

Minutes of Panel Meeting 63

31 January 2022 | 10:30 – 13:15

Videoconference

Status of the Minutes: Final

Attendees:

Pamela Taylor	PT	Panel Member (Independent) Deputy Chair	Adam Boyns	AB	Alternate for Mike Keil (Customer Representative)
Trevor Nelson	TN	Panel Member (Unassociated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Richard Barton	RB	Panel Member (Associate Retailer)	Elsa Wye	EW	Panel Member (Independent)
David Siddall	DS	Alternate for Nicola Smith (Unassociated Retailer)	Mark Holloway	MH	Panel Member (Wholesaler)
Neil Pendle	NP	Alternate Panel Member (Unassociated Retailer)	Adam Richardson	AR	Panel Secretary
Dan Mason	DM	Affiliated Panel Member (Ofwat)	Sarah McMath	SM	Affiliated Panel Member (MOSL)

Other Attendees:

Stuart Boyle	SB	MOSL Presenter item 5	Peter Strain	PS	Castle Water Observer
Antoine Schmidt	AS	Thames Water Observer	Christopher Wright	CW	Castle Water Observer
Darren Hayes	DH	Ofwat Observer	John Vinson	JV	Observer
Evan Joannette	EJ	MOSL Presenter item 6	John Gilbert	JG	MOSL Presenter item 6
Sam Mawby	SM	Secretariat			

Apologies:

Mike Keil	MK	Panel Member (Customer Representative)	Nicola Smith	NS	Panel Member (Unassociated Retailer)
Trisha McAuley OBE	TM	Chair	Charlotte Glass	CG	Panel Member (Associated Retailer)
Claire Yeates	CY	Panel Member (Unassociated Retailer)			

OPEN SESSION

1. Welcome, Introductions and Declarations of Interest

- 1.1. The meeting was confirmed as quorate.
- 1.2. Apologies had been received from TM, NS, MK, CG and CY. DS, AB and NP attended as NS, MK and CY's alternates respectively. PT would be acting as Chair for the meeting in TM's absence.
- 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. Revised Panel Terms of Reference

- 2.1 The Panel considered the revised Panel Terms of Reference (ToR) following the implementation of [CPM047 'Change to Panel Quorum'](#). This revision was required to align the ToR with the Market Arrangements Code (MAC).
- 2.2 Section 7 'Quorum and Decision Making' had been updated to reduce the Panel quorum to the Chair, four Trading Party Members and two Independent Members during the Transitional Period as defined in the MAC. The Transitional Period was scheduled to end by March 2022.

The Panel:

- **APPROVED** (unanimous) the revised Panel Terms of Reference

3. Minutes and Outstanding Actions

- 3.1. The minutes from Panel 62 (14 December 2021) had been circulated ex-committee as agreed, approved and published.
- 3.2. The Panel agreed that the following actions could be closed as they had been completed:

A61_01, A62_01 and A62_02
- 3.3. The Panel agreed that the following actions would remain open:

A39_05, A45_10 and A60_01.

4. Ofwat Update

- 4.1. DM introduced the Ofwat update and noted the decisions that had been published since the last Panel meeting.
- 4.2. CPM047 'Change to Panel Quorum' and CPW070b-1 'Bilaterals Interface Solution' had been approved and published.
- 4.3. A decision regarding [CP0010 Customer Protection Code of Practice Change Proposal](#) had been published. This was aimed at strengthening protections for customers who pay in advance.
- 4.4. Ofwat had also published a response to the MOSL Business Plan.
- 4.5. The Panel:
 - **NOTED** the Ofwat Update

5. Change Report

- 5.1 SB introduced the Change Report which included the proposed change plan for CPW132 '[Credit Support and Wholesaler Credit Ratings](#)' and the updated change plan for '[CPM048 & CPW131: 'Suspending certain MPS charges pending full review of the MPF'](#)'
- 5.2 SB confirmed to Panel the Ofwat decisions made since December and the rationale behind those decisions.
- 5.3 The Panel considered the updated change plan for CPM048 and CPW131 'Suspending certain MPS (Market Performance Standards) charges pending full review of the MPF (Market Performance Framework)'.
- 5.4 At the December meeting the Panel had asked MOSL to give additional consideration to the change plan. MOSL had worked closely with Castle Water (proposer) to review the plan further. SB outlined the analysis that would be undertaken in the amended plan and confirmed that the recommendation date was still anticipated for May 2022.

