

Minutes of Panel Meeting 27

29 January 2019 | 10:30 – 15:45
ETC Venue, 8 Fenchurch Place, London, EC3M 4PB

Status of the Minutes: Approved

MEMBERS PRESENT

Margaret Beels	MB	Chair	Trevor Nelson	TN	Panel Member (Unassociated Retailer)
Mike Brindle	MBr	Panel Member (Associated Retailer)	Nicola Smith	NSm	Panel Member (Unassociated Retailer)
Wendy Monk	WM	Panel Member (Associated Retailer)	Mark Holloway	MH	Panel Member (Wholesaler)
Simon Wilshire (via teleconference)	SW	Panel Member (Associated Retailer)	Howard Smith	HS	Panel Member (Wholesaler)
Helyn Mensah	HM	Panel Member (Independent)	Des Burke	DB	Affiliated Panel Member (MOSL)
Nigel Sisman	NS	Panel Member (Independent)	Christina Blackwell	CB	Affiliated Panel Member (CCWater)
Elsa Wye	EW	Panel Member (Independent)	Dan Mason	DM	Affiliated Panel Member (Ofwat)
Richard Moore (via teleconference)	RM	Panel Member (Unassociated Retailer)	Adam Richardson	AR	Panel Secretary
Dylan Freeman	DF	Panel Member (Wholesaler)			

OTHER ATTENDEES

Elliot Bird	N/A	Meeting Secretary	Emily Bulman	EB	Presenter (Ofwat)
Steve Arthur	SA	Presenter (MOSL)	Neil Pendle	NP	Presenter (Waterscan)
Stuart Boyle	SB	Presenter (MOSL)	Huw Comerford	N/A	Observer (MOSL)
Rob Curry	RC	Presenter (MOSL)	Oliver Farrell	N/A	Observer (MOSL)
David Edward	DE	Presenter (MOSL)	John Vinson	N/A	Observer (Ind Panel Member)
Zainab Mohammed	ZM	Presenter (MOSL)	Emma Kelso	N/A	Observer (Ofwat)
Harry Osei-Tutu	HOT	Presenter (MOSL)	Graham Pontin	N/A	Observer (Ofwat)
Abu Rashid	N/A	Presenter (MOSL)	Hayley Robinson	N/A	Observer (Ofwat)
Emma Taylor	ET	Presenter (MOSL)	Antoine Schmidt	N/A	Observer (Thames)

APOLOGIES

Jim Keohane	Chair
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1. Welcome and Introductions

- 1.1. The Chair welcomed Panel Members to the 27th meeting of the Panel.

2. Minutes and Outstanding Actions

2.1. Minutes

- 2.2. The Panel agreed to the accuracy of the [minutes from previous meeting](#), subject to comments submitted by Panel Members prior to the meeting.

2.3. Actions

The Panel agreed to close actions: AS_06, A24_03, A24_05 and A24_02 in recognition of the previous day's workshop and later agenda items.

- 2.4. The Panel agreed that MOSL would confirm at the next Panel meeting when it planned to review the impacts and benefits arising from the implementation of CPW055 'Wholesale Retail Code inconsistency' (Action **A26a_01**).

3. Update from Ofwat

- 3.1. Dan Mason (DM) provided an update on activity of Ofwat since the last Panel meeting, which included:

- Ofwat issued a consultation on its proposed decision on changes to the Customer Protection Code of Practice to align the document with the changes made in Change Proposal CPW055 ('Wholesale Retail Code Inconsistency').
- A call for information had previously been issued in November on Wholesaler performance and Ofwat were reviewing the responses received, with engagement planned going forward, and a position statement to be issued in March.
- Ofwat published an open letter that was sent to Associated Retailers requesting assurance that any intra-group parent company guarantees that existed were not anti-competitive or discriminatory. DM highlighted that Ofwat were generally satisfied with the responses and Ofwat would contact those retailers separately and confidentially, to better understand the precise details of the arrangements. DM agreed to circulate this letter to Panel Members for information.

