

## Minutes of Panel Meeting 39

28 January 2020 | 10:30 – 15:45

MOSL, White Building, 1-4 Cumberland Place, Southampton, SO15 2NP

Status of the Minutes: **Final**

### MEMBERS PRESENT

Jim Keohane	JK	Chair	Ian Dearnley	ID	Panel Member (Wholesaler)
Mike Brindle (T-Con)	MBr	Panel Member (Associated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Chris Williams	CW	Panel Member (Associated Retailer)	Elsa Wye	EW	Panel Member (Independent)
Trevor Nelson	TN	Panel Member (Unassociated Retailer)	John Vinson	JV	Panel Member (Independent)
Nicola Smith (T-Con)	NS	Panel Member (Unassociated Retailer)	Mike Keil	MK	Panel Member (Customer Representative)
Neil Pendle	NP	Alternate Panel Member for Claire Yeates	Dan Mason	DM	Affiliated Panel Member (Ofwat)
Mark Holloway	MH	Panel Member (Wholesaler)	Sarah McMath	SM	Affiliated Panel Member (MOSL)
Martin Marvin	MM	Panel Member (Wholesaler)	Adam Richardson	AR	Panel Secretary

### OTHER ATTENDEES

Stuart Boyle	SB	MOSL (Presenter)	Angela Day	AD	MOSL (Observer)
Huw Comerford	HC	MOSL (Presenter)	Rebecca Mo		
Chris Dawson	CD	MOSL (Presenter)	Paul Stelfox	PS	United Utilities (Presenter)
Oliver Robins	OR	MOSL (Secretariat)	Christina Blackwell	CB	CC Water (Observer)
George Monea	GM	MOSL (Secretariat)	Dylan Freeman (T-Con)	DF	Southern Water (Observer)
Steve Arthur	SA	MOSL (Observer)	Ray Porter	RP	Castle Water (Observer)
Miles Robinson	MR	MOSL (Presenter)	Chris Wright	CW	Castle Water (Observer)
David Garner	DG	MOSL (Presenter)	Antoine Schmidt	AS	Thames Water (Observer)
Amanda Hinde	AH	MOSL (Presenter)	Rebecca Mottram	RM	Ofwat (Observer)

### APOLOGIES

Claire Yeates		Panel Member (Unassociated Retailer)
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## 1. Welcome and Introductions

- 1.1 The Chair welcomed the Panel Members and all other attendees to Panel Meeting 39.
- 1.2 The Chair stated that there were apologies from Claire Yeates and Nicola Smith (NS) and Mike Brindle (MB) were due to join the meeting via teleconference.

## 2. Minutes and Outstanding Actions

- 2.1 The Panel approved the minutes for P37 (November) and P38 (December).
- 2.2 The Panel agreed with the approach for the outstanding actions and to close actions:
  - A32\_12, A33\_02; A35\_01; A37\_03; A38\_01; A38\_02.

## 3. Ofwat Update

- 3.1 Dan Mason (DM) presented Ofwat's general update, which included an update on Code Modification Decisions and Ofwat's ['Review of incumbent company support for effective markets' \(Project RISE\)](#).
- 3.2 The Panel noted that Ofwat had published the [PR19 Final Determinations](#) in December. Ofwat had also published a response to [MOSL's business plan, voicing support for the Plan](#) and for the [Market Performance \(MPF\) Roadmap](#).
- 3.3 DM flagged a concern from Ofwat's perspective regarding an increasing trend in Stakeholders writing to Ofwat after Recommendation Reports have been sent for decision. It was explained that Ofwat does not particularly welcome this approach as it is less transparent and Ofwat believes that the processes set in the Market Arrangement Codes (MAC) should be adhered to.
- 3.4 DM informed the Panel that the Authority has published its decisions on:
  - [CPM018 - 'Treatment of Market Performance Standard charges and Operational Performance Standard charges'](#);
  - [CPW059 - 'Changes to Review Obligations'](#); and
  - [CPW073 - 'Updates to GDPR Personal Data warnings in CSD0301'](#)
- 3.5 DM confirmed that all the other changes currently with Ofwat for review were on track to be published on their assigned timetable. These included:
  - [CPW078 - 'Priority Performance Regime Changes for April 2020'](#);
  - [CPW079 - 'Protections for Credit Support Security'](#);
  - [CPW081 - 'Improving transparency of Alternative Payment Terms'](#); and

