.4. Action 36\_02 – MOSL to produce process map for disputes procedure under CPW092 and add to TDC SharePoint. MOSL produced a process map and shared with Members as part of the update provided for TDC meeting 37. The action remains open, MOSL are to add in a reflection loop back to the Disputes Committee if the rectification plan is not followed. An additional step is also required for the Disputes Committee to inform the Trading Parties if a decision could not be reached.
- 2.5. Action 36\_03 – MOSL to outline urgency criteria used for Panel and suggest amendments for use in disputes procedure. MOSL provided this information as part of the update provided for TDC meeting 37 and the action was closed.
- 2.6. Action 36\_04 – Chair to discuss escalation approach with Ofwat in relation to any noncompliance with the Committee decision with regards to CPW092. The Chair confirmed that a call took place with Georgina Mills and Dan Mason at Ofwat, where Ofwat representatives confirmed that any noncompliance with the codes would be dealt with in the same manner that other noncompliance with the market codes would be dealt with rather than Ofwat providing an additional or separate escalation stage. Members confirmed that they were happy with this and the action was closed.



- 2.7. Action 36\_05 – MOSL to produce consultation questions with Chair and Martin Mavin. MOSL confirmed that consultation questions had been produced and reviewed and the action was closed.
- 2.8. Action 36\_06 – MOSL to upload process map to TDC Page. MOSL confirmed that this is currently awaiting to be uploaded by the MOSL Digital Team, but ensured Members that this action is partially completed as the process map is included within the guidance document for trading disputes on the website. The action was left open.
- 2.9 The Chair asked Members if they have any questions in relation to the TDC Action Log. No Members raised any questions.

### 3. Update on new and open trading disputes

#### PURPOSE: FOR INFORMATION

- 3.1. MOSL confirmed that there were currently no active trading disputes open or likely to escalate at this time.
- 3.2. With no additional comments from Members, the Chair moved onto the next agenda item.

### 4. CPW092 process map

#### PURPOSE: FOR DECISION

- 4.1. MOSL presented the process map for CPW092: Unified Disputes Process on screen and talked Members through the process from start to finish.
- 4.2. One Member advised they didn't realise that MOSL informed the market auditor as part of the process for disputes. MOSL confirmed that this had always been present in the process but was carried out informally via email.
- 4.3. One Member identified that there was a stage missing within the process diagram to highlight where the disputes committee doesn't reach a majority decision and MOSL will relay the outcome to Trading Parties. Another member commented that it would be useful to add a monitoring loop where TP's did not follow the rectification plan. MOSL confirmed these stages would be added into the process map and that this would not require any changes within the Market Codes.

A36\_02

### 5. Review of CPW092 consultation report

#### PURPOSE: FOR DECISION

- 5.1 MOSL began presenting a summary of the key themes taken from the consultation responses for CPW092 – Unified Disputes Process.



5.2 The first key point presented to Members was a response to the consultation that raised concerns around the Disputes Committee not having the relevant expertise to make determinations with regards to Disputes, specifically credit disputes. One Member commented that the process has the flexibility to allow for additional expertise to be brought in to assist any determination, whether this is from MOSL or an external party. MOSL confirmed that in the Market Arrangements Code under Schedule 9, Section 1.7 – The Committee has the power to bring in an external party they see fit. It was added that If Trading Parties feel this needs to be clarified then the current wording in code might be amended MOSL also commented that a number of discussions had taken place previously around this issue and with two members on the Disputes Committee that are also present on the Credit Committee, there is sufficient expertise on the Disputes Committee.. Multiple Members felt that this wording could be clarified further. The Chair commented that the process on how funds would be accessed from which budget was currently unclear. This was taken as an action by MOSL to clarify this process.

**A38\_03**

- 5.3. MOSL questioned which party would determine whether the Dispute Committee would have sufficient expertise to reach a determination or needed to call in additional expertise. A Member commented that they would be comfortable with this responsibility sitting with the Chair. Other Members agreed with this as an outcome.
- 5.4. The second point that was presented to Members was a response to the consultation report that raised a concern that there was no specified process for any disputes that are deemed to be urgent by a Disputing Party or parties. One Member commented that they felt there was a satisfactory process in place for urgent Disputes and they felt that it was not necessary for any amendment to be made.. Members agreed that it was appropriate that the Panel urgency process be used as a template. MOSL would take this into account when drafting the Draft Recommendation Report for the Change Proposal, highlighting that the proposed changes expand on the existing process around urgent disputes and no additional changes were suggested.
- 5.7. The third consultation response that was presented detailed views from the respondent, that the publication of Disputes by MOSL is premature. The Chair clarified that the intent of the publication of a dispute is to afford time to any other impacted parties to identify if they are impacted by the dispute in order for this to be taken into account by the Disputes Committee. A Member commented that they felt that the publication should be at the earliest point possible so that it would give parties longer to recognise whether they have been affected. The Chair opened to the rest of the members and Members agreed that an early notification could lead to a decrease in Disputes that escalate.
- 5.8. MOSL asked Members about the format of the publication and informed Members that, currently the Dispute details would be published on the Disputes page of the MOSL website and questioned whether this needs to change to also include an email push out as not all parties check the MOSL website regularly. Other Members commented around the appropriate level of information that should be published. Members agreed that a communication should be sent out by MOSL to the Market, detailing that the listings on the



