

Market Performance Framework

***PAG Workshop on Governance
(Roles & Responsibilities)***

20 December 2023

A photograph of a person's hands typing on a laptop keyboard. The laptop screen displays a presentation slide with a light beige background. The slide features the text 'MARKET VALUE ADDED' in large, bold, black letters, with each word on a separate line. Below this text are two lines of smaller, black hashtags: '#search #business #concept' and '#keywords #design #innovate'. The laptop is resting on a wooden desk. The background of the entire image is a teal color with a white geometric shape on the left side containing the main text.

**MARKET
VALUE
ADDED**

#search #business #concept
#keywords #design #innovate

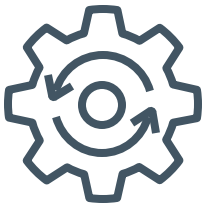
Agenda

	Item	Presenter	Time
1	Welcome & update	Chair	5 mins
2	Updates on Bespoke Processes	Oliver Robins	10 mins
3	Workshop on roles and responsibilities	Amanda Hinde	70 mins
4	Upcoming PAG workshop(s) & AOB	Chair	5 mins
			Total: 1.5 hour

Housekeeping



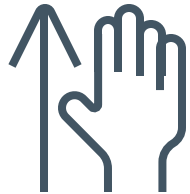
1. Welcome all



2. Workshop format



3. Please introduce yourself



4. Chat and Questions

Updates to bespoke processes

Process	Summary (see process flows on slides 4 to 6)	Updates from previous workshop (6.12.23)
Updates to target performance levels	<ul style="list-style-type: none"> • KPIs will be defined in code but target performance levels will be defined and maintained in a separate document. • Change process to be defined in code – this will follow similar process steps to code change, but PAC will make the final determination on changes. 	<ul style="list-style-type: none"> • The codified process will provide for exceptional circumstances but will set the expectation for changes to be progressed at part of regular performance period reviews. • PAC will be responsible for determining the length, type, and content of consultations when progressing changes, but there will always be a question on the lead/notice time that parties require. • Industry comms to be provided at key points in the process.
Changing/ creating/ retiring Market Indicators and Additional Metrics	<ul style="list-style-type: none"> • Market Indicators and Additional Metrics will be defined and maintained outside the code. • Change process to be defined in code – this will follow similar process steps to that for target performance levels, but without a mandatory consultation step. 	<ul style="list-style-type: none"> • The codified process will provide for exceptional circumstances but will set the expectation for changes to be progressed at part of regular performance period reviews. • PAC will be responsible for determining whether any consultation is required. • Industry comms to be provided at key points in the process.
Publishing KPIs	<ul style="list-style-type: none"> • KPIs will be defined in code and all peer comparisons will be made public save for exceptional circumstances. 	<ul style="list-style-type: none"> • PAC may remove KPIs from public view in exceptional circumstances, such as force majeure events, or as an initial step in retiring a KPI. • Some example circumstances may be codified but this list will not be exhaustive. • PAC will be responsible for determining whether any consultation is required. • Industry comms to be provided at key points in the process.

Process Flows

- Example triggers:
- Significant and generally consistent overperformance across the market - targets not stretching enough
 - Significant and generally consistent underperformance across the market - targets unrealistic
 - Force Majeure Events/ change in risks and issues
 - Change requested by higher authority (Panel, Ofwat)

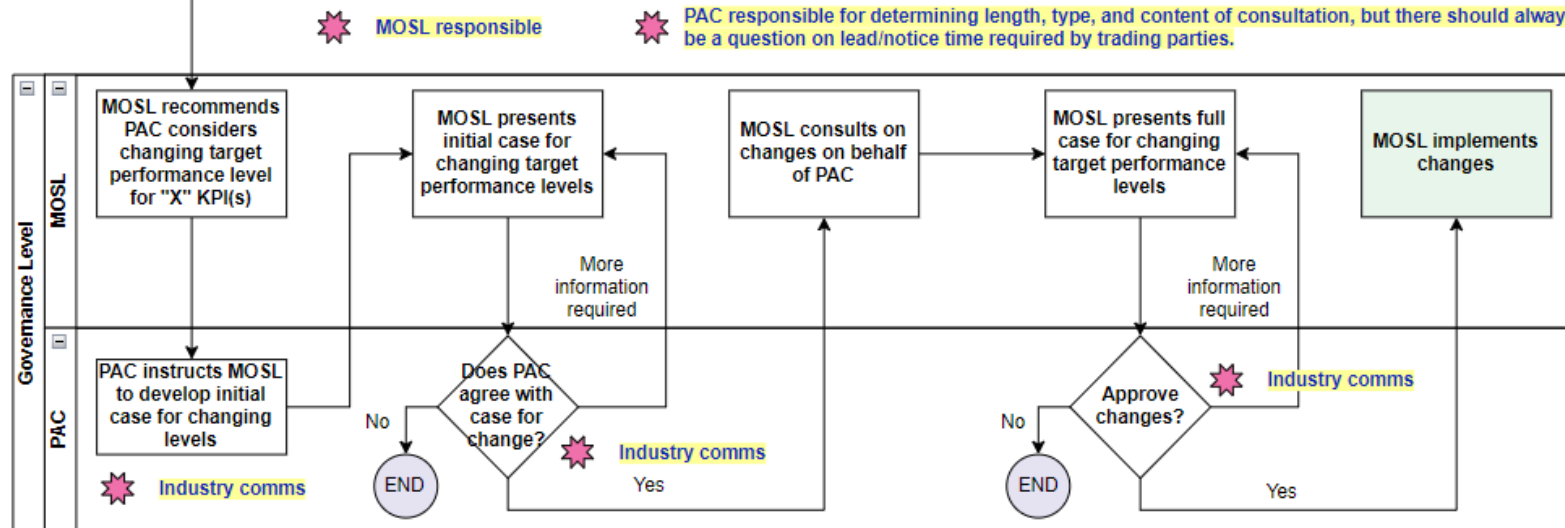
Criteria/triggers to remain at PACs discretion but changes are most likely to be considered as part of regular performance period reviews