- [CPW084 – ‘Introducing a Retailer Measure of Experience \(R-MeX\)’](#).
- 3.6 DM explained that in autumn (2019), Ofwat initiated a review of Wholesalers’ support for the development of effective markets (Project RISE) which looked at both the developer services and business retail markets. He confirmed that Ofwat would publish the responses in early February (containing redacted responses from companies) and would communicate the next steps towards the end of March/early April 2020.
- 3.7 DM highlighted a particular theme of Project RISE was around industry governance, and following a discussion with Ofwat’s Board, this was an area where Ofwat would likely seek to pursue further work. DM therefore suggested to the Panel that any work relating to Governance (of Panel and its Committees) or governance-related code changes could temporarily be placed on hold pending further thinking on the scope of such a review. More details would hopefully be shared at the Panel meeting in February.
- 3.8 A Panel Member suggested that the Panel should be able to input to any work in this area which DM acknowledged.
- 3.9 The Chair explained that the MOSL Board was also considering matters related to governance and that it would be important to ensure involvement from all interested parties.

## 4. CCWater Update

- 4.1 Christina Blackwell (CB) provided an update from CCWater.
- 4.2 The Panel learned that there was a small drop in complaints in Q2 compared to Q1 and a significant drop in complaints compared to Q2 of the financial year 2018/2019.
- 4.3 A Panel Member pointed out that even though there is progress with the numbers of complaints, it is still 400% above pre-market opening.
- 4.4 CCWater confirmed the slides would be circulated to all Panel Members after the meeting.
- P39\_A01**
- 4.5 CB mentioned that an updated infographic for Q3 ([P39 Slide 10](#)) was expected to be published in the next two weeks. It was also explained that complaints in Q3 have dropped when compared to Q2, but again are not similar to what they were before market opening.
- 4.6 The Panel noted that CCWater was doing research into understanding customers’ complaints to understand the issues and how to help ensure customers’ expectations are met.
- 4.7 A Panel Member explained that every two years there is a research paper conducted by CCWater about business customers’ perceptions of the Market, called [‘Testing the waters’](#) which should be published by the end of the calendar year.
- 4.8 The Panel Member also thanked everyone who engaged in CCWater’s consultation and explained that CCWater is trying to become more proactive and make it clear what CCWater expects from the market.

## 5. MOSL Update

- 5.1 Sarah McMath (SM) presented a general business overview for the MOSL update. The Panel noted that John Gilbert would be joining MOSL as Head of Planning. His role will be instrumental in delivery of the Panel's plan and managing its costs.
- 5.2 The Panel noted MOSL's significant engagement with Trading Parties last year (2019) to seek an increase in funding. SM said she would share Trading Party observations from her most recent visits at the February Panel.
- 5.3 The Panel noted that MOSL's contract with CGI was up for renewal and a 3-year contract with the potential to extend it further was being considered by MOSL's board.
- 5.4 The Panel was informed that a detailed review has been conducted on the Bilaterals project which has led to the most recent call for additional information on bilateral transactions in the market and potential benefits as well as the invitation for Trading Parties to second people with specific bilaterals experience onto the team.
- 5.5 SM informed the Panel that a 3-month delay for the Bilaterals project is foreseen and that Ofwat has indicated it is content with such an adjustment to ensure the correct solution is achieved. DM observed that formal confirmation from Ofwat would follow in due course to adjust the timetable set out in the Authority Timetabled Change Proposal [CPW070 – 'Bilaterals Interface Solution'](#).
- 5.6 Miles Robinson (MR) presented the Panel with an update on Settlement Process and G Reads. The Panel noted the information and posed no further questions.
- 5.7 Steve Arthur (SA) provided an update on Market Performance for the Panel and explained that the Market Performance Operation Plan (MPOP) Vacancy levels were not increasing at the same level as they were before. Furthermore, an MPOP update was given on 'Long unread meters' and it was explained that they were at the lowest level they have ever been, with Trading Parties starting to deliver on their promises.
- 5.8 A Panel Member explained that the Market Performance Committee (MPC) would discuss and would have papers on both issues presented by SA (Vacancy and Long unread meters) at its next meeting. Another Panel Member noted that it would be useful to correlate MPOP data with data on customer complaints.

