

Minutes of Panel Meeting 46

25 August 2020 | 10:00 – 15:00

Videoconference

Status of the Minutes: **Final**

MEMBERS PRESENT

Jim Keohane	JK	Chair	Michael Rathbone	MR	Panel Member (Wholesaler)
Michelle Burns	MB	Panel Member (Associated Retailer)	Helyn Mensah	HM	Panel Member (Independent)
Richard Barton	RB	Panel Member (Associated Retailer)	Elsa Wye	EW	Panel Member (Independent)
Trevor Nelson	TN	Panel Member (Unassociated Retailer)	Pamela Taylor	PT	Panel Member (Independent)
David Siddall	DS	Panel Member – Alternate (Unassociated Retailer)	Christina Blackwell	CB	Panel Member – Alternate (Customer Representative)
Claire Yeates	CY	Panel Member (Unassociated Retailer)	Dan Mason	DM	Affiliated Panel Member (Ofwat)
Julian Tranter	JT	Panel Member – Alternate (Wholesaler)	Sarah McMath	SM	Affiliated Panel Member (MOSL)
Martin Mavin	MM	Panel Member (Wholesaler)	Adam Richardson	AR	Panel Secretary

OTHER ATTENDEES

Trisha McAuley	TM	Observer	Neil Pendle	NP	Presenter item 12
John Vinson	JV	Observer	Huw Comerford	HC	MOSL Observer
Carol Sgambaro	CS	MOSL Secretariat	Florentina Monea	FM	MOSL Observer
Steve Arthur	SA	MOSL Presenter item 4	Ethan Fleming	EF	MOSL Observer
Ivy Mandinyenya	IM	MOSL Presenter item 6	George Kelly	GK	MOSL Observer
Ray Porter	RP	Presenter items 7 & 8	David Seymour	DSe	Thames Water Observer
Abu Rashid	ARa	MOSL Presenter item 9	Antoine Schmidt	AS	Observer Thames Water
Tom Daborn	TD	MOSL Presenter items 10 & 11	Emily Bulman	EB	Ofwat Observer
John Davies	JD	MOSL Observer – item 9 only			

APOLOGIES

Mike Keil	MK	Panel Member (Customer Representative)	Mark Holloway	MH	Panel Member (Wholesaler)
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Nicola Smith	NS	Panel Member (Unassociated Retailer)			
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1. Welcome and Introductions

- 1.1 The Chair welcomed Panel Members and all other attendees to Panel Meeting 46.
- 1.2 The Chair also welcomed RB, who had been appointed Panel Member following a Panel Nomination meeting held on 19 August 2020. It was noted that Barry Hayward had resigned with immediate effect from the 19 August.
- 1.3 In addition, the Chair welcomed TM who had been appointed Panel Chair with effect from 1 September and was attending today's meeting as an observer.
- 1.4 It was noted that MK, MH and NS had sent their apologies for the meeting. DS had joined the meeting from item 4 (MOSL update) onwards.
- 1.5 It was further noted that notice of the meeting had been given, that the meeting had been properly convened and that a quorum was present. The Chair declared the meeting open.

2. Minutes and Outstanding Actions

- 2.1 After due consideration, the Panel Members approved the minutes for the Panel meeting 45 (21 July 2020), subject to the amendment of one minor typographical error in section 7.8. In addition, the Panel Members approved the minutes for the Ad Hoc Panel Meetings P45a (28 July 2020) and P45b (30 July 2020) with no further alterations to be made.
- 2.2 The Panel agreed that the following actions could be closed as they had been completed:
 - 2.2.1 A44_07; A44_09; A44a_01; A45_01; A45_02; A45_03; A45_04; A45_07; A45_08; A45_09; A45a_01; A45_11; A45_12; A45_13.
- 2.3 The Panel further agreed that the following actions would remain open:
 - 2.3.1 A29_06; A26b_04; A33_08; A36_04; A39_05; A43_01; A44_04; A44a_02; A45_05; A45_06; A45_10; A45b_01.
- 2.4 In relation to A45b_01, AR thanked Panel Members for providing feedback to the Secretariat team in relation to the Lessons Learnt exercise, confirming that the deadline for submitting feedback would be extended until the 26 August to those who had not yet submitted comments and wished to do so.

3. Ofwat Update

- 3.1 DM provided an update on Project RISE and the State of the Market Publications, which had recently been published.
- 3.2 DM explained that Project RISE was the Ofwat's Review of Incumbent Company Support for Effective Markets. It was noted that Project RISE had been initiated in the Autumn of 2019 and that the original plan was to publish the key findings by April 2020. However, due to the Covid-19 outbreak, this had to be postponed.

