



Minutes of the Market Performance Committee

Meeting 18

26 September 2018 | 10:30 – 15:30
Held at Monument Street (MOSL),

Status of the Minutes: Final

MEMBERS PRESENT

Nigel Sisman	NS	Independent Chair	Katy Spackman	KS	Retailer Committee Member
Mike Brindle	MB	Retailer Committee Member	Jesse Wright	JW	Wholesaler Committee Member
Claire Yeates	CY	Retailer Committee Member	Trevor Nelson	TN	Retailer Committee Member
Martin Mavin	MM	Alternate Wholesaler Committee Member	Claire Hicks	CH	Alternate Wholesaler Committee Member
Mike Rathbone	MR	Alternate Wholesaler Committee Member			

OTHER ATTENDEES

Shaun Kent	SK	Ofwat	Katie Trehwella	KT	MPC Secretary
David Seymour	DS	Wholesaler Observer	Gladys Sagwete	GS	MOSL representative
Steve Arthur	SA	MOSL representative	Harry Osei-Tutu	HO	MOSL representative
Mike Robertson	MRO	MOSL representative			

APOLOGIES

Simon Bennett	SB	Wholesaler Committee Member	Natalie Round	JW	Wholesaler Committee Member
Don Maher	DM	Wholesaler Committee Member			



1. Welcome and Approval of Minutes

Purpose: For Decision

- 1.1. The Chair began by welcoming all present.
- 1.2. The Committee noted that the MPC 17 meeting note had been circulated including all feedback received in the Sharepoint version of that file. The Committee requested that the secretary should seek to deliver a final version of the meeting note for MPC approval using a similar procedure as applies with the Panel. This should involve the secretary taking a view on feedback, negotiating where appropriate with respondees, to deliver a proposed final meeting note. The Committee requested that MOSL follow this process starting with MPC meeting notes for meeting 17 and 18. Consequently the Committee agreed to postpone the approval of MPC 17 minutes until the next meeting

A18_01

- 1.3. The Chair noted that he had received a letter from the UK Retail Council which had been circulated to both Panel and MPC members. It was agreed this would be further discussed in the any other business (AOB) part of the meeting, specifically if members had any suggestions on how to respond to the letter. It was noted that some of the ideas in the letter might be relevant to other discussions in the meeting.
- 1.4. The Committee agreed to leave **A14_06** open
- 1.5. The Committee agreed to close **A16_06**
- 1.6. The Committee decided to leave **A16_07** open
- 1.7. The Committee arranged to leave open **A16_08** pending response from MOSL to provide requested information.
- 1.8. The Committee decided to **A16_09** to remain open and to be discussed at the end of the meeting.
- 1.9. The Committee agreed to close **A16_12**.
- 1.10. The Committee agreed to close **A17_01**
- 1.11. The Committee decided to leave **A17_02** open pending discussion further in the meeting.
- 1.12. The Committee agreed to leave **A17_03** open pending discussion
- 1.13. The Committee agreed to close **A17_04**.
- 1.14. The Committee agreed to leave **A17_05** open. However, a member provided an update on this action and the work currently going on.
- 1.15. The Committee agreed to leave **A17_06** open
- 1.16. The Committee agreed to close **A17_07** as the panel approved ToR in its recent meeting on the 25th of October.
- 1.17. The Committee agreed to leave **A17_08** open awaiting responses.
- 1.18. A member expressed concern that MPC had spent 40 minutes on the first item of the agenda and suggested that actions should be reviewed at the end of the meeting. It was agreed that in future MPC should aspire to spend less time on actions making sure that items for discussion are explored under relevant agenda items.



