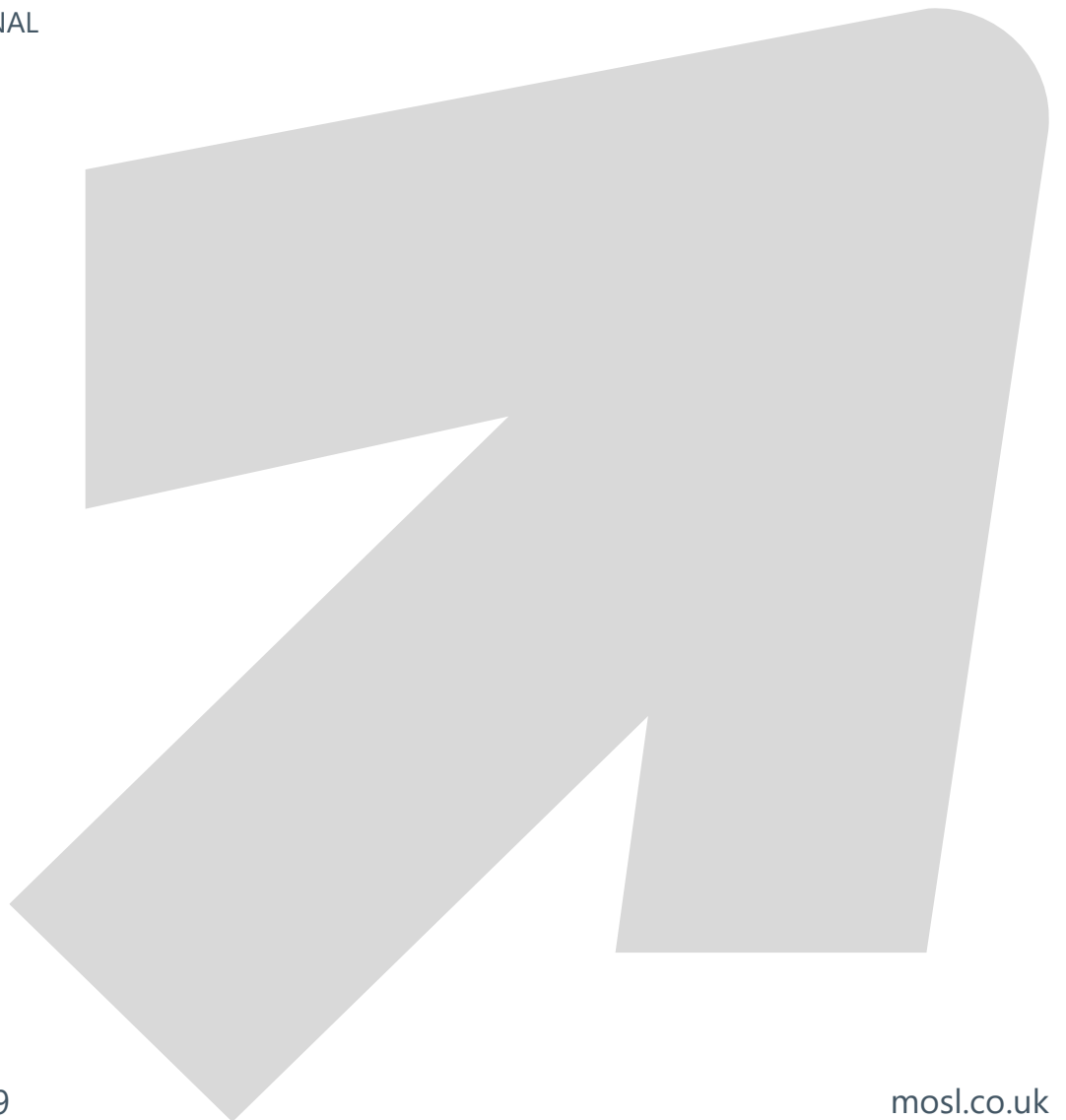


Performance Advisory Group (PAG) 29

Location: MS Teams

Date and time: 10 January 2024, 1400 - 1600

Status of minutes: FINAL



Meeting Minutes

Members

Name	(Initial)	Role/Organisation	Name	(Initial)	Role/Organisation
Adam Boyns	AB	CCW	Mike Rathbone	MR	Severn Trent
Claire Stanness	CS	Wave (part of meeting)	Rebecca Gale	RG	Waterscan
Geoffrey Jones	GJ	Pennon	Shakima Fagan	SF	Everflow
Jamie Davies	JD	Castle	Pam Nash	PN	C&C
Kate Russell	KR	Yorkshire Water	Jon Fuller	JF	Wessex
Emily Jerrome	EJ	Water2Business	Gillian Bladen	GB	South West
Shaun Kent	SK	Ofwat	Kevin McCalliskey	KM	South West
Wendy Monk	WM	Wave	David Morris	DM	Waterplus
Trevor Nelson	TN	Business Stream	Karina Soulynha	KS	Southern

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	Presenter
Sam Webb	SW	Observer
Nichola Vincendeau	NV	Observer
Adam Richardson	AR	Observer
Huw Comerford	HC	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 including how the detailed design approval reaches sign off.</p> <p>CD noted all meeting minutes and slide packs are published on the MOSL website.</p> <p>CD provided an overview of the phase 2 programme plan noting currently reviewing part A – governance.</p>
<p>2.</p>	<p>Recap on roles and responsibilities</p>
	<p>Key design principles</p> <p>OR provided an update on the key design principles.</p> <p>OR noted KPIs design principles will be created, removed or changed via the code change process.</p> <p>OR highlighted the target performance levels will not be included in code unless against a KPI used for BR-MeX. These will be maintained by the PAC with a robust change control process should any require amendment. The change control process will include consultation and parties will be provided notice of changes.</p> <p>OR noted a minimum time period could be set out in code to limit the number and/or magnitude of any changes the PAC can introduce.</p> <p>OR further noted for other metrics e.g., market indicators and additional metrics these will also not be included in code and PAC will be responsible with similar principles in regard to any potential changes to these.</p> <p>TN noted the implication the KPIs and their respective tools are locked together and enquired how the tools will be used effectively and with agility should the associated charges be included in code and noted the assumption discussion on the tools would be separate.</p> <p>OR noted will be discussed further in specific tools review however levels can be set in advance and the changes will be made via the target performance levels.</p> <p>TN enquired what is different with current MPS charges, how is this a change for the new framework.</p>

