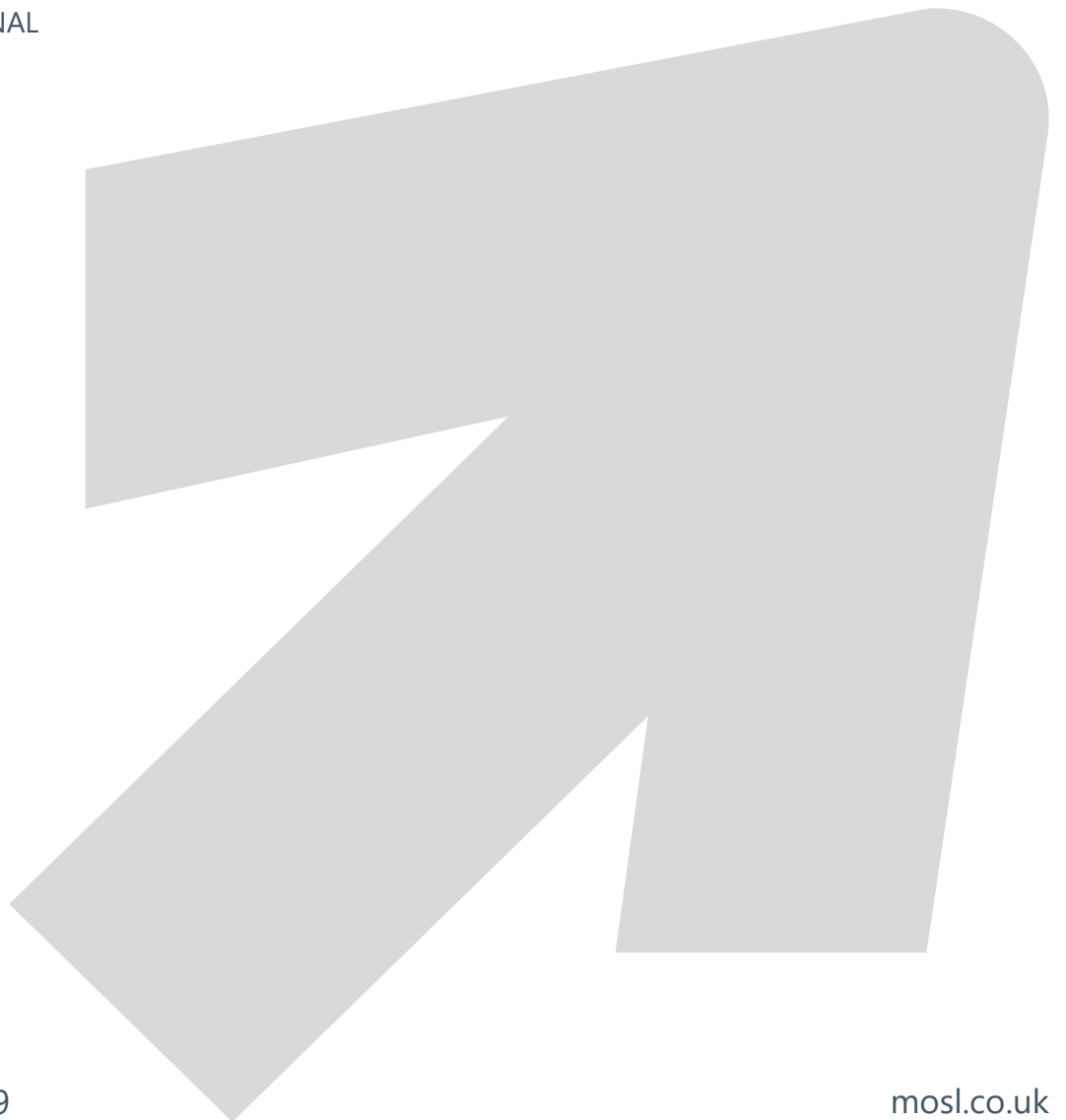


Performance Advisory Group (PAG) 30

Location: MS Teams

Date and time: 23 January 2024, 1100 - 1300

Status of minutes: FINAL



Meeting Minutes

Members

Name	(Initial)	Role/Organisation	Name	(Initial)	Role/Organisation
Adam Boyns	AB	CCW	Rebecca Gale	RG	Waterscan
Emily Jerrome	EJ	Water2Business	Jon Fuller	JF	Wessex
Wendy Monk	WM	Wave	Gillian Bladen	GB	South West
Trevor Nelson	TN	Business Stream	Clare Garland	CG	UU
Ray Porter	RP	Castle			

