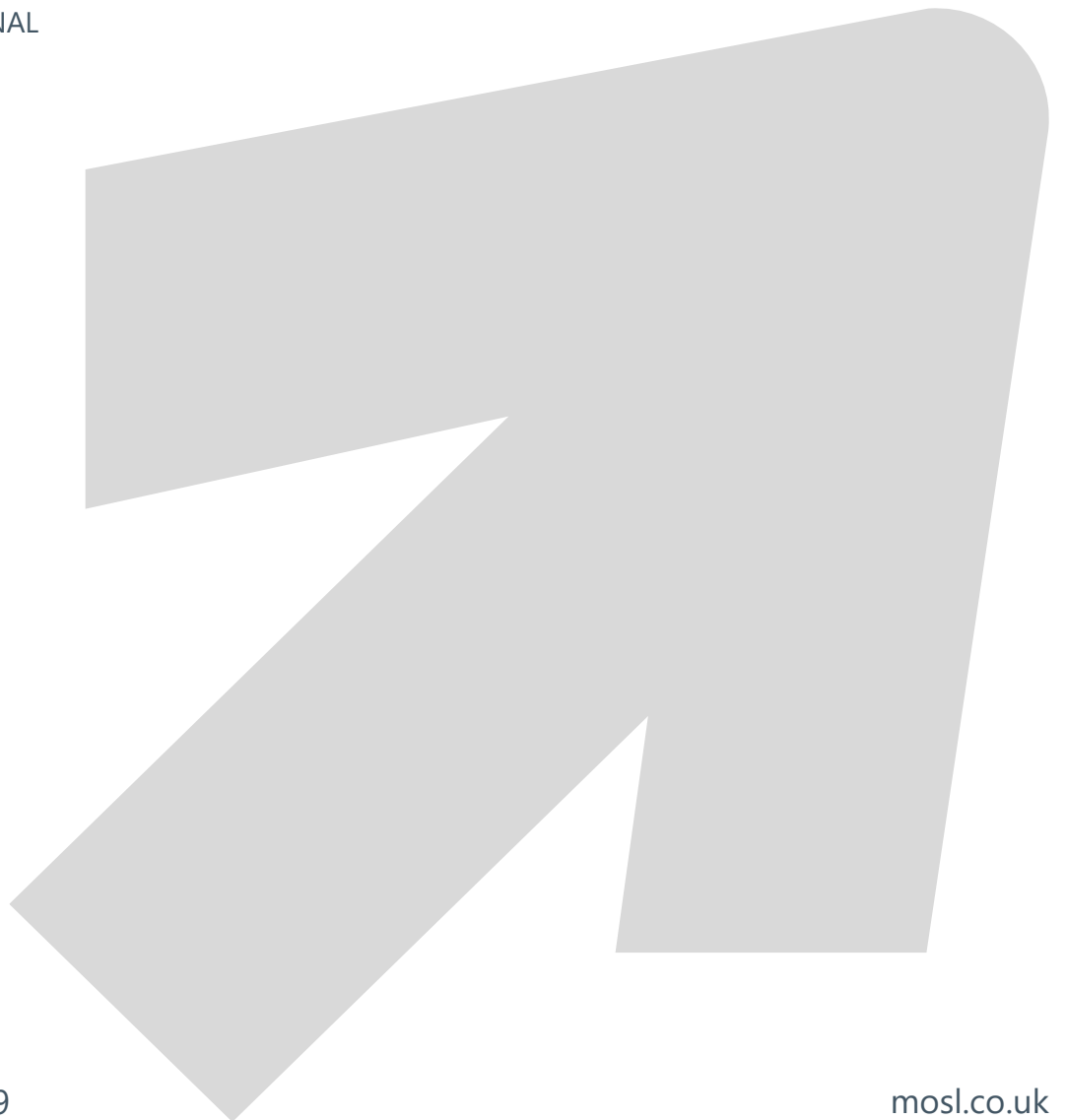


Performance Advisory Group (PAG) 28

Location: MS Teams

Date and time: 20 December 2023, 1000 - 1200

Status of minutes: FINAL



Meeting Minutes

Members

Name	(Initial)	Role/Organisation
Adam Boyns	AB	CCW
Claire Stanness	CS	Wave
Geoffrey Jones	GJ	Pennon
Jamie Davies	JD	Castle
Kate Russell	KR	Yorkshire Water
Emily Jerrome	EJ	Water2Business
Shaun Kent	SK	Ofwat
Wendy Monk	WM	Wave
Trevor Nelson	TN	Business Stream
Mike Rathbone	MR	Severn Trent
Rebecca Gale	RG	Waterscan
Shakima Fagan	SF	Everflow
Michelle Thompson	MT	Anglian
Pam Nash	PN	C&C
Sam Dawson	SD	Portsmouth
Jon Fuller	JF	Wessex

