

Minutes of Panel Meeting 48

27 October 2020 | 10:00 – 17:00
Videoconference

Status of the Minutes: **Final**

MEMBERS PRESENT

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

OTHER ATTENDEES

Sam Webb	SW	MOSL Presenter item 10	Ian Bannon	EB	Ofwat Observer
Carol Sgambaro	CS	MOSL Secretariat	Hayley Robinson	HR	Ofwat Observer
Steve Arthur	SA	MOSL Presenter items 4 & 5	Ethan Fleming	EF	MOSL Secretariat
Stuart Boyle	SB	MOSL Presenter items 8, 13 & 20.1	Christopher Wright	CW	Castle Water Observer Presenter Item 10
Abu Rashid	ARa	MOSL Presenter item 14	Euan Mitchell	EM	Castle Water Presenter Item 10
Ivy Mandinyenya	IM	MOSL Presenter item 16	Gary Linn	GL	South West water Observer
Matthew Glover	MG	Presenter item 12	Steve Formoy	SF	MOSL Presenter – item 15
Giles Naylor	GN	Satori Observer	Annabel Parson	AP	Satori Observer

APOLOGIES

Richard Barton	RB	Panel Member (Associated Panel Member)
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1. Welcome and Introductions

- 1.1. The Chair welcomed everyone to the meeting, in particular SK who would be representing Ofwat and GN and AP, representatives from Satori Boardroom Review who would be observing the Panel as part of the Market Governance Review.
- 1.2. The Chair informed that Panel that they would not be inviting observers to ask questions or make comments due to the size of the agenda and the need for the Panel to fulfil its governance obligations. The Chair reminded Panel members on their duty to act independently and asked that they remain focussed on the market codes' principles and objectives.
- 1.3. Panel Members noted that JV had been nominated by RB as his alternate for this meeting.

2. Minutes and Outstanding Actions

- 2.1. After due consideration, the Panel Members approved the minutes for the Panel meeting 47.
- 2.2. The Panel agreed that the following actions could be closed as they had been completed:
 - 2.2.1. A33_08.
- 2.3. The Panel noted the actions that remained open.
- 2.4. A member asked if Panel members would still have the opportunity to have sight of the agenda for the Panel workshop in November. The Chair reported that suggestions had been received at the last meeting and an agenda was being formed from them subject to time constraints and the volume of business. The agenda would be circulated before the meeting, noting the need to balance comments against a manageable meeting. A member asked that the agenda try to remain customer/consumer focussed.

3. Ofwat Update

- 3.1. SK reported that a call for inputs on consumer bad debt was planned to be issued in November. Ofwat had attended the first Strategic User Forum (SUF) and outlined its support for industry engagement at that level although would not attend future meetings of the SUF.
- 3.2. The Panel noted that Rachel Fletcher would address the CEO forum in early November.
- 3.3. SK reported that Ofwat had approved several changes with the most significant to note:
 - CPW092/CPM029 (Unified Disputes Procedure);
 - CPW107 (Temporary Vacancy Exceptions for Credit Support).

4. CPW070 (Bilateral Interface Solution) Timetable Update

- 4.1. SK updated the Panel on the revised timetable for CPW070 (Bilateral Interface Solution) that had been set out by Ofwat. This revised timetable set out the approach to be followed under CPW070 going forward.
- 4.2. He reported that Ofwat had initially laid out an authority timetable change for the development and delivery of the bilateral project that had forecast the review of a single complete solution in November 2020 and implementation by May 2021. This timetable had been formed before MOSL had begun detailed analysis on what was required and the extent of issues. After this work had begun the approach had become clearer and MOSL had proposed an agile iterative approach.

Ofwat was supportive of this approach that would allow demonstrable progress to be made and address the lack of common standards.

