

Market Performance Framework

PAG31 pre-reading (tools)

9 February 2024



**MARKET
VALUE
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Introduction

Consultation 3 doc

Why do we need MPF tools?

- The proposed model for MPF 2.0 focusses on nine key activities and a suite of metrics (KPIs, market indicators, and additional metrics) to track companies' performance against them.
- The tools provide ways for the MOSL, PAC and Panel to intervene in the market, so to:
 - ensure that new entrants meet the minimum requirements to operate,
 - manage market change and risk,
 - drive sustained improvements in competencies and data,
 - demonstrate differing performance in the market (providing a reputational driver to enhance natural incentives),
 - support under-performing companies who are not consistently achieving minimum standards, and provide means to rectify this under-performance, and
 - financially penalise, reward, and provide compensation for the most impactful instances of performance.
- Each tool can have multiple impacts, including financial, reputational, preventative (i.e., to mitigate poor performance), corrective (i.e., to rectify poor performance), facilitatory (may inform the application of other tools or metrics) or assuring.
- The shortlisted intervention tools fall into two categories:
 - Standard tools, which would be applied against all trading parties in an automated or semiautomated way at a defined frequency, regardless of performance, and
 - Discretionary tools, which would be used on a discretionary basis to help understand underlying performance in more detail

What success criteria need to be reflected in the design of the MPF tools?

- Facilitate improved customer outcomes
- Improve trading party accountability
- Support competition
- Consistent and compatible with regulatory regime
- Enduring and agile
- Transparent & proportionate
- Value for money
- Simple

Key considerations for MPF tools (part B only)



Tool Ref.	Tool Name	Rationale for inclusion in MPF 2.0	Specific feedback from consultation 3
T01	Market Entry Assurance (MEA) Slide 6	<ul style="list-style-type: none"> • Important in terms of mitigating risk • Ensures that new entrants meet the minimum requirements to operate in the market 	<ul style="list-style-type: none"> • "T01 should not be included. It is not applicable to the MPF which is designed for current market participants" • "T01: We do not believe this applicable to a Performance Framework" • "T01: A sensible tool and, unlike many of the other tools, it is based upon MOSL facilitating a Trading Party to attain the necessary standards to participate in the market. We support"
T02	Assurance Statements Slide 7	<ul style="list-style-type: none"> • Will enable MOSL to better monitor and track changes within trading parties that may require market reassurance (MRA), reducing the risk of MRA being missed or applied retrospectively. • By having a better understanding of critical features across all parties (especially those that may not have been apparent at market entry), MOSL can provide a degree of market level assurance which is currently missing (MEA and MRA as carried out today only provide single party perspectives). 	<ul style="list-style-type: none"> • "T02: this tool may replicate the Certificate of Adequacy that retailers submit each year to Ofwat" • "T02: We would advise caution in the way that this is used by MOSL. It introduces another overhead and MOSL needs to be cognisant of that overhead and should seek to limit it. MOSL also needs to articulate the purpose and value of the assurance statement, i.e., what will it do with the information presented and why is it necessary?" • "T02: Is an assurance statement an intervention tool?"
T06	Additional Metric Monitoring Slide 8	<ul style="list-style-type: none"> • Facilitates a more informed understanding of performance and how to improve customer outcomes • Supports parties in decoding their own performance and identifying opportunities for improvement • Provides one way for PAC to flex the framework to address risks and issue as they emerge and evolve 	<ul style="list-style-type: none"> • "T06: There could be a risk of implementing too many metrics to the ones already in place if additional ones are added for certain activities. This would need to be constantly monitored by MOSL to ensure that they are still relevant." • "Our inclination is to say that additional measurement feels like something that would work against the principle we are seeking to apply to the MPF, which is to keep it simple and focused on the important things. The proposed governance arrangements allow for new measures to be introduced where there is a strong case for this; we believe that this is sufficient."

Key considerations for MPF tools (part B only)

Tool Ref.	Tool Name	Rationale for inclusion in MPF 2.0	Specific feedback from consultation 3
T07	Trading Party Audit (previously referred to as "Targeted Audit") Slide 9	<ul style="list-style-type: none"> Facilitates a more informed understanding of performance and how to improve customer outcomes (e.g., can provide more information where metrics are otherwise too complicated to create) Supports parties in decoding their own performance and identifying opportunities for improvement Provides one way for PAC to flex the framework to address risks and issue as they emerge and evolve 	<ul style="list-style-type: none"> "We agree with having both data audits and targeted audits included as tools. However, we are concerned that MOSL may not have the bandwidth to undertake all the audits required, especially if there are higher than anticipated levels of underperformance" "T07: Again, we question if this should be reserved for the Market Auditor?" "We consider this tool likely to lead to wasted time, resources, and money." "We would encourage MOSL to ensure that the development of any such audit is considerate of the resource challenge it will provide to any recipient, to ensure there is not any undue resource requirement."
T08	Rectification and Escalation Slide 10	<ul style="list-style-type: none"> Supports under-performing companies, and provides means to rectify under-performance Should increase the rate of improvements in the market, and improve understanding of underlying challenges Provides one way for PAC to flex the framework to address risks and issue as they emerge and evolve 	<ul style="list-style-type: none"> "Care needs to be taken with T08, to ensure some controls on the rectification activities. We are not proposing to drop T08, but to apply appropriate safeguards on its application." "T08: We understand the need for flexibility with this tool but for it to succeed the range of rectification and escalation options should be set out to ensure there is full transparency (one of the success criteria) for trading parties as well as guidelines for the PAC and Strategic Panel" "T08: This suite of rectification activities is not defined and risks being too wide/onerous. Governance here and the right to challenge will be key considerations." "This should be part of the framework, but we must avoid making an industry out of it. It could be very costly, and overuse could actually make it ineffective." "If the intention is to base this tool on the current rectification and escalation process, then improvements need to be made. While the existing tool is fairly clear on the circumstances in which a trading party can be escalated for poor performance (which includes a positive focus on how this is impacting customers), it is less clear on what should happen in the event there is a failure to improve. "

