

Market Performance Framework

Performance Advisory Group – PAG06

31 August 2022

Agenda

1	Welcome	Chair	5 Mins
2	Actions from previous meeting	Chair	5 Mins
3	ENDORSE: Candidate Intervention types	Janet Judge	90 Mins
4	INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives)	Janet Judge	15 Mins
5	Any other business	Chair	5 Mins

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Actions from Previous Meeting (1 of 1)

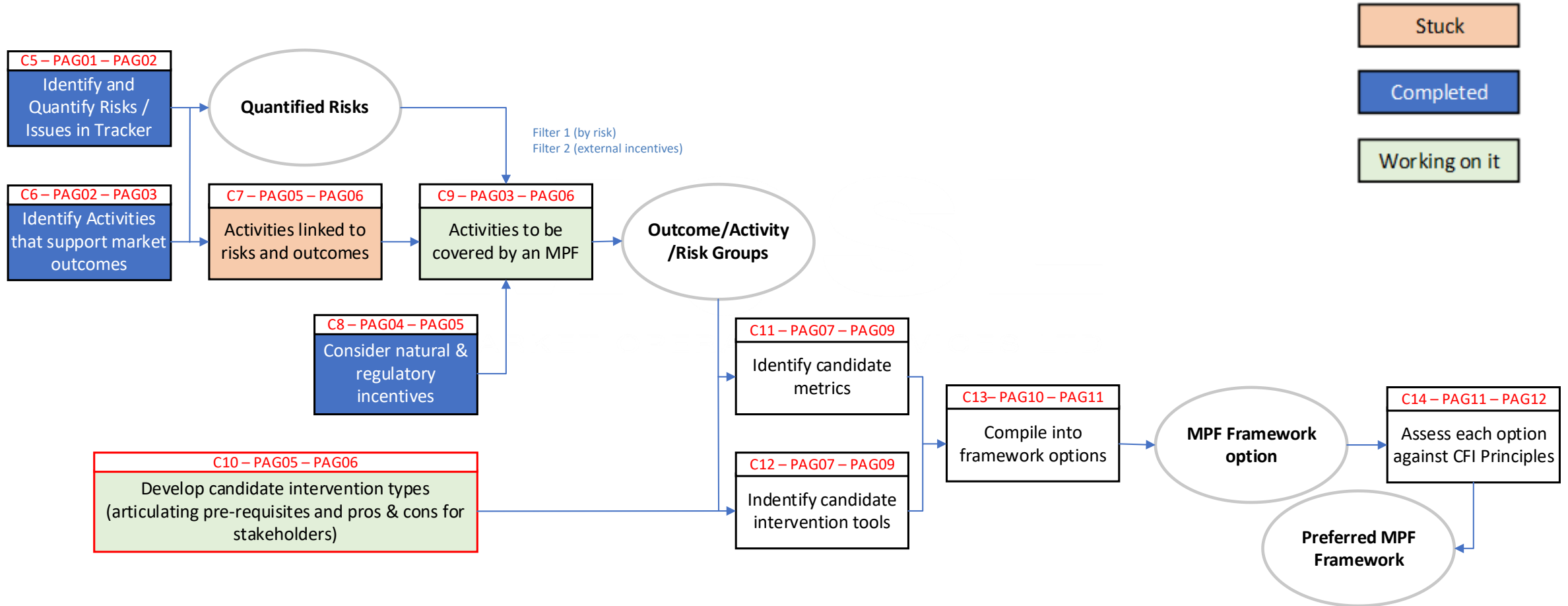
NO	Action required	Action by	Action Date
05/01	Re-schedule PAG06 on 31 August to accommodate workshop - Completed	HF	19/08/22
05/02	The endorsed method for the prioritisation for activities (Option 4b) will need to be explained in a logical way to ensure that it is understood by the outside world	JJ/JH	30/09/22
05/03	New lens (Business incentives) - Consider the inherent cost incentives that drive behaviours outside of the MPF – Members to provide feedback based on the Output report to highlight the activities and interventions that would apply to natural and business incentives - Completed	ALL	26/08/22
05/04	MOSL to look to build a review of the interventions within the MPF programme to ensure that there are no conflicts or impacts following PR24 and the REC review in December 2022 - Completed	MOSL	31/08/22
04/01	Potentially no market activity for the following scenario: The issue whereby the sewage retailer thinks it has resolved the problem but cannot action as only the retailer has the CMOS rights - Ongoing	JJ	05/08/22
01/04	Ensure customers have an opportunity to engage in consultations as the MPF programme progresses (consultations currently anticipated to begin in late September) - Noted / Ongoing	AR	14/09/22

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ENDORSE: Candidate Intervention types (1 of 27)

Where we are at in the programme



ENDORSE: Candidate Intervention types (2 of 27)

Purpose of PAG 06 review - reminder

Feedback was requested, using the template in the pre-read pack, on the one-page summaries for each intervention type – with focus on:

- Are the summaries clear / points of clarity
- Are there any interventions we have missed

With a view to **Endorse** in PAG 06 (31 August)

ENDORSE: Candidate Intervention types (3 of 27)

Feedback - new proposed intervention types

Comment / Description	MOSL response
<p>Combine individual and peer comparison performance into one. Removes decision on which is most appropriate to apply. Publishing individual performance alongside peer comparison presents more complete picture</p>	<p>Retain both interventions. Publishing individual performance against a target may work better in some cases e.g., wholesalers Can determine as part of design</p>

ENDORSE: Candidate Intervention types (4 of 27)

