



Minutes of Panel Meeting 34

27th August 2019 | 10:30 – 14:20

ETC Venues, County Hall, Belvedere Road, London, SE1 7PB

Status of the Minutes: Approved

THE PANEL

Jim Keohane	JK	Chair	Mark Holloway	MH	Panel Member (Wholesaler)
Mike Brindle	MB	Panel Member (Associated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Christopher Williams	CW	Panel Member (Associated Retailer)	Nigel Sisman	NS	Panel Member (Independent)
Claire Yeates	CY	Panel Member (Unassociated Retailer)	Elsa Wye	EW	Panel Member (Independent)
David Siddall	DS	Alternate for Nicola Smith (Unassociated Retailer)	Christina Blackwell	CB	Affiliated Panel Member (CCWater)
Fiona Matheson	FM	Alternate for Trevor Nelson (Unassociated Retailer)	Dan Mason	DM	Affiliated Panel Member (Ofwat) (T-Con)
Michael Rathbone	MR	Alternate for Ian Dearnley (Wholesaler)	Sarah McMath	SM	Affiliated Panel Member (MOSL CEO)
Martin Mavin	MM	Panel Member (Wholesaler)	Adam Richardson	AR	Panel Secretary

OTHER ATTENDEES

George Monea	GM	Minute Taker (MOSL)	Emma Kelso	EK	Observer (Ofwat)
Oliver Farrell	OF	Presenter (MOSL)	John Vinson	JV	Observer (Independent)
Luke Austin	LA	Presenter (MOSL)	Chris Arnold	CA	Observer (Thames)
Kate Harper	KH	Presenter (MOSL)	Steve Arthur	SA	Presenter (MOSL)

Ray Porter	RP	Observer & Presenter (Castle Water)			
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APOLOGIES

Member	Post
Ian Dearnley	Wholesaler Panel Member
Nicola Smith	Unassociated Retailer Panel Member
Trevor Nelson	Unassociated Retailer Panel Member
Stuart Boyle	Secretariat (MOSL)

APOLOGIES

1. Welcome and Introductions

- 1.1. The Chair welcomed everyone attending to the 34 Panel Meeting.

2. Minutes and Outstanding Actions

- 2.1. The Panel agreed the P33 minutes subject to a minor amendment provided by a Panel Member at the beginning of the meeting.
- 2.2. AR presented the Closed Actions and the remaining Outstanding Actions. The Panel agreed with the outstanding actions and to close actions: A29_05, A32_04, A31_04, A33_01, A33_05 and A33_06.

3. Update from Ofwat

- 3.1. Dan Mason (DM) presented an update from Ofwat. It was explained that Ofwat have published decisions to approve the implementation of CPW065 (Retailer Notifications) and CPM016 (Panel Voting Majorities).
- 3.2. DM provided an update on the Review of Incumbent companies' support for the development of effective markets. It was explained that, off the back of the previous letter published in May¹, Ofwat would be writing to incumbent companies in mid-September.
- 3.3. DM explained that the letter will set out particular areas which Ofwat would like to see companies cover in their response. Furthermore, it was explained that Ofwat will encourage other stakeholders to provide their views on Wholesaler performance in the development of markets.
- 3.4. DM highlighted a report provided by WATRS, the independent water redress scheme, which had identified a gap in that Alternative Dispute Resolution decisions are not binding on wholesalers, and so there is a potential impact on the protections available for customers. DM added that Ofwat is keen to see the sector think about how it might address this
- 3.5. Ofwat has initiated a piece of work which is intended to look at options to protect customer balances in the event of a retailer exiting the market. DM explained that in a case in which a customer might have had money with a Retailer and the Retailer has gone out of business, there is currently no legal or regulatory mechanism available to help the customer recover that money, or to provide recourse to the incoming retailer to recover money if it was to honor such balances. DM explained that the scope of the work will be to review potential options on how to protect customers as well as the incoming Retailer².

4. Questions on MOSL Update

- 4.1. The Chair invited Panel Members to ask any questions they might have in relation to the MOSL Update.