Context - changing target performance levels for KPIs

KPIs to be defined in code (for clarity), but target performance levels to be defined and maintained in a separate document (for agility). Change process to be defined in code - proposed to follow a similar process to code change but with the PAC making the final determination on changes.

Process can be triggered at any point in time, but PAC would require strong evidence of need for change. Targets should not be changing with great frequency (and will most likely be progressed as part of regular performance period reviews).

*updates from previous workshop (6.12.23) highlighted in yellow

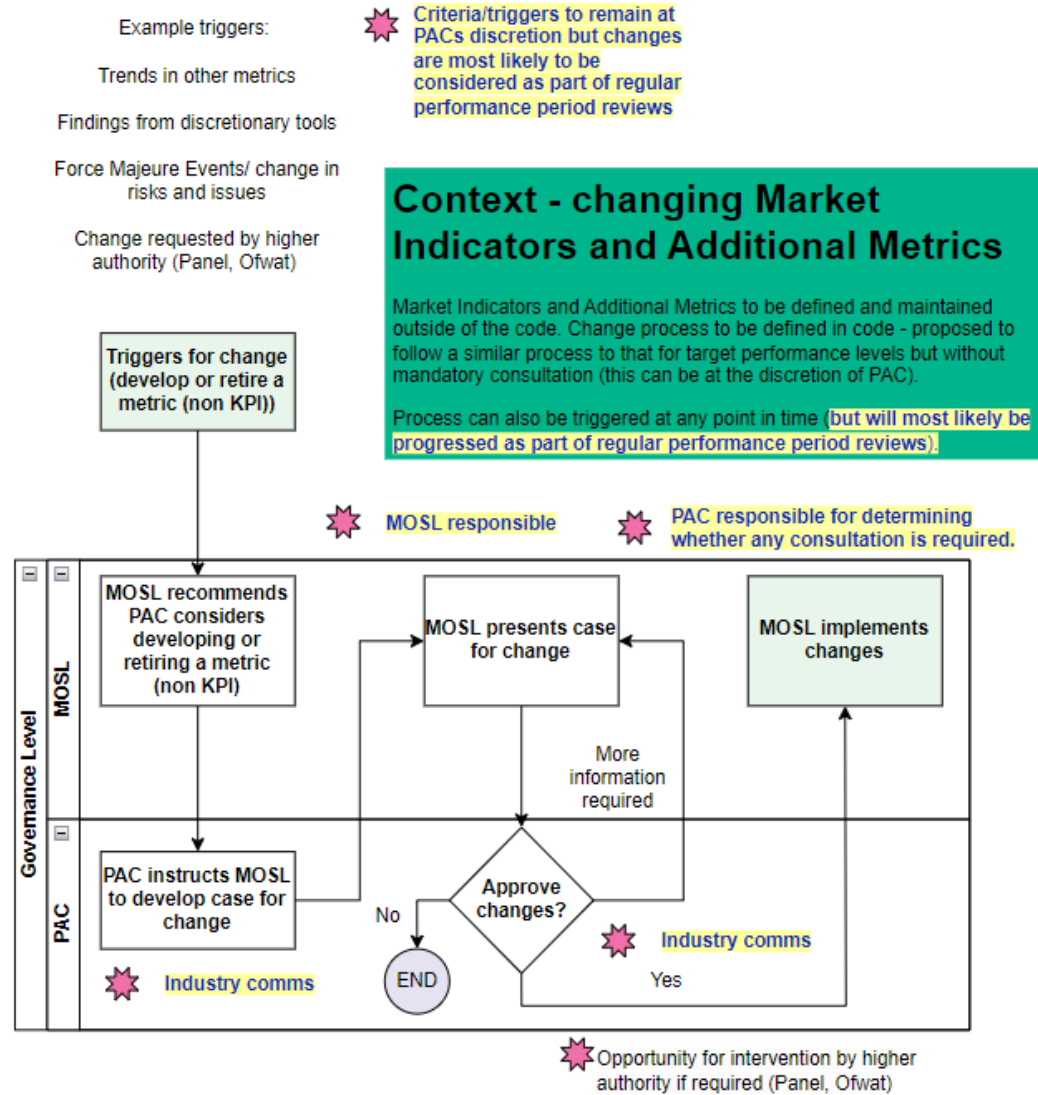


MOSL responsible

PAC responsible for determining length, type, and content of consultation, but there should always be a question on lead/notice time required by trading parties.

Opportunity for intervention by higher authority if required (Panel, Ofwat)

Process Flows



***updates from previous workshop (6.12.23) highlighted in yellow**

Process Flows

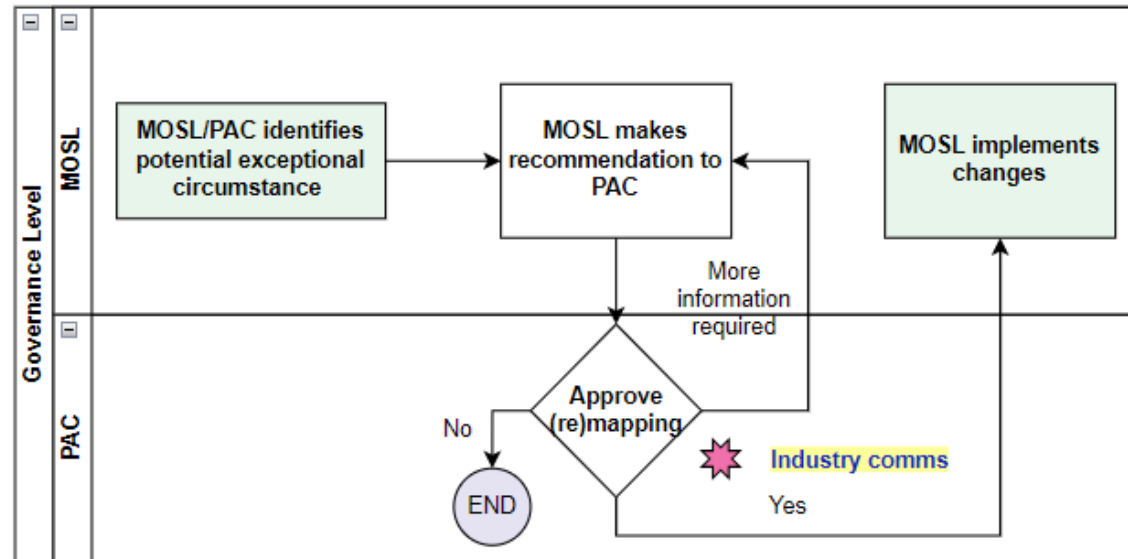
Context - Publishing KPIs

KPIs to be defined in code (for clarity). All KPIs to be reported using public peer comparison as standard, but PAC may choose to remove KPIs from public view in exceptional circumstances or as an initial step in retiring a KPI from code.

*Separately, at the point of a new KPI being created, these will be initially be reported through industry only peer comparison (as part of shadow reporting)

*updates from previous workshop (6.12.23) highlighted in yellow

- ★ Example exceptional circumstances may be codified but this will not be an exhaustive list.
- ★ PAC responsible for determining whether any consultation is required.



★ Opportunity for intervention by higher authority if required (Panel, Ofwat)

Link to performance periods

