

## Minutes of the Market Performance Committee Meeting 82

28 February 2024 | 09:30 – 14:50

Via MS Teams

Status of the Minutes: Approved

### MEMBERS PRESENT

Pamela Taylor	PT	Chair*	Gerard Lyden	GL	Wholesaler Committee Member
Nicola Power	TN	Retailer Committee Alternate	Michael Rathbone	MR	Wholesaler Committee Member
Wendy Monk	WM	Retailer Committee Member	Jesse Wright	JW	Wholesaler Committee Member
Neil 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	Markus Lloyd	ML	MOSL Presenter
Axelle Saada	JG	MOSL Presenter	Nichola Sampford	NS	MOSL Secretariat

## APOLOGIES

Trevor Nelson	TN	Retailer Committee Member			
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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 had been received from TN, with NP acting as alternate. It was also noted that SK would join the meeting from 10:00am.
- 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. Trading Party 1

- 2.1. The Committee received an update on the progress following MPC81, to consider the response(s) from Trading Party 1 and next steps.
- 2.2. The Committee discussed the update provided, noting the targets did not provide the interim milestones that the Committee was seeking so as to define a glide path.
- 2.3. The Committee remained concerned about the risk involved with Trading Party 1’s approach and noted that, with this approach, there would be limited value in seeing representatives from Trading Party 1 until MPC85 in May 2024. However, it was also agreed that it would be useful to get some information from Trading Party 1 for the next meeting of the MPC in March and that this would need meet the paper deadline to allow MPC members to review in a timely manner.

- 2.4. The MPC agreed that monthly updates should include South East Waster's performance against all the metrics with under-performance and be compared to the targets of 95% for OPS and MPS metrics by April and 95% and 98% for the VOA and GIS metrics respectively by September 2024. The updates should also set out a written explanation of Trading Party 1's performance and whether it remains on track to meet its commitments for April and September 2024. The Committee felt that failure to provide updates by the defined paper day each month should result in escalation to the Strategic Panel.
- 2.5. The MPC considered that whilst Trading Party 1 may hit the milestones outlined in its plan initially, the Committee would like to see sustained performance.
- 2.6. The Committee agreed that a short letter from the Chair to the CEO of Trading Party 1 would be drafted, copying in the Chair of the Strategic Panel, to acknowledge the plan and to inform Trading Party 1 of the Committee's continuing concerns about unmitigated risks that are inherent in the plan.

***ACTION A82\_01***

### 3. Closed Session Tabled Updates

- 3.1. The tabled updates provided in advance of the meeting were raised.

### 4. Review of Holistic Performance and Escalation Decisions

- 4.1. The Committee received an update on the current status of Letters Of Concern (LOCs) recipients. No new LOCs were sent this month.
- 4.2. Trading Party 2 and Trading Party 3 have both been moved off focussed monitoring and it was confirmed that the papers would reflect this next month. It was agreed that this will be confirmed in writing to Trading Party 3; Castle Water is already aware that it is no longer in focussed monitoring.
- 4.3. Trading Party 4 received its letter confirming it is in focussed monitoring. Due to the uncertainty around agenda setting this month, it was agreed that Trading Party 5 and Trading Party 6 would be discussed further at next month's meeting.
- 4.4. Following discussion, the Committee:

- **AGREED** to review the Performance Rectification Plans (PRP) of Trading Party 5 and Trading Party 6 at MPC83 in March.

4.5. The chair thanked SW for the update.

## 5. Audit Update

5.1. The Committee had a detailed discussion on the Trading Party Audit Findings (Deferrals Audit), raising the following key points:

- That, on the additional data reporting from the bilateral hub, in order to monitor and rectify behaviour, it is important to capture deferral reason codes.
- The Committee approved the recommendation for a follow-up audit in six months' time. The Committee suggested that this includes a review of deferral reason codes (if the data is available). Auditing the wholesalers' system to establish evidence of customer contact was also suggested.
- The MPC recommended to postpone the creation of a report until after the deferral reason code data is made available, to avoid using a complex proxy for retailer impact.
- The MPC suggested that, until a follow-up audit had been completed and more information had been obtained on guidance uptake, there would be no change proposed to the codes.
- The best practices laid out in the report should be published on the MOSL website. Committee Members felt this should be MOSL-led and should not go through the Retailer Wholesaler Group (RWG).

