

## Minutes of Panel Meeting 42

28 April 2020 | 10:30 – 15:30

Teleconference

Status of the Minutes: Final

### MEMBERS PRESENT

Jim Keohane	JK	Chair	Michael Rathbone	MR	Panel Member (Wholesaler)
Mike Brindle	MB	Panel Member (Associated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Barry Hayward	BH	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)	Mike Keil	MK	Panel Member (Customer Representative)
Claire Yeates	CY	Panel Member (Unassociated Retailer)	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)	Neil Pendle	NP	WaterScan (Observer)
Steve Arthur	SA	MOSL (Presenter)	Lisa-Ann Connell	LC	MOSL (Observer)
Chris Dawson	CD	MOSL (Presenter)	Christina Blackwell	CB	CCWater (Observer)
Abu Rashid	AR	MOSL (Presenter)	John Vinson	JV	Independent (Observer)
Charles Unvala	CU	MOSL (Presenter)	Christopher Wright	CW	Castle Water (Observer)
Luke Austin	LA	MOSL (Presenter)	Martin Hall	MH	Affinity for Water (Observer)
George Kelly	GK	MOSL (Secretariat)	James Wilson	JW	Yorkshire Water (Observer)
Oliver Robins	OR	MOSL (Secretariat)	Antoine Schmidt	AS	Thames Water (Observer)
Huw Comerford	HC	MOSL (Secretariat)	Gerard Lyden	GL	Thames Water (Observer)
Amanda Hinde	AH	MOSL (Presenter)	Georgina Mills	GM	Ofwat (Observer)
Andrew Stoneman	ADS	MOSL (Presenter)			

## 1. Welcome and Introductions

- 1.1 The Chair welcomed the Panel Members and all other attendees to Panel Meeting 42.
- 1.2 The Chair noted that at 11:00am one-minute silence would be observed in recognition of NHS workers who had lost their lives due to Covid-19.
- 1.3 The Chair noted that he would also be seeking views from the observers given the significance of the urgent change and their degree of involvement in it.
- 1.4 The Chair noted that the Urgent Change was to be discussed first, as a change to the original agenda.
- 1.5 A Panel member stated that given the significance of the urgent change, more time may be needed on the agenda so Panel Members would understand it in sufficient detail and to check the redline drafting was correct, especially where not all Panel Members had been involved at the same level.
- 1.6 The Chair noted the previous weeks had been busy for all. As a result of which, the secretariat had not received many comments on the minutes. He invited the Panel to defer a decision on minutes or agree to approve. The Panel agreed to defer.
- 1.7 DM confirmed that Ofwat would not provide an update at this Panel meeting.

## 2. Draft Recommendation Report – CPW096 Payment Deferral Medium Term Measures

- 2.1 The Panel considered Change Proposal CPW096 ‘Payment Deferral Medium Term Measures’ which sought to place provisions into the market codes to enable the deferral of primary charges payable by Retailers to Wholesalers, with a mechanism of repayment over time, in response to the negative monetary effects of the Covid-19 pandemic on Trading Parties.
- 2.2 DM began by noting the background behind this change. The primary focus, as always, is to protect customers’ long-term interests.
- 2.3 It was noted that the proposals were not designed to ‘prop up’ the market, as Trading Party failure is part of normal market operation, yet temporary liquidity support was needed to protect against systemic market failure and to increase resilience to shock which are in the best interests of customers.
- 2.4 DM noted that the change proposed providing liquidity to Retailers, where required, through to July 2020 initially but that Ofwat retained the right to extend liquidity beyond July 2020 if required and this would be subject to a review in the summer. Charges that are deferred are proposed to be paid back by March 2021 (although without further intervention from Ofwat the deferral Interest Amount will revert to 100% on 1 August 2020 and all deferred amounts will become payable by the end of that month).
- 2.3 ADS presented information on the solution for this change proposal, which was split into 2 parts:

- Part 1 dealt with the deferral of Primary Charges and by how much, with regards to the X and Y factors; and
- Part 2 was related to reporting requirements, monitoring, and auditing of this process.