- Performance Periods will allow periodic, strategic reviews of market performance to help inform future needs and priorities. Key activities within a Performance Period will include:

Activity	Description	Frequency
Performance Period Report	A retrospective review of the performance of the market in the current 'performance period' and look ahead. Replaces current Annual Market Performance Review (AMPR) process.	Once, early in the final year of every Performance Period
Performance Framework Plan	Produced and published following consultation at least six months before the beginning of the next Performance Period to confirm: length of next performance period; changes to target performance levels and related charges; introduction or retirement of KPI metrics	Once, prior to the start of every Performance Period
Risk and Issues Tracker	Publication of the market's key risks and issues	Annual
Statement of Approach	Refreshed annually, a short document taking account of the last Performance Framework Plan and the most recent Risks and Issues Tracker to set out how intervention tools will be scaled/used across the coming year.	Annual

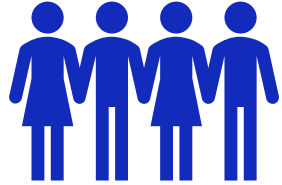
- -> key details of performance periods (e.g., timings, length, decisions, specific outputs of reviews) to be explored in future workshops with PAG

Objectives for this section (roles & responsibilities)

To discuss:

1. Are there any missing roles or responsibilities at the high level?
 - MOSL operates tools and metrics, PAC reviews and flexes the framework over time, Ofwat sets the boundaries by controlling the code
2. Does any of the consultation feedback require a change to the model?
 - With regard to roles and responsibilities and PAC composition
3. With regard to the detailed decisions within tools, is there anything you would question or challenge? (this will help inform our future workshops which are specifically dedicated to the tools).