5.5 CW (Proposer) thanked MOSL for the constructive dialogue in relation to the plan. As a result of this work several complementary benefits had been identified which would support market improvement and that could contribute to the reform of the MPF. CW confirmed that he was supportive of the approach outlined in the amended plan.

5.6 A detailed discussion followed which included the following comments and observations:

- Additional time would need to be included in the timeline if the change proposal needed to be considered by the Strategic Panel. (SB confirmed that it was not anticipated that the change proposal would be reviewed by the Strategic panel).
- Mixed views on how the suspension of the MPS charges outlined in the change proposal would benefit the MPF reform work.
- It was important to understand how the change proposal impacted on the MPF reform work and whether it pre-empted the outcome of the latter workstream. (SB commented that, if approved and implemented, the change proposal would suspend three MPS charges until the outcomes of the MPF reform work were implemented. The analysis gathered as a result of working on the change proposal would be complementary to the MPF reform work and the intention was to feed any findings into the analysis used in the reform programme to determine what a future MPF might comprise (should the work identify a need for a future MPF). This view was echoed by CW and PS).
- The consultation could incorporate questions in relation to when retailers raise bilaterals, the reasons for the non-submission of reads and how these would be impacted by suspending the MPS charges. This would provide useful insight to inform the MPF reform work. (SB confirmed that these suggestions could be incorporated in the consultation questions).
- Several Market Improvement Fund applications were highlighted that could make a useful contribution to the evidence needed.
- The need to clearly evidence the impact and/or benefit to customers and that it further the primary principle.
- Importance of getting the consultation questions right to tease the relevant evidence out.
- The change proposal should not delay or impact on the MPF reform work. (SB confirmed that there should not be any impact on the MPF reform work).

5.7 The Panel based its decision on the analysis outlined by SB and the addition of the following questions for inclusion in the consultation:

- The time retailers take to raise bilaterals
- The reasons for non-submission of reads by retailers, especially customer reads

- Understanding the impact of the change on the above and whether there was any detriment to customers
- 5.8 AR noted the comments made by members and confirmed that the questions would be appropriately framed to ensure they remained within the scope of the change proposal.
- 5.9 The Panel:
- APPROVED** (majority) the amended plan for CPM048 and CPW131 ‘Suspending certain MPS charges pending full review of the MPF’ (6 in favour, 3 abstained)¹
- 5.10 The Panel considered the plan for CPW132 ‘Credit Support and Wholesaler Credit Ratings’.
- 5.11 SB drew the Panel’s attention to the fact that Ofwat’s timescale for a decision on the change would likely be dependent on the Ofwat financial resilience workstream.
- 5.12 CW (proposer) commented that the change proposal should not be delayed by the Ofwat workstream given that the outcome might not be determined until the end of 2022. CW confirmed his support of the timeline outlined as presented.
- 5.13 DM commented on the timeline of Ofwat’s financial resilience work. At this stage it was not possible to confirm a date where Ofwat will have formed a view or way forward, but it would potentially be autumn 2022.
- 5.14 A discussion followed which included the following comments and observations:
- The benefit of the change proposal being progressed at this time was not completely clear.
 - There were other areas of focus for the Panel currently and the change proposal was not urgent.
 - The need to establish whether the change proposal would achieve a strategic benefit and that it could make more sense, given the end of the transition period was near, for the Strategic Panel to consider this. (AR confirmed that the Code Change Committee would be cognizant of the Strategic Panel priorities at the point of considering the change proposal).
 - A degree of concern was raised that resource may be wasted pending confirmation of Strategic Panel priorities.
 - The issues raised in the change proposal should not be pursued through the code change process and that it would be more appropriate to pursue this through Ofwat’s processes and their timelines.

¹ The plan agreed was an amended plan, as outlined in the meeting, with the addition of further questions for incorporation at consultation stage

5.15 The Panel:

DID NOT APPROVE (majority) the timeline as presented and considered the next steps (7 in favour, 2 abstained).

5.16 Panel member views were mixed regarding whether the change proposal timeline should be delayed pending agreement of the Strategic Panel's priorities or aligned to Ofwat's timescale as outlined by DM.