*NB: A Z Factor was subsequently introduced by Ofwat but this was not covered in the meeting.*

- 2.4 ADS then briefly presented the design principles considered within the solution, as well as some examples of a deferred payment model (instances of how this proposed solution regarding the X and Y factors would function based on hypothetical monetary values). It was noted that reporting would indicate whether X and Y factors needed adjustment over time.
- 2.5 The Panel observed the 11:00 one minute silence in memory of those that had died from COVID-19.
- 2.6 ADS noted that the Change Proposal submitted by Ofwat included an example timetable of when charges were to be paid. This was briefly explained by ADS during the presentation, with reference to a hypothetical payment event.
- 2.7 A Panel member sought clarification on which months the proposed change affected, how payments were credited against deferred amounts, and the protocol for charges invoiced in March.
- 2.8 ADS stated that the change affected amounts from April onwards – i.e. settlement runs run and invoiced for in April. ADS stated that as deferred amounts were paid, these should be credited against the oldest invoice first as determined by date of issue and issue. A similar process should be adopted for credit notes unless they related to correcting a specific invoice.
- 2.9 ADS also clarified that the change as proposed excluded any deferred amounts related to invoices issued in March 2020. The Panel noted that under existing code drafting, these deferred ‘March invoice amounts’ would become due at the end of May 2020. This meant that in May 2020, Retailers would be required to pay a proportion of Primary Charges invoiced in May 2020 plus all Primary Charges deferred from March 2020.

*NB: Ofwat subsequently enabled March amounts to be deferred.*

- 2.10 CW stated that March consumption had been overestimated and suggested consideration ought to be given to deferring these payments too. ADS stated that there was a discussion at the Panel Sub-Group whether to include March payments in the pool but it had been recognised that not all retailers had been able to defer March charges (as the changes were introduced on the day they were due) and therefore it would be more consistent to apply the new deferral rules from April onwards. CW stated that it might add stability if a Retailer reverted to normal payments in April but continue to defer March payments with interest.
- 2.11 Panel Members acknowledged that some Retailers may have paid March 2020 invoices in full and others had not. Panel Members queried the extent to which this had been taken into account by Ofwat and requested that Ofwat consider including these deferred amounts in the CPW096 solution.
- 2.12 Another Panel Member raised a query regarding pooling. They felt that this approach might lead to the need for small payments to be made between some Retailers and Wholesalers. They explained that administering multiple small payments may not be efficient or cost

effective. ADS responded that the percentage will be applied to the cumulative balance in the pool, so previous and current month's invoices will be added together and therefore it is unlikely that there will be small amounts left outstanding. However, Retailers would have the ability to top up payments to clear entire invoices if they chose to.

- 2.13 Another concern was raised, regarding how the 'X' factor came to be 94%. Some Panel Members observed that Retailers' fixed costs remained the same but, if a Retailer's collected income dropped (which was likely under current market conditions) then the retained funds after applying this 94% factor may not cover these fixed operating costs. It was further questioned whether there were any considerations on Retailer flexibility to avoid default further down the line. GM noted that retailers shouldn't be holding onto wholesale charges they were collecting, and the 94% figure had been determined based on consideration of the responses to Ofwat's consultation of 16<sup>th</sup> April. It was noted that Retailers *may* pay more than the x or Y factor determines in any given month to avoid any defaults in future if their collections allow it.
- 2.14 It was noted that there was no plan to alter the 'X' and 'Y' parameters after implementation, between April-July 2020.
- 2.15 One member stated that clarity and predictability is important, so hardwiring X and Y factor values was important as it gave assurance and the Panel should not lose sight of this.
- 2.16 Some Panel Members stated that they would want the 'X' & 'Y' parameterisation to be considered by Ofwat.
- 2.17 Another member stated they could recommend the mechanism but required more information on how the parameters were set, thus could not approve something they didn't fully understand. This came as a result of some of the responses to the consultation had been redacted.
- 2.18 The Chair noted that the Panel could, in recommending the change, identify potential improvements that could constitute an alternative solution to be considered by Ofwat.
- 2.19 DM confirmed that Ofwat were not seeking reassurance on the specific values, as the information was not disclosed fully by Ofwat.
- 2.20 The Panel concluded that it was not possible for it to come to a view on whether the percentages were suitable and correct, as there is no information on how these figures are based and Ofwat retained this confidential information.
- 2.21 A member questioned the VAT position, and whether the amount included in the calculation of the X and Y factors were including or excluding VAT. ADS noted the amounts entered into templates should include VAT. This should be to the benefit of Retailers, as the amount of VAT reclaimed by HMRC on inputs (Primary Charges) ought to be more than the amount payable in respect of outputs (invoices to customers) as all water billed to the Retailer by a Wholesaler is subject to VAT but only water invoiced by Retailers to a sub-set of "industrial customers" is subject to VAT (sewerage charges are not subject to VAT).
- 2.22 A Panel Member noted the discussions in the sub-group meeting regarding the interactions of this mechanism with Alternative Payment Terms (APT). They sought clarity on whether parties on APTs could benefit from deferral.