Key terms in Governance



Performance Assurance Committee (PAC)



Key Performance Indicators (KPIs)

- Will be used in conjunction with intervention tools (financial or non-financial impacts)



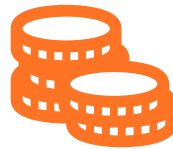
Additional Metrics and Market Indicators

- used for monitoring only

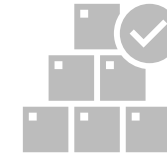


Target Performance Levels

- Performance levels as required in KPIs



Financial incentives



Peer comparison reports

- Public or private



Rectification activities

- E.g.: letter of concern, rectification plans, escalation to Strategic Panel



Targeted audits



Annual tools

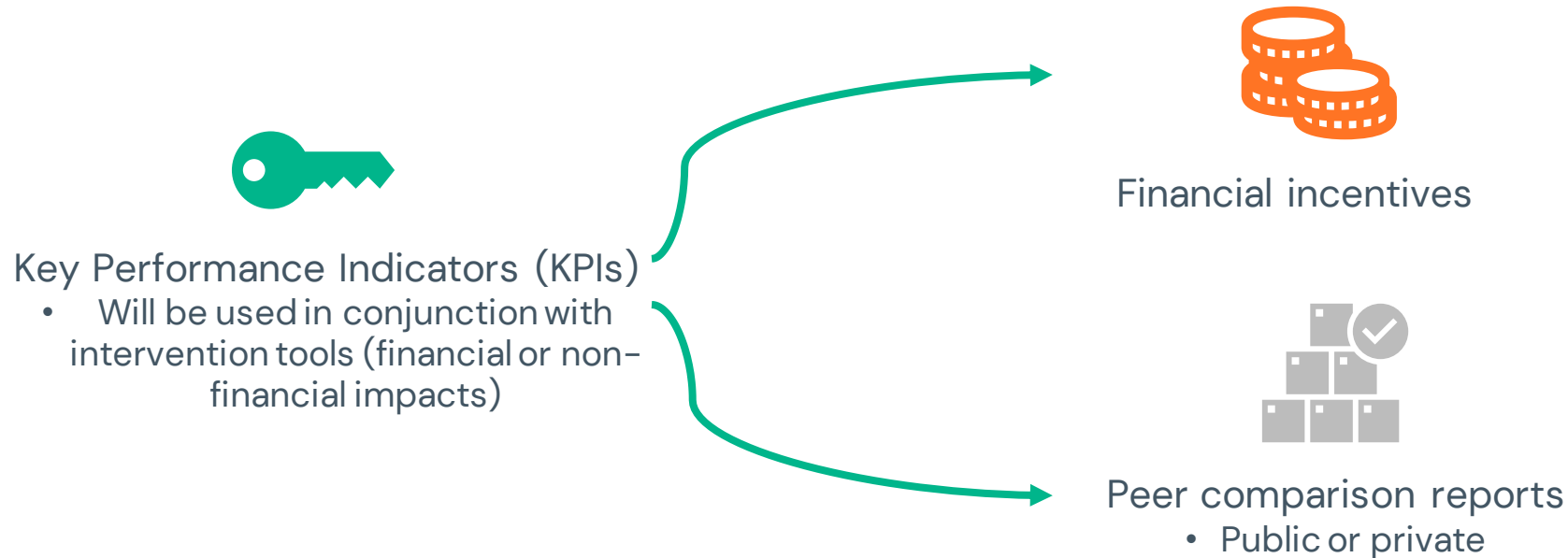
Key principles applied in this section (roles & responsibilities) **MOSL**

1. **Promote and enable market self-governance by having Trading Party expertise, customer and other stakeholder experience on the committee.**
2. **Obtain insights from independent members so decisions are holistic, robust, balanced (i.e. do not favour any one Trading Party or class of Trading Parties) and learn lessons from other sectors.**
3. **Ensure decisions are delegated as 'close to the ground' as appropriate to facilitate timely decisions and effective use of resources.**
4. **Provide timely translation of strategic direction into practical application.**