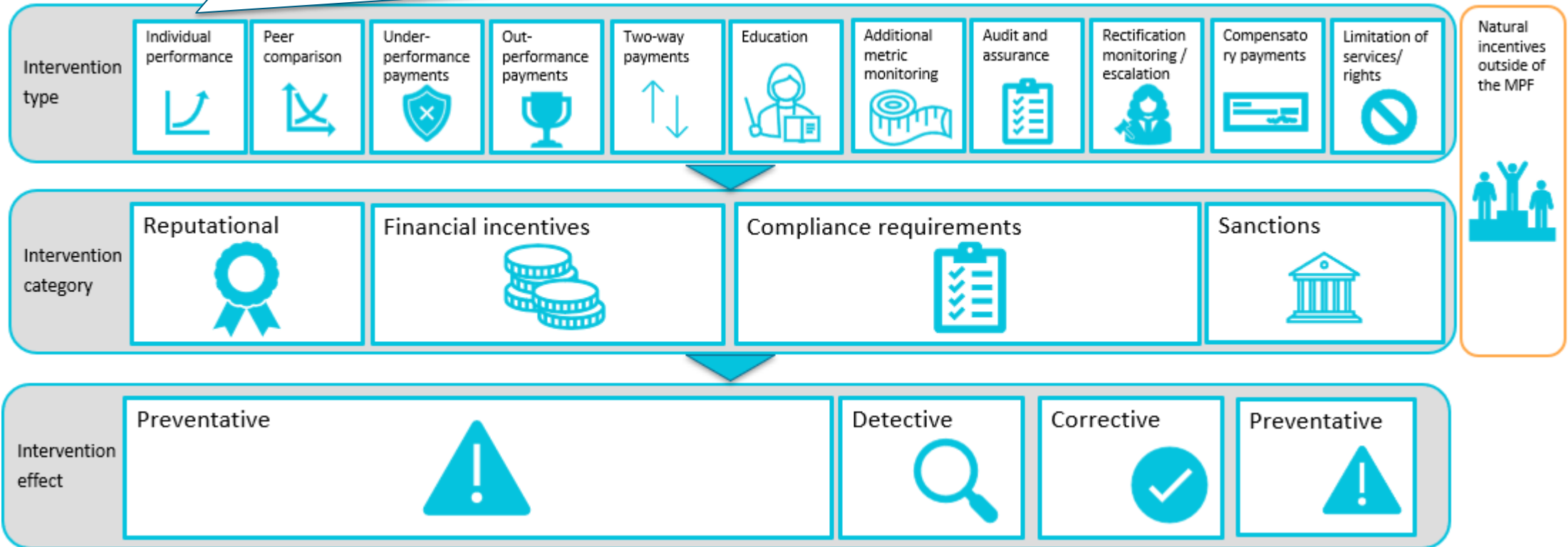
General feedback on intervention types

Comment / Description	MOSL response
Need to ensure that the chosen incentive is the most appropriate based on the trading party's level of poor performance.	We will consider the appropriate interventions for each activity, and several interventions may be applied for one activity depending on the level and characteristics of underperformance
Is it also the intention that some incentives complement each other and will not always be applied in isolation?	See above, several interventions may be applied for one activity
MOSL and PWC have recognised that retailers and wholesalers are very different, but the suggested intervention types are identical for both groups	Each intervention type identified has the potential to be applied to either retailers or wholesalers, but the MPF will not necessarily use all these interventions. Also, a different mix of interventions could be applied depending on TP type, customer segment etc.
Referring to “within the subject’s control”, should this also cover activities <i>mainly</i> within the subject’s control?	Amended the below intervention types with 'wholly or mainly within': <ul style="list-style-type: none"> • Penalty payments • Outperformance payments • Two-way payments

ENDORSE: Candidate Intervention types (5 of 27)




Publishing individual performance

- TPs' performance measured based on set targets. TP or Market Operator may be required to share this info with wholesalers, retailers, Ofwat, customers and others
- The info allows stakeholders to make informed decisions on how to interact with the market



ENDORSE: Candidate Intervention types (6 of 27)

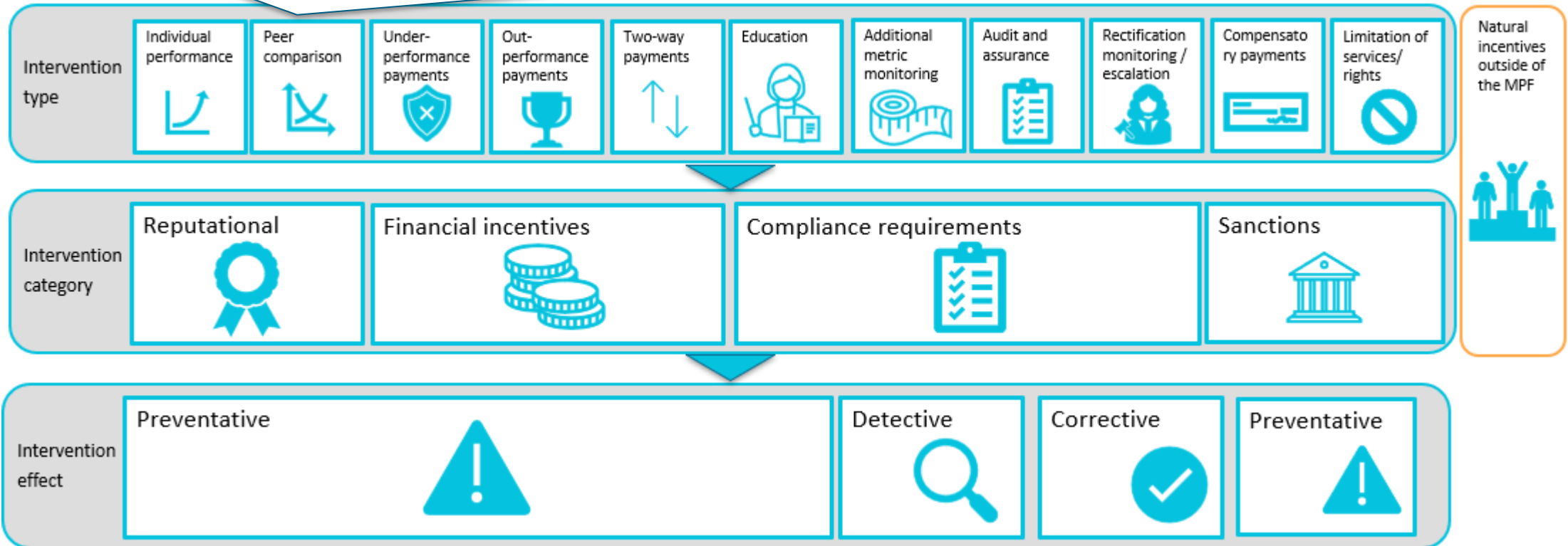
Feedback on Publishing Individual Performance

Comment	MOSL response
Will customers care/understand? Interested in service and price not performance on compliance with market code obligations. May think retailer investing too much in this and not enough for them	Publish performance on activities that are customer facing. Cost and format, to help customers understand, would be considered in design
Almost certainly, there will be double jeopardy with both commercial and natural incentives	Enhances natural incentives and applied where these are insufficient. Doesn't mean MPF will use all interventions. Mix could be applied differently depending on TP type, customer segment etc. Where there's evidence business incentives impact can reconsider application of the intervention
Performance measures should recognise impact that wholesaler performance addressing an issue has on retailers ability to perform	To be addressed in design of specific tools 
MOSL currently publicly publish performance so unsure what requirement is and who would sets targets. There's reference to using CMOS data which would make sense	To be addressed in design of specific tools 
Could impact potential BR-MeX measure (or even C-MeX) i.e., no experience with company but the comparison could influence a positive/negative score	Yes, could be some potential to influence BR-MeX/C-MeX score. Gives incentive to perform. Consider application of intervention as part of design 

ENDORSE: Candidate Intervention types (7 of 27)

Publishing peer comparison performance

- TP performance measured and compared its peers
- Two types of comparison that could be used: 1) Peer comparison with no defined standard; 2) Peer comparison with defined standard
- The info is published to allow stakeholders to make informed decisions on how to interact with the market



ENDORSE: Candidate Intervention types (8 of 27)