- 2.23 The Panel Member stated that the proposed solution differed to what had been agreed in the sub-group where Retailers could benefit from the APT and deferral. They questioned whether the APT could issue be resolved, and how would the model work where a retailer had an APT with one wholesaler but not with any others. The Panel noted there were four APTs on the MOSL website
- 2.24 Some Panel Members observed that APTs may not be compatible with the deferral scheme since they were, by definition, bespoke in nature. In these cases, it should be for the relevant Wholesaler and Retailer to agree how to accommodate deferral under the specific APT they had agreed.
- NB: Ofwat subsequently accommodated Alternative Payment Terms.*
- 2.25 One member queried what occurs to residual amounts not paid off by March 2021. ADS explained that because the scheme operated on a cumulative basis, the 'Y' factor could be used to ensure that all deferred amounts were required to be paid off (i.e. by setting the 'Y' factor to 100%). If for whatever reason these charges were not paid off by the determined end date then the amounts owed would result in a normal default situation. ADS reconfirmed that the % applied to the cumulative amount in the pool, and the guidance is that repayments are applied to oldest amounts first.
- 2.26 Members raised questions on how a single retailer's non-compliance could result in the removal of the solution for all retailers. DM stated that Ofwat and MOSL would monitor the information provided, and would consider findings from the random audit to inform its thinking on how the process was being utilised across the market and alter as needed.
- 2.27 The Panel discussed whether the opt-in arrangements for the scheme should introduce an alternative joining mechanism to accommodate Retailers that did not initially opt into the scheme. However, the Panel noted that this would be a material change to the solution. AR explained that the Final Report for CPW096 could capture the recommendation made from several Panel Members for Ofwat to examine this idea further.
- NB: Ofwat subsequently accommodated the ability to subsequently opt-in to the scheme.*
- 2.28 The Panel discussed the extent to which the implementation of [CPW095 'Maintain Credit Requirements'](#) had been considered in the development of CPW096, with regard to the ability of Retailers to repay Wholesale charges. CW invited Ofwat to comment on the potential for credit security requirements (if based on market conditions before March 2020) to make it more expensive for Retailers to defer payment rather than to pay upfront, and to indicate the level of scrutiny that Wholesalers would be subject to where they benefitted from reduced expenditure during the Covid-19 pandemic.
- 2.29 Georgina Mills (GM) explained that CPW095 had been implemented to prevent an unintended changes in credit levels that would have otherwise followed from the implementation of the temporary change [CPW091 'Temporary Changes to Vacancy'](#).
- 2.30 GM also noted that, while not seeking to undermine the financial resilience of Wholesalers, Ofwat were aware of the additional risk being carried by Wholesalers providing liquidity support to Retailers and had therefore decided on a slightly elevated deferral interest rate in the CPW096 solution compared to that included in PR19. This would also encourage Retailers to seek alternative forms of credit where these were available.

