



MOSL Code Panel – Independent Review 2020/21

Final report - 28th Jan 2021

MOSL Code Panel – Independent Governance Review

In accordance with our engagement to conduct your 2020/21 external review of the Code Panel, and in line with our proposal of last year, we present our final report dated 28th Jan 2021.

This report is confidential to MOSL and the Code Panel and is subject to restrictions on use. MoSL and the Panel have secured prior agreement with SGN Advisors Ltd (trading as Satori Executive Search Ltd) (Satori) to make public this report. No party, except the addressee, is entitled to rely on the final report for any purpose whatsoever and we accept no responsibility or liability to any party in respect of the contents of this final report. Satori will have no responsibility for any claim made against MOSL in connection with this publication of the report. Satori does not accept or assume any responsibility to any readers other than MOSL in respect of its work for MOSL, this report, or any judgements, conclusions, opinions, findings or recommendations that Satori may have formed or made and, to the fullest extent permitted by law, Satori will accept no liability in respect of any such matters to readers other than MOSL. Should any readers other than MOSL choose to rely on this report, they do so at their own risk.

This report is prepared for MOSL and the Code Panel as a body alone, and our responsibility is to the full Panel and not individual Members. We have invited the Chair and Governance Steering Group to review a draft of this report in advance of its publication, for the purpose of factual accuracy.

The report may be made available (in whole or in part) at the discretion of MOSL and the Code Panel in line with the agreement with Satori. The Panel is responsible for determining whether the scope of our work is sufficient for its purposes. We have assumed that the information provided to us and managements' representations are complete, accurate and reliable; we have not independently audited, verified or confirmed their accuracy, completeness or reliability.

The matters raised in this report are only those that came to our attention during the course of our work and are not necessarily a comprehensive statement of all the strengths and weaknesses that may exist, or all improvements that might be made. Any recommendations for improvements should be thoroughly assessed by the organisation for their full impact before they are implemented.

Yours sincerely,

Satori

Introduction and context

Overview and role of the Panel

Overview

In April 2017 the business retail market was opened. The market has three key actors, Defra, who set the strategy for the market, OFWAT, responsible for the regulatory framework and MOSL who are responsible for the efficient and simple operation of the market. For MOSL this responsibility comes in two main forms; creating and running an efficient and effective settlement system for the market; and supervising the market governance codes that ensure the market runs smoothly and effectively.

The Panel was established to provide unbiased governance of the codes, in response to the Water Act 2014 (WA14) and its stated purpose as laid out in its Terms of Reference is:

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers.

An Interim Code Panel (ICP) was created prior to market opening, with a view to managing the transition, providing a judgement on potential changes to the market codes and reviewing market documentation. The current Panel has a different and wider set of responsibilities. Below is a direct extract from the Market Arrangements Code which lays down the role of the Panel:

5.2.1 The Panel shall carry out the following activities:

a) keep the contents of the Wholesale-Retail Code under review to ensure that they continue to reflect the Objectives and Principles and where the Panel believes that a Change Proposal would result in the WholesaleRetail Code better reflecting the Objectives and Principles it shall nominate a

Panel Member to make such Change Proposal in accordance with Sections 6.1 and 6.2;

- b) keep the contents of the Market Arrangements Code under review;
- c) work with the Market Operator to develop the scope and audit plan for each market audit;
- d) review and comment on any Market Audit Reports;
- e) provide advice, recommendations and support to the Market Operator on request in order to assist a Trading Party in successfully carrying out and satisfactorily completing the relevant Market Entry Assurance processes or the Market Re-assurance processes;
- f) comment or provide advice to the Market Operator on request in relation to any Market Entry Assurance Plan or Market Re-assurance Plan;
- g) consider and comment on the draft Market Operator Budget and Market Operator Charges, list of Additional Services and Additional Services Charges;
- h) consider, vote on and, where appropriate, make recommendations to the Authority in respect of any Change Proposal and Charging Change Proposal in accordance with Section 6 (Change process in respect of the Wholesale-Retail Code) and any Market Arrangements Code Change Proposal in accordance with Section 7 (Change process in respect of the Market Arrangements Code);
- i) approve all forms and supporting documents that the Market Operator is required to produce under the Code Subsidiary Documents from time to time;
- j) receive and consider Reports from the Market Operator on performance by Trading Parties or any other matters as specified in the Market Terms, including the Code Subsidiary Documents;

