



## B-MeX Working Group Terms of Reference

The Business Customer Measure of Experience (B-MeX) Working Group has been established as a working group of the Market Performance Committee (MPC). As part of the process to develop and carry out a programme to revise the Market Performance Framework (MPF) for which an MPF Working Group has been set up, the role of the B-MeX Working Group is to investigate and develop a B-MeX measurement solution to capture the business customer experience with the wholesaler.

Unless otherwise stated, words and expressions that are used in this Terms of Reference (ToR) shall have the meanings and application attributed to them under the Market Arrangements Code (MAC) and Wholesale Retail Code (WRC).

Changes to these ToR can be proposed to the MPC at any time. All changes to the ToR will be voted on, in line with the MPC operating procedures.

### 1. Background on MPF revision

The MPF is a collection of processes, methods and incentives that promote compliance with the WRC. The underlying principles of the MPF are set out in CDS 0002 Market Performance Framework (Section 1.1.1), and include:

- Orderly operation of the market, including accuracy of settlement, requires participants to perform their roles in line with common systems, process, data and service standards
- Defining mechanisms to govern, incentivise, monitor and enforce standards of performance to mitigate and manage the risk of non-compliance
- Providing confidence to trading parties and the Market Operator (MO) that peers are complying with their obligations; risks to the Central Market Operating System (CMOS) are being managed; and the market is being continually improved.

In 2019 the MPC commissioned Economic Insights to lead a review on how the MPF should evolve after three years of service in the non-household market. The result of the review was the publication of the [MPF Roadmap](#) which captured the principles and expectations of a future MPF which would promote the interests of business water customers and ensure that the market as a whole operates in a seamless and frictionless manner. The main features of a seamless and frictionless business water retail market operation are as follows:

- Customers can be tendered for, switched and accurately billed
- Accurate settlement is established
- Greater transparency is provided for customers and trading parties, and wider scrutiny is ensured across the market
- Interactions between trading parties (including retailer-to-retailer and wholesaler-to-retailer interactions) are efficient.

In order to better align the MPF with customer outcomes, a B-MeX, a business customer measure of experience, has been advocated by many Market Participants and is supported by Ofwat. The initial report on B-MeX published on 31 March 2021 can be found [here](#).



## 2. B-Mex Development

To develop the design and implementation of a business customer experience measurement solution, the B-MeX Working Group will consider the key issues, working with the MPF Working Group, as determined by the MPC. Initially this will include:

- The development of a proposed B-MeX survey, including proposed solutions to fund the survey (reflecting recommendations on sample size and survey frequency)
  - The survey design will need to be cognisant of the impact on customers and also should take account of other mechanisms being employed in the industry
  - The survey design will also need to be cognisant of the desire to keep open the possibility of implementing B-MeX as a financial incentive
  - In designing the survey the group will need to consider the appropriate use of complaints data (in particular whether complaints data should influence the survey design).

Once the group has developed a proposed B-MeX survey ready to be piloted (in reputational form), it is expected that the MPC will ask the group to develop further recommendations to enable a B-MeX incentive to be implemented. This is expected to include consideration of the following issues:

- Incorporating feedback from the survey pilot and revising the survey as appropriate;
- How a B-MeX score should be calculated (including, if appropriate, use of complaints (or other) data;
- The use of relative or absolute measures of performance
- The nature and type of the incentive, i.e. reputational or financial, and if financial, whether there will be outperformance payments as well as underperformance payments
- How a financial incentive could be implemented under the MPF framework (where underperformance payments are collected into a central fund)
- How financial incentives should be calculated [NB – in developing these recommendations the group will need to work closely with the MPC and MPF Working Group to ensure recommendations are consistent with the development of the wider MPF framework. It is possible that the MPC decides to merge calculation of financial incentives with wider work to reform the MPF framework].

The MPC will determine the B-MeX Working Group's programme. A key milestone will be the deliverable of a reputational survey in pilot form by the end of FY 2021/22, including recommendations around how that survey, and all future surveys, will be funded.