MOSL Attendees

Name	(Initial)	Role/Organisation
Chris Dawson	CD	Chair
Evan Joanette	EJo	Programme Lead
Lisa-Ann Lott	LAL	Notes
Oli Robins	OR	Presenter
Janet Judge	JJ	Observer

Sam Webb	SW	Observer
Steve Formoy	SFo	Observer
Nichola Vincendeau	NV	Observer
Adam Richardson	AR	Observer
Amanda Hinde	AH	Observer

<p>1.</p>	<p>Welcome & actions</p>
	<p>CD welcomed all members to the meeting, confirmed the agenda and the workshop format of the meeting.</p>
<p>2.</p>	<p>Updates on Bespoke processes</p>
	<p>OR provided an update on the changes made to the bespoke processes following feedback at PAG27 noting these are processes which will be defined in code allowing the performance Assurance Committee (PAC) to change components of the framework to ensure it is agile and responsive to change in risk and performance.</p> <p>OR noted the process flows had been updated to clarify the triggers for change and likely to be actioned at the performance period review level.</p> <p>OR highlighted changes will involve consultation with questions expected to include impact on trading parties and lead times to implement.</p> <p>OR confirmed all KPI performance will be made public as standard.</p> <p>OR confirmed slide pack will be published following the meeting to enable updates to process flows to be reviewed.</p> <p>OR highlighted performance periods are envisaged to be 3–5-year periods in length with reports which look back and plans which look forward at the start and end of each of these periods. Annual reviews of the risk and issues tracker coinciding with the development of documents including the statement of approach which will set out the PAC’s approach for the tools and metrics in any given year.</p> <p>OR noted the timing of key decisions and specific outputs will be reviewed in more depth at a future workshop.</p>
<p>3.</p>	<p>Workshop on roles and responsibilities</p>
	<p>AH ran through the objectives for the workshop: -</p> <ol style="list-style-type: none"> 1) Are there any missing roles or responsibilities at the high level? 2) Does any of the consultation feedback require a change to the model? 3) With regard to the detailed decisions within tools, is there anything you would question or challenge?

AH highlighted the key terms used in governance for the MPF: -

- Performance Assurance Committee (PAC) – group with decision making powers.
- Key performance indicators (KPIs) – primary measures of performance
- Additional metrics and Market Indicators – no financial impact, useful monitoring
- Target performance levels – decoupled from KPIs e.g., 70/80% as opposed to KPIs of 'have you read the meter on time'
- Financial incentives – rewards or penalties for over or underperformance
- Peer Comparison reports – comparing how trading parties are performing relative to each other or against a defined standard.
- Rectification activities – letters of concern, rectification plans to understand the root cause of underperformance
- Targeted audits – targeting underperforming trading parties to understand what is going on behind the scenes
- Annual Tools – standard tools which are only used on an annual basis.

AH provided the key principles applied in the governance section of consultation 3.

- Promote and enable market self-governance by having Trading Party expertise, customer and other stakeholder experience on the committee.
- 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.
- Ensure decisions are delegated as 'close to the ground' as appropriate to facilitate timely decisions and effective use of resources.
- Provide timely translation of strategic direction into practical application.

AH displayed the mapping of metrics to tools noting KPIs can be used in conjunction with financial incentives or the non-financial aspects of peer comparison reports.

AH ran through the role of MOSL in operating the tools and enquired if any observations/comments from members.

CD enquired if targeted audits could be conducted by contractors working on MOSL's behalf. AH confirmed MOSL can either conduct or arrange for audits to be conducted by a trusted third party.

TN highlighted presently MOSL can introduce additional performance indicators with the support of Market Performance Committee (MPC) however this has not been reiterated in the proposals for the revised MPF and therefore the presumption is these are not continuing.

TN further highlighted the presumption MOSL would continue with its secretariat support for the PAC.

CD confirmed the secretariat support would continue.

