

# Minutes of the Market Performance Committee Meeting 60

20 April 2022 | 09:30 – 15:00

Held via Videoconference (Microsoft Teams)

**Status of Minutes: APPROVED**

## MEMBERS PRESENT

Pamela Taylor	PT	Chair*	Adam Boyns	AB	Customer Representative Committee Member
Wendy Monk	WM	Retailer Committee Member	Michael Rathbone	MR	Wholesaler Committee Member
Trevor Nelson	TN	Retailer Committee Member	Gerard Lyden	GL	Wholesaler Committee Member
Neil Pendle	NP	Alternate Retailer Committee Member	Adam Richardson	AR	MOSL Representative*
Georgina Mills	GM	Ofwat Representative*			

\* Non-Voting Members of the Committee

## OTHER ATTENDEES

Markus Lloyd	ML	MOSL Presenter	Alexander Cowie	AC	Secretariat
Alexandra Piper	AP	MOSL Presenter	Sam Webb	SW	MOSL Presenter
Andrew Johnson	AJ	MOSL Presenter	Janet Judge	JJ	MOSL Observer
Reindorf-Elijah Akakpo	RA	MOSL Observer	Matt Labrum	MLa	MOSL Observer
Sarah McMath	SM	MOSL Observer			

## APOLOGIES

Claire Yeates	CY	Retailer Committee Member	Jesse Wright	JW	Wholesaler Committee Member
Darren Hayes	DH	Ofwat Representative*			

## OPEN SESSION

### 1. Welcome and Introductions

- 1.1. The Chair welcomed everyone to the Market Performance Committee (“Committee”) meeting and noted that apologies for absence had been received from CY, JW and DH and that NP was standing in as CY’s alternate.
- 1.2. The Chair reminded Committee members of the requirement to act impartially and not in the interest or as a representative of any organisation or individual. If Committee members believed they had an actual or perceived conflict they should declare this at the start of the meeting or before an agenda item.

1.3. MR declared a potential conflict of interest in relation to the R-Mex deep dive discussion and it was agreed that he would recuse himself if this potential conflict materialised. No other Committee members declared any conflicts in relation to the meeting agenda items.

1.4. It was confirmed that the meeting was quorate.

## 2. Housekeeping

2.1. The minutes of MPC 59 in March meeting were approved as an accurate record.

2.2. Following an update from AC, the Committee agreed that the following actions could be closed: A56\_08; A59\_03; and A59\_06.

2.3. It was noted that the following action would remain open: A55\_01; A56\_01; A58\_04; A58\_06; A59\_02; and A59\_04.

## 3. Overview of proposed MPC Focus for FY22/23

3.1. The Committee noted a brief verbal update from AR on the proposed Committee priorities for the coming year. The proposed priority areas were: 1) to operationalise the holistic reporting framework through an amended performance monitoring and escalation process and to look at whether market audit or other tools could be used to supplement performance monitoring and improvement; and 2) to ensure that the performance areas being monitored align with the Strategic Panel's priority outcomes, including whether new APIs were required.

3.2. The Committee discussed the proposed areas of focus, noting the following key points:

- There was broad support for the proposed priorities.
- Priority one might prove restrictive if it was exclusively tied to the holistic performance framework and could benefit from the addition of wording that expanded the scope to encompass any other measures the Committee felt necessary to drive performance in the market.
- Moving the needle in terms of market performance within the next year might be challenging, but it was right for the Committee to work towards this target.
- It was right for the Committee to look at how it can influence improvements in the performance of the market and how it can improve customer outcomes. One area identified was producing and effectively communicating data that is reflective of what is going on in the market. Although the challenge of effectively communicating complex data was identified, the work on holistic reporting was identified as a positive opportunity. The other area identified was more effective and efficient use of the Committee's powers of escalation. It was recognised that escalation had been used infrequently to date and that the Committee could be bolder in applying its powers of escalation. The Committee would then have the opportunity to review the effectiveness of escalation through its impact on trading parties' holistic performance and, if it was not an effective tool for performance improvement, feed back to the Strategic Panel who could review what could be done to address the issue.
- It would be helpful to add a reference to Market Performance Framework ("MPF") Reform within priority two to reflect the Committee's role in feeding in as a stakeholder to the work being undertaken by various new market governance bodies established by MOSL and the Strategic Panel to undertake this work.