- 1.19. MOSL agreed to compile a spreadsheet action log of actions, to be published on the MPC Sharepoint page before the next meeting

A18_02

2. MPS, OPS and APIs and Performance Rectification

Purpose: For Information

- 2.1. MOSL presented the MPS, OPS AND APIs and Performance Rectification plans (“PRPs”), reporting exception insight and performance resolution. MOSL further stated they will be seeking initial rectification plans from third parties that are underperforming.
- 2.2. MOSL identified three insights into trading party performance notably; there was no meaningful improvement in the missing meter read performance, a descending trend in monthly meter reading and sharp increase in cyclic meter read submission underperformance which was driven by Castle Water’s data cleansing processes.
- 2.3. MOSL described the overall breakdown of switching and policies that were being implemented for estimation of transfer reads and the success of SES and Business Water where they improved performance on submissions consistent with forecast improvements achieved via use of the MVI (Medium Volume Interface).
- 2.4. MOSL noted the introduction of new features which will be used in reporting performance resolution such as the RAG (Red Amber Green) status and what each colour indicated; and the mean average and median on-time task performance and volume for each relevant standard. The RAG status column represents: Red indicates Trading Parties flagged in last month’s report which continue to under-perform based on the latest 3-month trend, Amber is for newly flagged under-performers, Green shows Trading Parties flagged in last month’s report whose performance has now improved to meet policy criteria.
- 2.5. A member asked for clarity on the difference between the data improvement and performance resolution plans. The Chair noted that performance resolution plans are heavily prescribed in the code and that exposing the individual parties is aimed at improving trading party performance. The Code appears to be written on the presumption that there would only be limited cases of underperformance. Furthermore, it is hoped that the work on data improvement plans may provide insights into how broader rectification plans, involving multiple TPs might be constructed.
- 2.6. MOSL further commented that Portfolio Managers have been working closely with the Market Performance team in recent months with specific reference to providing insight on some of the internal issues that ‘underperforming’ Trading Parties have experienced and or are experiencing – in line with the first step of MOSL policy on the performance resolution process. MOSL confirmed that, over the next week, they will use the quantitative and qualitative information available to make decisions on which Trading Parties should be requested to complete an initial performance rectification plan. Any such requests will be sent prior to the next MPC meeting but, due to the code timeframe of 20 business days to return a rectification plan, there is likely to limited update on these at MPC 19. The Committee echoed MOSL’s decision to start the performance resolution process, where required.
- 2.7. A member pointed out that there may be teething problems from Trading Parties who, for example, have recently changed their metering reading supplier and whether an extended time frame might considered in light of this. MOSL responded that, whilst it recognises the challenges faced by some retailers from meter reading



providers, a retailer's decision to change provider is commercial and therefore not an area MOSL should be making assessments on.

- 2.8. A Committee member asked whether separate plans were going to be sent out for each standard to which a MOSL representative said that only one plan will be requested from each relevant trading party. Therefore, each plan may need to cover more than one standard where improvements are necessary.
- 2.9. A member queried the mechanics of the underperformance definition and that this could result in Trading Parties being flagged where 'common sense' would imply they were not underperforming. MOSL responded that the structure of the underperformance triggers had been designed on the current market environment and to be as robust as possible, however, the underperformance flags were always intended to be an indicator to assess a Trading Parties performance in context and such anomalies would be filtered out via this process. However, wherever RAG status is red and PRPs are not being enacted a rationale to explain why no PRP is being pursued should be provided to MPC.
- 2.10. MOSL also raised concerns about retailer's underperformance and whether it was better to have on time estimates or submitting late accurate readings to which other members agreed that it was better to submit estimates than having nothing at all.
- 2.11. MOSL provided a brief update on data improvement plans and noted responses from Trading Parties are expected by the 13 October. MOSL further confirmed that initial insights from these plans would be an agenda item for MPC 19.