- 2.31 CW stated that the existence of CPW095 would not help Retailers paying as much as they could, as it meant more collateral being tied up as credit security.
- 2.32 A Panel Member suggested that the final recommendation of the Panel could include a caveat inviting Ofwat to revisit the Customer Protection Code of Practice, given the link between customer behaviour and the suitability of the 'X' factor value in CPW096. The Panel Member explained that customers seriously impacted by Covid-19 should continue to be protected but those continuing to operate as normal should be subject to normal debt recovery processes. DM noted that Ofwat had already expressed its intention to do this but had only considered the work as a principle level to date.
- 2.33 A Panel Member observed that they would have wanted to see more information on the impacts on customers, the interactions with the Customer Protection Code of Practice and how this change would benefit customers overall.
- 2.34 The Panel considered that the redline drafting to support CPW096 needed to be finalised before the Panel could vote on the change. The Panel identified a number of clarifications and corrections to be included in the proposed legal text:

WRC Schedule 1, Part 1

- Deferral Floor Percentage definition should be amended to cross-reference to Business Terms;
- Deferral Interest Rate definition should be amended to cross-reference to Business Terms;
- Amended Cash Retention Percentage - added "from time to time";
- Corrected spelling of format in Monthly Wholesaler Primary Charges Report definition.

WRC Schedule 1, Part 2

- 9.1.2 – Added '1<sup>st</sup>' to reference to April, as when Primary Charges fall into the 'pot' and removed reference to May in heading;
  - 29.1 – missing "shall" added on 4<sup>th</sup> line;
  - 29.4.4 – reference to "Cumulative Balance Paid" corrected to "Cumulative Amount Paid";
  - 29.4.5 – reworded to be clear that retailer payment is 10 days after Monthly Retailer Deferral Report i.e. normally the 30<sup>th</sup> of month;
  - 29.5.2 – Remove reference to Bank Base rate to ensure that 5.98% is the maximum overall deferral interest rate that a Wholesaler may apply;
  - 29.5.2 – Amend erroneous reference to Retailer providing information to the Retailer to make it clear the Wholesaler provides the information to the Retailer and clarify when interest is due; and
  - 29.5.2 – Add mechanism for initial interest rate (as may apply back to 1<sup>st</sup> April).
  - 29.8 – Update to wording around changing the variables - for readability, and to be clearer about timing.
- 2.35 A Panel Member noted that should CPW096 be adopted to include payments from March 2020 then Schedule 1, Part 2, Section 29.5.2 would need to be amended to clarify the mechanism for the notification of the initial deferral interest rate. Another Panel Member suggested that Section 29.7.1 should also be changed to refer to a de minimis level to avoid the administrative burden of multiple small payments on Retailers. However, the Panel

Member acknowledged that the cumulative balance mechanism lessened the extent of this issue and concluded this amendment was not required.

- 2.36 Despite these amendments to the legal text, eight out of twelve Panel members continued to have concerns with the proposed solution primarily due to the values ascribed to the 'X' and 'Y' factors. The Panel noted that the Authority timetable required the change to be recommended to Ofwat by 10am on Wednesday 29 April 2020. The Panel did not believe there was enough time to address these concerns in an alternative solution and reconvene to make a recommendation.
- 2.37 The Chair invited the Panel to indicate the extent to which it supported the recommendations made by several Panel Members for Ofwat to consider some material changes to the solution:
- A majority of Panel Members supported a recommendation for Ofwat to remove the hard-wired values of 'X' and 'Y' from the code, with the assurance that these values are clearly communicated to Trading Parties elsewhere (Recommendation 1);
  - A majority of Panel Members supported a recommendation for Ofwat to include invoices from March 2020 in the proposed mechanism (Recommendation 2);
  - A majority of Panel Members supported a recommendation for Ofwat to facilitate the change around provisions currently in place for Trading Parties with Alternative Payment Arrangements (Recommendation 3);
  - A majority of Panel Members supported a recommendation for Ofwat to re-examine the opt in arrangements for the proposed mechanism (Recommendation 4); and
  - A majority of Panel Members supported a recommendation for Ofwat to ensure that upcoming changes to the Customer Protection Code of Practice consider the impact of CPW096 (Recommendation 5). With regards to whether this recommendation was within the remit of the Panel, one Panel Member noted that the Panel had previously made a similar recommendation when discussing the drafting for [CPW094 'Temporary Change to Disconnections'](#).
- 2.38 AR explained that the Final Recommendation Report for CPW096 should not seek to set out a formal alternative change proposal but should instead capture the high-level concept of these concerns.