EJo commented on need for clarity on flexibility and where it sits within the revised framework as a design principle.

GB noted MPS & OPS are already KPIs and anything measuring performance is a performance indicator thus may refer only to terminology.

AR highlighted MPS & OPS terms used thus far in the market and currently codified and these will likely be removed as terminology. The revised framework will include new KPIs and some may focus in similar areas however where these have charges attached the principle recognises the need to set the rules for charges, calculations, and whether funds will be held or redistributed. AR further noted the additional metrics enable more flexibility.

GB noted KPIs are universal terminology.

TN further noted content with terminology however anticipated tool application and the charging element of a tool to be kept separate from the KPIs themselves e.g., a KPI would exist and be tracked then an applicable tool will be applied and on occasion such tool may be a performance charge.

Members generally agreed with the above.

OR noted the feedback on the target performance levels remaining outside of the code and enquired if members preferred elements to be codified or required any additional assurance and checkpoints built into the proposed process.

Members generally agreed the target performance levels could remain outside of the code and be set/reviewed by the PAC.

EJo enquired if ToR could include review time periods and what that would be e.g., three months.

KR suggested an additional step of a review post implementation of any changes to performance levels.

TN noted performance levels will be introduced straightaway and enquired how many reviews will be performed within a performance period noting the timeframe to perform any review.

NV noted the ToR for the PAC could reflect the need for target performance levels to be evaluated periodically. NV further noted monitoring and evaluation of any committee's output is standard governance.

