

**To promote, challenge and lead the operation and evolution
of the market for the benefit of business water customers**



Market Performance Framework (MPF) Reform Programme

Consultation 4: Verbatim responses

6 September 2024

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MPF Reform Consultation 4 Verbatim Responses

This document sets out the responses received from all 28 respondents to MPF Reform Consultation 4. The respondents to the consultation were:

Group	Number of responses
Wholesalers	14
Retailers	13
Other	1
Total	28

Wholesalers	Retailers	Other
Affinity Water	ADSM	CCW
Anglian Water	Business Stream	
Dŵr Cymru	Castle Water	
Northumbrian Water	Clear Business Water	
Portsmouth Water	Dŵr Cymru	
SES Water	Everflow Utilities	
South East Water	Nottingham City Council	
South Staffs Water	Pennon Water Services	
South West Water	Sefton Council	
Southern Water	Water 2 Business	
Thames Water	Water Plus	
United Utilities	Waterscan	
Wessex Water	Wave Utilities	
Yorkshire Water		

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Full List of Consultation Responses

This section provides the full set of responses received in MPF Reform Consultation 4. Please note that section 1 relates to respondent details and as such is not included here.

Section 2: Principles and performance standards

2.1 Do you agree that key performance indicators (KPIs) should have 'minimum' and 'outstanding' standards?

Retailers	
ADSM	Yes
Business Stream	Yes
Castle Water	No
Clear Business Water	Yes
Dŵr Cymru	Yes
Everflow Utilities	Yes
Nottingham City Council	Yes
Pennon Water Services	No
Sefton Council	Yes
Water 2 Business	Yes
Water Plus	Yes
Waterscan	Yes
Wave Utilities	Yes
Wholesalers	
Affinity Water	No
Anglian Water	No
Dŵr Cymru	Yes

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Northumbrian Water	Yes
Portsmouth Water	Yes
SES Water	Yes
South East Water	Yes
South Staffs Water	No
South West Water	Yes
Southern Water	Yes
Thames Water	Yes
United Utilities	Yes
Wessex Water	Yes
Yorkshire Water	Yes
Other	
CCW	Yes

2.2 If you wish to explain your answer, please add here

Retailers	
ADSM	
Business Stream	While we agree there are benefits to having minimum and outstanding standards it may not be appropriate to have them for every KPI. Careful consideration should be given to these levels as the benefits of having minimum and outstanding standards will be negated if they are set at the same value.
Castle Water	Regrettably (and we believe mistakenly), several of the proposed KPIs are not " <i>focused on areas within a trading party's control</i> ", such that the setting of any 'minimum standard' will be problematic and will almost likely fail as our answers to subsequent questions explain.

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Further, if the 'minimum standard' is fairly set as a true minimum to recognise the multiple elements outside of a trading party's control on any given metric, that 'minimum standard' would likely not be understood, and therefore would be viewed as being too low to be acceptable to all stakeholders. Explaining and justifying what to some would be perceived as a low 'minimum standard', no matter how appropriate it may be, would be problematic. For example, consider a combined performance score today of more than 90% reported against metrics MPS18 and MPS19 on the existing MPF; this will likely fall to below 70% on the replacement metric M01. We need to consider the optics and ask ourselves, "will that be capable of being explained/understood and be deemed acceptable to all stakeholders"? If not, and the bar for the minimum standard is consequently increased, then the entire premise of the new MPF is destroyed. We fear that is a likely outcome, as we explain throughout our response.

Our concerns on the setting of a minimum standard go further, especially given the implications of Principle PS6 that "*standards will be consistent across the market*". Principle OP2 is similarly constructed, noting that "*outperformance payments will be calculated at a market level and will not consider regional variations in costs of impacts*". This means no variation across geographic regions, even though our market consists of multiple regional monopolies, each of which looks and behaves differently to other 2 wholesaler monopolies. There is no common basis and each wholesaler's exposure to these regional monopolies will be different, often materially different. Those regional monopolies each have different characteristics, which change the cost to serve for trading parties. Therefore, they materially impact on the performance outcomes, which are being measured. A common standard is inappropriate and inequitable. It undermines the very premise of our new performance framework. For example, the cost to retailers of reading meters is generally significantly less in areas where a wholesaler offers a meter reading service - using the monopoly economies of scale advantage of reading household meters - and the read rate is significantly higher. This would result in improved performance based solely on geography! So much for a level playing field. Simplicity cannot be promoted above the principle of equitability and having a fair baseline against which to compare performance.

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That is, incorrectly using the argument for simplicity¹ We note that the success criterion of 'simplicity' has otherwise been given little prominence in the complex framework proposed by MOSL. , we have sacrificed the fundamental principle of the 'level playing field'. That is a true principle, recognised by all, unlike many of the pseudo principles listed in Section 2 of the pre-consultation documentation. Yet, in proposing this new MPF, MOSL sees fit to sacrifice the level playing field. That is a material mistake. The result is an inequitable framework, unsuitable as the basis to compare, report, charge, shame, and reward trading parties.

Regarding setting an 'outstanding standard', as we explain in our later answers, it is inappropriate to reward parties for performance which is "just" doing their job. MOSL argues similarly in its documentation, but somehow then claims that 'outstanding' is doing more than their job. But, if the obligation in the market codes is set at or greater than the level of 'outstanding', then this will always just be a trading party doing its job; i.e., meeting its market obligations. There is no justification to reward. Further on this same point, we note some conflict in principles.

First, we have Principle PS1 '*Most KPIs will have a standard for minimum and outstanding performance*' and Principle PS2 '*The minimum and outstanding performance standards can be the same*'. For PS2, the example given in the documentation is "*100% success or completion*". Now consider PS2 in the context of Principle OP1, that outperformance payments are '*designed to reward exceptional performance, not business as usual*'. However, if the minimum standard and outstanding standard are each set at the same level, then any outperformance payments will be awarded for "*business as usual*". This is in direct conflict with OP1 and MOSL's statement under OP1 that outperformance payments "*are not intended to reward companies for simply doing their job.*" It also suggests that not all principles are created equally, with OP1 presumably to be sacrificed to deliver PS1 and PS2. That approach should be of concern to us all.

¹ Castle Water - We note that the success criterion of 'simplicity' has otherwise been given little prominence in the complex framework proposed by MOSL.

It is but one of many inconsistencies and conflicts inherent within the proposals detailed in Consultation #4, several of which we call out in our consultation response. The lack of quality in the documentation only adds to that concern and has made it unnecessarily difficult and frustrating to respond to Consultation #4. The documentation is not fit for purpose, not meeting a minimum standard necessary upon which to comment - thereby undermining both the proposals and the consultation process. This only adds to the case for a much-needed pause in the MPF Reform Programme, to take stock and redirect, before more Trading Party monies are wasted on a flawed MPF that, by design, will be found wanting once implemented, to the detriment of the NHH Market and the customers which it serves. Let's remember that despite the presentation of a 'minimum standard' being set so that anyone who performs above that won't be charged, there are other priorities which likely will determine it necessary to set that 'minimum standard' at a level higher than otherwise would be necessary. Those priorities include the stated need to generate revenue to fund special projects and, if the case for 'outperformance payments' is made (which we do not think it can be), then also sufficient revenue to fund these payments also to deliver the supposed benefits. In this context we note the Strategic Panel's Statement of August 2023 where it said its priorities include that *"we will agree the size of, and set the focus for, the Market Improvement Fund to contribute to our key market outcomes and priorities"*. *Our answers to the questions which follow should be read in that light; i.e., we do not believe that the consultation documentation and proposals are sufficiently developed upon which to proceed.*

We are being asked to comment on details which are insufficiently explained, or which are yet to be developed. We are asked to rely upon principles, which are inadequate, unclear, in conflict, or unsuitable. For example, a Trading Party's view may well change depending upon whether a performance charge is set at £5 or £500. However, both outcomes are possible, and we are asked to trust others later to set charges at an appropriate level, but without any certainty or confidence. That's an ask too far. We ask that throughout our consultation response that MOSL refers to the views of Castle Water previously expressed on the new MPF, which remain valid and pertinent. These views include our

responses to the first three consultations for which we haven't received a detailed response and MOSL has failed to address in the proposed metrics and now in the principals and design of the financial tools upon which it is now consulting. In addition to our previous consultation responses which remain unanswered, we ask that in considering our response to Consultation #4, MOSL also refers to our considerable input at the Performance Advisory Group and at other market fora over recent years, where we have articulated in detail our concerns with the direction of the Market Performance Framework Reform process and the failure to address the substantive points of design which Castle Water has raised throughout the MPF Reform process.

Let us provide two examples that illustrate MOSL's failure to consider and address our views, and how this is to the detriment of the proposals that we are now being asked to endorse.

Example 1

In the first example, we must return to Section 1.1 which states "*the aim of the MPF Programme is to create a performance framework that is simpler and more effective*" and that has "*fewer, more effective intelligent measures, focused on areas within a trading party's control*".

As we have repeatedly explained and stressed previously, any rationale process would therefore ensure that one or more of the resulting success criteria majored on "*control*". Hence our disbelief that 'control' isn't one of the eight success criteria which MOSL has determined. And we've never had an answer from MOSL as to why. We have a criterion of 'improve trading party accountability', but accountability without responsibility is by any objective assessment a measure of 'failure' and not of 'success'.

Hence, the Performance Advisory Group (PAG) discussions on Metric M01 have inevitably become embroiled in debate about how one makes allowances for issues outside of the control of a retailer in successfully gaining a meter read – such as vacant premises, refusal of access, obstruction of access, incorrect market location data, open bilaterals, etc. Each would require some form of carve out or

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allowance, and each would dilute the original purity of the metric. MOSL suggests that any carve out would likely be to lower the 'minimum standard' – but we think that problematic regarding the optics of what would be reported. And more fundamentally, as we explain above, one-size does not fit all. For example, there are likely more internal meters in an inner-city than in a rural area. Each regional monopoly wholesaler will have different infrastructure and policies, which will drive different meter reading outcomes. Hence, each trading party would require its own carve out and we'd need an array of minimum standards to be equitable and to provide a meaningful basis for reporting and charging. Against this background and the inherent variation therein, it would prove impossible to set an appropriate single 'minimum standard or 'outstanding standard' for all.

No wonder that the principle of 'equitability' and 'level playing field' conveniently do not feature on MOSL's extensive list of lesser so-called 'principles', as they are incompatible with the approach that MOSL has adopted to design its performance metrics and financial tools. The result is going to be an inequitable car-crash, subject to legal challenge, and which will satisfy no-one. Further, it will hamper the route to a flourishing market in which Trading Parties compete to service the needs of NHH customers. On the issue of 'control', this is why Castle Water has always been clear that we need a fundamental shift from today's current MPF, a framework which all agree has failed. Unfortunately, it does not seem that we have such commonality on how it has failed and, therefore, what we need to do to fix it. This might explain MOSL's proposals, where all we have done is reconstructed many of the same metrics but with a questionable focus on strengthening the incentives and penalties to drive behaviour. That flaw here is that if a company doesn't control delivery of the metric for which it is being made accountable, then it cannot respond to those incentive and penalties. Instead, they just become additional costs which a trading party will be unable to mitigate, except by exiting the market (where that is an option). Hence, our ask has been that the MPF Reform Programme undertakes a long overdue review of the Market Codes, with a view to focus on redefining the core obligations to ensure that they are within the control of a trading party. For example, consider Section 4.9.6 of the Market Terms, which details

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obligations relating to 'Regular Cyclic Reads'. As a minimum, the language here is confusing and needs tightening, for example consider the existing words that require *"the Contracting Retailer shall carry out or procure that its agent shall carry out a Regular Cyclic Read ... and submit this to the Market Operator"*. For any reader, the phrase *"carry out"* would ordinarily be construed to mean *"to visit to take a meter read"*. It does not assume nor require a positive outcome of a meter read and therefore a skip code could be a valid outcome to then submit to the Market Operator.

However, elsewhere in the Market Codes (including the existing MPF), it assumes that the only outcome from *"carry out"* is a meter read. Unfortunately, as we all know only too well, that often is not the case and despite our best efforts as a retailer, we prove unable to gain a meter read.

So, it wouldn't take a big leap to redefine or clarify this obligation. For example, to make it one of either to submit a meter read via any of the methods permitted in CSD0202, or otherwise to submit a valid skip code to CMOS. With such a meaningful obligation, the retailer would have control, and 100% attainment is something to which a retailer can realistically aspire, but where any likely shortfalls would be too small to be of material concern to stakeholders². Our view remains that there is no underlying issue with meter reading that requires a metric such as M01, beyond the issues today such as access that are outside the control of a retailer and, therefore, artificially depress the true level of performance in reading meters. The natural incentive to read meters to issue accurate bills based on actual consumption is powerful but continues to be denied by some. The submission of skip codes and linkages to bilateral requests would provide a much more complete picture to MOSL and the wider market, giving us new insights to address market issues which remain or to engage with individual retailers where necessary. The option of an

² Castle Water - Our view remains that there is no underlying issue with meter reading that requires a metric such as M01, beyond the issues today such as access that are outside the control of a retailer and, therefore, artificially depress the true level of performance in reading meters. The natural incentive to read meters to issue accurate bills based on actual consumption is powerful but continues to be denied by some.

audit would be available – for example to review skip codes, to request meter reading schedules, and to review invoices for meter reading services provided by contractors.
So, we repeat again, in reforming our performance framework, first we must get the obligations right and second, we monitor performance against those obligations to see where we require a new MPF metric.

Example 2. The second example is that of ‘natural incentives’. Throughout the Market Performance Framework Reform Programme, Castle Water has asked that due recognition is given to the ‘natural incentives’, most notably meter reading. That hasn’t happened, adversely impacting on the metrics and now the financial tools that are proposed. For example, many of the principles underlying the financial tools deny the existence of natural incentives, rather than build on them, should they be assessed to be insufficient.

Those natural incentives are acknowledged by all, yet MOSL has concluded – we believe mistakenly – that those natural incentives are insufficient. Specifically, MOSL refers to a report which it commissioned from PwC in August 2022 to explore the impact of natural and regulatory incentives on the NHH water market. PwC’s report concluded that, unlike for wholesalers, there is a natural incentive present on retailers to influence market outcomes. However, in its view, these natural incentives are not sufficiently effective to drive competition.

Certainly, with respect to cyclic meter reading, we disagree with that view, which was based on the current competitive market conditions being insufficient to make effective the natural incentives. However, any lack of competitive pressure between retailers is not a material consideration as to whether a retailer determines to read a meter. It might hinder innovation, the installation of retailer AMR, or reading meters at frequencies greater than those prescribed in the codes. However, it won’t stop retailers – whatever the MPF – from needing to read meters at a frequency to align with its invoicing of customers. The cost associated with invoicing based on estimates is considerable throughout the value

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	<p>chain, and far greater than the basic cost of visiting a meter to gain a meter read. So, retailers will attempt to read meters regularly – that is an absolute given and, yet it is denied in the proposals which we are being asked to endorse. Hence, we have inappropriate metrics such as M01, and flawed financial tools based upon incorrect assumptions and principles.</p> <p>This is perfectly illustrated by Principle PC8, ‘Should exceed the cost of addressing the performance issue’, whereby performance charges for failing to submit a meter read should be higher than the average market cost of the task being incentivised (i.e., in this instance, meter reading). This would, on average, value a ‘natural incentive’ which all accept is present at less than zero (i.e., <£0.00). Clearly, it is nonsense and yet such thinking is embodied in the proposals as a ‘principle’. This flawed thinking results in flawed financial tools, which will be unnecessarily penal and put at risk retailers and the customers they serve. Again, it illustrates that earlier points of substance raised in previous consultations and meetings have not been addressed in the design of the financial tools upon which MOSL is today consulting, and it exposes a lack of joined-up thinking and logic in the measures which are proposed. We hope this helps to explain our concerns and objections to the proposals which follow to the questions being asked on this consultation.</p> <p><i>Please note that the issues articulated above and illustrated by our two examples, apply not only to the question of ‘minimum’ and ‘outstanding’ standards, but also to the questions that follow. For the sake of brevity and clarity, we therefore have not repeated this detail in our answer to each question, except where a particular point needs emphasising or developing in the context of a specific question. Nevertheless, those same points do apply and, therefore, when MOSL considers our answers, we kindly ask that it includes these wider points in its summary and in its formal response to each question.</i></p>
Clear Business Water	
Dŵr Cymru	

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Everflow Utilities	<p>We agree, noting in particular that establishing both a minimum and outstanding threshold can motivate a wider range of parties to strive towards performance improvement. Parties operating below the minimum threshold will be motivated as in the current framework—but the introduction of an outstanding standard introduces welcome incentive and reward for parties that are already outperforming in the market.</p> <p>However, it goes without saying that the effectiveness of these standards in motivating any behaviours will depend on whether the standard levels themselves are set appropriately. It is important to ensure, in accordance with PC8, that the incentives sufficiently outweigh the investments needed to achieve them.</p> <p>We’d like to take this opportunity to propose that it may be beneficial to implement staggered thresholds for both minimum and outstanding levels, increasing year over year. For example, the threshold in the first year might be set at X, then increase to X + 5% in the second year, and so on. This approach would not only allow parties to gradually scale up their performance, but also to forecast and plan this scaling up in advance. This approach could be particularly beneficial in the first years following the implementation of the MPF, especially for metrics that are new to the framework.</p>
Nottingham City Council	
Pennon Water Services	<p>In principle the idea of having minimum and outstanding standards are ok but there is insufficient information to comment fully, and as such we have selected no. Many of the minimum and outstanding performance standards are yet to be confirmed, and it is difficult to comment when you don’t know whether the standards are fair and consider regional variances and difference issues Retailers many face, such as a monopoly meter reader within a wholesale region who is performing under a set threshold.</p>
Sefton Council	
Water 2 Business	<p>Yes - these should be used to identify better performers and in the case of retailers, could be a competitive differentiator.</p>

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Water Plus	n/a
Waterscan	A minimum and outstanding standard will help TP's set targets and gain a better understanding of where they need to improve before it becomes an issue, rather than waiting to be compared against others.
Wave Utilities	<p>Ideally the competitive market should be effective in incentivising Retailer performance. Excellent performance wins new customers and poor performance drives customers to switch away. This would negate the need for a Market Performance Framework for Retailers, leaving it to focus on Wholesaler performance which isn't driven by competitive forces and so requires the intervention of regulatory mechanisms. Early on in the MPF reform review, the decision was taken that the competitive market isn't yet fully effective, and therefore the new MPF should, at least for now, include incentives for both Retailers and Wholesalers.</p> <p>With that in mind, for the current proposals we agree with the principle of having a minimum and outstanding standard; a minimum standard provides a clear market expectation of minimum performance for Trading Parties to meet and customers to expect and an outstanding standard gives a reach for outperformance. Outperforming Retailers should also ultimately be rewarded by winning new business as customers switch to outperforming Retailers.</p> <p>One of the aims of the MPF reform is to provide measures focused on areas within a trading parties control, however, we don't think that all proposed methods sufficiently address areas that are out of Retailer control, as discussed further in our response.</p>
Wholesalers	
Affinity Water	We agree that all KPIs should have expected minimum standards, but not necessarily an outstanding standard applied universally in its proposed format. As a wholesaler, we understand the importance of meeting these standards to enable an effective market and support Retailers. Penalties are appropriate for failing to meet these standards, but allowances should be made for challenges outside our control, similar to those faced by Retailers – and these ensure a fairness across all trading parties.

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	<p>Outperformance should be recognized for exceptional service delivery or innovation, not for merely meeting basic market functions or obligations. Penalties should establish clear expectations for all wholesalers, ensuring consistent standards across the market. This consistency allows Retailers to operate efficiently and know what to expect, from us and them.</p> <p>We do not agree with the redistribution of penalty charges currently for "outperforming" others under the existing framework and do not wish for this to occur in this new framework as standard. While penalties for breaches of fundamental KPIs are appropriate, rewards for such metrics are not always warranted. The focus should be on creating an environment where all trading parties meet basic standards, reducing friction and fostering an effective market. KPIs alone do not guarantee good results, but including elements that measure lateness or highlight resolution times could help identify and reward exceptional performers rather than business as usual.</p>
Anglian Water	<p>Overall, we don't consider that outperformance payments should apply to Wholesaler performance, but that there is benefit in these being applicable to Retailer performance - it is more appropriate for Retailers to receive benefits for outperforming based on good performance and behaviours. We also feel outperformance payments could create the potential for 'cherry picking' – there is the possibility that this may drive the wrong behaviours, so you outperform what becomes easy, and seek to benefit from this and to offset this benefit against other penalty charges for lower performing areas.</p>
Dŵr Cymru	<p>We agree there should be minimum and outstanding standards but must take into consideration differences that apply between Wholesalers or Retailers of difference size and structure. One size doesn't suit all and this needs to be considered where financial penalties are involved. Some examples of where we don't believe it is appropriate to compare our circumstances with other Wholesalers would be:</p> <p>Data – Meter GPS matches address data: Eligibility rules for Welsh Undertakers differ to the rest of the market. Properties that are owned by the same party, separated only by transport infrastructure can be joined together onto one SPID (in England there would be a SPID per property). In this scenario the</p>

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	<p>multiple properties have different postcodes so the meter GPS will never correlate to the address resulting in perceived data errors.</p> <p>Meters – Wholesalers who only have a small number of meters in the market will see a single failure of a meter replacement impact significantly on their percentage performance. In our area only customer sites using over 50MI are in the market which results in us having a much higher proportion of meters that are larger sizes. Replacement of a 15-20mm meters tends to be a simple screw in and out and can be dealt with by a single person visiting the property. 87.38% of meters in the market are 15-20mm compared to only 20.64% of our meters. In the larger meters 5.66% of meters in the market are 40mm and over compared to 69.04% of our meters. These larger meter changes are very complex, site specific surveys need to be completed, if flexible joints are found in the chambers, a complete redesign of the connection is required to ensure Health and Safety risks are minimised before the meter replacement can be planned. For financial penalties to us to be based on an unfair comparison is not appropriate.</p>
Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	<p>We broadly agree with this principle, however, the outstanding requirements would need to be realistic and within the wholesaler’s control. A good example of this would be Highways authorities, some have more challenges than others (London and the South East for example), this is outside the Wholesalers control and will mean a greater proportion of deferred. It is important that regional challenges are understood.</p>
South Staffs Water	
South West Water	<p>Whilst we support the use of 'minimum' and 'outstanding' standards, it’s vital that the outstanding standards incentivise the right behaviours in the market and don’t simply serve to consistently reward the same trading party.</p>

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Southern Water	We agree that there should be minimum standards as there are in the current MPF. We agree with the concept of outstanding standards. However, the standards for each need to be achievable for trading parties especially where a trading party is underperforming through no fault of its own. Likewise, outperformance standards need to be realistic and achievable.
Thames Water	
United Utilities	<p>We agree that the KPIs should have a minimum & outstanding standard in order to set clear expectations of base levels of performance and what “good” or “outstanding” looks like – rather than simply relying on relative peer rankings.</p> <p>Outstanding KPIs will, with the required level of certainty around financial incentives, encourage trading parties to stretch to try and achieve better performance. Having a minimum KPI, which can incrementally increase over time as appropriate, sets clear expectations which should help improve customer experience.</p> <p>However, we have a concern in that that there appears to be a lack of certainty around “outstanding” performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. This suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they will need certainty of financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.</p>
Yorkshire Water	Yorkshire Water’s position is that if the targets are set at the right levels and fair for all trading parties, then we feel that these are a good set of principles. Some of the KPIs do need more clarity on exactly what banding we fit performance to; different trading parties will have different and competing priorities, and wholesalers may suffer from geographic restrictions that we cannot do anything to change.

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	With the financial implications of the new MPF there should be some additional assurance provided by MOSL to ensure that trading party reporting is as accurate as possible, and equivalent to every other trading party. The increased risk of errors in reporting mean that this needs to be given a greater level of quality assurance on all sides.
Wessex Water	We are in strong support that KPIs are seen as a minimum standard and trading parties should be incentivised to outperform and deliver increased value to customers and the market. The framework should continue to stretch and incentivise trading party performance beyond BAU levels
Other	
CCW	Yes, we largely agree that KPIs should have both a 'minimum' and 'outstanding' standard, where appropriate. For all KPIs, we want to see trading parties striving to exceed the minimum, in order to deliver greater benefits for customers. Being clear on what constitutes an 'outstanding' performance is useful information for customers by including them in public peer comparison reports. Customers using this information to inform their engagement in the market could incentivise trading parties to maintain a higher level of performance. We would also expect these standards to be reviewed as performance improves so that standards continue to incentivise the right behaviors to deliver customer service to a high standard and benefits to customers.

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2.3 Should performance standards be included in the Market Codes (i.e. with any changes subject to approval by the Code Change Committee and Ofwat) or sit outside the Market Codes, i.e. under the responsibility of the Performance Assurance Committee and Strategic Panel

Retailers	
ADSM	Included in the Codes
Business Stream	Included in the Codes
Castle Water	Included in the Codes
Clear Business Water	Sit outside the Codes
Dŵr Cymru	Included in the Codes
Everflow Utilities	Sit outside the Codes
Nottingham City Council	Sit outside the Codes
Pennon Water Services	Included in the Codes
Sefton Council	
Water 2 Business	Sit outside the Codes
Water Plus	Included in the Codes
Waterscan	Included in the Codes
Wave Utilities	Sit outside the Codes
Wholesalers	
Affinity Water	Included in the Codes
Anglian Water	Included in the Codes
Dŵr Cymru	Included in the Codes
Northumbrian Water	Sit outside the Codes
Portsmouth Water	Sit outside the Codes
SES Water	Sit outside the Codes

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South East Water	Included in the Codes
South Staffs Water	Included in the Codes
South West Water	Sit outside the Codes
Southern Water	Sit outside the Codes
Thames Water	Included in the Codes
United Utilities	Included in the Codes
Wessex Water	Included in the Codes
Yorkshire Water	Sit outside the Codes
Other	
CCW	Sit outside the Codes

2.4 If you wish to explain your answer, please add here

Retailers	
ADSM	In principle, think it should be Ofwat to set / insensive behaviours within the market.
Business Stream	Due to the financial implications, metrics, charges, and performance tools should be stated in the Codes. The same is also true of the performance standards as these are likely to have a financial impact on trading parties as they move up and down.
Castle Water	Whilst some might promote putting the performance standards outside the market codes on the basis that this offers flexibility, this is the incorrect approach. These standards are too important to put outside of the market codes and we need to find a way to embody them, whilst making our performance framework agile. There is an argument that were standards to sit outside the codes, it would provide a greater degree of flexibility for future change; however, worryingly this would seem to foreshadow a rate of change which would indicate the current framework review fails to identify the correct measures. Our framework needs to be robust to today's world and be inherently flexible for tomorrow's world. It also

needs true agility, to allow it to make allowance for external events – such as prolonged adverse weather conditions that stop meters being read or replaced.

It is worth noting here that, with regard to the measures proposed thus far, there are already fundamental questions being asked, the response to which has been that, ‘the Performance Assurance Committee can determine the answer’; however, the trouble with this is, it creates a situation where we defer accurately defining the metrics and thresholds, and therefore our understanding of these, thereby delaying our ability to understand how these metrics will function, and, whether they actually achieve the intended outcome.

We must, by MOSL’s own standards and MPF reform principles, avoid creating a more complex framework than we have currently, and prevent the future layering of incremental change and guidance in the name of flexibility, which, will only create uncertainty, confusion, and complexity. It may prove to be the case that there is a future need to alter the standards, and should this be necessary, it should be treated as a code change.

We should also include the ability to temporarily suspend or make allowance for events, such as the temporary suspension of market performance charges during the COVID outbreak (which was delivered by code change – where there is a will, there is a way). If we question whether the code change process can be nimble and quick, then that is a question that we should ask of the code change process and address at source, not determine to bypass the proper process by allowing such matters of substance to be deferred to a committee. We question is stakeholders can have the necessary confidence in the objectivity and ability of any such committee to take such determinations and we fear that its decisions may be challenged. Further, it is an absolute requirement that measures that lead to a financial penalty must be codified (as it is currently done), but there is a question of whether also we require a simple and quick method of temporary suspension of the MPF (possibly at the request of the Strategic Panel) to be

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	<p>codified as well. We suggest that the answer to this question is 'yes'.</p> <p>Before these measures are brought forward, we also need a process of raising disputes against charges (i.e., to review and rework the Market Operator Dispute Section 5 of the Market Terms). As well as covering settlement in the market codes, it should allow a MO Dispute in relation to all charging raised to trading parties by the Market Operator.</p> <p>Finally, we note that if the compensation payments proposal is approved [we articulate our objections to this concept in answer to later questions], then an urgent review will be required of Section 12.1 'Liability of the Market Operator' of the Market Arrangements Code (MAC). As we explain later, this could be an absolute minefield and will place considerable risk on the Market Operator.</p>
Clear Business Water	We believe that performance standards sitting outside of the Codes will allow the PAC to react appropriately and efficiently to emerging market risks and changes in Trading Party performance, as per PS12.
Dŵr Cymru	
Everflow Utilities	Performance standards should sit outside of the codes. This will provide us with much needed flexibility, and the ability to make changes more quickly than we might be able to were these to be codified. This is especially important in our view because over and under performance standards are likely to need a period of calibration to ensure that they are set correctly.
Nottingham City Council	
Pennon Water Services	
Sefton Council	

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Water 2 Business	Sit outside the Codes – this will allow the market to become agile in the case of new & emerging risks, or where a metric is not encouraging a change in behaviour. The current code change process is too long, codifying the performance standards could cause further market frictions.
Water Plus	Whilst Water Plus notionally supports the principle that performance standards should be updated regularly to meet the changing needs and expectations of the market, we do not yet have sufficient confidence that any change process through the PAC and strategic panel would have the level of engagement with the market required to embed changes. For fairness, any significant change in the proposed metrics and standards would require a lead time for participants with enough visibility to allow participants to review and address their own performance.
Waterscan	Performance metrics should be clear and consistent and having these embedded into the market codes will make it clear to all trading parties what the expectations are and there obligations towards them
Wave Utilities	<p>As the market is constantly changing, any MPF reform needs to be agile to these changes. Sitting inside the code would lead to slower development cycles, so if problems were identified it would be slow to make changes to address them, for example, potentially penalising Trading Parties unfairly, or allowing outperformance payments when unjustified until a change was made.</p> <p>There does, however, need to be clear processes and sufficient notice and consultation with trading parties on changes proposed by the PAC and Strategic Panel.</p>
Wholesalers	
Affinity Water	We believe there is an argument for both but have had to select one option due to the form. As alluded to in our response to the previous question there are some standards which we now consider, or at least to some degree, are quite clear and agreed on across most trading parties as fundamental to market operation and these should be included within the codes – unlikely to change hugely in the future.

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	For other performance standards there should be an ability for these to sit outside the codes, providing the flexibility for these to be adapted and improved on as the market continues to evolve and not confining these to a more rigid and potentially slower change process.
Anglian Water	We feel that the framework and standards are of such significance to the market and TPs that it would not be appropriate for these to sit outside the codes.
Dŵr Cymru	
Northumbrian Water	
Portsmouth Water	Performance standards can be more flexible and incentivise trading parties to continue to improve upon performance. In addition, if standards are set too high it also allows the minimum level to be reset quickly. However, changes must be consulted on prior to changes being made.
SES Water	If they are under the PAC then they will not have to go through the board/panel Ofwat for changes as we need to be able to implement changes where needed with PR24 and the roll out of Smart metering some of the performance measures responsibilities will change especially with Smart metering. There will be more flexibility to tweak. This way any changes can be made without having to wait for decisions to be made.
South East Water	We agree that they should be included in the codes. It will give greater transparency to whether they are working and provide an evidence base if change is required or challenges are raised.
South Staffs Water	
South West Water	We support the ability to amend the performance standards as required to create a flexible market performance framework. The process for these changes should be set out in code.
Southern Water	There would be greater flexibility to change performance standards if they need to be changed via the PAC and Strategic Panel. The process of CCC and Ofwat can have lengthy timescales. We would support a more agile process.

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Thames Water	<p>We believe that to maintain full transparency and stable governance that any changes should have the views of all trading parties accounted for under the standard consultation process incorporated within the codes. This will allow full visibility and provide adequate timing for views of those potentially affected to articulate possible issues or inconsistencies with any changes.</p>
United Utilities	<p>Including Performance Standards in the codes provides visibility and notice for trading parties to prepare for and respond to changes.</p> <p>Including...</p> <ul style="list-style-type: none"> • Giving trading parties a higher level of certainty regarding operational priorities and associated resource and activity planning. • Allowing time to amend any systems or reporting functionality. • Providing certainty and continuity of business KPIs, scorecards and for the setting of objectives and bonus schemes. <p>We believe that it should still be the responsibility of the PAC to recommend changes to standards and manage flexibility of the framework.</p>
Wessex Water	<p>We are in support of an agile framework but believe that the core KPIs should be bound by the market codes to ensure a governed and due process approach to change.</p> <p>If a change is critical in terms of its impact to customers, it should be included in the codes to ensure a “must do” approach rather than a “could do” or “should do” approach.</p> <p>KPI changes can result in changes in trading party effort and these may require a degree of planning and internal change therefore a governed and standardised approach can support a smooth and efficient implementation.</p>

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	<p>Equally, trading parties should be consulted on what should be key initiatives to improve the identified issues within the market and the minimum standards set to achieve the best outcome for the customer. A broad perspective from trading parties on critical change should be considered a beneficial approach.</p> <p>We have observed in the past differing approaches to performance and the associated methodologies applied in the absence of clear and concise code drafting therefore we recommend that KPIs are governed by the codes to achieve a consistent and accountable approach.</p> <p>We are less concerned about market indicators / additional metrics being bound by the market codes but would still expect to see a strong approach to governance from both the performance advisory committee and the strategic panel.</p> <p>If this approach is applied, we would look for increased transparency and detailed published rationale for proposed changes to market indicators / additional metrics</p>
Yorkshire Water	<p>Yorkshire Water agree that the process to change and adjust the performance standards should be widely published, well in advance of any changes. The governance aspect itself should be codified while the process of changing/administering can sit outside of this to enable flexibility.</p> <p>We would recommend a codified requirement for PAC to conduct the annual consultation/review process. Our preference would be to leave this to sit with MOSL to review and manage, and we would like Strategic Panel to have overall responsibility for approving changes, following any recommendations by PAC.</p>
Other	
CCW	<p>We believe performance standards should sit outside the Market Codes, and sit with the Performance Assurance Committee in terms of responsibility. This will allow sufficient flexibility, which is one of CCW's key asks of the revised Market Performance Framework (MPF).</p>

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	<p>It is important that the new framework can adapt quickly to changing circumstances to ensure that outcomes for customers are not compromised, particularly where it may be appropriate to revise standards. It is important that trading parties remain strongly incentivised and where this would involve tightening standards as performance changes, we would not want it to be delayed through the code change process.</p> <p>In terms of the proposed governance, we believe the PAC should have a high degree of autonomy to propose changes to standards. While we agree with Strategic Panel having oversight, we would not want the approval process to be too burdensome, as this may negatively impact customers if changes took too long or were overly complex in process. We welcome clarity on Strategic Panel’s role in this process and how this might impact the pace of change.</p>
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2.5 In principle, do you agree with the three financial 'tools' being proposed for the reformed MPF (i.e. penalty charges, outperformance payments and compensation charges/payments)? You will be asked about specific principles later in the survey

Retailers	
ADSM	Yes
Business Stream	Yes
Castle Water	No
Clear Business Water	No
Dŵr Cymru	Yes
Everflow Utilities	Yes

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Nottingham City Council	Yes
Pennon Water Services	Yes
Sefton Council	Yes
Water 2 Business	No
Water Plus	Yes
Waterscan	Yes
Wave Utilities	Yes
Wholesalers	
Affinity Water	No
Anglian Water	No
Dŵr Cymru	Yes
Northumbrian Water	Yes
Portsmouth Water	Yes
SES Water	Yes
South East Water	Yes
South Staffs Water	No
South West Water	No
Southern Water	Yes
Thames Water	No
United Utilities	Yes
Wessex Water	Yes
Yorkshire Water	No

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Other	
CCW	No

2.6 If you wish to explain your answer, please add here

Retailers	
ADSM	
Business Stream	n/a
Castle Water	<p>Castle Water does not agree with the financial tools being proposed, as explained in answers to subsequent questions in our response. Further, Castle Water suggests that it is too early to be asking this question at this time given the lack of substantive detail currently provided. To answer the consultation questions from an informed perspective, parties need details on the level of charges (rather than some questionable principles), KPI thresholds, and confirmation of when charges will go live.</p> <p>Penalties – The penalties as detailed in the consultation documents are inconsistently applied, excessive in scale, and potentially damaging to the market were KPIs and performance thresholds to be applied incorrectly, as we fear highly likely. No caps, larger fines, lack of proper accountability, and when looking at M01 specifically, the penalties are generated at a much higher frequency than the current MPF. What these penalties, and the supporting documentation, have not acknowledged is the natural incentives that exist in the market for retailers to read meters. Reading meters reduces billing issues, settlement misalignments, and avoids customer complaints and rebilling. It is understood and universally acknowledged that retailers have also had to pick up significant costs since market opening because of the large amount of bad data that wholesalers passed over at market opening. Taking more money away from retailers who are trying to deal with those issues is more likely to hinder improved market</p>

performance than incentivise it – especially where the party does not have the necessary control. The success criterion ‘transparent and proportionate’ has been overlooked here and throughout. Related to the above, the success criterion of ‘improve trading party accountability’ has not been met, especially with M01 and for retailers. For example, MOSL has not addressed access issues which are outside of a retailer’s control, and yet these proposals indicate that the fines on those very same meters will significantly increase.

We note that wholesalers are given the option to defer a bilateral for valid reasons if the time limit on that bilateral is not long enough for them to complete the work. The logic is sound. However, there is a glaring imbalance in the market, in which wholesalers have been given a system of self-certification to avoid being penalised for breaching a bilateral SLA. There are many reasons why this is a sensible option, yet retailers have not been afforded the same or a similar ability when it comes to meter reading. Why? It is discriminatory and it fails to apply the same sound logic which applies to wholesaler deferrals to retailers. What this means is that, whilst the level of accountability for retailers has not improved for meter reading, they will be materially worse off financially under the new framework.