Extract from consultation 3: Governance

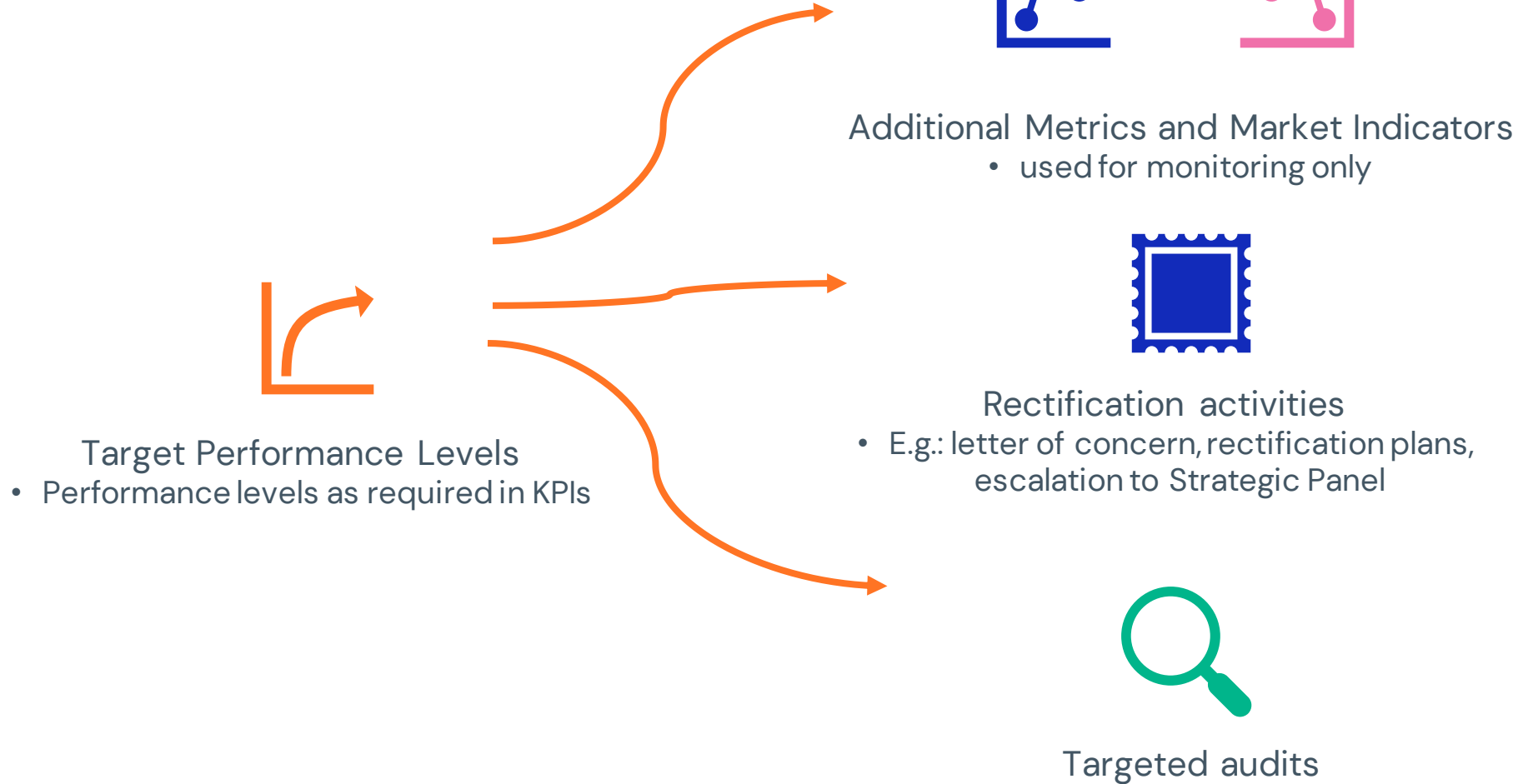
Mapping metrics to tools (I)

The most impactful tools



Mapping metrics to tools (II)

The flexible tools



Mapping metrics to tools (III)

The annual tools



Market entry assurance
* not yearly but have a defined trigger



Data audits



Assurance statements

Role of MOSL: operating the tools



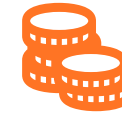
Market entry assurance

1. Administer the MEA and Market Re-assurance processes.



Key Performance Indicators (KPIs)

4. Run the calculations for KPIs and financial charges.



Financial incentives



Data audits



Assurance statements

2. Conduct data audits and ensure TPs complete the assurance statements.



Rectification activities

5. Investigate performance issues with TPs before escalation to PAC.



Peer comparison reports
• Public or private

3. Publish peer comparison reports.



Targeted audits



Market audits

6. Conduct/arrange for audits

Any observations/comments from PAG on the above?

