

# Minutes of Panel Meeting 61

30 November 2021 | 10:30 – 15:30

Videoconference

Status of the Minutes: **FINAL**

## Attendees:

Trisha McAuley OBE	TM	Chair	Mike Keil	MK	Panel Member (Customer Representative)
Fallon Wilkinson	FW	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)	Pamela Taylor	PT	Panel Member (Independent)
Nicola Smith	NS	Panel Member (Unassociated Retailer)	Charlotte Glass	CG	Panel Member (Associated Retailer)
Claire Yeates	CY	Panel Member (Unassociated Retailer)	Adam Richardson	AR	Panel Secretary
Mark Holloway	MH	Panel Member (Wholesaler)			
Martin Mavin	MM	Panel Member (Wholesaler)	Dan Mason	DM	Affiliated Panel Member (Ofwat)

## Other Attendees:

Abu Rashid	Ara	MOSL Presenter item 5	Lisa-Ann Lott	LAL	MOSL (Secretariat)
Stuart Boyle	SB	MOSL Presenter item 4 & 15	Tom Daborn	TD	MOSL Presenter item 8
Antoine Schmidt	AS	Thames Water Observer	Christopher Wright	CW	Castle Water Observer
Monica Falasca	MF	MOSL Presenter item 6			
Evan Joannette	EJ	MOSL Presenter item 7			
Alex Cowie	AC	MOSL Presenter Item 14	Markus Lloyd	ML	MOSL Presenter item 12
Syndiso Bango-Dube	SBD	Proposer for CPW122 item 6	Carol Sgambaro	CS	MOSL Observer
Huw Comerford	HC	MOSL Observer	Oliver Robins	OR	MOSL Observer
James Pringle	JP	Waterscan Observer			

## Apologies:

Sarah McMath	SM	Affiliated Panel Member (MOSL)			
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## OPEN SESSION

### 1. Welcome, Introductions and Declarations of Interest

- 1.1. The meeting was confirmed as quorate.
- 1.2. Apologies had been received from SM.
- 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 declarations of interest were recorded at this point.

### 2. Minutes and Outstanding Actions

- 2.1. The Panel approved the minutes for Panel 60.
- 2.2. Following an update from SB, the Panel agreed that the following action could be closed as it had been completed: A55\_05
- 2.3. SB confirmed that the P1 estimated volumes that appeared in invoice period February 2021 (calculated using Yearly Volume Estimates (YVEs) in CMOS as of 5 January 2021) had been compared against R3 actual volumes where a meter reading had been used to calculate consumption. SB noted that, while this comparison indicated values outside of the threshold for further review, it was determined this was caused by lower YVE values used to support COVID estimates. It was therefore felt the cap was still suitable and was not recommended to be changed. YVEs may have been set low in January 2021 by Trading Parties, but the YVE cap was being utilised at that time in accordance with MOSL issued guidance.
- 2.4. The Panel further agreed that the following actions would remain open:  
A39\_05, A45\_10 and A60\_01

### 3. Ofwat Update

- 3.1. The Ofwat representative introduced the Ofwat update and noted that several decisions had been published on Code modifications since the last Panel. These decisions were
  - [CPM044 Management of the Ofwat Innovation Fund](#) – approved
  - [CPW118 Minimum meter read frequency](#) – rejected
  - [CPW110 and CPM041 Sharing Emergency contact details](#) – rejected

- [CPW123 Improved codes for remote read types](#) - approved
- 3.2. The Panel noted that Ofwat's interim CEO gave a speech at the MOSL CEO Forum earlier in November. The speech outlined Ofwat's vision for the market, reviewed progress over the last year and set out what else Ofwat thinks needs to be done to help deliver on its vision and had been published on Ofwat's website.
  - 3.3. With respect to the 2024 price review (PR24), it was noted that Ofwat would be publishing several documents before Christmas, including a discussion paper on performance commitments.
  - 3.4. Ofwat's business retail team were planning to publish the state of the market report and a consultation on approach to the Retail Exit Code (REC) review before Christmas. The Panel also noted that Ofwat planned to publish temporary adjustments to the REC due to excess levels of COVID-19 bad debt.
  - 3.5. It was noted that further decisions on customer credit protections would be published in January 2022.
  - 3.6. The Chair thanked the Ofwat representative for their update.