## 6. Committee Reports

### Trading Disputes Committee (TDC)

- 6.1 There were no updates provided for the TDC and no questions from the Panel.

### Trade Effluent Issues Committee (TEIC)

- 6.2 Adam Richardson (AR) gave the TEIC update on behalf of Evan Joannette (TEIC Chair). The TEIC has been progressing well and the view from Committee members was that the bulk of the workplan would be completed by the end of March.

### General Data Protection Regulation Committee (GDPR)

- 6.3 Helyn Mensah (HM) gave the GDPR Committee update and explained that the next meeting would be on the 30<sup>th</sup> of January. HM explained that the Committee is currently working on a guidance document on 'Natural Persons' and asked the Panel if it would like to approve the document before it was published on the MOSL update. The Panel agreed to delegate approval to the GDPR with an update to be given at the February Panel meeting.

### Credit Committee

- 6.4 AR presented the Credit Committees update and explained that the Committee had spent most of its time at recent meetings looking at [CPW080 - 'Simplification of the Default and Termination Process'](#), discussing the mechanics of the change based on feedback from Trading Parties from which the Committee would come back with a revised Change Proposal. The Panel noted that the Credit Committee would look at this change again at its next meeting and decide if the change would be brought forward to the Panel for a recommendation, or whether further consultation was required.
- 6.5 The Panel noted that the Credit Committee had taken its initial view of [CPW061 – 'Unsecured Credit Allowance reflecting payment history'](#) with further analysis and work to be completed in February and March to ensure the Committee has the right level of evidence and clarity over any changes to the solution.
- 6.6 The Committee also spent a short while looking at 'Issue 1 – Credit Security where a Wholesaler's Credit Rating Falls Below Investment Grade'<sup>1</sup>. At the February meeting the Committee will be looking to identify possible options for further assessment over the period of February and March before documenting its findings in late spring/early summer.
- 6.7 The Committee has extended its scheduled meetings through May with a contingency meeting set for June in regard to the findings report for 'Issue 1 – Credit Security where a Wholesaler's Credit Rating Falls Below Investment Grade'.

### Market Performance Committee (MPC)

- 6.8 Elsa Wye (EW) gave a verbal update for the MPC and explained that she was focussing on the core responsibilities of the Chair role and working with MOSL to improve the Chair/MOSL/MOC communication structure and improve planning and prioritisation to manage the heavy workload better.
- 6.9 The Panel noted that the MPC would be undertaking a brain storming session at its February meeting to inform the Initial Performance Rectification Plan (IPRP) process review which MOSL was undertaking. This review would be finalised in April 2020. EW added that if Panel Members had any views or inputs they would like to add, they should contact the MPC Chair or MOSL as there was a template with questions which can be circulated to them.
- 6.10 EW provided an update on the Project Governance Framework Document which was one of the documents required to be developed following the implementation of [CPM018 – 'Treatment of Market Performance Standard charges and Operational Performance Standard charges'](#). She noted that this document would outline how the Panel will judge funding bids

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<sup>1</sup> Issue 1 is Part B of the original CPW079 – 'Protection for Credit Support Security' submission.

and that if Panel Members had any thoughts or comments on this matter they should get in touch with the MPC Chair. EW outlined that delivery of the framework for April was challenging and was being managed by MOSL with MPC input in certain areas. She requested that a slot be allocated to the MOSL representative on the February Panel agenda for Panel to receive an update.