## 3. Change Proposals

Where change proposals are eventually required to implement a B-MeX incentive, the MPC may determine that the B-MeX Working Group will develop them and will be required to:

- Review and progress the development of the proposed solution to ensure that it is technically workable and satisfactorily defined such that it can be implemented
- Explore possible alternative solutions, if any. Each alternative solution should be technically workable and clearly defined such that they can be implemented should the Authority determine that it is better than the proposed solution



- Obtain and review the impact on affected stakeholders including the end customer, based on evidence
- Provide rationale to the MPC/Panel and the Authority whether the proposed solution and any alternative solutions better facilitate the Objectives and Principles of the codes compared to the status quo
- For any alternative solutions provide rationale whether the alternative solutions or the proposed solution better facilitate the Objectives and Principals of the codes.

#### 4. Duties of Working Group Members

The Working Group shall act in accordance with the MAC, WRC and these ToR, having regard to:

- the MAC Objectives and Principles
- the Business Terms Objectives
- the Operational Terms Objectives or the Market Terms Objectives (as relevant)
- the Principles.

Consistent with the provisions for the consideration of matters by the Panel (and its Committees) as set out in Section 5.7 of the MAC a person appointed as a working group member:

- a) shall act impartially, in the best interests of the market as a whole and shall be guided by the Principles and Objectives, as described in Part 1 of the WRC
- b) shall not be representative of and shall act without regard to the particular interests of the company, body or person by whom he was nominated, elected or appointed.

Members must have integrity and must not only be, but also be seen to be, impartial and free from proximity to vested interests.

Members should:

- Arrive at meetings fully prepared, having read the paperwork ahead of the meeting
- Operate within their powers in accordance with the working group ToR as approved by the MPC
- Engage in constructive debate which is based on good working practices with appropriate discussion and constructive challenge
- Act as critical friends by:
  - Ensuring that unsubstantiated assumptions or assertions do not go unchallenged
  - Ensuring that all arguments for and against a proposal are adequately discussed and reflected in Working Group reports and other relevant deliverables
  - Ensuring that previous discussions or decisions that may be relevant to the proposal being considered are highlighted
  - Ensuring that small market participant and customer viewpoints (whether such parties are present or not) can be articulated and debated and that other members do not seek to stifle or prevent such debate



- Supporting the use of teleconference (or similar) facilities if this is more convenient for those that wish to participate, including smaller market participants.

#### 4.1 Member Appointment Requirements

Before being appointed as a working group member, each member shall where relevant:

- a) Provide confirmation to the Panel Secretary that they agree to be a working group member and will endeavour to be available to attend all meetings and to carry out work outside of meetings as necessary
- b) Provide to the Panel Secretary a letter from their employer agreeing that they may act as a Working Group member and that, consistent with the provisions for Panel members set out in section 5.7 of the MAC, the requirements of these ToR and Section 5.7 of the MAC shall prevail over their duties as an employee when acting as a working group member.

Working group members shall inform the Panel Secretary if they do not wish to continue as a member of the working group.

## 5. Membership

### 5.1 Working Group Chair and Secretary

The Working Group shall have an Independent Chair appointed by MOSL. The working group Chair's role will be to chair meetings, facilitate discussions and encourage consensus but shall have no vote. In the event of the Chair not being available for any meeting, the working group members present will elect a Chair, who shall have no vote, to conduct that meeting.

The working group shall have a Secretary who shall be a person provided by the MO. They will be responsible for recording agreed decisions, conclusions and actions, agreeing and circulating agendas, scheduling meetings and producing papers and reports, on behalf of the working group. The MO will attend meetings to support the activities of the working group and advise on the market codes and change control matters.

### 5.2 Voting Members

The working group shall comprise the following voting members:

- One member selected from the MPC to ensure continuity and co-ordination with existing MPC working groups
- Five industry experts selected from both trading party representatives and the MPC
- One consumer representative nominated from CCW.

The MPC shall ensure that an appropriate cross-section of experience, interests and expertise is represented on the working group. This is likely to include experience in survey and incentive design as well as a good understanding of the needs of business customers. The working group shall comprise of no more than seven voting members.



### 5.3 Non-Voting Members

The following non-voting members are entitled to attend and speak but not vote at any working group meeting:

- The working group Chair
- MOSL
- At least one representative from Ofwat.

### 5.4 Alternates

The working group is constituted for a discrete period of time to assess B-MeX or matters delegated by the MPC. It is important that working group members are actively engaged in the matters put before them. Consequently, Working Group members are encouraged not to appoint alternates.

