

Minutes of Panel Meeting 62

14 December 2021 | 10:30 – 14:30

Videoconference

Status of the Minutes: **Final**

Attendees:

Trisha McAuley OBE	TM	Chair	Christina Blackwell	AB	Alternate for Mike Keil (Customer Representative)
Fallon Wilkinson	FW	Panel Member (Associated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Richard Barton	RB	Panel Member (Associate Retailer)	Elsa Wye	EW	Panel Member (Independent)
Trevor Nelson	TN	Panel Member (Unassociated Retailer)	Pamela Taylor	PT	Panel Member (Independent)
David Siddall	DS	Alternate for Nicola Smith (Unassociated Retailer)	Charlotte Glass	CG	Panel Member (Associated Retailer)
Claire Yeates	CY	Panel Member (Unassociated Retailer)	Adam Richardson	AR	Panel Secretary
Mark Holloway	MH	Panel Member (Wholesaler)	Sarah McMath	SM	Affiliated Panel Member (MOSL)
Martin Mavin	MM	Panel Member (Wholesaler)	Dan Mason	DM	Affiliated Panel Member (Ofwat)

Other Attendees:

Stuart Boyle	SB	MOSL Presenter item 4	Huw Comerford	HC	MOSL Observer
Antoine Schmidt	AS	Thames Water Observer	Christopher Wright	CW	Castle Water Observer
Oli Robins	OR	MOSL Presenter item 6	John Vinson	JV	Observer
Evan Joannette	EJ	MOSL Presenter item 5	John Gilbert	JG	MOSL Presenter item 5

Apologies:

Mike Keil	MK	Panel Member (Customer Representative)	Nicola Smith	NS	Panel Member (Unassociated Retailer)
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OPEN SESSION

1. Welcome, Introductions and Declarations of Interest

- 1.1. The meeting was confirmed as quorate.
- 1.2. Apologies had been received from MK and NS. DS and CB attended as NS and MK's alternates respectively.
- 1.3. The Chair reminded Panel members that, in line with section 5.7 of the Market Arrangements Code ("MAC"), they were to act impartially and not in the interest or as a representative of any organisation or individual. If Panel members believed they had an actual or perceived conflict they should declare this at the start of the meeting or before an agenda item. Items discussed in closed sessions were confidential and should not be discussed with individuals outside of the Panel or confidential papers shared.
- 1.4. No Panel members declared any conflicts in relation to the meeting agenda items.

2. Minutes and Outstanding Actions

- 2.1. The minutes from Panel 61 (30 November 2021) would be circulated for approval ex-committee.
- 2.2. The Panel agreed that the following actions could be closed as they had been completed:

A61_02, A61_03 and A61_04
- 2.3. The Panel agreed that the following actions would remain open:

A39_05, A45_10, A60_01 and A61_01.

3. Change Report

- 3.1 SB introduced the Change Report which included the proposed change plans for [CPM047 'Change to Panel Quorum'](#), [CPW130 'Transfer Read Estimate Reason Codes'](#), [CPW129 'Review of Post RF Materiality Threshold'](#) and [CPM048 and CPW131 'Suspending certain MPS charges pending full review of the MPF'](#).

The Panel also considered the amended change plan for [CPW120 'Final Read where no visual read is available'](#).
- 3.2 SB made the Panel aware that since the last meeting Ofwat had published a decision on [CPM035 'Panel Election Streamlining'](#) and [CPW080 'Simplification of Default and](#)

[Termination Process'](#). Both had been rejected by Ofwat. SB advised that CPW080 had been rejected primarily on the grounds of a lack of customer benefit.