¹ [Letter from Rachel Fletcher - Incumbent water companies and the development of effective markets](#)

² i.e. the Retailer that becomes responsible for the customer in the event of a Retailer failure

- 4.2. A Panel Member asked Steve Arthur (SA) to provide more details about G-Reads actions as there has been a big increase in G-Reads removals.
- 4.3. SA explained that MOSL had done work on the changes/impacts of G-Reads from initial RF to post-RF, however, SA explained that work is being carried out on analyzing information and confirmed that while not able to present at this meeting, this would be available to deliver more insight at the September Panel.

ACTION A34_01

- 4.4. A Panel Member enquired how the Panel would receive updates on the progress of work in relation to [CPW070 'Bilaterals Interface Solution'](#). The Panel noted the reporting and digital communication approaches that were part of the project framework and requested that updates be provided by MOSL through the MOSL Update as work progresses.
- 4.5. AR explained that MOSL has been working with Panel Members (Helyn Mensah (HM), Mark Holloway (MH) and Chris Williams (CW)) to create the process of identifying nominations for the Panel appointed members of the steering group before the October deadline.
- 4.6. AR suggested to have the three Panel Members make the appointment of Steering group members instead of the Panel. AR explained that if this option is selected, given the timetable for nominations and Panel decision making, it could potentially allow the appointment of the steering group members before the October Panel meeting.
- 4.7. Furthermore, AR explained that a short Panel paper has been drafted to provide the rationale of why Panel Members should delegate authority to the steering group.
- 4.8. The Panel agreed to consider this late paper under AOB at the end of the Panel meeting.
- 4.9. A Panel Member requested to have a trend analysis over the period of time for the MOSL statistics update, specifically relating to market improvement data within the MPOP update dashboard.

ACTION A34_02

- 4.10. Another Panel Member enquired if the MPS Charge Re-distribution for the year 2018 report and the Economical Insight report have been shared with the industry. SA confirmed that both reports have now been issued.
- 4.11. A Panel Member enquired if a summary report of the Re-distribution of actual Market Performance Charges has been created and shared with the industry. SA mentioned that there has not been a specific call from the industry for such summary, however if requested, MOSL could look into it and create the report.
- 4.12. A Panel Member enquired what would be the issue if such a summary was to be created and published. Another Panel member explained that the whole basis of the report is based around on relative performance, therefore if the relative performance full details are not known, it would be impossible to make a judgement on the report.
- 4.13. EK expressed that there might be issues with confidential information that should not be shared with the industry. A Panel Member explained that Trading Parties would like to look at the information and ensure that the calculations are accurate.

- 4.14. Another Panel Member agreed that it would be valuable to enable Trading Parties to validate the numbers from an audit perspective.
- 4.15. SM agreed that MOSL consider the implications of sharing the requested information, whether there were any commercial confidentiality issues and if there would be value for the market and customers to disclose the requested information.

ACTION A34_A03

5. Additional Services

- 5.1. Kate Harper (KH) presented this agenda item.
- 5.2. A Panel Member commented that there was a surprising amount of cost reported for Additional Services provided to date.
- 5.3. KH explained that most of the costs noted in the paper for 2018/19 relate to the USR (Unplanned Settlement Run) cost which was reduced part way through last year from £2,000 to £775. Furthermore, KH explained that if the Panel considers what is currently provided in the current year, so far there were 43 USRs at a cost of c.£33k, showing the reduction compared to the 2018/19 numbers in the paper.
- 5.4. The Panel:
 - **NOTED** the Additional Services paper.

6. Late Payments

- 6.1. KH presented this agenda item.
- 6.2. KH explained that since the publication of the paper, the Panel Members have received their first email notification of late payment, which demonstrates the procedure that will be used going forward.
- 6.3. The Panel:
 - **NOTED** the Late Payments paper.

7. Committee Reports

- 7.1. Nigel Sisman (NS) presented the Market Performance Committee (MPC) report. NS explained that work is still being carried out on the MPS Re-distribution and Panel Members will receive an update on the progress of the report at the next Panel meeting.
- 7.2. EK explained that the MPC Committee should ensure any issues and concerns were flushed out and properly addressed during the development of amendments to the performance charges processes. EK

expressed that it would be good to have people engage properly and promptly with the MPC process to avoid having issues arising at a later date.