The supporting documentation does not include analysis on the potential risks nor unintended consequences of increasing the scope and frequency of penalties so substantially. Improvements in process, data and systems like CMOS have not happened (such as facilitating the housing of skip data centrally, giving retailers a deferral option etc), which means the market does not have any further visibility or insight into access issues.

Referencing some of the eight success criteria:

- Larger penalties may facilitate improved customer outcomes by driving correct behaviour, but they could also impede the retailer’s ability to facilitate improved customer outcomes due to the increased financial burden of uncapped and more frequent fines.

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- Improved trading party accountability for meter reading issues has not happened as explained above, yet they face much bigger penalties for the issues not under their control.
 - The aim of supporting competition has also not been met. When the costs of trading in the NHH market have increased so substantially, it will deter new market entrants compared to today's MPF and could put some of the smaller retailers out of business.
- We return to our concern with the failure to meet the success criteria later, and with the failure of the success criteria which we have previously articulated but been ignored.
- When taking into context the supporting 'principals', Castle Water strongly opposes the penalties as they have been proposed. Again, we articulate our concerns throughout our response.

Compensation Payments – As detailed already, accountability has not been improved sufficiently for compensation payments to be an effective tool to deploy in the MPF, especially for retailers. Even putting that to one side, there remain many issues with this proposal, such that Castle Water does not agree with implementing compensation payments into the new framework.

In page 16 of Section 3 of the supporting documentation, MOSL illustrates compensation payments using M06 (late transfer reads), with the compensation payment calculated per day late per month from 21BD late to 30BD late. However, the documentation does not detail why 21BD has been chosen as the qualifying threshold that triggers compensation payments. Nor does it make clear if this will be the same for all compensation payments across the MPF? Nor does it explain what happens if the task is still not complete after 30BD? Will it continue to be tracked by MOSL?

Section 3, page 15 states, "*The minimum and outstanding performance standards for M04 will be set at 100% at implementation because estimated reads are permitted*". If MOSL believes using estimates means that 100% of all transfer reads should be entered on time for M04, why does that logic not also transfer

to M06? The details in this proposal for compensation payments do not link together, or with other proposals and logic across the new framework.

Other details are missing. For example, will there be an appeals process for disputing a compensation payment that a trading party believes was not their fault? If a trading party can prove the issue that caused a breach of the performance threshold was something out of their control, or the fault of a different trading party, should they not be able to appeal that penalty before it is paid as compensation to a different trading party?

There is also an argument that if the compensated trading party has been impacted enough to deserve a payment, should some or all that compensation not also be passed onto the end customer? The customer is likely to have been negatively impacted in some of those cases. From a customer's perspective, if their Retailer has been compensated for an issue caused by another trading party, one which impacted the customer too, they would surely expect some of that compensation. This would be administratively costly and challenging.

Furthermore, Principle CP2 details that these payments will be between two parties only. In the case of a late transfer read, if the water SPID has a different Retailer from the sewer SPID, despite being as inconvenienced as the water retailer by the late transfer read, they receive no compensation. This seems like an oversight. The underlying logic behind compensation payments is flawed at best. For many of the reasons listed above and more, compensation payments add complexity to a performance framework reform aiming to be 'simple'. This is acutely apparent when referencing CP4 (unit charges must be a 'genuine pre-estimate of loss'). That is an incredibly difficult cost to put a number on, and one which is likely to be disputable in at least some cases. Trying to produce an average cost for this is complex, when considering the number of trading parties and the variations between them.

In our strongly held view, compensation payments should not be part of the new MPF. It is an unnecessarily complex and costly concept to seek to introduce, when there has been no evidence presented thus far showing that this 'financial tool' will have any impact on improving the market.

Outperformance Payments – Castle Water opposes the use of outperformance payments. It is an unnecessary concept, without merit. The obligations in the codes are the rules by which all trading parties must operate. Trading parties must meet those obligations to maintain their licence. They are mandatory obligations, and therefore there is no valid concept of outperformance. There is no logic in rewarding trading parties for meeting those obligations. If the market codes are written in a way that does not allow trading parties to meet those obligations, then a review of the code is needed alongside regular audits to make sure the codes are being followed. This would be a more cost effective and focussed approach to take, with meaningful output.

What outperformance payments do bring into focus is a fundamental principal of this new MPF model is to generate money through penalties. This delivers on one of the Strategic Panel's priorities that it "*will agree the size of, and set the focus for, the Market Improvement Fund to contribute to our key market outcomes and priorities*". The supporting documentation details that penalties will be allocated to the Market Improvement Fund first, and only the excess will then go to outperformance payments. Hence, there is no guarantee or certainty that there will be money to make outperformance payments and therefore no incentive against which a trading party can act.

It also means that the KPI and performance thresholds will have to be set at a level that allows MOSL to collect enough penalties to cover the MIF and (probably) outperformance payments. That is, the

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	<p>'minimum standard' will need to be artificially raised to generate the necessary funding, which will just add costs to trading parties. It is an inefficient process of taxation.</p> <p>Hence, rather than setting those thresholds based on what the market thinks is good performance, this model requires the thresholds to be determined based on finances. It relies upon setting the minimum standard threshold at a level where enough trading parties are being penalised to fund the MIF and outperformance payments, without which this somewhat debatable incentive evaporates.</p>
Clear Business Water	<p>We operate in several different markets offering essential utility services including gas and electricity and telecoms. The concept of compensation payments being made to other trading parties for performance failures does not, to our knowledge, exist in these markets.</p> <p>The purpose of the MPF is to incentivise Trading Parties to improve their performance for the benefit of customers and the market overall. We question whether compensation payments to other trading parties are necessary for this on top of other incentives proposed under the revised MPF.</p>
Dŵr Cymru	
Everflow Utilities	
Nottingham City Council	
Pennon Water Services	<p>As stated previously we agree in principle with the tools being proposed but we have concerns over the application. the interventions raise more questions around proportionality, fairness, and materiality and in terms of the tools, we believe that some of the tools could be seen as being anti-competitive in their nature and there seems to be an overuse of financial rewards/penalties without fully understanding the implications - particularly the use of compensation payments. Specific comments below:</p> <p>Outperformance payments – concept reflects wholesale regulatory framework monitored by Ofwat and therefore effectively being mandated onto retailers through the back door. Given that we assume that</p>

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this is very much a done deal, and therefore not something we can influence in practice, we would comment that an outperformance regime should not be such that it encourages retailers to cherry pick areas of compliance to focus on. It can't be set such that retailers can game the system by maintaining poor performance in one area because they can off-set it financially through outperformance payments in another.

Compensation charges – we understand that these are effectively 'liquidated damages' agreeing in advance the amount of damages/compensation due to the retailer as a consequence of a wholesaler's failure to comply with the various time limits etc. set out in the Codes and also obscured by the bilateral hub. On that point, we'd note that many of these requirements were originally easily located in the Wholesale Retail Code documents themselves and therefore publicly available. Such obligations for compliance have subsequently been moved onto the bilateral hub obscuring key elements of the Codes from anyone that does not have CMOS access. This is fundamentally wrong.

We have not had sufficient time to consider the relationship between the drafting of the Codes and the Wholesale Retail Contract between retailers and wholesalers which effectively gives those parties the ability to sue each other for damages. The proposed solution for arriving at a genuine pre-estimate of loss (being the definition for a contractual liquidated damages calculation) sounds appropriate in many respects however we are currently calculating our losses as a consequence of the 16 month restriction on back billing where the failure to provide a customer with an accurate bill is a direct consequence of wholesaler failure to repair/replace a meter asset in accordance with the Codes.

How do you propose dealing with the written off sums retailers are then prevented from recovering under the 16 month back billing rule – surely you are not attempting to restrict a retailers right to recover those charges from the wholesaler for a clear breach of Codes and therefore contract? Are you suggesting that retailers cannot bring separate actions against the wholesaler for these direct losses as

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	evidenced by the SKIP codes. This needs more thought because it should be taken into account in any genuine pre-estimate of loss. If the wholesaler fails it's obligations to fix meter assets and retailers are prevented from recovering the consumption charges that wholesalers have been paid for, how will you estimate that?
Sefton Council	
Water 2 Business	No – specifically compensation payments and the governance of these. Monthly compensation payments will not work, particularly where there are fluctuations in performance, it will not be a true reflection of how a trading party is performing. Compensation payments should be paid to the impacted customer; however, it is unclear how this will be monitored to ensure that the customer receives the payments, in the case of switched out customers, the retailer may never be able to return the funds to the correct beneficiary.
Water Plus	n/a
Waterscan	We have some concerns about how a compensation charge will be calculated fairly and consistently, and worry that this may be subject to extensive challenges, however in principle it makes sense.
Wave Utilities	<p>In principle Wave agrees with the three tools, but further work needs to be done in their design and implementation. We are unsure that uncapped penalties in tandem with compensation payments will provide the desired outcome. These being levied on retailers with difficult to read portfolios where resolution is often out of their control could have the opposite effect.</p> <p>Instead of encouraging retailers to improve performance it may encourage retailers to attempt to offload troublesome customer portfolios and become very cautious at the bidding stage. Some customer portfolios will tip the scale where the associated risk of penalty and compensation costs will outweigh the benefits, leaving some customers in limbo and/or stuck with their current retailer. On the flip side, some retailers may be stuck with difficult customer portfolios and in a vicious circle of paying penalties and compensation monthly.</p>

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	Trading Parties who are constantly paying out on uncapped penalties and compensation may not have the funding to address the issues to improve the situation, therefore continuing to levy charges on them is only going to make matters worse.
Wholesalers	
Affinity Water	<p>We do not agree that compensation payments should play a part in the financial tools levied if they are also going to be levied against metrics selected to be within BR-MeX.</p> <p>Metrics selected for BR-MeX should not form part of additional reward/penalties against wholesalers within the MPF.</p>
Anglian Water	We don't believe that compensation charges/payments should be part of the new performance regime. In particular, where these are proposed for M10 and M17, the concept does not take into account the fact that there are many reasons that some bilateral requests are not completed with SLAs or are deferred. We expand further on this point in section 7.9.
Dŵr Cymru	
Northumbrian Water	
Portsmouth Water	We agree the three financial tools are suitable. As the MPF matures it would be a good opportunity to see if there is scope for retailer to wholesaler compensation payments also.
SES Water	
South East Water	<p>We broadly agree with penalties and outperformance but have concerns about compensation as not clear what compensation is for.</p> <p>We question the need for compensation payments and the fairness of only applying in the payment to retailers. If Retailer action impacts supply experience, should the wholesaler not be compensated for rectifying if needed? It's unlikely in terms of possibility but feels unbalanced.</p>

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South Staffs Water	
South West Water	Our preference is for penalty charges and outperformance payments caveated as above. Compensatory payments are case-by-case and perhaps better managed between Wholesaler/Retailer with payments made where required.
Southern Water	Having three financial tools is a sensible/practical number, simplicity in the MPF is paramount.
Thames Water	<p>We do not believe that compensation payments are a suitable tool to incentivise performance of a trading party. There is the possibility that a TP who could benefit from a compensation payment would not operate in a collaborative manner when requesting work to be undertaken. This is a perverse incentive to working together for the benefit of customers. There will also need to be objective governance around justifying if a compensation payment is required, and at what level it should be.</p> <p>Current proposals for indicative calculations create a situation where compensation payments may be due where a retailer has not actually incurred any direct or indirect costs. This will only add to the complexity and costs for the market and may risk legal challenges.</p> <p>The wider legal framework already allows for any trading party to seek legal redress from another</p>
United Utilities	<p>We believe, if used appropriately, the proposed financial tools can deliver better customer outcomes and help promote positive trading party behaviour.</p> <p>Care must be taken to ensure that KPIs are fair measures of a trading parties performance and accountabilities and that trading parties are not penalised where performance is impacted by factors outside of their reasonable control for example regional differences in premises occupancy rates.</p> <p>We do not agree that wholesalers should have to pay both performance charges and compensation payments for a single failure – we consider this to be double jeopardy. KPI failures should rightly incur a financial penalty which should be a single penalty and thereafter a decision should be made if this should be made to MOSL or, as a compensation payment to another trading party.</p>

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	<p>There appears to be a lack of certainty around “outstanding” performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. This suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they will need certainty of financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.</p>
Wessex Water	<p>We agree that the three financial tools are appropriate to be deployed across the framework to create the correct incentives to deliver the outcomes. We have indicated in our further responses as to the appropriate deployment.</p>
Yorkshire Water	<p>We have serious concerns regarding Financial Compensation. As a new tool, this raises a number of questions, including why this would not be provided to wholesalers from retailers in instances of poor behaviour. As it stands, this also lacks any sort of challenge or review process to monitor and allow for errors. Trading parties would have to build in administration costs if this activity were to take place monthly, which would be a significant resource allocation to manage; this cost is not something we currently charge for and would have to be costed out and quantified well in advance, potentially through amendments to the price controls.</p> <p>With this in mind, we would propose that while the reporting under these new KPIs is conducted monthly, the financial incentives be reconciled on an annual basis. Doing this would not only support better forecasting for trading parties, but limit the administrative burden on all participants to a single set of invoices at one point in the year instead of monthly. This reconciliation would take into account all monthly penalties and overperformance payments, converting them into a single invoice rather than 12.</p> <p>In our view, compensation should also have higher burden of evidence than the R-MeX process. We feel that if the market performs as it should then the need for compensation payments ought to be minimal,</p>

	<p>however the process to prove detriment and the need for a compensation payment should have a stringent requirement for evidence, as well as a minimum threshold to ensure payments cover administrative costs to deliver. More than likely this will generate market frictions due to disputes and potential inconsistent behaviour between trading parties as to whether to apply for compensation or not.</p> <p>We are generally happy with Penalty Charges/Overperformance Payments. These should be time-locked so that historic failures are not penalised (i.e historic data inaccuracies causing a modern failing).</p>
Other	
CCW	<p>No, we do not agree with the three financial tools. We strongly support the inclusion of penalty charges in the reformed MPF, we are extremely cautious of outperformance payments and would only expect these to be used in very limited circumstances, and we do not believe compensation payments are needed as a financial tool in the MPF.</p> <p>Once penalty charges are set at a level that genuinely incentivises improved performance, we believe this should result in trading parties improving in key areas, such as meter reading/asset maintenance, and customer data. Complaints relating to billing and charges and administration account for the majority of business customer complaints to CCW. Billing and charges complaints accounted for 78% of our complaints about retailers in 2023-24. Complaints of this nature should reduce if performance in these areas improves through strengthened protections.</p> <p>We believe the inclusion of outperformance payments should only be in very limited circumstances, if at all, particularly as the basic levels of customer service are still not being delivered for all business customers seven years on from the market being fully opened to businesses in England. Any payments of this nature need to be carefully designed and contingent on other incentives to improve performance. We do not want to see trading parties rewarded for simply performing well in their core functions, or for lesser degrees of failure. We welcome MOSL recognising this in the design principles document of the</p>

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	<p>consultation. For performance to be rewarded, the trading party needs to be a true outlier in terms of exceptional performance, and clear and tangible benefits for customers need to have been delivered. In addition, we strongly believe that there should be no 'reward only' KPIs, as this approach is inconsistent with the ODI model used in Ofwat's price controls for water companies. It is important to drive improvements for customers, using strong incentives.</p> <p>We do not believe compensation payments are needed as a financial tool in the MPF, and we question their inclusion. The purpose of the revised MPF should be to incentivise trading parties to deliver good outcomes for customers, and improve poor performance, rather than providing a mechanism for an aggrieved party to be reimbursed. While this might incentivise wholesalers to improve their service to retailers in order to avoid paying compensation, there are already other proposed intervention tools to do this. Customers who are impacted by poor performance will not necessarily benefit from their retailer being compensated either. It could also be seen as another way to reimburse charges to trading parties. Therefore, we do not support this tool being included in the revised MPF.</p>
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1.7 In principle, do you agree with the proposal not to have a cap on penalty charges and compensation payments

Retailers	
ADSM	No
Business Stream	Yes
Castle Water	No
Clear Business Water	No

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of the market for the benefit of business water customers**

Dŵr Cymru	No
Everflow Utilities	No
Nottingham City Council	Yes
Pennon Water Services	No
Sefton Council	Yes
Water 2 Business	Yes
Water Plus	No
Waterscan	Yes
Wave Utilities	No
Wholesalers	
Affinity Water	Yes
Anglian Water	No
Dŵr Cymru	Yes
Northumbrian Water	No
Portsmouth Water	Yes
SES Water	Yes
South East Water	No
South Staffs Water	No
South West Water	No
Southern Water	No
Thames Water	Yes
Wessex Water	Yes

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United Utilities	No
Yorkshire Water	No
Other	
CCW	Yes

1.8 If you wish to explain your answer, please add here

Retailers	
ADSM	
Business Stream	In principle, we agree that there should not be a cap on penalty charges. However, as performance standards and charges are yet to be agreed upon and set, care needs to be exercised to ensure that the reformed MPF continues to satisfy the success criteria, most noticeably supporting competition, be proportionate and value for money.
Castle Water	<p>The MPF reform proposals have in many cases significantly increased the frequency by which a trading party will be penalised in comparison with today’s MPF. If the proposed charges went live tomorrow, all trading parties would be paying considerably more in charges than they do today. Consequently, the PAC will need to carefully consider and test the KPI thresholds and performance targets to make sure that those charges are not overly excessive once the new MPF goes live. Is this a reasonable ask, and is it appropriate that the PAC is given this responsibility?</p> <p>As we explained in a previous answer, we think that this needs to be codified in the market codes, or as a minimum some protections provided therein. Capping charges, at least to begin with, seems like a prudent and more sensible approach. Much like the KPIs, consideration could be given to allowing the</p>

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	<p>PAC some authority to vary the cap over time, or remove it altogether, but certainly not before the second half of the MPF has been delivered and we have confidence that it is working as intended. Having a cap on charges is a safeguard against unintended consequences and a safety net for implementing such a large increase in penalty charges.</p> <p>For example, if the MPF had gone live last month and it was found that penalties for a specific performance measure were extremely excessive, the only alternative to adjusting the charging cap would be to adjust the performance standard itself (subject to the unhelpful restrictions imposed by principles such as PC8). Adjusting performance standards to accommodate and resolve issues with the level of charges attached to that performance activity seems counterintuitive to the overall goals of the new MPF.</p> <p>Of greater concern is that to propose no cap on charges from Day 1 is a further indication that the proposed MPF model is primarily a revenue generation model, rather than one that focuses on true performance. This is disappointing and of concern, but in the case of not having a cap on penalty charges, it seems reckless and an unnecessary risk to take. Provision of a cap is an absolute must have.</p>
<p>Clear Business Water</p>	<p>As outlined in our comments on PC1 and PC4 below, not all activities monitored under the revised MPF are within a Trading Party's control.</p> <p>All Trading Parties strive to meet achieve their activities within the SLAs of the current MPF/Codes. Where these activities do not meet the required SLA, this is not the desired outcome for the Trading Party or customer and in many cases indicates a larger issue that requires resolution, that cannot necessarily be resolved through a B5 or C1 bilateral request.</p> <p>Removing the cap on penalty charges risks leaving Trading Parties exposed to perpetual penalty charges that they cannot prevent unless they accept a significant cost (for example, meter relocation or AMR</p>

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	<p>installation) or leaves them at the mercy of the wholesaler taking action in line with their AMP to install a smart meter, which could take years.</p>
Dŵr Cymru	<p>It is difficult to ascertain the level of financial penalties, charges or outperformance payments and so whether this could potentially impact on any trading party financial viability. We believe there maybe, some unintended consequences should a non-performing trading party fail (or be unable) to pay. This also has potential to impact the available funds for overperformance payments to good performing trading parties in the same grouping. We anticipate this is most likely in the retailer cohort.</p>
Everflow Utilities	<p>In principle, we can agree with removing the cap on penalties, but until we have a clear understanding of the financial value of penalty charges and standards, we cannot come to a definitive view on what is realistic under the future framework. We can only base our decision on the current framework-- for which we do agree that removing the cap on penalties would be a positive change-- but since we don't yet have visibility of the future framework standards and charge values it is difficult to agree with certainty.</p> <p>It is important that we can strike a reasonable balance through the MPF between effectively incentivising performance, and not making it commercially difficult or impossible to improve performance or enter the NHH water market. A cap on penalties can make it more feasible for parties to control and forecast costs to business-- this is particularly important for new entrants. Without an understanding of the financial implications of such a decision, making what is a decision that has wide-reaching impacts on financial performance of trading parties is not ultimately possible.</p> <p>Whether the cap should be totally removed in our view depends on how regularly parties hit or exceed their caps under the current framework, as well as the scale of increase in penalty charge amounts from the current framework to the new one. If most parties are often or easily reaching their caps, then there is a stronger incentive to make a change here—however if this is not the case, we have to question the proportionality of this decision. Furthermore, we agree with the principle (PC8) that the penalty's cost</p>

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	<p>must exceed the cost of improvement—but realising this goal might mean that totally removing the cap on penalties is an unnecessary commercial risk to introduce into the new framework.</p> <p>We believe that the risks to commercial viability may outweigh the benefits of completely removing the cap on penalties; however, we would support an increase to the cap on penalties that is appropriately calibrated according to a) the scale of increase in penalty charges from the old framework to the new one, and b) the extent to which it can be demonstrated that trading parties are currently relying on the current penalty cap to avoid making improvements.</p>
Nottingham City Council	
Pennon Water Services	<p>Removing a cap on penalty charges is fundamentally the wrong approach. Almost everything we can think of in all sectors other than damages to Network Rail is capped at some level. You should be considering a better drafted cap mechanism, not simply doing away with it. We are not confident that the correct governance has been applied allowing you to put unlimited penalties into the market. It's highly unusual to see uncapped penalties in any area and is another disincentive and barrier to entry.</p>
Sefton Council	<p>I think in the past, compensation and penalties haven't been taken seriously</p>
Water 2 Business	<p>Yes – this may encourage trading parties to resolve issues sooner if the cap is removed, however caution should be given to the financial impact this will have on trading parties, this could have an unexpected consequence and be a risk to the market. It may be worthwhile therefore reviewing the data as it stands currently, for each trading party, to allow parties to plan accordingly.</p>
Water Plus	<p>The purpose of the market performance standards should be to incentivise improved performance, and not as a significant cost barrier to participation in the market. Depending on the level of individual incentives set, uncapped charges could present a risk that a dip in performance could lead to a negative financial spiral for market participants that prevents a participant from being able to address the underlying issues due to lack of funding.</p>

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	<p>Whilst we acknowledge that a cap on penalties can weaken the individual incentives for participants exceeding the cap, in such circumstances a more bespoke approach may be more appropriate to understand and address the underlying issues. This issue remains particularly relevant in advance of understanding the specific levels of charging.</p>
Waterscan	<p>A cap could mean that any trading party may not be incentivised to change behaviour if the cost to do so is greater than the capped charges, so having no cap would remove the potential for this.</p>
Wave Utilities	<p>Wave understands that having a cap can drive the wrong behaviour if it is more cost effective to pay up to the cap each month as a cheaper option than addressing the issues. However, we do not think a complete removal of cap is the right approach.</p> <p>As explained above, where a TP is struggling and is say under an improvement plan, without a cap or reduced or suspended Penalty Charges then there may not be an opportunity for the TP to recover so removing the cap and levying monthly charges could have the opposite effect to the desired outcome and reduce funds available to improve performance. For Retailers, perhaps there should be other measures such as no further customer acquisitions during the improvement plan period?</p> <p>At this point, we don't think that all the proposals sufficiently address areas that are out of the Retailer's control. For example, Retailers, and Associated Retailers in particular, will be penalised where they are working with bad data or have difficult customer portfolios with no way to resolve issues that are outside of their control, yet will be charged for these month on month, not only via penalty but also compensation payments. Penalty Charges and Compensation Payments feels a little like double jeopardy so when combined should these be capped?</p> <p>Examples of situations outside of Retailer control include where customers refuse access. don't provide TE meter reads or internal meters are in vacant premises. Wholesalers and customers need to be held to</p>

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	<p>account for bad market data or refusing access without retailers being penalised. More work needs to be done on this.</p> <p>A possible solution could be to incrementally increase the cap as the change in MPF shows desired market improvements.</p> <p>There should also be a Performance Penalty Relief process for exceptional circumstances that impact a Trading Party outside the control of the TP, e.g. Crowdstrike / cybercrime event etc.</p>
Wholesalers	
Affinity Water	<p>However, we are concerned that the level of charges in their design may unintentionally impact smaller trading parties or deter new entrants from entering the market. This could prevent them from establishing themselves without attracting regular penalties. Smaller trading parties are particularly vulnerable to the impact of unlimited penalties, which can threaten their financial stability and discourage market participation.</p> <p>Under the current design for of some of the metrics we would rather the time allowed under the metric is less punitive – i.e. gives more time for trading parties to resolve issues (i.e. M01) then put them into potential charge territory.</p>
Anglian Water	<p>We are supportive of the principle that there should not be caps as they may act as a disincentive in some cases.</p> <p>However, we believe that a cap should exist, albeit at a high level. This is to allow protection from impact of catastrophic events such as system failure, or Force Majeure events – Covid-19 being an example of this. The cap would provide protection from the potentially damaging financial impact on a trading party in these type of event , but not act as protection for poor performance.</p>
Dŵr Cymru	<p>There is little incentivisation for a trading party to improve performance on failures above the cap.</p>

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Northumbrian Water	Concerns that this may drive incorrect behaviour
Portsmouth Water	We feel capping the penalty charges and compensation payments disincentives trading parties.
SES Water	Not capping will drive Performance - not knowing know exactly what potentially the penalty payments and compensation payments will look, also there has not been any decisions on how this looks yet this is something that needs to be re-visited once there is more vision on this.
South East Water	We think there should be a cap but we acknowledge that it should be high enough to encourage better performance.
South Staffs Water	
South West Water	We believe that the MPF including the penalty charge amounts should incentivise the correct behaviours in the market. With no cap on penalty charges, there's a potential risk to smaller trading parties and their ability to financially operate within the market. Whilst we don't support compensation payments, if implemented, we believe these should also be capped.
Southern Water	We appreciate the decision to not cap compensation payments to encourage continued improvements, however, wholesalers will need to factor into their budgets a £ value for any penalties and compensation that they may incur. Without thresholds this will be difficult to plan in. Also having a cap ensures that the penalty is proportionate to the level of failure caused to the inconvenienced party.
Thames Water	<p>Taking into account our answer to Q 2.5 and 2.6, we disagree with compensation payments so our response here is regarding penalty payments only. We believe that the current cap has disincentivized trading parties to improve performance once they have hit a cap as there are no further penalties for failing above that cap.</p> <p>This comment should be taken in the context that penalties are set at a proportionate level to incentivise TPs to do the right things to produce positive outcomes for customers and an efficient market (so keeping costs down to customers), but not be set in a way that would distort the market or act as a brake to the investment available that TPs would make in service improvement.</p>

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<p>United Utilities</p>	<p>Having a cap on penalty charges protects trading parties from unexpected one-off issues such as a systems outage preventing meter readings being submitted during a particular month.</p> <p>If trading parties are regularly hitting the cap then the level of the cap can be reviewed. In addition, for trading parties consistently hitting the cap PAC can use other measures to help manage performance, trading parties can have their licence removed for poor performance.</p> <p>BR-MeX, and it's associated risk and reward range, largely addresses the concerns regarding a need for meaningful financial incentives associated with wholesaler performance. MPF does not need to be materially different overall to what it is today – the key to driving performance is in setting the right KPIs and performance levels and having penalties that are demonstrated to drive focus on and improvements in performance. We have seen real improvements where measures and targets are set appropriately, managed closely and trading parties held to account.</p>
<p>Wessex Water</p>	<p>We are in support of caps being removed that diminish the financial incentives in the current framework by reducing the average charge per failure paid when the cap has been reached.</p> <p>However, we do recognise that there may be a requirement for trading parties to understand their maximum exposure.</p> <p>If caps to financial incentives were to exist, we would expect other tools to be appropriately applied to ensure the incentives are maintained to the same effect.</p> <p>We would suggest that if capped limits were reached, this should be a indication of significant underperformance that requires a robust intervention and resolve</p>

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Yorkshire Water	We are interested to know what evidence exists to prove that this is necessary; how many trading parties would have exceeded the cap historically? Yorkshire Water would like some data to be produced that clearly demonstrates this and any benefits before being able to comment fully.
Other	
CCW	Yes, we strongly agree with the proposal not to have a cap on penalty charges. The existence of a penalty cap is one of our main criticisms of the current MPF, as trading parties are insufficiently incentivised to address poor performance once the cap is reached. This also allows service levels to further deteriorate once a cap is reach. This has a negative impact on customers. We want to see a cap on penalty charges removed as part of a revised MPF. In addition, for the reasons provided in response to Question 2.6, we also do not believe compensation payments are needed in the revised MPF.

1.9 Overall, to what extent do you support the principles for financial tools and performance standards?

Retailers	
ADSM	Somewhat
Business Stream	Somewhat
Castle Water	Not at all
Clear Business Water	Somewhat
Dŵr Cymru	Largely
Everflow Utilities	Largely
Nottingham City Council	Largely
Pennon Water Services	Somewhat

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Sefton Council	Largely
Water 2 Business	Largely
Water Plus	Somewhat
Waterscan	Largely
Wave Utilities	Largely
Wholesalers	
Affinity Water	Somewhat
Anglian Water	Largely
Dŵr Cymru	Somewhat
Northumbrian Water	Largely
Portsmouth Water	Largely
SES Water	Largely
South East Water	Largely
South Staffs Water	Largely
South West Water	Somewhat
Southern Water	Largely
Thames Water	Somewhat
United Utilities	Largely
Wessex Water	Largely
Yorkshire Water	Somewhat
Other	
CCW	Somewhat

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1.10 If you wish to explain your answer, please add here

Retailers	
ADSM	
Business Stream	<p>We are supportive of having principles for financial tools and performance standards. However, any principles must be consistent and compatible with the regulatory regime (success criteria 4). Therefore, they should recognise that wholesalers are monopolies without competitive pressure while retailers are already incentivised through competition.</p> <p>Ofwat’s Review of Incumbent Company Support for Effective Markets highlighted the need for incumbent water companies to actively support the non-household market for it to work well and deliver improved outcomes for customers, society, and the environment. Ofwat is incentivising this by the introduction of BR-MeX in PR24. It will be a powerful ODI for wholesalers, driving positive behaviours to improve and strengthen the market. However, due to the nature of ODIs, BR-MeX can only focus on a few key areas. Customers, trading parties, the regulator and other interested parties are looking to the reformed MPF to dovetail with BR-MeX and cover other areas with equally strong incentivisation.</p> <p>These areas should include getting the basics right and dealing with operational issues such as improving market data, reducing market complexity, and investing in critical metering assets. However, now that the metrics and tools have been mapped, we are concerned that given they are monopolies, the proposals will not act as a strong enough incentive for wholesalers to deliver improved customer outcomes. For example, there is only one metric assessing the accuracy of asset data in CMOS (based on GIS coordinates (M14)) and this has no proposed financial penalty.</p> <p>In contrast to wholesalers, retailers already have natural incentives to identify occupancy and issue</p>

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accurate bills, including name and consumption data to ensure that customers pay their bills. Therefore, even without a market performance framework, retailers would still need to trace occupiers, obtain accurate customer names, get the VAT status correct and read all meters.

It was interesting to note that MOSL has proposed in PC6 that there should be no 'double jeopardy' and therefore there wouldn't be financial penalties for wholesalers in the MPF if the metric is adopted for BR-MeX. However, there appears to be no consideration of 'double jeopardy' for retailers with their natural incentives, as following the proposed mapping there appears to be a disproportionate number of financial charges on them. For example, while there was no proposed financial penalty for M14 (asset data in CMOS) there is a proposal for a financial penalty on retailers if they fail to have complete and accurate customer names and SIC codes in CMOS.

While we agree any charge should exceed the cost of addressing the performance issue (PC8) we have concerns regarding the use of average market costs as these vary markedly depending on the wholesale region. The impact of the incentive is likely to be considerably diluted in some regions and of no impact at all in others. This means that in practice this principle will not be met for any trading party incurring higher than average operational charges. Therefore, our preference is that the average market cost is not used and that another calculation is considered that takes into account regional variances. As a consequence, we do not agree with some of the elements of the PC3 proposals.

Furthermore, when calculating the cost of addressing the performance issue, consideration will have to be given to how the performance issue will be addressed. By way of an example, for M02 the cost to a wholesaler obtaining a smart meter read will be minimal. However, should a smart meter fail to the extent that it is no longer providing consumption data, the wholesaler will need to obtain a visual read and fix the meter. Therefore, for PC8 to be achieved the level of the charge can't be set at the average cost of a smart meter read but must exceed both the cost of repair/replacement and obtaining a visual

	<p>read.</p> <p>Finally, as minimum standards should be set at achievable levels, with outstanding standards reflecting above-average performance, the minimum and outperformance standards cannot be set at the same level as this will not achieve the desired outcome as it will dilute the effectiveness of the incentive.</p>
<p>Castle Water</p>	<p>First, we refer MOSL to our answer to Question 2.2. Second, to illustrate why we have answered 'not at all', we note that:</p> <ul style="list-style-type: none"> • There are far too many principles – 47 in total, although some are not unique. • Many of the principles are not true 'principles' - i.e., not things that one would hold sacrosanct. • There are inherent conflicts between principles – as we explained in our answer to Question 2.2 where Principle PS2 'The minimum and outstanding performance standards can be the same' is incompatible with Principle OP1, that outperformance payments are 'designed to reward exceptional performance, not business as usual'. • The multitude of principles put further pressure on our new performance framework meeting the success criteria of 'simplicity', 'value for money', and 'enduring and agile'. Further, these principles risk the achievement of 'improved customer outcomes' and 'supporting competition'. They pose a threat to retailers, to the customers they serve, and to a flourishing market. • It is not clear how the principles have been determined and whether the principles have driven the financial tools or whether the principles have been created to fit the financial tools.

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- Many of the principles are not “good” principles. They may suit a particular agenda but are they suited to designing an effective, workable performance framework? In many cases we would argue not, as is illustrated in some of our answers to other questions.
- For example, consider Principle PC4 ‘Will not be capped’. Identically, CP7. Why would anyone box themselves in to ruling out the application of a cap – be that temporary, as an emergency measure, or enduring? It would be prudent to leave open the option of a cap – one can always determine to set it high, so as not to bite. But only when one has confidence, from which now we are a million miles removed. If it proves necessary or appropriate to impose a cap, the option is there and it could prove extremely valuable, as we predict might be the case once the penalty charges are determined. As a principle, to rule out the application of a cap, is foolhardy at best and ill-advised. The explanation offered is that once a cap is hit, parties have no incentive to improve. However, this is flawed on multiple fronts and fails to recognise not only other incentives which are acknowledged to exist, but also other elements of the new performance regime, such as peer reporting, audits, etc. The argument given is spurious, all to put in place limitless charges which later could prove highly problematic and damaging to our market. Without a cap, the PAC or Ofwat (via the change process) may be forced to consider significant reduction to the level of penalty charges to stop trading parties haemorrhaging money. We question whether reducing a penalty from say £10+ to under £3 – as is likely going to prove necessary based on our initial modelling – will be palatable optically to some stakeholders. Any emergency reduction in the level of penalty charges may not be appropriate to apply across the board, but because of equity, it will need to apply to all. So, not ideal. Further, Principle PC8 ‘Should exceed the cost of addressing the performance issue’ will limit the ability to reduce penalty charges to levels that one might need if a penalty regime without any cap proves too penal to be affordable by trading parties. This could be carnage, the modelling appears to be non-existent, and yet MOSL has imposed a risky principle that there shall be no cap. As we note,

foolhardy and ill-advised. We recommend an urgent re-think.

- PC4 also provides an example of the tunnel-vision applied to inventing the principles and to designing the resulting financial tools. We would suggest that in addition to the point made in the previous bullet point that a cap is prudent and may be necessary to apply, it can also prove to be powerful. If trading parties regularly hit the cap, then this should be reported and investigated. It might reveal an issue with a trading party's performance that it needs to address, but likely needs to be given time rather than continually hit with penalties that it cannot mitigate in the short-term. Or it might reveal an issue with the market that requires wider action to address via action or guidance across the market, in the redesign of the codes, or in regulation. The cap can serve multiple purposes, but MOSL in its wisdom and based on flawed logic, has determined otherwise. We do not understand MOSL's thinking. Principles can guide, but if we choose the wrong principles, they can be dangerous and constraining, acting as a millstone around our necks. Hence, our assessment that these principles cannot be supported.

