

## Minutes of Panel Meeting 07

27<sup>th</sup> June 2017 | 10:30 – 15:30

Held at Holborn Bars, 138-142 High Holborn, London, EC1N 2NQ

Status of the Minutes: Final

### MEMBERS PRESENT

Margaret Beels	MBe	Panel Chair	Nicola Smith	NSm	Panel Member (Unassociated Retailer)
Mike Brindle	MBr	Panel Member (Associated Retailer)	Janet Bone	JB	Alternate Panel Member (Wholesaler)
Jo Dando	JD	Alternate Panel Member (Associated Retailer)	Dylan Freeman	DF	Panel Member (Wholesaler)
Helyn Mensah	HM	Panel Member (Independent)	Julian Tranter	JT	Alternate Panel Member (Wholesaler)
Nigel Sisman	NSi	Panel Member (Independent)	Adam Richardson	ARi	Panel Secretary
Elsa Wye	EW	Panel Member (Independent)	Dan Mason	DM	Affiliated Member (Ofwat)
Richard Moore	RMr	Panel Member (Unassociated Retailer)	Chris Scoggins	CS	Affiliated Member (MOSL)
Trevor Nelson	TN	Panel Member (Unassociated Retailer)			

### OTHER ATTENDEES

Elliot Bird	EB	Meeting Secretary	Abu Rashid	ARa	Presenter (MOSL)
Andrew Jones	AJ	Presenter (Bristol Water)	Lord Rupert Redesdale	RR	Presenter (The Water Retail Company)
Oscar McLaughlin	OM	Presenter (MOSL)	Antoine Schmidt	AS	Observer (Thames Water)
Rebecca Mottram	RMt	Presenter (MOSL)	Priya Sinha	PS	Observer (Ofwat)
Samir Rahim	SR	Presenter (MOSL)	John Vinson	JV	Alternative Independent Panel Member (Observer)

### APOLOGIES

Wendy Monk	Panel Member (Associated Retailer)
Simon Wilshire	Panel Member (Associated Retailer)
Mark Holloway	Panel Member (Wholesaler)
Howard Smith	Panel Member (Wholesaler)
Steve Hobbs	Affiliated Member (CCWater)

## 1. Welcome and Introductions

### Purpose: For Information

- 1.1. The Chair began by welcoming the Panel to its seventh meeting.
- 1.2. There was an announcement to Panel Members that the final Associated Retailer Panel Member was now in place, and Wendy Monk would be joining the Panel at the July 2017 meeting.
- 1.3. The Chair welcomed the new Chief Executive of MOSL, Chris Scoggins, to the Panel meeting and invited him to introduce himself to the Panel.
- 1.4. The Chair also welcomed Janet Bone, Julian Tranter and Jo Dando as alternates for Howard Smith, Mark Holloway and Simon Wilshire respectively.

## 2. Minutes and Outstanding Actions

### Purpose: For Decision

#### 2.1. Minutes

- 2.2. A Panel Member asked for an inclusion in the minutes that the Panel and the Market Performance Committee (MPC) would find an early view of the market risks to be useful. In response to this the Panel was informed that PwC had begun an industry questionnaire to develop these risks.
- 2.3. The Panel **AGREED** upon the accuracy of the minutes, subject to some minor amendments, and for the final minutes to be published on the MOSL website.

#### 2.4. Actions

- 2.5. The Panel raised a new action for the Panel Secretary to investigate providing each Panel Member access to the PwC portal for the NHH Retail Sector Market Audit.

#### **ACTION 07\_01**

- 2.6. The Panel reviewed the actions and **AGREED** to close actions **A01\_04, A03\_04, A04\_02, A04\_05, A04\_06, A05\_01, A05\_02, A06\_07, A06\_09, A06\_04, A06\_05** and **A06\_06**, from the previous meetings, based on an update from the Panel Secretary.

## 3. Change Report

### Purpose: For Information

- 3.1. Panel Members had no specific questions on the content of the Change Report, but requested that in future a simplified version be provided, as that will be more useful to Panel Members. It was advised that an improved version of this report would be taken to the July Panel meeting.
- 3.2. The Panel **NOTED** the contents of this paper and the status of the Change Proposals.