## 4. Change Report

- 4.1. SB introduced the Change Report, noting Ofwat's recent approval of CPM044: 'Management of the Ofwat Innovation Fund' and CPW123: 'Improved codes for remote read types.'
- 4.2. A new change [CPW128: 'Updating Volume Validation Tolerance](#) had been raised. SB confirmed that the expected implementation date of May 2023 was dependent on Panel approval by 30 August 2022 which had been proposed as the latest date for recommendation. SB confirmed that the consultation was expected to run from 13 Dec 21 – 21 Jan 22, a week later than in the Change Report.
- 4.3. SB also presented the schedule of code consultations planned before the end of March 2022.
- 4.4. SB displayed the upcoming recommendations including Bilaterals Phase 3, to be presented in December.
- 4.5. A Panel member noted that the report on CPW128 should assess the risk of incorrect reads within the market and SB confirmed that this would be included.
- 4.6. It was further noted the effect of validation tolerance being altered would change the number of rejected reads and therefore the need for resubmissions. HC confirmed the intention to amend the validation rules to reduce the chance that valid reads are rejected, so decreasing the number of resubmissions such that rejected reads should be investigated more fully, rather than automatically resubmitted.
- 4.7. A Panel member noted the timeframe and enquired if an interim measure could be implemented to increase the number of reads taken and entered in advance of this change. This would be raised with the Metering Committee to consider.

### **ACTION A62\_01**

- 4.8. SB confirmed that a post implementation review of the change would assess the extent to which this change had affected behaviour.
- 4.9. The Panel:

- **NOTED** the Change Report and;
- **APPROVED** (unanimous) the plan for CPW128: Updating Volume Validation Tolerance

## 5. CPW126: Settling of Post RF Primary Charges

- 5.1. The Chair noted that MM was the proposer for the change. AR updated Panel on the governance surrounding voting in respect of the change, confirming that Panel Members are required to act impartially and that they (and their employers) have signed letters to this intent. Furthermore, Panel Members noted that the code provides that Panel Members can raise code changes.
- 5.2. ARa introduced [CPW126: Settling of Post RF Primary Charges](#) detailing, that the proposed change was to extend the timeline in which Wholesalers would be able to recover primary charges from Retailers after the Final Settlement Report for an invoice period has been issued, in restricted circumstances.
- 5.3. ARa noted that the proposed solution was initially presented to Panel in August 2021 at which the Panel approved the assessment approach including consultation questions and timeline.
- 5.4. Panel Members noted the consultation responses received and the Proposer's view on how the proposed changes supported the Code Objectives and Principles.
- 5.5. Potential customer impacts had been considered. It was noted that the proposed amendments would only permit recovery of monies from the Retailer where the retailer had recovered payments from the customer.
- 5.6. The Chair invited CW (Observer) to make comment. CW enquired if the change was required or whether the market codes already addressed the issue through the Disputes process.
- 5.7. A Panel member believed that the change had merit but questioned if the benefits outweighed the risks. Recognising the amount of monies involved, they were not convinced that customer impact would be fully mitigated by the proposed guidance document and noted that it may result in more disputes.
- 5.8. MM responded, confirming two examples where the issue may occur. ARa had assessed a subset of reads submitted in three months of 2019 noting there could be cases which affected volumes calculated at RF, but that they were not common. Impacts on settlement due to occupancy data amendments were easier to identify.
- 5.9. MM did not envisage there to be a significant number of incidents and the process would be used on a trust basis where Retailers advised of customer payment being received. In his view, this should mitigate the risk of the proposed mechanisms being a cause of disputes. ARa noted the materiality thresholds when requesting Post RF settlement runs. Therefore, it was envisaged that only large settlement discrepancies would be pursued.
- 5.10. A Panel member asked if the small number of incidences could not be raised bilaterally. MM responded that there was no mechanism to allow for Wholesaler recovery of funds within the codes and the change was designed to allow this.
- 5.11. A Panel member observed asymmetry in the codes and Customer Protection Codes of Practice. However, they were sympathetic to the receipt of monies by the wholesaler where the retailer has been paid by the customer. Concerns were raised if a retailer dealt with a

number of wholesalers and when wholesalers begin to place queries around providing rationale for non-payment in relation to potential data protection issues.