- If we can illustrate by reference to Castle Water, where its performance was once operating at the cap. According to MOSL's logic in the design of its principles, we would have no incentive to seek to improve. But, we did improve nevertheless (given the powerful natural incentives), and today Castle Water's MPS performance is among the very best retailers in the market. The cap didn't stop us from improving. The level of the cap still hit us hard, especially given the limited margins in retail and the cost to serve. That said, it did offer some protection whilst we took action to address issues. Protection that this new framework will not offer. One such example of the actions we took was to strike new meter reading agreements with a range of providers. However, many of these actions were denied to us in the short term as we were locked into legacy arrangements. Removing the cap would have made no difference to performance outcomes nor timescales, but it would have put at risk our business and ability to take/fund the necessary

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	<p>actions when we were able.</p> <ul style="list-style-type: none"> • As we explain in our answers to some of the other related questions, there is no case for 'outperformance payments' where a market performance regime is designed to measure and report the extent to which market participants comply with key obligations under the market codes that are in their control. An obligation is an obligation. Hence, the concept of 'outperformance' is meaningless, and no reward is warranted. Despite this inconvenient truth, MOSL has determined to invent nine principles to support its design of an outperformance payment regime. But consider Principle OP1 that outperformance payments 'are designed to reward exceptional performance, not business as usual'. There is an inherent conflict in that statement, when performing to meet an obligation can only be 'business as usual'.
Clear Business Water	
Dŵr Cymru	<p>Whilst agreeing with the financial tools and performance standards, we do note that they are established to drive an improved customer experience but there is no reference to how (or if) a customer could also benefit, especially from poor performance. We recognise the GSS payments are an accepted avenue for customers to be compensated but has any consideration been given to whether these should dovetail – does MOSL have a view on this?</p> <p>Furthermore, compensation to retailers may not be sufficient to cover loss of business i.e. customer switching (especially for larger margin business) when a retailer is clearly not at fault.</p>
Everflow Utilities	<p>Overall, we support the proposed principles, but there are some considerations to address. We believe that PS12 might require an additional principle that acts as a counterbalance, in order to prevent unnecessary or unreasonable increases in performance standards. A suggestion here is to implement an annual constraint on how much these standards can change.</p>

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	Further, we believe it is crucial that performance standards are set based on realistic expectations—which must necessarily be rooted in real market data. This is not addressed by any of the proposed principles. Finally, we are unable to fully support the complete removal of the penalty cap at this stage of the reform process (as supported by PC4). We expand on our reasons for this in our response above to Q2.8.
Nottingham City Council	
Pennon Water Services	
Sefton Council	
Water 2 Business	
Water Plus	Whilst overall we are supportive of the principles suggested, we remain concerned regarding the potential removal of the cap without significant further industry consultation.
Waterscan	The financial tools and performance standards make sense on paper but would like to see them in practice as implementation may be tricky.
Wave Utilities	<p>We agree with accountability for the performance of all Trading parties and the principle of the new tool to allow for fairness, but we do think there is more work to be done around accountability and control and ownership of the metrics.</p> <p>For example, where compensation payments are made by a retailer to another retailer, and the core issue is bad address data, the wholesaler is not being similarly treated and does not have to compensate the retailer. Some outstanding bilateral activities (C1 and B5) are being taken into account for LUMS, however, more data issues need to be accounted for to either reduce the penalties and compensation payments or counteracted with similar compensation payments.</p>
Wholesalers	
Affinity Water	

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Anglian Water	<p>We don't believe there should be Wholesaler outperformance payments due to the nature of being a regulated monopoly company. We agree that these are more appropriate in relation to Retailer activities and provides a good incentive to drive better customer service.</p> <p>The other area we are not in agreement with is compensation payments.</p>
Dŵr Cymru	see answer to 2.2
Northumbrian Water	
Portsmouth Water	Whilst we support the principles for financial tools and performance standards, an appropriate financial amount must be applied which is not disproportionate to smaller or larger trading parties.
SES Water	<p>We need MPF to be less complicated and whilst I attend the PAG and all the other calls surrounding the MPF – It can get confusing.</p> <p>I have concerns on how the metrics will be reported – I think the failure should be from the day after the SLA has failed rather when the bilateral has been Closed, there is the evidence provided by MOSL 61% of bilateral requests that were closed between April 2023-March 2024 happened through the time out process.</p>
South East Water	We broadly agree but we do have some concerns that this might drive poor behaviour e.g. providing incorrect data just to satisfy having some sort of data in the Market.
South Staffs Water	
South West Water	Whilst we support the principals for performance standards, as mentioned in our previous responses above, Compensatory payments are case-by-case and perhaps better managed between Wholesaler/Retailer with payments made where required.
Southern Water	

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Thames Water	<p>Mostly the principles are supportable, however we do not believe that compensatory payments should be included with the framework. As set out in previous answers, we believe these do not contribute towards collaborative working between trading parties and can provide an incentive for potential beneficiaries to carry out actions which would result in them receiving compensation payments.</p> <p>We also have concerns regarding the setting of absolute performance standards and the rationale of how these levels are derived.</p>
United Utilities	<p>It is great to see the level of industry engagement through the PAG and the consultations to date, and that the MPC have taken on board the feedback received. We believe that the proposed MPF is improving at each step.</p> <p>BR-MeX, and it's associated risk and reward range, largely addresses the concerns regarding a need for meaningful financial incentives associated with wholesaler performance. MPF does not need to be materially different overall to what it is today – the key to driving performance is in setting the right KPIs and performance levels and having penalties that are demonstrated to drive focus on and improvements in performance. We have seen real improvements where measures and targets are set appropriately, managed closely and trading parties held to account.</p>
Wessex Water	<p>We are largely in support of the three financial incentives proposed with caveats of the avoidance of double jeopardy where that may exist and the correct application against a standard that may differ from KPI to KPI</p>
Yorkshire Water	<p>We strongly object to the proposed compensation payments system. We are struggling to identify how this quantifiably benefits customers, and the proposals do not cover enough of the process for this to be applied for, reviewed, and decisions made. Overall it seems like a tool that is not necessary and is over-complicated. In order for this to be transparent, we would argue that the process should be clear enough so that customers can easily understand it; currently even market participants would struggle to do so.</p>
Other	

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CCW	We somewhat support the principles for tools and performance standards, but not largely or completely for the reasons previously provided.
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Section 3: Principles and Performance Standards - Penalty charges

3.1 Do you have any comments on any of the ten penalty charges principles (including whether any should be added or removed)? Please refer to each principle by its reference, e.g. PC5

Retailers	
ADSM	<p>One of the principle complains against the current system was that it is too complex. PC5 (multiple levels) & PC9 (per SPID / per fraction of portfolio) Not even sure what this principle is trying to achieve) seem counter to that. PC4 (no cap) & PC8 (setting cost higher than average cost) risk stability in the market. [If retailers are currently hitting the MPF cap, this would indicate more fundamental structural problems with the market setup, levelling just more penalties is unlikely to help.</p> <p>One other criticism of PC8 is if performance standards are set to stringently, market participants will be penalised for doing there job, but failing to get a result. One criticism I had of the Project looking glass report, is that for Long unread reads, only 27% were read. 27% were "found and read". How in the world can you classify a "chamber found, but no meter", as the meter being "read". There was no meter to read. locating the meter chamber but finding no meter should not count as a successful outcome, and the retailer would be penalized in the market codes as the currently stand for "not reading the meter".</p>
Business Stream	<p>Our responses above have already touched upon some of the penalty charges but for completeness, we will list our concerns again here and provide a reason:</p> <p>PC1 – we agree that penalty charges should be aimed at “solely driving timely improvements”. However,</p>

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	<p>we observed in M16 that the penalty charge is set at £0 which wouldn't achieve the aim of driving timely improvements.</p> <p>PC3 – we do not agree that penalty charges should be calculated at a market-wide level. Instead, they should consider regional differences. All trading parties should be incentivised not just those with operational costs below the market average.</p> <p>PC4 – while we agree that there should not be a cap on penalty charges, as performance standards and charges are yet to be agreed upon and set, care needs to be exercised to ensure that the reformed MPF continues to satisfy the success criteria, most noticeably it should support competition, be proportionate and offer value for money.</p> <p>PC6 – the proposal of avoiding double jeopardy should be extended to the natural incentives of retail competition.</p> <p>PC8 – as with PC3 we do not agree with the proposal to use average market cost to calculate the financial penalty as there are considerable regional differences. Furthermore, in calculating the charge level MOSL/PAC may need to consider the true cost of addressing the performance issue. For example, for M02 the cost to a wholesaler obtaining a smart meter read will be minimal. However, should a smart meter fail to the extent that it is no longer providing consumption data, the wholesaler will need to obtain a visual read and fix the meter. Therefore, for PC8 to be achieved the level of the charge can't be set at the average cost of a smart meter read but must exceed both the cost of repair/replacement and obtaining a visual read.</p>
Castle Water	<p>PC1: Are aimed solely at driving timely improvements</p> <p>Assuming we agree with the premise of chargeable metrics (which we do not), it is crucial that charges are designed to promote timely and genuine improvements in behaviour and performance. There seems</p>

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to be an assumption that the current metrics will naturally lead to the desired outcomes for the market and customers. This perspective might imply that the only remaining question is determining the appropriate charge level, suggesting that simply increasing charges will produce the right results.

However, the example of M01 demonstrates how this approach can backfire, leading to consequences that do not align with customers' best interests, as we have discussed elsewhere. Using charges based on such metrics may inadvertently encourage unwanted behaviours among trading parties and undermine the collaborative data-sharing environment that has developed. A development which is producing a greater number of customer outcomes than bilateral service requests alone.

To ensure that charges drive timely and meaningful change, trading parties must be able to take actions within their control, as incentivised by the market performance framework. In the case of M01, there are numerous factors, such as 'access issues' that are beyond the control of trading parties. These factors can restrict or prevent necessary actions, in some cases there simply is no other action a retailer can take.

Therefore, it is essential for metric design to accurately identify and understand the actions within trading parties' control, while also assuring the market that these actions (i.e., those being driven by the new framework) are the most appropriate in specific circumstances. Unfortunately, the current framework review falls short in this aspect.

For instance, M01 directs retailers to raise a bilateral request to avoid a market performance charge. However, failing to obtain a meter reading during a site visit does not always necessitate a bilateral request. In many situations, like access issues (~45% of all skips), no bilateral service request will lead to a customer providing a retailer with meter access.

Moreover, why would we need to raise performance standards further? This suggests that the initial metrics were set incorrectly. However, if we acknowledge that a metric standard might need to be increased, shouldn't we also consider situations where it might need to be lowered?

Given the anticipated changes that will result from the upcoming smart meter rollout, it is imperative to establish a clear mechanism for reviewing and adjusting metrics in response to evolving market conditions, or given this consideration, to determine whether the metrics design and associated financial tools are suitable for the world to which we are moving.

PC2: Only apply to relevant Key Performance Indicators (KPIs)

The review of MPF should have asked whether MPS18 and MPS19 are still relevant as market performance measures? This does not appear to have happened, given the promotion of a new metric M01. However, based on the performance of trading parties, we suggest that this new metric is redundant (as were MPS18 and MPS19) as a chargeable measure.

The reason for this is that there is a natural incentive for meter reading, which the current and future market performance regimes do not recognise nor acknowledge. Instead, M01 penalises retailers for situations beyond their control – i.e., where their best efforts to gain a meter read have proven unsuccessful and continue to penalise that retailer monthly thereafter on an increasing scale of charges for every month thereafter that the failure persists. Consequently, we must question the relevance of M01, a metric that largely duplicates the failed metrics MPS18 and MPS19.

Regarding whether charges apply only to relevant KPIs, this question seems redundant. However, concerning the 'explanation and rationale,' we have the following comments:

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- What is meant by 'customer impacting'? This term, along with 'customer focused,' has been used throughout the market reform process. However, it remains unclear how we have assessed the customer impact of these measures. As discussed elsewhere, M01 may prevent retailers from sharing skip data with wholesalers, resulting in fewer customer outcomes, such as meters being read, than current practices achieve.
- We note that Principle PC2 states, "Performance standards, charges, and rewards will be carefully designed and calibrated with further input from trading parties (Section 2.2)." However, based on M01 as an example, it seems these measures have not been designed with the necessary care. Trading parties would appreciate greater visibility and understanding of the calibration process, about which we have heard nothing to date.
- PC3: Penalty charges being levied at a flat rate across the market appears to have been proposed based on perceived 'simplicity' (we are not convinced it delivers) but in so doing it discriminates and does not allow a fair basis of comparison between trading parties. In the documentation on earlier consultations the need for regional comparison and the creation of a level playing field were made clear, but they have since been dropped. Simplicity cannot be promoted above accuracy and fairness, which appear to have been sacrificed by PC3. That is a mistake.
- PC4 'will not be capped': The market performance framework was initially suspended at market opening, given that there was no mapping carried out. As a minimum, with any possible shadow period rapidly reducing in length, there is a requirement to include a cap. The calculation of the cap can be reviewed later, but it would be foolish and foolhardy not to have this protection in place, especially given the size and significance of the changes being proposed. Further, provision should be made for replicating the original suspension period. This might be along the lines of, "during the new framework suspension period, being the period of twelve months commencing on

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	<p>01/04/2025, performance charges shall be calculated and notified by the Market Operator, but Trading Parties shall not be required to pay these charges.”</p> <ul style="list-style-type: none"> • PC8 ‘penalty charges should exceed the cost of addressing the performance issue’ – denies any natural incentive (valuing it at less than zero), but it also leaves considerable debate on the task which one is using to benchmark the cost of addressing the performance issue. For example, on M01 is it the cost of a standard meter read, an ad hoc read, an appointment read, a two-man lift, or replacing the meter? All have quite different cost profiles! And those costs can run high, which might further drive up the uncapped charges to unacceptable levels. This would be especially relevant given the level of these charges if PC8 is followed - say for a meter exchange which could mean a performance charge for single failure of several £100s - and if PC3 and PC7 were applied to bilateral operational processes. • PC10 ‘will be allocated in a particular order of priority’: Outperformance as a concept in market where obligations are mandated in the codes is nonsensical and inappropriate. It would reward for doing what a party is required to do and therefore there is no concept of outperformance. Can I read your meter daily, madam? This is just further removing the framework from what is meant to be doing “simplifying”. Instead, it is complicating the whole programme and creating a legion of bureaucrats and expense in managing something that is not required (though we acknowledge may be not perfectly achieved by the existing process 9.4 and 9.5 of the MAC).
<p>Clear Business Water</p>	<p>PC1: We understand in principle that penalty charges should drive Trading Parties to improve their performance and this principle therefore seems sensible. However, the level of charges (see also our comments on PC8) and performance standards must take into consideration factors that are outside of Trading Parties' control and ensure that they are not unduly penalised for this.</p>

For example, cyclic meter reads may be unsuccessful as customers refuse access and do not allow our agents read an internal meter, or the meter may present a health and safety issue for the meter read provider but not the wholesaler and therefore will come at cost to the Retailer for relocation.

Trading Parties may continually strive to obtain a meter read in these scenarios by engaging with the customer, reattending the premises and attempting to arrange meter relocation but can still ultimately be unsuccessful. In this scenario, the Trading Party incurs costs in taking steps to resolve the failed meter read and also incurs perpetual penalty charges until such a time as it is resolved.

Striving for improved performance that goes above and beyond the Codes under the revised MPF will not be insignificant for Trading Parties and will further reduce the margin that Trading Parties are able to achieve operating in the Non-Household Market. This should be considered when setting the level of penalty charges.

PC2:

It is noted that transfer reads will attract penalty charges at 3 separate levels: the proportion of transfer reads submitted within the SLA; the lateness of overdue transfer reads; and the percentage of estimated transfer reads submitted.

The codes allow for estimated transfer reads to be submitted in certain scenarios where it is not possible to obtain a visual read within the required timeframe. Under the proposed KPIs, Trading Parties will be penalised where this scenario occurs, either by a penalty charge where the actual transfer read is not submitted within the SLA (and potentially compensation in this scenario) or by a penalty charge for submitting an estimated read within the SLA and in line with the Codes.

	<p>We would therefore question whether penalty charges are only being applied to relevant KPIs.</p> <p>PC4:</p> <p>As outlined above, some failures are outside of a Trading Party's control. Removing the cap on penalty charges may leave Trading Parties exposed to perpetual penalty charges that they cannot prevent unless they pay significant costs (for example where a meter relocation or AMR installation is required) or leaves them at the mercy of the wholesaler's timescales for installing smart meters where there is no other resolution.</p> <p>PC8:</p> <p>We understand that this principle is to prevent penalties becoming the more cost-effective options for Trading Parties rather than addressing the root cause of an issue. However, we would question how the cost of addressing performance issues will be determined.</p> <p>The value of the penalty charge must also be proportionate to the impact of the failure. For example, a failure that would incur a high cost to resolve would have an even higher penalty charge in line with this principle; however, the impact of the failure on the market may be less significant than another KPI with a lower penalty charge. In this scenario, a Trading Party would have more incentive to address the low impact issue than the high impact issue as the cost of failing the low impact issue would be higher.</p>
Dŵr Cymru	No
Everflow Utilities	As alluded to in our response above, we have some concerns around the proportionality of PC8 and PC4 working together. We need to be careful of increasing charges disproportionately by both removing the

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	cap on penalties and ensuring charges exceed cost of addressing the issue; this could introduce barriers to entry for an already difficult to enter and unattractive market.
Nottingham City Council	None.
Pennon Water Services	<p>PC1 – minimum standards should be proportionate, and some items are out of our control. An example of this is a meter installed in a place a retailer cannot read (such as an internal meter). Whose responsibility would that be? We also believe that minimum standards should not be introduced as revenue generation and certainly, the suggestion that the PAG will decide to raise the bar certainly suggests that it’s a revenue activity. What controls, checks and balances will exist around this to ensure its appropriate and not arbitrary. As written, it could be interpreted that you’re simply trying to trip retailers up and raising the bar would need proper justification.</p> <p>PC3 – the simplistic pursuit of flat rates might facilitate implementation of the principles for MOSL, however, let’s not pretend that this will be an equitable solution because we all know it will create winners and losers – as you’re aware there’s a significant difference between wholesaler performance and meter read costs for instance.</p> <p>PC4 – removing a cap on penalty charges is fundamentally the wrong approach. Almost everything we can think of in all sectors other than damages to Network Rail is capped at some level. You should be considering a better drafted cap mechanism, not simply doing away with it. We are not confident that the correct governance has been applied allowing you to put unlimited penalties into the market.</p> <p>Further, the unlimited compensation proposal conflicts directly with the principles for limited liability set out in the WR contracts and the Code. Is it appropriate that you deviate from these established contract principles?</p>

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	<p>Please note that PC11 outlining how the proceeds for charges will be used does not appear to exist. As we've said consistently, until we know the value of the proposed charges we cannot reasonably be asked to agree.</p> <p>PC9 – which part of what's written in this principle is workable and simple?</p> <p>PC10 – Agree, however to reference an earlier point – this could be read as an exercise in revenue generation for the MIF at the sole discretion of the Strategic Panel.</p>
Sefton Council	
Water 2 Business	No
Water Plus	<p>We currently believe there are two principles of the Penalty charges that we do not currently agree with, these are: PC4 "Charges are not capped", as explained in a separate question we do not believe it would be appropriate to remove the cap on penalty charging at this stage.</p> <p>PC10 (Allocation order), we believe the allocation order should prioritise outperformance payments above the Market Improvement Fund.</p>
Waterscan	Agree with the principles stated
Wave Utilities	<p>PC4: States that it will not be capped, however there does need to be a cap because the Retail Exit Code (REC) only allows a certain Average Cost to Serve (ACTS) and it doesn't seem right that the MPF could nullify these.</p> <p>PC7: System-based calculation of charges – Wave is unsure how a dispute would be handled if the calculation was viewed as not accurate by the Retailer. Would the pre-existing dispute process be used where TPs can challenge the application of penalty charges and compensation payments? If not, what would be the dispute process?</p>

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	<p>PC8: Should not exceed the cost of addressing the issue. In principle it sounds reasonable to fine a Party in excess of the cost to repair, but in practice any fines will limit funding available to resolve operational issues</p> <p>In general, we agree with the 10 penalty charges in principle to drive underperforming TPs to improve, however, the risk of uncapped penalties and uncapped compensation needs to be more thoroughly investigated, taking into account small, new, and large retailers to determine if this will truly drive performance improvement rather than have the opposite effect.</p>
Wholesalers	
Affinity Water	<p>Whilst we agree with the principles somewhat, we do not agree with PC6 in which it suggests compensation charges may apply on select KPIs should they be included in BR-MeX.</p> <p>PC10 – we believe where there is outperformance correctly applied to an appropriate metric that this is given higher precedence than the market improvement fund which is currently put at number one.</p>
Anglian Water	<p>PC1 – the definition does not talk about the basic market functions which are mandatory to the smooth operation of the market – i.e. manage settlement, maintain accurate occupancy data</p> <p>PC4 – as mentioned earlier in our response, we believe that there should be a cap to protect excessive financial penalties arising from catastrophic events. To address the risk of a cap as a disincentive, it is important that other elements of the MPF such as intervention and enforcement come into play</p> <p>PC6 – we agree that this is an important principle particularly with both the MPF and BR-Mex being developed concurrently</p> <p>PC8 – agree with this as a principle, but it would be good to understand how the market average cost for an activity will be calculated.</p>

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	<p>In terms of accountability, we couldn't see a reference to performance by accredited entities, therefore our working assumption is that wholesalers won't be responsible for AEs performance any longer.</p> <p>PC10 – we don't believe wholesale redistribution is appropriate for wholesalers, but recognise there is a different driver for Retailers.</p> <p>In relation to the Market Performance fund – we believe there should be a review to evaluate the benefits of these projects and the benefits that customers are receiving prior to any inclusion in the future MPF. There remains a risk that if funding is available, projects receive approval not based on their benefits case.</p>
Dŵr Cymru	No
Northumbrian Water	I believe these are fair and robust so long as the deferral process is linked. Wholesalers often require help from retailers and/or customers to complete the work - this can take time.
Portsmouth Water	<p>PC1 – We feel changes to the minimum standard should be consulted upon and sufficient notice should be given for any changes.</p> <p>PC3 – We would like to understand more about the levied penalty charge rate. As a smaller wholesaler this could be disproportionate.</p> <p>PC4 – We feel it is important to not cap the penalties.</p> <p>PC6 – It is important to avoid double jeopardy, but appreciate (and agree) compensation payments sit outside of this.</p>
SES Water	
South East Water	PC3 – We strongly disagree that regional differences will not be considered.

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	<p>PC4 - uncapped penalties – We would be interested to know how MOSL proposes to discourage fine avoidance (e.g. misuse of the deferral system or submitting bi laterals that are not valid to avoid fines for not reading the meters.eg meter damaged).</p>
South Staffs Water	<p>We think that it should be either PC1 or PC2 not both, due to the potential for receiving duplicated penalty charges. We do not agree with PC4 that charges will be uncapped but we do agree with how the redistribution from charges would be used. PC - Depends on how the penalty charge is anticipating to be used and at what level it would be set at in each scenario before we could really have a view on this. Calculations were shared as to how would be arrived at during PAG but not the level of the penalty charge in each scenario and the thresholds they would be applied at.</p>
South West Water	<p>As mentioned previously regarding Compensation payments, we would recommend to remove PC4 PC5 requires more definition by MOSL before suitable feedback can be provided.</p> <p>Whilst we are in agreement with PC6 in relation to penalties, the fact that a measure appears in both MPF and BR-MeX indicates a level of incentivising twice.</p> <p>Whilst broadly supportive of PC8, it's difficult to see how MOSL intend to obtain this market cost to address an underperformance issue in all scenarios.</p> <p>We support the concepts of PC9 however applying a charge based on the portfolio size of a trading part doesn't meet the simplicity requirement of MPF. If this could be elaborated upon, with scenarios, we may be able to provide more detail in our response.</p> <p>We agree with the remaining penalty charges listed in this section.</p>
Southern Water	<p>PC4 - Please refer to our comment above in 2.8</p>

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	<p>PC5 – Agree that multiple charging levels can increase complexity and may discourage performance resolution until the next level of charge approaches if the levels are too broad.</p> <p>PC6 – Agree that charges levied in BR-Mex should not also be levied in MPF</p> <p>PC9 – Agree</p> <p>PC10 – Agree</p>
Thames Water	No Comments at this time
United Utilities	<p>It says earlier in the consultation document that the following will not be included in this consultation "Final values of charges (i.e. penalties, compensations and rewards) and performance standards associated with each KPI." However, by committing to the principle that compensation charges will be based on industry average costs, we are committing to a quantum (once it's been worked out). This methodology can't be considered without an understanding of cost.</p> <p>When calculating penalty charges, we are unconvinced that it is appropriate for the full cost to be recovered from the wholesaler (on an average basis). Retailer margin should cover a degree of failure demand inherent in any operation.</p> <p>PC1 - The penalty charge principles should look to maintain high performance not just deliver timely improvements.</p> <p>PC4 - States 'there is nothing to discourage companies from allowing their performance to deteriorate further' we disagree with this statement. We have a collective commitment to driving great outcomes for our customers. We will also have a significant financial incentive through BR-MeX as well as reputational drivers in terms of comparative industry performance. Companies also have the possibility of having their</p>

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	<p>licence taken away for poor performance along with numerous other measures that can be applied. BR-MeX, and it's associated risk and reward range, largely addresses the concerns regarding a need for meaningful financial incentives associated with wholesaler performance. MPF does not need to be materially different overall to what it is today – the key to driving performance is in setting the right KPIs and performance levels and having penalties that are demonstrated to drive focus on and improvements in performance. We have seen real improvements where measures and targets are set appropriately, managed closely and trading parties held to account.</p> <p>Having a cap on penalty charges protects trading parties from unexpected one-off issues such as a systems outage preventing meter readings being submitted during a particular month.</p> <p>PC6 - States 'Compensation charges may still apply on select KPIs should they be included in Ofwat's BR-MeX measure'. We would consider this to be double jeopardy as wholesalers could be penalised via a BR-MeX charge and via a compensation payment.</p> <p>When a measure is impacted by the party receiving compensation there needs to be a principle that compensation payments shouldn't be made if the receiving party has the potential to contribute toward the performance failure. For example, if a retailer bulk submits a large volume of cases in a single day or takes a long time to provide customer details after a request for information.</p>
Wessex Water	<p>PC1 – We agree with the principles proposed and expect after a sufficient duration for the bar to be raised if the desired outcome has not yet been achieved for the identified risk and issue even if the minimum KPI is being achieved across the industry.</p> <p>The MPF should always look to stretch performance.</p>

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	<p>PC2 – We are undecided at this point in time as to the breadth of the application of penalty charges.</p> <p>We agree in principle with the highest impacting KPIs incurring penalty but until all metrics are fully defined and tools applied, we cannot make a final assessment on all KPIs at this stage.</p> <p>PC5 – We are in support of a simplified MPF but believe that two stage (or multiple) parameter based KPIs and associated penalties are useful to maintain incentives beyond initial failure.</p> <p>For lesser impacting KPIs, this adds a safety net if prioritisation is applied by trading parties against KPIs with a higher financial penalty in that these KPIs can eventually receive the same level of financial penalty if left to persist with no swift resolve beyond initial failure.</p> <p>PC7 – We support this principle but would recommend in particular for bilateral hub based KPIs, that performance is accounted for in the month in which a KPI is either breached or achieved vs the current calculation which is based on the date in which a request is closed.</p> <p>This currently causes a lag in reported performance of up to a month and potentially more for certain scenarios. The published performance should be reflective of real time performance in that it reflects what actually happened in a given month.</p> <p>PC10 – We are keen to see a minimal use of redistribution that devalues the incentive of penalty payments when redistribution is purely based on market share.</p> <p>We agree with the proposed order of priority in the allocation of penalty charges</p>
Yorkshire Water	<p>PC4: We would be interested to see the evidence to support the stated assumption that there are disincentives to companies addressing performance once they reach the cap; in particular, how many trading parties have actually reached this cap and how frequently. An uncapped amount can present issues to trading parties presenting business plans as they cannot easily forecast how much their penalty</p>

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	<p>charges might be over a year.</p> <p>PC5: We would like to see a few more worked examples of this in action. As it stands the explanation feels too complex without further clarity.</p> <p>PC6: We are happy that charges will exclude BR-MeX metrics so as to avoid the double jeopardy element of penalties and outperformance. We are not particularly sure why compensation payments would not be included in this exception.</p> <p>PC8: It would be useful to understand the charging methods a little better here. It is worth noting that there may be regional cost differentials for certain market tasks and therefore this could be unfair to some market participants.</p> <p>PC9: Limiting complexity should be a priority here; especially if we want these to be transparent to non-market members or individual customers.</p> <p>PC10: It would be useful to see some reasoning for why the Market Improvement Fund would take precedence over Outperformance payments. Additional evidence of market value add, customer benefit, etc. would be useful in understanding this. The commentary around 'redistribution' is a little unclear and should be clarified.</p>
Other	
CCW	<p>We generally agree with the first 9 proposed penalty charge principles, and believe that if penalties are implemented in line with these, customers should see improved outcomes under the revised MPF.</p> <p>PC5 – “May be charged at different levels” – While we acknowledge there is a degree of complexity with this, we urge MOSL to implement different levels. If poor performance in a particular area significantly</p>

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	<p>worsens, it is appropriate for penalties to increase in line with this to increase the incentive on trading parties to address it. Given one of the overarching principles of the revised MPF is to hold the right trading party to account, this should not be controversial.</p> <p>We particularly support principle PC8 – “Should exceed the cost of addressing the performance issue”. Currently, it can be cheaper to pay a penalty rather than invest in addressing the root cause of poor performance. Customer outcomes will never significantly improve if this remains the case, so we welcome this as a key principle.</p> <p>PC10 – We do not agree with the proposed “order of priority” as we do not believe any charges should be redistributed to trading parties as per the current process. Similar to the current cap on penalties, redistribution risks disincentivising trading parties to improve performance. We want to see this removed from the reformed MPF. If any funds remain after funding the Market Improvement Fund, these could be committed to other market projects that will benefit customers. We are keen to work with MOSL and Ofwat on the options that could be explored to deliver greater customer benefits.</p>
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3.2 Do you have any comments about how penalties are proposed to be charged, i.e. the process and frequency with which MOSL applies and communicates charges with trading parties

Retailers	
ADSM	
Business Stream	n/a
Castle Water	Castle Water fundamentally disagrees with all three financial tools. The frequency of penalties when looking at M01 is not proportionate and assumes that the retailer is doing nothing to resolve a skip. That

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	<p>is total nonsense, denying the natural incentives on retailers and the monies they spend today, often working with wholesalers to address issues revealed by skip data from unsuccessful meter read visits.</p> <p>The increased frequency in these charges also does not leave sufficient time to resolve meter reading issues, such as access issues. On the receipt of a skip, Castle Water will review and take several possible next steps. This may include trying to contact the customer, resending a meter reader out, reviewing previous history, etc. Despite working to resolve the issue, this new framework will see the retailer charged repeatedly whilst they try to do so, unless a justification to raise a B5 or C1 can be found.</p> <p>The increase in charging frequency coupled with the expected increases in charge values have the potential to negatively impact customers. There will be an increase in costs for retailers to raise bilaterals to avoid being charged in the new MPF. The wholesalers will also need more staff to manage those bilaterals, the associated work, and where necessary to defer. This will require an increase in staff numbers and create a section of the market where the focus, time and money must be put towards form filling and processing. Some of those costs will inevitably be passed onto the customer with little benefit as a result and the others will damage the health of the parties in the market to innovate for the benefit of their customers and compete. Our market will be damaged, as will the customers it serves. It will discourage new entrants and limit competition.</p> <p>The unintended consequences of this proposal are significant and have not been fully considered.</p>
Clear Business Water	
Dŵr Cymru	<p>We could not clearly identify if consideration has been given to the different complexities of SPIDS i.e. the greater challenges, risks and timeframes to resolve the more complex requirements of larger multi-meter sites e.g. T1 chamber v T3/T4 chamber; larger SPID's may have more than one meter etc.</p> <p>Typically, we find that larger more complex sites are more difficult to undertake operational work on.</p>

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Everflow Utilities	
Nottingham City Council	No comments.
Pennon Water Services	
Sefton Council	
Water 2 Business	No
Water Plus	n/a
Waterscan	
Wave Utilities	Finance teams will need to manage and understand these, so there needs to be clarity around what payments refer to what, to make this as simple as possible and keep administrative costs to a minimum.
Wholesalers	
Affinity Water	
Anglian Water	
Dŵr Cymru	<p>PC3 – charges calculated at market level may be unfair and not consider some of the complexities associated with some of the performance standards. There is a large difference in B5 for a small 15mm meter change to a 200mm complex B5 request. Should these be measured in the same way? A large proportion of our meters in the market are over 40mm</p> <p>PC5 – charging levels should be limited, it will become too complicated, but these charging levels still need to reflect a fair way of measuring performance.</p> <p>PC7 – charges should be on a monthly basis so that TPs are aware of the implications asap</p>

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	PC8 is there further information anywhere on how PC8 intends to assets the average market cost of addressing the issue. Not clear how this will work.
Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	We are broadly happy with this and agree with the monthly timescales. We feel it is important that estimate reads are not used when calculating M01 and only actual read data is used.
South Staffs Water	I think we need more information on the proposals for thresholds and what the associated penalties would be
South West Water	We recommend that any penalties are charged and communicated promptly following each failure to incentivise changes in trading party behaviour.
Southern Water	None, this all seems straightforward
Thames Water	No Comments at this time
United Utilities	We agree with the frequency being set as monthly however it would be beneficial for all the reports to be aligned and available at the same time.
Wessex Water	The proposal of monthly is in line with the current approach however we would challenge MOSL to improve its timetable of an earlier publish of raw performance data and for invoices to not appear before raw data is available which has been experienced in the past. We would welcome the communications (Invoices, raw data results etc) to move to MyFiles vs the current SharePoint site to avoid multiple access points for MOSL shared data
Yorkshire Water	Yorkshire Water would prefer to keep the methodology as simple as possible – in plain English, that can be explained to both CEOs/Boards as well as Customers. Some consideration may need to be given to the administrative costs involved in monthly payments, if

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	these are eventually required. Although penalty payments are expected to be applied 'as close to the underperformance as possible' this does not necessarily allow for challenge, review and assurance processes.
Other	
CCW	We agree it is sensible to calculate penalties by basing them on a trading party's individual performance, and apply based on the reporting frequency of the KPI. It is important to have a system that is simple for trading parties to understand, and give a high degree of confidence that they are being charged accurately. Any undue complexity may hinder the effectiveness of the reformed MPF, which will ultimately cause a negative impact on customers if trading parties' performance does not improve, as a result of misunderstanding and inefficient application.

Section 4: Principles and Performance Standards - Outperformance payments

4.1 Do you have any comments on any of the 9 outperformance payments principles outlined? Please refer to each principle by its reference as a minimum, e.g. OP1.

Retailers	
ADSM	"outstanding performance" seems like an arbitrary distinction.
Business Stream	OP1 & OP8 – while we agree with these principles, incentivisation will be diluted if the minimum standard is set at the same level as the outperformance standard. OP3 – we are not convinced that outperformance payments should be awarded if a company's performance falls below the necessary standard for a proportion of the year. MOSL should consider that outperformance is ranked and only awarded to those trading parties that achieve consistent outperformance.

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	<p>We would also propose that outperformance standards could be based on a different variant of the KPI that drives the performance charge. For example, for cyclic reads (MO1 and M19), the minimum standard could exclude vacant properties while the outperformance standard could include vacant supply points.</p>
Castle Water	<p>Please refer to our answer provided for Question 2.5 for details and further explanation.</p> <p>As previously documented in other parts of this consultation, outperformance payments are a model that requires performance thresholds to be set from a financial perspective. Performance alone is insufficient, even if it was possible and appropriate to determine a single standard (which as we explain elsewhere it is not). There must be enough trading parties below the minimum performance threshold and paying sufficient charges required to fund this incentive. Without that, there is no incentive. The only alternative is to set the minimum performance threshold using a financial basis for any metric, with an outperformance payment rather than focussing on what good performance should be.</p> <p>OP8 states, “should be large enough to incentivise a trading party to outperform”. For this incentive to influence trading party behaviour (to the extent possible, which we seriously question), the payment would need to be significant, and it would need to be certain. However, it is certainly not certain and there is no indication as to whether it would be significant, but to do so, would further impose unnecessary cost on trading parties by further increasing the level of the minimum standard. It is demonstrable that the natural incentives in the markets for retailers are both present and far more valuable, adding further evidence that unjust and excessive penalties are necessary for this incentive. Hence, many of the principals underpinning this incentive must be considered</p>
Clear Business Water	<p>OP8:</p> <p>In principle we would agree with this but question how achievable this is given that outperformance charges will be funded by penalty charges (OP5) and redistributed after penalty charges have been allocated to the MIF (PC10).</p>

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	<p>Trading Parties do not intentionally fail KPIs and always strive to achieve the best outcomes. Outperformance will almost certainly require Trading Parties to address failures that are complex and costly to resolve. The resulting outperformance payment that they will receive is unlikely to incentivise on value alone.</p> <p>OP9:</p> <p>Given that outperformance is likely to be a percentage above the required performance standard, we would question whether a unit charge per SPID is the right calculation for this. Some Trading Parties could stand to receive significantly more from outperformance than others, even if they have the same performance rate.</p> <p>For example, where outperformance is 90%, a Trading Party that has achieved 95% of 1000 supplies, will receive a payment on 50 supplies based on 5% outperformance. However, a Trading Party that achieves 97% of 100 supplies would only receive payment on 7 supplies based on 7% outperformance.</p>
Dŵr Cymru	<p>We note that Retailers and Wholesalers financial pots will be separate and ring-fenced with charges, compensation and overperformance payments being aid to each based on their individual results. A concern with this separation is that this could restrict the available funds to reward and drive market improvements. (Two smaller pots rather than one larger combined)</p>
Everflow Utilities	<p>We strongly support PC8.</p>
Nottingham City Council	<p>No comments.</p>
Pennon Water Services	
Sefton Council	

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Water 2 Business	No
Water Plus	<p>OP5 - Allocation order, as above we believe the allocation order should prioritise Overperformance payments above the market improvement fund.</p> <p>OP7 - encourage good performance for all customers equally - Whilst we believe this principle is positive, we are concerned that this may be limiting in the long run in specific areas of concern such as water efficiency. Tackling sustainability and environmental concerns may lead to increased priority on specific (high consuming SPIDs) and as currently phrased this principle may limit the ability of the overperformance incentive framework to address and prioritise SPIDS.</p>
Waterscan	Agree with the principles
Wave Utilities	<p>Agree to all in principle, however outperformance payments are only possible if penalty payments are being made.</p> <p>OP7 refers to outperformance encouraging good performance delivery for all customers. This could affect bid activity leaving some 'difficult' customers with nowhere to go and some retailers stuck with them and in a continuous loop of underperforming and paying out penalties.</p>
Wholesalers	
Affinity Water	Whilst we agree with the principle of OP1 we are not seeing the application of this in the metrics outlined. Many of these metrics are what we consider fundamental to operating in the market and therefore consider these business as usual or are not designed to highlight proper outperformance in our opinion.
Anglian Water	See comments for question 2.1
Dŵr Cymru	No

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Northumbrian Water	I think a review will be necessary after implementation. I'm trying to figure out how to determine if some customers are being prioritised over others to achieve better performance and would be keen to know more in this area.
Portsmouth Water	OP5 – It is good to have two separate pots for retailers and wholesalers.
SES Water	
South East Water	OP1 - 2. We need further clarification on what the parameters of exceptional are. Whatever is in place needs to be achievable by the top performers otherwise it could become meaningless.
South Staffs Water	OP1 - How will these outperformance payments work in the scenario where everyone is tightly packed together in terms of performance. For example on the currently holistic reporting tool LLUM, there is only 2% separating position 15 and 1.
South West Water	See our comments in section 3. We would support OP5 and OP6 regarding monthly calculation and annual application in this case.
Southern Water	OP3 – Positive to see that outperformance will be based on an annual performance to allow for any performance issues that may happen throughout the year. OP7 – Consideration that outperformance does not compromise quality of outcome for customers. Agree with all other principles.
Thames Water	No Comments at this time
United Utilities	OP2 – there are regional factors impacting performance in some areas. For example business premises vacancy rates are higher in some regions, particularly those in the north of England. This measure is, therefore, not simply a measure of performance but instead a measure of underlying regional differences. OP5 – There appears to be a lack of certainty around “outstanding” performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. This suggests that outperformance payments will not be guaranteed. For trading parties to

plan and invest to achieve levels of outperformance, they will need certainty of financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.