- 7.3. The Chair enquired if all information would be provided by MPC in the timeframe assigned by Ofwat. NS confirmed this and mentioned that further progress will be made s at the next MPC meeting (28/08/2019). Furthermore, NS mentioned that a consultation will be sent out to the industry, to provide information of where the MPC is headed and to give the industry the opportunity to provide any feedback.
- 7.4. AR presented an update on the Trade Effluent Committee and explained that it is making good progress. AR explained that there were a range of Change Proposals that the Committee was considering at the moment, which could lead to the improvement of several processes and clarification of Trade Effluent processes.
- 7.5. AR also presented an update on the Credit Committee. AR advised that the Committee had some good discussions around how the rules could be clarified/improved for the Default and Termination timescales. AR explained that this would be considered further at the Credit Committee meeting in September and that a Change Proposal may arise from these discussions.
- 7.6. Elsa Wye (EW) presented a verbal update on the TDC Committee and explained that the Committee has been working on a Trading Disputes guidance document for the market which has now been finalized and will circulated to the industry.
- 7.7. HM presented a verbal update on the GDPR Committee and explained that a Code Change Proposal to add a Personal Data Flag to 11 newly identified data items in CSD0301 'Data Catalogue' will be brought to the Panel for consideration. Furthermore, HM explained that the GDPR Committee has also been dealing with a Data Security expert to sense check if the balance is correct in Schedule 13 for Data Security Parameters.
- 7.8. The Panel:
 - **NOTED** the Committee Updates.

CLOSED SESSION

8. GDPR Committee Nominations

- 8.1. The Chair requested the member who were not allowed to participate in the closed session to leave the room.
- 8.2. The Panel:
 - **APPROVED** the appointment of Michelle Coglan as a member of the GDPR Committee by unanimous vote.

OPEN SESSION

9. Questions on Change Report

- 9.1. AR presented this agenda item.
- 9.2. AR provided an update on new Change Proposals to be introduced (CPW071: Self-Governance and CPW072: Setting MPS 15 charges to zero).
- 9.3. AR advised that MOSL is currently considering removing Change Moratoria from the pipeline, as no issues have been identified to use as a basis for the change.
- 9.4. The Panel took notice of an error in the change report in which CPM013 was recorded as being recommended for approval rather than rejection.
- 9.5. The Panel:
 - **NOTED** the Change Report.

10. New Change Proposal: CPW071: Self-Governance

- 10.1. AR presented this agenda item.
- 10.2. AR explained that this change sought to address a consequential amendment arising from considerations being made by the Governance Sub-group in relation to CPM015 'Self-Governance'. It was identified by the Sub-group that there are references within the Wholesaler Retail Code (WRC) to 'Approved Changes' and this definition needs to be amended to include changes that the Panel has determined.
- 10.3. The Chair mentioned this change will be bundled with CPM015: Panel-Self Governance.
- 10.4. The Panel:
 - **AGREED** the Change should be considered by the governance subgroup in parallel with CPM015: Panel Self-Governance.

11. Draft Recommendation Report: CPW066: Estimations Review

- 11.1. The Panel considered the Draft Recommendation Report for CPW066 which sought to amend the Industry Level Estimates (ILE) values in the table within F.1.1 of CSD0207 (Proposed solution) or amend the definition of ILEs, by replacing 'Rounded Median' with 'calculated' (Alternative solution).
- 11.2. AR observed that Panel Members would need to consider both the proposed and alternative solutions and make recommendations in respect of the proposed solution and the alternative solution.
- 11.3. A Panel Member asked if MOSL felt that the proposed solution was still the best solution. AR noted that while MOSL may need to take action to implement the solutions on the table, the enduring impacts of the Change Proposal did not affect MOSL. The change was focused on settlement calculations and, as such, impacted Trading Parties.
- 11.4. It was further explained that the code is currently written in a way that defines the principle on which ILEs are based, i.e. as median values, hence the proposed solution.

