

Minutes of the Market Performance Committee Meeting 73

18 May 2023 | 09:30 – 13:00

Held via Videoconference (Microsoft Teams)

Status of Minutes: FINAL

MEMBERS PRESENT

Pamela Taylor	PT	Chair*	Gerard Lyden	GL	Wholesaler Committee Member
Trevor Nelson	TN	Retailer Committee Member	Michael Rathbone	MR	Wholesaler Committee Member
Wendy Monk	WM	Retailer Committee Member	Jesse Wright	JW	Wholesaler Committee Member
Neill Pendle	NP	Retailer Committee Member	Adam Boyns	AB	Customer Representative Committee Member
Fallon Wilkinson	FW	Retailer Committee Member	Adam Richardson	AR	MOSL Representative*
Shaun Kent	SK	Ofwat Representative*			

* Non-Voting Members of the Committee

OTHER ATTENDEES

Sam Webb	SW	MOSL Presenter	Alexander Cowie	AC	MOSL Secretariat
Axelle Saada	AS	MOSL Presenter	Harriet George	HG	MOSL Secretariat
Markus Lloyd	ML	MOSL Presenter	Sarah McMath	SMc	MOSL Observer
Angela Day – item 4 only	ADA	MOSL Presenter	David Gandee – item 4 only	DG	PwC Presenter
Reindorf-Elijah Akakpo – item 4 only	REA	MOSL Observer	Lenka Marvan – item 4 only	LM	PwC Observer
Nichola Vincendeau	NV	MOSL Observer			

APOLOGIES

Sean Mills	SM	Ofwat Representative*			
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CLOSED 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 SM. The Chair welcomed NV and AS, who would be replacing AC and Jacquelyn Gibson as Committee Secretary and Market Assurance Manager respectively.
- 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. It was confirmed that the meeting was quorate.

2. Performance Reviews

Trading Party 1

- 2.1. Following on from discussion at the May Committee meeting, the Committee reviewed Trading Party 1's performance against previously stated performance targets, raising the following key points:
 - The Committee was satisfied that that Trading Party 1 had made good progress in recovering its performance on remaining triggered metric that was of concern and also noted the improvements made on other holistic metrics.
 - The Committee noted that Trading Party 1 had provided a clear explanation on the impacts of the performance issues and how these impacts were being addressed.
- 2.2. Following discussion, the Committee:
 - **AGREED** (unanimous) move Trading Party 1 to regular monitoring.
- 2.3. While the Committee agreed to move Trading Party 1 to regular monitoring, it requested that MOSL provide a verbal update to confirm when Trading Party 1 has met its performance target for the remaining triggered metric of concern.

A73_01

3. Annual Market Performance Report

- 3.1. The Committee noted an update from ML on the progress of the Annual Market Performance Report ("AMPR"), which was currently being drafted ahead of an anticipated publication in late June.
- 3.2. The Committee briefly discussed the update provided, noting that the report was on track and that TN and JW would continue to provide support and input on the drafting on behalf of the Committee. It was further noted that any rationale provided on why certain holistic measures were or were not improving might need to come back to the Committee for comment, particularly where the rationale provided is stated as fact rather than nuanced opinion and has not previously been presented in other documents, and that the steer on whether issues needed to come back to the MPC for comment would be provided by TN and JW.
- 3.3. The Chair thanked ML for his presentation.

4. MO Compliance Update

AD, DG, LM and REA joined the meeting

- 4.1. The Committee noted the updates from AD and PwC circulated in advance of the meeting which provided an overview on MO compliance in the previous quarter as well as brief verbal updates from AD and DG.

- 4.2. The Committee briefly discussed the update provided, noting that:
- With regard to MO invoicing, it was recommended that MOSL consider whether the £10 de minimis amount was appropriate given the resources required to conduct the calculations.
 - The Committee supported the Code escrow Code change and encouraged a speedy resolution of this issue.
 - The Committee noted that PwC reported the findings of its audit to the MOSL Audit and Risk Committee and that progress against specific identified actions were reported to the MOSL Audit and Risk Committee.
- 4.3. The Committee noted a request from AD to provide any feedback on the MOSL Internal Audit Plan 2023-24 offline, including on any additional areas Committee members felt should be prioritised.

A73_02

- 4.4. The Chair thanked AD and DG for their presentations.

AD, DG, LM and REA left the meeting

5. Closed Session Tabled Updates

- 5.1. The closed session tabled updates provided in advance of the meeting were noted.
- 5.2. The Committee indicated that a visual indication of performance against upcoming milestones for South East Water's Performance Rectification Plan would be a useful addition to future updates.
- 5.3. The Committee requested that further detail be provided on how individual trading party performance has moved across the year and it was noted that this was expected to come back either at the June or July Committee meeting. It was also noted that some of these themes would likely be picked up as part of the AMPR.