- 3.3 DM shared the key findings from Project RISE, which were summarised as follows:
- 3.3.1 Overall, there was room for incumbent companies to play a more active role in supporting the business retail and developer services markets. It was noted, however, that this headline conclusion masked the real differences that Ofwat had found between and within companies, as some companies had performed much better in many areas than others.
 - 3.3.2 Collaboration was found to be one of the key themes for incumbent companies within the report. In Ofwat's view, companies seemed to be incorrectly using Competition Law as a reason not to collaborate or as reason not to be more responsive of the needs and specific circumstances of individual market participants. This was particularly the case in areas such as water efficiency and credit arrangements.
 - 3.3.3 Too few companies had embraced markets and the role they can play in helping them to address the strategic issues which they were facing. It was noted that incumbent companies needed greater commitment at senior or board level to effect change in order for supporting markets to achieve beyond compliance, to behaviour and culture.
- 3.4 DM confirmed that Ofwat had published bespoke letters to individual CEOs of companies, outlining those areas where companies had performed well versus those areas where companies had performed poorly.
- 3.5 In terms of Governance, DM confirmed that Ofwat continued to be supportive of an industry-led approach to market governance. However, if the market was going to deliver improved outcomes for customers, the environment and society more generally, then the industry-led approach to governance would need to facilitate innovation and, where appropriate, support real change that benefits customers, rather than focusing on minor amendments to the status quo.
- 3.6 The project RISE report noted that MOSL was working with the Panel to identify and implement improvements to the existing model of industry-led governance and decision making, and that this work was going to potentially consider structural elements of governance as well as working practices of the industry Panel and its committees.
- 3.7 In addition, within the Project RISE report, Ofwat was encouraging considerations with regards to focus on customer benefits in relation to decision making. This could also evolve into potential changes to the composition of the Panel, for example, whether could there be a greater proportion of independent Panel Members or specific customer experts on the Panel alongside CCW.
- 3.8 DM confirmed that Ofwat would be involved and that it would support MOSL as much as possible in achieving the suggested objectives of Project RISE.
- 3.9 The Chair suggested that it may be useful to allocate a portion of the Workshop, to be held in the Autumn, to help the Panel to understand the governance implications of Project RISE.
- 3.10 The Panel Secretary, who was currently acting as the Chair of the Market Governance Steering Group ("Steering Group"), confirmed that the Steering Group would be looking at the governance implications of Project RISE and how these would be incorporated into, and implemented as part of, the Market Governance Review as a whole.

- 3.11 A Panel Member asked what Ofwat expectation was in terms of a timeline in relation to the implementation of the governance changes. DM stated that Ofwat would be guided by MOSL and the Panel in relation to this.

4. MOSL Update

- 4.1 SA provided an update on the Covid-19 reporting framework, noting that regular updates would be provided to the Panel with the aim to provide a robust assurance framework and thus, giving the Panel as much visibility as possible.
- 4.2 It was noted that a fortnightly report had been developed for Trading Parties to capture transitions from “temporary vacant”. SA confirmed that the Market vacancy was currently showing a clear downward trend (reduced to below 32%) and that there had been significant volumes moving to “occupied” status. From the end of July 2020, the use of the “Temporary Vacant” flag had expired, in line with the Government’s lifting of “lockdown”. During September, Trading Parties were required to set all premises to “Occupied” or “Vacant” (confirming that they had the necessary evidence to justify the state of “vacant”). It was noted that Trading Parties had until 30 September to remove all “temporary vacant” flags from their premises.
- 4.3 SA commented that a lot of work had gone into trying to bring premises back to an almost full occupancy status and that some retailers had been particularly active in returning premises back to an occupied status.
- 4.4 It was noted that MOSL had been working closely with the MPC and Ofwat to develop the Guidance on the use of Temporary Vacancy, which was a working document to support the implementation and unwinding of CPW091 – ‘Temporary Changes to Vacancy’. SA confirmed that the Guidance had been published and it was available on the MOSL website.
- 4.5 SA then outlined the Covid Monitoring and Assurance Framework:
- 4.5.1 Trading Party and market level reporting would occur on a fortnightly basis. SA stated that the ‘Covid transition assurance and review group’ (including Ofwat, CCW, MOSL and PwC) would meet on a fortnightly basis with the aim to review the relevant reports and assess if any early intervention measure may be required or whether any clarification may be needed from parties. The first of these sessions was due to take place following today’s Panel meeting.
 - 4.5.2 An Additional Performance Indicator (API) on Unassured Vacancy would be in place in September 2020.
 - 4.5.3 SA reassured the Panel that MOSL would be working with the market auditor to assess suitably sized samples for the monitoring and assessment of Vacancy, Yearly Volume Estimate (“YVE”) and consumption data.
 - 4.5.4 SA noted that Vacancy, which was an area of focus prior to Covid, was likely to continue to be an issue ‘coming out’ of Covid. Therefore, as the MPF was reviewed, there would be a need to implement smarter measures to ensure that customers’ premises were both identified and defined on a timely and accurate basis.
- 4.6 SA confirmed that monthly updates would be produced and provided to Panel.

- 4.7 SA further confirmed that reporting was being developed to monitor retrospective changes to vacant status across the lockdown period (i.e. retrospective reporting in relation to March through to July 2020).
- 4.7 A member queried when the Panel would have sight of the Covid YVE tracking. SA confirmed that going into Covid a high amount of detailed analysis had been undertaken and shared on YVE. Therefore, the next update would be provided within the next fortnightly report.
- 4.8 The Chair suggested that it would be useful to include information on the financial impact and on YVE within the MOSL update for the September Panel meeting.
- 4.9 A member queried, in terms of outcome from the fortnightly meetings, whether there would be follow up discussions with some Trading Parties before taking any formal intervention action. SA confirmed that the aim would be to collate explanations from Trading Parties to then decide whether any further assurance work would be required. SA highlighted that some parties had moved quickly, whereas others had moved much more cautiously and reiterated that some further movement was expected from parties over the coming weeks.
- 4.10 The same member also queried whether there was anything that the Panel could meaningfully do to further support the Market and MOSL in this initiative. SA thanked the Panel for the support and stated that there was a possibility that the fortnightly sessions with Ofwat and CCW may generate further actions and communications to the Panel.
- 4.11 SM provided an update on the Business Plan consultation process and how engagement would take place with the Panel.
- 4.13 MOSL were currently working through the best process for engaging with the MOSL board and with the Panel. SM noted that a “flash report” would be produced for the MOSL board and that it would be shared with the Panel at the same time as the board.