3. CPM008

Purpose: For Decision

- 3.1. The Chair opened by summarising three key areas of the consultation; whether MPS Charges should be redistributed, whether Wholesaler and Retailer MPS Charges should be redistributed separately, and whether a performance-based metric should be applied to determine the redistribution values. The Chair noted a substantial majority supported that the pot should be redistributed (for both this year and next year). There was also overwhelming support that Wholesaler and Retailer pots should be separate and that redistribution of each pot should be based upon performance defined as percentage of tasks which were on-time. The Chair also noted that the recommendation could include transition arrangements, such as full redistribution with a steer in the recommendation to eventually move to no, or partial, redistribution although MPC members rejected the steer and noted a previous formal vote on this.
- 3.2. The Chair further noted that there was still the potential for confusion in the wider industry about how some of the performance-based approaches are defined and their implications, strengths and weaknesses. The MPC noted several responses highlighting structural problems in the proposed new approaches. This was most notable in the context of Approach 4 and the Committee agreed that the two key issues arising from the consultation were the treatment of a Trading with 100% performance and no charges, and that there might be a perverse incentive associated with having high performance changes should a trading party perceive no risk of its charges falling into a lower performance charge band.
- 3.3. The Committee reviewed the results of the binary consultation questions, with responses from twenty-five Trading Parties, and noted overwhelming support for a performance-based metric, and also for the most appropriate metric being percentage of on-time tasks. The Committee also noted strong support for full redistribution of MPS Charges, with the separation of Retailer and Wholesaler charges. A member also remarked however that non-redistribution had significant minority support amongst Wholesalers.



- 3.4. A member noted that there had been delays in Trading Parties receiving accurate reporting during 2017/18, meaning Trading Parties had not had twelve months of reliable reporting data prior to the commencement of MPS charging. The member also raised a potential for ex-post regulation this financial year to create a risk of legal challenge, should the redistribution mechanism be changed significantly for 2018/19.
- 3.5. The Committee discussed potential refinements to address the problem of 100% success performers, although noted that the likelihood of this happening was very small and arguably limited to retailers entering the market towards the end of the financial year. A member suggested that an additional band could be added for 100%, with that band receiving a proportion of the funds attributed to lower bands. The Committee noted however that no Trading Party has received 100% performance this year¹ and that the probability of this issue surfacing in practice was small enough to not warrant priority of resolution at this time.
- 3.6. The Committee discussed the problem of lower performers in a band receiving a greater relative benefit and noted there was potential, although were not certain of how likely this would be in practice, for Trading Parties to intentionally aim for the lower bound of a band towards the end of the financial year. The Committee agreed that this effect would be significantly reduced by increasing the number of bands and to refine approach 4, with a suggestion of ten bands.
- 3.7. A member suggested that, for financial year 2018/19, a transition proposal could be adopted with 50% of the charges being redistributed according to modified approach 4 where the top bands would receive 1x their MPS charges down to 0x for the lowest band. The remaining 50% would then be redistributed via the CPM008 (share of MO charges) proposal. This would help address the anomaly about 100% performers not benefitting from the scheme and would also help mitigate the benefit of having larger MPS charges within a particular charging range.
- 3.8. Several Committee members agreed that this transition proposal would balance the performance-based metric required by Ofwat with the retrospective regulation argument put forward. However, other Committee members noted the potential for this mechanism to have quick direction of travel to partial redistribution by retaining the 50% share redistributed according to CPM008.
- 3.9. A Committee member questioned the effectiveness of performance-based redistribution this financial year, given approval would come too late to incentivise performance. However, a second member noted that whilst it could not incentivise performance, it would still provide a 'fairer' redistribution. Others noted that the approach might strongly incentivise good performance very late in the year if such performances could change the relative position of Trading Parties in the charging stack.
- 3.10. Ofwat noted that whilst there was an expectation for redistribution this financial year, a steer in the proposal towards non-redistribution in the future may add weight to any proposal, given the dilution effects of the present mechanism.
- 3.11. Several members suggested that retaining CPM008 for financial year 2018/19, and proposing a refined approach 4 for 2019/20 onwards may be the fairest solution and address some concerns raised in the consultation. However, another member noted that the problems with arguing a proposal that approach 4 was a good solution for future years but not suggesting implementation for this year.
- 3.12. Several members commented that approach 4, even with increased bands, still rewarded average performers with all their charges back – an area which had been specifically raised by Ofwat. A member suggested that changing approach 4 from a linear band redistribution progression to a more exponential progression may be a further refinement to consider. The Chair noted the timescales the Committee were on and suggested that

¹ Correction to comment – one wholesaler has had 100% and zero charges since April 2018



expediency might suggest that the approach remain linear for the time being. This might avoid protracted argument about refinement of the incentive.