MOSL Attendees

Name	(Initial)	Role	Name	(Initial)	Role
Chris Dawson	CD	Chair	Nichola Vincendeau	NV	Observer
Evan Joanette	EJo	Programme Lead	Adam Richardson	AR	Observer
Lisa-Ann Lott	LAL	Notes	Huw Comerford	HC	Observer
Oli Robins	OR	Presenter	Luke Coyle	LC	Observer
Janet Judge	JJ	Presenter	Nikita Bridle	NB	Observer
Amanda Hinde	AH	Presenter	Abu Rashid	Ara	Observer
Sam Webb	SW	Observer			

Apologies

Name	(Initial)	Role/Organisation	Name	(Initial)	Role/Organisation
Claire Stanness	CS	Wave	Mike Rathbone	MR	Severn Trent
Geoffrey Jones	GJ	Pennon	Shakima Fagan	SF	Everflow
Jamie Davies	JD	Castle	Pam Nash	PN	C&C
Kate Russell	KR	Yorkshire Water	David Morris	DM	Waterplus
Shaun Kent	SK	Owat	Kevin McCalliskey	KM	South West
Karina Soulynha	KS	Southern			

<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 provided an overview of the phase 2 programme plan noting currently reviewing part A – governance.</p> <p>CD noted all meeting minutes and slide packs are published on the MOSL website for review and comment.</p> <p>CD noted the key design principles are detailed within the slide pack for reference.</p>
<p>2.</p>	<p>Roles and responsibilities (PAC composition, MO Assurance)</p>
	<p>PAC composition</p> <p>AH provided an update following feedback received at previous meetings on the PAC composition and proposed MOSL Chair.</p> <p>AH requested members provide suggestions of the qualities/criteria required of a Chair for the PAC to enable review of the most appropriate approach.</p> <p>TN suggested reviewing the Strategic Panel Chair criteria to base it upon to enable easier review.</p> <p>NV noted Panel nomination committee procedure would be followed for this recruitment with a similar model to the independent Chairs for Code Change Committee and Strategic Panel.</p> <p>RP noted no objection to a MOSL Chair however if independence is a criterion why is this the case and what is the independence of.</p> <p>NV confirmed the rationale behind independence is to mirror Strategic Panel and Code Change Committee to particularly focus on optics for a Chair and independent members noting Market Performance Committee (MPC) is currently Chaired by an independent and provides wider optics outside the water industry of not ‘marking own homework’.</p> <p>RP noted does not change optics as trading parties sit on the committee.</p> <p>NV noted mirrors other committees compositions and will contain independent members as well as trading parties.</p>

CD noted Chair is non-voting

RP noted understood optics however should be appropriate person/criterion to enable the Chair to work effectively.

AR noted Chair could be drawn from MOSL or independent and need to ensure committee has the confidence it is holding the complete industry to account.

AR highlighted strong feedback from trading parties regarding other committees to include a non-trading party Chair with the Chair being non-voting should a MOSL Chair be chosen to ensure committee is run effectively but not be able to affect voting. AR therefore recommended Chair not drawn from trading parties and if from MOSL not to have a vote whereas an independent Chair could have a vote.

AH noted little difference to current proposal.

TN provided counter view, noting should have equality with Code Change Committee in order to be balanced and noted preference for non-MOSL Chair as MOSL represented on the PAC and MOSL will be running the framework. TN highlighted even as non-voting the Chair can lead discussions and call time which provides influence.

WM noted merit in independence largely for perception of balance and fairness and to dispel views of bias however Chair will require knowledge of the water industry and independents may not have the experience/expertise of the industry. Members generally agreed.

NV noted likely to seek a Chair with water industry experience of adjacent experience highlighting there will be opportunity to upskill any independents.

MO Assurance

AH provided an update on the MO Assurance noting the PAC will take on the current MPC's responsibilities.

AH confirmed the proposal for the MO to be audited by an independent third party and the trading party audits will be performed by the MO with the option to contract out to a third party.

TN enquired if auditing the MO is a deferred responsibility from the Strategic Panel and should this be explicitly detailed to ensure clarity.