**ACTION: A42\_01**

- 2.39 The Panel agreed to vote on the change proposal as currently set out in the Draft Recommendation Report on the basis that the legal drafting was amended as discussed to improve the clarity of its delivery.
- 2.40 The Panel:
- **AGREED** to recommend the implementation of CPW096 to Ofwat for approval (10 votes in favour, 1 vote against, 1 abstention);
  - **AGREED** to recommend an implementation date of:
    - 1 May 2020.

- 2.41 Panel Members who supported the change believed that the concepts and features of the mechanism set out in the proposal struck an appropriate balance which provided a framework to address liquidity challenges in the market. Panel Members observed that Trading Parties needed certainty about the way forward. While Panel Members offered no view on the values of the 'X' and 'Y' factors themselves, they noted that Ofwat had set these based on the information it had received. However, on balance, the majority of Panel Members felt that the overall package facilitated the Objectives and Principles of the WRC
- 2.42 The Panel Member that voted against the proposal cited the lack of evidence available to the Panel with regards to how the 'X' and 'Y' factor values were calculated, and stated that they could not vote to recommend the proposal without knowing the degree to which Ofwat would consider the further recommendations made by members of the Panel. They indicated that they would have supported the change if the matters identified in 2.35 above were addressed.
- 2.43 The Panel Member that abstained from the vote explained that the information and evidence regarding choice of values for the 'X' and 'Y' factors provided was insufficient to adequately assess the impact of the change on Trading Parties and customers. However, they did not want to stop the change going forward as they did not disagree with the premise of the change.

### 3. Minutes and Outstanding Actions

- 3.1 The Panel noted that due to the exceptional number of Panel meetings and urgent changes over the last month, there had been some delays in circulating the minutes from recent Panel Meetings and obtaining comments and feedback from Panel Members.
- 3.2 The Panel agreed that the Secretariat would circulate a communication to Panel Members regarding the next steps to progress the draft minutes for **P40b** (20 March 2020), **P40c** (27 March 2020), **P41** (31 March 2020), and **P41a** (15 April 2020).

**ACTION: A42\_02**

- 3.3 In the interest of time, the Panel agreed to prioritise the Panel Chair Appointment, Change Report, MPC Committee Update and the MPOP 2020/2021 review agenda items for the remainder of the Meeting. The presentations on [CPW080 'Simplification of the Default and Termination Process'](#), MVI Guidance on Wholesaler Meter Reads, and Review of Industry Level Estimates, would be deferred to the subsequent Panel Meeting in May 2020.

### 4. Panel Chair Appointment

- 4.1 The Panel considered a proposed approach to appointment of a Panel Chair separate to the appointment of a Board Chair for the Market Operator. AR explained that this approach would delegate responsibility for the appointment policy to a nomination sub-group (supported by the Market Operator) with four Panel Members having already confirmed their willingness to join this sub-group.
- 4.2 A further Wholesaler Panel Member expressed an interest in joining the sub-group. The Panel agreed the sub-group to comprise 1 Retailer Panel Member, 1 Wholesaler Panel Member and