CD further confirmed the expectation for the KPIs to be codified and fixed subject to change through the change mechanism with Ofwat oversight. The additional metrics and market indicators are envisaged to be flexible without the need for code change in a similar manner to the current framework. CD noted an inaugural set of market indicators and additional indicators had been consulted on however this should not preclude these being retired or new ones being introduced with the appropriate governance.

OR confirmed the proposal that MOSL could not act independently to add or retire any additional metrics or market indicators this would be in conjunction with the PAC.

SK enquired what type of challenge process will be in place e.g., if a trading party wished to challenge how something was measured.

CD clarified if this relates to the outcome/challenging the figures themselves or the structure they are built upon.

SK confirmed would be in respect of either or both.

AR noted challenge process will be discussed when reviewing individual tools. In regard to introducing KPIs these will be actioned through the code change mechanism and embedded in the code which has its own checks and balances and appeals mechanisms in place. For the additional metrics and market indicators MOSL will make recommendations and then work through an engagement process with trading parties. AR noted the need to ensure the provisions and processes work and not overly complex and bureaucratic.

SK agreed the need to ensure any process is not overly bureaucratic and noted the code change mechanism encompasses some of the challenge process.

TN noted the costs normally associated with bureaucracy and the need to review costs benefit of new metrics and market indicators when introducing them.

OR noted the performance period will allow for an annual review of the tools and metrics and will enable a consistent review of cost value and tie in with the MOSL business plan.

AH provided details of the role of the PAC: flexing the tools: -

Data audits and assurance statements – standard tools which can be applied if PAC think appropriate to do so.

Targeted audits and market wide audits – other tools which can be used for selected trading parties.

Additional metrics and market indicators – PAC can decide if new ones are required or any should be retired.

Rectification activities – PAC can decide which activities to apply

Peer comparison reports – these will be published publicly by default however PAC can decide not to publish in exceptional circumstances.

Target performance levels – in order to maintain flexibility, the PAC will be able to flex the target performance levels.

Ejo enquired; as a principle should PAC adopt a one in, one out rule for metrics to avoid having 100 metrics in a few years.

AR noted would be good practice but not to be codified to enable multiple metrics to be retired and/or added in any given year.

SK agreed with the suggestion in principle and agreed codifying would be too restrictive.

OR noted further discussion on the degree of flexibility will be included in future workshops as each tool is reviewed in detail.

TN enquired who will assess the market risks noting the impact assessments of the risks was difficult in the first instance and would PAC have this in their remit.

SFo noted risk and issues tracker to be reviewed annually with MOSL owning the tracker and will then require input externally to highlight any errors/omissions and will require input from multiple bodies with a sign off process.

TN noted the risks and issues tracker has been a main driver of the reformed framework and may require a set process to accompany it especially in regard to the quantification of the risks. TN recommended need to add to the role of MOSL and/or the PAC.

SFo noted working with Strategic Panel to establish high level market indicators in respect of roadmap to flourishing market.

CD enquired if process to review risks and issues tracker will be codified or added as a MOSL process.

AR noted MOSL to review and revert however unlikely to be codified, most likely to be MOSL process with trading party review.

SF enquired, based on the detail from the consultation which indicated changes could be material or non-material and this would determine if the changes to the target performance levels can be implemented by PAC is this still the intention

AR responded noting PAC will need to demonstrate engagement should any changes be required.

AR noted unlikely to codify materiality in respect of when to change target performance levels and may require a predefined definition of materiality in terms of which changes would be required to go through the code change mechanism.

AR further noted some financial incentives and charges are currently fixed and defined in the codes however it may be decided they should increment with inflation or through a mechanism to produce a legitimate adjustment during any performance period.

EJ noted the need for transparency and to be aware of any potential positive or negative unintended consequences of a change particularly a financial one for trading parties and therefore may require consultation process as opposed to simple PAC decision.

AR noted this may require definition of the materiality point creating a band within which PAC can flex and outside of this they would need to consult.

OR encouraged members to review the bespoke process flow on performance levels and assess if the appropriate checks and balances in terms of communication methods and consultations are sufficiency.

TN highlighted the interdependencies with BR-MeX and the AMP periods and the potential need to ensure alignment and prevent double jeopardy with the use of the metrics.

SK agreed need to take BR-MeX into account when reviewing performance in the market. SK noted BR-MeX is likely to be relatively fixed across the next AMP period as opposed to the more flexible MPF which would enable the MPF to adapt to react to anything within BR-MeX and anticipate the next AMP period.