## 4. Update from Ofwat

### **Purpose: For Information**

- 4.1. The representative from Ofwat informed the Panel that the two Change Proposals (CPW005 and CPM001) recommended to Ofwat have been agreed by the Authority and were published in the 26<sup>th</sup> June 2017 decision documents. It was advised that these changes would be implemented into the market codes on 3<sup>rd</sup> July 2017, and published on the MOSL website.
- 4.2. The Ofwat representative also highlighted that the informal Ofwat consultation on license simplification had now concluded. Ofwat are in the process of undertaking a holistic review of the interface between water company licenses and the market codes to establish if and where any changes may be required. It was noted that a further informal consultation will take place. An update will be provided at the next meeting.
- 4.3. Ofwat informed the Panel that it was intending to hold an industry strategic level workshop in the autumn to discuss the issues that have been arising with the interpretation of credit terms in the market codes.
- 4.4. An update was provided on Ofwat's customer insights work, and the Panel was advised that a supplier had now been appointed by Ofwat to conduct surveys.
- 4.5. The methodology for PR19 will be published for consultation on the 11<sup>th</sup> July 2017.
- 4.6. CS asked the Panel if it would be helpful for MOSL to provide a similar update at each meeting. The Panel welcomed this suggested and agreed that MOSL should provide a monthly update at future meetings as a standing agenda item.

**ACTION 07\_02**

## 5. Assessment Report: CPW012 – Flags on D1 Disaggregated Settlement Report

### **Purpose: For Decision**

- 5.1. This paper set out Change Proposal CPW012 which sought to add flags in settlement reports to identify the method of volume estimation in settlement calculation. This paper recommended that the Change Proposal be submitted to an Industry Consultation.
- 5.2. The Lead Analyst from MOSL provided a summary of the impacts on systems which were found to be high in terms of costs, but low in terms of adverse effect on performance. It was noted that the impacts on the settlement checker tool were still to be provided from the service provider.
- 5.3. The Proposer advised that they had spoken to five Trading Parties to gain their feedback on the proposed change. Of the five, four were Wholesalers and one was a Retailer. The Proposer indicated that one of these Wholesalers was not supportive of the proposed change and that the other Wholesalers and the Retailer all agreed this proposal would provide potentially useful information. A caveat was provided, that one of the interested parties stated that their decision would have to be based on the costs of such a change, which were not yet known.

- 5.4. To cover these concerns, it was agreed that a consultation question be included to seek the impacts of the change for Trading Parties, by asking for data on the impacts to their individual systems and processes.
- 5.5. MOSL also advised that a Detailed Impact Assessment from CGI would be sought if the proposal goes to Consultation.
- 5.6. A Panel Member highlighted that an important function of the consultation should be to collect data on the impacts on Retailers.
- 5.7. A Panel Member raised concerns with how a Meter Reading estimation might be recorded, if it has been estimated with 2 different methods across a given time. It was confirmed that these readings would be shown with an estimation method of 'COMB', indicating a combination of methods used in the period. The Panel Member asked how large the proportion of records was that would comprise combination estimations. It was clarified that a very small percentage of meter estimations would fall into this category.
- 5.8. It was suggested that the impacts of this change on participants could be avoided if Trading Parties were not required to update their systems in line with the new report format. However, a Panel Member observed that Trading Parties would be required to keep their systems up to date to read the current reporting formats, in line with the market codes.
- 5.9. Panel members indicated their initial instinct would be to not recommend this change to the Authority, on the premise that the change was a nice to have, rather than a priority. The Panel agreed that the consultation should not convey any initial opinion of the Panel but noted the importance of proportionality and the finite MOSL budget for change.
- 5.10. The Lead Analyst proposed that the change be submitted for a 15 Business Day consultation, given that it was not urgent and would be included on the agenda for the August Panel meeting, which the Panel agreed.
- 5.11. A Panel Member raised an issue with the proposed implementation date, which was estimated for March 2018 or June 2018 depending on when it is submitted to the Authority. They felt that this implementation timeline was unreasonably long.
- 5.12. The Panel
  - **AGREED** to submit the Change Proposal for a 15 Business Day Industry Consultation; and
  - **AGREED** the consultation questions as provided for in this paper with some amendments, and suggested modified question.