ACTION 27_01

- A consultation on WSSL licensing fees closed in the last week and Ofwat intends to circulate its decision document, including a summary of responses, during February.
- Licences have been issued to BT and Amber Energy.
- Ofwat has published decisions on change proposal CPW047 (Enabling Sewerage Wholesalers to create meter networks) and is aiming to publish a decision on CPM008 (Review of market performance Standards) later this week.

- Ofwat published its forward work plan in January and a consultation is currently open on its content, which will be closing on the 22 February 2019.
- A consultation had been published on the Retail Exit Code, for which the deadline had been extended, DM explained that Ofwat would publish a next steps document after reviewing the responses.

4. Update from MOSL

4.1. Des Burke (DB) provided an update on the activities of MOSL since the last Panel meeting, which included:

- Changes in the senior management structure of MOSL, which will be in place on a temporary basis until a new CEO is appointed. Recruitment for a permanent chief executive of MOSL is underway with interviews scheduled to occur in April.
- Assurance that a detailed handover process was in place and that DB was confident that there should be no effect on MOSL's service provision from employees leaving going forward.
- The request for information (RFI) for the bilaterals project has received responses which are being reviewed, the current position would seem that a consensus is not agreed on a way forward. The responses will be presented to the MOSL board in February.
- The Panel meeting for February is still intended to be hosted at MOSL's Southampton office but DB is keen to work with the Panel to understand where to host meetings going forward and what the preferred approach will be.

4.2. The Panel noted that it was unclear around details of the structure of MOSL and would find it beneficial to have this explained. DB agreed to provide the Panel with an organisational view of MOSL in the form of an organogram.

ACTION 27_02

4.3. Panel Members raised concerns that they felt the current priority for the Market Operator was data improvement work and Trading Party Data Improvement Plans, but that MOSL could be doing more as a central impartial party in the process in addition to its commentary on the plans. MOSL highlighted its intention to publish more data publicly on Trading Party performance.

4.4. Panel Members noted MOSL's comments and noted that it was not currently clear what good looked like or what remedial actions would be taken against underperforming parties and the process followed in addressing under-performance. Nigel Sisman (NS) as Chair of the Market Performance Committee (MPC) highlighted that work was currently underway to address this and the Panel could discuss this further as part of the Market Performance Update later in the meeting.

5. Developer Services

- 5.1. Emily Bulman (EB) provided an update on the progress of the Developer Services review being progressed by Ofwat and supported by MOSL, including the feedback received by a Panel sub-group that was held in November 2019.
- 5.2. EB also explained that engagement had taken place between Ofwat and Developers, Retailers and Wholesalers in an attempt to understand stakeholders' views on the suspended code provisions. The engagement had identified a universal scepticism around the extent to which Retailers were (or may choose to become) involved in the Developer Services market. However, Defra and Ofwat had always been keen to investigate the possibility further.
- 5.3. EB noted work being undertaken elsewhere such as its introduction of a developer measure of experience (D-Mex) in PR19. EB observed that setting out processes and standards for developer services in the market codes would run the risk that code signatories may be subject to obligations that become out of line with other companies offering developer services.
- 5.4. Given the potential complexity of introducing developer services processes into the market codes, and the challenges faced in ensuring parity across different providers of developer services, Ofwat felt there was a strong case for considering whether the currently suspended terms should not be introduced and should, instead, be removed. EB suggested that a Change Proposal could be raised to address this.
- 5.5. Panel Members recognised that it was likely a change would be raised in future in relation to Developer Services, and that MOSL would not be able to raise such a change as it impacted the Operational Terms of the Wholesale Retail Code. Panel Members suggested that a Trading Party volunteer could be sought to progress the change and failing this a Panel Member could progress the change. The Panel also requested Ofwat provide some statement of rationale confirming the need for changes and explaining the rationale behind its decision on this area.

ACTION 27_03

6. Monthly Committee Update P27_01

- 6.1. NS provided an update on the MPC as Chair of the Committee, highlighting that MOSL and the MPC had begun work on defining the process for enforcement activities of data rectification and improvement plans. NS agreed that the MPC would aim to provide the Panel with a description of the process by the March Panel meeting and that he envisaged this would be further discussed under the Market Performance Update part of this meeting.