- 6.11 A Panel member asked in relation to performance standard what level Trading parties should be budgeting for. A Panel member responded that presumably Trading Parties would budget for the standards as detailed in the Market Codes as the industry contract. A MOSL representative responded that the issue was complex and highlighted the value of MOSL judgement and an appropriate dialogue with Trading parties when performance was below standard.
- 6.12 EW reported on the workplan drafted by MOSL to improve workload planning and prioritisation and which would be presented to the MPC at its January meeting. Finally EW outlined that there may be a need to improve the line of sight between MPC and Panel and vice versa and welcomed any views that Panel members may have on the issue.

## 7. Change Report

- 7.1 Stuart Boyle (SB) provided an update on the Change Report and explained that there were 29 in flight changes with three Change Proposals at Gate 1 and six Change Proposals for recommendation. A Panel member noted that further to the governance Sub-Group meeting Gate 1 was an important milestone for the Panel to set the appropriate foundations to ensure the effective progress of a change proposal and as such it may be advisable for members to review any new change proposals appropriately.
- 7.2 The Panel noted that across the whole portfolio of changes, there were 5 Change Proposals raised by Trading Parties, whereas the other proposals are raised by Sub-Groups; Committees and MOSL.
- 7.3 SB provided an update on new Change Proposals which were discussed by the Panel:
  - CPW085, the Panel agreed that the Change should continue with the TEIC; and
  - CPW086, the Panel agreed MOSL continue working with Castle Water on this change and bring it back to the Panel at the March 2020 meeting.

## 8. Change Withdrawal: CPW076 OPS C1a Performance Measure

- 8.1 The Panel considered the Withdrawal paper for [CPW076 'Change to the current KPI for CSD002 OPS Measure C1a'](#). This change sought to introduce a new KPI for Operational Terms Process C1 'Verification of meter details or meter supply arrangements'. It proposed an increase in the time allowed for Wholesalers to provide a response where a site visit is required.
- 8.2 The Panel noted that there was a potential risk for customer experience which was mentioned in the paper and that it would be useful to include what MOSL will do to address this issue.
- 8.3 SA explained that the Service Verification report addressed the issue to an extent as part of the Performance Rectification approach for Operational Standards (OPS).

- 8.4 The Panel noted and agreed with the rationale for withdrawal as set out in the paper.
- 8.5 The Panel actioned the Secretariat to ensure that the Consultation answers for CPW076 were available on the website.

P39\_A02

- 8.6 The Panel:
- **AGREED** the rationale provided for withdrawal (Unanimous);
  - **AGREED** to suspend this change proposal (Unanimous); and
  - **AGREED** that if no Trading Party wishes to become the proposer of this Change Proposal it shall be withdrawn (Unanimous).

## 9. New Change Proposal: CPM021 Panel Membership and Voting Rights

- 9.1 The Panel considered the Change Plan for [CPM021 'Panel Membership and Voting Rights'](#). This change sought to amend the membership of the Panel.
- 9.2 MOSL proposed that the Panel form a sub-group for this change composed of 2 Wholesalers; 4 retailers (with at least one Unassociated Retailer and one Associated Retailer); CCWater; Central Market Agency (Non-Voting) and Ofwat (Non-Voting). The Panel discussed the membership of the Sub-Group however it did not reach a decision.
- 9.3 The Panel noted the Ofwat update in section 3 regarding the progress of its 'Review of incumbent company support for effective markets' and that this review could include industry governance improvements. It was anticipated that this would be published around March/April.
- 9.4 A number of Panel members observed that the change proposal contained a number of assertions relating to the operation of the Panel and the market governance structures and asked for supporting evidence.
- 9.5 The Panel discussed three possible options on how to progress CPM021:
- Start the process based on the timetable presented, but the Panel could pause or continue work when more was known about the Ofwat project;
  - Pause the change now and address it at a later date (e.g. when there was more information on Ofwat's work – potentially at Panel Meeting 41 in March); or
  - Make a recommendation to Ofwat on this Change in the meeting. Panel Members noted that without further analysis and solution documents the change would likely be rejected or sent back if considered worth further development. Ofwat's rationale could then be used as guidance for working on this Change Proposal.
- 9.6 The Panel concluded that, in order to avoid any duplication of effort, it would be important to understand any key themes emerging from Ofwat's work before considering CPM021.
- 9.7 The Panel:

- **AGREED** to place the assessment of CPM021 on hold pending further clarity from Ofwat regarding its review of incumbent company support for effective markets (8 in favour, 4 against).