OP6 – We feel that this needs to be explained in more detail. Is this an average of monthly averages? If so, this isn't appropriate.

OP6 - The calculation should be based on trading parties' annual performance. Trading parties should not be eligible to receive outperformance payments if their performance over the year is below target, even if some months they are above. If this were the case, trading parties could manage their failures such that they had compliant and non-compliant months and receive payments despite annual performance being inadequate.

OP7 – There appears to be a lack of certainty around "outstanding" performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. This suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they will need certainty of financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.

OP8 – There appears to be a lack of certainty around "outstanding" performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. This suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they will need certainty of financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.

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Wessex Water	<p>OP3 – This needs careful balance. We do not necessarily agree with an average approach when severe underperformance has resulted in an intervention by PAC and/or the Authority.</p> <p>We would welcome MOSL to demonstrate in its proposals that outperformance payments cannot exist when the vast majority of the year for a trading party has been below acceptable performance levels. Improvement needs to be recognised but only when it is demonstrated as sustainable.</p> <p>OP6 – Consideration could be given to a rolling 3 month average calculated at each month in the reporting year. This offsets up and down performance but also recognises improvement over time</p>
Yorkshire Water	<p>OP5: Similarly to the point stated above: it would be useful to understand the reasoning why outperformance payment funding sits behind Market Improvement Funds. In particular, greater evidence and documented customer benefits would be appreciated.</p> <p>OP9: Limiting complexity should be a priority here; especially if we want these to be transparent to non-market members or individual customers.</p>
Other	
CCW	<p>Our overarching comment is the use of outperformance payments should be very limited, if at all, and only rewarded where a trading party is a true outlier in terms of exceptional performance. It could also be determined by the levels of customer activity in the market. If the levels of customer switching and engagement increase, and customers receive greater benefits from the market, it would not be appropriate for retailers to be rewarded for exceptional performance when they would be benefiting from attracting more customers. Therefore, we do not believe outperformance payments are needed or should apply once the market becomes more competitive.</p> <p>The same principle could also apply with penalties, as there is less need to financially incentivise retailers to improve performance on an area of service when competitive pressures to do this are stronger. This is</p>

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	<p>why it is important for the MPF to be agile to respond to the changing market.</p> <p>OP1 – We strongly agree that these should not be rewarding ‘business as usual’, but what constitutes this may depend on the particular activity. For example, customers may consider that a very significant number of actual meter reads being taken is simply their retailer doing what they are being paid to do as a core service, rather than delivering something ‘exceptional’ which warrants a reward. MOSL need to design this in a way that does not reward trading parties for doing their job, but delivering truly excellent service that delivers greater benefits to customers.</p> <p>OP3 – Basing on average performance needs to be carefully applied to ensure that trading parties cannot qualify for a reward without truly delivering a service which is ‘above and beyond’ in a particular area. It is possible that ‘average’ performance is at a level that is less than customers receive.</p> <p>OP5 – There should be no automatic redistribution of penalty charges, at all, regardless of how many, if any, outperformance payments are made. We want to see the redistribution of charges removed and we are strongly opposed to this in the current system. If applied at all, these should be funded by penalty charges, but we do not agree with the implicit suggestion in the rationale that outperformance payments are partly needed to limit the annual redistribution of charges to trading parties.</p>
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4.2 Do you have any comments about how outperformance payments are proposed to be paid, i.e. process and frequency with which MOSL applies and communicates payments with trading parties

Retailers	
ADSM	

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Business Stream	Consideration is needed for what would happen in the event that all trading parties on average outperform, especially if some demonstrate inconsistent performance. As noted above, our suggestion is that a ranking should be applied and only the consistent, top performers are rewarded.
Castle Water	Castle Water disagrees with outperformance payments. They are incompatible with the Market Codes which are the obligations to which all trading parties should adhere. The MPF Reform Programme should have reviewed the codes at the beginning of the programme to determine if the codes themselves needed reforming. There are many parts of the codes that could be improved, but the notion that you can 'outperform' on an obligation is illogical.
Clear Business Water	
Dŵr Cymru	An unknown annual outperformance payment into a retailer/sales/customer service environment could disincentivise a retailer (with limited funds) and defer service innovation and continuous improvement until funds are received. As a new and developing market, we wonder whether this needs to be more frequent payments or if not at least "committed" monies.
Everflow Utilities	<p>To begin, we must note that it is paramount that regardless of whether outperformance payments are made annually or monthly, they should be calculated on a monthly basis in the same way as penalty charges.</p> <p>That being said, outperformance payments must be paid on the same frequency to penalty charges. The current MPF involves the monthly payment of performance charges to MOSL, but redistribution only take place after the end of each year.</p> <p>This means that a significant amount of trading parties' cash is held by MOSL on an ongoing basis, regardless of whether they will ultimately receive the same or more later down the line.</p> <p>There are inevitably practical considerations around how outperformance payments could be made on</p>

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	an ongoing basis, but the current approach conflicts with the design principles around value for money – trading party money will be withheld which could be used to invest in improved customer outcomes.
Nottingham City Council	No comments.
Penon Water Services	
Sefton Council	
Water 2 Business	No
Water Plus	n/a
Waterscan	
Wave Utilities	<p>We can see advantages and disadvantages with the proposal. On the one hand there is a disparity between penalties paid on a monthly basis based on the performance of the relevant metric but outperformance payments only to be paid annually based on average performance. This means that strong outperformance may not be rewarded and may be lost in the approach of averaging the performance levels.</p> <p>On the other hand, the proposed approach gives trading parties a fair chance of outperforming over the full year by being average based, therefore encourages trading parties to keep trying to achieve it rather than being defeated at the first hurdle.</p>
Wholesalers	
Affinity Water	
Anglian Water	We believe that it is fairer for the frequency of outperformance payments for a measure to be aligned to the frequency of penalty payments – if it is appropriate to pay a penalty for a performance level on a monthly basis, the same should be true to benefit from outperformance.

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Dŵr Cymru	OP1 – Agree TPs should be considered for outperformance based on overall performance, but again this will depend on exactly this is being measured OP3 – Agree will intensivise [SIC] TPS to improve even if they have some failures
Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	No comment.
South Staffs Water	We would prefer that frequency is monthly. And if it possible to confirm the data that sits behind these payments for validation purposes.
South West Water	Please see our previous response - As above
Southern Water	None, this all seems straightforward.
Thames Water	No Comments at this time
United Utilities	We agree that payments should be made annually. We would like further details on how the calculation will be made. The calculation should be based on trading parties' annual performance. Trading parties should not be eligible to receive outperformance payments if their performance over the year is below target, even if some months they are above. If this were the case, trading parties could manage their failures such that they had compliant and non-compliant months and receive payments despite annual performance being inadequate.
Wessex Water	None
Yorkshire Water	We would prefer some level of unity between the penalty payments and outperformance payments; it would make some logical sense to charge both annually, subtracting underperformance payments from

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	outperformance ones to create a 'net' figure. This would reduce overall administration costs and make it easier for an annual market performance update.
Other	
CCW	We strongly believe outperformance payments for retailers should be very limited, if used at all, and only rewarded where a trading party is a true outlier in terms of exceptional performance. In light of this, we do not have any specific comments about the proposal for payment itself.

Section 5: Principles and Performance Standards - Compensation payments

5.1 Do you have any comments on any of the 7 compensation payments principles? Please refer to each principle by its reference, e.g. CP2.

Retailers	
ADSM	
Business Stream	<p>CP3 - While we understand the simplicity of applying market-wide unit charges, differing geographical costs will mean that compensation payments may not accurately reflect the loss and, therefore, will not result in CP4 being achieved.</p> <p>CP4 - Compensation charges must include any MPF charge that the other trading party incurs and must be greater than £0 but the proposed compensation payment for M17 is set at £0.</p>

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<p>Castle Water</p>	<p>The compensation principals do not link together and need much more explanation in some cases. Some scenarios will see impacted trading parties receiving no compensation, with payments only being triggered after 21BD after the task was deemed to be 'late', and this despite MOSL stating that performance for transfer reads should be 100% in M04. The logic should be transferrable to M09, but it has not been, and no explanation has been provided. It is inconsistent at best.</p> <p>There is also very little detail in the principals about the customer impacts or whether these principals address the true risks that we have in the market for transfers. Focussed audits on trading parties submitting high volumes of estimated transfer reads would be far more effective and fairer. Setting a minimum performance threshold for estimates neither aligns with the market codes, nor does it highlight trading parties abusing the codes and the use of estimates.</p> <p>With CP2, some parties may not be compensated despite being as impacted by the SLA breach. This is not balanced or fair.</p> <p>CP4 details creating a 'genuine pre-estimate of loss'. This will be a very difficult endeavour and one that will add yet more complexity into the market. Disappointingly it is also an entirely reactive measure that ignores the customer and will likely make little difference to the compensated trading party anyway. Please reference the answer to question 2.5 for specific details and further explanation.</p>
<p>Clear Business Water</p>	<p>CP4 - We would question the methodology of using averaged industry costs as the pre-estimate derived from this could leave Trading Parties exposed to real losses that sit above what has been considered the industry average or being required to pay compensation charges that are above those the other Trading Party has incurred.</p> <p>We would also question using the REC costs as a reference point for this as we do not feel that the costs included in the REC accurately represent the scale of costs faced by Trading Parties.</p>

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Dŵr Cymru	No
Everflow Utilities	We believe that CP3 is likely to require a counterbalance through a 'truing up mechanism' so to speak. A flat rate across the market is unlikely to provide an appropriate level of compensation in all cases, and there should be a way for parties to evidence and recoup funds where there is a significant material difference between the market rate set and the losses incurred. We expand on this point in our response to Q5.3
Nottingham City Council	No comments.
Pennon Water Services	CP3 & CP4 – we would want to understand how this will be set by MOSL and the PAG? As we've referred to previously, we are concerned that your estimates of loss will fail to take into account all the circumstances such as the money retailers lose because of that 16 month restriction. Further, do you consider that these liquidated damages set by you will prevent retailers being able to bring contractual damages claims as set out elsewhere in the WR contract and Code?
Sefton Council	Seems fine
Water 2 Business	It is difficult to see how compensation payments will work in reality. The governance of these will need to be very strict to ensure where payments are due to customers impacted by a company's failure to deliver, are actually passed to the customer. Caution should be given to claims for genuine loss, it will be difficult to quantify this as all trading parties are different. The financial impact of paying out compensation claims could be significant and negatively impact customers, trading parties may no longer have the reserves for innovative projects which will benefit customers and the NHH market if subject to numerous compensation claims.
Water Plus	n/a
Waterscan	Agree with the principles
Wave Utilities	Wave agrees in principle to compensation for aggrieved parties, however, we think these need further fleshing out. Factors outside of Retailer control need building in to reduce compensation or counteract it

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	in part/in full. For example, where bad address data is the core reason for a Retailer's poor performance, Wholesalers need to similarly be held to account for compensation payments, or other data factors need accounting for in the overall retailer compensation or penalty charges. Only Long Unread Meters with outstanding C1 or B5 activity seem to be included.
Wholesalers	
Affinity Water	CP1 - we would just like to understand the rationale further for excluding compensation payments to wholesalers as a principle.
Anglian Water	<p>Overall, as noted in section 2.6 above, we do not support the overall concept of compensation payments being part of the reformed MPF.</p> <p>CP1 – we consider that the principle that wholesalers are not adversely impacted is not accurate. An example of wholesaler impact is where there are issues with transfer reads by a Retailer, where settlement has to be approved and re-run.</p> <p>CP3 – if these payments are levied at a market level, this then just becomes a penalty charge - what is the difference between a compensation payment and a penalty charge?</p> <p>CP4 – in addition to our general comments on compensation payments, we don't believe the charge calculation meets the eighth success criteria – simplicity.</p>
Dŵr Cymru	CP1 – What is the process to determine is a Retailer has been impacted by poor performance by a Wholesaler and a Wholesaler be able to challenge this? Compensation charges calculated at a market level may be unfair and not consider some of the complexities associated with some of the performance standards. There is a large difference in B5 for a small 15mm meter change to a 200mm complex B5 request. Should these be measured in the same way? A large proportion of our meters in the market are over 40mm

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Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	<p>CP1 – It would be useful to know how you will decide what the Retailer should be compensated for? e.g. failed on SLA but our term contractor was unable to get Highways approval. Any exceptions would need to be clearly defined.</p> <p>CP4 - This could be fairly complicated. How would the Wholesaler be able to validate? And could it be ensured that this is fairly calculated?</p>
South Staffs Water	<p>CP1 - We would like for it to be considered there could be cases where Retailers may need to pay compensation to Wholesalers, for example in the case of allowances where avoidable delays have meant that the allowance moves into another RF period.</p>
South West Water	<p>As previously mentioned, our preference is for penalty charges and outperformance payments (caveated in our earlier responses). Compensatory payments are case-by-case and perhaps better managed between Wholesaler/Retailer with payments made as appropriate. We therefore recommend that CP1-7 is removed.</p>
Southern Water	<p>CP2 – There could be confusion as to which retailer receives the compensation payment. MOSL anticipate that this will be the water retailer, how is this determined?</p> <p>CP4 – Not enough clarity yet to understand GPoL. Difficult to understand what that looks like.</p> <p>CP5 – Is this achievable? We can see that this would work for penalty charges but what if there is a dispute/challenge over compensation payments, would that impact timescale? Is there a challenge process, especially around the value of the payment?</p>

	CP7 - Please refer to our comment above in 2.8
Thames Water	<p>We do not believe that compensation payments are a suitable tool to incentive performance of a trading party. There is the possibility that a TP who could benefit from a compensation payment would not operate in a collaborative manner when requesting work to be undertaken. This is a perverse incentive to working together for the benefit of customers. There will also need to be objective governance around justifying if a compensation payment is required and a what level it should be. Current proposals for indicative calculations create a situation where compensation payments may be due where a retailer has not actually incurred any direct or indirect costs This will only add to the complexity and costs for the market and may risk legal challenges.</p> <p>There has been considerable evidence put forward by Retailers and MOSL, including work carried out by external Economic Consultants, that testify to the low net margin opportunities relating to smaller customers, that make up the vast majority of the NHH market. With many customers being unprofitable to service or with the potential to yield only small margins at best, the introduction of a compensatory payment regime would provide a powerful incentive not to work towards the successful delivery of services by wholesalers as the retailer would have the potential to make more profit where the wholesaler fails, rather than where the wholesaler succeeds in delivering bilateral services. The same unwanted behaviours would be incentivised where the compensatory regime is retailer to retailer.</p>
United Utilities	<p>Compensation payments shouldn't be made if the receiving party has the potential to impact the performance measure that leads to a compensation payment. For example, if a retailer bulk submits a large volume of cases in a single day or takes a long time to provide customer details after a request for information.</p> <p>To avoid double jeopardy, we should also ensure that there is no overlap with compensatory payments made through GSS.</p>

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	<p>We will need to closely monitor the impact of the introduction of compensation payments to ensure that it does not lead to unfavourable behaviours from trading parties.</p> <p>CP6 - We agree with this compensation payment.</p> <p>CP7 - We disagree with their being no cap. Having a cap on penalty charges protects trading parties from unexpected one-off issues such as a systems outage preventing meter readings being submitted during a particular month.</p> <p>If trading parties are regularly hitting the cap then the level of the cap can be reviewed. In addition, for trading parties consistently hitting the cap PAC can use other measures to help manage performance, trading parties can have their licence removed for poor performance.</p> <p>BR-MeX, and it's associated risk and reward range, largely addresses the concerns regarding a need for meaningful financial incentives associated with wholesaler performance. MPF does not need to be materially different overall to what it is today – the key to driving performance is in setting the right KPIs and performance levels and having penalties that are demonstrated to drive focus on and improvements in performance. We have seen real improvements where measures and targets are set appropriately, managed closely and trading parties held to account.</p>
Wessex Water	<p>We agree with the summary principles listed and will comment further when the calculation of GPoL is presented for review.</p> <p>We would add under this section a mention from our comment for 7.2 as to the direct compensation to customers in that this should be explored further</p>
Yorkshire Water	<p>CP1: Our first concern is that compensation payments do not apply from retailer to wholesaler; there is no real clarity as to why this is the case. Wholesalers incur costs just as any retailer does. This</p>

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	<p>unnecessarily creates inequality and potential friction within the market. Furthermore, wholesalers are not currently funded for this; it would require additional administrative resource as well as a review and challenge process to provide clear assurance and fairness across trading parties.</p> <p>With GSS payments and loss-of-business claims, there already exists a route for trading parties to seek compensation when the customer is impacted; therefore adding an additional route would create further confusion and even potential duplication.</p> <p>CP5: We have further concerns about the complexity of administration. While it makes sense in some aspects for MOSL to act as a 'middle party' in resolving these payments, doing so with the frequency outlined and at the speed needed incurs great complexity and could be challenging for companies to forecast and budget for.</p> <p>CP7: This may create additional dispute and challenge within the market due to the lack of subjectivity; trading parties may feel aggrieved if they receive varying levels of compensation compared with others.</p>
Other	
CCW	<p>We do not have any specific comments on the principles. This is because we do not believe compensation payments are needed in the revised MPF, as outlined in our answer to Question 2.6.</p> <p>While there might be a need to develop a mechanism for compensating impacted trading parties, this should not sit within an MPF that is designed to incentivise improved outcomes for customers. It is also unclear what value a compensatory payments tool would have in terms of providing an extra incentive on trading parties to deliver services to a high standard, or improve performance.</p>

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5.2 Do you have any comments on the distinction between penalty charges and compensation payments? Please provide evidence to support your comments where appropriate

Retailers	
ADSM	Think it is good.
Business Stream	While we understand the difference between penalty charges and compensation payments, we are concerned that the balance isn't correct, especially with wholesaler metrics. An underperforming wholesaler can have a significant detrimental impact on the ability of a retailer to provide a good customer experience, it can also increase the cost to serve and lead to a retailer underperforming against their own MPF metrics. It is our view that this should be recognised in more wholesaler metrics, especially in the data and service request categories and in doing so it will help to address our concern that the proposed MPF does not consider that wholesalers are monopolies. The precedence for this has been set in MO6 where MOSL proposes that a retailer will pay both a compensation payment and a financial penalty.
Castle Water	Castle Water disagrees with implementing either of these incentives into the new MPF. Compensation requires a much higher degree of 'lateness' than the normal penalties which is not transparent, proportionate, or fair. Both also add complexity into a reformed MPF aiming for 'simplicity', and there is not enough evidence to indicate that either of these measures will have any impact on the market or customers, be that good or bad.
Clear Business Water	As outlined in our response to questions 2.6 and 2.8, we do not feel that compensation payments are necessary under the revised MPF. In particular, and in consideration of principle AP2, we would question the rationale behind M06 having both a penalty payment and compensation payment assigned to it.
Dŵr Cymru	No
Everflow Utilities	

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Nottingham City Council	No comments.
Pennon Water Services	
Sefton Council	
Water 2 Business	We believe penalty payments do encourage good behaviours, certainly in our experience we do not budget for penalty payments, so our teams are driven to ensure our key processes are completed within SLA. We believe penalty payments should still continue to be applied as appropriate.
Water Plus	n/a
Waterscan	
Wave Utilities	<p>In principle compensation being paid on a unit charge per supply for all failures seems fair as it is to compensate costs attributed to the failure.</p> <p>However, as previously noted compensation charges need to be attributed fairly and should also be levied on other data items sitting with wholesalers, or part assigned to the wholesaler. For example, where Retailer A must compensate Retailer B yet some of the poor performance is attributed to bad address data, long term vacant sites, and LUMS the compensation cost should be split between Retailer A and the Wholesaler to compensate Retailer B.</p>
Wholesalers	
Affinity Water	
Anglian Water	See above
Dŵr Cymru	No
Northumbrian Water	
Portsmouth Water	No comments. We understand the difference between penalty charges and compensation payments.

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SES Water	
South East Water	No comment
South Staffs Water	No
South West Water	Compensation payments cover the cost and impact for a Retailer dealing with customers where poor performance of a Wholesaler, or another Retailer, has impacted the service and experience provided. Compensation payments can be made from a Wholesaler to a Retailer or a Retailer to another Retailer. It does not apply to KPIs that would require Retailers to compensate Wholesalers.
Southern Water	None
Thames Water	We believe penalty charges are the correct way to provide incentives to good performance and that compensation is a distraction which can create conflict between trading parties rather than collaboration to solve customer issues in a timely manner.
United Utilities	We do not agree that wholesalers should have to pay both performance charges and compensation payments for a single failure – we consider this to be double jeopardy. KPI failures should rightly incur a financial penalty which should be a single penalty and thereafter a decision should be made if this should be made to MOSL or, as a compensation payment to another trading party.
Wessex Water	No
Yorkshire Water	If a company were to marginally miss out on an outperformance payment due to the failing of another party, should they be able to claim back the missing outperformance payment as ‘compensation’? The wording may need to be clarified to account for this.
Other	
CCW	There is a clear distinction between penalty charges and compensation payments, and we believe the latter is not suitable for inclusion in the revised MPF. The overarching purpose of the MPF should be to incentivise improvements for business customers, rather than provide a mechanism for trading parties to be compensated for poor performance. In addition, it is unclear how a compensation payment tool might incentivise trading parties to improve performance, which should be the qualifying criteria for an

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	intervention tool being included in the MPF. We, therefore, believe that it is desirable for penalty charges to be included in the MPF, and for compensation payments to sit within another process outside of this.
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5.3 Do you have any comments on the methodology or evidence that should be used to calculate the genuine pre-estimate of loss (GPoL)?

Retailers	
ADSM	unsure, will be hard whichever way it is achieved. Also, in the water market, costs scale very non-linearly with size much of the time.
Business Stream	It's our view that the aim of CP4 cannot be achieved if the GPoL is calculated using market-wide unit charges and that as a result the new MPF must observe differing geographical costs.
Castle Water	<p>This principal does not meet several of the success criteria; it therefore needs to be reconsidered or scrapped:</p> <ul style="list-style-type: none"> • It adds complexity for both the market and the customer. • It is not transparent as a principal and will likely result in a sum that is not a realistic representation of the 'genuine cost' associated with another trading party breaching an SLA. • As detailed previously, there is no recognition of the customer, whether that is to discuss if some of the compensation should be paid to them, or whether public opinion of a proposal like this

	<p>would be supportive.</p> <ul style="list-style-type: none"> • Accountability is also still not good enough in the market for this process to be effective and fair. As with today's MPF, trading parties routinely pay penalties on breached SLA that are beyond their control. Despite general acknowledgement of this, this proposal will see another form of charging brought on in top of normal penalties, underpinned by a complex calculation which is unlikely to represent actual costs incurred.
Clear Business Water	<p>As outlined in our response to question 5.1, we would question the methodology of using averaged industry costs as the pre-estimate derived from this could leave Trading Parties exposed to real losses that sit above what has been considered the industry average or being required to pay compensation charges that are above those the other Trading Party has incurred.</p> <p>We would also question using the REC costs as a reference point for this as we do not feel that the costs included in the REC accurately represent the scale of costs faced by Trading Parties.</p>
Dŵr Cymru	<p>Has consistent and poor service from the wholesaler leading to loss of customer (switch) been considered causing significant trading losses to a retailer (especially where this is repeated and or significant)? With greater cost pressures on wholesalers anticipated within PR24 will priorities change based on the performance commitments within the draft determinations.</p>
Everflow Utilities	<p>In calculating a GPoL under this framework, the overall approach should consider that:</p> <ol style="list-style-type: none"> 1. Each metric will require a different approach/methodology that is relevant to the process in question; 2. Calculating a fair and representative GPoL should require at a minimum, real anonymised market data that is representative of the relevant losses we are seeking to compensate; and 3. Where a material loss is realised over and above the level of compensation set under the new framework, compensation through a GPoL alone will not be a sufficient or effective incentive.

We therefore expect some further consultation/engagement with trading parties outside of the planned consultations to be necessary in order for us to do this in the right way.

Whilst we do not have the data we feel is required to offer specific methodological steps, we do have some suggestions on the approach that should be taken for two of the relevant metrics here.

For M10 (Number of Long Unread Meters with outstanding B5 or C12 bilateral request):
Failures here can result in shock bills to the customer, which may lead to bad debt, as well as losses incurred when back-billing due to the current CPCoP restrictions. The calculation of a GPoL should therefore consider the above—perhaps through the calculation of the % bad debt risk associated with the LLUM in question, which could be applied to a proportion of all meters in the market.

Alternatively--for a given meter usage, the longer the meter goes unread, the higher the shock bill value and bad debt risk are. Compensation could be made proportional to this increase.

Both of the above approaches would require some analysis of relevant debt risk/shock bill data from several retailers, from which a representative market average could be carefully derived. Ofwat's normalised bad debt percentage for the market could also be utilised.

For M06 (Lateness of Overdue Transfer meter Reads):
GPoL here should be based on the financial impact of incorrect final bills. A possible method here could be to use the average daily charge for the relevant supply, multiplied by the number of days late. The average daily charge could be estimated by calculating an average daily rate for a given SPID based on its SIC code. However, this would need to be agreed upon with the market and may require additional consultation, either as part of MPF Consultation 5 or in addition to it.

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	<p>Finally, to expand on point #3 above, we would like to propose that GPoL should not stand alone for the compensatory tool under this framework. In a scenario where, for instance, a material bad debt loss is realised over and above the level of compensation set (i.e. >100% the compensation level), the GPoL set will not be an appropriate form of compensation.</p> <p>For example, in a case where the average loss is set at £2,000, but a retailer incurs a loss of £200,000, a £2,000 compensatory payment no longer represents an appropriate pre-estimate of loss. To account for these cases, we propose that there should be a 'market rate' GPoL--calculated for example in the manners suggested above—as well as a 'truing up mechanism'. This mechanism would allow parties to evidence and recoup losses above as well as below the market rate, and ensure that compensation remains proportional under the new MPF.</p>
Nottingham City Council	No comments.
Pennon Water Services	We're not confident that all the appropriate factors will be taken into account.
Sefton Council	Seems fine
Water 2 Business	It will be difficult to provide a standard calculation for these claims across the industry as all trading parties are different. We do not believe therefore that compensation payments are appropriate.
Water Plus	We do not have any specific comments at this stage, however we believe it is crucial that there is further industry consultation once preliminary values have been identified.
Waterscan	methodology seems easier said than done and its hard to picture an accurate GPoL being agreed across the market. For deferrals it will be hard to determine what is genuine and what isn't and could be subjective. There are a number of different scenarios where deferrals could be valid (e.g. where a customer requests an appointment at a much later date) and where deferrals would not be valid (deferred for a month due to a request for more info and that info was provided within a day or two but deferral persists to the end of the month).

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Wave Utilities	
Wholesalers	
Affinity Water	
Anglian Water	In addition to our overall view that these payments are not appropriate, we don't believe this meets the eighth success criteria – simplicity.
Dŵr Cymru	Does the methodology depend on the KPI that has been failed, i.e. if a Retailers cost to serve a particular customer exceeds average due to a failure by the Wholesaler then it is appropriate that compensation is based on a review of information provided in the examples in CP4 but will this always be the case?
Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	No comment
South Staffs Water	No
South West Water	Please see our previous comments relating to compensation payments. In line with previous comments, a MOSL survey for GPoL calculations and determination of costing methods is not our preferred approach.
Southern Water	The documentation confirms 'the GPoL for any applicable KPI will be calculated using industry average costs, which will be determined later in the MPF programme using a combination of costing methods (e.g., market surveys, REC costings, etc). The unit charge for the GPoL will then be applied in a code specified calculation (as per CP6) to determine the final compensation payment for a given event.' MOSL has stated that the payment could be low for trading parties but because this calculation hasn't yet been determined it is difficult to understand what it will be. More clarity is required.
Thames Water	We believe the GPoL will be extremely difficult to calculate and will bear no relation to any actual loss incurred by a retailer, this backs up our view that compensation payments should not be included and

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	that compensation payments could risk being subject to legal challenge if a retailer has not incurred any direct losses.
United Utilities	<p>Using a combination of costing methods (e.g. market surveys, REC costings, etc) makes sense however we feel finding the genuine pre-estimate loss figure will be challenging to calculate.</p> <p>When calculating penalty charges, we are unconvinced that it is appropriate for the full cost to be recovered from the wholesaler (on an average basis). Retailer margin should cover a degree of failure demand inherent in any operation.</p>
Wessex Water	<p>We would expect MOSL to not approach this with a light touch and would expect any proposals to be supported by robust data and calculations with opportunity to comment through consultation.</p> <p>There are many variables that will influence this calculation</p>
Yorkshire Water	<p>Yorkshire Water view this as far too complex. It would need us to input a lot of work and resource to administrate this on a monthly basis: especially if done peer-to-peer each time. This doesn't factor in any challenge or review process, which has not been discussed as yet. This certainly penalises wholesalers further if they are not eligible for compensation themselves.</p>
Other	
CCW	<p>Given that the proposed compensation payments will not be based on precise financial impact (as stated in the CP3 principle), it is possible that these could be subject to challenge if the affected trading party does not believe it is representative of the loss incurred. Any disputes that may arise from this could distract trading parties from focusing on improving customer outcomes, thereby negating the main purpose of the MPF. For the reasons outlined previously, we do not believe compensation payments should sit within the MPF.</p>

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5.4 Do you have any comments on the way compensation payments are proposed to be made, i.e. the process and frequency with which MOSL applies and communicates charges/payments with trading parties?

Retailers	
ADSM	
Business Stream	N/a
Castle Water	Castle Water disagrees with compensation payments as a tool for the reformed MPF. The documentation does not detail why 21BD late has been chosen as the qualifying threshold that triggers compensation payments, or if there is a process to appeal. Much like outperformance payments, compensation payments add unnecessary complexity and costs.
Clear Business Water	
Dŵr Cymru	As per 3.2 above
Everflow Utilities	<p>Compensatory and penalty payments are only part of the cashflows within the market in respect of the areas being considered (bad debt, meter reading costs, site visits, etc). For instance, if a Long Unread Meter (LUM) leads to bad debt, the retailer has already incurred a loss and should not be further penalised with an additional compensatory payment to the customer.</p> <p>To avoid introducing double penalties, it is essential to carry out a review of the MPF in its entirety by, for example, recalculating 2023-24 figures under the new framework to validate that it effectively incentivises appropriate behaviours without imposing unfair penalties. By evaluating the MPF in this way, we can ensure that it balances incentives and penalties in a fair and effective manner.</p>
Nottingham City Council	None.

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Pennon Water Services	No as we understand it will reflect current practices.
Sefton Council	Seems fine
Water 2 Business	No
Water Plus	n/a
Waterscan	As long as it's consistent, no preference
Wave Utilities	As above, Finance teams will need to manage and understand these, so there needs to be clarity around what payments refer to what, to make this as simple as possible and keep administrative costs to a minimum.
Wholesalers	
Affinity Water	
Anglian Water	
Dŵr Cymru	As above
Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	We broadly agree with the proposal, and it would be preferable for payments to be made monthly.
South Staffs Water	No
South West Water	No although as mentioned previously, we feel compensatory payments are perhaps better managed between Wholesaler/Retailer with payments made as appropriate.
Southern Water	No, this all seems clear apart from our comment regarding CP5.
Thames Water	We fundamentally believe that compensatory payments should not be made.
United Utilities	We support the proposal.
Wessex Water	Where possible, we would expect these to be aligned with other payment timescales

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Yorkshire Water	<p>This seems onerous and complex. We would like to see some evidence to support this being an effective system compared with alternatives. If MOSL are to manage this system, that will require additional funding, which ultimately comes from customers; as mentioned above, we do not see customers gaining much in the way of material benefit from these compensation payments and therefore those additional administration costs are unlikely to bring net customer benefit.</p> <p>Additionally, are there types of KPI that retailers would want to be compensated for over others? We are concerned that this could inadvertently create a 'trend' of prioritising KPIs that are likely to incur compensation payments over those that do not.</p>
Other	
CCW	Please see our earlier comments. We do not have any specific comments on the way payments are proposed to be made, as we do not believe compensation payments should sit within the MPF.

Section 6: Principles and Performance Standards - Financial principles (other)

6.1 Do you have any comments on any of the six additional financial incentives principles outlined? Please refer to each principle by its reference, e.g. AP4.

Retailers	
ADSM	no comments
Business Stream	AP6 – How inflation is calculated should be stated in the Codes. Furthermore, the methodology used should mirror that of the Retail Exit Code. MOSL may also wish to consider that for some KPIs the

	<p>increase in unit costs may not be directly linked to inflation, for example the increase could be linked more closely to wage increases.</p>
<p>Castle Water</p>	<p>AP1 - The framework should not reward failure. We believe this financial principle is, at best, nonsensical. A more appropriate principle would be, the framework will not penalise trading parties for issues beyond their control.</p> <p>While the framework should not reward failure, the reference to "lesser degrees of failure" demonstrates a lack of understanding of the drivers of performance and what is within a trading party's control. Regarding the reference to M03, we understand that this measure has been removed as a KPI because its goals were achieved within M01. Section 2 of 3: 'Design Principles for Financial Tools and Performance Standards', is dated 24 June '24. However, the slides communicating the intention to remove M03 as a KPI were presented at the PAG on 17 July '24. This timeline further illustrates that the ongoing development of metrics and financial measures is too rushed to be effective and to allow for the suggested calibration to understand the impact of metrics in isolation and as a package.</p> <p>We strongly encourage MOSL to revisit its timeline for the delivery of the MPF, as well as its approach to designing the associated metrics. Based on the data presented thus far at the PAG, we believe MOSL needs to introduce and facilitate discussions between trading parties in the form of design workshops. MOSL cannot continue to develop measures independently and without significantly more involvement from trading party members with operational experience in the market.</p> <p>We offer some further thoughts:</p> <ul style="list-style-type: none"> • AP4 - The MPF framework should be consistent in the treatment of charges for KPIs that are similar in theme and calculation, wherever possible.

- Terms such as "charges" and "incentives" are used interchangeably, which causes confusion. The current drafting needs significant improvement if principles, metrics, and related codes are to be clearly understood and effectively implemented.
- This principle is unclear: what does "consistent in the treatment of charges" mean? Does it refer to the value of the charge, how or when it is applied, the design of the metric, or all these aspects together? This lack of clarity makes it difficult to understand the intended application.
- We have repeatedly highlighted the need for a consistent approach to deferrals for cyclic meter reads, consistent with the wholesaler's ability to defer a bilateral case for reasons beyond their control. However, no similar proposal has been made for the cyclic meter read measures. If this is not what is meant by "consistency," we are unsure of MOSL's intentions with this principle and question its purpose and drafting quality.
- We are seeking fairness and consistency in the design of metrics. Currently, wholesalers can defer a bilateral service request for reasons beyond their control, but there is no similar and consistent mechanism for the retailer cyclic meter read measure. Without such consistency, the framework lacks fairness, and it remains unclear how this principle addresses these discrepancies. This further highlights the need for clarity and coherence in the drafting of the principles.
- Equality meter reading measures and bilateral both have a pass/fail time element but are not treated the same in the current or new MPF.
- We need to consider the conflict between PC8 and AP6. Notably, is AP6 not redundant as PC8 would indicate the "penalties" have to be individually calculated each year where you give "average market cost +X%". However, some 6 pages later in the consultation documentation, it

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	says to calculate once and just increase it every year by inflation. It is another illustration of the challenges to stakeholders in responding to this consultation, where there is a multiplicity of conflicts and a piecemeal approach to delivery.
Clear Business Water	AP2 states that only one financial tool shall normally apply to a KPI. However, KPI M06 has both penalty charges and compensation payments. We would seek clarification on the rationale behind this given it's diversion from principle AP2 and the number of penalty charges that Trading Parties are potentially exposed to for transfer reads as outlined in our response to question 3.1.
Dŵr Cymru	For clarity, please provide an indication of which inflationary indicator will be used (RPI, CPI, CPIH).
Everflow Utilities	
Nottingham City Council	Agree with these.
Pennon Water Services	No
Sefton Council	No Comments
Water 2 Business	We agree with all principles outlined.
Water Plus	We believe an additional principle is required to ensure that participants are never incentivised against the provision of additional accurate information, this would typically include measures that penalise 'late' submission when there would be no additional penalty for not submitting.
Waterscan	
Wave Utilities	AP1 makes reference to not rewarding failure, but equally it should not penalise TPs for matters outside their control.
Wholesalers	
Affinity Water	
Anglian Water	AP2 – we question the use of 'normally' ("only one type of financial incentive will normally apply to a KPI") – this only applies to three metrics and one of these is subject to two types of financial penalties

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	AP6 – we do not see what the basis for this is - GSS is not inflation linked, so why would market coded penalties be inflation linked?
Dŵr Cymru	No
Northumbrian Water	I would be interested to see what the definition of 'above and beyond' is for each applicable metric and how this will be applied in a fair and consistent manner.
Portsmouth Water	AP1 – We agree recognising outperformance is important. AP2 – We agree that double jeopardy must be avoided. AP3 – We agree this is the right approach.
SES Water	
South East Water	No comment
South Staffs Water	No
South West Water	We support AP1. AP2 – We believe only penalty charges should apply to. AP3 – is also supported as it allows performance of individual KPIs to be monitored and improved upon. AP4 would also be a sensible approach. AP5 – We broadly agree with this principal though note we wouldn't welcome frequent surveys to update charges. AP6 we support and goes some way to alleviate concerns with AP5.
Southern Water	No, they all seem clear & fair.
Thames Water	No Comments at this time
United Utilities	In principle we agree with these.
Wessex Water	No

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Yorkshire Water	Overall Yorkshire Water are quite happy with these. We are pleased that it allows PAC the flexibility to address emerging trends.
Other	
CCW	<p>We agree with most of the additional financial incentives principles, in particular:</p> <p>AP1 - It is vital for the revised MPF to genuinely incentivise good performance, which not only includes incentivising trading parties to avoid failure, but also to rectify any failures that do happen as swiftly as possible. We are, therefore, supportive of the proposed metrics (such as M03) that have been created with this in mind.</p> <p>AP2 – Regarding the application of one type of financial incentive, we are supportive of penalty charges, outperformance payments should only be used in very limited circumstances, if at all, and we do not believe compensation payments should sit within the MPF.</p>

6.2 Do you have any comments on any of the 14 performance standards principles outlined? Please refer to each principle by its reference, e.g. PS11.