- The Committee’s work would need to be adjusted to make sure it aligns with the delivery of the priority market outcomes established by the Strategic Panel, but priority two allowed the Committee room to adjust its work in line with those priority outcomes.
- 3.3. The Chair summarised the discussion and noted the Committee’s desire to make reference to the Committee’s role as a key stakeholder in the MPF Reform work within priority two and to add the following wording to priority one “and any other measures (and tools) that MPC feels are necessary to drive performance in the market”.
- 3.4. Following discussion, the Committee:
- **AGREED** to approve the proposed priorities with the minor amendments outlined in paragraph 3.3.

## 4. Using Holistic Reporting to drive escalation decisions

- 4.1. The Committee received a brief overview of a proposed new performance rectification and escalation process from SW. The proposed new process was designed to enable MOSL and the MPC to address poor performance at a much earlier stage and in a more flexible way that allowed better understanding of the root cause performance issues and how they would be addressed by trading parties.
- 4.2. The Committee reflected on the proposed new escalation process and raised the following points:
- The proposals were very well received by the Committee, who felt that it represented a step in the right direction for establishing a less bureaucratic and more responsive process. While the Committee felt that further work was required to refine the new processes and ensure that escalation remained something that would act as a powerful incentive for trading parties, there was strong support for establishing the new processes as quickly as possible and communicating them to the market so that the Committee could begin to take action as soon as possible.
  - It would be beneficial to develop an ‘at a glance’ view for the Committee of which trading parties are in the process of being reviewed or escalated and where they are in the escalation process. Such a tool would benefit the Committee by providing additional context for decision making. It was noted that the Disputes Committee had recently developed something similar which could be used as a model.
  - The new process should have different escalation triggers for retailers and wholesalers that reflected the different number of measures in each holistic performance table.
  - The performance triggers set should undergo further review to ensure that the number of trading parties escalated was manageable. It was noted that the triggers could evolve over time and that initially the Committee’s focus should be on addressing the worst performance.
  - There was a general preference to proceed with escalation based on relative performance triggers in the near term. It was recognised that there were some issues with this approach as due to the nature of quartiles there would always be a defined grouping of poor performers. The preference for relative over absolute at this point was based on relative performance being what had been communicated to trading

parties to date and concerns about the robustness of the absolute performance thresholds as well as the time that would be required to further develop them for wider use. However, all Committee members were in favour undertaking further work to ensure that the absolute performance thresholds were robust and moving to escalation based on absolute performance at that point.

- It was suggested that a subset of Committee members could work with MOSL to develop the absolute performance thresholds in order to facilitate a move to escalation based on absolute performance. It was also recognised that absolute performance thresholds might emerge as part of the MPF Reform work and that the Committee should keep developments in this area under review.

#### **ACTION A60\_01**

- While performance rectification plans (“PRPs”) would not have formal milestones under the proposed new process, trading parties would be required to provide a monthly update to the Committee and each of these updates would be an opportunity for the Committee to challenge the trading party and ask for more. It was also noted that this approach would better enable the Committee to understand the root cause of performance issues.
- It would be useful for the Committee to continue to use the absolute performance tables to identify thematic market-wide issues and look at what it can do to communicate these and establish or lend support to initiatives underway or planned to address these issues (e.g. a centralised data cleanse).
- MOSL would need to consider whether the proposed new processes required any Code changes.

#### **ACTION A60\_02**

- It would be important to ensure that the new process was effectively communicated to trading parties.