## 10. Draft Recommendation Report – CPM006 Introducing a process for urgent change proposals

- 10.1 The Panel considered Change Proposal [CPM006 Introducing a process for Urgent Change Proposals](#) which sought to introduce a process for progressing Urgent Change Proposals to the market codes. The Panel noted the changes that the Governance Group had made following the return of the original proposal by Ofwat in September 2019.
- 10.2 The Panel agreed that the definition of a “significant impact” in the urgency criteria for a Change Proposal should be considered on a case by case basis to account for the differences between Trading Parties.
- 10.3 The Panel discussed how a Proposer and Panel would need to present the case for urgency to Ofwat and noted that the pre-assessment process would not be set out in the legal drafting. It was also clarified that section 5.8.2 of CPM006 Legal Text had been amended to allow a meeting to be called to discuss whether a change was urgent.
- 10.4 A Panel Member stated that there were several typographical errors in the legal drafting, however clarified that these errors were not material and it would be comfortable voting on the Change Proposal with the provision that the necessary amendments would be made.
- 10.5 The Panel noted that point 1c from Ofgem’s Urgency Criteria had not been translated into the urgency criteria. The Panel agreed that this additional criterion would be added back into the Urgent Change Proposal Criteria Panel Document.

### Action A39\_A03

- 10.6 The Panel considered whether there was any ambiguity over the disagreement procedure following the assessment of urgency. AR clarified that the Proposer had a choice to raise a disagreement to the Panel, which if exercised the Panel would be required to forward through to Ofwat (via the Panel Secretary).
- 10.7 A Panel member stated that the Customer Representative should not be the only entity providing detailed customer impacts on Change Proposals (for this, or any other Draft Recommendation Report (DRR)). MOSL confirmed that all the feedback received on customer impacts was set out in the report or in the appendices containing the verbatim consultation responses. The Panel agreed that it should seek to improve its consideration and provision of customer outcomes in its Recommendation Reports.
- 10.8 The Panel noted and agreed with the rationale for change as set out in the paper.
- 10.9 The Panel:
  - **AGREED** unanimously to recommend the implementation of CPM006 to the Authority for approval; and
  - **AGREED** to recommend an implementation date of:

- 15 May 2020, if Authority approval is received by 22 April 2020; or
- 28 August 2020, if Authority Approval is received by 5 August 2020

## 11. Draft Recommendation Report: CPM019 GDPR Data Security Standards

- 11.1 The Panel considered Change Proposal [CMP019 GDPR Data Security Standards](#) which sought to amend the GDPR suggested data security standards/schemes in Schedule 13.
- 11.2 The Panel acknowledged that the Cyber Security standard in Schedule 13 did not meet the key security criteria and noted that the GDPR committee had commissioned an expert to provide a set of ranked standards that were fully compliant with GDPR. HM highlighted that Appendix D of the report covered the detail of what standards were replaced and why.
- 11.3 The Panel noted that the Change Proposal simply sought to update the list of example data security standards and did not introduce any new obligations on Trading Parties. HM confirmed that the new examples for Schedule 13 should ensure full GDPR compliance on their own but standards such as Cyber Essentials could still be used if additional measures were implemented alongside it.
- 11.4 A Panel Member raised a concern that the proposed implementation date would not provide enough time for Trading Parties to change their standards and certify compliance with GDPR in accordance with Schedule 13 E section 1.3.
- 11.5 Panel Members noted that, if Trading Parties were currently complying with GDPR, they would not need to implement additional measures and adhere to a new data security standard upon the implementation of this change because the Change Proposal does not oblige Trading Parties to change the standard that they adhere to.
- 11.6 The Panel noted and agreed with the rationale for change as set out in the paper.
- 11.7 The Panel:
- **AGREED** unanimously to recommend the implementation of CPM019 to the Authority for approval;
  - **AGREED** to recommend an implementation date of:
    - 15 May 2020, if Authority approval is received by 22 April 2020; or
    - 28 August 2020, if Authority Approval is received by 4 August 2020