- 11.5. The Panel noted that the Sub-Group work had indicated that when looking at settlement in aggregate at portfolio level, if a Trading Party has a portfolio which is broadly representative of the industry, then there is an argument to suggest that using the existing values gives a better approximation for the final settlement outcome.
- 11.6. It was noted that whenever values of ILEs are used, whether under the Proposed or Alternative solutions, some consumption volumes will be underestimated, and others overestimated at an individual Supply Point level.
- 11.7. A Panel Member raised a concern of unknown adverse effects on customers if either the Proposed or Alternative solution was recommended for approval.
- 11.8. Another Panel Member explained that there could be a number of potential impacts on customers, however they further explained that the impacts depend on how the Retailer is choosing to bill the customer and this sat outside the market code provisions. It was explained that where any concern from a customer exists at an individual supply point or customer level the Retailer has the ability to correct any adverse impact by use of the Yearly Volume Estimate.
- 11.9. The Panel agreed that the CPW066 Proposed Solution would not facilitate the Objectives and Principles of the WRC. In particular, the Panel felt that using the lower ILE values set out in the Proposed solution would lead to less accurate settlement. This would hinder the Market Terms objective to calculate Primary Charges and not promote efficient, economic and co-ordinated operation of the market under the efficiency principle.
- 11.10. Furthermore, the Panel agreed that the CPW066 Alternative Solution would increase transparency and efficiency by amending the ILE definition and, through leaving ILE values unchanged, provide estimates of last resort which were closer to actual settlement volumes when aggregated across the market.
- 11.11. The Panel:
- Unanimously **AGREED** to recommend the CPW066 **proposed** solution to the Authority for **rejection**; and
 - Unanimously **AGREED** to recommend implementation of the CPW066 **alternative** solution to the Authority for **approval**.
 - Unanimously **AGREED** that if approved, the **proposed** solution should be implemented on:
 - 31 March 2020, if Authority approval is received by 31 October 2019; or
 - 15 May 2020, if Authority approval is received by 1 April 2020.
 - Unanimously **AGREED** that if approved, the **alternative** solution should be implemented on:
 - 8 November 2019, if Authority approval is received by 16 October 2019;
 - 14 February 2020, if Authority approval is received by 22 January 2020.

12. Draft Recommendation Report: CPW072: Setting MPS 15 charges to zero

- 12.1. The Panel considered the Draft Recommendation Report for CPW072 which sought to set MPS15 charges to zero.

12.2. Panel Members felt this was a quick win in that it removed a disincentive to submit late meter reads. The submission of such reads is beneficial to the overall quality of the market data set and as such this proposal seeks to remove the disincentive. The impact of the change will be closely monitored and as Panel Members noted, should observed behaviors or impacts of the change not be in line with expectations further adjustments can be considered at a later date if required. The Panel noted that whilst this a quick win change it is also being considered as part of the broader Market Performance Framework changes currently being reviewed by the MPC.

12.3. The Panel:

- Unanimously **AGREED** to recommend CPW072 to the Authority for **approval**; and
- Unanimously **AGREED** the recommended implementation date of:
 - 1 October 2019, if Authority approval is received by 20 September 2019;
 - 1 November 2019, if Authority approval is received by 23 October 2019.

13. Draft Recommendations Report: CPW067: Bulk Submissions of service requests via MS Excel

13.1. The Panel considered the Draft Recommendation Report for CPW067 which sought to extend the existing code provisions in Part J of the Operational Terms, to allow Retailers to use Excel versions of the Forms for 'operational reasons' and additionally may use 'other suitable formats'.

13.2. A Panel Member expressed disappointment that, in their view, some of the Request for information (RFI) responses were not addressed in the paper. The Panel member felt that some fundamental points were not addressed, such as the cost of various Trading Parties for this change, the benefit of agreeing a standard format for submission and the detrimental impact on customers if Retailers are storing up information in order to send it as a bulk. Panel Members observed that in the absence of code-defined Governance for such submission, the success of this change relied on collaboration and pragmatic behaviors between trading parties. While the change had the potential to make the submission process more efficient for Retailers the impact on both Customers and Wholesaler systems, processes and resources would potentially be challenging. Hence if approved by the Authority the actions detailed at 13.11 and 13.12 were formulated to highlight the need for trading parties to work together.

13.3. The Panel Member also observed that Trading Parties would need to work together so it would not have an impact on customers.

13.4. Another Panel Member expressed their support and explained that from an efficiency aspect, the change had significant merit. However, they also expressed concern as to whether Trading Parties are sufficiently resourced to manage bulk submissions.

13.5. A Panel Member expressed support for the principle of the idea. They felt it was very customer focused at the front end. However, they questioned if, when looking at the whole customer journey start to finish, it may be found that the change just transferred a bottleneck from the Retailer to the Wholesaler, therefore the customer experience may not be improved at all.