4.3. Following discussion, it was agreed that an informal working group consisting of GM, WM and PT would be established to rework the escalation process proposals with SW and that a revised set of proposals reflecting feedback from the Committee would be presented for decision at MPC61 in May.

4.4. The Committee thanked SW with her work on the proposals and noted that they were happy with the proposed way forward.

## 5. Using holistic performance to drive other decisions

5.1. SW provided a verbal update on the tools available to the Committee to address poor performance under the current MPF and asked for the Committee’s views on how the other tools should be used, noting that to date tools other than Interim Performance Rectification Plans (“IPRPs”) and PRPs had not been used.

5.2. The Committee reflected on the update from SW and noted the following points:

- The Committee was strongly in favour of applying other tools as appropriate and consideration of what would be the appropriate tool to apply should become a standard part of the Committee’s performance monitoring and escalation conversations.

- Under the new approach to performance escalation and rectification set out under the previous agenda item, it would be possible for the Committee to go from a ‘letter of concern’ to a PRP directly, without the need for an IPRP, or to apply other tools such as requesting a paired improvement plan or recommending to the trading party and MOSL that they undertake market reassurance with immediate effect. It was agreed that consideration of these alternative mechanisms should be included in the new performance escalation process guidance.

**ACTION A60\_03**

- It would be useful for MOSL to provide clarity on the Committee’s role in relation to each of the tools described (e.g. Committee decision, Committee recommendation to a trading party directly or Committee recommendation to MOSL to take a decision).

**ACTION A60\_04**

- It would be useful for MOSL to provide the Committee with further, explicit information on what the constraints are on its actions in relation to reputational incentives, and in particular what can be made public, in order to better understand whether there are further soft levers the Committee can pull to improve performance.

**ACTION A60\_05**

- The potential to use the Annual Market Performance Report (“AMPR”) as a reputational tool where the trading party performance was discussed was noted.
- Consideration should be given to whether there is a lighter touch educational tool that the Committee could apply where poor understanding of process requirements is identified on an individual trading party or market-wide basis.

5.3. The Chair and the Committee thanked SW for her work and agreed that the next steps would be for further information on the additional tools to be included in the next iteration of the new performance escalation process paper.

## 6. Market Audit briefing

**AJ and RA joined the meeting**

6.1. The Committee noted a verbal update from SW on existing market audit focus and the background to how these areas were identified and prioritised.

6.2. It was noted that:

- the outcomes of market audits would be reported to the Committee and that the Committee could use them as a trigger to apply the tools at its disposal; and
- the Committee would be able to take the learnings from holistic performance reporting and use them to influence the scope of what was included within future market audits.

6.3. The Committee requested that MOSL include some recommendations on actions or next steps as part of its reporting on the outcomes of market audits, this should include clarity on where decision-making authority lies for each option and the role of the Committee. It was also requested that paper MPC61\_03 (‘Market Audit Briefing’) be reattached as an appendix.

**ACTION A60\_06**

- 6.4. The Committee noted a verbal update from AJ on trading party GDPR compliance and progress on the watching briefs established by the GDPR committee and previously reviewed by the Market Audit Sub Group. AJ further noted that, although MOSL undertakes education and training initiatives, the obligation for compliance sits with trading parties and that this is not an area where it was likely that 100% compliance would be achieved and that it was important to ensure that any further action was proportional to risk.
- 6.5. It was further noted that the Committee's role in relation to MOSL's work on trading party GDPR compliance was to oversee MOSL's work in this area by receiving updates and to provide guidance on next steps.
- 6.6. The completion of the trading party compliance self-certification exercise would be a natural point to next review the status of trading party GDPR compliance and that it would be useful for MOSL to include some suggestions on next steps / actions when this is brought back to the Committee.

**ACTION A60\_07**

**AJ and RA left the meeting**

## 7. Tabled Updates

### Ofwat Update

- 7.1. The Committee noted the tabled Ofwat update provided by DH.