ACTION 27_04

- 6.2. In the meantime, MOSL would continue to report on the progress of Initial Performance Improvement Plans.

ACTION 27_05

- 6.3. Panel Members noted that it would be useful to have a document that discussed the plans of the Panel's Committees, to understand when certain items would be discussed and when we are likely to

achieve certain objectives. The Panel Secretariat noted this request and agreed to provide this to the Panel going forward.

ACTION 27_06

- 6.4. Elsa Wye (EW) as Chair of the Trading Disputes Committee (TDC) provided an update on the activity of the Committee, highlighting that the outcome of a dispute between Thames and Castle considered by the TDC had been published on the MOSL website.
- 6.5. EW also highlighted that the TDC had identified a number of points of learning from this dispute and would consider some reviews to the disputes process in the future, which would be brought to the Panel once agreed by the TDC.
- 6.6. Adam Richardson (AR) as Chair of the Credit Committee explained that the Credit Committee had mostly been discussing a draft change (DCP020) around allocating Unsecured Credit Allowance for good payment history, which would be circulated for consultation after next month's meeting. The Committee had also agreed to investigate the potential of a pooled credit model, but that this would be considered a lower priority issue than items already on the Committee's work plan.
- 6.7. A Panel Member queried whether there was an update from the Market Incident Management Plan Committee (MIMP) around when the previously mentioned industry test might take place. DB explained that the test was still planned and currently being developed. MOSL agreed to provide an update on the proposed live test of the Market Incident Management Plan across the industry.

ACTION 27_07

7. Change Report P27_02

- 7.1. Stuart Boyle (SB) provided the Panel with an update on the change programme since the last Panel meeting, which included:
 - An Authority decision had been received on CPW048 'Alternative Payment Terms' and CPW047 'Enabling Sewerage Wholesalers to Create Meter Networks', which had both been approved.
 - 5 changes were awaiting Authority decision including: CPW041 'G Read Removal Governance'; CPM008 'Redistribution of Market Performance Standards Charges'; CPW055 'Wholesale Retail Code Inconsistency'; CPM012 'Operational Performance Standards Review'; and CPW049 'Operational Performance Standards Review'
 - CPW041 'G Read Removal Governance' had been returned by Ofwat requesting further clarification regarding the recommendation report. MOSL will be reviewing Ofwat's comments before re-submitting the report.

8. Update on CPW047 and CPW050

- 8.1. MOSL provided a brief update explaining that release 6.5 had been agreed and is intended to include both CPW047 'Enabling Sewerage Wholesalers to Create Meter Networks' and CPW050 'Changes to the Long Unread Meters Report'.

- 8.2. MOSL also confirmed for Panel Members that it still intended to consult with industry on the potential to introduce further planned releases in a year, and the possibility of introducing ad-hoc or standalone releases.

ACTION 27_08

9. Final Settlement Run Consultation Feedback

- 9.1. Emma Taylor (ET) provided an update to Panel Members on the consultation held for Trading Parties to respond to the proposed timetable for the Final Settlement run (RF) catch-up period.
- 9.2. ET highlighted that the industry provided 15 responses in total of which 11 had no issues and 4 raised concerns with the timetable. The 4 respondents who raised concerns were CCWater, 1 Wholesaler and 2 Retailers who highlighted that there would be an adverse effect on resourcing due to increased invoicing requirements, along with a limited time to review the reporting and understanding of the impact on billing and understanding mitigation of customer bills. Although MOSL recognised these concerns, it believed this was unavoidable in order to catch-up the RF delay.
- 9.3. Respondents also suggested that their time to review catch-up runs was not sufficient, which MOSL has taken actions to mitigate. Firstly, MOSL will be providing a full month for Parties to review the shadow period RF settlement reports, and secondly the first timetabled RF settlement run has been allowed a month for review. However, ET highlighted that these periods have all been billed previously and these RF runs are only for reconciliation of adjustments to existing settlement charges.
- 9.4. Panel Members noted that a respondent suggested that the mid-month settlements raised potential issues for their organisation's cash flow. ET noted this issue but highlighted MOSL had not expected to see significant discrepancies between the R3 or R4 settlement run and RF settlement runs that would have significant effects on cash flow.
- 9.5. Panel Members noted MOSL's response to the previous point but suggested that it would still be beneficial for MOSL to arrange for account managers to discuss this with some of the smaller Trading Parties, to ensure they are fully aware of the implications of the RF run.