AR noted the importance of setting performance levels and the judgment required to ensure whether trading parties are viewed as being compliant or not which may attract financial implications in terms of charges therefore moving targets regularly should not be aspired to and there is a need to ensure the PAC retains the capability to adjust targets whilst being considered at a frequency which does not detrimentally affect trading parties.

CS recommended setting a minimum period for KPIs to be in place before targets can be changed e.g., four months

OR ran through details around the key design principles for the PAC noting the expectation of quarterly meetings as standard however will be more frequent at inception and possible in exceptional circumstances.

OR confirmed all KPIs will be reported via public peer comparison which will directly rank parties against each other with the target level clearly called out.

OR highlighted the PAC may remove peer comparisons from public viewing in exceptional circumstances.

OR confirmed additional metrics and market indicators could be presented on dashboards, publicly accessible but these will not rank parties against one another.

OR noted in respect of BR-MeX only KPIs will be used to inform BR-MeX and where Ofwat choose a KPI its link to BR-MeX will be detailed in code along with its performance level which is a point of difference with other KPIs.

TN enquired where market indicators are used is it intended to be an aggregated market view of performance. OR confirmed this is correct however the data will be desegregated in the background and could be reviewed to understand trends in more detail.

Ejo noted the principle to make disaggregated data available if required but present aggregated data for the market view.

OR noted intention to review market indicators in more detail at future meetings with a view to understanding how to splice the data and how to present it.

KR enquired if parties would be able to receive their results. MOSL to review and revert.

CS enquired where peer comparison is used would these be ranked using all parties e.g. party with large number of SPIDs and self-supply in same comparison or against similar sized retailers.

OR noted expected to be normalised based on SPID count however will be including in future discussion.

Roles and responsibilities

JJ provided a recap on the roles and responsibilities as discussed at PAG28 noting detailed discussions of tools and metrics will be covered at future meetings.

JJ noted the guiding principles applied to the roles and responsibilities extracted from consultation three.

JJ highlighted KPIs are the primary measures of performance and will be used together with financial incentives or peer comparison reports to incentivise performance.

JJ enquired if PAG members felt only KPIs should map to financial incentives and peer comparison reports. Members present provided no feedback.

JJ ran through the flexible/discretionary tools including the links between target performance levels and additional metrics and market indicators, rectification activities and target audits noting these tools can be deployed for more detailed monitoring.

TN enquired if a high performing trading party misses one KPI will they be penalised regardless e.g., target performance level set at 90%, the trading party normally operates at 99% but then misses one meter read and drops below 90% will the party be penalised.

TN clarified e.g. target audit may apply if multiple breaches of performance level applied however discretion is available to not apply for a single breach. JJ confirmed this to be the case.

AR noted the need to include how the metric and financial incentive will work together in the design workshops for the metrics.

JJ displayed the annual tools noting they are used at standard times to confirm trading parties have healthy systems and data to operate in the market.

JJ highlighted market entry assurance is not annual and has a defined trigger on entry to the market.

JJ confirmed the role of MOSL is operational in nature and includes administering the Market entry assurance and reassurance, conducting data audits, ensuring trading parties complete assurance statements, publishing peer comparison reports, running the calculations for KPIs and financial charges, investigating performance issue, issuing letters of concern and arranging conducting audits.

JJ updated members on the role of the PAC in flexing the tools, noting PAC can decide not to apply the annual tools on any given year, deciding on the use of targeted audits, deciding if any new additional metrics or market indicators should be created or retired. PAC can also decide which rectification activity to use and can decide not to publish peer comparison or to change performance levels.

SK noted BR-MeX will be separate from other tools and not governed by the PAC.

TN observed with the PAC meeting cadence intended to be quarterly targeted audits would need significant timeframe to be actioned and therefore may not be as responsive.

CD noted quarterly cadence can be increased should it be identified the PAC are required to review performance.

NV confirmed quarterly cadence where possible however may be more regular should need dictate and will likely be more frequent at inception.