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- 4.14 SM confirmed that MOSL had set an internal efficiency challenge as part of the current business planning cycle. Therefore, costs over and above that recommended base budget (for example driven by the Panel plan or work needed as a result of the outcome from RISE and Market Governance review) would require specific business cases. SM would aim to share further information on this budget with the Panel in due course.
- 4.15 SM also confirmed that the key expected outcomes for the Business Plan were as follows:
- 4.15.1 Progress that can be tracked – MOSL had recently published its quarterly reports and had developed KPIs to clearly track progress against the plan.
 - 4.15.2 Stakeholder engagement – Engagement with the Panel and, more broadly, with the market (including stakeholders such as Defra, Ofwat and CCW).
 - 4.15.3 Optionality – To produce a recommended base budget and options for key business cases, providing clarity to Trading Parties in relation to what these key business cases would provide to the market.
 - 4.15.4 Efficient process – to ensure the level of detail was tailored to the needs of trading parties in order to provide the required support for the Business Plan.

- 4.16 SM confirmed that a 'roundtable' conversation would be held between SM, TM and Anne Heal (new MOSL board Chair) hosted by Karma Loveday.
- 4.17 A member queried what was expected from the Panel in terms of the Business Plan. SM stated that there were two key areas where the Panel would be asked to engage with MOSL, including ensuring that MOSL had fully incorporated the needs of the Panel and helping to ensure that MOSL were balancing the real needs of the market (to help to advance and improve the market) whilst taking into account the challenging financial circumstance that Trading Parties were currently in.

5 Committee Reports

Trading Disputes Committee (TDC)

- 5.1 EW provided an update from the TDC meeting held on 19 August 2020, noting that [CPW092: Unified Disputes Process and Committee](#) had been a large piece of work for the Committee and it was due to be discussed at today's Panel meeting.
- 5.2 It was noted that nominations for one Wholesaler and one Retailer member had opened on 12 August. However, to date no nominations had been received.
- 5.3 In the context of the Alternative Disputes Resolution ("ADR") Process mentioned within the RISE Report, EW stated that she had a very useful telephone call with the Chair of the RWG Complaints Group to see if there were any synergies between the TDC and RWG and their respective disputes process.

General Data Protection Regulation (GDPR) Issues Committee

- 5.4 HM provided an update from the GDPR Issues Committee meeting held on 13 August 2020, confirming that the Committee had reviewed the following main items at that meeting:
 - 5.4.1 The consultation paper in relation to the process for dealing with Data Subject Rights Request.
 - 5.4.2 The way in which DSR Records would operate in Kissflow.
 - 5.4.3 The Market Privacy Notice, which was supplied to the Committee via MOSL's General Counsel.
- 5.5 The consultation was planned to be issued in September 2020. A further meeting of the Committee would take place in October 2020, with the view to bring back this change for the Panel to review at the November Panel meeting, at which point the work of the Committee was expected to be concluded.

Credit Committee (CC)

- 5.6 It was noted there was no update as the CC had not met since the last Panel meeting.

Market Performance Committee (MPC)

- 5.7 The Panel noted the MPC update within the Committee Reports which had been by provided by the MPC Interim Chair in advance of today's meeting.

5.8 The Panel had no questions or comments in relation to the MPC update.

6 Change Report

- 6.1 IM noted that there were two new changes including [CPW102/CPM030: Gender Neutrality in the Market Codes](#) and [CPW103/CPM032: Amendments to Interim Supply arrangements](#) which were due to be presented at this Panel Meeting. It was further noted that [CPW101/CPM031: Unwinding Temporary Covid-19 Arrangements in the Business Retail Market](#) had been implemented in two parts on 1 and 5 August 2020 as directed by Ofwat and that [CPW 100: Urgent: Revision to Credit Support Requirement under CPW095](#) had been rejected by Ofwat on 4 August.
- 6.2 IM also confirmed that the following changes had been approved since the last Panel meeting:
- 6.2.1 [CPM026 \(Panel Chair and Alternate\)](#) approved by Ofwat for implementation on 28 August 2020.
- 6.2.2 [CPW074 \(Introduction of a Retailer SLA in relation submission of trade effluent market forms to Wholesalers\)](#) approved by Ofwat for implementation on 28 August 2020.
- 6.2.3 [CPM028 \(Aligning MOSL Board Governance with the Articles of Association\)](#) approved by Ofwat for implementation on 1 September 2020.
- 6.3 It was noted that the proposer of [CPW099 \(Clarify the responsibilities of Trading Parties during a planned event\)](#) had delayed its presentation to the September Panel meeting to allow concerns surrounding the wording used in the draft to be addressed.
- 6.4 One observer noted that references to the word “Chairman” had been included when drafting [CPW092/ CPM029 \(Unified Disputes Process and Committee\)](#). Therefore, these references would need to be addressed following implementation of [CPW102/CPM030: Gender Neutrality in the Market Codes](#). IM confirmed that this point had been discussed within MOSL and that, going forwards, new changes would be raised using the appropriate gender-neutral terminology.

