

Strategic Panel Terms of Reference

These Terms of Reference (ToR) should be read in conjunction with the Market Arrangements Code (MAC). To the extent of any conflict or inconsistencies between the terms of the MAC and the ToR, the MAC will take priority.

Unless otherwise stated, words and expressions that are used in the ToR shall have the meanings and application attributed to them under the MAC.

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

1. Strategic Panel Purpose and Approach

The Strategic Panel promotes, challenges and leads the operation and evolution of the market for the benefit of current and future non-household customers. It is the senior group responsible for overseeing the market codes, which govern the market.

The Strategic Panel was established in accordance with Section 5 of the MAC.

1.1 Scope

The core non-household market rules are set out in the Market Arrangements Code (MAC) and the Wholesale Retail Code (WRC) – the market codes. The Panel is a creature of these codes and its remit relates to market code matters.

However, the non-household market (and adjacent markets) are defined and impacted by other provisions ranging from the Water Industry Act, through the regulatory licensing regime, price controls, associated regulatory documents such as the Customer Protection Code of Practice and other, bilateral, contracts that may be struck between market participants.

Consequently, the Strategic Panel should consider the context in which it sits and the extent to which the decisions it makes can address or better facilitate good market outcomes. This may include consideration of any matters that might occur, or be provided for, under the market codes or under adjacent rules or legislation that could impact (positively or negatively) the delivery of good outcomes under the Code Principles (in particular – good customer outcomes).

1.2 Priorities

The Strategic Panel should take its lead on priorities from the outcomes that [Defra](#) and [Ofwat](#) want to see. Other key inputs will include information and views from market stakeholders (including, but not limited to customers, trading parties, CCW and the market operator). Prioritisation should be based on the extent to which the desired outcomes or identified matters of concern, address the outcomes Defra and Ofwat want to see and improve the delivery for customers (and other Code Principles).

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1.3 Engagement

To ensure there is appropriate and proportionate engagement with the market when developing the market strategy, the Strategic Panel is expected to take into consideration (in line with the Strategic Panel Engagement Policy) any feedback from the market stakeholders and groups with which it consults. The Strategic Panel Engagement Policy will be approved by the Strategic Panel and published on the Market Operator's website.

1.4 Powers

The Strategic Panel (either directly or via its Panel Committees or its service provider (MOSL)) can:

- Commission work to investigate issues and explore potential code-based solutions (prospective changes);
- Assess and recommend changes to the Market Rules (this could be to adjust, remove or add to current provisions);
- Set standards of performance and hold parties to account to rectify noncompliance/underperformance based on a framework that targets customer outcomes (subject to the outcome of the MPF review);
- Direct parties to take action where the Codes have been breached (Disputes).
- Where solutions cannot be progressed under the Codes, the Strategic Panel can note these in findings for the consideration of other parties (e.g. Ofwat/Defra etc.).

1.5 Approach

The Strategic Panel will meet four times a year to:

- 1) develop, review and evaluate a look-ahead for future years;
- 2) establish the priority outcomes ahead of each financial year;
- 3) baseline any associated delivery plans to deliver against these priorities as arising from Panel Committees;
- 4) consider any re-adjustment of priorities considering annual reports on the market or related matters as these are published; and
- 5) engage with stakeholders on the way forward.

An example of this meeting cadence is provided in Appendix 1 to these Terms of Reference.

2. Objectives and Principles

The MAC and Wholesale Retail Code (WRC) place obligations on the Strategic Panel to conduct its business with a view to achieving a number of Objectives consistent with specified Principles which can be found in Part 1 of the WRC and Schedule 1 of the MAC.

These principles require all Strategic Panel Members to place an unrelenting focus on customers and no decision should be to the detriment of the primary principle that:

- “The Market Codes shall be maintained, operated and developed in a manner that best seeks to protect and promote the interests of, and participation by, existing and future Non-Household Customers”

3. Role and Functions

The Strategic Panel shall carry out its functions in accordance with Section 5.2 of the MAC. These include, but are not limited to:

- Developing strategic priorities, areas of focus and actions or programmes required for the operation, maintenance, and development of the market to support the delivery of strategic outcomes for the benefit of non-household customers.
- Establishing and delegating where appropriate to Panel groups or committees to support its work;
- Engage with the wider market on priorities best taken forward via other routes;
- Providing strategic advice, support and challenge, where appropriate, to Market Audit Reports, Market Performance, Market Entry Assurance and Reassurance and Trading Disputes;
- Working with the Market Operator to develop the overall scope and audit plan for market audit;
- Considering and providing strategic level input into the Market Operator Budget and Market Operator Charges; and
- Reporting to Ofwat and the wider market on progress in delivering agreed strategic priorities.

The Strategic Panel is required to establish certain Panel Committees and may establish additional Committees as required and it is anticipated that day to day delivery of many of these responsibilities will be discharged on behalf of the Strategic Panel by such Committees.