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Scope of the review

k) establish a Disputes Committee on a standing basis in accordance with the provisions of Schedule 9 (Disputes Committee), to investigate and resolve any types of Disputes as considered under section 17 Dispute resolution;

l) perform the role and functions of the Panel in relation to a Trading Dispute, as described in Schedule 9 (Disputes Committee);

m) establish a Market Performance Committee on a standing basis in accordance with the provisions of Schedule 10 (Market Performance Committee) and delegate such of its role and functions to the Market Performance Committee as required in order to give effect to the market performance processes and methods described in CSD 0002 (Market Performance Framework) and the Market Performance Operating Plan;

n) oversee the administration of the Market Performance Framework in accordance with the provisions of CSD 0002 (Market Performance Framework) and the Market Performance Operating Plan;

o) without prejudice to Sections 5.2.1k), 5.2.1m) and 1.1.1a), establish Additional Panel Committees, delegate any of the Panel's role and functions to any such Additional Panel Committee in accordance with Schedule 12 (Additional Panel Committees) and decide that such Additional Panel Committee shall cease to be established from time to time;

p) report to the Authority on the activities of the Panel, the Disputes Committee, the Market Performance Committee and any Additional Panel Committee; and

q) take any actions and decisions as are necessary in accordance with Section 9.6 to establish, maintain and implement a governance framework for the use of any Market Performance Standard Charges and Operational Performance Standard Charges collected to fund other activities.

5.2.2 The Market Operator shall provide the administrative and other support required by:

a) the Panel, in order to perform its role as set out in Section 5.2.1;

b) the Disputes Committee, in order to perform its role and functions as set out in Schedule 9 (Disputes Committee);

c) the Market Performance Committee, in order to perform its role and functions as set out in CSD 0002 (Market Performance Framework) and the Market Performance Operating Plan; and

d) any Additional Panel Committee established in accordance with Section 5.2.1o), in order to perform the role and functions delegated to that Additional Panel Committee by the Panel.

So the role of the Panel has grown considerably since its early inception as the ICP.

Three years into market operation now is a natural moment for reflection. With the bustle of activity and high degree of operational focus required to bring markets into being by all market structures and participants, now is likely a good moment for a heads-up review of progress.

The Panel is encouraged to consider the very fabric of its role and purpose as laid out in the MAC, to determine whether what is contained within the Code has actually delivered the results that were intended.

This report should assist with that process as it provides roadmaps for both strategic and tactical actions. These should enable the Panel to enhance its performance and to deliver well ahead of the expectations laid upon it.

Introduction and context

Scope of the review

Scope

Satori Board Review were engaged to conduct a review primarily focussed on Panel behaviours and dynamics. The Panel Secretariat being tasked to conduct its own review of governance arrangements and options. We took a collaborative approach to our review, working hand in glove with the internal governance team to ensure our work had cross-overs as opposed to gaps. This “one team” approach was important as it is not possible to review either item in isolation from the other. Dynamics and behaviours are often the result of structural and procedural issues.

Our process is a facilitation of self-review to assist the Panel in coming to a more informed and objective view of itself. The review builds on the opinions and evidence provided regards the structure, function, composition and performance of the Panel. We also draw upon our own experience of conducting similar reviews and established best practice on other boards and regulators and contained within the UK Code of Corporate Governance (UK Code).

Our review considered a range of themes and is structured to offer an executive summary including priority actions, followed by a more detailed analysis of individual themes providing evidence and soundbites from the Panel Member and stakeholder interviews. This detail is contained in two additional documents which we encourage the Panel to refer to when reading this report. Our presentation of Panel survey results, delivered at Panel meeting 50 and our presentation of recommendations delivered at the closed session of Panel meeting number 51.

Both presentations have been circulated to panel Members previously for reference and subsequent review.

Significance of this review

The review represents a momentary opportunity to take stock on how the market has performed, what the Panel have done well and not so well and how the Panel might be able to make improvements to its own performance but also that of the market. There would appear to be considerable frustration within the market, as certain parts of it work well but not others. This review could be used as a catalyst to address some key strategic issues within the market, as it is within the Panels gift to make substantial and strategic change. This is likely necessary if the market wishes to remain self-regulated.

Panel achievements

Before we address areas for potential improvement it is appropriate to recognise the considerable achievements of the Panel and its Members. The effective stewardship of the codes throughout both market opening and during the pandemic have placed significant demands on the Panel. In our opinion the Panel have performed well during these periods of rapid change and challenge. Panel Members have committed significant time to the work of the Panel and their commitment has been admirable, especially given the challenges in their own day jobs of navigating complex change. Panel has a number of strengths as indicated by both the Trading Parties and our own observations. These include high levels of knowledge and technical expertise, a diverse range of thinking styles across the group, real desire for the Panel to be effective, commitment to shaping and improving the market and support from a strong Secretariat.

Introduction and context

Approach and overview of findings

Approach

Our approach to delivering this review consisted of:

1. An extensive exploratory discussion between Giles Naylor and Annabel Parsons of Satori Board Review, and the Panel Governance Steering Committee (GSC);
2. A desktop review of key governance material:
 - a. Panel and Committee ToRs;
 - b. Best practice guidelines from the UK Code;
 - c. The MAC and WRC Codes;
 - d. Project RISE 2020 report;
 - e. Minutes of previous meetings/panel packs;
 - f. Delegated authorities;
 - g. Member role specifications/ToRs;
 - h. Panel composition matrix;
 - i. Member career profiles; and
 - j. Panel and Committee Terms of Reference.
3. Development and issuance of an online survey, completed by all Panel Members and Affiliated Members;
4. In depth discussions with each of the 16 Panel Members;
5. Issuance and analysis of a stakeholder survey to trading parties;
6. Interviews with 5 trading party stakeholders, the Chair of MOSL and Kruti Patel of Defra;
7. Observation of the November Panel and MPC meetings;
8. Review of our initial findings with GSC and then presentation of those key theme findings to Panel in December;
9. Review of recommendations and draft report with GSC in January 21 followed by presentation of those recommendations to Panel; and
10. Completion of this written report.