Role of PAC: flexing the tools



Data audits



Assurance statements

1. PAC can decide NOT to apply these on a given year. Determine actions arising out of non-compliance (see 2-4).



Rectification activities

4. PAC decides which specific rectification activity to use.



Targeted audits



Market wide audits

2. PAC decides if any targeted audits should be applied on selected TPs.



Peer comparison reports

5. PAC can decide NOT to publish peer comparison reports (in exceptional cases).



Additional Metrics and Market Indicators
• used for monitoring only



3. PAC decides if any new Additional Metrics and Market Indicators should be created or retired.



Target Performance Levels
• Performance levels as required in KPIs

6. PAC can decide to change the target performance levels.

Any observations/comments from PAG?

Role of PAC: consultation and rationale

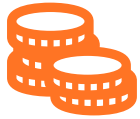
Design element	Consultation feedback	Rationale
<p>1. PAC can decide NOT to apply these on a given year. Determine actions arising out of non-compliance (see 2-4).</p> <p>2. PAC decides if any targeted audits should be applied on selected TPs.</p> <p>3. PAC decides if any new Additional Metrics and Market Indicators should be created or retired.</p> <p>4. PAC decides which specific rectification activity to use.</p>	<ul style="list-style-type: none"> • Not clear what is the role of Strategic Panel if PAC escalates issues to them. • As SP is not close to the performance issues, they may not be able to make a more effective decision than PAC would be able to. The principle of decisions being made at the lowest possible level of governance should prevail. • SP can take on a more consultative role while PAC takes on more responsibility. 	<p>SP has delegated performance monitoring to MPC (PAC) to be the responsible body. Hence SP should not need to be involved in the day-to-day decisions of PAC.</p> <ul style="list-style-type: none"> • Escalation to SP to use as a last resort for SP to issue a public letter? To be explored in future workshop on escalation tools.
<p>5. PAC can decide NOT to publish peer comparison reports (in exceptional cases).</p>	<p>Concerned that PAC can make decisions about performance publication of KPIs; this should be a decision by SP or Ofwat.</p>	<p>Peer comparisons are published by default for transparency and to drive improvements. Exception decisions to be made by PAC on case-by-case basis. Performances against new KPIs will have an initial 'bedding in period' before being made public.</p>
<p>6. PAC can decide to change the target performance levels by using a bespoke process.</p>	<p>See earlier section on 'bespoke process'.</p>	

Role of Ofwat: making the biggest decisions



Key Performance Indicators (KPIs)

- used in conjunction with intervention tools (financial or non-financial impacts)



Financial incentives

1. Agree changes of financial incentives associated with KPIs (as a product of code changes). This will be the case except for inflationary adjustments).

2. Make code change decisions relating to metrics, KPIs and tools.

3. Intervenes in cases of licence breach.

Any observations/comments from PAG on the above?

Consultation feedback:

- Ofwat needs to be involved on a more operational level if deployed interventions are not showing results.

MOSL's rationale:

- Ofwat reps will be standing members of PAC and can provide their advice as appropriate in PAC meetings.

PAC composition

To ensure the PAC can provide effective market-led governance, it is important that there is a balanced view around the table. As such the following composition of PAC members is proposed:

Proposed composition of PAC

- Chair - MOSL, appointed by Panel (1, non-voting)
- Customer representative (1)
- Independent members (2)*
- Retailers (2)
- Wholesalers (2)
- Ofwat representative (1, non-voting)
- Market Operator representative (1, non-voting)

In addition to the above, the PAC may also invite non-voting Subject Matter Expert(s) to meetings to support it in its work.

Quoracy: Two independent members (i.e. two from the customer representative or the independent members) and two trading party members (of any type). There will be provision for alternates to be used consistent with existing provisions for Panel and CCC to support quoracy and mitigate the risks of conflicts of interest.

Decision making: made based on a simple majority.

**Previously non-voting members of the Market Performance Committee (MPC)*

New principles:

- Keep the PAC composition as efficient as is necessary
- Changes to PAC composition are not locked in market codes to give flexibility

Consultation feedback:

- Concerned with the cost and value of independent members on PAC.
- Asked to increase to 2 customer representatives so that PAC acts in the best interests of customers.
- Three TP reps each from W and R (not two) would be a more useful mix.
- An independent member (not MOSL) should chair the PAC.
- Include a small Retailer group who can be nominated from their own group.
- Quorate should be a minimum of one Retailer and one Wholesaler.
- Monthly meetings would lead to faster rectification (not quarterly).

MOSL's rationale:

- Independent members challenge existing way of doing things and supply new insights to the market.
- One customer rep as there is a small pool of organised customer groups in the market. Furthermore, this arrangement aligns with the simplicity principle in the market codes.
- Larger committees do not necessarily add more value. The new PAC should be lean and effective. PAC composition will be in TOR (not codes) so there will be flexibility to increase TP reps in future if need be.
- Quorum as such because members have to act independently on the PAC.
- Performance levels are unlikely to change significantly on a monthly basis, but more frequent PAC meetings can be scheduled in if necessary.