MOSL to update PAC details from 'exceptional circumstances' to 'as required' in regard to meeting cadence.

TN noted PAC could instruct MOSL to go ahead with targeted audits if poor performance continued without the need to reconvene between meetings.

JJ noted feedback received through consultation three on the role of PAC and the Strategic Panel and provided MOSL's rationale in response to the feedback noting Strategic Panel has delegated responsibility for market performance monitoring to the PAC and would therefore not be involved in day-to-day decisions.

JJ reminded members of the proposed PAC composition as detailed in consultation three and highlighted the feedback received and MOSL's rationale for its approach moving forward noting designed to be flexible and for independent members to provide challenges to existing ways of doing things and supply new insights to the market.

TN noted not good market governance to enable PAC to alter its own composition and composition should be codified.

NV noted current MPC (market performance Committee) composition not codified and any changes to composition would require Strategic Panel approval thus not required to be in code and this approach enables flexibility to be retained and likelihood is composition would be reviewed annually.

TN registered the opinion this is not sufficient as PAC likely to have greater power than MPC and this approach would relinquish market control.

MR noted comments around composition have been lodged by current MPC members and thus should be taken note of. MR raised a concern of MOSL chairing the PAC in order to remain independent and thus an independent chair would be appropriate alternatively the MOSL chair should sign a similar declaration to those signed by trading party members.

MOSL to review and revert.

EJ enquired if PAC will be accountable to another body e.g., Strategic Panel and asked for clarity on the need for PAC to consult should any code changes or change to KPIs be required.

NV confirmed EJ's understanding and noted the prior discussion centred on the PAC composition as opposed to its responsibilities.

NV further noted minutes will be maintained of all meetings and these will be published.

SK enquired why an independent Chair had not been proposed given other committees operate with one.

AR noted reviewing if MOSL chairing should be ruled out noting the current provisions do not rule out this option. AR further noted MOSL's contractual obligation under the code to be impartial and act in the interests of the furtherance of the code principles and place the end customer at the primary goal however need to establish when potential conflicts arise how they would be addressed.

JJ noted the appointment of the PAC will be via a nominations committee consisting of the market operator, Ofwat and the PAC Chair, with the PAC Chair appointed by the strategic Panel.

JJ highlighted consultation feedback suggesting the PAC should be elected by trading parties and noted MOSL's rationale that the nominations committee ensures a good mix of expertise and skills which may not be the case with elected members.

JJ ran through the role of Ofwat noting they will make the biggest decisions including agreeing changes to financial incentives associated with KPIs, via the standard code change process and if inflationary adjustments should be made. Ofwat will also make code changes decisions relating to metrics, KPIs and tools and the target performance levels for those associated with BR-MeX. Ofwat would also be responsible in cases of any licence breach.

	<p>JJ reminded members Ofwat will be represented within the PAC. SK noted inflationary increases could be codified. JJ confirmed this could be the case if felt appropriate.</p>
<p>3.</p>	<p>Introduction to performance periods</p>
	<p>OR provided members with an overview of the proposed performance periods and how these will function within the revised framework noting this topic will be reviewed again at the next meeting.</p> <p>OR confirmed the performance periods will allow for regular reviews of the market and the needs/priorities for upcoming periods.</p> <p>OR noted performance periods provide certainty and clarity for the market and ensures when changes are required/identified those are carried out holistically at the appropriate time, method and at pace.</p> <p>OR highlighted the key activities at performance periods; performance period report at the end of each period, a performance framework plan at the start of the new period, and regular annual activities including refresh and publication of the risks and issue tracker and the statement of approach.</p> <p>OR ran through the proposals for how the performance periods are defined and by whom confirming the consultation proposed periods of between three to five years as decided by the Strategic Panel.</p> <p>TN recommended considering alignment with AMP periods in particular to prevent double jeopardy with BR-MeX and consideration for funding from the MOSL business plan.</p> <p>SK noted the recommendation regarding the AMP and alignment with BR-MeX, however suggested more flexible timing due to market evolution potentially involving regulation as well.</p> <p>AB noted need for flexibility balanced against constantly moving targets and what can be changed within the performance periods e.g., target performance levels.</p> <p>OR thanked members for feedback received and noted may be related more to communication as opposed to setting the periods.</p> <p>OR ran through proposals for who would be responsible for producing and publishing materials including performance period report and performance framework plan.</p>