- 3.3 The Panel agreed to consider CPM047 under item 6.
- 3.4 A Panel member asked whether a change proposal raised by a committee would take precedence to a proposal raised by a trading party. SB confirmed that all change proposals would be considered equally and advised that Panel members would need to consider the potential impact to other workstreams and MOSL capacity e.g. MPF (Market Performance Framework) review.
- 3.5 The Panel considered the change plan for CPM048 and CPW131 'Suspending certain MPS charges pending full review of the MPF'.
- 3.6 A detailed discussion followed which included the following comments and observations:
 - Further evidence and analysis would be needed prior to moving to the formal consultation stage to better understand the impact to customers.
 - It was important to take a view from the MPC (Market Performance Committee) and understand the potential impact to the MPF review.
 - Careful consideration would need to be given to the resources that may be needed and how this might impact other workstreams.
 - Some Panel Members felt that priority should be given to trading party change proposals.
 - MOSL needed to ensure that resource was made available to support all change proposals.
 - Evidence gathering should take place via consultation rather than via the MPC.
 - Emphasis needed to be on the MPF review in terms of resource.
 - The potential detriment of the proposed change needed to be considered together with a broader understanding of the impact of the change.
 - To secure regulatory support the evidence would need to be more compelling.
 - The need to understand the impact on customers of maintaining the status quo and the impact of making the change in terms of cost and benefit.
 - The issue of costs v. benefit given that the practical implementation would, if the proposed timescales are met, not take place until Autumn 2022 when the revised MPF would be implemented in April 2023.
 - The proportionality of the change proposal was queried and whether regulatory approval would be forthcoming without further evidence.
 - The potential to explore an alternative approach that could be developed making more efficient use of time and resources.
 - The change proposal needed to be given an opportunity to be fully considered.
 - Some Panel Members expressed concern that it may not be possible to obtain the evidence needed from trading parties via consultation.

- The prioritisation of the change proposal would need to be considered by the Strategic Panel and Code Change Committee in due course, together with the wider strategic priorities.
 - Evidence would need to include the potential impact on behaviours in the market.
- 3.7 The proposer noted the suspension of the review of the MPF through 2020 and early 2021 because of the impact of Covid-19. The proposer indicated that the suspension of the MPF charges during that period (2020/21) had not appeared to have a negative impact on any trading party. The proposer also felt that c. 60% of charges appeared to be incurred because of matters that were outside the control of the Retailer and that this was an unjust appropriation of resources. Trading parties had waited long enough and therefore the change proposal was designed to create the changes needed.
- 3.8 A Panel member noted that it was important to understand the data and information that would need to be gathered and the analysis needed to support the Panel in establishing the evidence that would be needed to determine the case for change.
- 3.9 AR agreed with those Panel Members that felt the timescale was ambitious and that additional evidence gathering to support analysis could take place in January/February 2022. Following this further consultation may be needed which could mean that the recommendation was brought to the Code Change Committee in April/May. AR confirmed that the implementation date would not be impacted because of building in this additional time.
- 3.10 The Panel asked for the timeline to be revised to reflect the discussion and a further update on analysis will be made at the January Panel meeting.

ACTION A62_01

- 3.11 The Chair acknowledged the range of views regarding the change proposal and thanked everyone for their contribution.
- 3.13 Panel members had no comments in relation to the plan for CPW129 'Review of Post RF Materiality Threshold'.
- 3.14 The Panel considered the change plan for CPW130 'Transfer Read Estimate Reason Codes' noting that the change interacted with CPW120 'Final Read where no visual read is available'. The proposal was to implement a combined solution in a single release and therefore delay the recommendation on CPW120 to align with CPW130.
- 3.15 The Panel discussion included the following comments and observations:
- Acknowledgement of the rationale for the alignment of the change proposals.
 - Confirmation that an impact of aligning the change proposals would be a delay of 5 months in implementing the collection of a subset of reason codes.
 - Recognition that it may be possible to make the recommendation in February 2022 so that the change could be implemented in December 2022 but noted that

the timescale to allow for consultation and review by the metering committee would be tight and therefore may be unlikely to be met.

- Panel Members noted that there was felt to be no significant impact to customers regarding a delay to implementation.

DM joined the meeting at 12pm

3.16 Prior to taking a formal vote two Panel members indicated that they were minded to support the plan for CPW130 and the amended plan for CPW120 provided the potential to revise the timelines were given full consideration and brought forward if possible.