- 4.3. An agile approach required a different timetable which was presented within the papers for information and would be published on the MOSL and Ofwat website. The timetable was split into five phases with each of the phases to develop code changes, expressed in draft recommendation reports.
- 4.4. Each phase of code changes would need to consider if Ofwat was required to undertake a statutory consultation with time allowed for this in each phase. An additional duty of reporting every two months by MOSL to Ofwat had been introduced to understand progress, this would inform if there was a need for a statutory consultation. The steering group was reviewing key milestones and had amended the audit requirements to three internal audits and for the steering group to have the power to request the MOSL Board to consider appointing an external auditor if required.
- 4.5. A member asked if possible, for future releases to be aligned with standard CMOS releases to ensure integration and efficiency.
- 4.6. The Panel noted that this was a timetable change and not a sanctioning of the business case.
- 4.7. SM reported that the business case had gone through the internal MOSL board process and the funding would be in the normal business planning cycle.
- 4.8. A member asked if the four-year payback for the solution was based on the phased agile approach and not an immediate payback. It was confirmed that the payback estimation was based on the agile approach.
- 4.9. A member asked for additional clarity in relation to transition to the new system and when it would become mandatory and the possible need to run dual systems at additional costs whilst the transition took place.

ACTION: A48_01

5. MOSL Business Update

- 5.1. SM presented the report and requested feedback on the format and continuing to report it separately from the market update.
- 5.2. Members expressed support for the format of the Business Update.
- 5.3. It was noted that the second MOSL quarterly report had been issued and comments were invited to be submitted on the contents or format.
- 5.4. A member asked about the possibility of a further £200,000 MO charge and when this may be received by TP's. SM responded that the possibility of additional charges was due to the bilateral programme and the acceleration of it to complete the pilot at an increased cost of £461,000. Work had been undertaken internally to offset this against savings made elsewhere in the business such as work delayed due to COVID or savings from meeting online which had reduced the additional costs to £200,000. MOSL had made the decision to continue to consider this internally to try and reduce the amount that may be needed from TP's. If a further sum was needed from TP's this would be requested by January at the latest.
- 5.5. A member asked for further details on the SUF and the need to map what was undertaken by different market groups to prevent duplication and ensure there were no gaps. It was asked if

the SUF was considering what a “good” market would look like in 5-10 years and to begin to work towards it. SM responded that it had been useful to have Ofwat at the SUF to explain what they felt their role was in the SUF and to clarify the role of the Panel and what it included. An update on RWG and its work had also been provided to attempt to ensure that the SUF did not duplicate work of others or merely become a discussion forum. The SUF had agreed that one of its roles was to gain clarity of the landscape of work being conducted across market groups and what work was proceeding well. A strong consensus had been reached on the need to be clear on what a “good” future market looked like and the work to achieve this. This had initially centred on a five-year timescale with other wishing to consider a long timescale of 15 years.

- 5.6. The Panel noted that the SUF currently had a mixture of views on if a group of that size could act as an effective decision-making body or if a smaller more agile group was needed. Meetings had initially been proposed on a bimonthly basis and members had asked for meetings to become monthly.
- 5.7. A member commented that the setting up of the SUF was useful, but it should be considered if the right people were in attendance who thought strategically to ensure it did not become a mere discussion forum.
- 5.8. MOSL confirmed it was undertaking a mapping exercise of industry groups to create a clear document showing membership and outputs and the resources that the groups consumed. If any Panel members had comments on this, they were asked to contact MOSL. This may also be considered in the governance review.
- 5.9. A member reported that a long-term view was needed for financing meaningful market change and to consider price controls of wholesalers. If a long term view was available taking into account price control cycles then this would could allow long term financing and avoid the risk of a regulator raising a change in shorter timescales that caused considerable disruption to the market, Trading Parties (TP) and customers as had been seen in the energy market.
- 5.10. SM agreed that a longer-term approach was preferable, and this supported the move to longer term business plans by MOSL.
- 5.11. SM asked the Panel to note that the MOSL board was meeting the following day and would be discussing the reinstatement of performance charges. OPS charges had restarted and MPS was due to restart from November. MOSL had received contact from retailers expressing concerns in relation to the resuming of meter reads. The Panel noted that data on meter reading showed mixed results across the market on the degree in which reads had stopped or restarted.
- 5.12. A member noted that they supported the resumption of MPS/OPS charging as part of returning to normality whilst being sensitive to changes by central government in local lockdowns that would hinder meter reads. This should be tracked and monitored by the MPC. SM responded that geospatial analysis had been undertaken that allowed data to be reviewed geographically. The post codes of local lockdowns could map SPID’s against the restrictions. Further work was required to determine the impact of meters located internally than externally.
- 5.13. A member reported that meter reading was important to the whole market but there was currently a range of difficulties and performance charges were intended for business as usual (BAU) circumstances and with a possible second COVID wave and local lockdowns BAU did not look set for return imminently. They would support a phased approach with a return to charging over a longer period. MOSL had been considering this and looking at evidence and taking into

account wider considerations such as the UK economy and COVID impacts more broadly, including in comparable sectors. Further comments from Panel members should be sent in via email.