OR noted the expectation for both the performance period report and performance period plan to require sign off from the Strategic Panel and for the PAC and MOSL to have key input into the performance period report with wider industry input into the performance period plan.

KR enquired if consultation would take place with all trading parties on the risks and issues tracker or would the PAC be considered to be the industry representative. OR confirmed this intention.

KR noted wider experience outside of the PAC in particular as only two retailers and two wholesalers on the PAC.

AR noted an annual consultation on risks could be cumbersome however could be recorded in code for MOSL to perform the annual review and may consult from time to time of the tracker to build in flexibility to deliver in a pragmatic manner.

TN enquired what the value of an annual review of the risks and issue tracker if performance period is longer than this given lack of flexibility to alter framework if new risk identified. Should reviews be in line with performance periods.

EJ noted expectation of risks not changing significantly and therefore minimal workload to review annually.

KR noted could review current risks annually and root and branch review at end of each performance period.

AR noted advantage of setting expectations from a communication perspective that the Strategic Panel would publish the performance period plan highlighting areas of focus with certain KPIs and performance levels for a set period. This would enable PAC to take account of performance and risk and establish whether targeted audit might be required or had the risk diminished providing the level of flexibility with the performance period. AR noted this may require the capability to make an intervention e.g., add a new KPI within a performance period.

OR provided an overview of the expected content of the key documents noting the scope of each is unlikely to be defined in code.

Ejo enquired if the key documents suggested are in replacement of any currently issued.

TN recommended an assessment of the effectiveness of the PAC in particular their application of the discretionary tools be codified

OR enquired if members felt the review of PAC should be included within the performance period report or standalone.

TN noted boards/committees often record annual effectiveness reviews in their Terms of Reference.

NV noted as part of general governance effectiveness reviews are conducted and confirmed will review when creating ToR for the PAC.

OR ran through the proposals relating to timing of the performance documents noting both the performance period report and the performance framework plan would be created in the final year of a performance period.

OR highlighted potential key dependencies e.g., Ofwat's state of the market report and need to ensure all industry publications have opportunity for review.

AR highlighted the need to ensure the documents can be included within the MOSL business planning process.

EJ noted should trading parties be required to input on performance documents the need to allow lead time in particular around March given other commitments e.g., Ofwat's statement of adequacy.

TN enquired what the lead time would be for MOSL to create a new KPI if required and would the budget be available to do so within the year.

AR noted TN's feedback and confirmed performance framework plan will be required a minimum of six months before next performance period to enable metrics and tools to be collated.

AR further noted the need for a code change should a new KPI be required or retiring an existing one.

TN noted the performance period could differ to the previous one particularly if new risks and issues emerge and changes are required to the performance framework itself.

AR confirmed the performance period plan could signal the pace of review of the framework and alignment with the AMP period.

CD clarified, if the performance period is set to five years the report will start to be created at the end of year four in preparation for the next performance period.

	<p>OR confirmed this is correct due to the dependency with the code change mechanism should fundamental components require change.</p> <p>CD noted given the timeframes involved a three-year period appears too short.</p> <p>OR noted assuming live in April 2025 with new framework the current assumption is the performance period report will not be applicable for two to three years.</p> <p>CD confirmed slide pack will be published on the MOSL website for further review by members.</p>
4.	Upcoming workshops & AOB
	<p>CD provided members an overview of the upcoming workshops and reminded members it is an open invite to the workshops should they wish to include colleagues.</p> <p>AR noted the Part C tools will be reviewed in the workshops during February.</p>