ACTION 27_09

- 9.6. A Panel Member noted that previously, stakeholders had suggested that it may be beneficial for the R4 settlement runs, which occur prior to the final settlement runs, to continue beyond the first 6 months. MOSL recognised this point but highlighted that the differences between R3 and R4 settlement runs had been minor.
- 9.7. Panel Members also noted that previously MOSL had stated that it had made a policy decision to only make unplanned settlement runs on full SPID pairings, rather than individual SPIDs. A Panel Member noted that there might be an increasing processing burden over the upcoming months if substantial G read deletions generate requirements for post-RF settlement runs over multiple invoice periods and widespread Wholesaler/Retailer combinations. This might be a significant risk during the settlement catch-up period. The Panel requested that MOSL provide an update on this policy decision and the technical limitations of the alternate SPID level approach. MOSL highlighted that it had previously briefed the TDC on this item and agreed to share this briefing with the Panel.

10. Draft Recommendation Report: CPW051 – Market Incident Management Plan amendments

- 10.1. The Panel considered a change proposal to align the market code requirements specified in CSD 0007 with the actual capability of the Central Market Operating System. Full compliance with business continuity requirements specified in the market codes is necessary to achieve ISO 22301 accreditation.
- 10.2. Rob Curry (RC) and Harry Osei-Tutu (HOT) presented the change to the Panel as the Proposer and Lead Analyst of the Change Proposal, explaining that the solution had been revised since the previous Panel review of the change, in order to reword existing statements to reflect the actual resilience of CMOS rather than remove the wording from the code.
- 10.3. Panel Members queried whether the content of this change had been communicated to the industry, and whether Trading Parties were aware that the functionality currently described in the market codes (which required there to be a working interface at all times during a CMOS outage) was not available in CMOS. MOSL explained that the intention was to circulate a communication to inform Trading Parties of this.
- 10.4. Panel Members noted that, although this functionality has never existed, some Parties are likely not aware of this and therefore this change represents an implied downgrade in functionality. It is possible a number of Trading Party systems were developed with the Code level of functionality in mind. Considering this, Panel Members noted that it would be important that Trading Parties are aware and that this is communicated. MOSL agreed that this would be the case and raised an action to communicate this prior to Ofwat decision on this change.

- 10.5. A Panel Member also noted that previously there was no requirement for a “recovery time objective”, whereas now there is, but it is not defined. DB recognised this comment and informed Panel Members that the recovery time objective is stated in MOSL’s contract with its service provider and RC clarified that it is currently 4 hours. Panel Members noted this and raised concerns that if this was the case that it should be clarified in the code, as this is the service level Trading Parties will sign-up to the code for. Panel Members expressed concerns that the continuity of service was being reduced from 100% availability (which was accepted as impractical) to effectively no service level, as the Recovery Time Objective was not defined.
- 10.6. DB noted concerns raised by Panel Member but highlighted that agreed service levels can change as part of contract negotiation and that the Market Codes would not be as flexible. In addition, there are many service levels in the service provide contract which could similarly be defined in the code, using similar logic. It was agreed that this change be considered on its own merits as it exists, and a separate piece of work be taken forward to consider this inclusion of service levels agreements.
- 10.7. In addition, RC noted that MOSL would be unable to seek ISO 22301 accreditation until this change had been implemented and therefore a lack of Panel recommendation could delay this process unnecessarily.

10.8. Some Panel Members still raised concerns around the implied reduction in service level this change represents and felt that Trading Parties who were impacted may want to explore an increase in service level. MOSL felt that the cost of delivering this could be high.

10.9. The Panel:

- **AGREED** to recommend implementation of the proposed solution of CPW051 to the Authority for approval; and
- **AGREED** the recommended implementation date of:
 - 29 March 2019, if Authority approval is received by 7 March 2019.