## 6. Further Assessment: CPW018 – Clarification on Unsecured Credit Allowance

### Purpose: For Decision

- 6.1. This paper set out the re-assessment of Change Proposal CPW018, which proposed to enhance the clarity of the wording for the use of a parent company credit rating for the purposes of Retailers obtaining an Unsecured Credit Allowance. The recommendation of the paper was to submit the change to a further Industry Consultation to enable a final decision on the change at its next meeting. This was on the basis that the new wording was materially different to that on which the first consultation had taken place.
- 6.2. A confidential response that had previously not been seen by Panel Members was circulated around the Panel, with the permission of the respondent.
- 6.3. The Panel wanted to understand what information was already available on the immediate impacts of this change might be, as it would have to form part of the basis of their decision. The Lead Analyst confirmed that in the previous consultation, two Wholesalers and one Retailer indicated that they would be impacted by the proposed change if implemented. The remaining Wholesaler noted that they had a Retailer whose unsecured credit allowance was based on that of a parent company credit rating.
- 6.4. Upon reviewing the proposed consultation questions, the Panel agreed that they were clear and provided a more targeted consultation.
- 6.5. A representative from Ofwat agreed with the process of having a second consultation, given that the nature of the change has been amended since the previous Industry Consultation.
- 6.6. Panel Members voted on whether the Change Proposal be Recommend to the Authority. Eight (8) Panel members supported the recommendation to submit the change to the Authority, which did not reach the Qualifying Majority of 10 Panel Members.
- 6.7. The Chair then asked the Panel Members instead to vote on progressing the change to a second Industry Consultation, which was agreed unanimously.
- 6.8. A Panel Member requested that an additional question be included in the consultation on whether Trading Parties agreed with the proposed implementation timetable.
- 6.9. Due to the consultation timescales of 10 Business Days, the Panel agreed to accept this paper as a late paper to the July 2017 Panel meeting.
- 6.10. The Panel:
  - **AGREED** to progress the Change Proposal to the Industry Consultation stage; and
  - **AGREED** the questions to be considered in the Industry Consultation, subject to some minor amendments and an addition.

## 7. Initial Written Assessment: CPW019 - Alternative Eligible Credit Support

### Purpose: For Decision

- 7.1. This paper set out a Change Proposal to the Wholesale Contract, Schedule 1, Part 2: Business Terms, Schedule 3, Alternative Eligible Credit Support. The change sought to ensure that insurance could be considered as a form of credit support and that the codes reflect how insurance policies work in practice. The recommendation of the paper was that the change be considered urgent and progressed to an accelerated industry consultation. This proposal was brought to the Panel by the CEO of The Water Retail Company.
  - 7.2. The Lead Analyst highlighted that the company concerned faced issues with Wholesalers that are refusing to agree to their proposed credit terms, on the basis that they do not meet the criteria of the credit terms schedule in the Wholesale Retail Code (WRC). However, the Proposer claimed that their insurance policy was sufficient, and the Wholesalers are making unreasonable requests of said insurance policy as grounds for an agreement.
  - 7.3. The Proposer highlighted that the credit terms describe a template that can be re-written, which some Wholesalers are refusing to facilitate an agreement with them. In addition, it was highlighted that [Ofwat had previously confirmed](#) that insurance was an acceptable option of credit support.
  - 7.4. The Proposer advised that insurance as a form of credit, would help solve a wider problem of lack of credit worthiness amongst new Retailers, given that they do not have any credit or trading history.
  - 7.5. A Panel Member was concerned that the proposed wording may not solve the issue being faced by the Proposer. They noted that the proposal sought to establish key terms that related to insurance as Alternate Eligible Credit Support but that this meant agreement of such terms was still subject to the agreement of Wholesalers. The proposer clarified that providing the change was intended to make it clear that the Wholesalers cannot request criteria outside of normal insurance practice.
  - 7.6. The Panel asked for clarity on the terms over which Wholesalers' had expressed concern. The Proposer clarified that some Wholesalers felt they should be able to trigger the policy, but, in the Proposer's view, this is not possible because only those who were party to the policy could trigger it. The Proposer also felt that this should not be an issue as they had procured that the Wholesaler would be named as the beneficiary on the policy, and the Retailer will be contractually obliged to pay the Wholesaler outright or, if necessary trigger the policy in the event of customer non-payment to have the funds to pay the Wholesaler.
- 7.1. The Panel recognised that the situation was pressing, but felt that more work was needed before a proposal could be put out to consultation. Panel Members also noted that the Code makes provision for alternative credit mechanisms.
  - 7.2. The Panel agreed that the Panel Chair should write to the Proposer, in terms intended to encourage Wholesalers presented with insurance as a credit option to act in a reasonable manner that reflects good insurance industry working practice and consistent with the spirit of the Code.

**ACTION 07\_03**

- 7.3. The Panel also agreed to further consider the development and assessment of CPW019 to correct this issue.
- 7.4. The Panel:
- **AGREED** for the Panel Secretariat to draft a letter to the Proposer, in terms intended to encourage Wholesalers presented with insurance as a credit option to act in a reasonable manner that reflects good insurance industry working practice and consistent with the spirit of the Code; and
  - **AGREED** to submit the change to pre-assessment by MOSL and the Proposer, so that a more carefully formed and appropriate proposal could be presented, given the complexity of the issue.