Overview of findings

Firstly, we noted considerable aspiration for progress and an ongoing commitment of Panel Members who dedicate a lot of time to Panel business whilst also delivering a day job. The Panel have done well to get to where they are, during three very challenging years for both MOSL and the market itself as it matures. Expectations of Panel may well have shifted in that time as the market has evolved, so too have the demands of the Panel.

As we conducted the review differences of opinion emerged from within the Panel, and more widely across the market, as to what the role and purpose of the Panel is. This was further confirmed by; the huge range of scores that each of the Panel Members awarded to nearly every question, highlighting a lack of cohesion on key issues; an absence of identity for the Panel; limited focus on external communication and Panel brand; a lack of appropriate KPIs and a general lack of strategic direction for the Panel itself.

We also discovered several other opportunities for the Panel to enhance its performance across other themes that we considered. As with most reviews some of our recommendations will be easily implemented in isolation from others, where many will need to be completed in a more linear sequential manner.

Our recommendations follow two crucial strands:

1. A review of Panel purpose. This cannot be done in isolation from Defra, OFWAT and MOSL and will require considerable and time-consuming work to establish and socialise purpose, strategy, function and form, from which a large number of improvements will emerge; and
2. The implementation of several recommendations in the short term that will enable the Panel to improve its performance in parallel with the more time-consuming strategic review.

Below is an overall analysis of the key themes that emerged, followed by a summary of recommendations.

Executive summary

Key themes

Stakeholders

There seems to be considerable variation as to what stakeholders expect of the Panel. As the market has evolved so too have expectations about the role of the Panel. These mixed perceptions may be symptomatic of a lack of systemic clarity, effective delineation of task boundaries and/or a lack of communication with the wider market on these issues.

The relationship between the Panel and MOSL has historically been difficult and whilst now moving in the right direction, this remains work in progress. There is no doubt this relationship has impacted the Panel in delivering its function within the market, to the best of its ability. This is a crucial matter to resolve and the Panel and MOSL may well benefit from considering what an “optimal relationship” might be. Contained therein are many questions relating to structure, processes and budgets to name but a few.

Market engagement seems relatively under-developed as indicated by parts of the stakeholder survey. Panel has not been focussed on its own identity, brand, performance and impact and as a result provides limited information to market participants directly. The net result of this is relatively low levels of market awareness of the Panel, its role and its performance and impact. A proactive communications programme, centred on reporting measured impacts, progress and strategic issues would be welcomed across the market.

Demonstrating value for money is crucially important for any market funded body. It is even more important in markets where margins are thin and difficult to get to. The Panel does no work in this area which is a missed opportunity. Reviewing the impact of decisions can help to measure Panel impact, it will also provide an informative feedback loop that can help build efficacy in future decision making.

Purpose

It seems possible that purpose was not fully interpreted prior to market opening and there is limited discussion at Panel. Equally it’s likely that expectations and interpretations of Panel’s purpose will have continued to evolve since the market opened. Whilst members might often question “is that the role of the Panel?” this is more a symptom of an under-developed dialogue around purpose.

A well-constructed understanding of purpose would naturally lead to the development of a vision, a Panel strategic plan, operational objectives designed to improve Panel performance and a set of effective KPIs that help the Panel to track its own performance.

There are differences of opinion as to what the purpose of the Panel is, born of different interpretations of the language. Panel purpose is clearly articulated on the MOSL website, what is unclear though is whether this single sentence is an accurate distillation of purpose directly from the market codes and socialised properly with the regulator. Interpretations range from “we should be leading the strategy for the market through proactively making changes to the codes” to “we are really a sausage machine, operating purely at the transactional level”. If there is lack of clarity within the Panel itself on purpose, it is perhaps inevitable that the rest of the market experiences the same.

Purpose cannot be considered in isolation to other parts of the market legislature. One must revert to market purpose before establishing the purpose of the Panel itself and that means working with Defra, OFWAT and MOSL to clarify the market structure, purposes and task boundaries. What is important here, is who takes the leadership role in shaping market level strategy as it relates to code changes.

Executive summary

Key themes (contd)

Strategy

Strategy in the context of this review considers both market strategy and Panel strategy. Panel has made some recent progress toward a better plan for market strategy although this is in its infancy. The next stage might include the development of a formal mechanism of tracking progress against that direction. Lack of control over own its budget means the Panel needs to think strategically, plan-ahead, seek budgetary approval for the coming 12-24 months of activity and ensure that a programme of strategic market development is undertaken by the Panel.