7 Draft Recommendation Report: CPW067 - Bulk Submission of Service Requests via MS Excel

- 7.1 The Panel considered Change Proposal ‘[CPW067: Bulk Submission of Service Requests via MS Excel](#)’. This change sought to amend the Operational Terms to allow Retailers to use Microsoft Excel versions of the Forms¹, making it more efficient to submit multiple service requests in bulk to Wholesalers.
- 7.2 The proposer provided a brief background to this change proposal, explaining that it had been previously recommended for approval by the Panel following its meeting on 27 August 2019. However, Ofwat returned the change on 18 October 2019, requesting that it be revised to address a number of practical concerns. In response, the Panel appointed an industry sub-group, which had since sought address the challenges raised by Ofwat. For example, the

¹ The following Forms were prioritised for translation into MS Excel format for the purpose of the CPW067 Bulk Submission: B/01, B/03, C/01, C/02, C/03, C/04, H/03, H/04, and H/06.

subgroup created a standard template for Operational Forms (in Microsoft Excel) to prevent Retailers from developing different approaches, clarified the impact that the Bulk Submission would have on Operational Performance Standard (OPS) reporting, and worked to maximise the customer benefits of the solution.

- 7.3 The proposer explained that the proposed solution would modify the existing code in Part J 'Forms' of the Operational Terms 'Introduction and summary' to allow a Contracted Retailer to submit Forms via MS Excel for genuine efficiency and data improvement purposes (such as in the case of multi-site SPIDs, SPIDs all experiencing the same issue, and for bespoke one-off data cleansing activities) where the Contracted Retailer had reached an informal SLA with its Contracted Wholesaler. This "Bulk Submission" facility would improve processing time, reduce the number of PDF submissions and add flexibility to the market in bespoke situations. In addition, the existence of the informal SLA would ensure that this facility would only be used in circumstances that would genuinely lead to efficiency benefits from the perspective of Customers and the contracted Trading Parties.
- 7.4 The Panel considered the possible link between CPW067 and the Bilateral Transactions Programme ("Bilaterals Programme"), and discussed whether the proposed change would survive following the expected delivery of the Bilateral Solution in May 2021. The proposer stated that he was not close to the Bilaterals Programme. However, from his perspective, there was insufficient clarity at this stage as to what this initiative would deliver, how it would operate and whether it would facilitate a Bulk Submission managed by an informal SLA. Whilst this change proposal may eventually be incorporated within the Bilaterals solution, there was no certainty of this happening, and even if it were, an early implementation of CPW067 would still provide substantial interim benefit to the market and inform the delivery of the bilateral portal. Several Panel Members agreed that with careful management by MOSL, the interaction with the Bilaterals Programme could be accommodated and be seen as a positive rather than a negative.
- 7.5 A Panel Member requested clarification on the potential customer benefit of the proposed solution, noting that some concerns had been raised by a couple of respondents to the consultation. The proposer explained that during the recent lockdown due to Covid-19, many businesses were operating at significantly lower capacities (e.g. with lower sales and reduced number of staff). However, with the ongoing easing of restrictions, these figures were starting to rise and, therefore, providing the ability for Retailers to submit multiple service requests in bulk to Wholesalers via a monitored and transparent framework could only reap efficiency and customer benefits.
- 7.6 A Panel Member stated that the revised solution represented a significant improvement to the original proposal and, on the basis that CCW was supportive of CPW067, the member felt comfortable that the solution was balanced and delivered increasing efficiency from the perspective of the Retailer.
- 7.7 The Panel discussed the likely steps to be taken in the event that Trading Parties were unable to agree on an SLA, with it being suggested that the link to the disputes process could limit the effectiveness of the change, especially where it may lengthen the customer journey. The proposer acknowledged that an informal SLA may not be agreed in all circumstances. However, this would be unlikely to generate a dispute between Trading Parties. Fundamentally, the proposed Bulk Submission would exist as an additional, not replacement, means of submission

where there is a bilateral agreement between two Trading Parties. Therefore, if no agreement was reached, the Retailer would retain the existing options to re-submit the form via a portal, pdf or word. However, there was an incentive on both parties to come to an agreement; the Retailer would benefit by the efficient submission of request in Bulk, and the Wholesaler would benefit from these tasks being excluded from OPS.