4. Membership

Strategic Panel Members are appointed in line with Section 5.6 of the MAC. The Strategic Panel shall comprise the following voting Members:

- the Strategic Panel Chair
- four (4) Trading Party Strategic Panel Members (Two Wholesaler and two Retailer)
- three (3) Independent Strategic Panel Members
- one (1) Customer Representative Strategic Panel Member.

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The inaugural Strategic Panel Chair shall be appointed by the Panel Nominations Committee. Subsequent Strategic Panel Chairs shall be appointed by the Strategic Panel, in accordance with Section 5.3.2 of the MAC.

4.1 Affiliated Members

In accordance with Section 5.4 of the MAC, the following Affiliated Members are entitled to attend and speak, but not vote, at any Panel meeting:

- CEO of the Market Operator, or an alternate
- Representative of Ofwat
- Representative of Defra.

4.2 Observers

Meetings of the Strategic Panel shall be held in open forum, in line with Section 5.4 of the MAC, except where the Strategic Panel Chair determines that a meeting or agenda item relates to a commercially sensitive or personal privacy matter. Observers may request to attend an open Strategic Panel meeting, by notifying the Panel Secretary on Panel.secretariat@mosl.co.uk who will agree with the Strategic Panel Chair whether they attend in person and for which parts of the meeting.

The Strategic Panel Chair may, from time to time, invite observers or other individuals to speak at a Strategic Panel meeting.

4.3 Panel Secretary

The Market Operator will appoint the Panel Secretary, who will be a non-voting member of the Strategic Panel, as stated in Section 5.5 of the MAC.

4.4 Deputy Strategic Panel Chair

If the Strategic Panel Chair is unable to be present at a Strategic Panel meeting, he or she may designate one of the Independent Panel Members to act as Chair of that meeting, in accordance with Section 5.3.3 of the MAC.

5. Quorum and Decision Making

No business is to occur at the meeting unless a quorum in accordance with Section 5.9 of the MAC is present.

If a quorum of Strategic Panel Members has not confirmed attendance at a meeting, the Strategic Panel Chair may cancel the meeting and notification will be issued to Strategic Panel Members no later than five (5) Working Days prior to the meeting. The meeting will be deemed as cancelled if no Strategic Panel Member has notified the Panel Secretary that he or she objects to the cancellation, not later than three (3) Working Days before the meeting.

If a meeting of the Panel is convened, and a quorum is not present within one hour, the meeting will be adjourned and re-scheduled by the Panel Secretary at the earliest convenience.

5.1 Voting Procedure

The Strategic Panel will seek to decide matters by consensus in the first instance. Where consensus cannot be agreed a member may request the Strategic Panel members and chair vote in line with Section 5.10 of the MAC. Any matter, other than removal of a Strategic Panel Member, shall be decided by a simple majority of votes cast (an abstention is not counted as a cast vote).

6. Secretariat

The Market Operator will provide secretariat services as set out in MAC Section 5.2.2

The Panel Secretary is the officer of the Strategic Panel responsible for its administration. Like Strategic Panel Members, the Panel Secretary must have integrity and must not only be, but also be seen to be, impartial and free from proximity to vested interests.

7. Meetings

The Panel Secretary will publish a calendar of meetings six (6) months in advance in accordance with Section 5.8 of the MAC.

Any meeting of the Strategic Panel shall be convened by the Panel Secretary: a) by giving notice to each Strategic Panel Member, setting out the date, time and place of the meeting and (unless the Strategic Panel has otherwise decided) giving at least ten (10) Business Days' notice of the meeting and accompanied by an agenda and such supporting papers as are necessary.

7.1 Papers

Unless otherwise agreed by Strategic Panel Members, the Strategic Panel Secretary will circulate papers for meetings no less than five (5) business days in advance of meetings.

7.2 Urgent Meetings

Where the Panel Secretary, with the agreement of the Strategic Panel Chair, is of the opinion that an urgent meeting is required, the ten (10) Working Day notice period shall be waived, in accordance with Section 5.8.2(b) of the MAC.

The Panel Secretary will notify Strategic Panel Members by email and/or telephone as soon as reasonably practical prior to an urgent meeting.

7.3 Meetings via Teleconference

A Strategic Panel Meeting may consist of a tele- or videoconference between Strategic Panel Members. A Strategic Panel 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.

7.4 Minutes of Meetings

The Panel Secretary shall minute the proceedings and resolutions of all Strategic Panel meetings, including the names of those in attendance. Draft minutes will be circulated to all Strategic Panel Members as soon as reasonably practical after the meeting for comments and approval ex-committee. Subject to Strategic Panel

approval, minutes will be published on the the Market Operator's website within 15 business days of meetings.

7.5 Recording and Broadcasting

The Strategic Panel Secretariat may make audio and/or video recordings of Strategic Panel meetings and broadcast Strategic Panel meetings by webinar. No other participant should make audio or video recordings unless previously agreed with Strategic Panel Members. The agreed policy regarding recording and webinar broadcasting will be approved by the Strategic Panel and published on the Market Operator website.