- 2 Independent Panel Members. The Panel agreed that the appointment of the Wholesaler Panel Member be confirmed ex-committee<sup>1</sup>.
- 4.3 AR explained that whilst the current approach sought to use the standard sub-group Terms of Reference for the nominations sub-group, the final product could be streamlined to remove the complication of change elements if so desired. One Panel Member felt there were some direct contradictions within the sub-group Terms of Reference and explained that the Panel would need to agree on a clear approach to confidentiality, and its definition within this context, before a redraft was attempted. The Panel agreed to delegate approval of the Terms of Reference to the nomination sub-group.
- 4.4 AR directed the Panel Members towards the Appointment Policy which set out the Chair role specification and the timetable for the appointment process. The Panel noted that whilst the principles of the Panel Chair appointment were already outlined in the accompanying paper, and that the Panel would drive the choice of appointee, the mechanics of the appointment would be left to the nomination sub-group to decide. One Panel Member noted that this mechanism would need to consider the importance of independence, with another Panel Member stating that further clarification regarding the role of the MOSL board in the nomination process would be useful.
- 4.5 The Chair clarified that there was merit in the MOSL Board being aware of the appointment as the costs associated with the appointment would be a component of the Market Operator's costs. However, he did not anticipate the MOSL board taking a view on the appointment itself.
- 4.6 The Panel discussed the need to consult on the change with the wider industry in May 2020. AR explained that the consultation would seek to obtain feedback in relation to the thrust of the change and the seven proposed amendments to the MAC as set out in accompanying paper, in particular the proposal for Ofwat to have no involvement in appointing the Chair.
- 4.7 One Panel Member suggested that out of respect for Ofwat's apparent disinclination to be involved in the appointment process, the Panel should vote on whether to issue a question regarding this proposal.
- 4.8 Some Panel Members expressed support for a consultation due the significance of the change and its impact upon important arrangements within the MAC. However, some Panel Members questioned whether this would provide any further worthwhile evidence given the familiarity of the Panel with its own mechanisms and operations, with another stating that the Panel had a history of avoiding wider consultation when considering other Panel-affecting governance changes. Other Panel Members agreed that a consultation should not be issued at this time and some Panel Members felt the sub-group could take a view on whether to issue a consultation.
- 4.9 The Panel:
- **AGREED** not to consult on the change proposal having not achieved a qualifying majority (five votes in favour, three votes against, four abstentions)

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<sup>1</sup> *Post meeting note:* Following communications with Wholesaler Panel Members, membership of the sub-group was confirmed on 1 May 2020 as: Trevor Nelson, Martin Mavin, Elsa Wye and John Vinson.

- 4.10 A Panel Member who abstained explained that they would prefer to see the nomination sub-group decide on this issue.
- 4.11 The Chair invited the Panel to vote on the proposed approach in its entirety. The Panel unanimously:
- **AGREED** the general approach to recruiting a Panel Chair;
  - **ENDORSED** the progression of the corresponding change proposal without the need for consultation;
  - **AGREED** that the Panel Chair Nomination Sub-Group should comprise a Retailer Member, Wholesaler Member and two Independent Panel Members;
  - **DELEGATED AUTHORITY** to the Panel Chair Nomination Sub-Group for:
    - Approving a streamlined version of the proposed Panel Chair Nomination Sub-Group Terms of Reference;
    - Considering the mechanism for appointing the Panel Chair;
    - Approving amendments to the Panel Chair Appointment Policy; and
  - **INSTRUCTED** the Panel Chair Nomination Sub-Group to commence the recruitment of the Panel Chair in parallel with the corresponding Change Proposal.