- 5.12. MM reiterated that a guidance document would be provided and updated as required. The rationale was that the solution should be a light touch, high-level approach when asking a retailer if they were paid or not.
- 5.13. ARa noted that a draft template for declaration had been provided and could be utilised. In respect of customer data, protections were already detailed in the MAC and WRC and would be expected to be adhered to.
- 5.14. A Panel member enquired how this would impact the customer and whether it would change billing by the retailer to the customer. MM confirmed no change in this regard.
- 5.15. Another Panel member stated they'd be minded to support the change, noting that it would largely be based on the trust principle but could foster collaboration within the market. It could also encourage Trading Parties to maintain their data more accurately, in order to avoid the issue altogether.
- 5.16. A Panel member noted not all Wholesalers would use this in the same manner and, with that in mind, could a post implementation review be added to the change to enable refinement and reduction in complexity.
- 5.17. Another Panel member observed that the change could increase bilateral complexity, would involve more administration, did not have majority support from the industry as the majority of positive respondents were Wholesalers and questioned whether a more balanced approach - where a Retailer could recoup charges from a Wholesaler in the event of customer non-payment - could be considered. The Chair clarified that that would be a different change and the solution in front of the Panel was the solution that a recommendation was sought for.
- 5.18. The customer representative thanked MM and ARa for their clarity and was minded to support as the guidance document captured the necessary items to prevent customer impacts.
- 5.19. A further Panel member noted that the change would redress the balance in respect of charges and that other fixes might be required in due course but was minded to support the change.
- 5.20. The Panel:
  - **AGREED** (majority) to recommend [CPW126](#) to Ofwat for approval (12 in favour, 1 against,);
  - **AGREED** to recommend an implementation date of:
    - 13 May 2022, if Ofwat approval is received by 22 April 2022, or
    - 26 August 2022, if Ofwat approval is received by 5 August 2022.

## 6. CPW122 Introducing Direct Debit as a payment method

- 6.1. CY highlighted that this change had been raised by a Waterscan employee. The Chair noted this and, consistent with the requirements on Panel Members to act impartially and consider changes on their own merits, confirmed they were content there was no conflict issue as the change had been raised by another employee and that proposer was present.

- 6.2. MF introduced [CPW122 Introducing Direct Debit as a payment method](#) describing the purpose of the proposed solution as being to introduce Direct Debit as a defined payment method to settle Wholesale Primary Charges that must be offered to Retailers on request.
- 6.3. The change was previously presented at August 2021 Panel where a request for further assessment was made.
- 6.4. The Panel noted the consultation responses and the Proposer's view on how the proposed changes support the Code Objectives and Principles.
- 6.5. MF highlighted the options available for the Panel to vote upon the change or defer to allow a pilot study. Should a pilot be required the Panel needed to advise MOSL how long the change should be placed on hold.
- 6.6. At the Chair's invitation, an observer noted that it was not clear how the benefits of the change would justify the additional administration. They felt there was potential for considerable administrative burden and a risk to Wholesalers of Direct Debits being placed on hold due to the potential interactions with the Disputes process. The Observer also queried if Thames Water's proposed amendment to the solution was included.
- 6.7. MF confirmed that Thames Water's amendment was rejected by the proposer and not included in the solution.
- 6.8. SBD remarked that work involved in initial set-up should be inconsequential to the decision and highlighted that this change sought to provide choice within the market.
- 6.9. A Panel member noted that choice within the market should be an obvious option and would want to support as many payment options within the market as possible. However, consideration needed to be given to whole market costs and challenges versus the benefits. Where only a single trading party takes up the option, the costs to set-up may outweigh the benefits. In their view, a pilot would be useful to establish these costs.
- 6.10. A further Panel member noted the potential need for mandating alternative payment options but further noted that Direct Debit may become obsolete in future with the evolution of banking provisions, including the onset of ongoing variable payments due to be created as part of open banking initiatives. The Panel member was persuaded of the need for multiple options. However, there was a need to future-proof the code change, incorporating the ongoing variable payments options in particular as this may be reality before the code change can be implemented. Therefore, they were not minded to support the proposal and not persuaded of the need for a pilot.
- 6.11. SBD countered that the change allowed for alternative payment methods. A Panel member further remarked that the change specifically mandates the provision of Direct Debit and therefore is not future-proofed and would be better to be created as simply 'alternative payment methods,' as variable payments are likely to make Direct Debit obsolete.
- 6.12. MF confirmed that the first consultation had noted developments relating to open banking. A Panel member confirmed that open banking is a facilitator of variable payments. They felt that, out with this change, there needed to be a review of upcoming developments in the payments sector.
- 6.13. Ofwat noted Panel members' desire to future-proof to prevent piecemeal decisions. Ofwat queried the benefit to retailers who are not self-supply and what customer impacts had been considered.