- 5.14. A member asked in relation to 40% of monthly meter reads that were submitted were rejected how these impacted on performance charges. SM responded that further work was required to understand why they were rejected and the root cause. SA reported that rejection rates had been high for some time and a large proportion were resubmitted immediately and accepted. The impact on performance charges was currently unclear and would be investigated. The member responded that currently TP's were being held accountable and being charged for circumstances beyond their control and wished to see the net effect and impact on performance.
- 5.15. A member asked that the number of reads that were rejected and immediately resubmitted and accepted be circulated as a percentage.

ACTION: A48_02

- 5.16. A Panel member underlined that meter reading is key to the market – there is currently a gap forming, which, if not caught up, will end up in post-RF causing further market friction. Covid has exacerbated the situation, but it was already there. On meter reading, before changing arrangements for Covid, would it not be reasonable to look at what other industries are doing.

6. MOSL Market Update

- 6.1. SA presented the report and asked the Panel to note that a better view of vacancy levels was being sought to ensure the right data was being collected and the market was shaped appropriately. The issue of long-term vacancies was being worked through the MPC with a consultation to be issued for a change proposal. Stripping out the costs of long-term vacancies would provide benefits and create a better process for addressing concerns.
- 6.2. SA reported that the recent urgent change (CPW107) had addressed several issues with parties not being able to remove COVID vacancies. Several thousand COVID vacancies remained which were unable to be changed by TP's. The amount of assured vacancies remained low with a large amount of unassured vacancies remaining, and further work was required to provide assurance and what further monitoring was required for Yearly Volume Estimates.
- 6.3. The general trend for meter reading tasks and overall performance was increasing. Challenges were noted as being more likely as areas were elevated into COVID restriction risk ratings and this could present further challenges. OPS activity levels remained low with asset maintenance tasks showing as being subject to deferrals from wholesalers.
- 6.4. A member asked why wholesalers were permitted to defer bilateral requests three months after COVID unwinding measures had begun and if this should be challenged and asked for details on how this impacted MPF reads. SA responded that more investigation was needed to the causes and implications of this issue and that the current reports are unsighted on actual deferral levels, relying on the completion of once deferred tasks. Another member commented that OPS service requests can only be deferred in certain situations by service providers and should be audited. A deferral may relate to the inability to get access whether COVID related or not. As part of further

COVID measures, a Panel member commented that there could be value in retailers having the ability to defer a meter reading in the same manner if evidenced appropriately.

- 6.5. The Panel supported the format of the report and the continuing split between the MOSL business and market updates.

7. Committee Reports

Market Performance Committee

- 7.1. A member asked if the timing of the MPC could be adjusted to prior to the Panel meeting to allow a more timely flow of information and to recognise that it was no longer required to hold the MPC the following day after Panel to save on costs.
- 7.2. A member responded that the MPC had discussed this and several members had expressed concerns around the taking of annual leave if meetings were spread over a wide period and the inability for members to maintain both commitments.
- 7.3. An MPC meeting the week before Panel would make the turnaround of papers difficult and meetings were dependant on when performance data was available. The Panel agreed that this issue should be considered by the interim MPC Chair and the new Chair when appointed.

Trading Disputes Committee

- 7.4. The TDC chair confirmed that the TDC meeting that had been scheduled had not gone ahead due to the lack of substantial business.
- 7.5. The Panel noted that, with the implementation of CPW092 (Unified Disputes Procedure) it was likely the new Disputes Committee would need to meet on a regular basis as it was anticipated there may be more disputes for that committee to consider.