The Panel:

- **NOTED** the Change Report and;
- **APPROVED** (unanimous) the plan for CPM047 'Change to Panel Quorum'
- **APPROVED** (majority) the plan for CPW130 'Transfer Read Estimate Reason Codes' (12 in favour, 1 against)
- **AGREED** (unanimous) the plan for CPW129 'Review of Post RF Materiality Threshold'
- **AGREED** (majority) the plan for CPM048 and CPW131 'Suspending certain MPS charges pending full review of the MPF' (11 in favour, 2 against)¹
- **APPROVED** (majority) the amended plan for CPW120 'Final read where no visual read is available' (12 in favour, 1 against)

4. CPW070b-1 Bilaterals Interface Solution

- 4.1. The Panel considered [CPW070b-1 'Phase 3 - Bilateral Transactions'](#) which sought to deliver additional Bilateral Hub functionality and the meter repair or replace ('B5') process.
- 4.2. JG provided an overview of the progress of the Bilaterals programme to date.
- 4.3. Post go-live the hub is continuing to operate effectively with over 6,000 C1 (verification of meter details or supply arrangements) requests having been raised so far. Analysis of the growing data set indicates that the anticipated benefits of the hub are being realised and, in some cases, have been greater than anticipated e.g. rejection rates for C1s stood at 19% prior to implementation and are now at 4%.
- 4.4. The programme has included interim releases prioritising additional functionality that trading parties asked to be included e.g. de-registration of SPIDs.

¹ The plan agreed was an amended plan as determined in the meeting. This allowed for an extended assessment to accommodate evidence gathering in addition to a consultation which would still enable a recommendation to be made in time to meet the proposed implementation date (subject to an Ofwat decision).

- 4.5. A good level of engagement is being maintained through the range of advisory groups and 1 to 1 meetings with trading parties. In response to concerns from several trading parties regarding the aggressive programme timeline the programme team is exploring where and how further flexibility can be built in to ensure everyone is accommodated as far as possible.
- 4.6. EJ provided an overview of the additional Bilateral Hub functionality and the meter repair or replace process, together with the intended benefits of the change. These had been referenced in detail in the draft recommendation report.
- 4.7. The programme team had also collaborated with CCW to work through several scenarios to understand exactly where the proposed change would benefit customers.
- 4.8. EJ also provided an overview of the proposed programme plan going forward giving Panel early sight of upcoming code amendments and timings.
- 4.9. The Chair invited comments and feedback from the Panel.
- 4.10. DM observed that the programme's approach to engagement was effective and had been able to strengthen engagement further following go-live.
- 4.11. MM commented from the perspective of being part of a Pathfinder group noting that engagement and progress was generally good. With regard to the additional functionality noted MM commented that this was not necessarily additional functionality to the original scope of the programme but additional to the current functionality available to trading parties.
- 4.12. JG responded that whilst this was a fair point there were additional elements e.g. HVI/LVI switching which had been a benefit to all trading parties.
- 4.13. CB commented that in terms of benefits to customer it was possible to see this clearly and was supportive of the change.
- 4.14. A Panel member commented that it was useful to hear that the intended benefits of the change had surpassed expectations. In terms of the aggressive timescale outlined the Panel member asked whether all trading parties were able to keep pace with the changes. JG responded that the programme needed to balance delivery to time and budget ensuring a good level of quality. The feedback gathered following the implementation of the C1 process indicated that trading parties had needed more resource than they had anticipated. The programme understood that it was critical that all trading parties could participate fully in the programme and was looking to refine the implementation plan to build in more flexibility and group modules together to build in more testing time. This would be considered by the Bilateral Steering Group on 16 December.
- 4.15. MM commented that as a member of the Pathfinder group he agreed that grouping modules for release made sense but acknowledged that trading parties have different requirements therefore it would always be a 'best fit' approach.

4.16. Panel members were supportive of the change and commented on the high quality documentation and, in particular, how the impact to customers was clearly represented.

4.17. The Panel:

- **AGREED** (unanimous) to recommend the code amendments of CPW070b-1 'Phase 3 – Bilateral Transactions'
- **AGREED** to recommend two implementation dates:
 - Additional Bilateral Hub functionality - 2 February 2022 if Ofwat approval is received by 20 January 2022, and
 - B5 process - 31 March 2022 if Ofwat approval is received by 20 January 2022

5. CPM047 Change to Panel Quorum

5.1 The Panel considered [CPM047 'Change to Panel Quorum'](#) which sought to reduce the Panel quorum due to the number of active Wholesaler Panel Members becoming insufficient in January and February 2022. This change would be temporary until the Code Change Committee formally commenced its tenure in March 2022.