- 7.8 The Customer Representative Member, who had been involved within the subgroup, confirmed that the customer impact element had been assessed by that subgroup and, therefore, felt reassured that the revisions to CPW067 had effectively addressed the issues raised by Ofwat and Trading Parties in response to the original proposal. They confirmed that CCW was supportive of CPW067 and believed that it would deliver benefits for customers. For example, once the SLA had been agreed, the Retailer would have more insight into the requests that had been submitted and would be able to feed this back to customers and, therefore, keep communication channels open. Whilst there remained a minor concern regarding the dispute process and the detrimental impact to customers (due to the potential delay with the process), they noted that in all likelihood, Trading Parties would prefer to revert to the original process where an informal SLA was unachievable.
- 7.9 On the subject of maximizing efficiency and transparency, the Panel noted that MOSL would be responsible for updating the associated Bulk Submission Guidance to reflect ongoing lessons learnt following implementation and that MOSL would engage with industry and the Panel (directly or via the MPC), as required, in relation to any such updates.
- 7.10 The Panel:
- **AGREED** (unanimous) to recommend the implementation of CPW067 to Ofwat for approval (12 in favour);
 - **AGREED** to recommend an implementation date of;
 - 15 February 2021, if Ofwat approval is received by 30 October 2020; or
 - 14 May 2021, if Ofwat approval is received by 31 December 2020

8 Draft Recommendation Report: CPW069 - Right of a Retailer to appoint an Accredited Entity

- 8.1 The Panel considered Change Proposal '[CPW069: Right of a Retailer to appoint an Accredited Entity](#)'. This Change Proposal sought to provide a Retailer with the right to appoint an Accredited Entity (AE) to undertake a meter rectification, where the Wholesaler has failed to repair or replace a faulty meter within the time prescribed in Process B5 (Repair or replacement of a faulty meter performed by the Wholesaler) of the Operational Terms. This would introduce an obligation on Wholesalers to operate an accreditation scheme to accredit at least one AE to undertake meter repair or replacement activities in its Area. In addition, this change sought to encourage Wholesalers to voluntarily opt-on to Process B6 (Repair or replacement of a faulty meter performed by an AE) to offer the use of AEs as the first choice to Retailers.
- 8.2 The proposer explained that CPW069 had been considered and sent back by the Panel for reassessment in October 2019. It was noted that the Proposer, MOSL and Water Industry

Registration Scheme Accredited Entity (“WIRSAE”) Panel had since reworked the solution and legal drafting to address Panel’s concerns.

- 8.3 The Panel noted that under process B5 of the Operational Terms, a Wholesaler has 22 business days to repair or replace a faulty meter once notified by the Retailer. However, at present there was no alternative process to pursue if the Wholesaler is unable to meet this Service Level Agreement (SLA).
- 8.4 It was noted that the Industry was consulted on the modified solution in April 2020. 23 responses had been received; five out of 12 Wholesalers and nine out of 10 Retailers supported the proposal. Therefore, there was a wider base of support than in the first consultation where only six respondents (one Wholesaler and five Retailers) agreed with the proposed solution, and 13 respondents (one Retailer and 12 Wholesalers) disagreed.
- 8.5 The Panel noted that, following the second consultation, the modified solution was further tweaked (‘Final Proposed Solution’) to address industry’s feedback.
- 8.6 The final proposed solution would mean that an obligation would be introduced, mandating Wholesalers to operate an accreditation scheme to accredit at least one Accredited Entity to undertake meter repair or replacement activities in its Area. In addition, Wholesalers would have an obligation to inform the Retailer if it became apparent that they would breach the SLA as soon as reasonably practicable and, in any event, at least 5 business days prior to the 22 business days’ deadline. Also, the change proposal would encourage Wholesalers to voluntarily opt-on to B6 to offer the use of AEs as the first choice to Retailers. Should Wholesalers do so, they could publish a contribution fee in their Wholesale Tariff.
- 8.7 It was noted that this change proposal would introduce a right for the Retailer to close the B5 request and send a B6 request (where the SLA had or would likely fail not due to third party constraints) and claim back the full costs from the Wholesaler.
- 8.8 With regards to previous comments made by Panel Members, after the proposal was presented at the October 2019 meeting surrounding numerical data required, it was highlighted that B5 process was the second highest failure rate of the OPS processes analysed, and it was considered one of the priorities of the Bilaterals programme.
- 8.9 The proposer explained how the final proposal solution would mitigate concerns noted by the Panel at the October 2019 meeting. In particular, this solution would provide meaningful alternative methods for the customers to get faulty meters replaced or repaired quickly. In the proposer’s view, this would be more effective than applying further performance incentives on Wholesalers. In addition, over 21% of B5 tasks did not meet their SLAs and, in the proposer’s view, the customer impact was significant. With the option being open for Retailers to use an AE, these could have been completed earlier and improve the customer journey, notably by making it shorter.
- 8.10 Some Panel Members cautioned that CPW067 might mean Wholesalers were faced with bulk submissions and this could impact on the potential use of AEs. However, it was noted that operational service requests could be submitted simultaneously whether CPW067 was approved or not and that it was important to evaluate CPW069 on its own merits. In addition, Panel Members observed that CPW067 sought mutual agreement between the Wholesaler and Retailer on bulk submissions, so should not have impact on CPW069.