## 12. Draft Recommendation Report: CPW082 RWG Gap Site Incentive Scheme

- 12.1 The Chair introduced Paul Stelfox (PS) to present CPW082: 'RWG Gap Site Incentive Scheme' and CPW083: 'Vacancy Incentive Scheme'.
- 12.2 The Panel considered [CPW082 Gap Site Incentive Scheme](#) which sought to formally recognise the current RWG Gap Site Incentive Good Practice Guide under the market codes and ensure its ongoing governance to support the effective management of gap sites within the market.

The Panel agreed that CPW082 and CPW083 were good examples of how Trading Party collaboration and engagement should occur in practice.

- 12.3 The Panel noted that the reference to the wrong Scottish scheme would be corrected in the final report, and that the drafting of the definitions for both CPW082 and CPW083 would be amended to reference section to 4.19 of the Market Terms rather than section 5.2 (r) of the MAC.

#### Action A39\_A04

- 12.4 The Panel discussed whether an industry wide standard approach could restrict future innovation in this area, and whether the implementation of the proposed scheme could incur a significant cost on market participants moving into a better scheme in the future. The Panel concluded that these arguments did not justify postponing the change and noted that additional costs were already being incurred by Retailers having to interact through multiple interfaces to access different Gap Site Incentive Schemes. The Panel agreed that the final report could benefit from clarifying that the implementation of CPW082 would not prevent future Change Proposals being raised on the subject.
- 12.5 The Panel considered if the requirement on a Retailer to take up any gap site it identified could incentivise Retailers against signing up to the scheme. However, the Panel accepted that this and other issues could be addressed as part of the scheme's annual review.
- 12.6 The Panel sought clarification on the costs of the Gap Site Incentive Scheme and the responsibility on MOSL to resource this. PS confirmed that MOSL costs were all accounted for and clarified that the change would expand the scope of current working practices but would not introduce any additional obligations on MOSL.
- 12.7 The Panel noted and agreed with the rationale for change as set out in the paper.
- 12.8 The Panel:
- **AGREED** unanimously to recommend the implementation of CPW082 to the Authority for approval;
  - **AGREED** to recommend an implementation date of:
    - 1 April 2020, if Authority approval is received by 11 March 2020; or
    - 15 May 2020, if Authority Approval is received by 23 April 2020

## 13. Draft Recommendation Report: CPW083 Vacancy Incentive Scheme

- 13.1 The Panel considered [CPW083 Vacancy Incentive Scheme](#) which sought to introduce an industry standard vacancy incentive scheme into the market codes to support the effective management of vacancy within the market. The Panel noted that the proposed implementation date ties in with the commitment of Wholesalers to implement a vacancy incentive scheme from April 2020.
- 13.2 A Panel Member questioned the reasoning behind the 24-month limit on the vacancy incentive scheme. PS stated that the primary aim of the scheme is to improve market data and

bring premises into charge, and therefore there should be a restriction to mitigate against incentives being paid to Retailers who do not manage this data correctly. PS stated that not every eventuality could be accounted for but agreed with the Panel member that this limit should be subject to annual review.