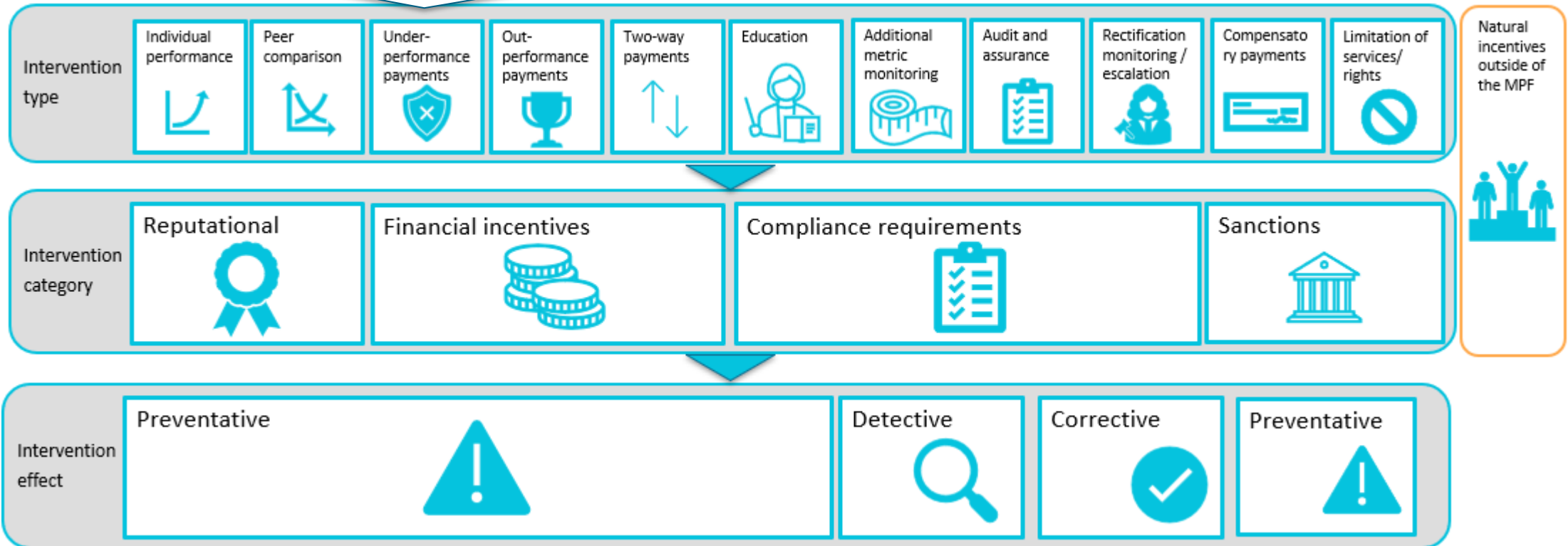
Feedback on peer comparison performance

Comment	MOSL response
If holistic reporting is an example, most metrics will be market-based. Will customers really care/understand? Interested in service and price; centrally produced league tables unlikely to report either	Comments per publishing individual performance We consider Holistic reporting to be a good proxy for customer service
Almost certainly, there will be double jeopardy with both commercial and natural incentives	Covered in publishing individual performance

ENDORSE: Candidate Intervention types (9 of 27)

Penalty/underperformance payments

- TPs penalised for every increment of underperformance
- Incentivises to keep their performance up to standards
- Cost of penalty > cost of the activity required to correct / prevent underperformance
- Should also be > than benefit from acting in an undesirable manner
- Preventative effect – incentivises TP to meet given standard / industry benchmark performance level





ENDORSE: Candidate Intervention types (10 of 27)

Feedback on Penalty/underperformance payments

Changes

Comment	MOSL response
Does 'for every increment of underperformance' mean a penalty for every time performance worsens, or only when worsens beyond pre-determined points?	Amended description to include 'beyond a pre-determined point'

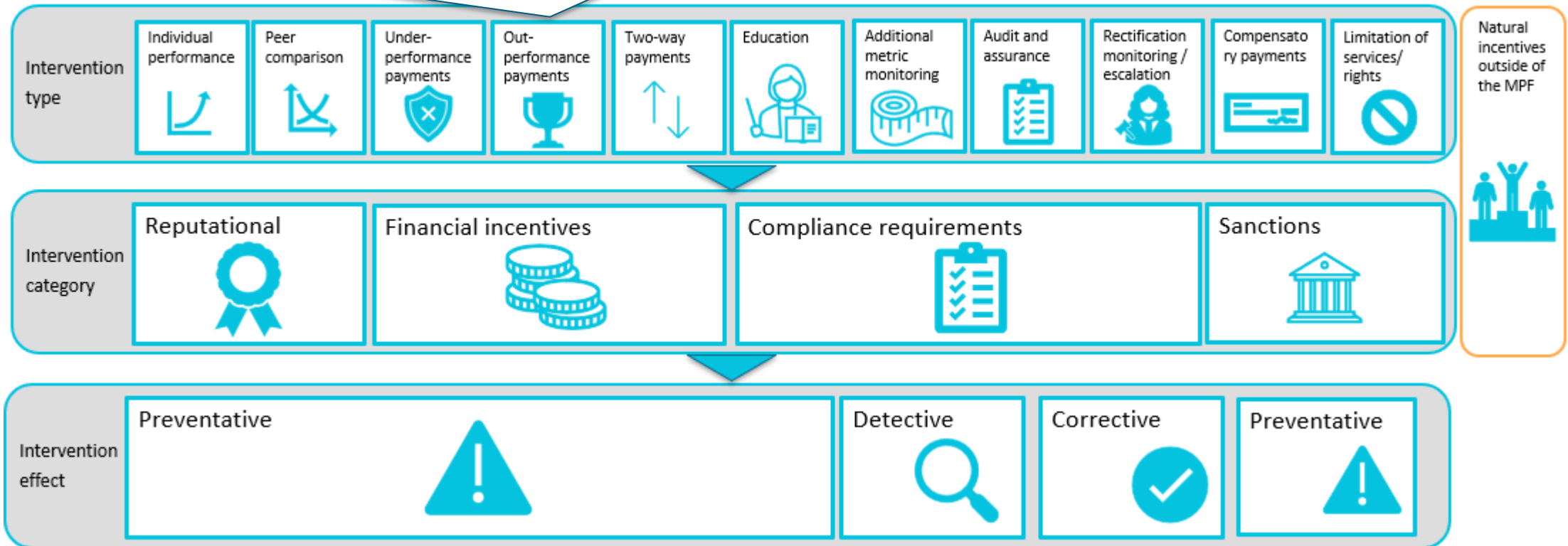
Clarification

Comment	MOSL response
Feasibility – Is the outcome we are looking for that a penalty will apply if we are confident that wholesalers cannot recover costs in a future period? How is this determined?	Part of design. Look to do in collaboration with stakeholders e.g. PAG, Ofwat 
Concerned process could take a lot of management/time if retailer does not agree with charge, if there's an option to challenge?	Decide as part of design of intervention and governance process 

ENDORSE: Candidate Intervention types (11 of 27)




Reward/out-performance payments

- Outperformance payments can incentivise TP to not only meet but outperform its obligations through receiving monetary rewards
- Supports competition and considered to have preventative effect – incentivises TP to exceed expectations



ENDORSE: Candidate Intervention types (12 of 27)