Retailers	
ADSM	PS2. Kind of weird wording. It's hard to envision a scenario where 100% performance is achievable all the time.

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Business Stream	<p>Our responses above have already touched upon some of the performance standards but for completeness, we will list our concerns again here and provide a reason:</p> <p>PS2 – We do not agree that the minimum and outstanding performance standards can be the same especially when we consider for PS4 that both will be published in peer comparison reports.</p> <p>PS4 – While we recognise the importance of peer comparison reporting any reports must be fully understood by the customer. The reports should explain the importance that wholesaler performance has on retailers’ performance.</p> <p>PS10 – Our response to 5.2 considers how more wholesaler metrics could incur a financial penalty and compensation payment.</p> <p>PS12, 13 & 14 – Due to the impact that revising performance standards has on financial penalties we consider that performance standards should be laid down in the Codes.</p>
Castle Water	<p>We will not comment on the principles individually; instead, we offer the following points:</p> <ul style="list-style-type: none"> • Terms such as "most" are unhelpful and inappropriate in a document like this on Performance Standard Principles. They are ambiguous and lead to confusion. The drafting is not precise enough to ensure the principles are clearly understood. • The idea of confirming the standards after launching the new MPF is profoundly flawed. How can we launch something without knowing what the standards are? • Additionally, as we have mentioned elsewhere, if a standard's level turns out to be 60%, is that really the message we want to convey? This suggests the framework might be measuring the

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	<p>wrong things or failing to design the correct measures.</p> <ul style="list-style-type: none"> • The terms "minimum" and "outstanding" performance standards can be the same, which demonstrates that these terms are meaningless and misleading. The framework should not introduce arbitrary levels of performance for obligations that trading parties must fulfil. • The notion that performance standards will be absolute, except when they are not, is not a helpful principle. It is unclear what purpose this principle serves. • The terms "performance standards" and "KPIs" seem to be used interchangeably. This is not helpful, as it creates confusion and displays a concerning lack of attention to detail, which should not be present in a document of this type. • Some KPIs will be measured by other means, but based on what criteria? The level of vagueness is inappropriate and lacks the detail needed for further comment. • Again, we urge MOSL not to proceed with launching the MPF until the measures are clearly understood, particularly how they interact and function as a package. • As we have stated elsewhere, the M01 measure, as presented to date, will negatively impact customers. It would be inappropriate to launch a new framework with this measure in its current state or without understanding the repercussions of doing so. This is dangerous. <p>Please also reference further details provided in answer 2.2.</p>
Clear Business Water	

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Dŵr Cymru	No
Everflow Utilities	Please see Q 2.7, 2.10
Nottingham City Council	No comments.
Pennon Water Services	No
Sefton Council	No Comments
Water 2 Business	No
Water Plus	n/a
Waterscan	PS12 - disagree with decreasing minimum performance due to significant number of parties not meeting the standard, should only come about after investigation and consultation, unless genuinely impossible to achieve.
Wave Utilities	
Wholesalers	
Affinity Water	We do not believe that most KPIs will require both a defined minimum and outstanding performance standard (PS1), we do believe that all should have a minimum. PS2 is not required – if the minimum is 100% then there is no outstanding performance.
Anglian Water	PS10 – as we have previously stated we don't believe compensation payments should be part of the regime PS13 & PS14 – refer to 2.3
Dŵr Cymru	With all of Performance standards we have to take into account some of the complexities associated with some of the performance standards. (as stated in 3.2)

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Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	PS1 - We would need to work closely with all trading partners to establish fair minimum and outstanding performance standards
South Staffs Water	PS10 if only 1 financial incentive is applicable to each performance standard, should this not also be the case for penalty?
South West Water	<p>PS1 requires more definition by MOSL before suitable feedback can be provided We support part of PS2 however we would encourage MOSL to provide more detail on how the circumstances will be determined which define where there's no justifiable reason for trading parties not to complete a task. Once this detail has been provided, we would welcome the opportunity to provide more feedback prior to any implementation.</p> <p>PS3's principal and explanation are contradictory. Many of the measures are already reported upon or data readily available and we prefer that the majority of performance standards be set pre-launch, to minimise the need for changes to be made later on.</p> <p>We support PS4 through to PS9 in the MPF. PS10 please see our previous responses regarding compensation.</p> <p>We support PS11 and PS12, the latter being a positive step for a flexible MPF. We support PS13-14 although ask that changes and consultations be kept to a minimum where possible.</p>
Southern Water	PS1 - For some KPIs the standard may need to be confirmed after the reformed MPF is launched to allow time to consider companies' performance levels under the new framework. This raises some questions, how long will this be, 3 months, 6 months?

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	<p>PS3 – Same considerations as PS1, how long for necessary gathering of evidence?</p> <p>PS10 – Whilst we generally understand this principle, the explanation isn't very clear.</p>
Thames Water	No Comments at this time
United Utilities	<p>PS2 – We don't think it is a reasonable expectation for 100% to be set as the minimum for any measure as there could always be a justifiable reason for trading parties being unable to complete tasks.</p> <p>PS5 - We don't think it is a reasonable expectation for 100% to be set as the minimum for any measure as there could always be a justifiable reason for trading parties being unable to complete tasks</p> <p>PS6 – there are regional factors impacting performance in some areas. For example business premises vacancy rates are higher in some regions, particularly those in the north of England. This measure is, therefore, not simply a measure of performance but instead a measure of underlying regional differences.</p> <p>PS10 – We do not agree that wholesalers should have to pay both performance charges and compensation payments for a single failure – we consider this to be double jeopardy. KPI failures should rightly incur a financial penalty which should be a single penalty and thereafter a decision should be made if this should be made to MOSL or, as a compensation payment to another trading party.</p> <p>PS13 - We do not believe the performance standards should sit outside of the codes. We will often use performance standards (under their current guise) to set priorities and internal targets & scorecards and bonusable objectives. It is disruptive when changes to standards and targets occur midway through a financial / reporting year. We believe PAC should suggest changes however these should be part of the codes and approved by Code Change Committee allowing trading parties time to implement changes on</p>

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	<p>their side such as recruit new staff to ensure sufficient resources are available. Maybe a streamlined change through Code Change Committee could be introduced e.g. a Fast-track approach, to minimise cost.</p> <p>PS14 - we support the need for trading party consultation before performance standards are changed.</p> <p>5.2 item 4 – KPIs included in BR-MEX should not be included in any relative performance reporting as part of MPF. Given the importance of relative performance measures for trading parties – it would seem unfair to “penalise” a trading party twice for poor performance against a single measure. Having measures accounted for in two places also risks adding confusion and makes explaining performance to internal and external stakeholders more challenging.</p>
Wessex Water	No
Yorkshire Water	No further comments.
Other	
CCW	<p>Taking into account our earlier comments, and with the exception of PS10, we generally agree with the performance standards principles and believe they should drive the right trading party behaviours, and good customer outcomes. In particular, where there has been a failure, there is a clear customer impact that needs to be rectified as swiftly as possible. We, therefore, agree that some performance standards should be set at effectively 100%, as outlined in PS2 and PS5.</p> <p>PS3 – We support the aspiration of absolute performance standards where possible. However, these need to be carefully designed to ensure a stretching, and well evidenced target is set. We do not want the MPF inadvertently making it too easy for trading parties to perform ‘well’ against standards, with no significant improvements for customers. The revised MPF must ultimately drive improvements in service to the benefit of customers, and respond to changes in the market to strengthen incentives where</p>

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	<p>necessary.</p> <p>PS9 – It is of utmost importance for trading parties to exceed the outstanding performance standard for any payments to apply and for these to be in very limited circumstances. As per our previous comments, the outperformance payment tool needs to be carefully designed so there are no rewards for simply doing a good job. Trading parties needs to be true outliers in terms of exceptional performance, and clear and tangible benefits for customers need to have been delivered. In addition, we strongly believe that there should be no ‘reward only’ KPIs.</p> <p>PS10 – While we agree with the distinction between compensation and how companies are performing against standards, we do not believe a compensatory payments tool should be included in the revised MPF for the reasons previously provided.</p> <p>In addition, while the PS11 principle applies direction to the Performance Assurance Committee, it is welcome that discretion in their intervention is included in the rationale.</p>
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Section 7: Metric-to-tool mapping

7.1 Do you have any general comments on the four Charging Models? Please specify which you are referring to in your answer

Retailers	
ADSM	Seems ok
Business Stream	Model 4 – given the impact of wholesalers’ performance on retailers’ ability to obtain meter reads, this model should be extended to include M01 and M04.

<p>Castle Water</p>	<p>Having four charging models adds complexity and is hard to justify against the key success criterion of 'simplicity'. Likewise, we suggest that collectively these models fail the test of being 'proportionate'. They are also clunky to administer and their ability to be changed is no greater than today's MPF which in no way can be described as 'agile'.</p> <p>As we detail in our other answers, we do not support the introduction of 'outperformance payments' nor 'compensation charges'. In part, this explains our objection to Charging Model 1, Model 3, and Model 4. Outperformance payments (Model 1) cannot be justified given that a performance regime measures compliance with mandatory code obligations. These payments might better be characterised as a belated attempt to recognise that many code obligations cannot be achieved and hence, if trading parties do better than some to-be-invented level of 'outstanding' they will be rewarded by receiving an outstanding payment, if there is money left in the pot. That last point, "if there is money in the pot", shows that outperformance payments are insufficient to cover the gap between tasks which are in a party's control and tasks which are outside of party's control. So, what possible purpose do they serve?</p> <p>As we detail in our answer to Q2.2, there is no equitable basis upon which to set 'minimum' and 'outstanding' standards. At best, 'outperformance payments' could be described as a secondary way of distributing excess charges collected, once the Market Improvement Fund has first been satisfied and before they are returned to all trading parties. MOSL mistakenly suggests that outperformance payments will be reserved for 'above and beyond' performances and that only through these (non-guaranteed, size unknown) payments will trading parties performing near expectation still be incentivised to improve. MOSL provides no evidence to support that view, nor to disprove the natural incentives which it has previously confirmed are present in the NHH market. Overall, we question the concept of 'outperformance payments' and ask what has the trading party done to warrant this "reward"?</p>
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We suggest very little. Differences in performance will likely be mostly explained by external factors outside of a party's control. So, in the case of M01, it will be factors such as the differences in their distribution of meters across wholesalers; differences in internal vs external meters; differences in levels of vacancy; differences in access issues; the proportions of meters which can be read by wholesaler meter reading contractors; and even differences in weather patterns across the year.

We also question, as an annual reward to share out monies from an unknown pot of money upon which outperforming parties do not have a priority call (coming after the MIF), how is any trading party going to be able to rely and use the offer of these payments as an incentive to drive improved performance – even if that was in their control? The signal is too weak and uncertain to be effective, even if the tasks being performed were in the control of the trading parties concerned. We suggest it will be an irrelevance in driving exceptional behaviour, however that is defined.

Compensation charges are a concern (Models 3 and 4). We can see the initial attraction of a party making recompense to another impacted party for the additional cost imposed by their failure to perform. However, we remain unconvinced of the benefit and concerned that the costs will outweigh that benefit. It appears to us to be another unnecessary complication which MOSL has introduced and in so doing it moves us further away from the objective of a simple, easy to understand, fair, and effective performance framework which is focused on areas within a trading party's control.

How can one of four models having three individual charges – penalty charge, compensation charge, and final charge – be deemed 'simple'? We suggest that it cannot and therefore are unable to support. One of the objectives often cited is that our new market performance framework should be easily explained to end customers and be capable of being understood by those customers to give them the necessary confidence. If we apply that test to these models and to metrics proposed, do we really think that the proposed framework would pass? In our assessment, it would not.

Complexity adds cost – MOSL’s business case of December 2023 suggests an annual cost within MOSL of £550k to administer the new MPF and we expect that it will prove to be higher, given the bells and whistles that have been added in recent months. On top of that, each trading party will incur its own additional costs, before any penalty charges or compensation charges are added. Ultimately, these costs make our market less efficient and attractive. They will add to bills or risk services to customers.

Let’s remember that despite the presentation of a ‘minimum standard’ being set so that anyone who performs above that ‘minimum standard’ won’t be charged, there are other priorities which likely will determine it necessary to set that ‘minimum standard’ at a level higher than otherwise would be necessary. In this context, we note the Strategic Panel’s Statement of August 2023 where it said its priorities include that, *“we will agree the size of, and set the focus for, the Market Improvement Fund to contribute to our key market outcomes and priorities”*.

So, let’s be under no illusion that this new MPF will add costs to our market.

The benefits are less clear; for example, the evidence in the market today supports our view that M01 is an unnecessary metric and, therefore, there is no benefit to its inclusion. Hence, the costs of administering M01 will be a pure overhead and another barrier to entry to the NHH market.

Reducing efficiency is hardly the sign of a flourishing market. MOSL’s own business case claims a quantifiable financial benefit of £171k per annum. The sums don’t make pretty reading. In crude terms, invest £1m to set up, then spend £550k per annum, and derive an annual financial benefit of £171k. That’s an annual loss of £379k and a total loss over the first three years of £2.137m. The cost of operating our market is already too high and here we are layering on additional cost.

In addition to £171k of identified benefits, MOSL does claim that qualitative benefits *“will deliver improved customer and/or market outcomes”*. Again, there is no evidence. There has been no attempt to

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quantify or justify, and as we explain throughout our consultation response, we question whether those benefits will materialise – certainly not to the level that MOSL claims – given, for example, the failure to ensure that the MPF focuses on areas within a trading party’s control.

We object to the application of monthly charges under the four models will persist whilst the “failure” remains open. Our objection is based partly on our concern that we are not focussing only on areas within a Trading Party’s control, but also on the time which is typically needed to correct for a failure. In many cases, it is unrealistic to expect an underlying issue – for example an issue stopping a retailer under M01 from gaining a meter read – to be sorted within the space of a month (if we schedule biannual meters every six months, then we would have one further month to address the issue behind a skip and submit a meter read). We note that if having addressed an issue we need to reschedule a meter reading visit, those schedules are normally sent to contractors mid-way through the previous month, whilst some contractors do not offer the flexibility to visit a meter again before its next six-monthly cycle. So, not only is hitting parties with monthly penalties unlikely to make a material difference to performance outcomes, it is unreasonable to provide insufficient time for the skip to be addressed.

Whilst we have never been keen on the current ‘200 Business Days’ under MPS18, the thinking that determined such a duration is apparent and therefore it is concerning that this logic would appear to have been thrown out of the window in M01, in a bid to present a new, tougher regime. It won’t improve outcomes, but it will add unnecessary cost that trading parties may not be able to mitigate. We understand the driver to be tougher, but we remain unconvinced of the benefit of the approach to impose penalties monthly on the same failure without giving parties the necessary time to fix.

By way of example, we note the draft process flow proposed by the Metering Committee’s Quick Start Project #17 on ‘Internal Meter Access’ includes three phases. In the first phase, the Metering Committee’s process requires that a retailer retains responsibility for a minimum of 30 business days before sending a

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	<p>bilateral request to a wholesaler. The large number and nature of the process steps set out by the Metering Committee explain why a minimum of 30 business days is deemed necessary. A similar minimum of 30 business days is included for the second phase of the process, where the wholesaler takes responsibility. And, then there is a third phase of undefined duration, which is likely to continue for many months and possibly considerably longer (e.g., where a legal warrant is required).</p> <p>We note that these timelines are incompatible with the charging models proposed for MPF, where a meter read at six monthly intervals would one month later receive a penalty charge and the imposition of that charge for failure would continue monthly thereafter, even though the Metering Committee’s process recognises that an access issue will likely take many months, with no guarantee of an outcome.</p> <p>Why the disconnect? There would appear to be a lack of joined-up thinking between the new ‘market performance framework’ and the reality encapsulated in the Committee’s new ‘access process flow’. This is a common theme, such that we do not consider the MPF and its charging models to be compatible with today’s realities, nor robust to wider changes in the market - such as the move to smart meters.</p> <p>A final general comment on the charging models is for us to note that it is difficult to comment on the impact of these charging models at this time in the absence of the charges. Perhaps we could all agree to there being merit in model which charges motorists for parking in a car park without a valid ticket, where that penalty charge is of the order of £50. But make that £500 or £5,000 and many would judge the charging model to be inappropriate. In our case, we don’t know what the charge will be, other than it will cost more than undertaking the task and that the charges in total will be uncapped. It makes it difficult to model and comment on an abstract concept. It makes it impossible to support.</p>
<p>Clear Business Water</p>	<p>M13 has been allocated a charging model but does not have any associated financial tool.</p> <p>M19 has an associated financial tool but no associated charging model.</p>

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Dŵr Cymru	We cannot identify if there is any communication planned or clear timeframes for retailers or wholesalers to be notified of charges, penalties, overpayments...does it all happen in the same month?
Everflow Utilities	Regarding the four Charging Models, our comments are as follows: 1. The combination of annual outperformance with monthly penalties could result in skewed charging. 2. Fundamentally, outperformance must be calculated on a monthly basis, similar to penalty charges, and should accrue and be paid monthly (see Q4.2).
Nottingham City Council	No comments.
Pennon Water Services	It's surprisingly complex and challenging to engage with, for something that should be easily accessible to all.
Sefton Council	Model 1 seems most comprehensive and fair how they are funded
Water 2 Business	No - we have already commented on the use of compensation payments.
Water Plus	We do not have any wider comments on the underlying Charging Models, however the specific combinations of metrics and level of incentive will require further discussion and consultation. Whilst we broadly agree with the principles considered, the impact and appropriateness of the package can only truly be considered when available as a complete proposal.
Waterscan	
Wave Utilities	Although the idea was to provide simple charging methods, these may be too simplistic. Where Retailers are expected to pay compensation or penalties yet underlying/core issues are out of their control as is the resolution, other factors need to be built into the metrics to offset and reduce charging calculations.
Wholesalers	
Affinity Water	

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Anglian Water	In terms of there being four charging models, we don't believe that this meets the criteria of simplicity. As stated in our previous comments, we don't consider that compensation payments should be included, but we are comfortable with the first two charging models.
Dŵr Cymru	No
Northumbrian Water	Model 1 - if a trading party does not complete any tasks in the month, are they exempt from penalty or outperformance charges?
Portsmouth Water	No comments
SES Water	N/A
South East Water	We have no issue with the charging model.
South Staffs Water	No
South West Water	We are supportive of model 1 and believe that the calculations help to address the variation of challenges met by Trading Parties. We are supportive of model 2 provided "reasonable definable" is clearly defined. Models 3 and 4 – please see our previous comments relating to compensation payments. We also note that the scenario given points to where there's an open C1 or B5. Previous discussions flagged on the interim improvements raised concerns on the validity (or relevance) of a LUM to that process. We believe this might drive wrong behaviours and note that if TPs are not being charged for LUMS outside their control, then a compensation payment may not be applicable.
Southern Water	We agree with the four charging models
Thames Water	We do not believe compensation payments are appropriate or suitable for the MPF. This will not assist trading parties collaborating to fix issues for the benefit of customers. Taking M10 as an example, a retailer who fails to take reads resulting in addition to long unread can submit a bilateral request even if the reason is outside the wholesaler control, i.e. access. The wholesaler will then have greater difficulty as it does not have customer details and this can be used to generate compensation payments. It is worth

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	<p>noting that these payments may be in excess of the available margin under the REC and would therefore be disproportional.</p>
<p>United Utilities</p>	<p>In the interest of achieving simplicity and making performance information engaging and accessible, it is important that stakeholders are easily able to explain how any performance standard works – or that they require no explanation at all. If, when reviewing performance, trading parties need to refer to methodology documents, or we spend more time discussing what’s being measured than how to improve performance, then it is probably too complicated.</p> <p>We don’t believe that there are 4 models, rather there is 1 charging model presented with 4 possible iterations.</p> <p>A KPI may be treated in different ways depending on what elements apply. i.e. against each KPI...</p> <ul style="list-style-type: none"> - Outstanding performance threshold (can be 100% if no outperformance payments were appropriate) - Minimum performance threshold (can be 100% if no minimum standard were appropriate) - Performance charge per failure (can be £0 if no performance charge is due) - Compensation charge per failure (can be £0 if no compensation charge is appropriate) - Out-performance value (can be £0 if no outperformance payment is appropriate) <p>We believe that this would simplify the approach to each KPI.</p> <p>The grouping of KPIs by themes again adds a level of complexity that seems unnecessary. KPIs should be grouped in an appropriate way and numbered sequentially – the approach of grouping the KPIs in two ways seems unnecessary. If PAC feel necessary to group, the metrics into themes then it would be easier to re-number them sequentially and present them together to industry.</p>

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Wessex Water	We do not believe that penalty charges and compensation should exist for the same breach of a KPI but they can be applied for the same situation at different breach points until resolve. This is where we believe that two stage parameters can be applied
Yorkshire Water	<p>Yorkshire Water is one of the few wholesalers that provide a value-add meter reading contract with a number of retailers. This means that we will be providing meter reads directly. It is unclear how this would be impacted by the MPF metrics and changes; while we recognise that as a wholesaler these are not metrics that apply to us, this does allow us unique insight in regard to data and whether retailers are using the meter reads provided; our data suggests that we have an extremely high level of success in reading meters.</p> <p>With the reference to compensation payments elsewhere in the consultation: will wholesalers incur penalty charges/overperformance payments based on what a retailer has done; i.e if we sent them the meter read info but they didn't put this into the market? This presents a potential loophole that emphasises the need for evidence and challenge within that compensation process.</p>
Other	
CCW	<p>We support the use of both charging models 1 & 2. We are particularly supportive of Model 2, as we agree that 100% performance should be achievable on some KPIs. It is vital for customers that where there are no barriers to achieving targets, trading parties are appropriately incentivised to meet them to ensure high levels of service.</p> <p>For the reasons outlined earlier in the consultation response, we do not believe compensatory payments have a place in the MPF, so they should not feature in the charging models. The inclusion of outperformance payments should only be in very limited circumstances, if at all.</p> <p>We want the MPF to be agile and adapt to changing circumstances and market conditions. In line with this, it may be necessary for charging models to change in the future. We, therefore, want MOSL to</p>

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	undertake a comprehensive review, two years from the date of implementation, to ensure the models are fit for purpose, and driving good customer outcomes.
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7.2 Theme 1: Market meter reads We would now like your feedback on each of the six themes into which KPIs were grouped. Regarding Theme 1 - Market meter reads - do you have any comments on: • The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? • The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Retailers	
ADSM	
Business Stream	<p>We strongly support that each KPI performance standard should be achievable and trading parties should not be penalised for not achieving something that is outside of their control. As evidenced in Deloitte's Insufficiently Read Meters Report, 100% success cannot be guaranteed due to multiple factors including meter location and geography. Therefore, the penalty charge KPIs for MO1 and M19 should exclude vacant properties, however; we consider that any outperformance payment should use vacant properties in its calculation.</p> <p>Furthermore, the KPI for MO1 should exclude any unread meters where a C1 and B5 bilateral request has been raised but not to discount these supply points from the KPI calculation where a read had been successfully submitted into CMOS.</p>
Castle Water	This proposed framework is a regurgitation of the existing MPS18 MPS19 (on steroids), but it has not actually addressed the fundamental issue with those existing measures, namely, what is and what is not within a trading party's control.

Where a retailer has scheduled and visited a premises to obtain a read, and for reasons outside its control not managed to obtain a read, the market should not view this as poor performance, but the MPF treats it as such. There is the cost of attempting to get the read, and then on top of that a performance charge. We are just in a different form regurgitating the existing MPS18/MPS19 without having addressed the flaws and unfairness. It does little to improve trading party accountability.

We note in that in the Code Change Committee minutes of CPM048 & CPW131, CCC meeting 03, it advises "However, the analysis and qualitative feedback from the consultation did present a strong case for reviewing the current incentive regime and the committee looked to the MPF reform programme to explore this". Unfortunately, the MPF reform programme does not seem to have considered these previously raised issues as per the Code Change Committee's request.

Also, in that meeting discussing CPM048 and CPW131, early in the discussion (but not recorded in the minutes, you would need to go to the recording) it was queried what would happen to the MIF if performance charges were suspended? The frequent repetition of the PC10 line "Penalty charges collected from KPIs will therefore be allocated as follows (in order of priority): The Market Improvement Fund (MIF);". This means that any decisions about the minimum standards and values of penalty charges has to be taken in open session with minutes. The recording must also be made available to all parties to avoid the challenge that this framework is less focussed on fairness and more focussed on insuring funds for the MIF.

Outperformance as a concept in market performance is being rewarded for doing what you were always required to do under the codes. This is over complicating the whole programme and creating a legion of bureaucrats and expenses for trading parties to manage something like that (though it may be not universally liked, this is covered already and by 9.4 and 9.5 of the MAC, redistributed to trading parties as

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	<p>per the current MPF process) and as such is not required.</p> <p>Compensation payments should be outside the Market/MOSL/Pac remit. It should be noted that the discussions concerning some of the Bilateral measures on the PAG is trying to ensure that charges are not going to be made where subsequently it is shown that they should not have arisen. Castle Water have previously queried with MOSL on MPS18/19 where penalties have occurred and then later the SPID or Meter have then been Deregistered or ended/removed etc. Those charges should not have been incurred. The reimbursement of those charges incurred in such a manner under any new MPF regimes should be considered as a matter of fairness and rank higher than the MIF.</p>
Clear Business Water	
Dŵr Cymru	<p>Within the development of the framework, has consideration been given to activities which are delayed solely due to customers (i.e. outside both wholesaler/retailer controls). Examples would be:</p> <ul style="list-style-type: none"> • H&S risks delaying meter exchanges, customer operations do not allow meter changes due to H&S risks • large industrial sites where water is required for employee safety (chemicals, furnaces) – customers delay
Everflow Utilities	<p>Given the precedents set by the CPCoP requirements and the charges assigned to other metrics, we do not believe that either outperformance or penalty charges are necessary to be applied to M07. This metric appears to be equivalent to M23, which was presented in consultation 3 as an additional metric.</p> <p>It is not clear why this metric has become or should remain a KPI; it duplicates and overcomplicates more straightforward and direct measures of meter reading timeliness. It is also not appropriate to penalise estimates, given that they are allowed by the codes, and required in a number of circumstances.</p>

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	We are pleased with the proposal for M01 and find the addition of outperformance to be an improvement on the current framework.
Nottingham City Council	No comments.
Pennon Water Services	Remains to be seen how this works in practice.
Sefton Council	All seem fine (none to include/remove)
Water 2 Business	<p>We do not believe it is fair to penalise trading parties each month for the same failure, particularly where there are circumstances outside of our control which means we simply cannot obtain a meter reading. As an example, we have a case currently where the building has been severely fire damaged, the wholesaler cannot access the building to disconnect the meter, so will not allow the market to be updated as technically the meter is still in situ. We would incur a penalty charge each month for years until the building was declared safe to enter!</p> <p>Larger retailers will also be unfairly penalised; recently we were contacted by MOSL to respond to an audit on skip codes. During the period of March to August 2023, we had over 10,000 skipped read attempts. Realistically, no retailer would be able to review & resolve all these skips within one month to prevent another failure, this may have the unexpected consequence of negative behaviours around resolving these issues. Wholesalers will also be unable to realistically process a large increase in bilateral cases, we are already seeing delays to cases due to resourcing & meter stock availability, this will only move the issue from one party to another and cause wholesalers to incur performance penalties.</p>
Water Plus	Water Plus broadly agrees with the methodology listed, and believe this represents a much clearer assessment and charging framework that enables market participants to reliably estimate their own performance and drive for improved outcomes.

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Waterscan	Mostly agree although we would like to highlight that for M07, R1's would naturally have a high level of estimate consumption compared to R2's onwards so distinctions would need to be clear on what good performance looks like.
Wave Utilities	<p>Part1: M01: Agree to charges and outperformance in principle however, removing the cap on penalties need risk assessing and the implications addressing – potentially considering a cap. As explained elsewhere, retailers should not be penalised for being unable to get meter reads for reasons outside of their control e.g. internal meters in vacant premises, TE meters etc.</p> <p>M22 & M39: Wave has a concern that there will be a natural disadvantage for Retailers with incumbent portfolios that will lead to unfairness in these metrics.</p> <p>Part 2: This may affect retailers, and reading contractor auto scheduling rules as these will be designed to fit the current code. Cost will be associated with changing schedules to fit a new rationale.</p>
Wholesalers	
Affinity Water	<p>We would potentially suggest remove outperformance payments.</p> <p>This is a fundamental part of the NHH market and as such an expected behaviour, with a high minimum standard that should be set but accounts for realities experienced by trading parties and customers.</p>
Anglian Water	No comments
Dŵr Cymru	It could be argued that a biannual meter not being read has more of an impact to a customer than a monthly meter not being read?
Northumbrian Water	I think this is fair if the minimum performance standard is set correctly, and addresses my concerns around removing the cap
Portsmouth Water	M10 – Should take consideration of W reads in CMOS. It is not correct or fair to assume that if there is no C read then the meter is long unread.

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SES Water	N/A
South East Water	We are happy with Themes 1, 2, 4, 5 & 6. Theme 3- Query: Should there not be a MO9 on Theme 3 for SMART metering?
South Staffs Water	We have concerns that bilateral forms will be raised inappropriately in relation to meter reads. For example, where reads have not been completed for several years, or meters LUR internal with no occupier. Additionally, we would like there to be consideration on internals requiring access and a lack of contact details being available therefore elongating the process for wholesalers to resolve the retailers request within the timeframe. Even with the correct use of the deferrals these examples could see wholesaler penalised unfairly.
South West Water	The calculations and rationale for M01 (being as things are now) don't raise any concerns and we are supportive of these. Without confirmation on the same for M07, it's not possible to provide comment at this stage. We would need to see that the calculations and rationale don't adversely impact the market for lower consumption end customers to focus on obtaining reads for larger consumption sites.
Southern Water	None
Thames Water	No Comments at this time
United Utilities	M01 – It is not appropriate to apply a penalty if a monthly meter read has not been submitted within that month. There needs to be a sensible buffer to account for reads being submitted a few days beyond the end of the month. This is very likely in reality – i.e. a read cannot always be obtained exactly 30 days after the last. Sometimes there may be three weeks between reads, sometimes there may be five weeks. The measure should reflect normal operating good practice.
Wessex Water	As acknowledged by the consultation document, one of the highest impacting factors of a missed read is the customer in terms of the accuracy of their bill. We will always champion for the customer in this area, compensation payments to the customer for prolonged periods of estimates.

	<p>Whilst compensation for customers has been considered in the past as complex, we believe that the customer should be the correct beneficiary of compensation in this area and the complexities should be overcome to compensate customers directly.</p> <p>We disagree with the rationale explained in not applying financial penalties for M07. There are no proposed measures on the accuracy of estimation and M07 should be tailored to incentivise improvement in this area. We believe that estimation is a distinct problem on its own when compared to M01.</p> <p>It's a by product of a meter not read but an opportunity if accurate to offset the impact to the customer of a no read bill. We do not believe to date in the current performance framework or the proposed changes to the MPF that MOSL has sufficiently demonstrated its understanding through analysis of process B5 and process C1.</p> <p>In the absence of a demonstrable data driven approach, we have not seen a sound analysis of the number of B5 and C1 processes that have been valid requests. The data to determine this is captured through bilateral requests in the completion transactions. This is a default assumption by process type that there is an issue. We do not believe in all cases that this is true. We believe that it is fair for Retailers to have a deferral mechanism however our experience in the past has suggested that circa 20% of B5s and C1s are not required</p>
Yorkshire Water	<p>Yorkshire Water broadly agrees that there should be charges for not submitting reads to the market. As referenced above, we provide them under our meter read contract – but have evidence to suggest that not all retailers put them into the market.</p> <p>We would like clarity around scenarios where reads are attempted but unable to be read and what</p>

	<p>should be included/excluded when efforts have been made. We would reiterate that a monthly charging model rather than an annual charging one will lead to a need for greater admin costs to manage and monitor by trading parties.</p>
Other	
CCW	<p>We strongly support the proposal that retailers will continue to be penalised until they successfully submit a meter read. Under the current MPF, there is a disincentive to address the initial failure, which then impacts customers if they continue to be charged based on inaccurate estimation and on estimates for a longer period of time. For this to genuinely incentivise behaviours, it is important that penalties are set at a level which incentivises retailers to address root causes of any failures to read meters. This should also enable retailers to meet our Five-year review recommendation of issuing customers a minimum of two bills each year based on actual meter reads.</p> <p>For MO1, the target levels need to be set high enough to ensure that retailers are providing a service that is clearly considered 'above and beyond'. For biannually read meters we expect to see meters read twice a year. This would not be achieved if one read was submitted and accepted in the last 7 months as proposed. As meter reading is a core service, customers rightly expect meters to be frequently read, this is also evident in CCW's research on meter reading frequency with small and medium business customers. Therefore, we do not want to see retailers rewarded simply for meeting this expectation.</p> <p>As outlined earlier in the consultation, we do not want to see any charges redistributed to trading parties given the disincentives this creates. These and outperformance payments must not be interdependent. If a significant amount of penalty payments remain at the end of each year, these should fund other improvement projects that could benefit customers. We are keen to work with MOSL and Ofwat on the options that could be explored to deliver greater customer benefits.</p>

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7.3 Theme 1: Market Meter Reads Where they apply, are there any particular factors that should be considered when determining: • The financial value of charges for each KPI within this theme? • How the value of performance standards calculated?

Retailers	
ADSM	
Business Stream	<p>MO1 - as previously raised, there are significant geographical differences in meter read costs. An average market-wide unit cost financial charge will dilute the incentive in some regions where the cost of the meter read is greater than the penalty.</p> <p>M02 the cost to a wholesaler obtaining a smart meter read will be minimal. However, should a smart meter fail to the extent that it is no longer providing consumption data, the wholesaler will need to obtain a visual read and fix the meter. Therefore, for PC8 to be achieved the level of the charge can't be set at the average cost of a smart meter read but must exceed both the cost of repair/replacement and obtaining a visual read.</p>
Castle Water	<p>See our previous answer to Q7.2 and in addition we note:</p> <ul style="list-style-type: none"> • With the work previously done on Skip data provided on CPM048 and CPW131, the request by the code change committee was that those issues are addressed in this new framework. • While it is appreciated that SPIDs with a C1/B5 will be removed from M01, it is the only issue that has been addressed (if it is done in the current manner re MPS18/19, it cannot be fair. • In theory, if a retailer is successful in obtaining a read, and then still need to raise a bilateral (C1/B5) i.e. an issue has been found while successfully getting read, is that successful read going

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	<p>to be excluded from performance?</p> <ul style="list-style-type: none"> • The minimum performance standard must consider the other elements that are outside the trading parties' control that would lead to not obtaining a read. So far in the discussions at PAG, the inclusion of vacant sites has been challenged, but seems that issues such as customer access have not. Recent discussions at the PAG have found time for better due diligence when discussing the bilateral processes (it will have been at the PAG 4 times for discussion), unlike M01, which numerous members of the PAG have requested to return for further discussion. • The possibility of smart meters being switched to wholesaler control (I assume to avoid discrimination as monthly meters under this same regime (great if a battery runs out)) is mentioned but when given the different Wholesaler roll outs of these. It does not make sense (for the only area of this whole reform that the simplicity principle seems to apply to) not take into consideration the geographical differences caused by differing roll out programmes of Smart Metering, as well as the currently differences in "Meter Health" by wholesaler area. While these issues are addressed, and impacts mapped, the only logical level of charging is £0.00.
Clear Business Water	As outlined in our comments on the penalty charge principles, all Trading Parties strive to obtain accurate meter reads wherever possible and some failures are outside of the Trading Parties control. We accept that it is not possible to exclude all of these scenarios from being measured against a performance standard, but what is considered good performance in the market should take this into consideration.
Dŵr Cymru	No
Everflow Utilities	We would support maintaining a 95% performance standard for M01; we find this to be an effective and reasonable standard and see no reason to increase or decrease it. Any adjustments to the current levels

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	<p>of charging should depend on and consider adjustments to the performance standards as compared to the current framework.</p> <p>We would also reiterate here that it is crucial that both penalties and outperformance are calculated on a monthly basis.</p>
Nottingham City Council	No comments.
Pennon Water Services	These need to be proportionate and reflect responsibilities and obligations. How frequently will these value's be changed and how arbitrary is that?
Sefton Council	No factors to add
Water 2 Business	No
Water Plus	<p>We do not have any specific views or suggestions on a methodology to calculate the value of penalty charging at this stage, however we believe further consultation and industry discussion will be critical once this has been identified.</p> <p>We are concerned that in combination with a potential removal or increase in the cap, increases to individual charging levels could represent a significant risk to the financial health of trading parties in the market and should be carefully considered and discussed.</p>
Waterscan	
Wave Utilities	<p>Part 2:</p> <p>A key consideration should be vacant SPIDs and if these are being brought under this KPI, the volume of vacant internals would need to be considered when it comes to the value of how performance standards are calculated.</p>
Wholesalers	

<p>Affinity Water</p>	<p>The proposal for M01 could drive unintended behaviours in the market.</p> <ul style="list-style-type: none"> • It does not account for existing challenges with the meter estate (many are non-smart) and the lack of key information to explain failure percentages (no facility to input skip data into CMOS). • Smart meter rollout will take time; it won't be here tomorrow. • The calculation could lead to a significant and sudden increases in bilateral activity for both monthly and bi-annual meters if a trading party falls below a threshold, creating an unnecessary administrative burden for all, at the expense of quality. • This could force reactive operational activities driven by the KPI rather than a planned, customer-focused approach if a trading party is below the threshold. • While timely form submissions and meter reads are important, the model doesn't clearly consider challenges like internal meter access issues, customer problems, covered or flooded pits, etc (non-fault issues). • The market lacks data to show these challenges adequately across trading parties. • Introducing skip information into CMOS could help demonstrate attempts and reasons for failures, allowing better evaluation of trading parties' responses and behaviours. • Time should be allowed for trading parties to address failed attempts, including customer interactions, investigations, allowing quality form submissions when required.
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- Different scenarios (e.g., damaged meters vs. flooded pits) require different responses, and the current model doesn't accommodate this nuance. One would require a bilateral, the other may be resolved on the next cyclic reading (i.e. the pit is now dry) – this model potentially doesn't allow for this if a trading party is "failing".
- An operational or meter reading visit isn't necessary for every skipped meter; reporting skips in CMOS would highlight more concerning failures and drive the right behaviours to make the market work – whilst not increasing costs (additional meter read visits etc).
- Penalties for missing readings should be applied slightly later (a grace period allowed) for biannual meters or a 3-month mark for monthly meters, rather than immediately.
- This allows time for resolution and places pressure closer to the RF period, which is more practical and fairer – and could allow for higher penalty charges and higher thresholds if trading parties do not deliver on this. Compensation payments could apply.
- Smaller trading parties or new entrants would be able to operate effectively without the immediate penalty pressures that could come their way.
- Monthly penalties could lead to increased charges for customers due to the pressure of short resolution periods.
- The market isn't fully equipped with smart meters, making the immediate application of this model more challenging.