TN noted should the PAC be responsible for MO compliance an additional skill set will be required by the PAC.

	<p>RP noted if PAC auditing MO then MOSL cannot Chair the PAC due to issues of independence in the same manner as a trading party cannot Chair for the same reason.</p> <p>NV noted should MOSL Chair the PAC for the MO Assurance the Chair should recuse themselves and delegate to the deputy Chair.</p> <p>RP noted could also apply for a trading party Chair.</p> <p>NV further noted more likely for conflicts of interest with trading party Chair however could be utilised but this would not be in line with other committees.</p> <p>AR confirmed Strategic panel has an obligation regarding the audit however current code also notes MPC in regard to the audit. AR further confirmed third party oversight and audit of the MO compliance with the MO then being required to report to the current MPC, PAC in future in terms of its compliance.</p> <p>AR noted the need to ensure clarified in code once structure confirmed.</p> <p>TN noted the need for PAC to be more involved should it be required to consider MO Assurance and recommended the PAC take the lead more than current MPC have.</p>
<p>3.</p>	<p>Update on performance periods, key documents and processes</p>
	<p>OR provided an update following feedback at previous meetings on the performance periods, key documents and the associated processes.</p> <p>OR noted the performance period provide timings for key activities to ensure the framework evolves and is being regularly reviewed and updated.</p> <p>OR provided an overview of the definitions of the performance periods noting these would be defined by Strategic Panel.</p> <p>OR noted previous feedback indicated performance periods should align with financial years meaning always starting in April and ending in March.</p> <p>OR further noted preference for flexibility in the performance period length versus a simpler fixed period such as five years to align with the AMP period.</p> <p>OR highlighted proposal to implement the framework with an initial shorter period (two or three years) to assess the framework and lessons learned.</p>

OR noted setting the length of performance periods within the codes would not satisfy the key principle of flexibility and the desire for the framework to be agile, proactive and responsive.

OR highlighted the proposal for the Strategic Panel to be responsible for deciding the length for any given performance period and the code would set out that responsibility as opposed to setting out the length.

OR confirmed performance periods do not 'lock in' the framework for that period as code changes can be implemented should they be required.

RP noted AMP for different purpose and the need for agility within performance periods to enable the market to thrive therefore it will need to evolve and thus a shorter performance period than five years may be appropriate.

TN noted considering performance periods and enquired what would change at the end of a period and how would that happen.

OR confirmed fundamental refresh of the risks and issues tracker to establish if activities have changed and whether other tools and metrics are required however noting flexibility maintained within performance periods.

TN noted not fundamentally different to current situation in so much as considering risks and issues, identifying activities and KPIs etc, given the key principle of value for money would this be appropriate at the end of each performance period.

TN enquired if more appropriate to adapt elements during performance periods to retain responsive and agile approach.

OR enquired if trading parties would find benefit in certainty and formality of performance periods or is flexibility more important.

AR noted the markers of the Performance framework plan and the performance period report and the need to establish the timescale between those documents which represents the performance period. AR further noted the need to provide time to work with trading parties to create the documents.

AR agreed performance periods should not be fixed and suggested the initial period be two or three years to ensure changes have driven the correct behaviours and the revised framework is providing value for money. AR noted flexibility to be maintained by the Strategic Panel determination of the periods as opposed to being outlined in code.

OR confirmed intention for Strategic Panel to set the performance periods with no timeframes defined in the codes enabling this to vary each time.

TN enquired if review would happen at the end of the performance period or within the final year of the performance period for any new performance period to start immediately noting if reviewing within the period less months of performance will be available to review along with any code change process or MOSL business plan process should it be required.

OR noted the key dependencies such as the MOSL Business plan and the limited amount of data which would be available for review in a short performance period or two or three years.

OR confirmed the performance framework plan document would set out any areas of change however if code changes were required it may set out when these would occur without pre-empting the code change process itself but indicating a future area of focus.

TN highlighted the potential downside of the approach is it could be known that the wrong incentives are being used and creating the wrong behaviours however this would continue until the revised KPIs etc had been implemented.

AR noted ability within the framework for peer comparison to be switched off and potentially charges could also be switched off via this flexibility. Additional indicators could also be utilised during a performance period to manage any requirements promptly and flexibly using the annual statement of approach. This would enable the framework to remain efficient and effective throughout.