A73_03

- 5.4. It was noted that a trading party had triggered a Letter of Concern under the current escalation triggers but that, should the Committee approve changes to the escalation triggers later in the meeting as part of the escalation framework discussion, the trading party would no longer trigger a Letter of Concern.

OPEN SESSION

MEMBERS PRESENT

Pamela Taylor	PT	Chair*	Gerard Lyden	GL	Wholesaler Committee Member
Trevor Nelson	TN	Retailer Committee Member	Michael Rathbone	MR	Wholesaler Committee Member
Wendy Monk	WM	Retailer Committee Member	Jesse Wright	JW	Wholesaler Committee Member
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Markus Lloyd	ML	MOSL Presenter	Sarah McMath	SMc	MOSL Observer
Nichola Vincendeau	NV	MOSL Observer			

APOLOGIES

Sean Mills	SM	Ofwat Representative*			
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6. Welcome and Apologies

- 6.1. The Chair welcomed attendees to the open session and noted that apologies for absence had been received from SM.
- 6.2. 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.
- 6.3. It was confirmed that the meeting was quorate.

7. Housekeeping

- 7.1. The Committee noted that the draft minutes of in the April Committee meeting had been circulated ex-committee, along with a request for any comments to be provided by close of business on 23 May and agreed to approve the minutes ex-Committee.

- 7.2. The Committee noted an update from AC against action A71_01 that, although there had been a slight delay to align with other market requests, the remaining wholesaler vacancy had now been readvertised.
- 7.3. The Committee noted that while action A64_01 could close subject to approval of amendments to the holistic reporting escalation framework later in the meeting, the group of Committee members had not met to review the amendments ex-Committee and that the action had not been completed per the original request from the Committee.
- 7.4. It was noted that an action arising from the previous meeting relating to an additional communication between the Chair and a trading party should be captured in the minutes of that meeting and included in the action log. This action would now be recorded as A72_01, and the actions to close listed as A72_01 and A72_02 in the actions update paper circulated in advance of the meeting would now be recorded as A72_02 and A72_03 respectively.
- 7.5. The actions update circulated in advance of the meeting was noted and, following discussion, it was:
- **AGREED** that the following actions could be closed: A64_01, A67_05, A70_03, A71_01, A72_02 and A72_03.
 - **AGREED** that the following actions would remain open: A55_01, A59_01, A68_01, A69_03, A69_04 and A70_01.

8. Escalation Framework Evolution

- 8.1. The Committee noted the paper circulated in advance of the meeting that outlined proposed revisions to the escalation framework and the removal of some of the holistic reporting metrics along with a brief verbal overview of the proposed changes from SW.
- 8.2. The Committee reflected on the proposed 'improvements made criteria', which described a methodology for moving trading parties who were on MOSL focussed monitoring to be moved to regular monitoring, and raised the following key points:
- The Committee were generally satisfied with the proposal and agreed that a route to get trading parties back to regular monitoring was needed.
 - While trading parties should be moved back to normal monitoring if they had met the milestones set out in their response to a Letter of Concern, the process would only be valuable if the milestones set were sufficiently ambitious. As such the Committee would need to more closely scrutinise the milestones set in Letter of Concern responses and to challenge them where required.
 - It was noted that performance against existing metrics was currently presented as a rolling three-month average and that reporting it as a three-month average could potentially hide some very poor performance in a single month. Given this, it might be beneficial to find a way to provide the Committee with sight of performance data for individual months particularly where a trading party is being moved off focussed monitoring as it was sustained and sustainable improved performance that should lead to this move.

- Flexibility to treat performance according to individual circumstance should be retained in the escalation framework and that this discretion should be captured in any revisions to the escalation guidance as appropriate.

8.3. Following discussion, the Committee:

- **AGREED** (unanimous) with the de-escalation proposal for moving trading parties back to standard monitoring.

8.4. The Committee reflected on proposals to move primary responsibility for monitoring small trading party performance to MOSL, and raised the following key points:

- The Committee supported the definition of a “small trading party” as a retailer with fewer than 1,000 supply points and a wholesaler with fewer than 200 supply points.
- It was confirmed that small trading parties would still appear on performance reports, so the Committee would not lose visibility of their performance.
- A question was raised over small trading parties being triggered by long unread meters, and whether regardless of trading party size, this should always be a performance indicator that comes back to the Committee. It was noted that this is something for MOSL to consider in the future when the data is available.

A73_04

- While Committee members were content to move primary responsibility for monitoring small trading party performance and engagement on improvement to MOSL, it was noted that the Committee should retain visibility of small trading party performance and flexibility should be retained for small trading parties to be escalated to the Committee either where they fail to engage with the process or where they are failing to deliver performance improvements as agreed with MOSL.