AR noted the risk of PAC making changes to metrics which are informing BR-MeX whilst current AMP in process which may require codifying to state if metric being used in BR-MeX it cannot be changed until next AMP period. This may not be required as unlikely for PAC to want to change these metrics and each metric potentially to be used within BR-MeX will be a KPI therefore PAC will not be able to change as will require a code change approved by Ofwat.

JJ confirmed all metrics under discussion for inclusion within BR-MeX will be KPIs and therefore the calculations of those will be codified and the targets related to these will likely be decided as part of the BR-MeX process and therefore will be unable to be amended.

Ejo noted the discussions held between MOSL and Ofwat and the need to continue defining these as BR-MeX develops further.

OR confirmed any interventions that occur as a result of metrics included within BR-MeX e.g., targeted audit would also require discussion with Ofwat before actioning.

SK reiterated the guiding principles for selecting any MPF metric for inclusion in BR-MeX would be an expectation it is relatively stable and well understood and unlikely to require change.

SK highlighted further industry workshops in January/early February on the relationship with MPF and BR-MeX.

AB noted the drawback of including MPF metrics in BR-MeX is the decrease in flexibility to determine target performance levels and the need, if required, to use the code change mechanism to amend these which also decreases the level of freedom created in the MPF governance model.

Ejo highlighted only a small number of candidate metrics likely to be included in BR-MeX.

AR noted the likelihood of a provision in the codes to ring fence metrics that have been selected for Ofwat for inclusion to prevent performance standards diverging.

SK reiterated not anticipating a large number of MPF KPI metrics within BR-0MeX and the drawback of including too many due to the inflexibility of BR-MeX.

SFo enquired if there is a scenario under the price control where a metric within BR-MeX and the performance level can be adjusted within the AMP period if it still aligns with the code i.e., can a performance level be changed via a code change or would the performance remain the same throughout.

SK noted the above will need to be considered in the design parameters for BR-MeX.

TN noted the design considerations need to take into account double jeopardy and what would be in the MPF to incentivise improvement required if the metrics included in BR-MeX cannot be changed.

SFo clarified need for alterations to performance targets might be required if all performing at 100% and that would require a code change if included within BR-MeX and therefore a degree of flexibility is still required.

AH continued with greater detail on the role of the PAC noting at consultation three the Strategic Panel was included within the governance framework.

AH highlighted feedback received not clear if the role of the Strategic Panel is meaningful because they are not close to the performance issues and could be more useful as a consultative body if necessary. Following MOSL review they agreed the Strategic Panel has delegated the responsibility of performance monitoring to the PAC and therefore will not need to be involved in day-to-day decisions.

SF raised concern about removing the Strategic Panel and noted where PAC will be a revised version of MPC and concerns have been raised that MPC is not representative of the market this could occur with PAC as well.

CD enquired if PAC and MPC have in their contracts the need to be independent.

NV confirmed all members sign a release letter once nominated to any of the committees to declare that are acting on behalf of the market and not on behalf of their trading party and thus those issued should not occur. NV further confirmed most of the meetings are held within open session and any concerns trading parties have should be raised with panel secretariat for review.

CD enquired if the new PAC proposal makes it more representative.

NV confirmed two types of trading party representatives, two retailers and two wholesalers with the additional support of independent members and the PAC will retain its link with the Strategic Panel and reports back to the Panel whilst retaining delegated responsibility for monitoring performance. Ofwat representatives and customer representatives will also be included to give a rounded view of performance from all stakeholders alongside an independent voice for checks and balances.

SF to review with team and revert with any suggestions.

NV highlighted the MPC open sessions can be attended and observed and that is encouraged.

MR noted disappointed to hear feedback in this forum on MPC and requested any issues be raised with panel secretariat. MR further noted nominations are open to all trading parties as well as the open session MPC meetings with the proviso closed sessions are held as such due to commercially sensitive discussions.

EJ echoed MR's comments and suggested opening up the membership to NAVs and smaller retailers.

CD noted the capacity issue for smaller retailers to be able to commit members to the committees.

AB noted the proposed makeup of the PAC provides a representative balance of independent customer voices and trading parties and the recommendation for Strategic Panel to not be involved in day-to-day decisions appears appropriate. Should the makeup of the PAC not appear appropriate it would be best to review this again rather than increasing the role of the Strategic Panel.

AH ran through the role of Ofwat in making the biggest decisions.

AH highlighted an Ofwat representative will be included in the PAC membership.