11. Draft Recommendation Report: CPW052 – Improving the Transparency of Alternate Credit Arrangements

11.1. The Panel considered a change proposal that sought to require Wholesalers to notify Ofwat and MOSL in full of the terms of their existing and future alternative credit arrangements, so they can be published centrally on MOSL's website.

11.2. Neil Pendle (NP – on line) as the Proposer of the change provided the Panel with a presentation on the background of the change and the solution proposed, including the responses from an industry RFI.

11.3. Panel Members queried the Committee's decision not to require arrangements to be published in a standard format, as recommended in the Ofwat review of Credit Arrangements. NP explained that the Committee felt this would not be practical considering the bespoke nature of agreements and it could be detrimental going forward, as it could limit the flexibility of future arrangements.

11.4. A Panel Member highlighted that the legal drafting of the proposal had included the obligation on MOSL to publish the arrangements in the key terms of the agreements between Parties, which they felt was incorrect and would be unenforceable. MOSL agreed to address this in the legal drafting by relocating the wording within the schedule.

11.5. A Panel Member also queried whether these obligations would apply to agreements of this nature between Parties if they were discontinued; this was not specified in the legal drafting. The Panel concluded that this should not be the case, as these arrangements would be terminated and no longer current.

11.6. The Panel unanimously:

- **AGREED** to recommend implementation of CPW052 to the Authority for approval; and
- **AGREED** the recommended implementation date of:
 - 29 March 2019 if Authority approval is received by 28 February 2019; or
 - 30 May 2019 if Authority approval is received by 30 April 2019.

13. Draft Recommendation Report: CPW053 – MO Transaction Processing and Reporting

- 13.1. The Panel considered a change proposal that sought to make changes to two Code Subsidiary Documents (CSDs), clarifying how transactions and reports are processed by the Market Operator.
- 13.2. Panel Members sought clarity from MOSL whether a communication had been circulated to industry that these reports would not be stored but can be regenerated by Trading Parties. MOSL confirmed that it would communicate this to the industry.

ACTION 27_12

13.3. The Panel unanimously:

- **AGREED** to recommend CPW053 to the Authority for approval; and
- **AGREED** the recommended implementation date of:
 - 17 May 2019 or earlier, if Authority approval is received by 10 May 2019; or
 - 26 July 2019, if Authority approval is received by 19 July 2019

14. Draft Recommendation Report: CPW054 – Housekeeping Changes to the Market Codes

14.1. The Panel considered a change proposal that sought to make minor grammatical changes, provide clarifications and increase consistency of the contents of some market code documents.

14.2. The Panel unanimously:

- **AGREED** to recommend CPW054 to the Authority for approval; and
- **AGREED** the recommended implementation date of:
 - 29 March 2019 or earlier, if Authority approval is received by 22 March 2019; or
 - 26 July 2019, if Authority approval is received by 19 July 2019

15. Rollover Detection Algorithm

15.1. The Panel were asked to consider the results of the Market Operator's review of the Rollover Detection Algorithm (RDA).

15.2. A Panel Member raised concern with the amount of effort required within MOSL to support the development of the Panel paper, given its place in the context of other Panel priorities, despite agreeing with the recommendation that there was no evidence to support any change in the algorithm. The Panel Member wondered if a different approach to the review in future could be taken that is proportional to the level of risks associated with the application of the algorithm freeing up MOSL resource for other higher priority work. The Panel Member suggested that it would be practical to remove some of these

obligations for standing review items from the code, particularly where they can require large amounts of time and effort, to free up these resources for other higher priority activities.

15.3. The Panel agreed that it should amend the obligations on MOSL to review items on a standing basis, and instead address issues in these areas when they appear.

15.4. The Panel unanimously:

- **AGREED** no changes are required to the Rollover Detection Algorithm; and
- Requested MOSL propose revised timing for future Rollover Detection Algorithm reviews and other code mandated standing review items.

ACTION 27_13

16. Market Performance Update

16.1. Steve Arthur (SA) provided Panel Members with an update on Trading Parties who were currently underperforming, in terms of progress against their Data Improvement Plans. SA explained that the plans had been in place for 3 months, which was the previously agreed milestone where MOSL would begin tracking Trading Party progress.