8.5. Following discussion, the Committee:

- **AGREED** (unanimous) to move primary responsibility for monitoring small trading party performance to MOSL, subject to the condition that small trading party performance should still be escalated to the Committee where they have failed to engage with the process, deliver agreed performance improvements or severe underperformance could have a seriously detrimental impact on the trading party’s customers

8.6. The Committee requested that MOSL indicate that the MPC would undertake a six-monthly or annual review of the impact of the escalation framework on trading party performance in the escalation framework guidance. The Committee was minded that this should initially be conducted on a six-monthly basis but that it could be moved to an annual review cycle at a later point.

A73_05

8.7. The Committee reflected on proposals to remove the customer complaints metrics and the R-MeX metric from the escalation framework, and raised the following key points:

- The majority of members felt that the complaints metrics should be removed from the escalation framework due to the time lag between when the data is generated and when it is reported to the Committee. It was also noted that CCW held trading parties to account for poor performance on the customer complaints metrics and that some feedback had been received indicating that there was a lack of clarity on who trading parties were accountable to since the inclusion of these metrics in the Committee's escalation framework.
- The majority of members were supportive of removing the R-MeX metric from the escalation framework, due to the time lag between the period the data relates to and when it is reviewed by the Committee. It was additionally noted that it was probable that R-MeX would be replaced by BR-MeX before the next R-MeX survey was due to run.
- Some Committee members who expressed the view that holistic reporting would be incomplete without the customer complaints and R-Mex measures.
- While the majority of the Committee was minded to remove the customer complaints and R-MeX metrics as triggers for the escalation process, they were still viewed as valuable insights that provided important context on trading party performance against the other metrics. As such Committee members were minded to retain the customer complaints and R-MeX metrics in the holistic reporting tables (both on the MOSL portal and the MOSL website).

8.8. Following discussion, the Committee:

- **AGREED** (majority) to remove the customer complaints metrics from the escalation framework but not the published tables.
- **AGREED** (majority) to remove the R-MeX metric from the escalation framework but not the published tables.

8.9. It was noted that the Customer Representative Member voted against both recommendations, and expressed the view that both the complaints metrics and R-MeX metric should remain in the escalation framework. The member felt that although customer complaints are brought to CCW, they do not necessarily have the full toolkit to disincentivise or penalise poor performance. The Customer Representative also noted that as customer complaints may be metrics that are included in the revised Market Performance Framework it would be inadvisable to remove it as a metric at this point.

8.10. The Chair thanked SW for her work on this item and the Committee for their contributions to the discussion.

9. Future Audit Work

9.1. The Committee noted the statement of work for an OPS deferrals audit, and raised the following key points:

- The Committee welcomed the statement of work and agreed that an OPS deferrals audit would be a valuable exercise.

- The Committee felt that it would be useful for the audit to outline that findings will also provide a greater understanding of the consistency of the use of deferrals between wholesalers and any instances of excessive use of deferrals.
- The Committee proposed that the focus of the audit should go beyond whether deferrals are being used appropriately and in line with the Codes, by exploring the different practices that exist in the market and what impacts they have on customers.
- MOSL confirmed that whilst the audit would primarily focus on whether deferrals are being used correctly and in the right circumstances, with the right reason codes, the report could be taken a step further to explore the processes that trading parties have in place to determine whether something needs to be deferred and for how long. If this approach was taken, it was recommended that MOSL consider whether the audit findings should be released in phases.

9.2. The Chair thanked AS for her presentation and noted that MOSL would report back at a future meeting on resources and timelines, taking into account feedback from the Committee on the potential phasing of the audit.

AC73_06

10. Tabled Updates

10.1. The tabled updates provided in advance of the meeting were noted.

10.2. The Committee received a further verbal update from AR on the Strategic Panel, specifically the conclusions of their meeting held the week earlier, which reflected on priorities and market outcomes. The Committee noted a new focus area for the Strategic Panel: the development of a roadmap to a flourishing market.

10.3. The Committee noted the revisions to the presentation and timeframe of the MPC forward plan, with AC requesting feedback on this working document offline.

10.4. The Committee discussed the option for the July meeting to take place in-person. It was agreed that Secretariat would seek opinions from members ex-Committee.

AC73_07

11. AOB and Reflections

11.1. The Committee members reflected on the meeting.

11.2. The Committee were drawn by JW to a report coming out of the MIF, that would provide data on relevant levels of false vacant compared to true and give a view on performance of vacancy levels between companies. Since the report would bring into question the use of vacancy in holistic reporting, the Committee felt this was worth future consideration and asked Secretariat to explore with JW how this would fit into the forward plan.

AC73_08

11.3. There being no further business, the Chair closed the meeting.