General Data Protection Regulation Issues Committee

- 7.6. The Chair of the GDPR Issues Committee reported that CPM033 'Improved process for managing Data Subject Rights Requests' would be presented to the November Panel meeting along with a final report of its overall review. The GDPR chair proposed that the committee enter a suspended state from the November Panel meeting with members discharged automatically on approval of the change by Ofwat. If the Panel or Ofwat required further work to be undertaken the committee would return from suspension. The committee required further membership if its work was to continue long-term.

In relation to the GDPR Issues Committee, the Panel:

- **AGREED** that, subject to the Panel making a recommendation to Ofwat on CPM033 ([Improved process for managing Data Subject Rights Requests](#)), from the 24 November 2020 Panel meeting, the GDPR Issues Committee would go into a "suspended" state given that it had no further business to discuss at this stage; and
- **AGREED** that following this suspension, upon an Ofwat decision (approve or reject) on CPM033 the GDPR Issues Committee would be dissolved. Conversely, in the event that Ofwat determined further work was required and returned CPM033 to the Panel for further

assessment, the GDPR Issues Committee would reverse its state of 'suspension' in order to deal with these residual matters.

Credit Committee

- 7.7. The Panel noted the update from the last meeting of the Credit Committee.
- 7.8. The Credit Committee chair reported that the Credit Committee was in a similar position to the GDPR committee as its work was coming to a close and may require a similar decision to be made at the next Panel meeting.

8. Change Report

- 8.1. SB presented the Change report and confirmed the following changes had been implemented since the last meeting:
 - CPM022 'Urgent Change: Reducing Panel Quorum' was implemented from the 7th October and would expire on the 31st March. At this point it was possible another change (arising from the market governance review) would be implemented that addressed Panel Quorum from the 1 April 2021.
 - CPW107 'Covid-19 Temporary Vacancy Exemptions for Credit Support' was implemented from 23rd October.
- 8.2. SB reported that there were four new changes with three included on the agenda. SB asked the Panel to note CPW106 (Deregistration of long term vacant SPIDs) which related to sites that were vacant for more than six years with no consumption. This introduced a process to de-register these sites, so reducing the number of vacant sites. A consultation would be undertaken in November with a recommendation to the January Panel for implementation in May 2021.
- 8.3. The Panel noted the revision to CPW070 which had been detailed earlier by Ofwat.
- 8.4. The consultation on CPM036 (Provision to vary term of Panel Members) finished on the day of the Panel and would be presented at the November meeting.
- 8.5. The Panel noted that some comments had been provided by members on the Word versions of the documents ahead of the Panel Meeting. These related to non-code changes and had been responded to by SB.
- 8.6. A member noted the large number of changes awaiting Ofwat decision and asked if Ofwat were aware of an issue in assessing them and if the Panel needed to be aware of any delays.
- 8.7. SK reported that Ofwat were committed to responding to changes as quickly as possible given resources and priorities and had no immediate concerns to make the Panel aware of. SB confirmed that there were 12 changes currently with Ofwat and MOSL monitored them to ensure changes that required decisions promptly due to CMOS releases or other drivers were followed up with Ofwat as needed. As other changes emerged from Panel, changes were reprioritised with Ofwat as appropriate.
- 8.8. A member asked why CPW106 was needed as processes already existed to address vacancies and if evidence that a vacant premises was no longer in the market was available then it could be addressed by a bilateral transaction. The proposer of CPW106 responded that this would address the need to identify long term vacancies due to change of use or demolition which added costs to

all TP's and overinflated the size of the market. It would not address long term vacants that were still appropriate to remain in the market.

- 8.9. A member requested details on the makeup of the £164,000 reported in PMO or other consultancy costs and if this would reduce in future years. AR reported that this was not solely market driven change and incorporated other improvements and non-code changes such as system changes, internal PMO costs and additional external support attributed to improvement work. As it was a number of different items it was separate to code change costs. Costs were expected to reduce in future years subject to the business plan which was presented in the closed agenda. The member requested further detail to ensure greater transparency going forward.