AH provided an overview of the proposed PAC composition noting Chair will be appointed by the Strategic Panel and they will not be a voting member. There will be one customer representative, two independent members, two retailers, two wholesalers and one Ofwat representative.

AH highlighted the new principles following the consultation feedback; keep the PAC composition as efficient as is necessary and changes to PAC composition are not locked in market codes to give flexibility.

AH confirmed quoracy to be two independent members and any two trading party representatives noting small quoracy designed to be more effective when making urgent decisions.

SK enquired if within the role of Ofwat 'making code change decisions relating to metrics, KPIs and tools' relates to the code change process. CD confirmed this is the case.

TN noted the average PAC meeting would be considering the reporting on the KPIs and if a declining performance was identified meeting only a quarterly basis could materially delay escalating a situation and taking any intervention, should the meetings therefore be held monthly.

NV noted the intent to be flexible in the first instance on the cadence of meetings and unlikely to go straight to quarterly cadence.

Ejo further clarified if meetings held quarterly a full quarter's trend data will be available for PAC review and action.

SF recommended a review of the quoracy to one retailer and one wholesaler being required as despite all members of the PAC having to act independently it does not change the knowledge base from which they pull experience and could impact the decisions made. SF continued noting smaller and new entrant retailers do not have the capacity to engage with these groups and this can perpetuate anti-competitive behaviour in decision-making with only larger and associated retailers actively engaging with the decisions made.

NV noted quoracy would be considered before going ahead with any meeting and this is likely only to be enforced in an emergency such as COVID or other force majeure incident where a meeting was required on an urgent basis.

SF noted the above assuages some of the concerns.

AR agreed it has been difficult for smaller trading parties or new trading parties to find the time and resource to be involved in market governance however moving to a principle where the PAC meets quarterly and by exception may enable more members to get involved. AR noted having the different perspectives from retailers and wholesalers is really important and the ideal however to enable the PAC to function where not all seats are filled these can be filled by the other constituency.

TN suggested rather than trading party members operating as independently of their trading party grouping perhaps retailer and wholesaler members should be acting on behalf of their representative grouping in the same manner as customer representatives are in post to represent customers, enabling retailer members to hold wholesaler members to account for the betterment of the market.

AR noted customer representatives are in post to provide the customer perspective not represent their own customer body and the trading party members are working in a similar manner. AR further noted TN's recommendation could lead to retailers attending to lobby/challenge individual wholesalers and this is not the purpose of the PAC.

SK agreed with AR noting TN's suggestion could be adversarial and is possible already for retailer and wholesalers to bring their own views around issues affecting their ability to operate in the market.

CS enquired what the selection criteria will be for PAC members.

NV confirmed the selection process will be an interview process and follow the same principles as those applied for the recruitment of the Code Change Committee and nominees will be assessed against a set of criteria.

	<p>AR highlighted basic criteria for committee members are built into the codes noting they require a degree of expertise or experience in a trading party setting and more detailed requirements will be included in the role descriptions once published.</p> <p>AH ran through the PAC appointments noting feedback from consultation three highlighted the PAC should be elected by trading parties not appointed by the nominations committee as set out.</p> <p>AH confirmed the intent to maintain consistency throughout all committees and retain the role of the nominations committee as concern was expressed around elections becoming a popularity contest and there is a need for the right mix of people based on their knowledge and skills.</p> <p>AH highlighted MOSL's role will be to potentially Chair the nominations committee and action any contracts etc post appointment however they will not have a say in the appointments themselves.</p>
<p>4.</p>	<p>Upcoming workshops & AOB</p>
	<p>CD confirmed the next meeting to be held on 10 January 2024 and will be discussing performance periods and key documents and processes. This to be followed on 23 January with the implementation approach.</p> <p>CD highlighted more details of future PAG meetings will be provided in the new year to enable members and guests to plan when to attend.</p> <p>TN enquired what happens with the outputs from the meetings and will any proposals return to the PAG for ratification.</p> <p>CD confirmed first view, then the governance pack will be provided for review and comments, then return to PAG before going to Code Advisory Group (CAG) on two occasions (minded to support then recommendation).</p> <p>TN requested sight of slide deck and papers in advance of other meetings. CD confirmed will provide this if possible, however keen to talk through the details with members to provide context before sharing for further review.</p> <p>OR confirmed intent to workshop the detail of tools in February/March 2024 and will be sending details in advance for review.</p> <p>There being no AOB the Chair closed the meeting</p>