AB noted the flexibility of any performance period chosen may be opposed to the fixed nature of metrics included within BR-MeX which are controlled by Ofwat and therefore cannot be updated/changed.

OR noted Ofwat would lead on evolution of any BR-MeX incentives and the related KPIs however not an issue for the performance periods as the code change process would enable components to be altered within a period if required.

OR further noted key principle that penalties/rewards associated with KPIs feeding into BR-MeX incentives would not attract financial incentives.

OR noted the general preference for flexibility.

GB acknowledged the need for flexibility and noted the need to ensure good communication when changes are made to reporting to ensure trading parties can utilise the data within their own organisations.

AR asked members who gets value from the current annual market performance report as the performance period report is intended to be a similar document albeit produced on a less frequent basis. AR noted that should the 'marker' style reports not be useful/required then the concept of performance periods may also not be required simply prudent management of the framework through the Strategic Panel and the PAC.

CD noted few members believed there is value to the annual publication of the current Market Performance report.

EJ enquired as to the content of the report whether it is a general overview or specific to trading parties.

AR confirmed it's a general look back at performance over the previous year and produced on an annual basis and the proposed performance period report would replace it however it would not be annual it would be produced at the end of a performance period.

EJ indicated the report would still be important to provide a view of whether risks and issues are mitigated and if there is a decline. This would enable the PAC to determine if changes to metrics or KPIs are required and thus it would still be valuable.

GB noted based on EJ's summary it would be useful inline with the work of the PAC and the flexible process and may be more useful following the implementation of the new framework.

AR noted industry would not want to undertake further wholesale review of the framework every few years and the four documents allow for more regular light touch review. The risks and issues tracker and the statement of approach being produced annually with the performance period report and performance framework plan at the end/beginning of each performance period.

OR noted the performance framework report would replace the current AMPR process and the other three documents would replace the concept of the market performance operating plan (MPOP).

OR enquired what the value is to trading parties of the current documents and the perceived value of completing similar activities in the new framework.

OR noted trading parties generally agree with the risks and issues track and statement of approach on an annual basis.

Ejo noted the documents may not be referenced whilst performance is good however they provide the transparency and rationale for why decisions are being made in relation to the framework.

	<p>TN noted should not be reliant on the documents every three to five years the flexibility and the role of the PAC should ensure small tweaks when required and where there is a fundamental change e.g. smart meters the framework should not wait until the end of a performance period to be adjusted.</p> <p>RP recommended monthly metric reporting with commentary alongside to enable trading parties to react promptly. Commentary may include items such as 'weather too bad to enable meter reads, the south of the country was flooded thus no meter reads' this would enable the audience to understand the trends and also for the PAC to monitor and understand what is happening within the market.</p> <p>AB noted generally supportive of the continuation of reporting for transparency and with the extra commentary for clarity.</p> <p>OR summarised the value of the reports for transparency however need to remain flexible.</p> <p>MOSL to review and revert.</p> <p>OR provided an overview of how the performance periods and associated activities fit into the roles and responsibilities of MOSL, PAC and the Strategic Panel noting activities mainly split into operating the framework and reviewing the framework.</p> <p>OR noted the operating activities are primarily split into monthly and quarterly actions which occur as standard e.g., MOSL calculating and reporting against KPIs each month.</p> <p>OR further noted PAC to meet quarterly and the risks and issues tracker refresh and statement of approach are produced annually.</p> <p>OR highlighted the performance period report would replace the AMPR and instead of annual production would be aligned to the performance period. The performance framework plan would set out the timing and length of the next performance period and its key features or areas of focus enabling the framework to evolve.</p> <p>CD reminded members to review the slide pack and provide comments via email to mpfreform@mosl.co.uk should they wish to provide additional feedback.</p>
<p>4.</p>	<p>PAC implementation and code architecture approach</p>
	<p>JJ provided an overview of the proposed transition/implementation for Part A governance.</p> <p>JJ noted the recommendation report will be presented to Code Change Committee in April 2024 with an Ofwat decision anticipated by end of May 2024 to enable recruitment for the PAC to commence in Summer 2024.</p>

JJ highlighted the ToR for the PAC will be drafted in Summer 2024 and signed off by the Strategic Panel in Autumn 2024.

JJ noted on adoption of the PAC it will learn it's new role and take up the MPC role from late 2024/early 2025.