9. Draft Recommendation Report: CPW104 – Housekeeping changes to facilitate April 20 Performance Regime

- 9.1. The Panel considered Change Proposal '[CPW104: Housekeeping changes to facilitate April 20 Performance Regime](#)'. This change sought to enable housekeeping changes to four Code Subsidiary Documents (namely, CSD 0302, CSD 0202, CSD 0102 and CSD 0002) to deliver the intent of [CPW078/CPM020: 'Priority Performance Regime Changes for April 2020'](#) and to address consequential effects on invoicing timeframes, time parameters and the window for the Meter Read Submission process.
- 9.1. The Panel noted that CCW were supportive of this change and that comments received from CCW would be included in the final report to Ofwat.
- 9.2. A member asked if this change applied to meters that had not been read since before market opening and haven't been read since. SW confirmed that this was the case.
- 9.3. A member asked if the change was not approved and charges leveraged what this could mean for customers and what Ofwat's position was on this. SW responded that retailers could pass on the charges via their tariffs to customers. Ofwat were aware of the change coming and the need for a swift response.
- 9.4. A member asked if the change in standard would cause a detriment to customers. SW reported that when it was changed in April analysis was undertaken on when meter reads were submitted and found to occur in 200 business days and considerable data had been examined to determine the number of days that worked best. It was noted that this work had identified that most parties were outside of the incentive range and changes to the timescale and the cap were key factors to drive customer outcomes to move parties to the incentive zone
- 9.5. SW reminded the Panel that CPW104 was not seeking to review or amend the Panel or Ofwat's prior decisions regarding the application of performance standards under CPW078/CPM020. Rather, it sought to ensure that the intent of that earlier change was delivered by making an appropriate correction and minor clarifications to code drafting.

The Panel:

- **AGREED** (unanimous) to recommend the implementation of CPW104 to Ofwat for approval (12 in favour)¹;

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' each decision in this report.

- **AGREED** to recommend an implementation date of;
 - 14 December 2020, if Ofwat approval is received by 9 December 2020.

10. Draft Recommendation Report: CPW108 - Agreement to Unplanned Settlement Runs

- 10.1. The Panel considered Change Proposal '[CPW108 - Agreement to Unplanned Settlement Runs](#)'. The Panel 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.
- 10.2. This Change Proposal was submitted by a Trading Party as an urgent change proposal.
- 10.3. A Panel Member clarified the proposer's view that Supply Points affected by the issue the change sought to address were not related to any previous dispute or agreed settlement plan. The proposer confirmed that the Supply Points in question had not been part of a previous Trading dispute and that a dispute had not been raised as, in their view, with no disagreement regarding the data adjustments themselves, the drafting of the code did not provide a mechanism or a specific item to dispute.
- 10.4. The Panel noted the principle of this change was based on the reasoning that, in the absence of agreement to an unplanned settlement run, there was no clear breach of the code to dispute. The proposed solution therefore sought to insert wording that would allow for a dispute to be raised.
- 10.5. A Panel Member asked for further details on how this met the urgency criteria and what onward consequences could be identified.
- 10.6. The proposer reported that the justification for urgency related to the significant impact it had on the Trading Party and the impact on customers as well as the need for timely resolution.
- 10.7. The proposer explained that the specific matter that had led to raising this change was causing a cashflow impact within their organisation as outlined in the Change Proposal. In their view, although not quantifiable, it seemed likely there may be other, similar impacts on other trading parties. They were also aware of circumstances where it had had significant negative impact on individual customers. EM clarified that, after July of 2021, further unplanned settlement runs in relation to some of the affected settlement periods relating to these items would no longer be possible. This introduced the need for an equitable mechanism that drove a correction to happen in a reasonable timescale.
- 10.8. A Panel Member commented that it was disappointing that the situation had arisen and that such a matter could not be resolved between parties without the need for a change to the rules. They observed, however, that it appeared sensible to insert wording that removed any ambiguity or blocker in resolving matters.
- 10.9. A Panel Member agreed that this appeared to be an issue and that the materiality of the issue appeared to support the case for urgency under 1A of the urgency criteria.
- 10.10. Overall, the Panel noted:

- the material impact of the non-agreement of the USR on the Proposer;
- that from July 2021, the availability of unplanned settlement runs for Settlement Periods dated back to April 2017 will begin to expire (whereupon a Contracting Party would be unable to recoup money owed); and
- that, in the absence of agreement over a USR, the time available to raise, consider and resolve a dispute and subsequently process a USR was therefore drawing near.