Disputes page of the MOSL website has been updated, but not to include any more information than that on the communication.

- 5.9. The fourth consultation response that was presented detailed that the Disputes Committee Chair should always be an independent Chair and should be codified. The Chair confirmed that this was already codified in Schedule 9 of the MAC and Members agreed that no further action was required on this.
- 5.10. The fifth consultation response that was presented proposed that the composition of the Disputes Committee be changed to 5 Wholesalers and 5 Retailers. The Chair advised that the TDC committee is not evenly weighted compared to other Committees. All Members confirmed that they would be happy for the Terms of Reference to be amended to incorporate this change. One Member asked whether this change could be made separately to CPW092. The Chair asked Members whether they felt this change should be separate to and in advance of CPW092. Members agreed that this change could be made separately to CPW092. MOSL confirmed that they would look to make this change separately ahead of CPW092.
- 5.11. The sixth consultation response that was presented highlighted a concern from CC Water around the timescales that were laid out for Disputes and advised that this could result in a poor customer experience. One Member commented that this was a fair challenge and proposed that the challenge was accepted but that no action could be taken at this stage but would be monitored and reviewed following implementation to identify whether there is any negative impact on customers and if so, amend the process accordingly. Other Members agreed with this approach. MOSL also commented informing Members that the process has changed so that disputing parties are now required to keep MOSL informed of all steps, allowing MOSL to report and the Committee to determine whether the disputing parties are taking appropriate action to resolve the Dispute.
- 5.12. The final consultation response detailed that there was no apportioned time allocated to the determination stage. Members felt that this point was similar to the previous point and no further action was proposed.
- 5.13. The Chair asked Members whether there were any further comments in relation to the consultation responses. One Member questioned whether it was intended for additional guidance to be added to detail what should be carried out in the informal disputes process and whether they should escalate to different management levels internally. Other Members felt that this could be resolved by MOSL updating the current guidance document to suggest that disputing parties should look to take all necessary actions required to resolve Disputes, including escalation to different levels of management, where appropriate. This was taken as an action by MOSL.

**A38\_04**

- 5.14. With no additional comments from Members, the Chair moved on to the next agenda item.



## 6. Review of Terms of Reference urgency criteria

### PURPOSE: FOR DECISION

- 6.1 MOSL reiterated the discussion from previous meetings explaining that the current TDC Terms of Reference do not contain any criteria for urgent meetings. MOSL presented on screen the urgency criteria taken from the Panel's approach to urgency in the the MAC and asked Members whether they would like to adopt the same criteria or amend the criteria specifically for the TDC.
- 6.2. One Member advised that they would prefer to include the word 'consumer' as opposed to 'customer'.
- 6.2. Another Member advised that point three that related to code modifications specifically within the Panel Meetings. The same Member also advised that it would be good to include information about financially significant and/or material impact, to be specific. MOSL confirmed that this could be adopted within the current TDC Terms of Reference.

## 7. Any other business (AOB)

### PURPOSE: FOR INFORMATION

- 7.1. The Chair asked whether Members had any other business to raise.
- 7.2. MOSL advised Members that the nominations process had now begun to find a new Retailer member for the Committee.
- 7.3. With no additional items, the Chair closed the meeting.

### Actions:

**Action 36\_02: MOSL to produce map for Disputes procedure under CPW092 and add to TDC SharePoint**

**Action 38\_01: MOSL to follow up with IT Labs to determine time frame of security of KissFlow.**

**Action 38\_02: MOSL to liase with GDPR committee about the security of KissFlow as a workflow management platform.**

**Action 38\_03: Review drafting of Schedule 9 Section 1.7 to ensure clarity on the Committee's ability to invite experts to aid in determination**

**Action 38\_04: To update informal guidance document to detail that parties should look to escalate disputes internally prior to escalating to the Disputes Committee**