The Panel has no sense of itself as an entity, as a result it has no development plan, no focus on performance improvement, is not measuring any agreed KPIs and as a result is currently focused on transacting. This may be an appropriate model and a review of purpose might indicate that this is all that is required of the Panel. In this case, clarity on purpose would allow the Panel to have a much more developed sense of self, understand and communicate its place and impact in the market better and have a much clearer understanding of what its composition should be to deliver its objectives. At present there is no real framework for any of that.

Underpinning both aspects of strategy are an absence of support in financial planning and data and analytics, which if present may enable the Panel to underpin its decisions on strategic issues more effectively.

Panel should seek to clarify its role in setting market strategy and consider its own Panel strategy as a mechanism for reviewing and improving its own performance.

Structure - Panel

Purpose, vision and strategy will inevitably define structure. It is therefore conceivable that some of our observations in this area become extinct should there be a considerable reframing of Panel purpose.

Purpose will have a significant influence on composition and representation for example. At present there are differing views on this balance, with some questioning the distinction between Associated and Unassociated Retailers, whether self-supply has the right level of prominence and whether the balance of independents provides sufficient assurance to the market of independent decision making.

The question of independence has arisen as a consistent theme, both in representation but also in the way the Panel gets to decisions and a perceived lack of transparency in the recruitment processes for Panel and Committees. In fact, the election mechanism affords no real opportunity for the Panel to actively promote a capability and competency-based approach to building skills on the Panel. This is likely something the Panel would wish to consider as it works through its strategic roadmap.

Considerable disquiet emerged when discussing the role of the Independent Members with some sensing that this group is incentivised to get more deeply involved in Panel business and that their remuneration, set at the level it is, drives a sense of “need to be seen to contribute”. A review of total reward and structure is likely a good idea so this sense can be addressed/removed.

Executive summary

Key themes (contd)

Structure – Committees

Committee structure appears to have evolved over time in response to perceived need, as opposed to having emerged from a rich interpretation of purpose leading into strategy and structure.

Use of the word “Huddle” appears to have implied to the market a lack of transparency and should be addressed asap.

The connection between Panel and Committees seems under-developed, Panel is absent in its direction and insistence on progress reporting, implying a lack of clarity of mandate. Unsurprising then that Committees appear to be more talking shop and information only exercises, as opposed to focussed on delivering strategic outcomes. Reporting to panel has much room for improvement and should be formalised.

Panel Member attendance of Committees was called into question from a good governance perspective. We feel governance here is less the issue as compared to Panel Member time. Limiting Panel Member attendance to 1 or 2 Members would free up considerable time investment and enable Members to focus more at the strategic level.

Some Members expresses a will to create a technical sub-committee capable of handling change requests through some form of delegated authority, to empower it to put change requests through in order to better manage workload. This may be an option to consider and we do recommend finding a mechanism to help Panel to prioritise and triage change requests, such that the most important and impactful change requests are dealt with first.

Panel operations

MOSL services continue to improve but there is still some way to go with improvement in levels of analysis, use of data & analytics and impact measurement. Support for the Secretariat seems strong but not all Members understand the distinctions between Secretariat and MOSL. Clarity here will be important.

With no means of self-delivery and no self-managed budget for Panel, there is a paucity of cost-benefit analysis on Panel activities and decisions. The net result is an inability to prioritise activities, a lack of strategic focus and the risk of undertaking considerable “not-worthy” activities.

The agenda is set firmly at the transactional level which drives Members down into the detail and leads to a supervisory focus. It could and arguably should be set at a more strategic level, shaping the direction of travel as opposed to focussing on supervision and transactional activities.

Panel should find a way to ensure it can operate above the operational detail, for example we witnessed the dotting of I’s and crossing of T’s and spell-checking in a Panel meeting, which fundamentally lowers the quality of the debate. Populating a rich agenda, taking papers as read and for information only and then using time to focus on the strategic issues are all required.

Panel appears to have adjusted well to online, although there may be some opportunities for further use of technology for the issuance of board papers and for some Panel Members to be further supported in making best use of the technology available. On the whole online meetings are preferred “as there is less talking over each other”, which was not something that we witnessed but should be addressed by the incoming Chair should it re-emerge.

Executive summary

Key themes (contd)

Meetings

We observed meetings of both Panel and the MPC, each were different in style but both delivered limited value. Meetings are dominated by a plethora of reports which do not, on the face of it, seem to be fully focussed on what the Panel should be achieving. The MPC seems to be an excellent place for industry discussion but struggles to capture hard progress on issues or to define a programme of deliverable outcomes.

Contributions from Members seem variable, where there are 3-4 dominant voices while others remain silent throughout. We also witnessed quite circular conversations, focus on minutiae and at times irrelevance. All of this causes frustration for those Panel Members less inclined to speaking for the sake of it. This imbalance detrimentally impacts the quality of meetings. The new Chair is encouraged to address this issue. Some poor behaviours evident have gone unchallenged in the past. Meetings are very long and lead to loss of energy for the final stages and there is a sense of inefficiency overall.