10.11. The Panel:

- **AGREED** that CPM108 was an urgent change (10 in favour, one abstain and one against)

- 10.12. Panel Members considered the proposed solution and the need for any potential further assessment of the change before making a recommendation to Ofwat.
- 10.13. A Panel Member questioned whether having to provide a justifiable reason for not consenting and deeming a default consent after ten days was appropriate – given it may take longer than ten days to review large volumes of corrections or similar.
- 10.14. A member noted that they understood the common legal position to insert wording that required a consent to only be withheld with a reasonable basis. They asked for an explanation of why it was proposed to insert a deeming of consent after ten days and why an objection could only relate to materiality. EM responded that this was to preclude disputes over what was reasonable or not and the deemed approval was to stop the process taking an excessive amount of time and ensure a reasonable objection was received in an appropriate timescale. This would apply equally to wholesalers and retailers.
- 10.15. Another Panel Member expressed concern over consent being deemed after a certain period and if this would cause a large volume of unplanned settlement runs that would stretch MOSL resources and cause large costs. EM suggested items would be grouped together by trading parties to ensure sufficient materiality of unplanned runs. In his view, the default position would be for costs to be shared equally and currently appeared small compared to the sums involved.
- 10.16. A further Panel Member confirmed that they were minded to support a concept where notice should not to be unreasonably withheld however they were concerned that there was not enough time for appropriate consideration. They concurred with other views that agreement to the unplanned settlement run may be delayed for a variety of reason including the size and the large amount of data that would have to be considered. The Panel Member also recognised the importance of ensuring a retailer could be refunded appropriately by the wholesaler after issuing refunds to the customer.
- 10.17. Another Panel Member expressed support for the deeming provision as if the data changes had been agreed to there appeared to be no reasons for the settlement run not to happen.
- 10.18. Another Panel Member expressed reservations that the only grounds for objection to an unplanned settlement run was proposed to be in relation to materiality. They also felt there was insufficient evidence to determine the extent to which this issue was affecting other parties.
- 10.19. The Panel noted the concerns and queries over the concept of deemed agreement, the proposed timescale for deemed agreement and whether it was appropriate to limit the basis of disagreement to a materiality threshold. In doing so, the Panel noted that disagreement to an unplanned settlement run may also be linked to other factors, such as the time it may take to fully review and agree any data adjustments that should be included in the USR.

- 10.20. The Panel also referenced the possible use of the newly constituted Disputes Committee (to take effect following the implementation of [CPW092 'Unified Disputes Process and Committee'](#) on 13 November 2020) to settle disagreements.
- 10.21. Consequently, the Panel invited the proposer to consider these matters and consider whether to amend the proposed solution.
- 10.22. Further, the Panel confirmed that, before making a recommendation to Ofwat, it wished to learn the views of Trading Parties on this change, and whether they or other interested parties could provide further information via consultation before agreeing its final recommendation.
- 10.23. Panel Members expressed a willingness to convene a meeting to respond to the next iteration of the change, separate from the usual calendar of set meetings noting the urgency and agreed that the change should be considered no later than the December Panel meeting.
- 10.24. The Panel
- **AGREED** (unanimous) to seek further assessment on this Change Proposal via a consultation. A revised Change Proposal would be brought back to the Panel for decision, at the latest, by the December 2020 meeting, or sooner if possible.

11. Draft Recommendation Report: CPM034-Retailer Panel Member Changes

- 11.1. The Panel considered change proposal '[CPM034 – Retailer Panel Member Changes](#)'. This Change Proposal sought to allow any Retailer to occupy any unfilled Associated or Unassociated Retailer Panel Member seat and adjust the Panel quorum accordingly. This solution would help to ensure full Retailer engagement with the Panel and reduce the risk of a Panel meeting having to be cancelled, due to being inquorate.
- 11.2. A member asked that a missing word in the legal drafting be rectified.
- 11.3. A member queried the time to implement the change, noting that implementation appeared to coincide with a point at which the governance review would almost be complete. SB reported that Ofwat could be asked to expedite a decision on the change. This might enable implementation prior to Christmas. However, as the election process took 25 business days it may not be worth operating an election to appoint a member for one-two months before an overall Panel election was undertaken in February/March 2021. This would depend on the result of [CPM036: 'Provision to vary term of Members'](#) which proposed the ability to delay the elections if required. The same member supported expediting the change with Ofwat.
- 11.4. The proposer of the change reported that they supported getting full representation on the Panel as quickly as possible but accepted that the proposed timetable was the best solution taking into account decision timescales.
- 11.5. The Panel:
- **AGREED** (unanimous) to recommend the implementation of CPM034 to Ofwat for approval (12 in favour);
 - **AGREED** to recommend an implementation date of;
- 11.6. 15 February 2021, if Ofwat approval is received by 21 January 2021; or
- 11.7. 5 March 2021, if Ofwat approval received by 17 February 2021.