## 8. Updated Change Proposal Forms and Review Process

### **Purpose: For Decision**

- 8.1. Following the code Change CPM001 Proposal to remove the forms from the Market Arrangements Code (MAC), this paper set out the new Change Proposal forms for Panel approval.
- 8.2. The Chair commented that it was important the forms be fit for purpose and not overly descriptive.
- 8.3. Panel Members had some minor comments, which they agreed to provide to the Panel Secretary within a week of this meeting.
- 8.4. A Panel Member asked if the purpose of the form had now changed to be the trigger of the Change Process, while the other documents exist to report the history of the change as it is progressed. The MOSL representative confirmed that this was the case.
- 8.5. The Panel agreed to feedback comments on the forms to the Panel Secretariat within a week, and then the forms would be published on the MOSL website.
- 8.6. The Panel:
- **AGREED** the new Change Proposal forms for publication on the Market Operator website, subject to some feedback and amendments; and
  - **AGREED** the recommended process should be kept under review.

## 9. Change Proposal Withdrawal Process

### **Purpose: For Decision**

- 9.1. This paper set out a withdrawal process for Change Proposals, to improve the efficiency of the process.
- 9.2. Panel Members provided several comments on the policy.
- 9.3. Panel Members agreed to feedback their comments to the Panel Secretariat following the meeting, so that these could be considered before the document is published.
- 9.4. The Panel:

- **AGREED** the Change Proposal Withdrawal Policy set out in Appendix A, subject to some amendments; and
- **NOTED** that MOSL will publish the policy on the MOSL website.

## 10. Volume Estimating Caps

### Purpose: For Decision

- 10.1. There is an obligation under the codes in CSD 0207: Charge Calculation, Allocation and Aggregation for the Market Operator to review the caps used in volume estimation and make recommendations to the Panel. This paper set out an analysis of the volume estimating caps and recommended that these caps should not be amended now, but be reviewed in 2018 when more data is available.
- 10.2. MOSL's analysis indicated that around 98% of estimated consumptions fall below those implied by the volume caps, and therefore it was recommended that the caps are not amended.
- 10.3. A Panel Member asked whether there had been any issues, prior to the meeting, raised by Trading Parties in relation to these caps. The MOSL representative confirmed that this was not the case.
- 10.4. After an explanation from the MOSL representative on the application of these caps, the Panel agreed that it would benefit from a separate presentation on meter reading and estimation processes in a future meeting.

### ACTION 07\_04

#### 10.5. The Panel:

- **AGREED** the volume estimating caps do not need changing; and
- **NOTED** its obligation to review the caps in the first quarter of 2018.

## 11. Introduction to the Market Incident Management Plan

### Purpose: For Information

- 11.1. The Panel received a presentation from MOSL on the role of the Market Incident Management Plan Committee (MIMP Committee), and a proposal was made to change the current provisions for the group in the Schedule 11 of the MAC. This would allow the membership provisions to be amended, to allow for a more manageable group in the event of a market incident.
- 11.2. MOSL explained the difference between the Disaster Recovery, Business Continuity and Market Incident Management Plans. These different plans were then explained in terms of strategic, tactical and operational plans. The definitions were then used to explain what work the MIMP Committee will be responsible for.
- 11.3. MOSL highlighted the issues with the current provisions for the MIMP Committee, namely that the code provides for a committee comprising members from every trading party. This would lead to a very large and unwieldy group, which is not appropriate for an emergency committee. The presenter



proposed that it would be more useful to gather a small group of experts with the key stakeholders, such as Ofwat, Defra and a representative of each of the Trading Party categories.

- 11.4. A Panel Member asked whether these new proposals would require a code change. MOSL confirmed this was correct.
- 11.5. The Panel agreed that MOSL develop a proposal that better reflects good working practice for the management of a market incident.
- 11.6. An action was raised to develop a Change Proposal for how incident management will work in practice.

#### **ACTION 07\_05**

- 11.7. The Chair suggested that MOSL test these plans from time to time. This was recognised, and the MOSL presenter commented that there were already plans to run scenarios and simulations that are both announced and unannounced to test the business readiness.
- 11.8. The Panel:
  - **NOTED** the presentation from MOSL; and
  - **AGREED** for the provisions for a MIMP Committee to be re-worked through a Change Proposal, to better suit the requirements of that group.