5.2 OR presented an overview of the Change Proposal which had been outlined in detail in the draft recommendation report.

5.3 The Panel noted that the change proposal had been well drafted and presented.

5.4 The Panel emphasised that the uniqueness of the problem statement, the short timescale available for resolution, the lack of viable alternative solutions, and the temporary condition of the proposed solution, were fundamental considerations in its endorsement of CPM047. The Panel did not consider CPM047 appropriate under normal circumstances.

5.5 A Panel member suggested that a communication to the market explaining the rationale behind the change would be beneficial.

ACTION A62_02

The Panel:

- **AGREED** (unanimous) to recommend CPM047 'Change to Panel Quorum'
- **AGREED** to recommend an implementation date of:
 - 14 January 2022, if Ofwat approval is received by 12 January 2022

6. Market Improvement Fund

6.1 The Panel considered a paper outlining the key components for the second MIF (Market Improvement Fund) funding round:

- Bidding application window – March 2022

- Total fund amount - £1.5 million
- Minimum/Maximum bid amount – Unchanged at £10K minimum and £150K maximum

6.2 SF made the Panel aware that the performance charges that were likely to have been invoiced would be at least £3 million by the end of the year.

6.3 A Panel member asked whether there would be an additional round of bidding following round two and therefore the potential to award further funding. SF responded that it is not anticipated that the fund will include a third round to ensure that the fund associate with 2021/22 performance charges is not over committed. Any funds remaining at the end of bidding round two would be re-distributed to trading parties. The Panel member suggested that the funds shouldn't be redistributed and that ideally the funds should be utilised by the MIF.

6.4 The Panel member asked that future MIF rounds should look to utilise the entire fund.

6.5 A Panel member asked how much of the funding for the MIF comes from retailers. SF confirmed that this varied depending on performance but was usually around 60% to 70% of the fund as retailers pay more in performance charges. The Panel member commented that the equity of funding arrangements in the future needed to be considered to ensure retailers did not contribute a disproportionate amount to the fund.

6.6 A Panel member asked whether there would be any review of the bidding criteria. SF responded that there are no current plans to change the bidding criteria.

6.7 The Panel:

- **APPROVED** (unanimous) the proposed key components (bidding application window, total fund amount and minimum and maximum bid amount) for the second MIF funding round

7. Ofwat Update

7.1. DM introduced the Ofwat update and noted several decisions had been published on Code modifications since the last Panel meeting. Those decisions were CPW35 'Panel Election Streamlining' (rejection), CPM45 and CPW127 'Extending the right of MOSL to raise change proposals' (approved) and CPW80 'Simplification of Default and Termination Process' (rejection).

7.2. DM also made Panel members aware that Ofwat had published the [decision to impose a financial penalty on Thames Water](#) and the proposals to temporarily amend the [Retail Exit Code](#).

7.3. The latest [State of the Market Report](#) and the methodology for Retail Exit Code Review were due to be published imminently.

7.4. The Panel:

- **NOTED** the Ofwat Update

8. Panel Response to MOSL Business Plan

8.1. AR noted that the Panel Response to the MOSL business plan had been approved by Panel Members ex-committee and had been submitted to the MOSL Board.

8.2. The Chair recorded the Panel's thanks to CG for her work on the response.

8.3. The Panel:

- **NOTED** the Response

9. Committee Reports

9.1. The Disputes Committee (DC) Chair confirmed that DIS0035 had been settled and would not need to come to the DC for review.

9.2. The MPC Chair provided a verbal update on the MPC meeting held on Thursday 09 December.

9.3. The Panel:

- **NOTED** the Committee Reports.

10. MOSL Business Update

10.1. The Panel:

- **NOTED** the MOSL Business Update.

11. Any Other Business

11.1. The Chair noted that FW and MM would be stepping down from the Panel after this meeting and recorded the Panel's thanks to both MM and FW for their outstanding contributions to the Panel and wished them both the best for the future.

11.2. As there was no other business, the open session was closed.

CLOSED SESSION

12. Panel 62 Reflections

12.1. The Panel reflected on the meeting.

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