- 6.14. SDB confirmed that 7 wholesalers had been engaged with to discuss different options, including self-billing and to establish whether these or Direct Debit could be offered. Responses were generally no, referencing a lack of a supporting infrastructure. Therefore, mandating via a code change was the only option to move forward.
- 6.15. A Panel member noted that it was not entirely clear whether a pilot study was appropriate. However, it did appear that in a mature market, Direct Debit would be a natural and expected option and set-up costs would always be a factor. Should this payment option be facilitated, it should not prevent future payment options/innovations. The Panel member sympathised with the set-up costs, in particular, in the backdrop of the current situation (COVID-19). The Panel member added that this change would not exclude futureproofing but, depending on how the new technologies would be implemented, different drafting of the code may be required in the future. Finally, the Panel member highlighted that the lack of options may represent a barrier to entry as appeared to be the case for one, Self-Supply Retailer.
- 6.16. Significant discussion took place, with a number of Panel members noting that Direct Debit should always have been offered as a payment method. Panel members generally agreed that a pilot would not offer any further feedback and was therefore unnecessary. It was also noted that any change needed to be future proofed to accommodate new/upcoming methods of payment.
- 6.17. The Customer representative highlighted the need to offer various payment methods and that Direct Debit should have already been introduced. They noted comments from members regarding futureproofing. They believed that the pilot was unlikely to add value.
- 6.18. A Panel member asked if other wholesale markets operated with Direct Debit and whether consideration had been given to charging for Direct Debit given that small customers were likely to be paying for larger customers set-up costs.
- 6.19. MF confirmed it was unknown if other wholesale markets operated with Direct Debit and that the risk of all Retailers sharing the additional costs was mentioned in the DRR. This would depend on the uptake of Direct Debit, but the Wholesalers did not report direct negative impacts on the customers.
- 6.20. A Panel member noted they were struggling to understand the costs to set-up Direct Debit for wholesalers in particular as this was already offered to household customers
- 6.21. A Wholesaler member confirmed there would be separate Direct Debit systems for households, thus set-up costs would be incurred. A pilot study would be useful to understand these, alongside additional evidence to future-proofing other payment options.
- 6.22. Several members expressed a view that, if not approved, then a pilot would be the best option.
- 6.23. The Chair thanked the proposer for their contribution.
- 6.24. The Panel:
- **AGREED** (majority) to recommend [CPW122](#) to Ofwat for approval (8 in favour, 3 against, 1 abstention)
  - **AGREED** to recommend an implementation date of:
    - 28 February 2022, if Ofwat approval is received by 10 February 2022, or
    - 22 April 2022, if Ofwat approval is received by 8 April 2022

## 7. Bilaterals Update

- 7.1. EJ provided an update on the progress of the Bilaterals programme, noting that the Bilateral Hub (“Hub”) continued to run smoothly in the post go-live period.
- 7.2. Early indications were that the benefits realisation would be greater than anticipated.
- 7.3. EJ confirmed the Code changes expected to be taken to the Panel in December and the functionality that the changes would enable.
- 7.4. EJ highlighted code documents which were ready to read and those which contained the material changes if the Panel wish to pre-read ahead of papers being submitted.
- 7.5. EJ confirmed that the OAG(Operational Advisory Group) and the CAG (Code Advisory Group) are both actively engaged. EJ further commented on Ofwat’s significant levels of engagement during the drafting process.
- 7.6. The Panel:
  - **NOTED** the update provided by EJ.