We suggest reconsidering the calculations to account for operational challenges, provide a more

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	practical timeline for penalties, and incorporate data improvements to better reflect trading parties' efforts and circumstances. This would help smaller trading parties and new entrants adapt without undue pressure while ensuring fair and effective market operation for all involved.
Anglian Water	No comments
Dŵr Cymru	No
Northumbrian Water	It is right to look at industry average, however, be mindful of the impact of a missing read and the effort for a customer to request a bill based on an actual read
Portsmouth Water	No comments
SES Water	N/A
South East Water	Should a skip code reason determine the value of the fine or SLA? e.g. adverse weather which means you are unable to read a meter.
South Staffs Water	N/A
South West Water	In order to incentivise better performance the penalty costs need to outweigh the cost of meeting the standard. However, the cost should not be so excessive as to disadvantage Retailers or trading parties with lower financial margins. A TP not meeting the standard will need time to turn this around to meet the required standard before meeting the standard.
Southern Water	None
Thames Water	We have serious reservations about the impacts of the incentives that could be put in place by the KPIs relating to analogue market meters. The proposals allow retailers to avoid penalties by raising bilateral work requests. This incentive to raise bilateral is a step change increase in incentives to raise bilateral work than those in the current MPF

This could create additional costs for retailers to raising and re-raising bilaterals and for wholesalers in processing requests and then taking action to attempt to resolve the requests (a reasonable cost impact for wholesalers could be in the order of £100 per bilateral request). Joint working with Retailers on their meter reading skips has suggested that number of potential bilaterals could be very high, running into potentially thousands of jobs each month. MOSL have provided no meaningful analysis to suggest they have considered the impact of these new incentives or an assessment of whether it is [SIC] the right step to take to reduce numbers of long unread meters. We don't accept that a reduction in long unread meters will be resolved by simply ramping up incentives for retailers to raise bilaterals. This implicit assumption is overly simplistic and will simply drive trading party costs and friction rather than improved market outcomes.

The most obvious example of this friction is where reads are not able to be taken due to customers not providing access or that premises are vacant. The proposal also fails to make any distinction between a read failing to be obtained as a result of the poor performance of a meter reader and issues with the wholesaler's meter. Trading parties risk being caught in a cycle of work raising, work rejections or deferrals (which in themselves carry costs to maintain and penalty risks under the new framework. Finally meter locations and customer characteristics vary significantly between different wholesaler areas.

For example, the three largest wholesalers have a high proportion of internal meters due to the constraints of development in larger conurbations making this the only practicable way to meter those customers. Great care has to be taken not to put in place a framework that will create sustained winners and losers due to these legitimate differences, even where retailers are taking all of the right actions.

We ask that MOSL carry out further analysis of the possible impacts of their proposed new analogue meter reading incentives on bilateral work raising. Subject to the findings of this analysis to consider making changes that do not give retailers an incentive to avoid penalties and costs by simply passing

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	<p>costs onto another trading party by raising bilateral work.</p> <p>We need a solution that better incentivises retailers and wholesalers to work together to reduce long unread outcomes. We believe the current design of this incentive will detract from that.</p>
United Utilities	
Wessex Water	<p>Please see response to 7.2 on estimation accuracy.</p> <p>We have also noted for this area and taking opportunity to comment here, that the number of customer reads at transfer are low.</p> <p>We believe this is an area that should be explored further in addition to the MPF as to why, in the broader improvement exercises targeted at the improvement of transfer reads. If this question can be answered and improved on, this should be a route to reduce estimation at transfer even further</p>
Yorkshire Water	<p>We would note that any retailer taking advantage of our meter-reading contract would be at an advantage as we have an extremely high success rate in providing meter reads.</p> <p>It would be advisable for MOSL to apply some future-proofing to these KPIs with the smart meter rollout; once smart meters are widely available there shouldn't be any reason for late reads.</p> <p>It is worth considering the impact of seasonal performance swings; in our experience there are times of the year where gaining access to a property to read a meter is much more difficult (such as at Christmas, where businesses are closed), and this could have KPI impacts. For this reason we would be more in favour of charging periods to be quarterly or annually instead of monthly, in order to balance out market participants' ability to flex over these more challenging seasons.</p>
Other	

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CCW	<p>We broadly agree with the proposed calculation methodology, as outlined in the worked examples. It is sensible that this is in proportion to the number of expected meters to be read, as this clearly represents the customer impact.</p> <p>However, our overall opinion of how effective an incentive is will be determined by the value of the charge. This needs to be set a level where it is more cost effective for retailers to address the root causes of problems reading meters, rather than simply pay the penalty. The design of MO1 should also ensure that retailers are largely in control of this activity, as it will exclude active B5 and C1 requests that the wholesaler has responsibility for. It is, therefore, fair to apply stronger penalties when failures are more likely to entirely be in a retailer's control.</p>
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7.4 Theme 2: Transfer reads Do you have any comments on:

- The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any?
- The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Retailers	
ADSM	To consider - how should revision of transfer readings (e.g. after wrong estimation caused by the meter being left unread for a long time, or customer miss-read) be handled. in some, (most) cases? edge case that can causes a lot of customer issues for both the outgoing and incoming retailer
Business Stream	It is our view that the approach taken on transfer reads requires further consideration. We can understand that MOSL has based its thinking on the current Codes but transfer reads are a good example of where the Codes need to be reviewed rather than the MPF as the Codes don't reflect some of the current practices and issues that retailers face:

- Obtaining visual ad hoc meter reads is very expensive in some regions and therefore retailers are increasingly reliant on estimating the transfer read or asking the customer to pay for an actual read.
- The cost and availability of ad hoc reads are likely to increase with the rollout of smart meters.
- If the read history in CMOS for a meter is poor, there is a high risk that the incoming retailer calculates an inaccurate meter read.
- The 'read window' for obtaining and submitting a transfer read is restrictive and doesn't allow for a customer to provide the read to the incoming retailer at the point they agree to the transfer.
- Naturally, the current Codes are not reflective of the planned smart meter rollout where it is hoped that monthly cyclic reads will be available in CMOS for all meters, thereby reducing the risk of an inaccurate estimated transfer read. However, there are also issues with the proposed MPF that contribute to difficulty with obtaining or estimating an accurate transfer read:
 - There is inadequate incentivisation on wholesalers to ensure that an incoming retailer can locate the meter (M14). Furthermore, the M14 KPI won't be introduced until November 2025.
 - Some of the KPIs designed to ensure a speedy resolution to bilateral requests won't be introduced until November 2025, which increases the risk of poor read history in CMOS and therefore inaccurate transfer reads.
 - M01 won't create an incentive for retailers to read meters in regions where the cost of the meter read (and the ad hoc read) is greater than the financial penalty, increasing the risk of a poor read history in CMOS and therefore an inaccurate estimated transfer read. So, while we agree that a transferring

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	<p>customer should have certainty on its closing and opening invoices from its outgoing and incoming retailers, the current MPF proposals will not increase the occurrence nor maximise success.</p> <p>We would like to work with MOSL to ensure that the Codes and the MPF proposals regarding transfer reads are designed to achieve the best outcome for the customer.</p>
<p>Castle Water</p>	<p>As detailed earlier in this and other consultation responses, out performance payments should be removed as a financial incentive from both transfer reads, and the rest of the new MPF. It is illogical to have outperformance payments for meeting code obligations. Furthermore, the model is underpinned by requirement for performance thresholds to be set at a level that generates enough penalties to cover any outperformance payments. Is this a performance-based tool, or a money generation process?</p> <p>Penalty payments should also be removed from M09. Estimates are allowed under the current market codes in certain situations. MOSL cannot set a minimum performance standard on an activity that is allowed if the rules governing the use of estimates are being followed by trading parties. As was pointed out at the PAG on several occasions, audits would be a much more appropriate tool to use here.</p> <p>MOSL should be auditing Estimated T Read submission rates from different trading parties, especially given admissions on the PAG by some trading parties that they are not following the codes. However, if a specific trading party starts getting penalised for submitting too many estimates, even if some of those estimates are legitimate, then we are charging for an activity that is allowed under the codes.</p> <p>When reviewing the charging model, there are two possible outcomes:</p> <ol style="list-style-type: none"> 1. We have a model that is mainly created for financial balance, i.e. performance thresholds are set to a level so that enough charges can be captured to fund outperformance payments. M04 and M06 simply measure missing and late reads, and M09 with a debatable incentive of an unconfirmed quantity, in theory driving more visual transfer reads to be entered. This model has performance

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	<p>thresholds set by balancing penalties against outperformance payments, and therefore has very little to do with performance.</p> <p>2. We have a model focussed on setting true performance thresholds. In this scenario, if all retailers improve on M04 & M06 to 100% i.e. timely submission of either a visual or an estimate transfer read (which MOSL states should be entirely achievable), then there is no money to fund any outperformance payments. With no incentive, we have a framework that only focuses on submission SLAs for transfer reads.</p> <p>Neither of these outcomes resolves the issues with transfers that were discussed at length at the PAG. We request that the topic of transfer reads should be revisited at the PAG, where a lot of previous advice was ignored by MOSL in the formulation of this proposal.</p>
Clear Business Water	<p>We do not agree that compensation payments should apply to M06 in addition to penalty charges.</p> <p>Each KPI for transfer reads has a penalty charge assigned to it. Therefore, unless a Trading Party has perfect performance and obtains a visual read in all scenarios, they will incur some form of penalty.</p>
Dŵr Cymru	No
Everflow Utilities	<p>M04: Acceptable at a 100% standard, provided estimates are not penalized.</p> <p>M06: As above.</p> <p>M09: We must reiterate that in principle, this metric is not fit for purpose in its current form.</p> <p>The improvements to market data that we are seeking to generate here are far more appropriately and effectively addressed by strong performance on M01, and attention to reducing LUMs and LLUMs in the market. Furthermore, given the consensus from trading parties that it is inappropriate under the current</p>

regulatory regime to penalise estimated transfer reads, it is unclear why the scope for penalty charges should be retained for this metric.

Discussions at the PAG have highlighted that the issues in this area arise as a result of very late, or very inaccurate, transfer reads. Given that this metric measures neither of these things, and that the data we currently have cannot sufficiently evidence a direct causal relationship between whether a read is estimated, and whether a read is accurate, we have to question whether any charging on this metric is appropriate at all. Furthermore, the above issues make M09 inconsistent with a number of the MPF success criteria:

- It does not directly facilitate the customer outcomes we are seeking, as the proportion of estimates to actuals has nothing to do with whether the transfer reads were, accurate or timely;
- It does not support competition, for the various reasons we set out in our response at Consultation 3; and
- It is not consistent or compatible with the current regulatory regime, nor does it offer value for money, as any future penalties would penalise legitimate market behaviour, and any rewards would also reward the BAU.

We therefore urge MOSL to retire this metric from the suite of KPIs. As an Additional Metric, M09—likely in a slightly different form or in combination with another metric—would give us [SIC] the data needed to develop a more robust rationale for charging in this risk area, if the evidence deems this course of action necessary. Where we can agree that a penalty would be irrational, it should not follow that the scope for penalties should remain, and that rewards would still be appropriate.

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Nottingham City Council	No comments.
Pennon Water Services	M09 – we do not believe this covers or addresses the behavioural issue of certain retailers not attempting to put an actual read into the market. If the minimum standard is 0% why have it, this wont change behaviours in trying to obtain an actual read.
Sefton Council	Agreed there should be penalties AND compensation for failure to transfer
Water 2 Business	<p>We do not believe that customer choice has been considered when designing the metric around transfer reads.</p> <p>We do see the value in measuring the number and lateness of transfer reads and agree this is important to still measure due to the impact this can have on the customer experience. However, there are numerous reasons why a retailer may submit an estimated transfer reading, we have discussed these at length with the market audit team and have changed our contracted terms and conditions following the letters of enquiry received.</p> <p>We believe that the issue is actually the use of bad estimates, which will not be resolved by this metric. We believe there could be value in exploring & implementing a standard calculation to be used across the market where a transfer read needs to be estimated to support consistency across trading parties & enhance the customer experience.</p> <p>We welcome the implementation of CPW148 at the end of the year which will allow greater visibility of changes to transfer reads and believe there is value in revisiting this metric after this change has been implemented, where there will be data to show what the issue is (and identify those trading parties which change more/less transfer reads). In our experience, the main reason for changing transfer reads is where we have inherited poor data from other retailers, long unread meters which we have proactively resolved as soon as possible.</p>

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	<p>By measuring estimated vs actual readings, this is unlikely to encourage trading parties to obtain actual readings until the cost of transfer readings is reviewed by the market. These are significantly more expensive than a normal cyclic reading; we charge the transfer read back to the customer and for large multi wholesale site customers, can be thousands of pounds. This could be the differentiator between a customer choosing w2b as their retailer or someone else and we would be concerned that this could prevent competition across the market and also customer choice.</p>
Water Plus	<p>"We support the incentive structures proposed for each of the 3 metrics identified in principle, however this is dependent on the values identified and would require further consultation once a complete picture is clear.</p> <p>We are concerned that the introduction of a late meter read incentive may lead to an increase in estimated reads, that may subsequently be corrected to an actual read. This would require some form of protection to ensure that outgoing retailers do not subsequently receive additional charges that they will struggle to bill.</p> <p>As an additional note, we would comment that the 75% under performance threshold In the indicative table would appear to be too low should estimated transfer reads be acceptable for submission against this metric."</p>
Waterscan	
Wave Utilities	<p>Part 1: Not all Retailers attempt to read transferring meters, but Retailers that do may be unfairly penalised. Transfers come with higher levels of skips which in turn require estimated reads – it seems unfair for all Retailers to be penalised the same where one is attempting to read and the other is not.</p> <p>It does not seem that the customer type or site type, bad data and reading history are being taken into</p>

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	<p>account. It seems as though only LUMs with inflight B5 & C1 bilateral transactions have been factored, this feels punitive and further areas need addressing, for example accuracy of market data, read history etc.</p> <p>M09 could affect customers with difficult sites with Retailers choosing not to take them on, leaving current Retailers and customer being stuck in limbo with the Retailer in a cycle of continuous cyclic read penalties.</p>
Wholesalers	
Affinity Water	We want this to emphasise the importance of prioritizing actual transfer reads, as these provide crucial opportunities to identify and address issues promptly during a key moment in the customer's journey. This can drive timely bilateral requests with the wholesaler, ensuring rectifications are made as close to the transfer date as possible.
Anglian Water	No comments
Dŵr Cymru	No
Northumbrian Water	I believe these are set correctly
Portsmouth Water	No comments
SES Water	N/A
South East Water	No comment
South Staffs Water	We fully support the need for actual T reads when switching retailers
South West Water	We support the penalty charges however please see our previous comments in relation to compensation payments. We also support that no outperformance payments are made due to the allowance of estimated reads.

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	<p>M04 and M06 – The calculation doesn’t refer to the number of days however the worked examples follow a reasonable calculation and rationale.</p> <p>M09 – An estimated reading is not necessarily bad for the market in all scenarios. If an estimated reading is accepted within M04 then penalties for estimated readings (even as a proportion of all) are inconsistent. If the market were to view estimated readings as bad all scenarios, then this should be built into the M04 KPI. With acceptance of estimates, we would support M09 being removed in its entirety.</p> <p>The cost of an ad hoc read (financially and environmentally) is not always to the benefit of the market and in some circumstances may financially impact the incoming Retailer. Instead of driving correct behaviours, M09 is more likely to disincentivise switching and retailer taking on new customers, therefore reducing competitiveness.</p>
Southern Water	None
Thames Water	
United Utilities	
Wessex Water	No
Yorkshire Water	We agree with the overall direction of financial incentives assigned to this theme. As a wholesaler we would not be directly impacted by the majority of these. Again, as our meter reading services are of a very high standard we would not expect to encounter issues with this.
Other	
CCW	<p>We broadly agree with the financial incentives attached to metrics M04 and M06, apart from our views on compensation payments.</p> <p>Customers want meter reads to be based on actual reads, with the majority of respondents (88%) in CCW’s research of small and medium businesses believing it is important their bills are based on meter reads rather than estimates. This principle also applies to when they switch retailers. Given how retailers</p>

are permitted to submit estimated transfer reads in certain limited circumstances, we agree that these metrics should be penalty only, and particularly agree that M06 has a 100% performance level for late transfer reads. Despite having the option to submit estimates, we expect retailers to be striving to either take a visual read, or work with the customer to obtain one from them instead, where it is safe to do so. It is important that customers' bills are based on the water they are using.

We would like further clarity on how M09 will be incentivised, as it was our understanding that this metric was originally proposed to be outperformance payments only, which we would not support. This KPI needs to include penalty charges for any failures. However, it is unclear under what circumstances a retailer would be penalised given the fact estimates are permitted in certain circumstances. We want to see greater clarity on this KPI.

An alternative metric to M09 would be to measure the number of actual reads vs inaccurate estimation (potentially based on a series of estimates which may be incorrect) rather than treating all estimates the same. Measuring the amount of inaccurate estimation will better identify whether or not there has been an adverse impact on customers. We do not want to inadvertently encourage a significant increase in estimation, but exploring this further would help to incentivise more accurate billing.

As smart metering increases, we would expect to see the level of estimates reduce. It is therefore important the revised MPF is sufficiently agile to recognise these changing circumstances and adapt metrics and incentives accordingly. Until this point, the MPF should incentivise retailers to make every effort to read meters.

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7.5 Theme 2: Transfer Reads Where they apply, are there any particular factors that should be considered when determining: • The financial value of charges for each KPI within this theme? • How the value of performance standards are calculated?

Retailers	
ADSM	
Business Stream	Please see our response to question 7.4.
Castle Water	<p>As detailed in question 2.5 and previous communications with MOSL and the PAG, the model for transfer reads is not one Castle Water supports at all. Outperformance payments on M09 are reliant upon enough charges being generated to fund them, which means the focus for M09 is balancing charges again performance payments, not actually focussing on performance.</p> <p>MOSL states “The KPIs and associated financial incentives recognise that an actual, timely meter read on transfer is strongly preferable to an estimate”. This is not true. M04 and M06 focus on SLA breaches, not whether the read is visual or estimated. M09 can only incentivise more visual reads to go in if there are enough charges to fund those payments.</p> <p>The fundamental model behind trying to encourage more visual transfer reads is flawed and the charges should remain at the level they are today as there is no evidence that they incentivise anything that today’s MPF does not already.</p>
Clear Business Water	In terms of the performance standard calculation, what is being considered an actual read? We have assumed this to mean a visual read, with estimated reads being permitted for M04 and M06. However, would a customer read, as permitted by the Code, also be considered an actual read for these purposes?
Dŵr Cymru	No

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Everflow Utilities	There is a need for a wider discussion on the GPoL calculation--recognizing its complexity and variability across parties--and some consideration of whether efforts around those metrics mapped to compensation payments should focus on improving collaboration as well as facilitating compensation.
Nottingham City Council	Unclear on how you are going to decipher expected numbers of transfers per month for NCC.
Pennon Water Services	These need to be proportionate and reflect responsibilities and obligations. How frequently will these value's be changed and how arbitrary is that? We also note that there is no section relating to theme 3 within this consultation. However, we do broadly agree with this theme.
Sefton Council	I just feel the financial value should be significant enough to be taken seriously
Water 2 Business	No
Water Plus	We do not have any specific views or suggestions on a methodology to calculate the value of penalty charging at this stage, however we believe further consultation and industry discussion will be critical once this has been identified. We are concerned that in combination with a potential removal or increase in the cap, increases to individual charging levels could represent a significant risk to the financial health of trading parties in the market and should be carefully considered and discussed.
Waterscan	
Wave Utilities	Part 2: M09 – Wave agrees something needs to be put in place to address Retailers who do not attempt transfer reads, at all or only attempt them in part. However, M09 will unfairly penalise Retailers who have always attempted transfer reads and have been forced to genuinely skip. Transfer read success varies based on customer and site type, where a retailer is onboarding a particularly tricky portfolio yet attempts to read all meters within the 10 business day window and has a number of skips requiring estimated reads they will be penalised alongside Retailers who simply don't

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	<p>attempt to visit them at all. This doesn't seem fair. It could also, as previously noted, cause changes to bidding activity leaving customers with tricky portfolios out in the cold.</p> <p>As transfers rely heavily on good market data, data measures M11, M12, M13, M14, and bilateral M10 should be factored in and offset against any penalties or reporting.</p>
Wholesalers	
Affinity Water	
Anglian Water	No comments
Dŵr Cymru	No
Northumbrian Water	The number of estimated reads should be tracked, however as smart programmes are rolled out this area of the market will improve; albeit this is a marathon not a sprint
Portsmouth Water	No comments
SES Water	N/A
South East Water	No comment
South Staffs Water	N/A
South West Water	Please see our response to market meter reads – section above. M09 - Setting the performance standard to 0% on M09 would remove our concerns raised in 7.4 however there then becomes no need for it to be in the revised MPF.
Southern Water	None
Thames Water	
United Utilities	
Wessex Water	It has been recently raised at PAG that one of the problems of transfer reads is the accuracy of estimation.

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	<p>The proposed metric for transfer reads does not focus on accuracy where it may be appropriate to apply an estimation or for reasons outside of the control of the Retailer.</p> <p>We do not support estimated reads in M04 being used for performance unless they are supported by metrics for accuracy.</p>
Yorkshire Water	<p>As above; it would be advisable for MOSL to apply some future-proofing to these KPIs with the smart meter rollout; once smart meters are widely available there shouldn't be any reason for late reads.</p>
Other	
CCW	<p>As outlined in our response to Question 7.3, the calculation methodologies for the performance standards are sensible, but whether or not this results in greater incentivisation will depend on the value of the charge. This needs to be set at a level that incentivises retailers to address root causes of problems reading meters and submitting reads.</p>

7.6 Theme 3: Smart meter reads Do you have any comments on: • The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? • The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Retailers	
ADSM	
Business Stream	<p>In many ways M02 should mirror M01 following the activation of a smart meter, assuming that CPW142 is approved. However, as the retailer and the customer will be dependent on the wholesaler to provide the data it may be more appropriate for M02 to also have a compensation payment to the retailer. This could help to address any impacts on billing and collection for failure to provide the read.</p> <p>Furthermore, as previously referenced, the charge model for MO2 should not be based upon the cost of obtaining a smart meter read, as this will be minimal but should instead consider the impact on retailers</p>

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	and the cost of repairing the faulty meter and providing a visual read. The cost of the ad hoc visual read will also vary by region.
Castle Water	
Clear Business Water	
Dŵr Cymru	None
Everflow Utilities	Given that smart metering is in its infancy in this market, this area is likely to need regular revision and increased flexibility as the market evolves. If responsibility remains with retailers, penalties should depend on and consider retailers' ability to access relevant data. Where access to this data has not yet been realised at a market level, no charges should be levied against retailers for these metrics.
Nottingham City Council	No comments.
Pennon Water Services	
Sefton Council	There are no Financial penalties associated with this KPI. Is this an issue where a smart meter is found out to be faulty?
Water 2 Business	No
Water Plus	We do not have any significant views on this metric at this stage.
Waterscan	All smart meters should be read monthly since this should be easy to do
Wave Utilities	
Wholesalers	
Affinity Water	We recognise that trading parties leading on smart metering rollouts could be at risk of being penalised more than those who are just beginning their journeys. We believe this is the type of metric which should currently be liable for overperformance payments, so support its inclusion.

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	<p>We understand the requirement of penalty charges but feel that it needs to be recognised that those currently ahead should not be penalised unfairly and more time is needed to understand how this will actually affect the market.</p> <p>Input from trading parties currently engaged in Smart Meter programs should guide these adjustments to ensure a more accurate and practical approach, reflective of the realities/challenges.</p> <p>We do not feel we are best placed to do so at this current time.</p>
Anglian Water	No comments
Dŵr Cymru	No
Northumbrian Water	No comment
Portsmouth Water	No comments
SES Water	N/A
South East Water	Incentives should include the proportion of transferred SPIDs that have an estimated SMART meter reading.
South Staffs Water	N/A
South West Water	<p>M11, M12 – we support charges and outperformance payments in principal, also with the inclusion of M11-14 in the framework. We would however require assurance from MOSL on how they will be validating the accuracy of the data in order to measure party performance. We also require a straightforward assurance process to replace the monthly SharePoint upload.</p> <p>M13, M14 – we support that there are no penalty charges and outstanding performance payments proposed for these. We support the calculations and rationale for the charging model(s) proposed.</p>

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Southern Water	The principles appear straightforward, however there is no consideration for the transition of responsibility of providing the reads. The roll out of smart meters will introduce significant fragmentation.
Thames Water	<p>We have concerns that including the reading of smart meters by the wholesaler as a performance measure not incentivising an increase in the volume of smart meters being installed, rather it is a disincentive as it introduces potential penalties to those wholesalers who are providing an enhanced service to customers. Wholesalers who are not investing in smart metering at the same rate are not subject to these or any other meter reading penalties.</p> <p>The setting of this performance measure to align with the proposals for M01 is illogical, provision of smart meter reads into CMOS is an enhanced level of customer service and wholesalers should not be penalised for providing a better service whilst reducing the costs for retailers. For example Thames currently has 26% of it's NHH meter base as smart (circa 48,000 meters) compared with the rest of the industry average at 3%. If a failure penalty is aligned to current £40 charge then using a failure rate of 3.6% would mean a penalty of £450,000. Once Thames reaches 100% of smart this value could triple, this is obviously a disincentive to making enhancements which benefits customers.</p> <p>MOSL should consider a fairer smart metering performance framework which incentivises the rollout of smart metering and acknowledges a period of transition to a high smart meter market penetration. For example, here could be solely an outperformance payment set at a low level with no penalty charges. Alternatively it could be restructured to incentivise wholesalers that provide meter reads free to the market, regardless of meter type.</p> <p>This consultation format is not suitable for including substantive data analysis and scenarios to illustrate our concerns but we believe such data-driven evidence needs to be added as part of this stage of consultation and would be happy to work with MOSL to set this out.</p>

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United Utilities	There is a potential conflict in that those companies who invest in smart metering are exposed to penalties that those companies who don't invest in smart metering are not.
Wessex Water	
Yorkshire Water	<p>Given it is quite early on in the preparation for the smart meter roll-out for many wholesalers, there may be some blind spots or unknowns still to be uncovered in this space. A key challenge remains dependent on CPW142; in particular, data sharing and where granular data is held. It is extremely difficult for us to predict what systems and behaviours will end up looking like as this is still very much to be determined and agreed by Ofwat.</p> <p>We would flag that there could be gaps due to broken meters that are difficult to access; these require both wholesaler and retailer to agree that there is an issue and action should be taken. These cases are usually noted under a bilateral form and therefore we would suggest any case in CMOS with a form to flag these be excluded from reporting.</p>
Other	
CCW	<p>We agree with the inclusion of penalty charges as a financial incentives. In our Five-year review, we urged wholesalers to significantly increase the rollout of smart meters for business customers, given the increases that should be seen in billing accuracy and more available consumption data. With this data from smart meters it should be relatively easy for wholesalers to receive and submit reads.</p> <p>We, therefore, expect the MPF to respond to the changes that smart metering will deliver and for the charges and payments to be changed. This should always focus on delivering high levels of customer service.</p> <p>Given the relative ease of reading smart meters, we would expect all wholesalers to be performing at a high level for MO2, so they should not be rewarded for meeting what should be an expected high standard. Therefore, it is not appropriate for outperformance payments to be included in this incentive.</p>

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7.7 Theme 4: Data Do you have any comments on: • The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? • The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Retailers	
ADSM	
Business Stream	<p>M11 – since the last MPF consultation a financial penalty and outperformance payment have been proposed with only limited justification for this change in approach. Given the natural incentives that retailers already face to get this information correct, it is unclear how a penalty will further drive improvements in this area. Our concerns are compounded by the limited design consideration of M11 to date. This metric could be very expensive to measure and be reliant on a data consultancy such as Sagacity to provide.</p> <p>Given that this metric will not be introduced until November 2025, our view is that no charge should be considered until the metric has been developed and the running costs are fully understood, with a consultation held should a financial penalty be proposed.</p> <p>M14 – we have already commented in several areas that we consider this metric should incur a financial penalty. For completeness, our rationale is as follows:</p> <ul style="list-style-type: none"> • Wholesalers are monopolies and therefore need appropriate incentivisation.

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	<ul style="list-style-type: none"> • Ofwat’s RISE report highlighted the important role that wholesalers play in ensuring improved customer outcomes and wholesalers should be proactive in addressing inaccurate market data. • Given its importance, M14 is being considered by Ofwat for inclusion in BR-MeX therefore the MPF proposals are out of step by not considering a financial penalty should it remain solely in MPF. • There are MPF implications (some of which are financial) if retailers fail to read meters due to inaccurate GIS coordinates at transfer or on a cyclic basis. <p>Furthermore, given the importance of accurate asset data in CMOS we would prefer that incentivisation for meter asset data in CMOS is extended beyond GIS coordinates and that compensation payments are also considered.</p>
<p>Castle Water</p>	<p>These consultations are a master of attempting to lead a horse to water. Each consultation assumes that the actual measures are accepted and approved, all these questions should start with “Do you approve of measures?”</p> <p>Further questions need to be asked:</p> <ul style="list-style-type: none"> • How many times have MOAL used the power granted to them under 4.2.4 section E of the market terms? Has there been a request for information, or has time been allowed to gather information out of the Bilateral Hub F7 processes on the use of Market Terms 4.2.4, section D, by trading parties? • In this case M11/M12/M13 and M14?” Not yet. (penalties, not yet and leaning towards never).

- M11 not SIC. This must be provided by the customer due to HMRC implications, So once again are you being “judged” on what you have no control over?
- M12 advises accurate address data via VOA and UPRN, but there seems no code requirement to match the “VOA” address to the Premise Address D5003-D5009. In the end, does this measure achieve desired outcome or is it forcing the inputting of a VOA without the preparatory collaborative work between wholesaler and retailer, possibly causing further confusion.
- Data item D5011. Out of some 1,375,820 water SPIDs there are only 15,600 Post Office ‘PAF’ references. Is this the data item that needs to be considered in the updating of D5011?
- M13 and M14 are being maintained basically at a ‘Holistic Reporting’ level. Great effort has been made via Holistic Reporting and the Data Cleanse Programme, but the MPF measures are being brought in prematurely before these other programmes have been completed and be able to remove/correct the historic migration issues which they identify.
- Penalty Charges. The easiest way of simplifying MPF is not to add in new measures before they have been properly considered. This can be done by Holistic and Audit reports without creating a (why quarterly?) penalty-based framework. The minimum standard for performance can constantly be altered leading to questions on what the market is trying to achieve.
- Outperformance. As a concept in market performance being rewarded for doing what you were always required to do, is just overcomplicating the whole programme and creating a legion of bureaucrats and expense in managing something that is (though may be not universally liked) and is covered already by Section 9.4 and 9.5 of the MAC. As such, it is not required.

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	<ul style="list-style-type: none"> • Compensation payments should be outside the Market/MOSL/PAC remit.
Clear Business Water	<p>It is important that data held in the central systems is accurate and up to date. In Scotland, data accuracy is compared between a Retailer's own internal system (the data for which is based on the active customer-supplier relationship) and the data held within the central system. Where this data does not match, it is considered a failure.</p> <p>However, the revised MPF is proposing that data accuracy is verified using an external data source. We have some concerns regarding this approach:</p> <ol style="list-style-type: none"> 1. How will the data comparison be funded? The data cleanse programme is currently funded by wholesalers, but is it expected that this would be the case for any enduring data assurance measures? 2. How will it be determined that the external data source is correct compared to the information available to the Trading Party, particularly for information that can change regularly such as customer name? Suppliers have a direct relationship with their customer and are often best placed to have the most up to date details. <p>Before supporting any financial tools for data accuracy, we would want to see demonstrable evidence of a successful data comparison process and suggest that penalty charges be removed from these KPIs until such a time as the data assurance programme has completed their work.</p>
Dŵr Cymru	None
Everflow Utilities	
Nottingham City Council	No comments.
Pennon Water Services	We understand the importance of good data to the market, but we do not quite understand how performance charges can be made – who decides if the data is accurate or correct? Is there a danger this

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	<p>just promotes providing data regardless of accuracy?</p> <p>We know that along with all retailers, we do not know who a notable proportion of our actual customers are at any one point in time. This is because they move in and out without informing us and yet you're proposing to fine us for this. Perhaps it would be more helpful to the market if you would petition Defra for a corresponding obligation on customers to notify us reflecting practices in the energy sector?</p> <p>This theme absolutely should not exist and suggests a degree of naivety. Moreover, how on earth will you monitor this and who will audit it for accuracy and completeness at any given moment. Our business model would be transformed and our debt materially reduced if there was any obligation on customers to tell us they're there and who they are and even what their business is.</p> <p>On a similar note, Ofwat recently accepted in the CPCoP consultation that retailers simply could not obtain this level of accurate data about their customers and it's not our business model to do so. How then does MOSL think it can introduce more radical proposals and then fine us for it.</p>
Sefton Council	Agree with all, but suggest meters are hard to locate and good quality on data for x y coordinates should be worked toward to assist everybody as meters do go missing and hard to locate
Water 2 Business	No
Water Plus	<p>"We do not currently have sufficient confidence in the approach to 'verification' to believe that either of these chargeable metrics should be included at this stage, the data workstreams to date have not provided consistent and clear output to give confidence that the data is appropriate for financial incentivisation.</p> <p>With specific reference to M11, we believe it is critical to note that different market participant portfolios will represent significantly different challenges in regards to this metric. Associated retailers can retain a significant proportion of transferred [SIC] customers who have not been highly engaged with the market,</p>

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	<p>and in some cases have never engaged at all and therefore the expectation should be different for a new entrant with an almost exclusively proactively contracted base. As the reasonable expectation for performance of a market participant is dependent on both size and proportion of transferred vs switched customers, we do not believe this metric is appropriate for inclusion.</p> <p>M12, whilst we support the principle of incentivising accurate address data we are not yet confident in the methodology and remain concerned that the listed approach could lead to bulk submissions of data that may achieve 'compliance' with the metric but not represent good data quality.</p> <p>M14, we do not believe this metric is appropriate as credibility and accuracy are not perfectly aligned. It is important that retailers are able to access good quality accurate meter location data, which we do not believe will be accurately assessed by this metric. As with M12, we are concerned that Wholesalers could elect to address M14 failures by simply entering the GIS co-ordinate of the post code itself in bulk which would report success against this metric whilst not locating the meter itself.</p>
Waterscan	
Wave Utilities	
Wholesalers	
Affinity Water	<p>If M14 is not included within BR-MeX, there may be no real incentive to manage churn compared to other measures with associated charges and would query why there are no penalty charges/outperformance applied. We would need to understand what the market constitutes outperformance in this measure as we feel this is a metric that should have a high standard applied to it.</p>
Anglian Water	<p>We would note that these measures are dependent on the Data Cleanse / Data Assurance programme, but the benefits and effectiveness of this are yet to be seen. We are not in a position to understand what the outputs of the second phase relating to address data will be, and understand that we won't have sight of this until September. In an already demanding period for trading parties, there will need to be time to fully review and understand this.</p>

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	In terms of how accuracy will be assessed, this will need to be fully clarified, and it is likely that wholesalers will need a period of time to align to the requirements.
Dŵr Cymru	No
Northumbrian Water	I am interested to understand how outperformance will be determined. I believe this is fair, so long as the relevant CMOS indicators are in place and a robust assurance mechanism
Portsmouth Water	M12 – As members of the Data Cleanse working group we have been reviewing the proposed address changes and disagree with the majority of the proposed changes. How will this be catered for?
SES Water	N/A
South East Water	Agree with the principle of Theme 4 however we need more clarity on how the accuracy of the data will be checked by MOSL to allow calculation of the financial incentives.
South Staffs Water	We are to support the methodology proposed
South West Water	In order to incentivise better performance the penalty cost needs to outweigh the cost of meeting the standard. The average cost of a desktop survey or use of a third party (void inspector) could form the basis of a charge. We are supportive of model 1 for calculating the value of performance standards
Southern Water	None, we are in agreement
Thames Water	<p>We'd encourage MOSL to urgently clarify the proposed address quality measures. At this time we are unable to properly assess or respond to this consultation on the basis that key details of the proposed KPI are not yet available. For example, it is not yet clear the basis for a property address to be verified.</p> <p>We support the inclusion of UPRN and VOA penetration as part of this overall assessment of address quality. We'd note only that MOSL current report industry penetration and validation in two separate dashboards (data quality dashboard and holistic reporting dashboards) and using different sets of validation criteria. These differences in validation criteria have a material effect on relative trading party rankings.</p>

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	<p>We consider that the MOSL’s data dashboard provides the most accurate and reliable UPRN and VOA validations. The holistic UPRN and VOA dashboards only measure the completeness of the fields and not the accuracy of the data within in. MOSL’s data dash boards apply sensible validation rules to any field updated and thus generate a more accurate measure of quality</p>
United Utilities	
Wessex Water	<p>The consultation does not adequately explain the rationale for the application of financial tools to the different metrics and why it applies to one and not the other. It simply cites 11 and 12 as strong candidates.</p> <p>We agree that compensation payments are not appropriate here as there is potential for double jeopardy if charged here and through a bilateral request to rectify a data issue</p>
Yorkshire Water	<p>We agree with this in principle; in particular the accuracy of customer names as these are helpful for incidents and unplanned events. There are some elements within the M11 rationale that may be worth considering. The introduction of a correctly-applied vacancy flag in CMOS would help to segment cases where the premises is unoccupied and therefore excluded from the KPI.</p>
Other	
CCW	<p>On a similar basis to our answers to the previous questions in this section, we agree with the use of penalty charges. Incorrect customer data continues to drive a significant proportion of administration related complaints by business customers to CCW. In 2023-24 incorrect account information accounted for 28% of all administration complaints that CCW received. It is, therefore, important that wholesalers are adequately incentivised to deliver these activities to a high standard.</p> <p>Our comments on outperformance payments are the same as our previous comments on this subject. We would urge MOSL to develop M14 as a KPI. Retailers having reliable information of where a</p>

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	<p>customer’s meter is located is crucial to ensuring the meter can be read successfully, resulting in an accurate bill for the customer. As this is a metric that is already in use in the current MPF, it should be relatively straightforward to explore this further.</p> <p>Given the development of the proposed KPIs rely on the data assurance programme, we believe this programme needs to complete before these could be considered for inclusion in BR-MEX. We have concerns that MPF metrics included in BR-MEX will not benefit from the same flexibility as the rest of the MPF, so we do not want to see metrics included that have not been fully developed and tested.</p>
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7.8 Theme 4: Data Where they apply, are there any particular factors that should be considered when determining: • The financial value of charges for each KPI within this theme? • How the value of performance standards are calculated?