- 8.11 One Panel Member commented that he was supportive of the aspect of the change proposal which would allow Retailer to develop their metering capabilities, which should not be left to Wholesalers to veto. However, the Panel Member remained unconvinced in relation to the SLAs element of the proposal, as perhaps 'passing' jobs to Retailer at that late stage in the process would not enhance the process nor deliver the right outcome.
- 8.12 Another Panel Member stated that there did not seem to be a root cause analysis in relation to the failure to meet the SLAs, as Wholesalers were already encouraged to meet SLAs, but a large number of cases did not meet their SLAs due, for example, due to complexity or engineering teams being required on large meters.
- 8.13 The proposer explained that this change proposal would enable the B6 process to be used efficiently and effectively, and it would provide competition between B5 Wholesalers and B6 AEs. Furthermore, it would facilitate more choice for the market, put pressure on Wholesalers to perform, provide an effective direct route under the B6 Process, lead to a reduction in meter rectification timescales, and improve the overall customer experience.
- 8.14 A further Panel Member raised a concern that there may be a lack of AEs available to carry out the work. In addition, the Member had some concerns about the cost element of the proposal, as some of the feedback in the consultation was linked to Trading Parties' costs associated with the implementation of changes in internal IT systems, which could be significant.
- 8.15 The proposer explained that the AE would only be asked to undertake the work in the event that they could do it quicker and more efficiently. The proposer further explained that Trading Parties did not provide any explanation as to where those new systems' costs would occur as result of systems changes or, if they did occur, what these costs could be.
- 8.16 The proposer felt that, in their view, taking account of the consultation responses, the Trading Parties' cost implications associated with this change would be at the low end of the spectrum (<£10k to £100k). One respondent stated that they currently allowed use of AEs for metering activities, and thus far witnessed no costs first-hand. Other respondents noted that there would be operational presence required at works carried out by AEs, bringing about additional costs.
- 8.17 In response to a further question from a Member around whether there could be merit in this being voluntary rather than a mandatory approach, the proposer felt that the mandatory aspect was inherent to this change proposal.
- 8.18 A further Member stated that this final change proposal felt like a step in a right direction, in terms of providing greater options to the Retailers and that it was helping innovation and promoting competition in that particular area.
- 8.19 One Panel Member noted that, in the legal drafting, Wholesalers were meant to notify when they could not comply with the obligation but, there did not seem to be a requirement to explain the reasons for this to enable the decision to be made between Wholesalers and AE. The Member further noted that without this amendment in the legal drafting the full benefits of this change proposal may be hindered. The proposer agreed with the Panel Member that this requirement would promote a dialogue and explanation from the Wholesaler to Retailer when it could not perform a task under B5. Therefore, the proposer agreed to vary the proposed solution to accommodate the suggested amendment.
- 8.20 The Panel:

- **AGREED** to recommend the implementation of CPW069 to Ofwat for approval (11 in favour and 1 against).
- **AGREED** to recommend an implementation date of;
 - 8 January 2021, if Ofwat approval is received by 21 October 2020; or
 - 15 February 2021, if Ofwat approval received by 31 December 2020.

8.21 The Panel Members who voted in favour of CPW069 agreed with the rationale and case for change set out in the recommendation report and believed implementation of the proposal would better facilitate and support the objectives and principles of the WRC. They also noted that the proposal would support improvements to the customer journey within the market, by addressing the area of delays to meter rectification as it provided greater options to the Retailers. In addition, the solution would help innovation and promote competition in that particular area.

8.22 The Panel Member who voted against CPW069 reiterated concerns over the SLAs aspect of the proposal. This Member was supportive of the elements of the proposal which would allow Retailers to develop their metering capabilities. However, the Member did not believe the SLA element of this proposal was proportionate or efficient. Furthermore, the Member felt that it added an unnecessary complication and inefficiency to the process.

9 Draft Recommendation Report: CPW075 - Settlement Estimation - Remove estimated meter readings when forward estimating

9.1 The Panel considered Change Proposal '[CPW075: Settlement Estimation - Remove estimated meter readings when forward estimating](#)'. This change sought to amend the metered volume estimation routine in CMOS – for a period after a meter's latest read – by excluding the use of estimated reads in the routine. The proposer and Panel sub-group felt that this solution would lead to more accurate forward estimates being calculated by CMOS.

9.2 ARa noted that, due to the nature and complexity of the change, there would be a significant level of testing required to CMOS, including functional and regression testing in different environments; and verification that the modified settlement calculations were correct. This important exercise would require test cases thoroughly defined and executed.

9.3 ARa confirmed that the CMOS implementation cost for the proposed solution would be between £95,776 and £114,609 with a further £40,000 required in the testing and assurance stages of the solution's delivery. The Panel noted that the change's assessment cost had been approximately £10,000.

9.4 ARa explained that 10.4 million meter reads between April 2017 and March 2018 had been assessed and 13,056 out of the total had showed negative advance due to a cyclic read existing after an estimated read which was lower than the previous estimated read. ARa added that these 13,056 cases were a subset of 91,000 meters where volume consumption had been assessed; approximately 80% showed a difference of less than 1m³, but there were some cases which showed a much lower consumption than previously stated.