Meetings take place with camera's off at present, with some risk that Members are able to disengage and get on with other things. Use of the chat bar was prevalent, even during the process of making a decision on a change proposal. This opens up considerable risk and will likely require adaptation of some form.

Prone to factions and splits, the Panel struggles with demonstrating independence. Some Members feel "unsafe" in speaking their minds over concern at being labelled non-independent.

The Panel also consumes too much time on one particular bilateral relationship. This needs to be addressed for the sake of the rest of the market as it consumes inordinate amounts of Panel and industry time.

Decision making

The process by which the Panel gets to decisions is currently challenged. On occasion, poor pre-meeting analysis leads Panel Members into the detail, sometimes concluding there is insufficient information for them to make a decision.

The decision-making framework does not appear to be consistently followed, illustrated by differences of opinion about due process. This does not seem embedded in Panel DNA and may well lead to confusion in the market and hinder the ability of proposers to learn and come back to Panel with improved documentation. We witnessed "solutioning in the room" which led to quite rambling discussions on due process in full view market participants. There also seems to be a lack of focus on effectively driving up the quality of the change proposals, to ensure they are "fully cooked" by the time they reach OFWAT. There is no apparent means of prioritising change proposals which may also in part explain the long queue of proposals currently sitting with the Authority.

This inconsistency has led some to conclude that non-wholesalers "get more of a grilling" from Panel. The Panel is relatively inactive in driving through its own change proposals and those that it does process are non-strategic and do not address issues at the heart of the market.

The revised voting arrangements were seen as better but this may have led to more abstentions and some proposals making it through that perhaps should not have. This appears to be a loophole that the Panel may benefit from shutting.

Some participants questioned whether conflicts of interest are effectively recognised and managed, which combined with the inevitability that there will be some individual bias in decision making, is perhaps cause for concern.

Executive summary

Key themes (contd) and recommendations

Panel development and support

In conducting this review the Panel have indicated an appetite to establish areas for its own improvement and this is the first review of its kind.

Our discussions revealed the Panel has no real sense of its own identity, limited focus on how it interacts with the market and has no feedback loops in place to help it to understand areas for improvement. This included a historical lack of feedback for individual Panel Members.

Panel does not currently hold a skills matrix and does not seem to have discussed composition and skills required for the delivery of its purpose and mandate. Perhaps inevitable given lack of clarity on overall purpose.

The onboarding process seems to have improved considerably in recent times which was good to hear, but there maybe further opportunities here for improvement.

With no KPIs in place to track its own outputs and performance there is no sense of where the Panel needs to improve and no focus on panel development.

Now is likely an excellent moment to think about the skills the Panel will require and to link this directly back to purpose, vision and strategy. All groups of people coming together to deliver important work should have a sense of how the group needs to develop in order to be better at its role, the Panel is no exception. A Panel development plan is an essential tool and will help to provide assurance to the market on Panel capabilities, decision efficacy and potentially even promote independence.

Recommendations

Split into two threads, our recommendations support the development over time of purpose, vision and strategy as well as pointing toward actions the Panel can take now.

The strategic thread or roadmap sees the Panel consulting Defra, OFWAT and MOSL to clarify role and purpose, delineation of tasks including where market strategy sits, and developing clear understanding of their expectations of the Panel. This then flows into Panel being an active developer of its own strategy, drawn from purpose and encapsulated in purpose and vision statements. This will need to be communicated across all stakeholder groups, driving clarity across the market and enhancing understanding of the role of the Panel.

Clarity of purpose and strategy will drive decisions on Panel and Committee structure and composition, strategic priorities and Panel strategy. Once the Panel has complete clarity of purpose, understanding of its strategic role in the market and its own Panel strategy, it will then be able to forge a useful set of KPIs designed to drive its own performance, and that of MOSL in support of Panel operations.

Our recommendations are laid out below with **those that rely on sequencing as outlined above marked as bold** – and then laid out in a table suggesting possible flow. The rest of the recommendations can be implemented in parallel and whilst they may need a little adjustment once the strategic thread matures, you will capture value in the meantime.

Our recommendations are also coded as easy or hard and prioritised from 1-3 where 1 is the most urgent.