- 13.6. It was explained by a Panel Member that there was nothing stopping a Retailer creating mail mergers and submitting bulk submissions via Microsoft Word, however it was also explained that it is in the best interest of all parties involved to work efficiently and in a timely manner for the end user (the customer).
- 13.7. A Panel Member agreed and suggested that it may be prudent to approve this change but review it after a period of time to see if any inappropriate behavior is happening and if so, action it accordingly.
- 13.8. It was agreed that Panel Members needed to be made aware of any issues regarding the way this change was used by Retailers, including scale and quality of request, as well as Trading Parties being reminded of the need to use such a right reasonably and responsibly. In this regard it was agreed that MOSL would send out a communication to all Trading Parties reminding them of their responsibility to act reasonably and to highlight to the Panel any issues arising following implementation of this change
- 13.9. A Panel Member explained that efficiency for this change could not be generally defined as it is dependent on factors such as the wholesaler/retailer systems, however, the Panel Member explained that there will be cases where efficiency would definitely be improved. It was mentioned that the concerns from a lot of Panel Members are based on behaviors, hence why a Wholesaler expressed that a form of governance would need to be implemented.

13.10. The Panel:

- **AGREED** (6 for, 0 against, 4 abstained) to recommend implementation of CPW067 to the Authority for **approval**;
- **AGREED** (6 for, 0 against, 4 abstained) the recommended implementation date of:
 - 8 November 2019, if Authority approval is received by 16 October 2019;
 - 14 February 2020, if Authority approval is received by 29 November 2019, and

13.11. The Chair suggested to have MOSL to send out an email communication regarding the change which would cover the concerns expressed by the Panel Members who abstained from a vote.

ACTION A34_04

13.12. Panel Members who abstained from voting to provide rationale to be included in the communication email.

ACTION A34_05

14. AOB

14.1. The Panel would like to extend its condolences towards the family of Andrew Bamber (Affinity for Business) and recognise the work completed by Andrew Bamber as part of the Panel, Sub-Groups of the Panel and the Market.

14.2. Another Panel Member enquired if MOSL is on course with the first draft of the Panel plan. AR advised that a draft will be circulated ahead of the September Panel meeting.

ACTION A34_06

14.3. A Panel Member enquired in which Panel meeting is the Market Audit going to be looked at by MOSL and the Panel. SA explained that it would be good to re-convene a Panel Sub-Group to have a look at the Market Audit planning ahead of next year. It was agreed to use the same members as took part in the sub-group last year. However, HM also requested to be a part of the sub-group as there are members of GDPR Committee which would like to provide comments to be considered ahead of the Market Audit.

14.4. SM advised that MOSL is looking to extend the business planning process, to allow consultation from Trading Parties. SM mentioned that Panel Members will receive a letter from Jim Keohane (JK) informing them of this.

ACTION A34_07

14.5. The Panel noted a request for MOSL to maintain the organogram on SharePoint up to date.

ACTION A34_08

CPW070: Bilaterals Interfaces Solution

14.6. The Panel considered the rationale to delegate full authority to a selection Committee to select Steering Group members as part of the CPW070: Bilaterals Interface Solution.

14.7. The Panel:

- **AGREED** to delegate full authority to a selection committee to select Steering Group members.
- **AGREED** to have an additional person (Mike Brindle) on the selection committee.

Actions:

- **A34_01** – Provide information on changes/impacts of G-Reads.
- **A34_02** – MOSL to provide a trend analysis to Panel Members over the period of time for the MOSL statistics update, specifically relating to market improvement data within the MPOP update dashboard.
- **A34_03** – MOSL to look into sharing more transparent information relating to MPS Relative Performance and Charges Redistribution.
- **A34_04** – Send communication to the industry to explain the Panel’s rationale with agreeing to recommend CPW067: Bulk Submissions of service request via MS Excel
- **A34_05** - Panel Members who abstained from voting on CPW067: Bulk Submissions of service request via MS Excel to provide rationale of their concerns to be included in the communication email.
- **A34_06** – Share the Panel Plan with Panel Members.
- **A34_07** – JK to send letter to Panel Members to inform them of the MOSL extension of its business planning process to allow consultations from Trading Parties.
- **A34_08** – MOSL to maintain the organogram on SharePoint up to date.