- 13.3 The Panel discussed the possible duplication of work given the activity of the MPOP Vacancy Working Group. CD clarified that the MPOP Vacancy Working Group was focussing on a different area and had already provided a statement supporting the implementation of this scheme as one step towards resolving the larger issue of vacancy. The Panel considered that there would be a slight overlap if the MPOP Vacancy Working Group chose to change the escalation process for vacancy disputes but noted that the vacancy incentive scheme could be easily adapted to adhere to this.
- 13.4 The Panel discussed the issue of innovation, noting that whilst the binding rules on Trading Parties could not be extended to third parties, Retailers (or a group of Retailers) could still work with a third party on this matter. The Panel also noted that the scheme had maximised the experience of the Scottish Market and that certain aspects such as the eligibility criteria had been subject to input from a wide range of expertise and experience in the RWG.
- 13.5 The Panel noted that the consultation feedback was not as unanimously supportive as with CPW082, especially regarding its cost benefit. PS stated that some respondents may have been referring to the cost of implementing an incentive scheme and recommended that the Panel considered the cost benefit of adopting a single industry standard scheme rather than developing and adopting multiple schemes.
- 13.6 The Panel discussed the protection against duplicate applications and agreed that this needed to be clearly set out in the scheme documentation.
- 13.7 A Panel Member commented that customer impacts had not been fully acknowledged in the report. The scheme could lead to the status of sites erroneously recorded as vacant being corrected and the customer being charged. Whilst recognising this was the correct thing to do, it could lead to customers being back billed for large amounts. Where the customer had previously attempted to resolve the situation and been ignored this could lead to complaints. This was countered by a Panel Member who noted Ofwat's 'Customer Protection Code of Practice for the non-household retail market' protects non-household customers from being billed beyond the Final Settlement Run. It was also noted that this change is only creating a standard for incentive Schemes, the potential customer impact would still exist if Wholesalers applied their own schemes. The Chair stated the Panel needed to be more mindful of customer impacts.
- 13.8 The Panel concluded that although this iteration of the vacancy incentive scheme may not address the thousands of supply points in CMOS that have been marked as vacant since before market opening, CPW083 should be considered as an important step whilst the MPOP vacancy working group continues to explore different strands of the vacancy issue.
- 13.9 The Panel noted and agreed with the rationale for change as set out in the paper.
- 13.10 The Panel:
- **AGREED** unanimously to recommend the implementation of CPW083 to the Authority for approval (with one abstention);

- **AGREED** to recommend an implementation date of:
  - 1 April 2020, if Authority approval is received by 9 March 2020; or
  - 15 May 2020, if Authority Approval is received by 21 April 2020

13.11 The Panel Member who abstained provided the rationale that it did not feel that customer impacts had been fully acknowledged in the report for CPW083.

## 14. Draft Recommendation Report – CPM015/CPW071 Panel Self Governance

- 14.1 The Panel considered [CPM015/CPW071 Panel Self Governance](#) which sought to introduce the criteria and workflow for Panel self-governance, by which the Panel, not the Authority, will make the final decision on a Change Proposal. The Panel acknowledged the difference between the initial solution, “Panel Self Governance” and the proposed solution “Pre-Approval Change Process”.
- 14.2 The Panel noted comments from Dan Mason (DM) that this governance change should be considered in the context of the upcoming review by Ofwat, but that Ofwat was supportive of the principle of self-governance.
- 14.3 The Panel discussed removing technical obligations from the statutory code but agreed this would be a significant change and would be better performed through a deeper reengineering exercise that took a holistic view on all the code components.
- 14.4 The Panel agreed that CPM015 and CPW071 represented a pragmatic approach to move the industry towards the principle of self-governance principle and therefore a more efficient Change Process but noted the risk of Trading Parties abusing the right to object. The Panel also agreed that a simple guidance document could be developed to make Trading Parties aware of the Pre-Approval Change Process.

### Action A39\_A05

14.5 The Panel noted and agreed with the rationale for change as set out in the paper.

14.6 The Panel:

- **AGREED** unanimously to recommend the implementation of CPM015/CPW071 to the Authority for approval;
- **AGREED** to recommend an implementation date of:
  - 15 May 2020, if Authority approval is received by 30 March 2020; or
  - 28 August 2020, if Authority Approval is received by 2 June 2020

## 15. Draft Recommendation Report – CPM017/CPW068 MIMP Committee Revisions

15.1 The Panel considered CPM017/CPW068 MIMP Committee Revisions which sought to address the root-cause of the recruitment and on-going retention of MIMP Committee members. The

Panel noted that this Change Proposal was a resubmission following the return of the original by Ofwat in September 2019.