Summary of recommendations

Category	#	Recommendation (items relating to strategic thread/roadmap are shown in bold)	Codes: Priority – 1,2,3 Difficulty level: Quick win = Q Harder = H
Stakeholders	1	In tandem with discussion of core purpose (see item 6) clarify with Defra, OFWAT and MOSL what expectations each body has of the Panel, its role, its outputs and its market interface with stakeholders. Enhance clarity of task boundaries with particular emphasis on who is responsible for discussing and delivering market strategy.	1 H
	2	Clarify with MOSL what would define an “optimal relationship” between Panel and MOSL. Use this to drive clarity and collaboration at the interface.	2 H
	3	Once clarified communicate and socialise Panel role and function more widely across the market, proactively stimulate market engagement with Panel and its activities.	2 H
	4	Enhance feedback loops with market stakeholders, customer satisfaction surveys with focus on value for money, funding, decision making efficacy, demonstrating independence, market impact and market priorities.	2 Q
	5	Strengthen market communications on the Panels activities, decisions, performance, market impact and effectiveness.	1 H
Purpose	6	Urgent need to clarify purpose of the Panel. Work with Defra, OFWAT and MOSL in determining the Panels’ place in the market. This conversation will provide clarity that should then feed into vision, strategy, plan and measurement of progress against that plan (KPIs). It will also establish a common	1 H

		language around purpose that can be socialised more widely across the market. Including what the Panel is not there to do.	
	7	Lack of common understanding of what “holding MOSL to account” means, signifies a need to re-interpret purpose and to ensure Panel time is spent forensically doing its duty and not more. Panel has a lesser role to play here than the MOSL Board and must not waste time in duplication.	1 H
	8	Customer impact (from decisions) could be measured and Panel should drive MOSL harder in delivering proper predicted and then actual, impact data and analytics. Consistent demand here will be important in inculcating customer into the psyche of the Panel and market participants.	2 H
	9	When considering purpose the Panel should discuss with wider stakeholders any expectations there may be for the Panel to help shape innovation within the market.	1 H
Strategy	10	Clarify the role of the Panel in market strategy with OFWAT, MOSL and Defra and ensure there are clear metrics that enable the measurement of impact and progress.	1 H
	11	The Panel should pursue its own strategy centred on continuous improvement, across all aspects of its operation.	1 H
	12	Panel would also benefit from more focus on strategic thinking, stimulated by a better agenda and more focus on debating the key market issues in meetings. More strategy and less supervision.	2 Q
	13	Panel requires better support in data & analytics and financial planning, to enable it to better measure market impacts, prioritise its activities, understand cost-benefit, measure decision efficacy and create feedback loops that enable it to improve its performance over time.	2 H
Structure – Panel	14	Clarification of purpose should drive a review of composition for both Panel and Committees, including balance of independents and representation of trading blocks.	2 H

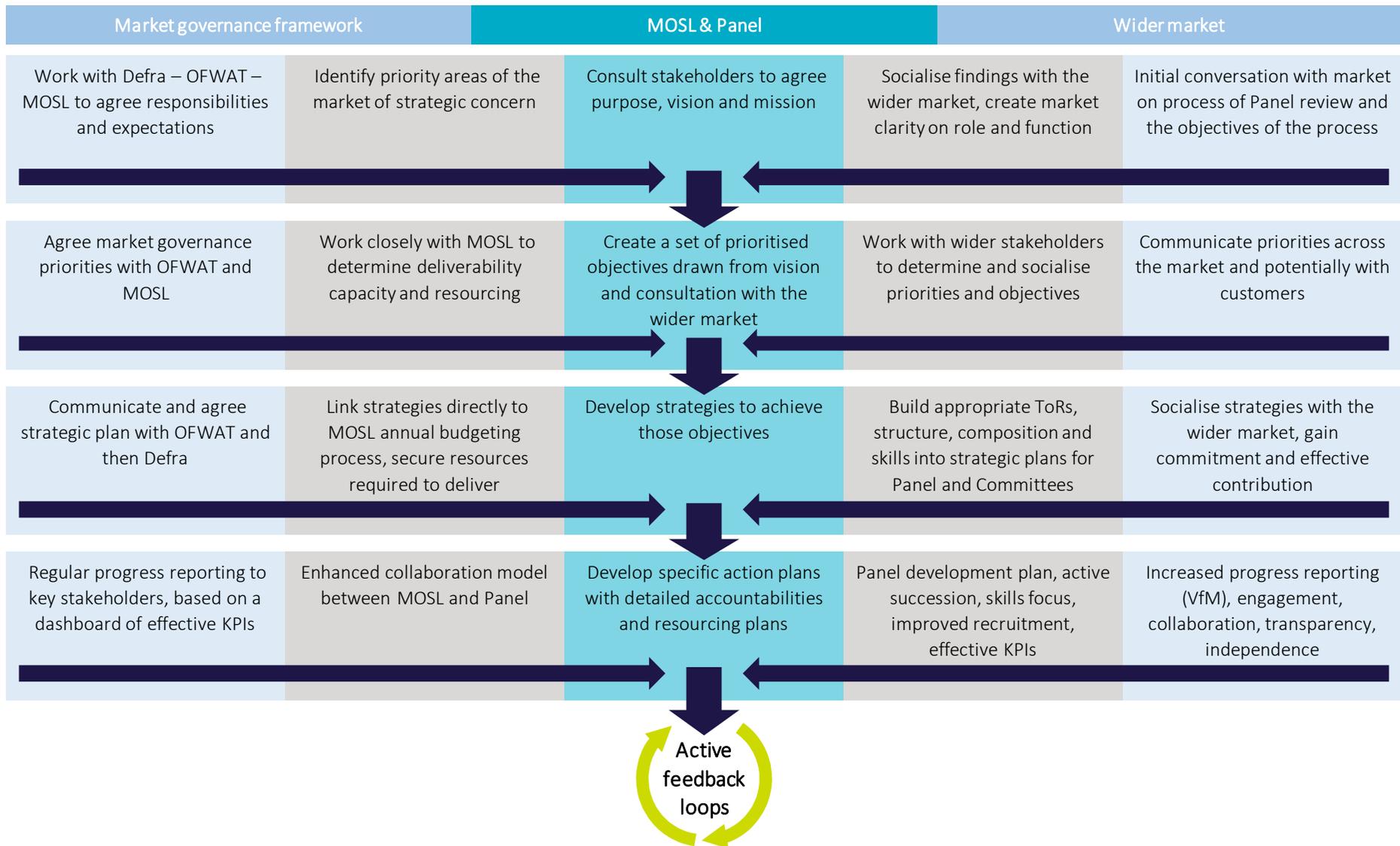
	15	Once clear on the purpose Panel should discuss what the optimal balance of skills would be to deliver the vision and strategy. This should be kept under constant review, be enshrined in a skills matrix and be used to be more specific about what you are seeking from industry in the next phase of recruitment. Active shaping of role specifications will help ensure Panel capability tracks in line with strategic need.	2 H
	16	Active succession management is required to deliver the above in an ordered and deliberate fashion. This includes active management of tenures and more focus on ensuring the recruitment process delivers what you need, at the same time as respecting the need for elections. Employer brand focus required here.	2 H
	17	Conduct a benchmarking exercise to determine overall fees for independents, also consider whether remuneration structure and incentivisation are driving the right behaviours as a part of that.	1 Q
	18	Any composition and structural review should take into consideration an appropriate time commitment from Members (some have stepped away as it is too burdensome). There may be opportunities to widen the burden and workload by populating sub-committee with trading parties as opposed to Panel Members for example.	2 Q
Structure – Sub-Committees	19	Sub-Committees need reviewing in light of better alignment on Panel purpose. Their purpose should be directly linked to Panel purpose and strategy, with clearer Terms of Reference, more directional and demanding contribution from Panel and more effective reporting on core outputs and progress.	1 H
Panel operations	20	Establish a closer working model with MOSL, with collaboration and alignment of objectives, ensure all Panel Members have clarity on the distinction between Secretariat responsibilities and outputs and those of MOSL.	2 Q
	21	Secure financial planning and analysis support either from MOSL or hire into the Secretariat team.	2 Q
	22	Continue to work with MOSL on the annual budgeting process. Initiate a rich dialogue that is included in annual strategy sessions and directly support agreed Panel objectives for the year.	1 Q