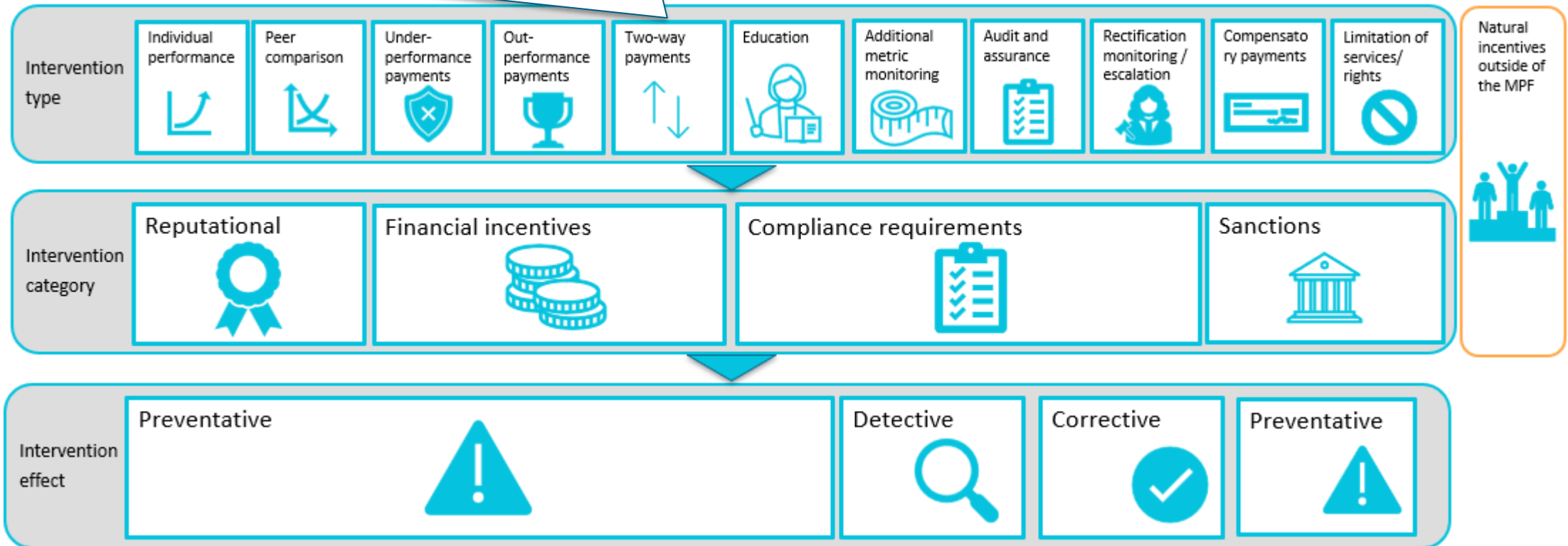
Feedback on Reward/out-performance payments

Comment	MOSL response
I don't know if I agree that a financial reward should be applied. And where there is a lack in strong/good performance, this should be highlighted and managed by the penalty of underperformance	This intervention will be mainly consider for when there are no natural incentives, underperformance payments are not appropriate and improvement would really benefit the market
What are the other ways of funding this? This is less obvious when applying to retailers than water companies subject to regulatory processes where payments can be built in to the price review process	Determine as part of design, in collaboration with stakeholders (e.g. PAG and Ofwat) 
It is not clear where the money comes from/how would these be funded?	Determine as part of design 
Could there be a financial reward/recognition to the retailer/wholesaler that has improved on their performance (where previously failing) and reward the retailer/wholesaler where performance remains consistently good	Determine as part of design 

ENDORSE: Candidate Intervention types (13 of 27)



Two-way payments (penalty and out-performance)

- Combination of underperformance and outperformance interventions



ENDORSE: Candidate Intervention types (14 of 27)

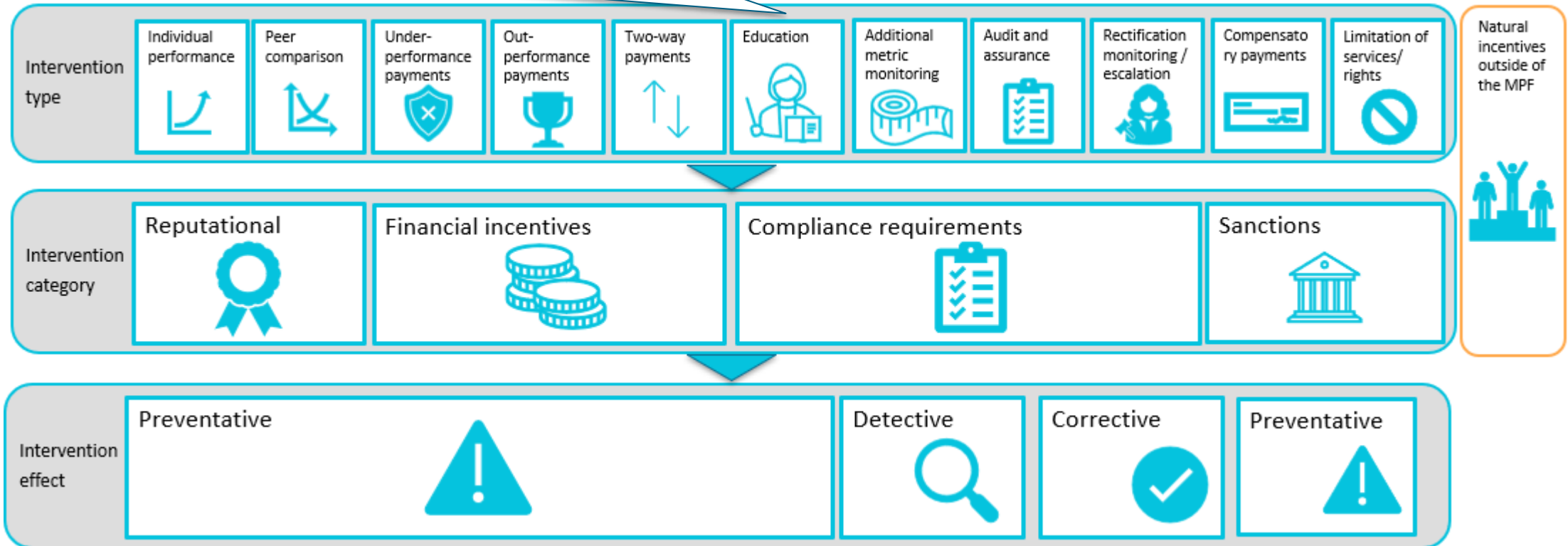
Feedback on Two-way payments (penalty and out-performance)

Comment	MOSL response
Don't completely understand this intervention and how it would work in practice	Determine as part of design 
No guarantee any trading party will perform below a set standard, so where does the money come from to pay the overperformers?	Consider/determine as part of design 

ENDORSE: Candidate Intervention types (15 of 27)



Education

- TPs required to have staff undertake relevant education, training and/or qualifications as a condition for operating
- Education could also be made available centrally, parties can pro-actively learn about requirements and processes, to avoid code non-compliance



ENDORSE: Candidate Intervention types (16 of 27)