- 15.2 The Panel noted that MOSL would retain its ISO22301 accreditation and that MOSL was comfortable with the additional obligations in CSD 0007 given that sufficient resources exist to manage this.
- 15.3 The Panel noted and agreed with the rationale for change as set out in the paper.
- 15.4 The Panel:
- **AGREED** unanimously to recommend the implementation of CPM017/CPW068 to the Authority for approval;
  - **AGREED** to recommend an implementation date of:
    - 15 May 2020, if Authority approval is received by 30 March 2020; or
    - 28 August 2020, if Authority Approval is received by 31 July 2020

## 16. Any other Business

- 16.1 A Panel Member requested a meaningful discussion on representation and engagement and related governance issues for the April strategy day.
- 16.2 A Panel Member made a request for a status update on the Project Funding and Selection Document being added as an agenda item for the February Panel meeting.

**Action A39\_06**

- 16.3 The Panel agreed that there would be an update on the different workstreams in the Panel Plan on the February agenda, in order to clarify any necessary prioritisation of resources based on the approval/rejection of the MOSL business plan on 31 January.

**Action A39\_A07**

- 16.4 The Panel discussed how information concerning performance arrangements such as IPRP's should be disseminated more effectively at senior levels to allow Trading Parties to develop realistic and effective resource budgets against performance commitments, expectations, and trajectories. The Panel noted that internal company governance and engagement would form a significant part of Ofwat's review into recommendations.
- 16.5 The Panel considered reducing the administrative workload on MOSL if Panel papers were uploaded onto SharePoint rather than being distributed as email attachments. However, given that several Panel Members reported difficulties in accessing the SharePoint site, the Panel agreed that the existing practice would be maintained until the Panel Secretariat could develop a more streamlined alternative.
- 16.6 The Panel noted that this would be the last Panel Meeting attended by Ian Dearnley (ID) and thanked him for his contribution. The Chair noted that an alternate for ID would be present at the February Panel Meeting and that a Panel Nomination Meeting would be confirmed for 27 February to fill this vacancy.

- 16.7 The Panel discussed whether Trading Party names should be avoided in confidential performance papers. SA confirmed that the code stipulates that the progress of a Trading Party should remain confidential throughout the initial performance rectification process.
- 16.8 The Chair confirmed there would be further communications to keep Panel members updated regarding the outcome of MOSL's business plan, and the ongoing interview process for two of the Independent Panel Member seats.
- 16.9 The Panel agreed that the apparent softening of the IPRP process and inconsistencies with its application warranted a more urgent and direct discussion. EW confirmed that MOSL were undertaking a process review, to be published in April to review the criteria, transparency, and triggers of the IPRP process whilst a larger longer term piece of work was being conducted into the metrics as part of the MPF roadmap work. The Panel agreed that the industry would need to be notified of the intention to escalate this issue more seriously in the future (AOB 7.4) and agreed to go into closed session to consider the issue in more detail.

## 17. Closed Session

- 17.1 The Panel agreed that the MPC would develop a presentation on IPRP's for the February Panel Meeting. A Panel member offered to also present to give a Trading Party view.

**Action A39\_A08**

## 18. Actions

- A39\_01 – Secretariat to circulate the slides pack to all Panel Members.
- A39\_02 – Secretariat to ensure the consultation responses for CPW076 are on the MOSL website.
- A39\_03 – Secretariat to add the additional urgency criterion into the Urgent Change Proposal Criteria Panel Document for CPM006.
- A39\_04 – Secretariat to update the drafting of the definitions for CPW082 and CPW083 to reference section to 4.19 of the Market Terms rather than section 5.2 (r) of the MAC.
- A39\_05 – Secretariat to produce a simple guidance document to make Trading Parties aware of the Pre-Approval Change Process.
- A39\_06 – Secretariat to include Project Funding and Selection Document (CPM018) to February agenda.
- A39\_07 – Secretariat to provide a slot on the February Panel Meeting agenda for an update on the different workstreams in the Panel business plan
- A39\_08 - MPC to develop a presentation on IPRP's for the February Panel Meeting.