## 12. Committee Updates

### **Purpose: For Information**

- 12.1. The Chair invited each of the Chairs of the Panel Committees to provide the members of the Panel with an update from their respective Committees.
- 12.2. The Chair of the Market Performance Committee acknowledged the positive attitude of the Committee and their acceptance of the large work load. The Panel noted the proposed review of Market Performance Standards which was looking to conclude by the end of 2017.
- 12.3. The Chair of the Trading Disputes Committee explained the Committee had had a lively and positive discussion of the process. The Committee has raised several actions for MOSL to conclude to provide further clarity. The Committee also reports that it has not yet had any Trading Disputes to cover.
- 12.4. The Chair of the GDPR Issues Committee reported that the meetings so far have been encouraging, and that all the members of the Committee seem to agree with a pragmatic approach to capturing data protection requirements in the codes. The Committee will likely meet an additional three times over and above the original timetable.
- 12.5. The Panel:
  - **NOTED** the contents of this paper and the feedback from the Committee Chairs.

## 13. Market Insights

### **Purpose: For Information**

- 13.1. MOSL noted that the purpose of the paper was to capture the regulatory landscape and policy changes in the market, following a previous action raised by Panel Members. This paper was presented as a strawman for feedback from the Panel.
- 13.2. The Panel agreed that the 10-day deadline for submitting papers could be waived for this item, to ensure the timelines of the information presented.
- 13.3. An update was provided on the CMA appeals process that currently under consultation.
- 13.4. The Panel questioned the benefit of this item being a paper and it was also suggested that this item become incorporated as part of the MOSL update.
- 13.5. The Panel:
  - **NOTED** the contents of this paper.

## 14. Panel Meetings 2018

### **Purpose: For Decision**

- 14.1. The Panel was invited to agree the proposed meeting dates for 2018.
- 14.2. The Chair suggested the July 2018 meeting be changed to the 24<sup>th</sup> July 2018 which the Panel agreed.
- 14.3. A Panel Member suggested that the December 18<sup>th</sup> meeting may need to be rearranged. The Chair suggested that the Panel leave this meeting as it is for now, and rearrange it if it is a problem closer to the time.
- 14.4. The Panel raised an action for the Secretariat to send out calendar invites to Panel Members.

**ACTION 07\_06**
- 14.5. The Panel:
  - **AGREED** to the proposed meeting dates outlined in this paper with one amendment; and
  - **NOTED** that, once agreeing these meeting dates, they will be published on the Panel webpage.

## 15. Any Other Business (AOB)

### **Purpose: For Information**

- 15.1. A Panel Member requested clarification that the September meeting will be happening on the 26<sup>th</sup> September 2017 rather than the original 12<sup>th</sup> September 2017 date. The Panel Secretariat confirmed that this was the case.
- 15.2. A Panel Member noted that the developer services element of the Operational Terms was suspended and requested that this be reviewed in advance of the current suspension coming to an end. The Panel agreed that this be added to the agenda for the October 2017 Panel meeting.

15.3. The Panel requested that the Panel Secretariat investigate some improved equipment for teleconferencing in future meetings, as the current provisions are not sufficient. The Panel Secretary confirmed that this was already being investigated, and noted this linked to the previous work on the Panel recording and broadcasting policy.

15.4. There was no further business and the Chair closed the meeting.

### Actions:

- A07\_01** Panel Secretary to investigate providing each Panel Member access to the PwC portal for the NHH Retail sector audit.
- A07\_02** MOSL to provide a monthly update on MOSL activities as a standing agenda item.
- A07\_03** Panel Secretariat to draft a letter to the Water Retail Company for use in their negotiations with Wholesalers, until a detailed Change Proposal is developed and assessed.
- A07\_04** Panel Secretariat to provide an education piece on meter reading, to aid Panel understanding of Volume Estimating Caps at a future Panel meeting.
- A07\_05** Panel Secretariat to develop a Change Proposal for how incident management will work in practice.
- A07\_06** Panel Secretariat to issue calendar invites to Panel Members for 2018 meetings.
- A07\_07** Discussion on the developer services elements of the operational terms to be developed for inclusion at the July Panel meeting.

The next Panel meeting is scheduled for: **25<sup>th</sup> July 2017, 10:30 – 15:30, at:**  
**Holborn Bars**  
**138-142 High Holborn**  
**London**  
**EC1N 2NQ**

The nearest tube stations are **Chancery Lane, Farringdon and Holborn**