	23	Gain real clarity on cost of MOSL services, cost implications of Panel decisions and build a stronger focus on cost-benefit analysis to help shape and prioritise decisions and impacts.	1 H
	24	Continue to push for enhanced performance from MOSL, stronger data & analytics to support decision processes, code proposal analyses and drive continuous improvement to market led code proposals through insistence on pre-set levels of quality.	1 Q
	25	Review the agenda to ensure the most important work takes place up front and not rushed through at the end when energy is also flagging.	1 Q
Meetings	26	Assume material is read – at every meeting, avoid the trotting out of papers and presentations designed as for info, focus on making decisions and rich strategic debate instead of supervision.	1 Q
	27	Agree meeting protocols: attend meetings with cameras on, establish rules on use of chat bar and clarify allowable contributions of observers.	2 Q
	28	Active Chairing likely required to enable Members to bring both independent and industry views into the room in a way that protects independence of Members.	1 Q
	29	Ensure that the culture of the Panel allows colleagues to operate in a “safe space” where challenge is appropriate and no single party or group is driving its own agenda too hard. Strive for a valid contribution from all Members over the course of a meeting and consciously protect the issue of independence in the room, at both group and individual levels. Consider the benefit of regular Chair feedback on contributions to meetings in this regard.	2 Q
Decision making	30	Consider implementing a more rigid decision-making framework. Look to the regulatory “decision-making process” approach for inspiration in this. Adhere to the process come what may.	1 Q
	31	Send any change proposals back that do not meet the expected standards. Do this consistently and without fail, explaining why the proposal has not made it through. This will drive both market participants and MOSL toward better evidence and in time generate higher quality proposals. This will materially impact workload and efficiency.	2 Q