5.17 The Panel:

NOTED the Change Report and;

AGREED (unanimous) to put the plan for CPW132 'Credit Support and Wholesaler Credit Ratings' on hold².

6. CPW070c Phase Three Bilaterals Transactions (F4/F5/G1)

6.1 The Panel considered [CPW070c 'Phase 3 - Bilateral Transactions'](#) which sought to deliver three new processes into the Bilateral Hub. These processes were F4 (enquiries), F5 (complaints) and G1 (Trade Effluent enquiries).

6.2 JG provided an overview of the progress of the Bilaterals programme to date. This included the robust governance structure in place and the high level of scrutiny provided by the different advisory groups for any change, prior to submission to Panel.

6.3 JG commented that the implementation plan had been updated to incorporate a phased approach to support trading parties to be able to move forward together. The next phase was due to be implemented at the end of May 2022 with following phases implemented every two months until the end of November 2022.

6.4 EJ provided an overview of the code changes all of which had been included in the draft recommendation report.

6.5 EJ highlighted an additional amendment to CSD 0601 (Bilateral Data Catalogue) for the Panel's consideration as a data item in one transaction was no longer needed.

6.6 If approved, the code amendments in CPW070c would be implemented at the end of May 2022.

² The Panel agreed that the plan would be reviewed each month by the Code Change Committee to assess whether it should be taken off hold

- 6.7 EJ outlined how the proposed changes would benefit customers and confirmed that the Bilaterals Programme team continued to collaborate closely with CCW.
- 6.8 A Panel member asked whether wholesalers would routinely engage with the newly proposed Wholesaler-initiated complaints process given that it was optional as opposed to mandated. They also queried how retailers would ensure they had oversight of this.
- 6.9 Another Panel member commented that it was encouraging to see the potential for the positive impact on customers.
- 6.10 EJ confirmed that in the Bilaterals Hub the notification would also be sent to the retailer for full visibility, who can then pick up any issues with the wholesaler as needed. EJ added that the proposed changes were essentially bringing the code more in line with the reality of the market where Wholesalers were already fully supportive of initiating a complaint or enquiry where they were able. However, if monitoring showed that behaviours were changing in ways that were undesirable and the wrong trading parties were picking up the wrong types of complaints, there were mechanisms (e.g. RWG complaints guidance) that could be utilised to address this.
- 6.11 EJ added that wholesaler buy-in to the proposed changes, as identified at the Operation Advisory Group (OAG), was 100%.
- 6.12 The Panel:
- AGREED (unanimous)** to recommend that Ofwat approve the code amendments of CPW070c 'Phase 3 – Bilateral Transactions' to include the minor amendment outlined for CSD0601.
- AGREED (unanimous)** to recommend an implementation date of 31 May 2022 if Ofwat approval was received by 31 March 2022

7 Committee Reports

- 7.1 The Disputes Committee (DC) Chair advised that the DC had previously discussed [CPW080 'Simplification of the Default and Termination Process'](#) in detail . The DC had decided to wait until Ofwat had made a decision before identifying the next steps. The change proposal had now been rejected therefore the DC would need to look at this issue again.
- 7.2 The Chair thanked EW for her work as DC Chair acknowledging that her tenure concluded at the end of February 2022.
- 7.3 The Panel:

NOTED the Committee Reports.

8 MOSL Business Update

- 8.1 SM gave Panel members an update on the responses received from trading parties to the MOSL Business Plan. The response rate had been good and overall feedback was positive (87% support for the level of charges, 91% support for the programmes set out).
- 8.2 There was strong support for using unspent budget (c.£115,000) from this financial year to support additional work on the MPF. This would be incorporated in the final business plan.
- 8.3 The MOSL Business Plan will go out to the vote on 8 February 2022.
- 8.4 The Panel:

NOTED the MOSL Business Update.

9 MOSL Market Update

- 9.1 A Panel member raised a query regarding the increase in unplanned settlement runs noted in the update in terms of how this would be addressed. AR confirmed that a note would be circulated to Panel to clarify how this would be approached.

ACTION: A63_01

10 Any Other Business

- 10.1 No additional business had been notified to the Panel Secretariat ahead of the meeting.
- 10.2 As there was no other business, the meeting was closed.