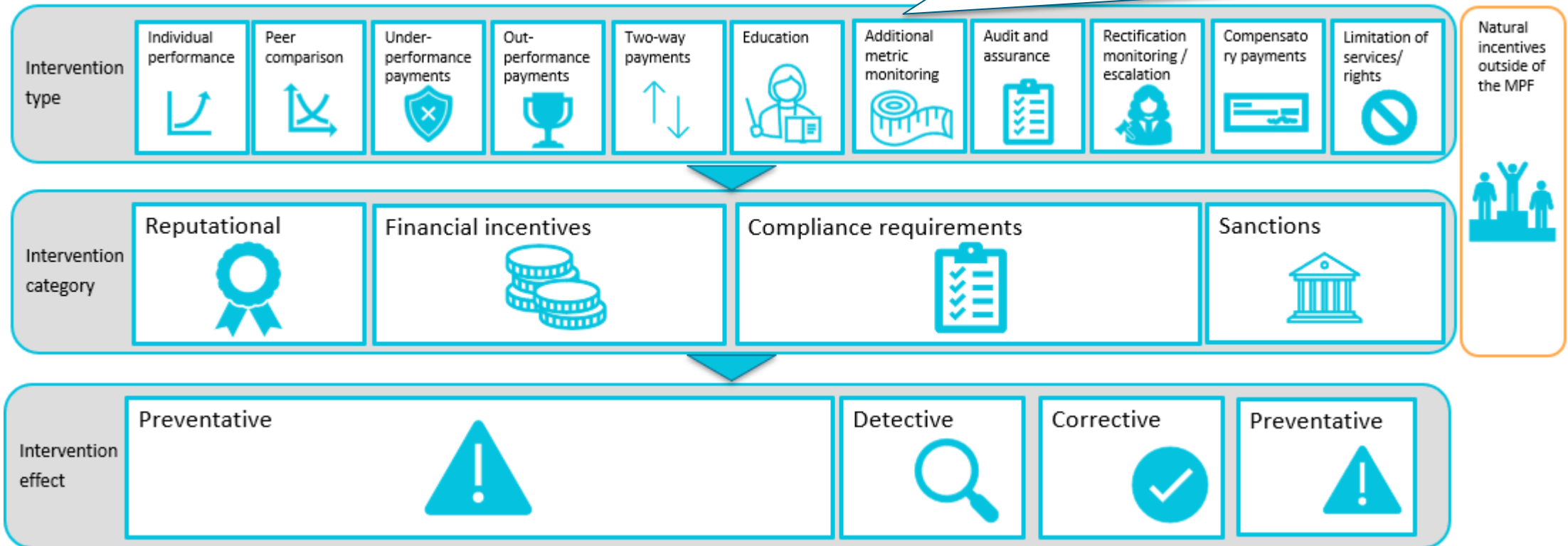
Feedback on Education

Comment	MOSL response
I'm unclear at what point the education, or training would end. Is this determined by the length of the training materials, or when the performance improves?	Preventative intervention rather than corrective. Length of training is determined by the course materials. Ensure training materials always available for new entrants etc.
For clarity is this referring to internal or market training. I believe it's market training and would support that for consistency purposes	What is meant by "internal training"? The intervention's primary aim is to help understand the market - preventative intervention
I believe there would be a strong benefit for wholesalers to host all policies in relation to a bilateral form process, on their website. Ideally, if this could be stored in one central place with links to the relevant wholesalers policies	Outside the scope of the intervention types, the content of the training will be determined as part of the design phase 
There should to be a lot more detail around this. i.e. when does the training/education need to be actioned by, is this relevant to all staff, etc. Training material needs to be relevant and specific	Determine as part of design 

ENDORSE: Candidate Intervention types (17 of 27)

Additional metric monitoring

- Involves implementing detailed and diagnostic monitoring of particular risks / activities on a temporary and specific basis



ENDORSE: Candidate Intervention types (18 of 27)

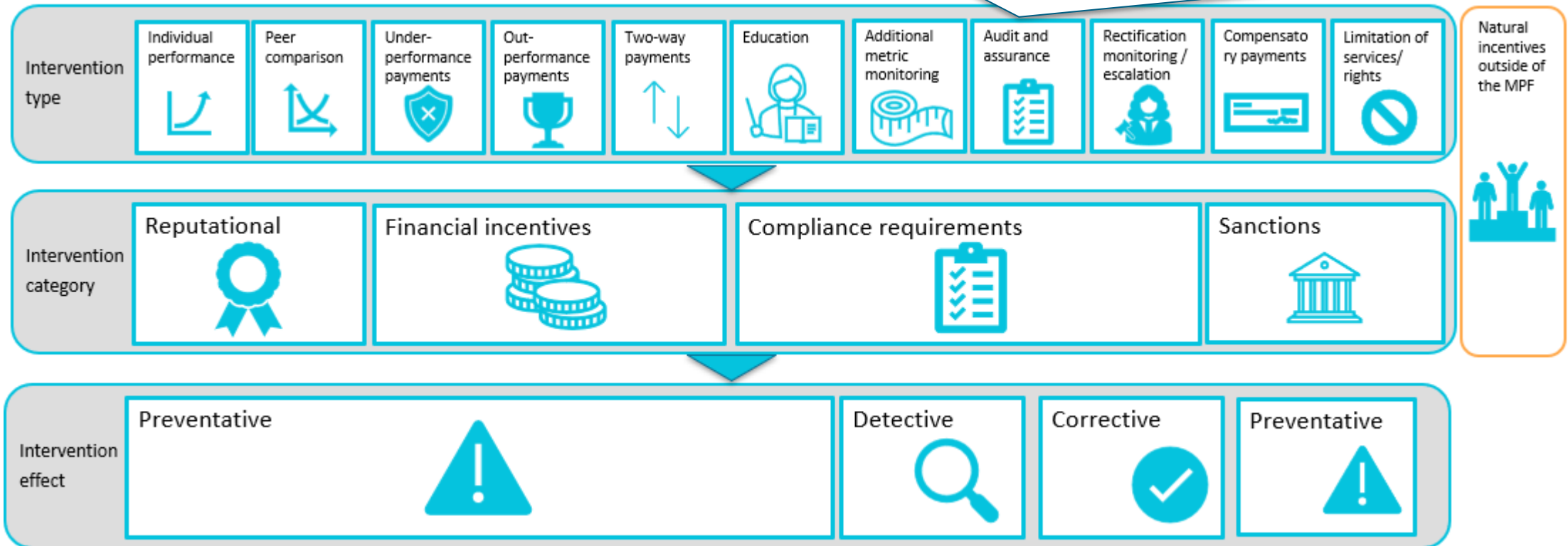
Feedback on Additional Metric Monitoring

Comment	MOSL response
Could this involve the ability to report on i.e. customer resolution times on enquiries? It would encourage better customer service and will benefit the customer having insight of this	Yes, this type of metrics could be used.
Reputational incentives could be increased with exec/ director involvement or visibility	This was added as a point of clarity in the intervention types document

ENDORSE: Candidate Intervention types (19 of 27)



Audit and assurance

- Focus on demonstrating key rules are being complied with
- Can apply to all TPs or be targeted
- Can involve self-certification and/or third-party assurance



ENDORSE: Candidate Intervention types (20 of 27)