- 3.13. Ofwat commented on an argument for full redistribution put forward by the Committee; that as all charges are customer money the retention of these funds centrally may prevent them being spent on areas that will most benefit the customer. Whilst Ofwat noted this, they also suggested that improvement of service, with the incentive mechanism being a driver of this, is a primary mechanism for ensuring the retail market functions efficiently and effectively and so delivers improved outcomes for end customers. Ofwat further invited MPC to consider that clear and reasoned recommendations for further proposals, or amendments to the mechanism, might benefit from referral to all points on the future proposal with respect to full and no redistribution. MOSL noted that the industry had not been consulted on worked-up business cases for the use of retained funds and that this would be imperative in a scenario of no redistribution. MOSL also commented that there might be tax implications that might need to be recognised or addressed within a no-redistribution outcome.
- 3.14. The Committee discussed how the drafting of a proposal with a fixed-time element should be developed. A member suggested that the code change be limited to the financial year 2018/19 proposal with a clear steer on the expected future redistribution, and reference to the principles in Ofwat's referral, also given in the recommendation document. Another member noted that not implementing an enduring code change would mean the Committee would have to revisit redistribution early next year and potentially result in another consultation process. The Committee agreed that an enduring code change should be in this proposal but that this didn't necessarily prevent a review of the enduring mechanism, and a clear steer on where this review was likely to go, if needed.
- 3.15. A member asked whether Committee members would have a different view on redistribution options if Retailer and Wholesaler invoiced MPS charges were similar. The Committee were minded to agree that this would not have changed their views on the principles of redistribution.
- 3.16. The Committee discussed whether approach 4 offered too great a redistribution for 'average' performers. A member noted that Ofwat had specifically referenced dilution of incentives and not rewarding underperforming Trading Parties in their referral. Some Committee members agreed this point would need to be addressed in the recommendation document. MOSL also noted the potential problems arising when proposing a change based on compromise.
- 3.17. The Committee **voted** to propose a transitional arrangement for financial year 2018/19, with 50% of each wholesaler and retailer pot be redistributed according to approach 4, with an increased number of bands from the consultation proposal, and maximum cap of 1x charges. The remaining 50% will be distributed according to CPM008. One member did not support this proposal. A majority of the Committee supporting the proposal did so on the basis that a larger change in the redistribution mechanism this financial year would be unacceptable given the retrospective regulation concern.
- 3.18. The Committee **voted** to propose approach 4, with an increased number of bands to the consultation proposal, and separation of Wholesaler and Retailer charging pots, for financial year 2019/20 onwards. In addition, this mechanism would have a cap of 2x capped MPS charges for the top band, down to 0x capped MPS charges for the lowest band. A member noted that the number and ratio of return of the bands could form part of the next MPS review but, should there be a reasonable likelihood of amendment known prior to 2019/20, this should have a clear steer in the this proposal. Another member concurred that business plans are built on forecasting unknowns and so a clear representation that the bands may change is able to be factored in by Trading Parties.



- 3.19. The Committee agreed to refine approach 4, in accordance with the two preceding paragraphs, and to review and sign-off the relevant documentation prior to Panel submission.