8. Delegation

The Strategic Panel may delegate authority of action and decision to an individual Strategic Panel Member or an 'officer of the Strategic Panel' such as the Strategic Panel Chair, Strategic Panel Secretary or a Committee. The Strategic Panel (or a Strategic Panel Member) may also, by their actions, give apparent authority, but ultimate responsibility remains theirs, collectively as the Strategic Panel.

The delegation of authority to a committee does not relieve the Strategic Panel of its general responsibility to ensure that such powers are exercised in accordance with the Code.

The Strategic Panel will maintain a menu of delegated responsibilities and hold its committees to account for delivery of these responsibilities in service of the Panel's priorities and desired outcomes.

The agreed policy regarding delegation will be approved by the Strategic Panel and published on the Market Operator website.

9. Transparency and Confidentiality

Strategic Panel papers will usually be published on the MOSL website. In the event of closed meetings or agenda items, the necessary paperwork will be circulated to Strategic Panel Members only and will not published on the MOSL website.

10. External Communication

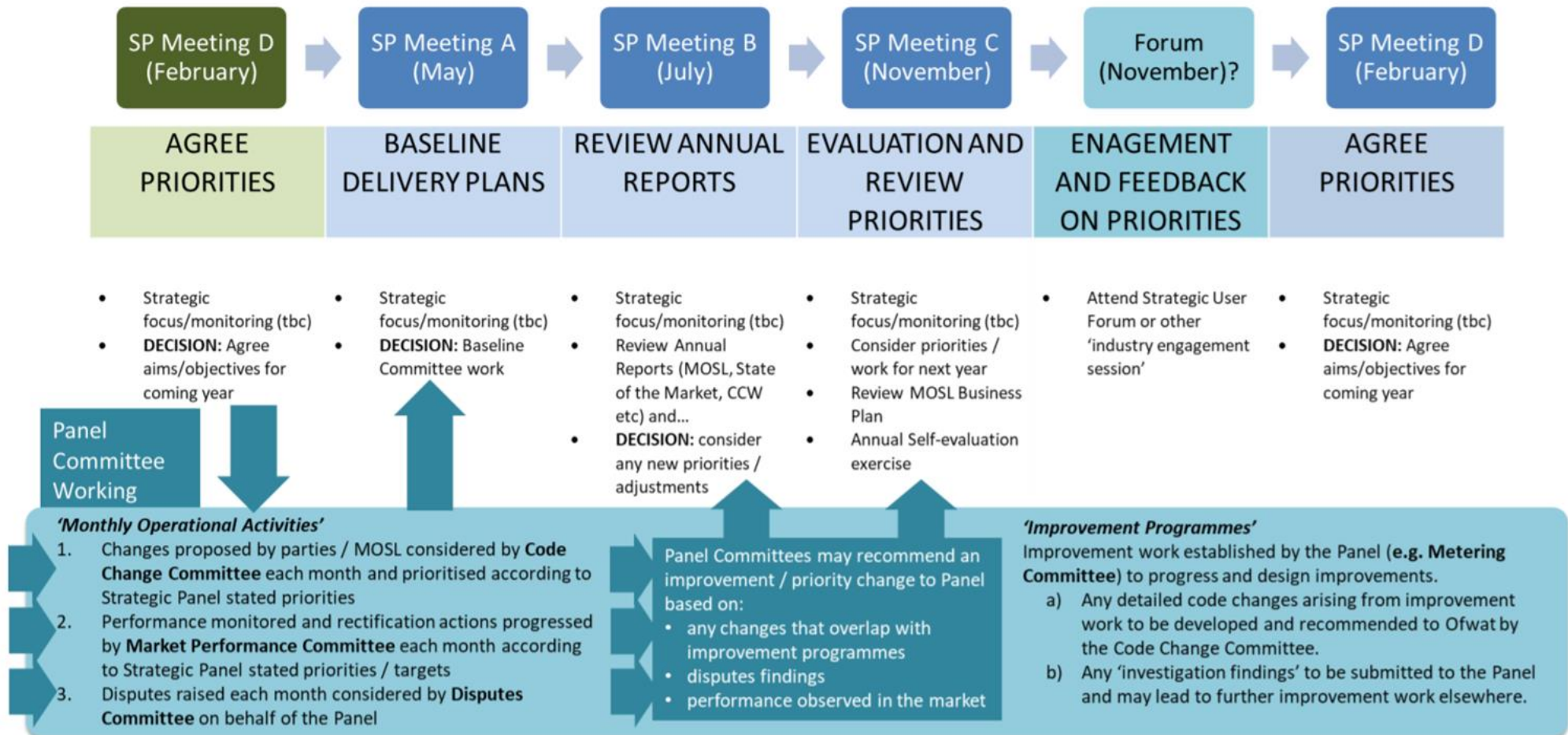
Strategic Panel Members may be approached by members of the press or requested to speak at public events either on behalf of the Strategic Panel or in a personal capacity. The agreed Communication Policy will be approved by the Strategic Panel and published on the Market Operator's website.

11. Review of Terms of Reference

The Strategic Panel Terms of Reference will be reviewed annually.

Date of next review: January 2023

Appendix 1 – Example Strategic Panel Meeting Cadence and Committee Interactions



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