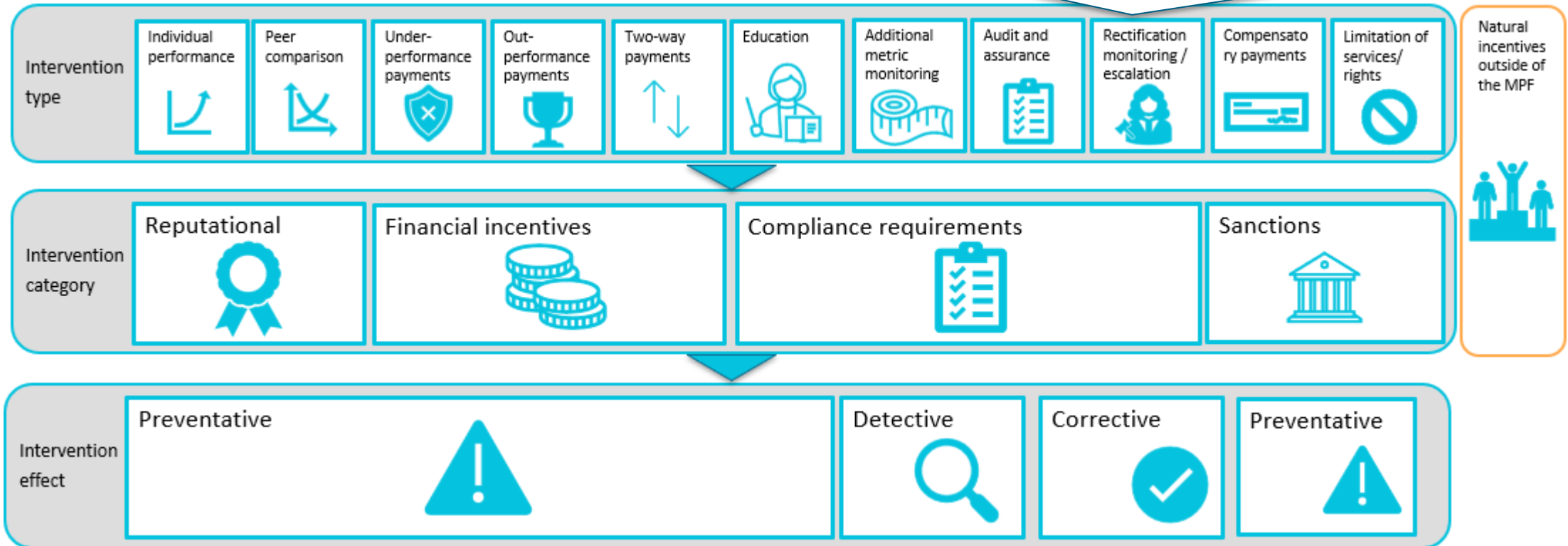
Feedback on Audit and Assurance

Comment	MOSL response
<p>Would it be the responsibility of the trading party to fund the audit, and could they be compelled to do so? If MOSL funds it, would there be consideration for the cost-benefit of the intervention?</p>	<p>Determine as part of design (phase 2). The cost-benefit of interventions will be considered for each intervention</p> 
<p>Does escalation mean to Ofwat, or are there steps before this (e.g.; escalation to MPC)?</p>	<p>Governance has not yet been defined. There could be escalation steps within the MPF or to a Strategic Panel committee. Escalation to Ofwat would most likely be exceptional. This would form part of the design</p> 
<p>I support this intervention. Similar to the data audit that is completed every year in the Scottish market, should be replicated for the English market</p>	

ENDORSE: Candidate Intervention types (21 of 27)

Rectification, monitoring and escalation

- By the Market Operator to resolve most material breaches
- Involves restoring low performance to defined standard/industry benchmark, monitoring resolution progress, and escalating issues to higher level of governance where necessary
- TP required to self-report the plan implementation, resource involved in this acts as incentive to meet required standard
- Escalation incurs more costs and reputational damage, adds to incentive



ENDORSE: Candidate Intervention types (22 of 27)

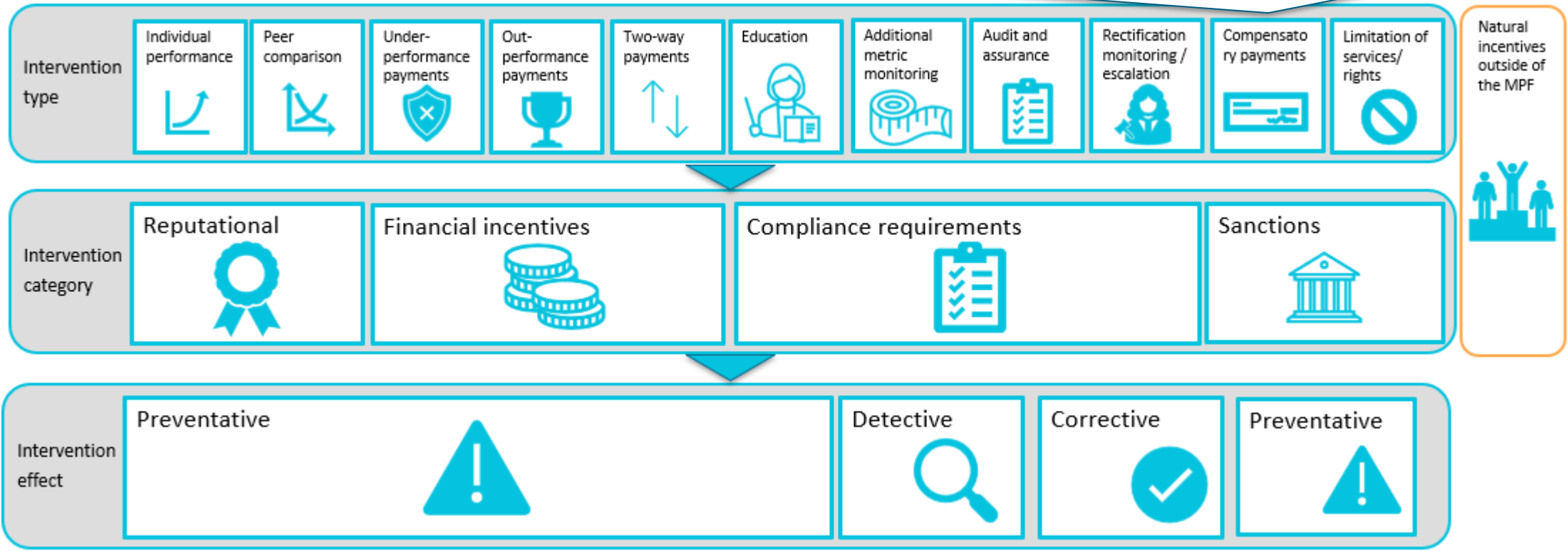
Feedback on Additional Metric Monitoring

Comment	MOSL response
Reputational incentives could be increased with exec/ director involvement or visibility	This was added as a point of clarity in the intervention types document

ENDORSE: Candidate Intervention types (23 of 27)


Compensatory payments

- Amounts paid to injured affected parties.
- Not punitive, viewed as fair compensation for breach
 - 1) Damages: accurate calculation based on legal principles aiming to put injured party into same position had breach not happened
 - 2) Liquidated damages: the amount / formula set out in contractual arrangements (estimate of intangible / hard-to-define losses)
 - 3) Nominal: amount set in advance and doesn't depend on the loss



ENDORSE: Candidate Intervention types (24 of 27)