9.5 The Panel observed that the cost and the solution had been carefully examined by the subgroup and that, during the consultation stage, some of the respondents stated that £114,609 seemed

- disproportionate given the overall benefit that it would potentially generate across the whole market.
- 9.6 Some Panel Members queried whether customers would be positively impacted by CPW075's implementation, as a direct link between wholesale charges and retail billing does not always exist.
- 9.7 The Customer Representative confirmed that billing and charges were one of the biggest areas for complaints for CCW and for the majority of Retailers in general. Therefore, CCW was supportive of a principle which could lead to further billing accuracy for customers. However, CCW had expressed concerns regarding the high implementation costs and that further checks which would need to be undertaken in relation to billing accuracy in order for this solution to provide a clear customer benefit. The customer representative felt, therefore, that the change proposal lacked sufficient evidence that the costs outweighed the benefits.
- 9.8 SM explained that MOSL had discussed the cost consideration at length and MOSL had expressed concerns in relation to the value for money aspect of this change proposal.
- 9.9 SA echoed the Customer Representative Member opinion that MOSL was fully supportive of a principle which would lead to further billing accuracy. However, there were concerns regarding the costs versus benefits of the proposed solution. The Panel also noted that there were risks associated with changing the settlement engine around estimations and the audit work would be required to provide appropriate assurance around the changes made. Some Panel Members observed that the changes would potentially target only a small set of meters.
- 9.10 Another Panel Member remarked that he did not feel confident that the £114,609 spent would actually deliver a £4 million annual benefit to the market.
- 9.11 Some Panel Members suggested that it would be more cost-effective to have settlement related changes 'grouped together' so that the costs of implementation could be shared. These Members felt that the potential benefits of this change proposal did not seem to outweigh the risks to CMOS and the costs of implementation.
- 9.12 JD mentioned that there would be a wider piece of work taking place in due course regarding the modernisation of CMOS and settlement would be likely to be included within this work. JD explained that this change proposal would require a great deal of effort from MOSL at this point as it would be 'opening the bonnet' on settlement. Therefore, it would make sense to try to group settlement related changes into a 'package' of work rather than individual activities as they come up.
- 9.13 A Panel Member asked whether it would be possible to defer a decision on this proposal until it could be 'grouped' with other relevant change proposals. AR confirmed that from a procedural perspective it was possible to defer a change proposal. The Panel noted, however, that there were currently no other upcoming changes relating to settlement.
- 9.14 In response to a question asked by another Panel Member, it was confirmed that if rejected, this change proposal could still return to the Panel as part of a wider set of settlement related changes.
- 9.15 The Panel:

- **AGREED** to recommend the implementation of CPW075 to Ofwat for rejection (1 in favour, 6 against, 5 abstained); and
 - **AGREED** to recommend an implementation date (in the event that Ofwat approves the change) of:
 - 27 August 2021, if Ofwat approval is received by 30 November 2020; or
 - 5 November 2021, if Ofwat approval is received by 26 February 2021.
- 9.16 One Panel Member supported the change proposal, agreeing with the rationale and case for change considered by the Panel sub-group.
- 9.17 Five Panel Members abstained on the basis that they felt there was insufficient evidence regarding the benefits of the change to enable them to form a view.
- 9.18 Six Panel Members did not support the change the basis that it was not cost-effective, would not necessarily have a positive impact on customers, and should not remain a lingering issue as the number of long unread meters in the market reduce. These Panel Members also felt that the solution posed material risks to the calculation of settlement charges that alternative remedial actions – e.g. submitting meter reads – do not have.

10 Draft Recommendation Report: CPW102/CPM030 - Gender Neutrality in the Market Codes

- 10.1 The Panel considered Change Proposal '[CPW102/CPM030: Gender Neutrality in the Market Codes](#)'. This change sought to remove references to gender in the market codes to replace them with gender neutral equivalents.
- 10.2 One Panel Member enquired about the implementation date and asked whether it could be implemented sooner. TD explained that this was the standard timeline as there were a two-month timeframe for Ofwat to provide a decision. However, there was scope for it to be implemented sooner if Ofwat was able to make a determination within a quicker timeframe.
- 10.3 DM confirmed that he believed Ofwat would be supportive of this change proposal and that Ofwat would be able to make a relative expeditious decision in relation to this.
- 10.4 AR confirmed that the 15 February was the next standard release and without this being an urgent change, MOSL would recommend that the standard timeframe be applied. However, provided Ofwat could made a decision sooner, as the next scheduled release would be in early November 2020, it would be possible to include this change as part of that release.
- 10.5 The Panel:
- **AGREED** (unanimous) to recommend the implementation of CPW102/CPM030 to Ofwat for approval (12 in favour); and
 - **AGREED** to the implementation date of:
 - 6 November 2020, if Ofwat approval is received by 14 October 2020; or
 - 15 February 2021, if Ofwat approval is received by 20 January 2021.

11 Draft Recommendation Report: CPW103/CPM032 - Interim Supply Process Amendments

- 11.1 The Panel considered Change Proposal '[CPW103/CPM032: Amendments to Interim Supply arrangements](#)'. This Authority Timetabled Change Proposal change had been raised following an Ofwat consultation on these arrangements. It aimed to address areas where Ofwat and MOSL had identified misalignments between the Interim Supply Code ('ISC') and Wholesale Retail Code ('WRC') and areas where processes could be improved.
- 11.2 It was noted that EB from Ofwat was in attendance to provide support to any questions that may arise from Panel Members.
- 11.4 Panel Members noted that this Authority Timetabled Change Proposal would be effected by changes to the WRC (and ISC) including, for instance, codifying the informal process to inform Licensees that an interim supply event was imminent, aligning the Suspension process within the ISC and WRC, making explicit reference to the Offers process in CSD 0004, amongst others. It was noted that consequential changes to the MAC were also proposed to enact this change.
- 11.5 TD noted that a consultation had been conducted by Ofwat between dates of 16 July 2020 and 6 August 2020. 19 responses received from Wholesalers, Retailers and the customer representative. TD remarked that the responses received were overwhelmingly positive and all respondents agreed with the rationale and proposed legal drafting across all areas, adding that the changes would increase transparency, efficiency, clarity and reduce ambiguity. The only exception to that was that 18 out of 19 respondents confirmed that they supported the proposal to amend CSD 0004 Section 3.3 to ensure clarity was applied to the Allocator process only.
- 11.6 TD confirmed that the objectives and principles for this change proposal were outlined in the DRR and highlighted that this change proposal would align the processes in the ISC and WRC, helping to ensure the efficient discharge by the Retailer of its Licence obligations and its statutory duties to the extent impacted by the WRC, as the proposed changes provide clarity as to the obligations of Retailers under the WRC.
- 11.7 There were no concerns or questions raised by Panel Members in relation to this change proposal.
- 11.8 The Panel:
- **AGREED** (unanimous) to recommend the implementation of CPW103/CPM032 to Ofwat for approval (12 in favour); and
 - **AGREED** to the implementation date of:
 - 9 September 2020, if Ofwat approval is received by 3 September 2020.