PAC appointment

Appointment of PAC members

Members would be appointed consistent with the approach followed for the current Strategic Panel and CCC. Nominations would be sought and published.

A Nominations Committee, formed by the Strategic Panel (which may include members from the Market Operator, Ofwat and PAC Chair - once appointed - would review nominated candidates and progress suitable candidates through a selection process, which may potentially include an interview.

The exact process would be outlined at the time.

Consultation feedback:

- PAC should be elected by TPs, not appointed by Nominations Committee.
- Two MOSL employees on the Nominations Committee may have an undue influence on the selection of TP nominees

MOSL's rationale:

- Using a Nominations Committee is consistent with how the other Strategic Panel committees are appointed.
- The PAC Chair would be a MOSL-appointed chair, who may not necessarily be a MOSL employee. This is the practice consistent with other Strategic Panel committees.
- By having a MOSL-appointed PAC chair, it would avoid conflict of interests that a TP may experience as PAC chair.

Upcoming PAG workshop(s)

Date	For discussion	Detail
20.12.23	Composition, roles and responsibilities + updates from 6.12.23	<ul style="list-style-type: none">Proposed composition, roles and responsibilities at each layerDetailed decisions within tools
10.01.24	Performance periods, key documents and processes + updates from 20.12.23	<ul style="list-style-type: none">High level example view of performance periods, key documents and processes
23.01.24	Implementation approach + updates from 10.01.24	<ul style="list-style-type: none">Overview of current and proposed code architectureProposed timetable and method of transition

Detailed decisions within Tools (for reflection – to be explored in detail in future workshops)



Consultation 3 doc

Tool	MOSL	PAC	Strategic Panel	Notes*
Market Entry Assurance (T01)	<ul style="list-style-type: none"> Administer the Market Entry Assurance and Market Re-assurance processes Require that the Contracting Wholesaler and/or the Contracting Retailer carries out Market Re-assurance where Performance Resolution requires it Provide transparency to the Panel through regular reporting; and maintain full and accurate records and evidence of all meetings, correspondence, assurance activities and outcomes Develop and maintain (and publish on its website) key supporting documents, and develop and maintain one or more test environments which can simulate all flows that would normally be received by the Trading Party from MOSL and other parties Offer free-of-charge training Provide and/or procure any resources required to discharge Market Entry Assurance functions Propose potential code changes to PAC (e.g., to change key functions) Responsible for detailed format and branding of any material 	<ul style="list-style-type: none"> Perform such functions in relation to the Market Entry Assurance and Market Reassurance processes as the Panel may delegate to it from time to time Determine to raise material amendments via the code change process where necessary (e.g., to change key functions). 	<ul style="list-style-type: none"> Provide advice, recommendations and support to MOSL on request. Comment or provide advice to MOSL on request in relation to any Market Entry Assurance Plan or Market Re-assurance Plan. Approve the initial and subsequent versions of the supporting documents 	<ul style="list-style-type: none"> Consultation 3 proposed that MOSL would present Market Entry applications and evidence to PAC for recommendation, but this has since been determined to be an unnecessary complication.
Assurance Statements (T02)	<ul style="list-style-type: none"> Coordinate the issuing and completion of assurance statements from trading parties on a defined frequency (annual as standard). Option to deploy assurance statements in stages across the year; not all statements will be issued and collected simultaneously. Responsible for detailed format and branding of any material. Recommend frequency and scope Recommend and carry out next step actions. Propose potential code changes to PAC where necessary (e.g., to change core content). 	<ul style="list-style-type: none"> Determine frequency (PAC can decide NOT to apply these on a given year) Determine to raise material amendments via the code change process where necessary (e.g., to change core content). 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Consultation 3 proposed that PAC would determine the scope of Assurance Statements, but it has since been determined that the scope needs to be set in code for consistency and clarity. PAC will however influence any next step actions following the use of this tool.

*Each tool will be explored in detail in future workshops

Detailed decisions within Tools (for reflection – to be explored in detail in future workshops)



Consultation 3 doc

Tool	MOSL	PAC	Strategic Panel	Notes*
Data Audit (T03)	<ul style="list-style-type: none"> Recommend frequency and scope to PAC. Cross validate key data in the central systems against relevant external sources. Procure external auditors and other resources to facilitate audit if required. Summarise and publish findings. Responsible for detailed format and branding of any material. Recommend next steps. Propose potential code changes to PAC where necessary (e.g., to change core frequency). 	<ul style="list-style-type: none"> Determine frequency (PAC can decide NOT to apply these on a given year) and scope. Determine next steps. Determine to raise material amendments via the code change process where necessary (e.g., to change core content). 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Detailed requirements for this tool will be determined through the work of the data cleanse project,
Peer comparison (T04)	<ul style="list-style-type: none"> Responsible for detailed format and branding of any material. Publish the peer comparisons in the prescribed locations at the prescribed timing each month, satisfying the minimum requirements of format and content. Republish peer comparisons in the event of material errors. Propose potential code changes to PAC where necessary (e.g., to change methodology, or applicable KPIs). 	<ul style="list-style-type: none"> Determine to raise material amendments via the code change process where necessary (e.g., to change methodology, or applicable KPIs). 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Consultation 3 proposed that PAC would determine which KPIs to use for each peer comparison type (from a codified list) on an annual basis. PAG has since suggested that peer comparisons should be public as standard save for exceptional circumstances (which PAC will decide on a case-by-case basis).