A18_03

4. OPS Review and Charging

Purpose: For Decision

- 4.1. The Chair of the OPS Working Group (“OPSWG”) summarised the draft proposal documents provided to the MPC and asked for agreement of the timeline for the next steps, noting the mandate to have charging introduced by April 2019 and the potential impact on systems and processes this change may have for Wholesalers.
- 4.2. The Chair of the OPSWG further noted that some changes had been agreed following the draft proposal being submitted to the Committee. This was most notably on the charging and reporting of the two proposed new trade effluent standards. It was confirmed that there would be a recommendation to charge for G2, with charging for G4 being reviewed in the first half of 2019/20. It was further confirmed that whilst Trade Effluent standards would not be included in the aggregated OPS performance figure, they would be reported on and included as a separate chart for Peer Comparison, solely due to the large activity levels of G4 relative to all other OPS combined.
- 4.3. MOSL stated that the proposal was currently penciled for the November Panel, where it would be presented as a final proposal with consultation responses. The Chair raised the question of who the proposer should be, noting that were it the OPSWG this may enable a quicker turnaround period due to a less formal MPC sign-off being required.
- 4.4. The Committee noted that non-Wholesale members of the MPC were less likely to be able to provide scrutiny of detailed operational aspects of the proposal and that final sign-off on this may be best suited to the OPSWG. However it was considered essential that Retailers are involved in the OPSWG refinement process ahead of MPC sign-off.
- 4.5. MOSL raised concerns regarding aspects of the assurance document in the proposal, as well as the timing of invoicing. The Chair of the OPSWG agreed to work with MOSL to arrive at a solution to this.

A18_04

- 4.6. A member queried the final position of the working group regarding an OPS Charges cap, with several Committee members recommending that the charging framework sign-off remain with the MPC. A majority of the Committee were not minded to support a cap on OPS charges, although the Committee agreed that a question on whether OPS charges should have a cap, and what this cap should be, ought to be included in the consultation questions
- 4.7. The Committee discussed whether the new methodology should be included in the code and, if so, the most appropriate way to do this. The Committee supported inclusion in the code, but agreed that this should be a question in the consultation.
- 4.8. The following timelines were agreed for the next steps

4.8.1. Committee members to provide feedback on draft proposal by 2 October

A18_05

4.8.2. OPSWG Chair to co-ordinate the inclusion of feedback and submit revised documents back to Committee members by 15 October



A18_06

4.8.3. Committee to hold a telco on 17 October to agree documents for consultation

A18_07

4.8.4. Consultation to begin on 18 October and conclude on 1 November, with an update on consultation responses at MPC 19.

4.9. The Chair further noted that, due to the timeline and practical logistical constraints associated with MPC governance, there may be a need to alert the Panel that this proposal is likely to be a late paper.

5. Second MPS Review

Purpose: For Discussion

5.1. The Committee agreed to move this agenda item to MPC 19.

6. Market Entry Assurance

Purpose: For Information

6.1. The Committee agreed to postpone this agenda item.

7. Any Other Business (AOB)

Purpose: For Decision

7.1. The Chair agreed to contact Committee members outside of the meeting with regards to a response to the UK Water Retail Council's letter on the OPS Review.

A18_08

7.2. There was no further business and the Chair closed the meeting.

8. New Actions

A18_01 MOSL to distribute revised MPC 17 minutes prior to MPC 19 paper day

A18_02 MOSL to publish action log on MPC Sharepoint page prior to MPC 19

A18_03 Committee to agree CPM008 referral paper for sign-off to Panel

A18_04 MOSL and OPSWG Chair to agree recommendation on OPS invoicing and assurance proposal

A18_05 Committee to provide feedback on draft OPS Proposal by 2 October

A18_06 OPSWG Chair to submit revised OPS documents back to Committee members by 15 October

A18_07 Committee to hold a telco on 17 October to agree documents for consultation

A18_08 Chair to contact Committee with regards to a response to the UKWRC letter on the OPS Review.



The next MPC meeting is scheduled for: 31 **October 2018**

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The nearest tube stations are **Monument, Bank and London Bridge**