However, if a working group member cannot attend, the member may propose an alternate. The alternate can be any individual notified to the Working Group Chair and the MO in good time before the meeting. Alternates should possess sufficient knowledge and expertise to act as a member.

Subject to the approval of the working group Chair, the alternate may attend the meeting and vote and speak as a member.

A person appointed as an alternate is bound by the provisions of the code and this ToR. Alternates must act impartially, in the best interests of the market and should not be representative of or have regard to the interests of anybody or person, including the working group member that appointed them. Alternates shall provide confirmation and employer letters as described in 3.1.

If an alternate attends a meeting as well as their standing working group member, he or she attends only as an observer and will have no voting rights.

### 5.5 Other Attendees

Other individuals may be invited to attend all or part of any working group meeting, as agreed in advance of the meeting by the working group Chair, to assist the working group in the matters determined by the MPC.

## 6. Quorum and Decision Making

No business shall occur at the meeting unless a quorum is present. A quorum is a minimum of at least three voting working group members.

A meeting shall be quorate if the necessary members are present in person at the meeting or are contactable by telephone conference call.

## 7. Voting Procedure

Working groups may decide matters by vote. Any matter to be decided by a vote is decided by a simple majority of voting working group members. Abstentions do not count as a vote. Votes will not be attributable to individual working group members.



When considering whether a change proposal better facilitates the relevant Business, Operational and Market Terms Objectives, and the Principles, the working group members shall vote on whether to recommend for approval or rejection the change proposal or any alternative solution and provide their reasons.

## 8. Powers and Functions of the Working Group

### 8.1 Proposer Ownership

Where applicable, the proposer shall remain the owner of their change proposal and may vary their solution throughout the assessment process to take account of the views of the Working Group and any consultation responses.

Any alternate solution developed by the Working Group is owned by the working group and can only be raised and subsequently amended or withdrawn by the majority approval of voting working group members.

### 8.2 Consultation with Trading Parties

To ensure that trading parties fully understand the issues and solutions proposed, the working group may consult with trading parties, unless otherwise determined by the MPC. MOSL may also issue Requests for Information (RFIs).

Responses received will be reviewed by the working group and included in the relevant working group report, subject to confidentiality and Competition Act restrictions, and shared with the MPC/Panel.

### 8.3 Amendments to the timetable

The working group shall be responsible for progressing matters within the timetable set by the MPC. The working group may request a timetable adjustment or extension where practical circumstances require which the MPC may agree at its discretion.

### 8.4 Reporting to the MPC

The working group will provide a written or verbal (as appropriate to progress) monthly working group report to the MPC and interim updates as required, in order to report the work undertaken.

Where applicable, the proposer may also attend and speak at the MPC meetings in relation to their change proposal.

## 9. Proceedings of Meetings

### 9.1 Frequency of Meetings

Meeting dates and times will be determined by the working group Chair in consultation with the Secretary and working group members but will be subject to the MPC approved timetable.

Unless determined otherwise by the MPC or the working group, the Secretary shall give notice of a working group meeting via email and circulate an agenda and papers at least five business days prior to the proposed meeting. B-MeX Working Group members may decide their approach to accepting late papers.



## 9.2 Meetings via Teleconference

A meeting of the working group may consist of a teleconference or videoconference between members. A working group member taking part in such a conference or telephone call is deemed to be present in person and is entitled to vote and be counted in the quorum accordingly.

## 9.3 Minutes of Meetings

Working groups should look to make as much of their work as reasonably practical transparent to the generality of trading parties, but it is not intended to issue anything further than the monthly reports to MPC.

## 9.4 Recording and Broadcasting

Audio and/or video recordings may be made of Working Group meetings. The [Panel Recording and Broadcasting Policy](#) shall apply to these recordings.

## 9.5 Confidentiality

Working group members shall ensure that confidential information and personal data provided to the working group is kept secure and not shared or discussed outside of working group members, the MPC or (Panel if applicable) and the Secretary.

Stakeholders providing information to the working group may wish that information to remain confidential. In such cases the Secretary will consider whether the Competition Act has a bearing on the information and may aggregate, anonymise or redact information before sharing with working group members.