*Each tool will be explored in detail in future workshops

Detailed decisions within Tools (for reflection – to be explored in detail in future workshops)



Consultation 3 doc

Tool	MOSL	PAC	Strategic Panel	Notes*
Financial Tools (T05a Monthly Penalties Funding Annual Rewards for Outperformance & T05b Compensatory Payments)	<ul style="list-style-type: none"> For T05a - Calculate, invoice, and collect penalty payments for applicable KPIs each month, and calculate and distribute outperformance payments for applicable KPIs at years' end, based on codified methodology. Recommend use of excess funds from penalty payment pot to PAC if required (T05a only). For T05b - Calculate, invoice, and collect payments from offenders and distribute payments to affected parties for applicable KPIs each month, based on codified methodology. Responsible for detailed format and branding of any material. Propose potential code changes to PAC where necessary (e.g., to change scale and/or methodology, or applicable KPIs). Potentially administer appeals if an option. 	<ul style="list-style-type: none"> Determine to raise material amendments via the code change process where necessary (e.g., to change scale and/or methodology, or applicable KPIs). Potentially decide on appeals if an option. For T05a - Recommend use of excess funds from penalty payment pot to Panel if required 	<ul style="list-style-type: none"> For T05a - Determine the use of excess funds from penalty payment pot. 	<ul style="list-style-type: none"> The code may need to set out provisions to increment charges to account for external factors such as inflation. These provisions could set out for changes to apply by default, or through decision (in which case the process and responsibilities will need to be defined).
Additional Metric Monitoring (T06)	<ul style="list-style-type: none"> Determine the feasibility and value of additional metrics and market indicators and recommend creating and retiring metrics. Develop, implement, and remove additional metrics as required. Publish and maintain documents that list additional metrics and how they will be used, and report on additional metrics as required. Responsible for detailed format and branding of any material. Propose next steps based on performance. Propose potential code changes to PAC where necessary (e.g., to change what tools can be applied to additional metrics). 	<ul style="list-style-type: none"> Determine the development, implementation, and removal of additional metrics. Approve documents that list additional metrics and how they will be used. Determine next steps based on performance. Determine to raise material amendments via the code change process where necessary (e.g., to change what tools can be applied to additional metrics). 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> As discussed in previous workshop (6.12.24), changes are most likely to be progressed at part of regular performance period reviews.

*Each tool will be explored in detail in future workshops

Detailed decisions within Tools (for reflection – to be explored in detail in future workshops)



Consultation 3 doc

Tool	MOSL	PAC	Strategic Panel	Notes*
Targeted Audit (T07)	<ul style="list-style-type: none"> Propose the use of targeted audits in certain circumstances Propose the format and scope for specific Targeted Audits. Carry out audit as required by PAC. Procure external auditors to facilitate audit if necessary. Propose next steps. Responsible for detailed format and branding of any material. Propose potential code changes to PAC where necessary (e.g., to change limitations). 	<ul style="list-style-type: none"> Determine the use of targeted audits in certain circumstances, the format and scope, and next steps Determine to raise material amendments via the code change process where necessary (e.g., to change limitations). 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> In practice, PAC will likely be presented with a schedule of planned audits at the start of each year to endorse. PAC will then adopt a monitoring role throughout the year and be consulted on any changes to the schedule (e.g., if an unplanned audit needs to be applied due to a compliance concern or performance issue).
Rectification and Escalation (T08)	<ul style="list-style-type: none"> Investigate and discuss performance issues with relevant parties before escalating to the level of PAC and formal rectification. Recommend specific rectification activities. Create rectification plans with affected trading parties and propose these plans to PAC. Monitor, report, and publish progress against rectification plans. Responsible for detailed format and branding of any material. 	<ul style="list-style-type: none"> Determine specific applications of rectification activities E.g., agree to issue a letter of concern, put a party on a rectification plan, or publish rectification status. Challenge and determine rectification plans. Escalate issues to Panel if required. 	<ul style="list-style-type: none"> Issue a public letter of concern if required 	<ul style="list-style-type: none"> Consultation 3 respondents sought clarification on what Panel can do with escalated issues. In exceptional circumstances, the Panel may choose to issue a public letter of concern.

*Each tool will be explored in detail in future workshops

MOSL