16.2. SA highlighted MOSL's intention to publish the statistics on performance against Data Improvement Plans publicly in the next few weeks, which will form part of the incentivisation and escalation process around these plans.

Panel again requested further clarity on what the escalation process might look like, in relation to Trading Party underperformance. The Chair of the MPC explained that MOSL has been working through the options available in the escalation process and that the matter would be discussed further the next day in MPC. Some Panel Members indicated that, given the poor performance identified via MPC and Data Improvement Plans, a robust process and plan for escalation should be available for consideration at the next Panel. NS indicated that the MPC was working towards a comprehensive proposal for consideration to the March Panel. This would allow approximately 6 weeks of work activity to consider both the escalation process and how practically it might be used given the perception of a high number of Trading Parties exhibiting poor performance in many areas. NS highlighted that the MPC intended to bring a proposal for this to the March Panel meeting. Furthermore it was noted that February Panel would be appraised of a performance update from MOSL and an update of progress in escalation process development.

16.3. MOSL and the Panel noted that Trading Parties submitting late data would worsen their measured performance but improve the accuracy of settlement. SA noted that MOSL would not want to disincentivise data improvement so had discretion to place more importance on the Data Improvement Plans, than Performance Rectification Plans

17. Closed Session - GDPR Committee Nominations

17.1. The Panel considered nominations received for membership of the GDPR Issues Committee.

17.2. The Panel:

- **AGREED** to appoint the following:

- Louise Fox – Anglian Business Water
- Trevor Nelson – Business Stream
- Rachel Skelton – Water Plus
- Emma Groves – Verastar/Clear Business Water
- Caroline Gould – South East Water
- Abigail Morgan – Anglian Water Services
- David Oliver-Sheppard – Northumbrian Water
- Kulwinder Johal – Severn Trent Water
- **AGREED** to change the terms of reference to 8 members with a quorum of 5.

18. AOB - Panel Workshop Outputs (Open Session)

18.1. AR provided a presentation to the Panel on items discussed at the Panel Strategy Workshop that occurred on 28 January 2019 and items agreed to be reviewed and amended going forward. This included:

- Adopting working practices consistent with the [Code Administration Code of Practice](#);
- Updating the current Panel Plan to reflect progress to date with a commitment from the Panel to develop a new more strategic plan going forward;
- Redeveloping the Panel Plan through spring/summer with a strategic forward look of around 3 years;
- Considering a package of changes to be developed on working practice and processes around self-governance and urgent changes, as well as changes to qualifying majority and voting;
- Reviewing and improving consultation mechanisms to ensure meaningful engagement going forward; and
- Reviewing the way in which benefits are defined in the change process, including reviewing the objectives and principles of the Wholesale Retail Code (WRC) and the MAC.

Actions:

- A27_01** DM to circulate Ofwat’s open letter on credit for information.
- A27_02** Panel to be provided with an organisational view of MOSL.
- A27_03** TDC briefing on unplanned settlement runs policy to be shared with the Panel.
- A27_04** MPC to provide a proposal for an escalation process of Trading Party underperformance.
- A27_05** MOSL to report on Initial Performance Rectification Plan progress
- A27_06** Panel Secretariat to provide a planning document, detailing the work plans of Panel Committees.

- A27_07** MOSL to provide an update on the proposed live test of the Market Incident Management Plan.
- A27_08** MOSL to consult on CMOS release strategy
- A27_09** MOSL to communicate impact of RF settlement timetable on trading parties
- A27_10** MOSL to present rationale for full SPID pairing of unplanned settlement runs
- A27_11** MOSL to communicate the content and implications of change CPW051 to the industry.
- A27_12** MOSL to propose a change to the MAC required standing review items for Panel including RDA.
- A27_13** MOSL to review the future timings of code mandated reviews

The next Panel meeting is scheduled for: **26 February 2019, 10:30 – 15:30, at:**
The White Building
1-4 Cumberland Place
Southampton
SO15 2NP