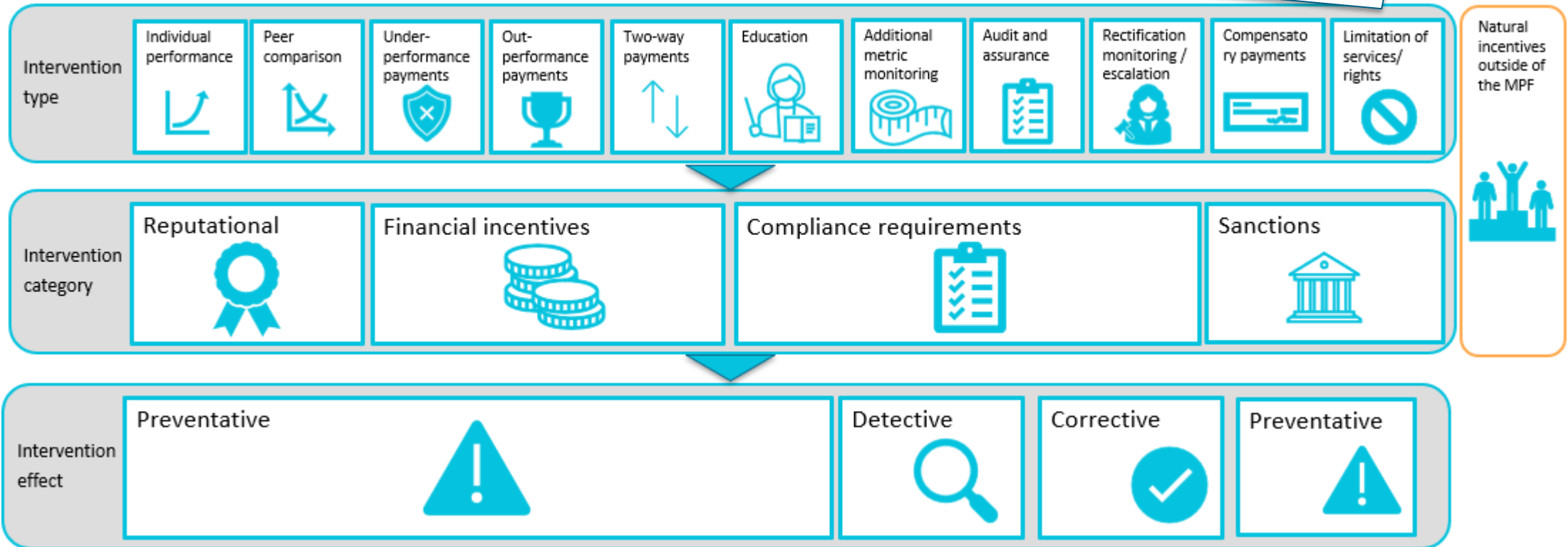
Feedback on Compensatory Payments

Comment	MOSL response
Is this intended to be an alternative to affected parties taking legal action? Is there something similar in other industries that it would be modelled on?	This intervention doesn't intend to preclude legal action or claims via insurance. It will require particular consideration during design phase 

ENDORSE: Candidate Intervention types (25 of 27)

Limits TP's services / access rights in the market, impacting ability to operate in market
 Prevents further risk introduced into the market until the concern is resolved
 e.g., limitation of:

- Access to central market data or reports
- Ability to raise disputes



ENDORSE: Candidate Intervention types (26 of 27)

Feedback on Limitation of services / access rights payments

💧 No comments received

ENDORSE: Candidate Intervention types (27 of 27)

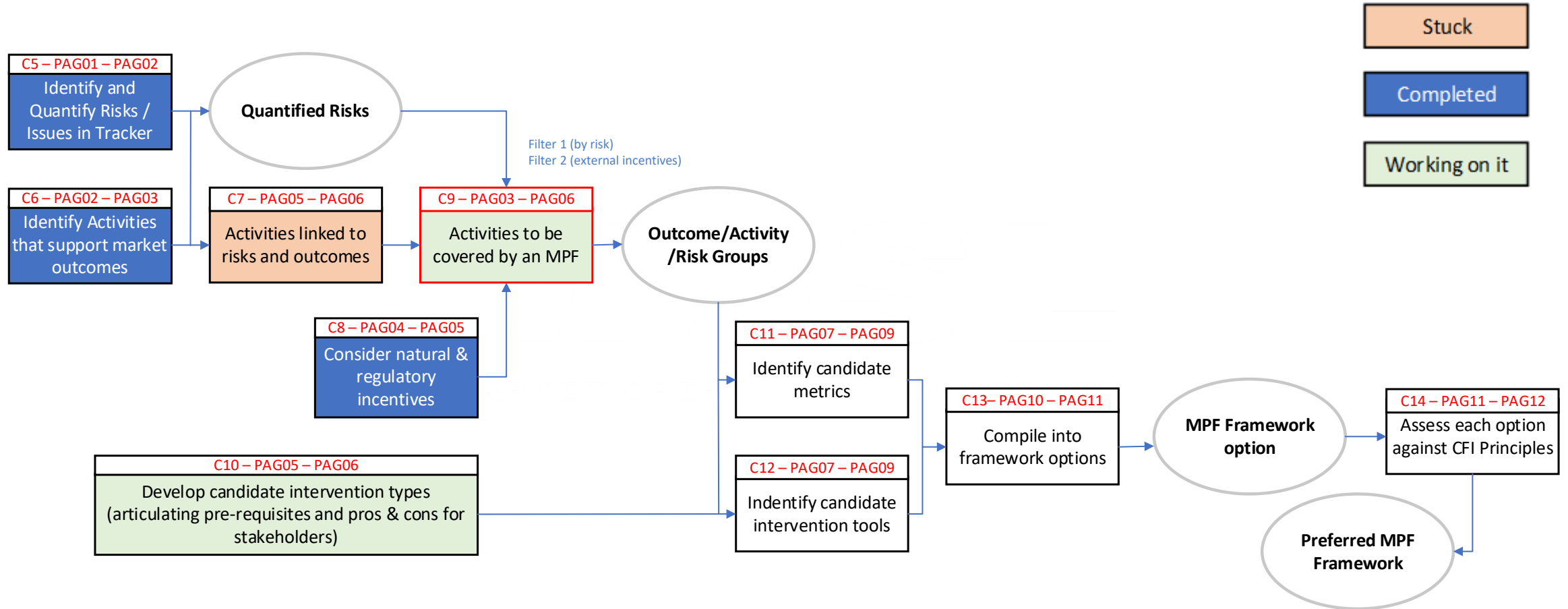
Purpose of PAG 06 review - reminder

We are seeking **Endorsement** of the one-page summaries for the proposed candidate intervention types, subject to any material changes made from PAG feedback.