## 8. Updated Change Proposal Form

- 8.1. TD provided an update on the amendments to the Change Proposal Form, including those consequential amendments made as a result of [CPM044 Management of Ofwat Innovation Fund](#), [CPW070a](#) and [CPM043a Phase 2 Bilateral Transaction Programme](#).
- 8.2. The Panel:
  - **AGREED** (unanimous) to recommend the updated Change Proposal Form (13 in favour)

## 9. Panel Handover Document

- 9.1. AR provided an update on the draft Panel handover document. AR confirmed that details taken from the Panel governance review have been incorporated.
- 9.2. AR further confirmed that any additions moving forward can still be built upon, should the need arise.
- 9.3. A Panel member asked that the need for ongoing stakeholder engagement be called out more strongly in the document.

**ACTION: A62\_02**

The Panel:

- **AGREED** (unanimous) to recommend the Panel handover document (13 in favour)

## 10. Committee Reports

- 10.1. The Disputes Committee Chair confirmed that the forthcoming December meeting had been cancelled as there was no significant business.
- 10.2. The Panel:
  - **NOTED** the Committee Reports.



## 11. MOSL Business Update

11.1. A Panel member noted the Trading Party survey and queried how this feedback was being addressed, in particular the feedback relating to engagement. AR noted that MOSL changes may have influenced scores, and these have been followed up with Trading Parties. With reference to engagement, MOSL was seeking to understand exactly what Trading Parties felt had been lost as many follow-up discussions had indicated that Trading Parties found it difficult to articulate specific issues. MOSL will continue to evolve its engagement channels, including through its new website, and will continue to seek feedback on its engagement approach.

11.2. The Panel:

- **NOTED** the MOSL Business Update.

## 12. MOSL Market Update

12.1. The Panel:

- **NOTED** the MOSL Market Update

## 13. Any Other Business

13.1. The Chair noted that FW and MM would be standing down following the December Panel meeting.

13.2. FW confirmed that she was moving to an alternative organisation. The Chair thanked FW for her contributions.

13.3. MM confirmed he would be retiring in December, and he thanked the Panel for their time and working with them. The Chair thanked MM for his contributions.

13.4. AR updated the Panel on the MOSL business plan response. He noted that he was working alongside a Panel member (CG) to develop a draft response. Feedback from the October workshop session would be incorporated, and the response would be drafted in a similar way to the previous year's response. AR requested that any additional feedback should be sent to AR and CG before close of play on Thursday 2 December. This would support the intention to provide a draft for approval ahead of the next Panel meeting if possible.

**Action: A62\_03**

13.5. The Chair expressed her thanks to CG and the Panel for their contributions.

13.6. As there was no other business, the open session was closed.

## CLOSED SESSION

## 14. Metering Committee Nominations

14.1. The Panel:

- **AGREED** (unanimous) to appoint Kevin McCalliskey to the committee (13 in favour)

## 15. CPM046 Approved Codes of Practice Sub-Group Nominations

15.1. Panel Members noted that the Sub-Group was being convened to consider CPM046 'Approved Codes of Practice'.

15.2 The Panel:

- **AGREED** (unanimous) to appoint the following members to the sub-group (13 in favour):
  - Independent - John Vinson
  - Customer Representative – Lucy Byrnes
  - Retailer – Matthew Glover
  - Retailer - Christopher Wright
  - Retailer – Syndiso Bango-Dube
  - Wholesaler – James Wilson
  - Wholesaler – Ashley Connors
  - Wholesaler – Gerard Lyden
- **AGREED** (unanimous) to approve Stuart Boyle as the Chair of the group (13 in favour)
- **AGREED** (unanimous) to approve ToR subject to updates discussed (13 in favour)

*SB re-joined the meeting*

## 16. AOB / Panel 61 Reflections

### **Approval of the Market Improvement Fund Award**

16.1. AR confirmed the Panel's ex-committee decision on the recommendation of the [Market Improvement Fund](#) selection panel.

16.2. SF confirmed that 10 votes had been received from Panel Members, all in favour. Accordingly, the Panel had approved £703,000 to be awarded to the recommended bidders. All bidders were being notified with the funds awarded by end of December/early January.

16.3. There being no further business, the Chair closed the meeting.