Retailers	
ADSM	
Business Stream	Please see our response to question 7.7.
Castle Water	<p>See previous answer to Question 7.6.</p> <p>In addition:</p> <ul style="list-style-type: none"> • This should be handled by Market Terms Section 4.2 – i.e., holistically, and direct action by the market operator or by market operator audit and trading parties where they identify issues. • This is an extra addition that further complicates the framework.

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	<ul style="list-style-type: none"> This could be revisited later once other programmes have had a chance to impact. <p>Once again, the value of any financial charge should be zero</p>
Clear Business Water	As above, without further information from the data assurance programme, we do not agree that financial tools should apply to this KPI or that performance standards should be based on comparison to third party data.
Dŵr Cymru	None
Everflow Utilities	
Nottingham City Council	No comments.
Pennon Water Services	<p>These need to be proportionate and reflect responsibilities and obligations. How frequently will these value's be changed and how arbitrary is that?</p> <p>As above, we understand the importance of good data to the market, but we do not quite understand how performance charges can be made – who decides if the data is accurate or correct? Is there a danger this just promotes filling data regardless of accuracy?</p>
Sefton Council	Is it possible to have a tapered charge if progress is consistently poor? I.e. charges get higher the longer they remain poor quality?
Water 2 Business	No
Water Plus	We do not have any specific views or suggestions on a methodology to calculate the value of penalty charging at this stage, however we believe further consultation and industry discussion will be critical once this has been identified. We are concerned that in combination with a potential removal or increase in the cap, increases to individual charging levels could represent a significant risk to the financial health of trading parties in the market and should be carefully considered and discussed.
Waterscan	

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Wave Utilities	
Wholesalers	
Affinity Water	
Anglian Water	No
Dŵr Cymru	No
Northumbrian Water	My only concerns is the limited time to assess the Data Assurance findings
Portsmouth Water	No comments
SES Water	N/A
South East Water	Agree with the principle of Theme 4 however we need more clarity on how the accuracy of the data will be checked by MOSL to allow calculation of the financial incentives
South Staffs Water	N/A
South West Water	Please see our response to the previous question
Southern Water	None, we are in agreement
Thames Water	
United Utilities	<p>There are too many assumptions at present to allow fully informed feedback to be provided; a lot of the measures are stated as TBC.</p> <p>It's not clear how M11 can be measured as a KPI shared between wholesalers and retailers when the data fields that are updated are solely maintained by the retailer. The only opportunity that wholesalers have to update the data is via a T101 when setting up new SPIDs - however, at this point wholesalers may only be able to provide developer names or new connection applicant which may not be the occupier. Any true customer details provided also don't update the respective fields in CMOS and need to be inputted by the retailer.</p>

	<p>M12: It is not appropriate to have outperformance on M12. Addresses are either correct or incorrect – there is nothing to outperform.</p> <p>M13: We agree that there should be no penalty or outperformance payments linked to this measure, as vacancy is higher in some regions.</p> <p>There should be a process introduced whereby if the wholesaler confirms any long-term vacant premises is now occupied these are excluded from the list as the retailer should then be responsible for updating the occupancy status in CMOS.</p> <p>We believe there may be an error in the articulation of this measure. Should it read "What proportion of total SPIDs are unassured LTV"? For example - what if...</p> <ul style="list-style-type: none"> - Company A - 2 LTV SPIDs and one is assured (score = 50%) - Company B - 100 LTV SPIDs and 75 are assured (score = 25%) <p>i.e. company B has far more LTV unassured SPIDs but scores much better (on basis that a lower % of un-assured SPIDs is better).</p>
Wessex Water	<p>We are in support of data quality being subject to financial tools and await the definition of what good quality data is for each KPI and how it is proposed to be calculated.</p> <p>The definition of good quality data should be of sufficient accuracy that trading parties do not incur significant effort across significant volume to assure that data is correct.</p>

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	There is a risk that performance is incorrectly reflected against a trading party due to assessments of data quality not being robust
Yorkshire Water	Under M12 there would be some concerns about what data set is being used to calculate 'accuracy'. In terms of what is verified address data, Yorkshire Water base their data on what is provided via a UPRN and postcode match; however, this often varies from the VOA data – quite considerably in some cases. Therefore, we would be concerned that despite having accurate postal information for a customer, we would be financially penalised because it did not match the VOA.
Other	
CCW	Please see our comments on question 7.7.

7.9 Theme 5: Bilateral Transaction Requests Do you have any comments on: • The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? • The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Retailers	
ADSM	
Business Stream	<p>M15 – We do not agree with the proposal that the metric calculation should not be based on when the bilateral request is completed. Our preference is for a calculation similar to that used for M01, i.e. that it should be based on late bilateral requests relative to SLAs during the reporting period, with further charges every reporting period until the failure is resolved.</p> <p>We also do not agree with the proposal that the outstanding and minimum performance standards should be set at the same level and would recommend the outstanding standard should be based on a shorter SLA, to drive speedy resolution.</p>

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	<p>Finally, our view is that compensation payments should be introduced for this performance standard due to the impact that overdue bilateral requests have on retailers and customers.</p> <p>M16 – The penalty charge and outstanding charge should not be set to the same level and should not be £0, as this will dilute the incentive.</p> <p>M17 – The compensation charge should not be set to £0. If compensation is to be paid, then this must have a value.</p>
Castle Water	<p>Castle Water does not agree to the financial incentives proposal, and the financial incentives should be revisited at the PAG and in other forums.</p> <p>Recent discussions at the PAG have revealed the complexity surrounding accountability, and the need for further analysis on what should and should not be included when measuring ‘performance’.</p> <p>Much like cyclic and transfer reads, the underlying assumptions that have been used to create the proposals on financial tools are flawed, and they need further consideration if we are to build a fair, lasting and improved MPF.</p>
Clear Business Water	
Dŵr Cymru	<p>Has consideration been given to a deferral category where both retailers and wholesalers are unable to influence or resolve i.e. a genuine delay caused by the customer?</p> <p>Examples - a meter exchange has been delayed when a customer required H&S RAMS sign off at corporate (not site) level. The customer delayed as no one was prepared to approve the work and so this meant the wholesaler was not authorised to pass the customer security gate and the retailer was unable</p>

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	to influence the works date. A stalemate ensued which both the retailer and wholesaler could not influence to expedite a resolution.
Everflow Utilities	
Nottingham City Council	Does this apply to wholesalers only as a charge, or are retailers at risk of being charged for having a B5/C1 open?
Pennon Water Services	As per 7.2, we would not be able to answer without an understanding of the values associated.
Sefton Council	Agree with content
Water 2 Business	Caution should be used in the event of compensation payments to avoid double charging. we have explained our concerns around compensation payments earlier, it is difficult to see how these will work in reality and we have concerns about the application & governance of these.
Water Plus	<p>"M15 – We are concerned that the current methodology does not account for the risk that a high volume of smaller failures could mitigate the impact of a single larger failure. The large failure should be adequately penalised and incentivised.</p> <p>M17 – A more detailed discussion would be required on deferrals to ensure they are not being used to avoid SLA failure, including some examples of Wholesalers electing to defer on the last day of an SLA. Bulk submissions do not appear to be factored in to the MPF, and this should be considered within the framework. Bulk submissions can have a material impact on Wholesaler performance in short periods, which does not appear to reflect significant performance changes itself.</p> <p>We are keen to continue engaging on these issues through the PAG, as there is still currently too much of the process undefined and unconfirmed to have confidence in the proposed solution.</p> <p>We additionally have a question regarding what will happen if a deferral occurs after it has failed an SLA. Will this still incur a fine / compensation, or will a deferral suspend these fines?"</p>

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Waterscan	Need better clarity of proper use of deferrals for bilaterals and how and when wholesalers should end an ongoing deferral if this is to be measured. I suspect there could be a large number of challenges to legitimacy of charges for these KPI failures so would need a robust process.
Wave Utilities	<p>Part 1: M10: Wave queries if the compensation payment proposed for M10 will recognise the fact that fines for not reading these meters will already be suspended due to the open bilateral? We assume this would need to be factored into the GPoL?</p> <p>M12: It is widely understood that there are big implications of poor Wholesaler owned address data on Retailers, causing significant cost, so we think there should be compensation for this.</p> <p>Part 2: The measures M15 and M18 are limited to "all current OPS SLAs as they are currently reported". This will continue to drive focus on only that subset of SLAs. Given the availability of Hub data, Wave requests that M15 and M18 look to cover all SLAs.</p>
Wholesalers	
Affinity Water	<p>We do not feel compensation payments should be payable for any metrics part of BR-MeX.</p> <p>We would remove these for all metrics mentioned and would like to understand more why these would be applicable in these scenarios.</p> <p>M17 deferrals are being viewed as a negative or avoidable. We believe these are difficult to calculate if correct without further investigation and recent audits have confirmed no major issues for concern. Conversely M16 is suggesting non-deferral is wholly positive. We are unsure of the charging suggested against these metrics.</p>

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	<p>M18 is another metric of which we agree with penalty payments, but not outperformance payments. Delivery of bilateral requests on time provides certainty of service and a minimum standard should be expected, with penalties for falling beneath this. Outperformance ideally would be related to the service delivery/speed of turnaround, or similar.</p>
<p>Anglian Water</p>	<p>We agree with the principle of monitoring and checking that deferrals (M16 & M17) are used in line with MOSL best practice and are not used to justify unnecessary delays in a bilateral resolution.</p> <p>However, we would question the merit of a financial incentive in this area around volume or length of deferrals. A deferral is added primarily because a NHH customer requests it, or a permit is required from a third party, such as a local authority highways department. A deferral is a practical step that allows Wholesalers and Retailers along with NHH customers to work together to deliver service around a NHH customers' requirements. A school, for example, will generally have 3 opportunities per year to complete works, a hospital or critical industrial customer has as little as a few days per year.</p> <p>This incentive may well drive non-customer centric service behaviours from Wholesalers, a culture to reject bilateral requests that cannot be delivered due to genuine operational constraints or start to move Wholesalers to deploy statutory powers regardless of a customer's request - just to chase a key performance indicator.</p> <p>The document suggest that a deferral equates to poor customer services and a fast bilateral has been closed off benefits the customer. However our experience suggests this is not always the case. We think it is important to keep in consideration that market settlement is run in monthly cycles and is supported via other market mechanisms such as YVE, estimation which could determine customers charges for up to five months.</p>
<p>Dŵr Cymru</p>	<p>The reason for a fail may be out of TPs control if it is not on the list of permitted deferrals. Should we revisit the deferral reasons to include things out of the wholesale control.</p>

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Northumbrian Water	No comment
Portsmouth Water	No comments
SES Water	N/A
South East Water	We are concerned about being penalised for deferrals if they are outside of our control, for example, highways permits or customer requirement for a delayed date (e.g. delaying work at a school until school holidays).
South Staffs Water	Similar to the response to 7.2, we are broadly in support of this however need to be mindful of bilaterals being raised inappropriately
South West Water	<p>M10 and M17 – Please see our previous comments in relation to compensation payments.</p> <p>M16 – The use of deferrals by Wholesalers is required under specific circumstances and are not a direction reflection of poor Wholesaler performance. Whilst there may be market concerns that there are examples of deferrals being incorrectly implemented, only a qualitative review of the circumstances will gauge compliance. This can't be measured within the framework. Any underlying issue should be considered by MOSL and the review of deferrals in the Bilaterals hub alongside targeted audits. Where deferrals are valid, the number and length of these should not impact a party's performance.</p> <p>Whilst we are generally supportive of M15 the penalty charges and outperformance tools, we welcome a decision from MOSL on how existing late processes will be considered at the point of go live.</p> <p>Regarding M17, as mentioned above the length of deferrals does not provide any additional value if the deferral is valid. For example if the process is impacted by the need to apply for a road closure from the local authority to complete the necessary work. In relation to M15 by only calculating this on completion, there's no ongoing incentive to complete the task sooner (only the penalty charges when applied).</p> <p>M10 – Please see our response in 5.3 with reference to GPoL.</p>

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	Calculations and rationale for the other KPIs – we support the charging models proposed, please see our previous comments regarding deferrals.
Southern Water	None, we are in agreement
Thames Water	<p>Ofwat’s Draft Determination). In such circumstances there should be no double jeopardy so could be no form of financial incentive within the MPF (no penalty, outperformance payment nor compensatory payment)</p> <ul style="list-style-type: none"> • The calculations and rationale for the charging model(s) applied to the KPIs within this theme? <p>M1 and M10 – create perverse incentive for retailers to raise bilateral requests where issues preventing a read are outside wholesaler control and require time and space for effective joint working to resolve.</p> <p>M16 – Including deferrals as a performance measure is not appropriate, it would be more suitable to conduct audits where incorrect use of deferral codes is suspected and for the PAC to take action following results.</p> <p>M17 – The length of a deferral is not an indication of performance by a wholesaler. Please see below table showing actual numbers of Thames Water deferrals for B5 process for period 19/07/2022 until 01/07/2024³. Noting the largest numbers relate to customer or retailer issues, it cannot therefore be a sensible measure of wholesaler performance</p> <p>All of the measures relating to this theme can be affected by the quality of the submission of bilateral requests from Retailers to Wholesalers, there are varying degrees in the quality of the information provided which where there is conflicting or missing information will cause a delay in carrying out the</p>

³ Table redacted due to potentially sensitive information

	<p>bilateral request and may also add the need for a deferral to be included. For example we have received supply verification requests NOT giving consent to contact the customer and with no customer details, it is not possible to carry out this process without agreement from the customer. We attach examples of fully complete and conflicting requests to evidence the situations.</p>
<p>United Utilities</p>	<p>M-10: This is a clunky measure of wholesaler performance.</p> <p>The management of this activity is more nuanced than the measure allows for. Dealing with a B5 or C1 within SLA is not poor performance. A retailer raising a B5 or C1 does not mean that the wholesaler is performing poorly. If a meter is left to be long-unread before a retailer raises a request for wholesaler intervention - that is poor performance on the part of the retailer. If the B5 or C1 case is completed outside of SLA then this would rightly attract a performance penalty although this would be covered by</p> <p>M15: When viewing this measure we should also consider how many B5 or C1 cases are rejected or where they are in "deferral" status because the wholesaler cannot progress the case.</p> <p>M16: Wholesalers should not be penalised if a case is deferred. Deferrals are only applied when the wholesaler cannot progress a case for reasons beyond their control. It is not clear why a wholesaler would be penalised for following processes set out within the market codes. As an example if a school is closed for summer we wouldn't want to reject the case but will need to set a deferral until being able to progress the case once the school is re-opened.</p> <p>M16/M17: The number of, and length of, deferrals will be due to factors outside of the wholesaler's control –</p>

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	<p>assuming that the wholesaler is operating in accordance with the market codes. If the wholesaler is not operating in line with the market codes – this is a market code compliance issue and not a performance issue. MPF should not be used to address noncompliance with code obligations.</p> <p>M15 / M18 – If these measures are included in BR-MeX then they should not incur any charges or compensation payments under MPF, this would be double jeopardy.</p>
Wessex Water	<p>Please see comments in the following question that is linked to where we believe financial tools should be applied</p>
Yorkshire Water	<p>Overall these financial incentives feel like a moot point if the KPIs are going to be included in BR-MeX. Much more clarity will be needed for trading parties, and imminently if these are to be included in the MPF.</p> <p>In relation to M16 and M17 we strongly feel that there should be no financial incentives attached to deferrals. In the vast majority of cases deferrals will be out of the wholesaler’s control; i.e when waiting for third parties to act, or if a customer requests a temporary hold. It would be entirely unreasonable for the wholesaler to incur financial penalties based on circumstance and uncontrollable factors.</p> <p>We have already indicated above that we are strongly opposed to compensation payments, and therefore the remaining KPIs would have little-to-no financial incentives applied. Assuming these are to be covered by BR-MeX, Yorkshire Water would have no concerns about these remaining as API or audit-based.</p> <p>KPI M10, while a useful statistic to track, may not end up driving the correct behaviours and some market participants may use this KPI to game the system using bilateral forms, which sits against the principles of the MPF.</p>
Other	

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CCW	<p>It is important that bilateral requests are not permitted to remain unanswered or delayed where this impacts the outcome of good customer service. We strongly agree with the use of penalties as an incentive on wholesalers to complete these on time. In addition, the applicable SLAs need to measure whether or not the wholesaler has completed the request, rather than only focusing on how quickly they have responded to the retailer.</p> <p>For the reasons previously stated, we do not agree that compensation payments should be included in the revised MPF, so we do not support them applying to M10. However, this particular activity has a large impact on customers, given the risk of continued inaccurate billing while a meter remains unread.</p> <p>While we recognise failures to address long unread meters should be captured under M18, there is a risk that poor performance against B5 & C1 requests may be masked by good performance against other bilateral requests. We, therefore, urge MOSL to separate B5 & C1 requests from M18, and have M10 as a standalone metric, subject to separate incentivisation. A separate focus on this activity is warranted in order to achieve greater billing accuracy for customers, and may particularly help address legacy issues.</p> <p>We currently support the decision that M17 should not be associated with a charge, as we agree there is no evidence that deferrals are currently being applied inappropriately. However, customers can be negatively impacted by requests being deferred, so we also agree with the implementation of a KPI to provide the Performance Assurance Committee with more visibility in this area. If there is future evidence that deferrals are not either being applied correctly, or their use is causing significant customer detriment, MOSL and the Performance Assurance Committee need to explore how to address this.</p>
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7.10 Theme 5: Bilateral Transaction Requests Where they apply, are there any particular factors that should be considered when determining: • The financial value of charges for each KPI within this theme? • How the value of performance standards are calculated?

Retailers	
ADSM	
Business Stream	Please see our response to 7.9 above.
Castle Water	Like cyclic and transfer reads, bilaterals should have a cap on charges, and no charges at all to begin with. A proper shadow market period with the live framework would allow trading parties, the PAC, and MOSL to analyse the new MPF in action. It would allow for adjustments to be made for any unexpected outcomes and limit the risk exposure for all trading parties whilst they adjust to the new framework
Clear Business Water	
Dŵr Cymru	No
Everflow Utilities	
Nottingham City Council	No comments.
Pennon Water Services	As per 7.2, we would not be able to answer without an understanding of the values associated.
Sefton Council	No comments
Water 2 Business	No
Water Plus	We do not have any specific views or suggestions on a methodology to calculate the value of penalty charging at this stage.
Waterscan	
Wave Utilities	
Wholesalers	

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Affinity Water	
Anglian Water	No
Dŵr Cymru	As previous answer
Northumbrian Water	
Portsmouth Water	No comments
SES Water	N/A
South East Water	We are concerned about being penalised for deferrals if they are outside of our control, for example, highways permits or customer requirement for a delayed date (e.g. delaying work at a school until school holidays).
South Staffs Water	N/A
South West Water	Please see our response to the previous question
Southern Water	None, we are in agreement
Thames Water	
United Utilities	
Wessex Water	<p>We recognise that bilateral requests can be high impacting in terms of impact to customers and welcome their inclusion in the framework.</p> <p>However, we feel that again a number of assumptions are being made and there is a considerable lack of intel being used from the current bilateral hub data to inform proposals and decisions.</p> <p>As we have previously highlighted in this consultation, the proposal presumes that all B5s and C1s are valid in that the wholesaler is at fault and therefore the wholesaler is liable to pay compensation by default when one is raised at the same time that a meter read is due.</p>

The wholesaler is not always at fault and the data to confirm this, is readily available. We have been advocates of the correct use of deferrals in the best interest of customers since their introduction in 2018.

However, the basic principle of a deferral is that it is a situation outside of the wholesaler's control. The correct use and application of deferrals is a question of compliance with the codes and therefore a question of audit not a KPI.

Associating KPIs to deferrals is an assumption of misuse and totally inappropriate for a framework that will likely lead to complexities where wholesalers will challenge their performance scores due to uninformed assumptions being made leading to inaccurate representations of performance.

In addition, there is no demonstrable numbers in this consultation as to the principal reason for deferrals of which again is captured today in the bilateral hub. A significant number of our deferrals are due to the actions of the Retailer awaiting their contact to provide further information that was absent in a request.

We strongly support the governance of deferrals but believe that they are an additional metric. We are disappointed that the bilateral hub metrics are limited to the actions performed by the wholesaler only.

Both trading parties in a request can impact the time taken that impacts the actual time experienced by the customer.

The absence of measuring all time impacts can present a situation where published performance differs from what the customer actually experienced in terms of time.

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	<p>This is a significant gap in the proposed metrics and does not support best customer outcomes. Whilst we appreciate customers can “vote with their feet”, the framework should take a degree of responsibility to inform customers on performance and where accountability lies. The framework is assuming that the customer is aware of where responsibility lies for each component part of the delivery of a request.</p> <p>That is somewhat of a big ask of customers, when trading parties are not always clear themselves. We are in support of the three financial incentives being applied to bilateral request KPIs but only when the correct accountability is applied.</p> <p>There is a risk with the current proposals of significant and incorrectly attributed financial incentives that will not drive improved outcomes as a result</p>
Yorkshire Water	<p>Assuming these KPIs are not included in BR-MeX, then we would like to see much clearer data with evidence to support the worked examples. As the given examples are mainly retailer-based, it is more difficult for us as a wholesaler to fully determine the impact of these.</p> <p>Ideally, we would like MOSL to perform a one-off snapshot of the entire market based on their proposals. This would give us a benchmark to work from, understand how the changes would affect our performance and identify gaps or failings. This could even be anonymised to protect trading parties.</p>
Other	
CCW	<p>In line with our previous comments on this subject, we believe that charges should be set at a level that genuinely incentivises wholesalers to improve their performance against the associated standards. It should not be more cost effective for trading parties to pay penalties, rather than address the root causes of performance failures.</p>

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7.11 Theme 6: Non-market meter reads Do you have any comments on: • The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? • The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Retailers	
ADSM	
Business Stream	As previously noted, it is our view that the calculation for non-market meter reads (M19) should mirror the approach for M01.
Castle Water	<p>Our comments include:</p> <ul style="list-style-type: none"> • M19 and M20: Castle Water does not agree with these measures as it penalises for issues outside of trading party control. • Removing most of the discrimination that was inherent with in the old matrix between wholesaler/retailer was a code requirement (Market Arrangements Code Schedule 1, Section 1.10) and will no doubt be appreciated. It does not (as in M01 and M07) judge what is in the control of the trading party. We are creating a measure in this reform that penalises for issues outside the trading parties' control and thus they are inherently unfair. This measure (like M01) has been created by people living in a utopian world. None of the measures so far seem to survive closer inspection by anyone with real time market meter reading experience.

- The market has had to bring in measure via CPW143 the ability of wholesaler to submit a YVE, thus allowing wholesaler to tinker with the volume calculation to account for when a submeter premise is vacant.
- With this proposed charging mechanism, to prevent unfair charging and continuing discrimination between trading parties the market is now going to have to bring in that Submeters can be placed to vacant, and B5 bilaterals can be raised against nonmarket meters to suspend MPF charges. At a HH customer's request, the exchange of a sub meter can be delayed, so it is outside wholesaler's control.
- Penalty Charges. Though worded differently to M01, it seems as though it is the M01 model that is being followed. I note that the example on that starts at 80% as a "minimum" performance standard. The work carried out by MOSL on CPM048 and CPW131 would indicate a figure is closer to 50%/60% to account for elements outside the trading party control to ensure fair charging. While the calculation may raise a financial penalty, the fairness of that penalty is always subject to doubt.
- Outperformance as a concept in market performance does not work (being rewarded for doing what you were always required to do. It is just over complicating the programme and creating the need for a legion of bureaucrats and the related expenses to manage. Though it may not be universally liked, this is covered already by 9.4 and 9.5 of the MAC, and as such is not required.
- Compensation payments should be outside the Market/MOSL/PAC remit.

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Clear Business Water	
Dŵr Cymru	No
Everflow Utilities	We believe it would be appropriate for compensation payments to be mapped to M19, in order to account for cases where the lack of a meter read impacts the bill/consumption of a non-household (NHH) customer.
Nottingham City Council	No comments.
Pennon Water Services	Whilst we somewhat agree with this, we believe that there should be compensation payments from wholesalers to retailers where we don't receive a non-market meter read, as this impacts our customer billing arrangements (e.g. sub meters) leading to higher charges to customers.
Sefton Council	Agree with the principles
Water 2 Business	We believe these should align with the KPIs for the cyclic meter read standards. As discussed in the last PAG meeting, the data in CMOS doesn't allow for vacant properties to be identified so may require CMOS updates, consideration should be given to this metric if this is the case, as could delay the implementation of this metric if changes need to align with CMOS release cycles.
Water Plus	We believe that it would be appropriate for these metrics to be delivered in alignment with Market meter reads.
Waterscan	
Wave Utilities	
Wholesalers	
Affinity Water	Unclear on the requirement for outperformance payments on this metric – we would remove this.
Anglian Water	No comments
Dŵr Cymru	No

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Northumbrian Water	Would be interested to understand what 'above and beyond' looks like for this metric. CMOS indicators need to be in place so Wholesalers can notify retailers that a non-market meter premise is vacant and therefore has no impact on main meter billing
Portsmouth Water	No comments
SES Water	The same rational needs to be need to be applied to these reads as M01.
South East Water	No comment
South Staffs Water	We are broadly in agreement with this measure.
South West Water	Both should mirror that of the market reads with penalty payments and outstanding performance going to the Wholesaler, rather than Retailer.
Southern Water	None, we are in agreement
Thames Water	<p>We agree these should have equivalence with market meters M1</p> <p>For this to be the case however there need to be similar exemptions applied. Meter reading exemptions are not solely driven by responsibility, but also by the practicality to obtain reads. To apply a similar design to M1 the NMM reading metrics would need to apply exemptions where a wholesaler had identified that a 'bilateral-type' intervention is needed, where a deferral category would apply or where the premises is vacant.</p> <p>We recognise the practical issues with this given that this data does not exist within market systems, but the practical challenge does not diminish the importance of the equivalence of approach. If these constraints cannot be overcome then it may not be suitable to apply financial incentives to NMMs</p>
United Utilities	
Wessex Water	<p>We agree with the same rationale and incentives being applied to non market meters vs market meters as they can have the same impact to customers in terms of accurate bills.</p> <p>A number of our comments submitted for market meters are applicable here</p>

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Yorkshire Water	As above; it would be advisable for MOSL to apply some future-proofing to these KPIs with the smart meter rollout; once smart meters are widely available there shouldn't be any reason for late reads.
Other	
CCW	<p>To ensure customers are billed accurately, it is essential that all types of meter are being read frequently, and the relevant trading party is properly incentivised to do so. We, therefore, agree with the financial incentives assigned to this theme, and particularly agree that the standards applicable to non-market meters should be the same as those for market meters.</p> <p>Our comments on outperformance payments are the same as our previous comments on this subject, particularly as meter reading is a 'core activity'.</p>

7.12 Theme 6: Non-market meter reads Where they apply, are there any particular factors that should be considered when determining: • The financial value of charges for each KPI within this theme? • How the value of performance standards are calculated?

Retailers	
ADSM	
Business Stream	As above, it is our view that non-market meter reads (M19) should mirror M01.
Castle Water	<p>With the work previously done on Skip data provided on CPM048 & CPW131, the minimum performance standard must consider elements outside the trading parties control to insure the fairness of any performance charge.</p> <ul style="list-style-type: none"> • M20: Further work is required to identify what the actual triggers are for improvement in this measure and work carried out by MOSL re CPM048 & CPW131 would help in the consideration

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Clear Business Water	
Dŵr Cymru	No
Everflow Utilities	Calculations for charging here should consider the impact of non-market meter reads producing shock bills for customers and the resulting bad debt risk.
Nottingham City Council	No comments.
Pennon Water Services	These need to be proportionate and reflect responsibilities and obligations. How frequently will these value's be changed and how arbitrary is that
Sefton Council	No additional comments
Water 2 Business	No
Water Plus	We believe that it would be appropriate for these metrics to be delivered in alignment with Market meter reads.
Waterscan	
Wave Utilities	
Wholesalers	
Affinity Water	<p>Our comments under Theme 1 also apply here.</p> <p>The application of charges from the next month do not provide ample time or reflect the realities of the challenge around these. There should be more flex to resolve and therefore higher penalties later in the process. We recognise non-market meters are in our control from an end-to-end point of view, so appreciate that the approach should be slightly different to that in Theme 1, even though they are very similar in nature.</p>

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	Key information again is not visible to fully explain/understand performance levels in the market, and what actions are being taken.
Anglian Water	No comments
Dŵr Cymru	No
Northumbrian Water	
Portsmouth Water	No comments
SES Water	N/A
South East Water	We would need clarity on the type of skip being taken into consideration (and possibility excluded), for example Customer refuses access or unable to read due to adverse prolonged weather conditions such as snow (adverse weather allows exclusions in the GSS scheme).
South Staffs Water	We are broadly in agreement with this approach
South West Water	Both should mirror that of the market reads.
Southern Water	None, we are in agreement
Thames Water	
United Utilities	<p>M19 - It is not appropriate to apply a penalty if a monthly meter read has not been submitted within that month. There needs to be a sensible buffer to account for reads being submitted a few days beyond the end of the month. This is very likely in reality – i.e. a read cannot always be obtained exactly 30 days after the last. Sometimes there may be three weeks between reads, sometimes there may be five weeks. The measure should reflect normal operating good practice.</p> <p>M20 - As the performance standards are yet to be confirmed we are unable to comment about these however reporting on an industry average may not be appropriate.</p>
Wessex Water	No. However improvements should be considered to CMOS to have the ability to mark non market meters as vacant if vacancy is used by the MPF to alter or exclude

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Yorkshire Water	<p>The rationale around M19 does not mention the age of the read being submitted, only that it has to be submitted within 7 calendar months. Currently reads must be submitted within 10 business days of being taken, but that is not referenced in the KPI and it was not clear whether that was an oversight or a deliberate change.</p> <p>M19 should also exclude vacant properties – as above, these should be flagged separately and excluded.</p>
Other	
CCW	<p>In line with our previous comments, the financial value of charges needs to be sufficiently high enough to genuinely incentivise wholesalers to perform well against the standard.</p>

Section 8: About the MPF and Consultation 4

8.1 How significant do you think the proposed changes will be to your organisation and/or the market, compared to the current MPF?

Retailers	
ADSM	Very
Business Stream	Somewhat
Castle Water	Extremely

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Clear Business Water	Extremely
Dŵr Cymru	Somewhat
Everflow Utilities	Extremely
Nottingham City Council	Extremely
Pennon Water Services	Somewhat
Sefton Council	Somewhat
Water 2 Business	Very
Water Plus	Very
Waterscan	Somewhat
Wave Utilities	Extremely
Wholesalers	
Affinity Water	
Anglian Water	Extremely
Dŵr Cymru	Somewhat
Northumbrian Water	Extremely
Portsmouth Water	Very
SES Water	Very
South East Water	Very
South Staffs Water	Extremely
South West Water	Very
Southern Water	Very
Thames Water	Extremely
United Utilities	Somewhat
Wessex Water	Somewhat

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Yorkshire Water	Very
Other	
CCW	Very

8.2 If you wish to explain your answer, please add here

Retailers	
ADSM	A large amount of upfront work to model / implement revised performance metrics into planning tools.
Business Stream	<p>We firmly support the need for the MPF and the ongoing review but we have some reservations regarding these proposals and their ability to drive a step change in wholesalers' behaviour. While the proposed MPF will help to focus attention on the most important areas, these focus areas need to consider the impacts of monopoly wholesaler service provision.</p> <p>As the current proposals stand, we do not consider that the incentivisation of wholesalers is sufficient to drive material change and that's likely to be diminished further with the introduction of BR-MeX. We ask MOSL to reconsider some aspects of the proposed MPF to ensure a step change in wholesaler performance.</p>
Castle Water	<p>First, we must make clear what we mean by "significant", as that is not clear from the question. In our answer, we have interpreted "significance" as being the potential costs that it will add to our business and the damage it will do to the NHH Market. We have not interpreted it as the benefits that the new market performance framework may bring to Castle Water, our customers, other Trading Parties, or the health of the NHH Market. To make clear, on any measure of benefit, the new MPF is of no significance. Our assessment on costs is based on what we know, noting that the details of the charges and the standards remain unknown. What we know is:</p>

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	<ul style="list-style-type: none">• The metrics are not solely focused on tasks within a trading party's control.• Any attempt to "carve out" or make allowance for things outside of our control, can only be non-specific, and therefore inequitable. Whilst unsatisfactory for all trading parties and likely won't make full allowance even for the "average" volumes of tasks outside a retailer's control, it will discriminate against some trading parties, who will be adversely affected relative to their peers.• Charges are applied monthly, meaning that unless a trading party can push responsibility to another party (e.g. by a retailer submitting a bilateral request to a wholesaler), a party will remain on the hook for any failure every month thereafter until it is addressed. For those that a trading party has got control over and for those that it hasn't. Either way, failures take time to fix (individually and collectively given the large volumes every month), but there is no recognition in the new MPF, in the financial tools, or in the financial charging principles. None.• The penalty charges have a floor set of the 'cost of addressing the performance issue³⁴ (PC8) and given the language in MOSL's documentation, it would be a reasonable assumption that they won't be any less than the penalty charges today. In addition, applying Principle PC5, it would be reasonable to assume that they will increase with duration according to some simple scale (again unknown). So, a £10 penalty in month 1 could ratchet to say £15 in month 3, and £20 in month 6.• On M01, given the tone of the language in MOSL's documentation, it would be reasonable to expect that the penalty charge would be no less than today's charges (e.g. £10 for a biannual meter read) and likely more. For now, let's assume that it remains at the floor level of £10 and ratchets up, as per the previous bullet point. So, for a failure to submit a meter read on a biannual meter, under today's MPF in
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⁴ Castle Water - It is unclear how to interpret this principle of exceeding the cost of addressing the performance issue – for example, under M01 the cost of addressing might be to take a meter read (where the prices vary considerably from £3 - £60) or the cost of replacing a broken meter (many hundreds).

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the year which followed a skipped meter read visit on a meter which was last successfully read six months earlier, one would today pay a maximum penalty charge of £10. Under the new regime proposed by MOSL, one would pay a maximum penalty charge of $(2 \times £10) + (2 \times £15) + (7 \times £20) = £190$. That's a potential exposure of 19 times that of today! We can debate the actual level of charges, but the order of magnitude is representative of the difference in the two frameworks on this single measure.

- To make such a regime work, one would need the protection of a cap (but that's not permitted under Principle PC4) and to reduce the individual monthly charges to a level almost certainly so low that they would breach Principle PC8, by being less than the cost of addressing the performance issue⁵. Even if PC8 was removed, we suggest that optically a penalty charge of say £2.50 would not be acceptable for some stakeholders. Hence, the unfairness of an unworkable and ill-thought-out performance charging regime.