	32	Keep under review the new voting mechanism and agree new arrangements that address the issue of abstentions and the potential for proposals to pass with a majority of abstentions.	3 Q
	33	Build a triage mechanism to protect Panel time, enable focus on the most important proposals and to prioritise recommendations that flow through to OFWAT to avoid undue logjams and delays. Work with industry to establish this framework.	1 H
	34	Panel is well positioned to take the lead in unravelling the more strategic challenges in the market. It could be leading the development of strategic change proposals that have considerable positive market impact and support agreed market priorities. Be more ambitious in developing your own change proposals.	2 H
	35	Active management of perceived and actual conflicts of interest is also an exercise in managing perceptions and reputation, Panel should pay more attention to this in our opinion.	2 Q
	36	Panel could be better at communicating outcomes and the reason it arrived at its conclusions, management of proposers as customers is important for transparency, market learning and driving up the quality of proposals.	2 Q
Panel development	37	A Panel development plan should be created that enables the Panel to continuously enhance its own performance. A cadre of the Panel and/or Secretariat will need to take accountability for driving its development and implementation.	2 Q
	38	Chair is developing and annual round of Panel review, as well as ongoing feedback for Members to encourage the right behaviours and levels of contributions.	1 Q
	39	Once purpose is established design Panel KPIs for its own performance, eg time taken to process change proposals, market and customer impacts of decisions, annual stakeholder survey results (independently delivered), volume of proposals sitting with OFWAT and so on.	1 H
	40	Find ways of further assuring the independence of Members, some unconscious bias training for example may help market impressions of independence.	2 Q

	41 Keep one eye on training requirements to fill in any skills gaps for both Panel overall and individuals who need help with performance.	3 Q
	42 Consider the use of “buddies” for newly appointed Members, a fuller on-boarding process and the development of a “Member Handbook” that articulates things like purpose, role, responsibilities, codes of conduct, terms of reference for board and sub-committees etc...	3 Q

Below we have provided some initial thoughts on what may constitute a suitable strategic roadmap



Items to deliver in parallel with the strategic roadmap

Priority	Difficult/harder to deliver (H)	Easier/quicker to deliver (Q)
1	5. Strengthen market communications on Panel activities, decisions, performance, market impact, and effectiveness; 23. Gain clarity on cost of MOSL services, cost implications of Panel decisions, build stronger focus on cost-benefit analysis to shape decisions and measure impacts; 33. Build triage mechanism to prioritise recommendations that flow to OFWAT.	17. Benchmark independent member fees; 22. Continue to work closely with MOSL on budgets for Panel; 24. Continue to push for improved decision analysis support from MOSL; 25. Adjust agenda to focus on most important items first; 26. Assume papers are read at the start of every meeting – avoid trotting through papers as updates; 28. Active Chairing to protect independence of Members; 30. Consider a more rigid decision-making framework; 38. Annual Panel review and Member feedback loops being developed.
2	2. Define “optimal relationship” with MOSL; 8. Measure customer impact of decisions to inculcate customer into the heart of Panel thinking; 13. Develop mechanism to provide better support in data & analytics and financial planning to enhance decision-making.	4. Enhance feedback loops from market stakeholders; 12. Adjust agenda to stimulate more strategic thinking from Panel; 20. Develop closer working model with MOSL; 21. Secure financial planning & analysis support; 27. Agree meeting protocols; 29. Ensure culture enables a “safe space” for colleagues to contribute. 31. Insist on quality threshold for proposals and levels of expected analysis; 35. Enhance conflicts of interest procedures; 36. Improve communications on reasons for arriving at decisions’ 40. Enhance assurance in relation to Member independence.
3		32. Keep under review new voting mechanism and agree new arrangements to avoid unintended passing of proposals due to abstentions; 41. Keep one eye on Member and Panel training requirements; 42. “Buddies”, on-boarding and “Members Handbook”.

In conclusion

In commissioning this review the Panel have indicated a progressive attitude to continuous improvement. This report puts forward a number of recommendations that could be adopted by the Panel. The Panel itself has largely generated these recommendations and should now press ahead with a clear programme of activity in order make the most of this opportunity. We have provided our own thoughts on how progress might be made in both strategic and tactical work-streams that could and should be delivered in tandem. The Panel will need to determine its own priorities and carefully consider how best to devise an implementation plan given the considerable restrictions on resources. Nonetheless set out in the detail above are some clear opportunities for the Panel to make a significant and positive difference to the performance of the water market.

Whilst thorough, this review is not all encompassing, and the Panel should use this moment to think in more detail about its own performance and areas for further improvement. These review processes often stimulate subsequent thought and Members should not feel hindered in any way from discussing alternative methods, other ideas and additional areas of challenge. The open relationships that exist in the team will facilitate this.

The implementation and resultant value-capture will require determined effort and decisive action if the Panel is to secure value for money from this review. Creating a project implementation team that devises and delivers plans and regularly reports to the Panel on progress would be a good idea. Some of these recommendations are quite complex and will take considerable time to think through, prioritise and implement. The strategic roadmap will require considerable consultation from a wide range of parties and the socialisation of conclusions across the market. This, before feeding into any strategic and/or structural changes required. The Panel has much to do and will likely require considerable support in its pursuit of improvements and we do not underestimate the level of challenge.

It only remains for us to say thank-you to the Panel and the wider stakeholders who contributed, for your openness and full and frank disclosure. We enjoyed our discussions and wish you all every success as you take the Panel agenda forward in search of market improvements.

Giles Naylor and Annabel Parsons

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