5.2. The chair thanked AS for her presentation.

## OPEN SESSION

### MEMBERS PRESENT

Pamela Taylor	PT	Chair*	Gerard Lyden	GL	Wholesaler Committee Member
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Nicola Power	TN	Retailer Committee Alternate	Michael Rathbone	MR	Wholesaler Committee Member
Wendy Monk	WM	Retailer Committee Member	Jesse Wright	JW	Wholesaler Committee Member
Neil 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	Steve Formoy	SF	MOSL Presenter
Axelle Saada	JG	MOSL Presenter	David Gandee	DG	PwC Representative
Markus Lloyd	ML	MOSL Presenter	Nichola Sampford	NS	MOSL Secretariat
Angela Day	AD	MOSL Presenter	Reindorf-Elijah Akakpo	REA	MOSL Presenter
Peter Strain	PS	Trading Party Observer			

#### APOLOGIES

Trevor Nelson	TN	Retailer Committee Member			
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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 TN, with NP acting as alternate.

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 agreed to approve the minutes of the Market Performance Committee meeting held on 24 January as an accurate record of the meeting.

7.2. The actions update circulated in advance of the meeting was noted and it was:

- **AGREED** that the following action would be closed: A75\_03, A73\_02, A55\_01, A81\_01 and A81\_02.
- **AGREED** that the following actions would remain open: A73\_04.

## 8. MO Compliance Update

8.1. The Committee received an update from PwC and MOSL on Market Operator Compliance, and discussed the following key points:

- REA gave a progress report on the areas of MO non-compliance and an update on areas closed. There were three new non-compliances in the last quarter. Two non-compliances were closed. The non-compliance relating to MO invoicing is currently awaiting Ofwat decision and implementation. The Data Escrow non-compliance closed following a code change that was approved by Ofwat in January 2024.
- With regards to the Data Retention non-compliance, CGI commence testing in April 2024 and the predicted closure date is June 2024. It was noted that a code amendment may be sought to address the User Forum non-compliance.
- The Committee was interested to know about the rationale for the 7-year timescale with regard to data retention and this was noted by the MOSL team.

- Separately, some members noted recent issues with CMOS. It was acknowledged that there had been some issues with CMOS over the past month and the MOSL Digital and Data team were looking at this.
- MPS charging calculation errors was raised as an issue last year and this was investigated with particular focus on investigating issues, fixing errors, assessing the scale of impact and strengthening the controls around MPS to ensure errors did not occur in the future.
- DG from PwC attended the meeting and updated the Committee on how MOSL had responded to the MPS charging calculation errors. PwC looked at all the governance in place and the test was whether PwC would have come to the same conclusion. It was acknowledged that MOSL management took this seriously and this was commensurate with the risk. PwC was comfortable with the work done and the response was good, thorough and, whilst the impact of the costs is small, PwC reported it was content with the actions from the Market Operator. The Committee was interested in what the thresholds would be, and what the levels of materiality would trigger future work of this nature. PwC gave options based on whether the issue was industry wide or just affecting one trading party. It was acknowledged that the case-by-case approach is probably the best one and that levels of materiality (based on an impact assessment) would influence whether a code change would be necessary. It was also suggested that this could be fed into the MPF Reform work.
- The planned Market Operator audits were presented to the Committee. PwC will look at four areas. The first is CMOS (with particular regard to the CMOS re-hosting project to ensure that this does not create further issues). The second (as already alluded to in the previous point) is to look at the ongoing work with the MPS calculations, to assure the work being done internally by MOSL and agree the outcomes of that work. The next area is around the internal audit methodology and how the internal audit programme in MOSL operates and putting formality and structure in place. The fourth element of work is a “Health Check” taking the Institute of Internal Audits standards and good practice and applying these standards to the internal audit function.
- The Committee was interested in hearing about future audit plans for the Bilaterals Hub and DG confirmed that he was encouraging the team to work with PwC to identify areas for future focus.

8.2. The chair thanked DG, AD and SF for their presentation.

## **9. Vacant Premises**

9.1. The Committee received an update on work covering “open” actions from previous MPC meetings.

9.2. The Committee briefly discussed the update provided, noting that the paper provides the continuity from the action items closed at MPC81 in January to inform the MPC of the areas that form the focus of the MPF Reform Programme. Any new Additional Performance Indicators (APIs) will come out of this work and will be presented to the Committee in due course. ML confirmed that long-term assured vacancies will be the main focus but that the project will not lose sight of the unassured vacancies.

9.3. The report by Yorkshire Water regarding vacancies was also mentioned, acknowledging that it would be economically unviable to progress if you are trying to reduce all vacancies; this would provide the guidance with the benchmark for the thresholds in MPF Reform.

9.4. The Chair thanked ML for the update.

## **10. Tabled Updates**

10.1. The Committee noted the Tabled Updates paper circulated in advance of the meeting detailing progress on the Committee’s workstreams and metering-related projects.

## **11. AOB incl. Reflections on the Meeting**

11.1. The Committee reflected on the meeting.

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