## 5. MOSL Update

- 5.1 The Panel noted that the Annual Market Performance Report (AMPR), due to be published this week, would instead be published on 5 May 2020 to increase its visibility to parties amongst other circulations.
- 5.2 The Panel considered a brief update on the number of long unread meters in the market. Steve Arthur (SA) confirmed that whilst MOSL had already observed a significant drop off in meter reading services, it was yet to receive OPS and MPS information for May 2020 as the first full month with Covid-19 measures in place. SA steered the Panel towards the slide deck for more detailed information and explained that MOSL would continue to update the Panel where possible.
- 5.3 The Panel considered the need for a mechanism to assess the impact of CPW096 in the market and discussed the extent to which any reporting could be made available for the Panel to better infer the state of the market when assessing future changes. SA explained that a key purpose of any reporting would be for MOSL to provide Ofwat with information to assess the performance of the scheme, before flagging any concerns with the Panel and Trading Parties.
- 5.4 The interim chair of the MPC stated that whilst MOSL had prepared a wider piece of work on Covid-19 reporting, due to be discussed at the MPC meeting on 29 April 2020, it would be beneficial for the Panel to receive regular reports specifically in relation to the impact of CPW096 on Trading Parties and customers. One Panel Member proposed the idea of a MOSL reporting pack (based off any reports provided to Ofwat) that could be shared with Panel in closed session, which would balance the consideration of confidentiality with the need for Panel Members to understand the health of the market.
- 5.5 AR explained that because no Panel reporting arrangement had been set out in the CPW096 solution, further discussion would be necessary to assess the extent to which this could be made available to Panel Members. The Chair invited MOSL to engage with members of the Panel out of the meeting to work through a potential solution.

## 6. Market Performance Committee (MPC) Report

- 6.1 The interim Chair of the MPC provided a brief update on its current workings, referencing the plan for the MPC to consider a general Covid-19 reporting piece, and noting an upcoming vacancy due to the decision of Mike Brindle (MR) to stand down from his position. The Panel noted that the remainder of the MPC report would focus on the prevailing issue surrounding the role of the MPC Chair.
- 6.2 The Panel considered the proposal for the MPC to be chaired by John Gilbert (JG) from MOSL from 1 June 2020 until 1 October 2020, following the decision of the current interim Chair, Elsa Wye (EW), to stand down from the role. The Panel noted that this interim appointment sought to bring assurance and structure to the MPC in the short term, sustain the improvements overseen by EW to this point, and smooth the ultimate handover to a permanent Chair with the long-term intention still being to appoint an independent representative for the role. The Chair added that John Vinson (JV) would continue his role with the MPC until 30 September 2020 with Pamela Taylor (PT) stepping into a role with the MPC as well.
- 6.3 A Panel Member commented that the role of MPC Chair was demanding in terms of workload and responsibility and queried how JG would balance this alongside existing responsibilities as a relatively new employee at MOSL. Sarah McMath (SM) explained that JG had already appointed new program managers within his MOSL team to spread the workload and noted that his association with the MPC would start off in a shadowing role whilst he continued his development at MOSL. SM cited JG's previous experience of chairmanship and systematic approach to working as being valuable for maintaining the direction of the MPC in the short-term.
- 6.4 The Panel noted that whilst several alternatives had been considered (for example lowering the scope of the MPC, disaggregating the MPC according to responsibilities, delegating certain responsibilities to formal subgroups, and the possibility of joint chairmanship) this solution had been concluded as being the most efficient measure in the short term. EW highlighted that the current working practice within the MPC where informal working groups are assigned specific issues, tasks and deadlines, had proved to be a successful model and there was no need to seek a significant operational change at the present.
- 6.5 A Panel Member reiterated the importance for the MPC to be chaired by an Independent Panel Member following this interim arrangement. The Chair agreed and noted that the interim appointment of JG carried an element of independence.
- 6.6 A Panel Member queried whether there was an opportunity to involve the incoming Panel Chair in the chairing of the MPC. The Chair stated that the incoming Panel Chair may seek this experience in the short term although it would probably not be a sustainable arrangement going further forward.
- 6.7 The Panel:
- **ENDORSED** the approach for the MPC to appoint JG as interim MPC Chair from 1 June 2020 until 1 October 2020.

## 7. Change Report

- 7.1 SB provided an update on the Change Report. The Panel noted that MOSL had restricted the rate at which consultations are issued to a maximum of one a week and were allowing at least four weeks for Trading Parties to provide responses, given the exceptional circumstances of Covid-19.
- 7.2 The Panel accepted that these provisions would cause a bottleneck in the consultation timeline for business as usual changes. It acknowledged the amended change plans for CPW067 and CPW069, the plan for new change CPM026.
- 7.3 A Panel Member queried whether CPW067 could be picked up by the bilateral work once this had restarted. SM noted that the delay in the progression of CPW067 may have aligned it to the bilateral timetable more closely and agreed to pick up on this suggestion out of meeting. Chris Dawson (CD) agreed with this approach but recommended continuing to progress CPW067 through to consultation to assess the practicality of the solution as a possible interim measure.