Agenda

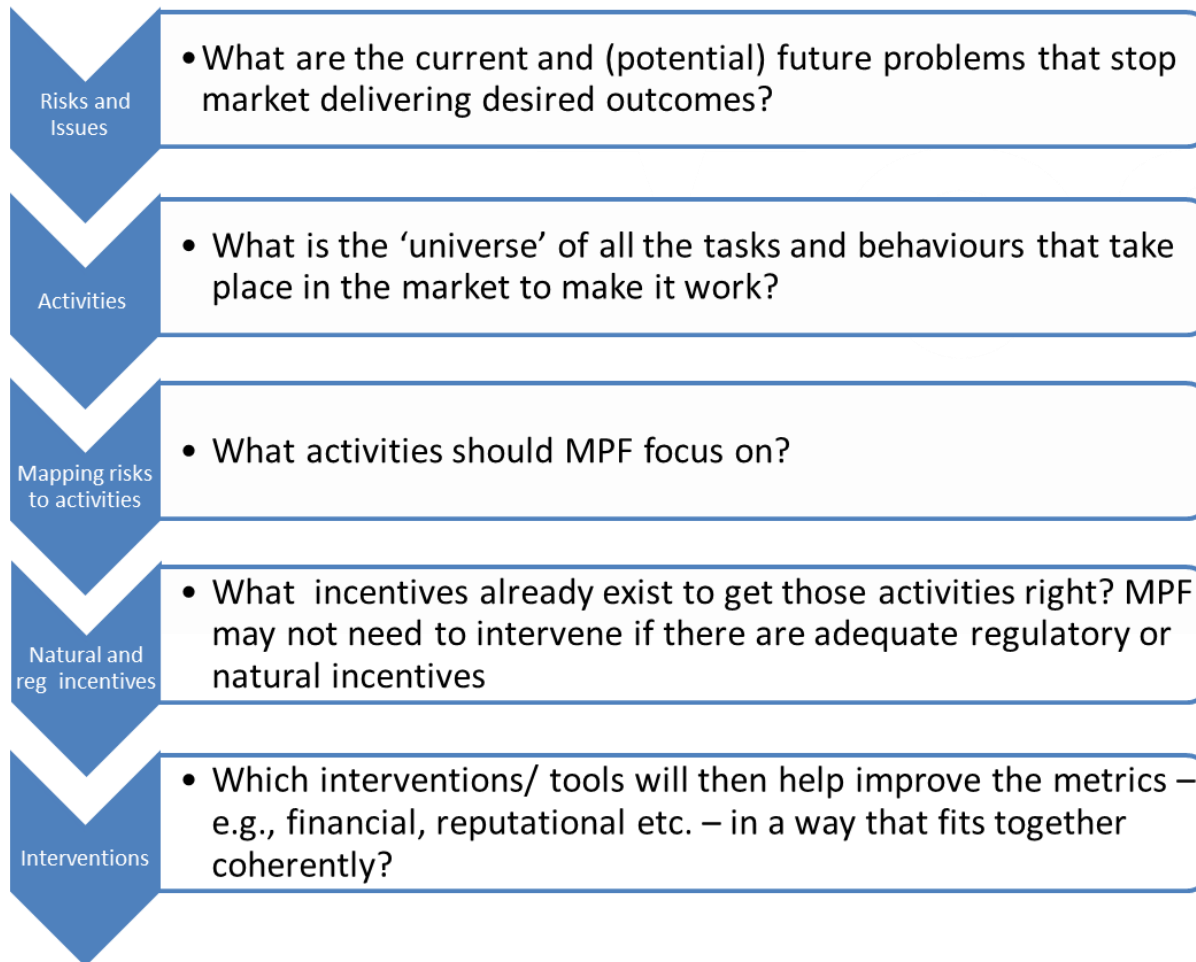
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INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives) (1 of 6)



INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives) (2 of 6) Re-cap of methodology

What question are we answering at each stage and how do these build on each other?



Why we need to do each stage

Risks and issues help us **prioritise the activities that need the most attention**

Mapping our activity universe **makes sure we don't miss anything important**

Mapping helps prioritise activities / provides focus. Prioritising those with highest risk/issue scores helps **ensure we focus on activities with biggest impact on outcome delivery**

Identifying Natural and reg incentives can help us agree **prioritised activities in scope of the MPF**

Intervention tools help **drive the right behaviours- if part of coherent framework**

INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives) (3 of 6) – Feedback on business incentives

- 💧 Consider in the prioritisation of activities and interventions
- 💧 Bring back to PAG07 (14 Sep)

INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives) (4 of 6) – Initial findings on impact of natural/regulatory incentives

- ◆ **Group 1** - (Wholesale-related activities with no clearly applicable and/or effective regulatory incentives) – introduce **reputational** and/or **financial** incentives
- ◆ **Group 2** - (Retail-related activities with applicable but ineffective natural incentives) – potential to augment natural incentives through **reputational** and/or **financial** interventions
- ◆ **Group 3** - (Market wide activities requiring collaboration between market participants) – introduce **compliance** interventions
- ◆ **Group 4** - (Activities with no applicable incentive types) – consider **compliance** interventions
- ◆ **Group 5** - (Activities sufficiently covered by incentives) – small number of activities to **reconsider inclusion in MPF** and establish monitoring framework

INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives) (5 of 6) Summary

- Using the prioritised list of activities (method 4b endorsed PAG05 i.e., count of severity '9' risks then total risk score) there are two activities that do not have a severity 9 risk aligned, which we would exclude
- From the initial findings of report on natural and regulatory incentives we would exclude three activities
- Gives 32 activities as a **first view** of focus areas for MPF

INTRODUCE: Focus areas of MPF (reflecting risk scores and natural/regulatory incentives) (6 of 6) Top 10 activities

REF	Activities and Behaviours	No of Risks	Total Cust Impact & Risk Score	3	4	6	9	Total RTL Impact & Risk Score	Total WHL Impact & Risk Score	Combined TP Score
CV.2	Retailers to make sure that CMOS is regularly updated with good quality customer and consumption data (Duplicate - UWE.2)	13	91		1	7	5	29	25	54
UWE.2	Retailers to make sure that CMOS is regularly updated with good quality customer and consumption data (Duplicate - CV.2)	13	91		1	7	5	29	25	54
UWE.6	Retailers provide high quality bills that are based on evidence and supported by consistent and clear terms and conditions to customers and refund customers on a timely basis	9	69			4	5	22	16	38
GS.5	Wholesalers better reflect the needs and requirements of their non-household customers in the provision of non-household services, including trade effluent and planned/unplanned events	8	61		1	2	5	20	18	38
CV.11	Market participants work collaboratively to facilitate the provision of accurate data necessary for innovation.	8	58		1	3	4	19	17	36
CV.21	Market participants work collaboratively to address shared supplies/mixed use premises and resolve associated issues	7	54			3	4	18	12	30
GS.1	Retailers provide clear information to customers on what their rights are (e.g. payment protection plans, right to formally dispute the money owed under contract)	7	52		1	2	4	16	12	28
CV.3	Wholesaler to make sure that CMOS is regularly updated with good quality accurate asset and premises data including assessing eligibility for the market and timely deregistration of premises not eligible where appropriate (Duplicate - UWE.3)	12	81			9	3	28	25	53
UWE.3	Wholesaler to make sure that CMOS is regularly updated with good quality accurate asset and premises data including assessing eligibility for the market and timely deregistration of premises not eligible where appropriate (Duplicate - CV.3)	12	81			9	3	28	23	51
CV.9	Wholesaler to resolve request in timely and efficient manner (with regards to customer needs)	8	57			5	3	20	18	38

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Future meetings (1 of 1)

Meeting Date	Discussion / Introductions / Endorsements
PAG 07 – 14 Sept	Review progress to date / Process for candidate tools & metrics / Endorse focus areas of MPF
PAG 08 – 28 Sept	Review progress to date / Business incentives / Consultation / Endorse candidate tools & metrics

Consultation start date Monday 10 October (5-week consultation period) CEO Forum 3 November

PAG09 – Wed 12 Oct – Institute of water conference

PAG12 – Wed 23 Nov – Code Change Committee

PAG 2023 meetings

Tuesday (fortnightly) – 10:00 to 12:00

Chair
13:00