12. Draft Recommendation Report: CPM035 – Panel Election Streamlining

- 12.1. The Panel considered change proposal '[CPM035 – Panel Election Streamlining](#)'. This Change Proposal sought to make improvements to the nomination and election of Panel Members by Trading Parties. This included provisions to remove unnecessary Panel Nomination Meetings, facilitate the use of technology to reduce time and cost of Panel Nomination Meetings, and remove the potential for a minority to overrule the wish of the majority in Panel Nomination Meetings.
- 12.2. It was noted that a Panel Member had submitted legal wording adjustments to MOSL outside the meeting. AJ confirmed that these comprised clarifications and not material changes to the solution and would be adopted in the text that the Panel recommended to Ofwat.
- 12.3. A Panel Member asked what the impact would be on the 2021 Panel elections if the change wasn't approved. SB confirmed that the election would be held as usual if the change was not approved with its inefficiencies and inconsistencies.
- 12.4. The Panel:
 - **AGREED** (unanimous) to recommend the implementation of CPM035 to Ofwat for approval (12 in favour);
 - **AGREED** to recommend an implementation date of;
 - 15 February 2021, if Ofwat approval is received by 29 December 2020.

13. Draft Recommendation Report: CPW105-Provisions of Information Obligation

- 13.1. This item was deferred to a future meeting due to time constraints from addressing the urgent change proposal.

14. Update on the Market Improvement Fund

- 14.1. The slides related to this item would be circulated out of committee for offline comment due to time constraints on the agenda.

15. New Disputes Committee Terms of Reference Approval

- 15.1. It was noted that implementation of the consolidated Dispute resolution process ([CPW092/CPM029; Unified Disputes Process and Committee](#)) required that the Trading Disputes Committee (TDC) be replaced with a Disputes Committee (DC). The Panel considered the proposed Terms of Reference for the Disputes Committee.
- 15.2. A member thanked MOSL for responses to their comments on the documents ahead of the meeting and asked if the DC Disputes Committee secretary had enough protections in the case of a MO dispute. The Chair of the TDC explained that in the case of an MO dispute appropriate

internal departmental ring-fencing and protections would be put in place with the appropriate paperwork from MOSL to guarantee impartiality of the Disputes Secretary.

15.3. The Panel:

- **AGREED** (unanimous) the DC Terms of Reference (12 in favour), subject to the inclusion of a provision relating to the DC members' terms of office, as outlined in section 7 below.

16. Any Other Business

- 16.1. A meeting observer member reported that they were recommending changes to the Consumer Protection Code of Practice to provide support to those under COVID Tier three restrictions.

Closed Session

17. MPC Chair

- 17.1. The Panel Chair reported that they were working with MOSL to identify a new chair of the MPC, with MOSL retaining the power of appointment, to replace the interim Chair and ensure that they had the proper support and the appropriate process was followed. It was confirmed that in the appointment was likely to be an independent panel member.

18. Deputy Panel Chair

- 18.1. The Chair reported that they were investigating appointing a Deputy Panel Chair and would update the Panel in due course.

Disputes Committee Membership Appointment

- 18.2. The Panel was invited to appoint the existing TDC members as DC members.

18.3. The Panel:

- **APPOINTED** (unanimous) the existing TDC members as DC members (10 in favour; 1 abstained)².

19. MOSL Business Plan

- 19.1. The Panel provided feedback on an early draft of the MOSL business plan.

² One Panel Member was not present during this agenda item and, therefore, did not take part in the vote.