12 Draft Recommendation Report: CPW092/ CPM029 - Unified Disputes Process and Committee

- 12.1 The Panel considered Change Proposal '[CPW092/CPM029: Unified Disputes Process and Committee](#)'. This change sought to consolidate the processes for Trading, Non-Trading, Market Arrangements Code and Market Operator Disputes into one Dispute resolution

process (“Disputes Procedures”). It also sought to expand the remit of the Trading Disputes Committee to encompass this consolidated Dispute Resolution process.

- 12.2 NP provided a brief overview of the disputes procedure, highlighting the Referral to the Disputes Committee, confirming that if the Disputing Parties were unable to agree on a resolution within the relevant timeframe, or if either party requests it, the Dispute would be escalated to the Disputes Committee, which would be the body which would consider such disputes.
- 12.3 NP confirmed that there was an Arbitration process as a ‘backstop’ and the ability to call on experts as the Committee required.
- 12.4 In terms of consultation responses, NP confirmed that the consultation had received 17 responses: 11 Wholesalers, 5 Retailers and CCW. All responses agreed with the solution as set out in CPW092/CPM029.
- 12.5 One Panel Member asked for clarification on a number of points, including:
- 12.5.1 Negotiation period – In response to a question regarding extension of the negotiation period, NP explained that as this was a bilateral request and therefore, it could be extended provided both parties agreed to such extension.
- 12.5.2 Referral – It was queried whether a referral could be made by MOSL, where for example, no updates were being received from the Trading Parties. TD explained this was part of the ‘Auto close’ part of process, where it would be referred to Committee by MOSL. The member pointed out that this was missing from the DRR and from the legal drafting.
- 12.5.3 Arbitration – The Panel Member noted that some references to Arbitration seemed to have been removed from part of the process and queried whether the parties could still use Arbitration. NP confirmed that the process had been consolidated into a singular process which had led to arbitration being added as the last resort and after the decision of the Disputes Committee.
- 12.5.4 Publication of Disputes – The Panel Member queried how confidential and sensitive information would be handled. The Chair of the TDC confirmed that this would be dealt with in the same way that the TDC currently deals with confidential information in general, i.e. with due care and redacting information as appropriate.
- 12.5.5 Conflicts – The member then asked whether a party whose company was subject to a dispute could observe and participate in any way during the meeting in which the dispute was being considered. The Chair of the TDC confirmed that under the TDC Terms of Reference this would be assessed on an case-by-case basis and that it was the TDC Chair’s discretion to decide whether a party could attend the meeting and participate in any way or whether the meeting should go into closed session.
- 12.5.6 Vexatiousness – The member asked whether considerations had been given to the vexatious criteria in order to allow the Committee to deal with Trading Parties in a consistent way. The TDC Chair highlighted that the Committee had taken a minimum approach in relation to changing the Code and confirmed that the drafting was no different to the current situation. However, they would be mindful in terms of applying



a consistent approach and creating a precedent regarding any vexatious or frivolous disputes.

12.6 An observer noted that it would be important for MOSL put in place appropriate provisions to ensure that, in the event of an MO dispute, the Secretariat services to be provided to the Disputes Committee was ring-fenced to ensure its independence and impartiality. IM confirmed that such provisions would be put in place.

12.7 The Panel:

- **AGREED** (unanimous) to recommend the implementation of CPW092/ CPM029 to Ofwat for approval (12 in favour); and
- **AGREED** to the implementation date of:
 - 6 November 2020, if Ofwat approval is received by 20 October 2020; or
 - 15 February 2021, if Ofwat approval is received by 1 December 2020.

13 Any Other Business

13.1 CS provided an update to the Panel in relation to future Panel arrangements, confirming that Secretariat would have an initial conversation with the Market Governance Steering Group with the aim to have an ‘open’ discussion with the Panel Members at the September Panel meeting.

13.2 As this was the last meeting of JK as Panel Chair, SM, AR and EW thanked him for his contribution to the Panel and the market as a whole on behalf of MOSL and the Panel.

13.3 EW reiterated the request for TDC nominations and encouraged the Panel Members to invite their colleagues to put their names forward.

14 Actions

Action Number	Action
A46_01	SM noted that a “flash report” would be produced for the MOSL board and that it would be shared with the Panel at the same time as the board.