### Strategic Panel Update

- 7.2. The Committee noted a brief verbal update on the Strategic Panel provided by AR, including the progress made on establishing the MPF Reform Steering Group and Advisory Group and a high-level overview of the Strategic Panel's engagement plan.
- 7.3. It was observed that the MPF Reform group needed to be mindful of getting sufficient levels of input from trading parties in the interim period while the new governance bodies created by MOSL and the Strategic Panel were being established.

### Code Change Committee Update

- 7.4. The Committee noted a brief verbal update on the first meeting of the Code Change Committee provided by AR.

### AMPR

- 7.5. The Committee noted the tabled update on the AMPR and a clarification from ML on the interaction between the Committee and the development of the AMPR. Development of the AMPR would be undertaken in conjunction with MR and TN representing the Committee and that it would not come back to the Committee for comment and approval.

### CCW Update

- 7.6. The Committee noted the tabled update from CCW provided in advance of the meeting by AB.
- 7.7. The Committee welcomed the update provided by CCW and noted the link between the customer complaints data provided in the CCW update and the holistic performance reports. The Committee requested an update on progress getting customer complaints data into the holistic reports be provided at MPC61 in May.

**ACTION A60\_08**

## CLOSED SESSION

### 8. IPRP and PRP Update

- 8.1. The Committee noted the IPRP update circulated in advance of the meeting and a verbal update from AP.
- 8.2. The Committee noted the update from Northumbrian on their performance against the milestones set out in their Performance Rectification Plan (“PRP”), and it was observed that their performance was extremely good.
- 8.3. The Committee reflected on the content of the report provided by Northumbrian and agreed that Northumbrian should not be required to attend MPC61 to provide a verbal update on their progress and that, assuming their high levels of performance continued, they would only be asked to come in at the end of their PRP to reflect on lessons learned.

### 9. Holistic Performance Pack – Wholesalers and Retailers

- 9.1. The Committee noted the Holistic Performance Packs which had been circulated in advance of the meeting.
- 9.2. The Committee reflected on the content of the holistic performance packs, noting that when considering plans for external communication at MPC61 they should be mindful that the target audience would not be customers and would more likely be other interested parties with (an assumed) greater degree of technical knowledge and interest.

### 10. R-Mex deep dive

- 10.1. The Committee noted the R-Mex paper circulated by SW in advance of the meeting that looked at the reasons behind the low scores attributed to the two worst performing trading parties and established that there was no indication of scoring anomalies attributable to incumbent retailers.
- 10.2. The Committee welcomed the update and noted the following key points:
  - The response of one of the worst performing trading parties to the feedback provided was encouraging and the Committee had confidence that they were working to identify and address the root cause of the issues. The response of the other worst performing trading party indicated that it might require further review by the Committee.
  - More could be done to bring home the fact that there is a real customer at the end of the issues identified and that the low scores provided by retailers are a proxy for this.
  - While it was acknowledged that completing the R-Mex survey generated a significant workload for retailers, the Committee noted the number of retailers that had failed to respond and encouraged MOSL to look at any actions that could be taken to encourage a higher response rate. It was noted that the most powerful incentive would be for MOSL and the Committee to demonstrate that they are taking action based on the feedback provided and that it might be helpful to pull this out in market communications on the new escalation process.

**ACTION A60\_09**

## 11. Impact of Strategic Panel Priorities

- 11.1. The Committee noted a high-level overview from the Chair and AR on the development of the Strategic Panel's priority market outcome and their likely impact on the work of the Committee.
- 11.2. As the Strategic Panel's priority market outcomes were under review and not due to be finalised and published until May/June it was agreed that these would be brought back for further review and discussion at a future meeting.

## 12. AOB

- 12.1. The Committee noted an overview of the focus of the next Committee meeting provided by AC.
- 12.2. It was observed that, going forward, significant time should be allowed on the Committee's agenda for discussion of escalation actions based on the holistic performance reports.

## 13. MPC54 Reflections

- 13.1. The Committee reflected on the meeting.
- 13.2. There being no further business, the Chair closed the meeting.