RP enquired what the value of the PAC taking on the legacy role of the MPC in particular given the difficulties around MPC and suggested dropping MPC and PAC looking only at the new framework.

JJ noted need to consider the value of the current framework and action being taken against it by the MPC.

RP highlighted any action plan in place against a trading party in Autumn 2024 would be against the current framework and therefore would cease to apply with implementation of new framework and therefore should simply operate to a cutoff date. Members generally agreed to this approach.

AR noted RP's observation and the efficiency of not maintaining two groups simultaneously.

AR further noted PAC does not have to meet to a pre-defined schedule with proposed cadence of quarterly.

AR agreed with RP noting need to ensure smooth transition from current framework to new framework and any rectification plans in flight at time of transition. AR noted PAC will need to determine how it will treat in flight rectification plans during the transition.

NV noted may require run off of first performance framework in terms of governance with potential light touch review under current MPF during the transition.

EJ noted light touch review could assess trading parties against obsolete framework and highlighted if taking a big bang approach to implementation as per earlier consultations then no requirement to maintain monitoring against current framework.

CD noted there is likely to be correlation between the activities in the current framework and the proposed new framework and therefore the PAC may want knowledge of trading parties in those areas as part of a handover e.g., trading party A has had issues in these areas previously do you want to continue to monitor.

MOSL to review and revert with a transition plan noting these discussion may include the PAC once recruited.

EJ noted the size of change for the market and the need for clarity to ensure success.

GB noted the consultation feedback indicated shadow running which could include the MPC reviewing the rectification plans currently in place against the new proposed MPF where activities are similar in the new framework.

RP noted at a determined point in time the MPC could stand down and trading parties could be trusted to continue their obligations e.g., meter reading without a performance committee tracking and once the new framework is in place they could return to being monitored against it as part of a big bang approach.

TN agreed and highlighted any performance being assessed by MPC in Autumn would be performance from Summer. TN raised concern if PAC first review in April 2025 as part of a big bang approach when would additional metrics be able to be applied and noted the PAC needs to be established and carry through metrics where appropriate.

MOSL to review and revert.

JJ provided an overview of the proposed details for the code and the proposed details for ToR of the PAC noting for information however any considerations/comments welcome.

RP enquired what governs the ToR for the PAC and noted the composition is within the ToR as opposed to the Code. RP further enquired why the Market Auditor is to be renamed the Market Operator Auditor is it to only focus on the MO moving forward as opposed to the wider market.

NV confirmed the ToR for the PAC would be determined by the Strategic Panel as a Strategic Panel committee these would have a review date of either every 6 months or annually. In regard to the composition of the PAC as the present MPC's composition is not defined with the codes this would be the same approach for PAC enabling greater flexibility should the composition need to be changed as a code change would not be required.

JJ noted the transition period for the Code Change Committee was included within the code and thus similar approach proposed for the PAC. CD also noted the transition was included within code for the introduction of the MPF.

JJ further noted in regard to the renaming of the market auditor this is to reflect the role will change to audit the MO with the MO providing the auditing of trading parties.

JJ highlighted the MO reserves the right to utilise a third party to assist with the auditing of trading parties if necessary.

RP noted this to be a fundamental change in regard to audit.

JJ noted the audit tools will be discussed at upcoming workshops.

	<p>CD highlighted should it remain as market auditor it could still encompass MOSL or an external auditor however if it is renamed as market operator auditor it would be more limiting.</p> <p>RP noted the proposed change is detailed as though a housekeeping change however it is more consequential.</p> <p>TN noted he agreed with RP that the composition of the PAC should not be in the ToR and should be stated within the codes alongside target performance level.</p> <p>AR noted any proposed changes to performance levels would require a robust process which includes trading parties and should not be solely the decision of the PAC.</p> <p>TN highlighted potentially unknown group of people on PAC with little experience being able to unilaterally adjust performance levels from 1 April 2025 without oversight is not appropriate especially given the potential financial consequences on trading parties.</p> <p>JJ highlighted previous discussions on the bespoke process and the need for consultation with good notice prior to any changes to performance levels.</p>
<p>5.</p>	<p>Upcoming workshops & AOB</p>
	<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>CD noted the next PAG workshop on 14 February to be an initial view of tools and in March the start of the review of metrics.</p>