- Whereas today a retailer might schedule meter reads at six-monthly intervals, if the cost of the charging penalty warrants, then a retailer might consider scheduling meter reads every five or four months – for all meters, unless we have perfect foresight of what will be skipped. That will add considerable cost to meter reading and potentially to customer bills, where that cost can be passed on (but noting the allowance in the Retail Exit Code). Meter reading services provided by wholesalers will be unlikely to offer such flexibility to read at five monthly intervals, as they are driven by household meter reading schedules to deliver economies of scale enjoyed by some retailers. All in, it will just drive-up

⁵ Castle Water - The charges are set monthly, against which their compliance with PC8 would be determined, and not against the total set of charges which would result over the months it takes to address the performance issue. Effectively, PC8 just doesn't work as an incentive and in application will be brutally penal

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	<p>costs – reading meters more frequently and likely at higher cost. What retailer can afford that in today’s market?</p> <ul style="list-style-type: none">• For the market overall, the additional costs imposed on trading parties will be significant. Some of this may be returned at the end of the year, but there is no guarantee and by then, the damage will have been done. Those costs are going to have to be funded and there will be many losers who will be asked to pay these costs. It will deter new entrants, and certainly put at risk the continued viability of some trading parties today. It is difficult to see how customers will benefit.• On M01, what today is largely good performance against MPS18/19 (recognising the issues outside of a retailer’s control that prevent meters being read despite their best endeavours and monies spent), will overnight be reported as being terrible performance. The optics will be difficult to explain.• Should CPW142 be approved, then over time, retailers’ performance will likely worsen as they are left with an underperforming rump of meters where access to read or replace is challenging.• The proposed performance regime will introduce unwelcome tensions in working relationships between retailers and wholesalers, which should be at the heart of any flourishing market. The consequences could be catastrophic. It will be like a game of ‘pass the hot potato’ and the hard-won cooperation which we enjoy today between wholesalers and retailers will likely be a casualty. One powerful example of this, which detail in our earlier answers, is that rather than sharing skip data with wholesalers immediately and in bulk, retailers will need to employ small armies (which they cannot afford) to shovel bilateral requests to wholesalers, adding unnecessarily to everyone’s workload and costs, but for no tangible benefit.
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	Overall, the damage to the market and our customers is likely to be significant and the benefits non-existent. We have wasted a golden opportunity to reform the market codes and introduce a light-touch market performance framework suitable for supporting a flourishing NHH water market. We have done so at great cost and even higher cost to all once implemented.
Clear Business Water	The revised MPF sets stretching standards to improve market performance which go above and beyond the current MPS and Market Code requirements. To evaluate our performance and give us the best chance of success, we will need to make significant system changes for the new KPIs.
Dŵr Cymru	
Everflow Utilities	
Nottingham City Council	
Pennon Water Services	<p>We do not feel we can answer this fully, as we do not know the values associated with charges. As we have said from the outset, we feel railroaded into this new regime, we have doubts as to how much the retailer 'view' matters and to what extent it's a done deal but most importantly, we cannot think of another instance where we've been asked to approve and comment on significant aspects of this regime change in isolation from all other parts.</p> <p>There should be an opportunity to review the entire MPF holistically and failing that, some consideration should be given to shadow running the new parts of the regime.</p> <p>For this reason, we have answered question 8.5 as very unclear.</p> <p>Our behaviours wont change because we work hard to be compliant and always do the right thing, and we are unsure if this will change other behaviours.</p>

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Sefton Council	
Water 2 Business	<p>It is difficult to quantify fully as we believe there are still some unanswered questions. However, we are expecting some significant changes to our internal processes, particularly if the metric for estimated vs actual transfer reads is implemented. We feel that the April 25 deadline is fast approaching and yet the design phase hasn't finished yet, which doesn't allow trading parties a huge amount of time to review internal processes, update these, test them to ensure they work and do not cause any undue impact to customers.</p> <p>We believe there will be a large drop in performance once the first phase goes live, which will lead to increased customer contact & complaints, we do not believe that the MPF reform should go live until it is fully ready. The timeline for the programme was changed recently without consultation, splitting the KPIs into two phases will cause impact to trading parties potentially having to manage different reporting systems/methods.</p>
Water Plus	<p>Water Plus monitors its own performance in alignment to the market driven codes and incentives, and tailors its processes to best match the specific requirements. Changes to how (and when) metrics will be assessed may represent fundamental changes in how we are required to schedule our metering agents and this may take some time to co-ordinate.</p>
Waterscan	<p>We are already performing against most of these KPIs and it would be good to see actual measured performance and comparing against the market. We might need to adapt a few processes but nothing significant.</p>
Wave Utilities	<p>These changes will significantly impact retailers. Care needs to be taken on penalty and compensation decisions especially around whether or not to retain a cap, to ensure the desired outcome. These changes need to be fleshed out and scrutinised more thoroughly taking factors that are out of Retailer control into account before levying any type of penalty or compensation charge.</p>
Wholesalers	
Affinity Water	

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Anglian Water	This is materially different to what exist today, which will require changes to delivery and service. This will also result in contractual change with partners, systems and at the same time as the commencement of a new AMP period.
Dŵr Cymru	As answered above
Northumbrian Water	Amazing work, thank you. This is the right thing to do and should reduce friction in the market.
Portsmouth Water	
SES Water	Not just because of the actual changes but the behaviour change it needs to drive in the wider business.
South East Water	It is not clear on how Wholesaler/Retailer can validate the incentives so that they can learn from them to improve performance. We also think it will take a considerable amount of work to implement.
South Staffs Water	
South West Water	For the organisation, there will be significant changes to reporting and education at all levels of the business.
Southern Water	We have chosen 'very' as we are unsure of the actual significance of the changes to our organisation without the MPF reform being in place to make a clear assessment.
Thames Water	<p>Thames Water face large increases in performance risk and costs from;</p> <ul style="list-style-type: none"> New smart metering performance incentives; Large incentives for retailers to avoid market fines by raising bilateral request; Compensation payments and deferral penalties where jobs raised by retailers cannot reasonably be progressed. <p>These costs and risks do not currently appear avoidable to us and actions taken to mitigate them likely to increase wholesaler and retailer costs and frictions rather than enable us to better co-operate in the interests of customers. We believe these issues can be addressed with some relatively small changes to the proposed framework,</p>

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United Utilities	The new MPF will have limited impact on our systems however we will need to re-prioritise activities and re-focus resources. We will need to make updates to dashboards, reports & scorecards. There will also be a need for the new MPF to be fully understood and embedded within our organisation.
Wessex Water	<p>We do not see at this stage that the proposals to date will significantly move the performance framework forward enough to address some of the key performance areas.</p> <p>We believe that MOSL has not fully capitalised on existing data in a number of areas to fully understand where problems may be present.</p> <p>We are concerned that a number of assumptions have been made and that challenges are being avoided that we believe require further consideration and are somewhat led by a timetable which should flex to afford the time required to achieve the desired outcomes and benefits</p>
Yorkshire Water	We have deep concerns about these significant changes. Yorkshire Water would like the first year of MPF to be a 'shadow' year without actual charges applied; this should allow for more refinement and fairness for all trading parties so that real world evidence can be applied. This would set the foundations for all trading parties to start the full MPF on an equal footing with clear understanding of impacts at all levels. This would also give MOSL time to get the reporting right and iron out any issues (we have seen instances of MOSL reporting errors, and if this has financial implications there would be serious breakdown of trust). Ofwat could continue to use the defined MPF metrics for the first year of BR-MeX in AMP8, but for all other purposes regard this as a shadow year to allow trading parties to adapt, understand, and tweak any metrics that do not end up proving fit for purpose.
Other	
CCW	

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8.3 How impactful do you think the proposed changes will be to your organisation and/or the market, compared to the current MPF?

Retailers	
ADSM	Very
Business Stream	Somewhat
Castle Water	Extremely
Clear Business Water	Extremely
Dŵr Cymru	Somewhat
Everflow Utilities	Extremely
Nottingham City Council	Very
Pennon Water Services	Somewhat
Sefton Council	Somewhat
Water 2 Business	Somewhat
Water Plus	Somewhat
Waterscan	Somewhat
Wave Utilities	Very
Wholesalers	
Affinity Water	
Anglian Water	Extremely
Dŵr Cymru	Somewhat
Northumbrian Water	Extremely
Portsmouth Water	Somewhat
SES Water	Very
South East Water	Very
South Staffs Water	Very

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South West Water	Very
Southern Water	Very
Thames Water	Somewhat
United Utilities	Somewhat
Wessex Water	Somewhat
Yorkshire Water	Very
Other	
CCW	Very

8.4 If you wish to explain your answer, please add here

Retailers	
ADSM	
Business Stream	Please see our response to 8.2.
Castle Water	<p>The question is unclear, notably how 'significance' under 8.1 differs from 'impactful' under 8.4. We suggest that it is another unfortunate example of poor drafting, but also the necessary proliferation of questions in this overly long, rambling, burdensome and unreasonable consultation.</p> <p>We will interpret 'significance' and 'impactful' as being measures of the same thing and again note that in answering them we are pointing to the impact being on our costs, viability of trading party organisations, on our ability to innovate and compete for customers, and on damage to the health of the market. For the avoidance of doubt, our answer does not imply any positive impact.</p> <p>For brevity to explain our view, please refer to our answer to Question 8.3, but substitute any reference to 'significance' with 'impact'.</p>

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Castle Water	<p>As above, the new KPIs, metrics and charge calculations (including the removal of the cap on penalty charges and introduction of compensation payments) has the potential to significantly impact our business. As a smaller Retailer, the margin available to us is already stretched in striving to meet the current performance standards for all our customers, whilst offering meaningful savings to encourage customers to switch their services.</p> <p>We agree with the principle that Trading Parties should continually strive to improve performance for the benefit of customers and the market overall, but the performance standards and level of charges must ensure that Trading Parties are not unfairly penalised for unachievable goals or issues that are outside of their control.</p>
Dŵr Cymru	
Everflow Utilities	
Nottingham City Council	
Pennon Water Services	As above in 8.2.
Sefton Council	
Water 2 Business	No
Water Plus	<p>Whilst we believe the change between Market Performance Frameworks will represent a challenge, and incur cost, we believe that we are already focussed on many of the key areas identified within the new MPF and already driving for improved performance.</p> <p>We expect to see some additional benefit on the additional Wholesaler metrics, as we do not currently have a strong ability to incentivize Wholesaler performance, and hope that these are sufficiently strong to drive improved customer outcomes.</p>

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Waterscan	We should be performing against all these KPI's already, however we will be much more involved with wholesaler KPI's under this MPF than previously so will need monitoring and challenging where necessary.
Wave Utilities	
Wholesalers	
Affinity Water	
Anglian Water	Despite the effort to move to the new approach to MPF, we believe this will provide a better all round approach to the service to the customers.
Dŵr Cymru	
Northumbrian Water	
Portsmouth Water	
SES Water	Not just because of the actual changes but the behaviour change it needs to drive in the wider business.
South East Water	As above in 8.2
South Staffs Water	
South West Water	This will however be dependent on the value of the charges. Until TPs see the consequences of the penalties and outstanding performance, we may not see the impact on the desired charges to behaviour.
Southern Water	We have chosen 'very' as we are unsure of the actual impact of the changes to our organisation without the MPF reform being in place to make a clear assessment.
Thames Water	We do not believe that the changes proposed will create significant benefits for end customers above those currently in place. In order for benefits to arise for customers, more collaboration is required between trading parties and these proposals do not engender that behaviour.
United Utilities	The measures are broadly aligned to our current activities, they may change some of our operational focus and priorities along with potentially the way we work with retailer to manage cases. There are

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	unknowns in terms of any behavioural changes that the new MPF may drive, particular around bilateral case management.
Wessex Water	We are not convinced that the suggested framework to date will significantly move performance forward We believe that the framework should be bolder in attributing accountability to target incentives effectively and that all proposals should be backed by further data insights to inform decision making
Yorkshire Water	It is difficult to assess the impact without knowing more detail on thresholds, compensation, amounts, frequency – where we would have incurred these over the last financial year. Budgeting for 2025 and beyond is near impossible because of a lack of information at this stage; with no clarity on shadow period we don't know how to forecast. BR-MeX being worked on in parallel to this adds increasing complications due to overlap. Systems changes should be relatively minimal unless SLAs need to be changed.
Other	
CCW	

8.5 Overall, how clear have you found the Consultation 4 process?

Retailers	
ADSM	Slightly unclear
Business Stream	Slightly unclear
Castle Water	Very unclear
Clear Business Water	Slightly unclear
Dŵr Cymru	Very clear
Everflow Utilities	Very clear

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Nottingham City Council	Slightly unclear
Pennon Water Services	Very unclear
Sefton Council	Slightly unclear
Water 2 Business	Slightly unclear
Water Plus	Slightly unclear
Waterscan	Very clear
Wave Utilities	Extremely clear
Wholesalers	
Affinity Water	Very clear
Anglian Water	Very clear
Dŵr Cymru	Slightly unclear
Northumbrian Water	Very clear
Portsmouth Water	Very clear
SES Water	Very clear
South East Water	Slightly unclear
South Staffs Water	Slightly unclear
South West Water	Slightly unclear
Southern Water	Slightly unclear
Thames Water	Very clear
United Utilities	Slightly unclear
Wessex Water	Very clear
Yorkshire Water	Very clear
Other	
CCW	Very Clear

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8.6 MOSL is hosting a webinar on Wed 17 July from 2-3:30 via MSTeams If you attended the webinar prior to submitting your response, how useful did you find it?

Retailers	
ADSM	Did not attend/submitted response before 17 July
Business Stream	Somewhat
Castle Water	Not very
Clear Business Water	Somewhat
Dŵr Cymru	Extremely
Everflow Utilities	Somewhat
Nottingham City Council	Did not attend/submitted response before 17 July
Pennon Water Services	Somewhat
Sefton Council	Did not attend/submitted response before 17 July
Water 2 Business	Very
Water Plus	Somewhat
Waterscan	
Wave Utilities	Extremely
Wholesalers	
Affinity Water	Somewhat
Anglian Water	Not at all
Dŵr Cymru	Somewhat
Northumbrian Water	Did not attend/submitted response before 17 July
Portsmouth Water	Did not attend/submitted response before 17 July
SES Water	Very
South East Water	Somewhat
South Staffs Water	Did not attend/submitted response before 17 July

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South West Water	Somewhat
Southern Water	Not very
Thames Water	Did not attend/submitted response before 17 July
United Utilities	Not very
Wessex Water	Did not attend/submitted response before 17 July
Yorkshire Water	Somewhat
Other	
CCW	Did not attend/submitted response before 17 July

8.7 If you have not found the consultation process and/or webinar clear, please can you explain why and how we might improve in the future

Retailers	
ADSM	Webinar as missed, but tried to watch on catchup, but needed better overviews, as it seemed to get lost in the weeds.
Business Stream	While the MPF proposals are designed to be more straightforward than the current arrangements, they are still complex, as seen by the volume of pre-read material. Issuing material before the consultation was useful and allowed time for consideration before the consultation was published but it would have been more useful to have the webinar closer to the time the consultation was issued. And in hindsight, the objective of the webinar should have been more clearly stated.
Castle Water	The documentation issued for this consultation is of poor quality, repetitive, inconsistent, confused, and incomplete. It has made the content unnecessarily difficult to consume and to consider. Unfortunately, that builds upon earlier consultations which suffered similarly, undermining the value of the consultation process and detracting for the MPF proposals proposed by MOSL.

There are too many questions, encouraging answers to be limited to the multi-choice scale only. This message is reinforced by the advice that those questions to explain a multi-choice answer are optional with phrases like "If you wish to explain your answer, please add here".

The sheer volume of questions is unreasonable. No stakeholder can reasonably be expected to devote the time to responding to such a lengthy and rambling consultation. But many of those "50 questions" each require a view on multiple elements – such as: "14 performance standards principles" [Q 6.2]; "six additional financial incentives principles" [Q 6.1]; "six themes into which KPIs are grouped" [Q 7.2]; "the financial value of charges for each KPI" [Q 7.10]; "meeting each of the eight success criteria" [Q 8.8]; "the ten penalty charge principles" [Q 3.1]; "any of the 9 outperformance payment principles"; "any of the 7 compensation payments principles" [Q 5.1]; etc. So, the true number of questions is far greater, running into the hundreds.

Given our earlier comments on the horrendous volume and variety of concepts/metrics/measures in previous MPF Reform consultations, it is unacceptable that we are again faced with a complex consultation with which to engage. It undermines the consultation process, adds cost to responding, and will diminish the response rate and substance in those responses. In Castle Water's case, we are left frustrated by the quality of documentation, the complexity of the consultation, and the unreasonable ask on our time to comment in detail on proposals which are incomplete and ill-informed.

Whilst we have tried to submit fulsome explanation to justify and explain our answers, we are frustrated by size of the task and the limited time available. Combined with the poor quality of documentation and the underdeveloped proposals, what we have been given by MOSL does not allow our answers to be as complete as we would like. That is so frustrating and places an unreasonable burden on trading parties.

Had the earlier consultations been better managed and our substantive points been addressed, plus the

Performance Advisory Group been allowed to properly inform the resulting output, then maybe we would now have a more complete and more suitable set of proposals upon which to comment. Unfortunately, that isn't the case, with our view largely ignored, and hence our frustration with what we are being asked to comment on, as well as how we are being asked to comment via a mass of poorly constructed comments. We suggest that the task is overwhelming.

As for the webinar, it proved to be somewhat of a sideshow. It didn't offer any detail and sought to avoid answering difficult questions. Given the superficial nature of the webinar and our concerns about the consultation documentation, we cannot agree with the suggestion by MOSL at the User Forum that input at the webinar might suffice as being the consultation response for Trading Parties! It is another act of dumbing down the process and undermining the value of the consultative process.

Overall, the consultation process has fallen considerably short of what stakeholders should expect. As a minimum, should we not expect for proposals to be properly explained, for the quality of argument and logic to be high, and for trading parties' views (to consultations and at market fora) to be properly captured, in order that the resulting new MPF addresses points of substance and is fit for purpose? As we note earlier and have advised to MOSL repeatedly, we do not think that our views have been listened to and therefore the proposals that we see today on the financial tools continue to suffer from the core issues that we have highlighted throughout this process but on which we have been ignored. Instead, it has become a numbers game on how many parties support (or more likely, haven't objected), rather than to focus on points of substance that the new framework will need to address to deliver.

On no objective measure can what is being presented to us be described as 'simple' and yet, that is MOSL's conclusion. It leads us to ask how can we take MOSL's view seriously – for example, when presented with the questionable, subjective views detailed in the table in Section 10.2 of the third pre-consultation document 'how the proposals meet the success criteria'? We think this analysis is

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	<p>incomplete and far from objective, thereby risking undermining the credibility of the consultation process and detracting from the proposals being promoted to us by MOSL.</p> <p>By way of another example, MOSL advise that because performance standards may be flexed (through a code defined process) that it is agile. However, the same is true today under the existing MPF, which under Section 1.1.3 of CSD0002 states “The Market Performance Framework is designed to be flexible and risk-based. This is so that it can be focused on those areas judged to be of greatest market impact at any point in time, and evolved to reflect the changing risk profile as the market matures and new or different performance issues emerge”. But the ability to be changed, really isn’t a measure of ‘agility’. An agile framework would for example, be capable of responding to external events such as adverse weather conditions or system failures.</p> <p>MOSL’s analysis and commentary on the key topic of ‘how the proposals meet the success criteria’ is weak, superficial, and highly selective, being designed only to prove a point, and not to give balance, so that we can take a collective view on whether the success criteria have been achieved and understand the degree to which they have not (as will inevitably be the case, and noting the inherent conflict between some of the success criteria). We need honesty and quality, which is not forthcoming in this consultation. That undermines the value of this consultation and as parties may be misled or misinformed.</p>
Clear Business Water	We understand that consulting in phases and issuing several pre-reading documents aims to make the information easier for Trading Parties to understand. However, we have found the consultation process disjointed and we have found it difficult to understand a holistic view of what is being proposed and consulted on, which has in turn made it difficult to engage with the content.
Dŵr Cymru	N/a
Everflow Utilities	

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Nottingham City Council	An executive summary of the key points would massively help a smaller retailer such as NCC.
Pennon Water Services	<p>Although MOSL has taken on the point made in the original consultation document about too much to read to be able to submit an informed response it is still too much information coming out but now in stages.</p> <p>There is no acknowledgement that smaller sized retailers do not have a regulatory team to review in any great detail especially when we are being bombarded with consultations from other stakeholders/regulators.</p> <p>The very fact that there is an enormous amount of information relating to this consultation would suggest that this framework is not simple...</p> <p>We found it useful to hear other views from around the market but are not confident that these views were captured and considered.</p>
Sefton Council	There's a lot to understand on such a big consultation. I hope my answers are useful (clear)
Water 2 Business	Improve the layout of the documentation! The webinars are very useful however so please continue with these for future consultations (not just MPF but for "big" changes)
Water Plus	It remains unclear how much additional opportunity there will be to discuss the proposed metrics and financial incentive combinations will be available. It is critical that market participants are given the opportunity to comment on the final proposed combinations, and whilst it is useful to provide insight and perspective at the design phase it is not yet clear how much opportunity there will be. It is particularly relevant that these metrics remain in development and do not represent a final proposal, and as such we believe it will be necessary for a final package of measures to be consulted upon.
Waterscan	
Wave Utilities	

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Wholesalers	
Affinity Water	<p>We are concerned that smaller trading parties' views are not showing as part of this process – webinars are good to build up knowledge, have a variety of trading parties in one place and for questions/challenge to be brought up in front of a wider group, however it is tough to know if smaller trading parties perspectives are clear or known, or if they have had time to understand the impact of these proposed changes. Is more being done to illicit these?</p> <p>Larger trading parties have the benefit of more personnel they can leverage to understand the impact, attend more groups etc.</p>
Anglian Water	<p>We did not find the webinar a good use of our time, and believe that MOSL need to focus the running of the meeting on the actual consultation to ensure they are useful to the TPs attending, as we did not feel it provided the opportunity to raise questions and discuss key points which were part of the consultation. For example it was 40 mins before the focus was brought to the consultation details.</p> <p>In terms of the consultation process – it was useful to receive the pre-read documents ahead of the consultation, however, we would note that for our response, we took the time to print out the documents and display them in a way that we could review and consider the questions fully – this would have been challenging to achieve only reviewing them digitally.</p>
Dŵr Cymru	
Northumbrian Water	
Portsmouth Water	
SES Water	
South East Water	<p>It would have been useful to have a summary table for the consultation, there were a significant number of documents to read, pulling together the changes and potential impact in a summary at the beginning would have been useful.</p>

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South Staffs Water	
South West Water	A large amount of information was provided for the consultation and this should have been condensed, or a condensed set of materials offered, whilst still allowing TPs to respond effectively.
Southern Water	The webinar on the 17 July was slightly confusing overall. As one of the trading parties raised during the webinar, the content wasn't initially clear. Was it an update on programme progress or as some trading parties interpreted it as a debate on issues associated with the MPF reform? This was clarified midway through the webinar by MOSL but not before topics such as Market Code changes in line with MPF Reform and lack of consultation and recognition of feedback had been aired.
Thames Water	
United Utilities	<p>The webinar was too high level and the debate was focused on some broader principles around the merits of a MPF and not the detail of this specific consultation.</p> <p>There are lots of questions to respond to. We welcome the staged release of documents but it would also be helpful to provide the consultation questions within each document. This would allow us to draft response before consultation is published and reduce the size of the task – especially as we are now in holiday season.</p>
Wessex Water	NA
Yorkshire Water	Although not within MOSL's control, the timing of the consultation came at a challenging time (Draft Determination, Strategic Panel Flourishing Market Roadmap, Yorkshire Water's internal systems roll-out). We appreciate the amount of time that was allotted to allow us to review and feed back, however.
Other	
CCW	Not applicable.

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8.8(a) To what extent do the proposals satisfy the MPF programme's success criteria (i.e. improving customer outcomes, simplicity, etc)? - Overall

Retailers	
ADSM	To some extent
Business Stream	Largely
Castle Water	Not at all
Clear Business Water	
Dŵr Cymru	Largely
Everflow Utilities	Largely
Nottingham City Council	Largely
Pennon Water Services	
Sefton Council	Largely
Water 2 Business	To some extent
Water Plus	Largely
Waterscan	Largely
Wave Utilities	Largely
Wholesalers	
Affinity Water	
Anglian Water	Largely
Dŵr Cymru	Largely
Northumbrian Water	Largely

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Portsmouth Water	Largely
SES Water	Largely
South East Water	Largely
South Staffs Water	To some extent
South West Water	To some extent
Southern Water	To some extent
Thames Water	To some extent
United Utilities	Largely
Wessex Water	To some extent
Yorkshire Water	Largely
Other	
CCW	Largely

8.8(b) To what extent do the proposals satisfy the MPF programme's success criteria (i.e. improving customer outcomes, simplicity, etc)?-Principles and performance standards

Retailers	
ADSM	To some extent
Business Stream	To some extent
Castle Water	Not at all
Clear Business Water	
Dŵr Cymru	Largely
Everflow Utilities	Largely
Nottingham City Council	Largely
Pennon Water Services	

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Sefton Council	Largely
Water 2 Business	To some extent
Water Plus	Largely
Waterscan	Largely
Wave Utilities	Largely
Wholesalers	
Affinity Water	
Anglian Water	Largely
Dŵr Cymru	Largely
Northumbrian Water	Largely
Portsmouth Water	Largely
SES Water	Largely
South East Water	Largely
South Staffs Water	To some extent
South West Water	Largely
Southern Water	To some extent
Thames Water	
United Utilities	Largely
Wessex Water	To some extent
Yorkshire Water	Largely
Other	
CCW	To some extent

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8.8(c) To what extent do the proposals satisfy the MPF programme's success criteria (i.e. improving customer outcomes, simplicity, etc)?-Metric-to-tool mapping

Retailers	
ADSM	To some extent
Business Stream	To some extent
Castle Water	Not at all
Clear Business Water	
Dŵr Cymru	Largely
Everflow Utilities	To some extent
Nottingham City Council	Largely
Pennon Water Services	
Sefton Council	Largely
Water 2 Business	To some extent
Water Plus	Largely
Waterscan	Largely
Wave Utilities	Largely
Wholesalers	
Affinity Water	
Anglian Water	Largely
Dŵr Cymru	Largely
Northumbrian Water	Largely
Portsmouth Water	Largely
SES Water	Largely
South East Water	Largely
South Staffs Water	To some extent

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South West Water	Completely
Southern Water	Largely
Thames Water	
United Utilities	Largely
Wessex Water	
Yorkshire Water	To some extent
Other	
CCW	Largely

8.9 If you wish to explain your answer, please add here

Retailers	
ADSM	
Business Stream	<p>With further development of the MPF and the mapping of metrics to tools, it is our view that there needs to be a rebalancing of financial tools to ensure that wholesalers are incentivised to improve market data, reduce market complexity and invest in critical metering assets. Without further strengthening of the incentives for wholesalers, we are concerned that some of the success criteria will not be met. For completeness, we have listed each of the success criteria below:</p> <p>1 Facilitate improved Customer outcomes – As mentioned above there needs to be a rebalancing of the financial penalties to ensure monopoly wholesalers are appropriately incentivised to deliver improved customer outcomes while recognising that retailers operate in a competitive market with natural incentives.</p> <p>2 Improve Trading Party Accountability – Some metrics such as the proposed MO1 are not achievable</p>

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	<p>and therefore retailers will be held accountable for reading meters that are not able to be read due in part to a wholesaler dependency and/or access to the meter.</p> <p>3 Support Competition – The financial charges should be set at levels that recognise regional variations.</p> <p>4 Consistency & Compatibility with regulatory regime – The proposed KPIs and financial penalties have not fully recognised that wholesalers are monopolies and retailers operate with natural incentives.</p> <p>5 Enduring and Agile – no comment to make.</p> <p>6 Transparent and proportionate – Some elements of the proposal, such as the wholesalers' and retailers' financial penalties, especially M11 and M14, do not appear proportionate.</p> <p>7 Value for money - The metric for M11 could be prohibitively expensive to administer.</p> <p>8 Simplicity – While the proposed MPF is more focused there is still a degree of complexity in what's being proposed.</p>
<p>Castle Water</p>	<p>Castle Water's key observation on the "support competition" success criterion is that MOSL's starting point for selecting and proposing the activities, KPIs and financial incentives in question is wrong. It is axiomatic among competition and regulatory authorities and practitioners that the imposition of remedial measures can be justified only where there is actual or apprehended market failure; i.e. where market structure, competitive conditions and competitor behaviour produce adverse effects on competition that frustrate the delivery of consumer benefits. That is what "supporting" competition should mean.</p>

This necessarily involves detailed analysis of these factors and identification of the remedy that is the most appropriate remedy that is consistent with being the minimum necessary to be effective. Castle Water has stressed this requirement throughout the MPF reform programme. We see no such analysis. Despite holding itself out as applying the relevant criterion it has either failed to understand, or has ignored, the analytical framework that the principle demands. In missing out this crucial step, MOSL has largely vitiated the validity of its proposals.

MOSL's Articles provide for it to "fulfil the role of the market operator under the Market Rules and in particular to commercially deliver and operate the central information systems and processes required for the non-household retail water and sewerage services market in England (and to the extent required Wales) as required to implement the provisions of the Market Rules." It is not invested with the powers of a competition nor a regulatory authority in developing and applying those Rules.

As a result, MOSL has tied itself hopelessly up in knots by multiplying the KPIs – see for example the description (yet to confirmed) of the market meter reads KPIs, among others. Far from avoiding being "overcomplicated, costly and unwieldy", the degree of complication envisaged here amounts to the creation of a new industry operated by MOSL.

To give limited examples:

- There is no tie-back of the penalty regime to any quantification of harm or explanation of how each penalty will serve, in a proportionate way and taking into account existing commercial incentives, to remedy, or not to remedy, such harm. Bare numbers will not aim off nor account for the reasons for failure.

- There is no explanation as to how the performance standards, and a recurrent and rising

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	<p>quantum, relate to the culpability, or rationale for the culpability, of a trading party for a given harm.</p> <ul style="list-style-type: none"> • The concept of 'outperformance' is one borrowed from the monopoly price review structure, and is unsuited to a competitive market. • Compensation payments are normally applied only where they compensate customers for wrongdoing, or in follow-on actions pursuant to a finding of competition law breach. They have no place in recycling penalties among industry participants. • Using penalty payments to fund the market improvement fund is distortive of the wider market. It arguably amounts to a tax: it would certainly do so under HM Treasury rules. • The non-financial 'tools' contain several additional unjustified metrics whose "agile and responsive deployment" is intended to identify opportunities for (unspecified) improvement. This provides near-unlimited scope for MOSL to extend the scope of the MPF regime.
Clear Business Water	
Dŵr Cymru	None
Everflow Utilities	
Nottingham City Council	
Pennon Water Services	The simplicity of the existing regime is long lost. This is a well nuanced regulatory framework with many, many pages of necessary and complex explanation. Nothing about this would be simple to anyone coming to it for the first time so we don't believe it reaches a success criteria. Moreover, how can we be asked whether something that isn't concluded and hasn't been put into practice improves customer

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	<p>outcomes. This remains to be seen.</p> <p>This is akin to an ODI framework that was introduced into a highly regulated monopoly industry to ensure that customers received the investment and standards where there is no choice to switch. So why are we introducing this into what is meant to be a competitive market? This is a market that is becoming more prescriptive everyday with lower returns to Retailers – this is not a tool to encourage new entrants at all and not what Boards originally signed up for.</p>
Sefton Council	
Water 2 Business	It's difficult to see at the moment, in some elements we would agree however we do have concerns (as explained above).
Water Plus	n/a
Waterscan	Metric-to-tool mapping is not going to be simple and some of the success will hinge on accurate metric measurements and the specific details could be tricky to work out, otherwise overall the MPF seems to meet the success criteria.
Wave Utilities	
Wholesalers	
Affinity Water	
Anglian Water	
Dŵr Cymru	
Northumbrian Water	
Portsmouth Water	<p>We feel there are some key details that haven't been considered, which we have mentioned in answers to the above questions, but to summarise:</p> <p>M10 should take W reads into consideration.</p> <p>M12 the pilot outputs have not been overly successful.</p>

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SES Water	
South East Water	<p>Principles and performance - We have some concerns about how it will work in practice, there is a risk that dysfunctional methods could be used to avoid fines, and we are not confident that process will be able to highlight this e.g. what is there to prevent a Retailer uploading a bulk submission of Bilaterals to avoid fines on meter reading?</p> <p>Metric to tool mapping - We question the need for compensation payments and also the fairness of only applying in the payment to retailers. If Retailer action impacts supply experience, should the wholesaler not be compensated for rectifying if needed? Its unlikely in terms of possibility but feels unbalanced.</p>
South Staffs Water	
South West Water	Where we've felt that principals and performance standards haven't met the success criteria, we've noted these in our responses within the consultation.
Southern Water	<p>We appreciate the need for MPF Reform in respect of a simpler, more effective performance framework.</p> <p>Whilst we understand that as the programme has progressed every endeavour has been made to simplify the number of metrics, the amount of documentation to digest and the amount of input into consultations etc, however it still feels complex. To answer the question fully will be based upon the reformed MPF being in place and trading parties becoming familiar with it over time. Also, we have yet to understand whether it will be proportionate as some concerns have already been raised about potential winners and losers based upon minimum performance standards and how these will be calculated.</p>
Thames Water	
United Utilities	Criteria 2 - Some measures are not clearly aligned to accountability. Trading parties should not be penalised for failures that are beyond their control, or, where they are complying with processes set out in the codes e.g. deferrals.

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	<p>Criteria 4 & Criteria 6 - There is a risk of double jeopardy on a number of measures, either by applying both compensation and performance payment, or by double counting (from a relative industry performance perspective) between MPF and BR-MeX.</p> <p>Criteria 8 0- There is scope to simplify some of the approaches outlined and make measures / calculations more intuitive for trading parties and interested stakeholders.</p>
Wessex Water	Please see previous responses linked to customer outcomes
Yorkshire Water	
Other	
CCW	

8.10 Would you like to be contacted to discuss your response in more detail, or any other aspect of the MPF reform programme? Please provide a brief summary of the topic(s) you would like to cover.

Retailers	
ADSM	
Business Stream	I am happy to discuss our response if MOSL requires clarity or would like more detail.
Castle Water	We would like to discuss all the points that have been raised in Castle Water’s response to this consultation and we seek a detailed written response to each point, and those raised previously. The risks and issues raised are ones of genuine substance, and should be addressed by MOSL with both us, and the wider market.
Clear Business Water	
Dŵr Cymru	Please contact us if further clarity is required on any response provided.

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Everflow Utilities	Yes. We'd be interested in discussing the payment schedule around outperformance payments, and the charging mapped to M09.
Nottingham City Council	Happy to have conversations around the expected charges for transfers as well as the charges for having a B5 open against a LUM.
Pennon Water Services	No
Sefton Council	
Water 2 Business	We are happy to be contacted by MOSL to discuss our concerns over transfer reads, if MOSL feel this would be helpful.
Water Plus	We would like to see much greater discussion regarding the potential removal of the cap on performance charges, and the approach being undertaken to calculate performance penalties. Whilst we are broadly comfortable with the methodologies listed, pending further discussion at the Performance Advisory Group and finalisation, our comfort with these metrics will be dependent on the associated values.
Waterscan	
Wave Utilities	No
Wholesalers	
Affinity Water	
Anglian Water	
Dŵr Cymru	No
Northumbrian Water	
Portsmouth Water	We are happy to be contacted by MOSL to discuss our response if MOSL would like to do so.
SES Water	
South East Water	Yes

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South Staffs Water	If you wish
South West Water	No, thank you – we’re satisfied with our current channels of communication.
Southern Water	No
Thames Water	Yes
United Utilities	No although we would be very happy to provide further input or discuss our feedback.
Wessex Water	Always happy to engage in our responses and continue to contribute to an improved market for the benefit of its customers
Yorkshire Water	We would be happy to discuss any section. In particular some of the thinking around Financial Compensation, which strikes us as questionable.
Other	
CCW	

8.11 If you have any other comments or feedback not included above, please enter it here

Retailers	
ADSM	
Business Stream	N/a
Castle Water	MOSL should delay the date of the new MPF going live next year and revisit some of the detailed conversations that have only start taking place in the PAG in the last few months. Innovation in CMOS data, SKPI data leading to better accountability, along with a reform programme that is led and informed by the trading parties.
Clear Business Water	

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Dŵr Cymru	<p>We note from the Teams call on 17th July that the Retailer MPF will launch in April 25, followed by the Wholesaler MPF six months later.</p> <p>We would prefer to see both MPF's being launched at the same time, if this is not possible, we would suggest consideration to retailers not being financially penalised (or rewarded) until the wholesalers MPF is launched. This would also have the dual benefit of retailers having time to familiarise themselves with their own MPF.</p>
Everflow Utilities	
Nottingham City Council	
Pennon Water Services	
Sefton Council	
Water 2 Business	
Water Plus	n/a
Waterscan	
Wave Utilities	<p>Overall Wave believes the metrics are heading in the right direction and we do agree in principle with many of the proposals, however there is still a lot of work to do regarding ownership of metrics and penalties that occur outside of the owner's control e.g. reading of TE meters, internal meters in vacant premises, customers who restrict access etc. There needs to be further consideration of internal meters in vacant premises. We think further consideration needs to be given to fairness.</p>
Wholesalers	
Affinity Water	<p>At the latest webinar a phased approach was mentioned – on first hearing we would much rather this was not undertaken, and the introduction of the new MPF was delayed as a whole whilst this is refined and agreed with, we do not have a concern with more time being spent to ensure we have a more</p>

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	<p>complete framework that is proper and makes a difference once made live.</p> <p>Previously we explained we were not in favour of a shadow year, however as our understanding of how these may be applied is growing through the process we fully believe this is required to ensure we all fully understand the impact on all trading parties and behaviours this could drive.</p>
Anglian Water	
Dŵr Cymru	
Northumbrian Water	
Portsmouth Water	
SES Water	<p>With M02 proportion of smart meter reads – Need to understand what this is measuring.</p> <p>All of the MPF metrics need to be aligned across Wholesaler and retailer in order for them to be fair.</p> <p>How we get to the metric, under performance payment, over performance payment needs to be a clear calculation we need to be able to explain it to other areas of the business with out having to refer to documentation to explain how we have got to that figure.</p>
South East Water	
South Staffs Water	
South West Water	
Southern Water	None
Thames Water	We would wish to discuss the issues we have highlighted in this response where we do not believe a better outcome for customers will be delivered
United Utilities	
Wessex Water	No
Yorkshire Water	
Other	

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CCW	
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