### **ACTION: A42\_04**

- 7.4 The Panel approved the updated timeline for the progression of [CPW092 'Unified Disputes Process'](#), noting that the recommendation date had been delayed to September 2020 so to allow more time for the Trading Disputes Committee (TDC) to consider the feedback from its upcoming consultation.
- 7.5 A Panel Member queried whether the TDC would need to consider the impact of CPW080 (recommendation delayed until May 2020) being implemented, given the potential for CPW080 to increase the number of credit related disputes and therefore the possible need for an expediated resolution process to cover these. AR explained that TDC had already reviewed and provided input on CPW080.
- 7.6 AR highlighted that the Credit Committee was not unanimously supportive of CPW080 and invited the Panel to acknowledge this, as well as the need to carefully consider the implementation date given the provisions put in place by CPW096, when considering the change at the May Panel Meeting.

## 8. MPOP 2020/21 Review

- 8.1 The Panel considered an update on the Market Performance Operating Plan (MPOP) for 2020/21 which had been adjusted to account for the implications of Covid-19. Luke Austin (LA) explained that the main objectives behind MPOP were to improve customer outcomes and Trading Party performance and to increase Trading Party accountability by addressing underlying data, process and ownership issues throughout the market.
- 8.2 LA presented the proposed approach for MPOP 2020/21 and explained that the key principles, such as the simplification of the programme structure from four to two workstreams in order to improve the efficiency and coherency of delivery, were subject to validation through consultation.
- 8.3 The Panel noted that instead of reengineering MPOP 2020/2021 in recognition of COVID-19, which risked reducing the success and continuity of the MPOP 2019/2020, the MPC subgroup

had recommended to incorporate a COVID-19 impact assessment into this consultation to help determine the need and nature of any adjustment.

- 8.4 LA explained that the feedback on the proposed approach from MPC members had been extremely positive so far and highlighted that MPOP 2020/21 would be discussed further at the MPC meeting on 29 April 2020. Pending the outcome of these discussions, the consultation will be scheduled to run from 18 May to 1 June, leaving two weeks for feedback to be considered and incorporated into the final place before the publication of MPOP 2020/21 on 1 June 2020.
- 8.5 The Panel considered that the update provided effectively for the immediacy of COVID-19, whilst building on current workstreams to address wider business-as-usual market issues. It agreed for the MPC to continue its work as required and proceed to consultation. EW, speaking as the interim Chair of the MPC, agreed to update the Panel should the consultation plan deviate from its current timetable.

## 9. AOB

- 9.1 A Panel Member requested an update regarding an email sent to MOSL by a Trading Party in response to the large number of abstentions on [CPW095 'Maintain Credit Requirements'](#). AR confirmed that MOSL had responded to the communication as noted to the Panel and that no further correspondence had been received.
- 9.2 Another Panel Member stated that it had comments on the MVI upload of meter read guidance document, which had been due for discussion this meeting. AR invited the Panel Member to contact CD and the Panel Secretariat after the meeting.
- 9.3 The Chair acknowledged and thanked all parties for going above and beyond in the recent circumstances. There was no further AOB and the Chair closed the meeting.

## 10. Actions

Action Number	Action
A42_01	AR to ensure the FRR for CPW096 should not seek to set out a formal alternative change proposal, but instead capture the high level-concept of concerns detailed within the minutes.
A42_02	MOSL Secretariat to circulate communication to Panel Members regarding the next steps to progress the draft minutes for P40b, P40c, P41 and P41a.
A42_03	AR to engage with Panel Members to work through a potential solution for CPW096 as no Panel reporting arrangement has been set in the solution.
A42_04	CD to engage with SM as whether to progress CPW067 through consultation to assess practicality of the solution as an interim measure, or to allow the change to be picked up by bilateral work once it has restarted.