

Minutes of Urgent Panel Meeting 49a

2 December 2020 | 13:00 – 15:00

Videoconference

Status of the Minutes: **Draft**

MEMBERS PRESENT

Trisha McAuley OBE	TM	Chair	Michael Rathbone	MR	Panel Member (Wholesaler)
Kristin Garrett	KG	Alternate - Panel Member (Associated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Richard Barton	RB	Panel Member (Associated Retailer)	Elsa Wye	EW	Panel Member (Independent)
Trevor Nelson	TN	Panel Member (Unassociated Retailer)	John Vinson	JV	Alternate - Panel Member (Independent)
Nicola Smith	NS	Panel Member (Unassociated Retailer)	Mike Keil	MK	Panel Member (Customer Representative)
Claire Yeates	CY	Panel Member (Unassociated Retailer)	Sarah McMath	SM	Affiliated Panel Member (MOSL)
Mark Holloway	MH	Panel Member (Wholesaler)	Shaun Kent	SK	Alternate - Affiliated Panel Member (Ofwat)
Martin Mavin	MM	Panel Member (Wholesaler)	Adam Richardson	AR	Panel Secretary

OTHER ATTENDEES

Steve Arthur	SA	MOSL Observer	Christopher Wright	CW	Presenter – Castle Water
Carol Sgambaro	CS	MOSL Secretariat	Euan Mitchell	EM	Castle Water Observer
Stuart Boyle	SB	MOSL Observer	Tom Daborn	TD	MOSL Observer
Ethan Fleming	EF	MOSL Secretariat	Neil Pendle	NP	Water Scan
Andrew Johnson	AJ	MOSL Observer	Julian Tranter	JT	Thames Water
Axelle Saada	CW	MOSL presenter			

APOLOGIES

Michelle Burns	MB	Panel Member (Associated Retailer)	Pamela Taylor	PT	Panel Member (Independent)
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1. Welcome and Introductions

- 1.1 The Chair welcomed Panel Members and all other attendees to the urgent Panel Meeting 49a.
- 1.2 It was noted that MB and PT had sent their apologies for the meeting. JV was attending as PT's appointed alternate. KG was attending as MB's appointed alternate.
- 1.3 The Chair thanked all Panel Members, presenters and other attendees for making themselves available at short notice for this urgent meeting, noting that a quorum was present. The Chair declared the meeting open.

2. Draft Recommendation Report: CPW108 – Agreement to Unplanned Settlement Runs

- 2.1 The Panel considered urgent Change Proposal '[CPW108: Agreement to Unplanned Settlement Runs](#)'. It was noted that the agreement of both a contracting Wholesaler and contracting Retailer was needed before an Unplanned Settlement Run could take place following the correction of a Data Item or Items. This Change Proposal sought to clarify that such agreement must not be unreasonably delayed or withheld.
- 2.2 The Panel first considered this Change at its meeting on 27 October 2020, where it agreed that CPW108 was an Urgent Change. However, the Panel agreed to seek further assessment on the Change Proposal, as presented at the time, via a consultation. The revised solution was consulted on between 3 and 13 November 2020.
- 2.3 The Panel noted that there was currently ambiguity in the Market Code regarding the ability to raise a Dispute if agreement to an Unplanned Settlement Run was withheld following the correction of a Data Item or Items. The Panel agreed that CPW108 provided a clear path for parties to navigate this ambiguity and, therefore, filling a gap in the understanding and interpretation of the Code, so that where an impasse was reached the situation could be resolved for the benefit of the customer.
- 2.4 The Panel believed that, although the direct benefit to customers as a result of the change was difficult to quantify, the Change offered the indirect benefit of a more efficient and transparent market.
- 2.5 The Panel acknowledged that CPW108 would impose a tighter window within which parties would have to act, but emphasised that Trading Parties should be encouraged to work collaboratively to mutually agree the timing of Unplanned Settlement Runs and that resorting to the deemed refusal after 20 Business Days should be the exception rather than the norm. Panel Members also reflected that further time could be afforded by mutual agreement ahead of the 20 Business Day deadline.
- 2.6 The Customer Representative member noted that CCW agreed that this change would reduce the risk of potential customer detriment, but it was difficult for CCW to conclusively determine, based on its complaints evidence, whether CPW108 reflected a market wide issue for customers.

- 2.7 Whilst acknowledging that the change had been raised against the background of a specific issue between two Trading Parties (and noting that other consultation respondents had reported similar issues), the Panel stated that it would make its deliberation on the basis of the principle of the change and not on a judgement on those specific cases, which had no material impact on whether there was a deficiency in the Codes, which was what the Panel would be assessing.
- 2.8 The Panel considered the consultation responses received in relation to the change proposal and the case for change against the Code principles and objectives. The Panel agreed that CPW108 furthered the Principles of the WRC, as set out in Section 8.1.
- 2.9 The Panel:
- **AGREED** (unanimous) to recommend the implementation of CPW108 to Ofwat for approval (12 in favour)¹;
 - **AGREED** to recommend an implementation date of five (5) Business Days after Ofwat's decision.

3. Any Other Business

- 3.1 There being no further business, the Chair declared the meeting closed.

4. Closed Session

- 4.1 The Panel held a closed session meeting to discuss the 'more procedural' aspects surrounding Change Proposal ['CPW108: Agreement to Unplanned Settlement Runs'](#).
- 4.2 It was noted that there was scope for MOSL to further emphasise to Trading Parties the need to provide accurate and evidenced information when, for example, a change was raised or when completing consultations. Further, that consideration should be given as to the extent to which MOSL could or should audit assertions made by parties where these related to matters which could not be corroborated by information that was already held by MOSL or stored in CMOS.
- 4.1 As a matter of principle, the Panel agreed that a 'ways of working' would be developed .

¹ While the Panel Chair has a vote, the new Panel Chair has indicated that, for the time being, they would abstain during voting. Given this approach, the Chair's abstention has not been recorded 'for' or 'against' the decision in this report.