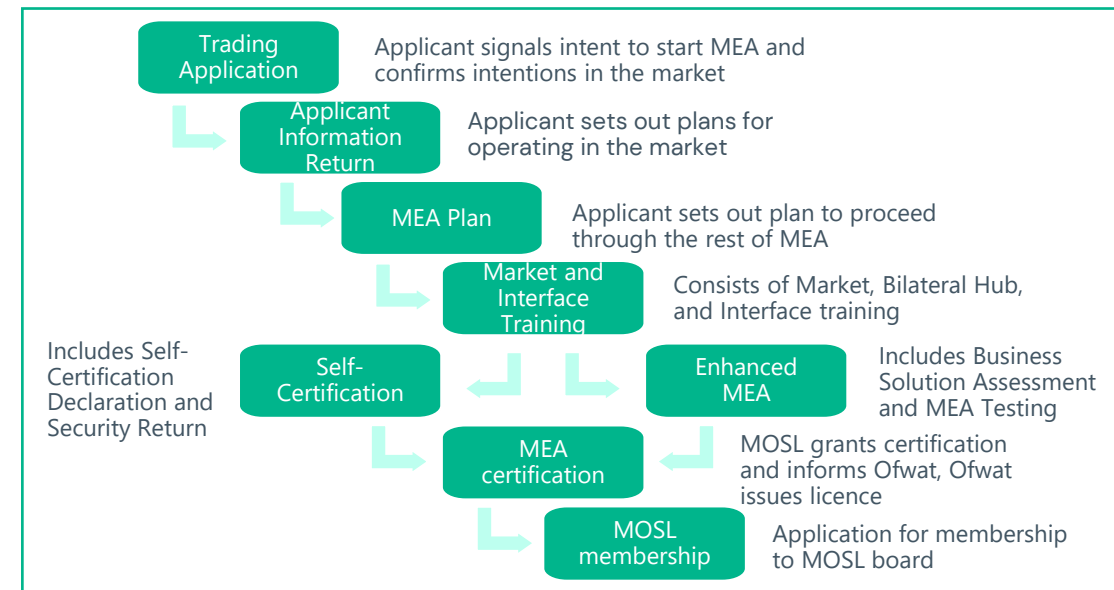
T01 Market Entry Assurance (MEA)

Impact: Assurance and Prevention

Type: Standard Tool, to be applied at Market Entry

How will this work in MPF 2.0?

- MEA consists of steps, processes, and checkpoints through which an organisation can apply to become a trading party and begin trading. MOSL will continue to operate these requirements (as currently set out in [CSD 0001](#)) under MPF 2.0, and current MPC responsibilities will pass over to PAC as follows:
 - PAC will be required to perform such functions as delegated by Panel from time to time, which includes providing advice, recommendations and support to MOSL on request, commenting or providing advice to MOSL on request in relation to any MEA Plan (or Market Re-assurance Plan), and approving the initial and subsequent versions of the documents which support these processes.
- MEA only applies for new entrants (parties who are yet to commence trading), but like MPF metrics and tools, is important in terms of mitigating risk. MEA provides assurance that applicant systems and processes meet standards, and applicants can comply with code obligations. This mitigates the risk of market processes failing through the actions of a party. Given the shared rationale behind MEA and other MPF components, it is proposed that a clarificatory code change be made to formalise MEA as an MPF tool.
- Consultation three proposed that HVI access assurance would be moved from Market Reassurance (MRA) to MEA, as part of lessening the formality of MRA. This is no longer being proposed as it is now understood this would bring no practical change in terms of assurance steps but would be complicated to implement. Furthermore, MRA needs to remain a formal process to support the T02 Assurance Statements tool (slide 7).
- Consultation three also proposed that PAC could recommend approval/rejection of market entry applications. It is proposed that this becomes an exception rather than the rule (as per PACs function to support MOSL on request) as this could delay MEA (unless agreed quickly ex-committee). Furthermore, it can only ever be a decision to delay or proceed with MEA, not approve or reject outright, so adding another decision-making layer as a standard step would have limited value relative to cost/effort/time.



Summary of MEA process (as set out in [CSD 0001](#))

Workshop questions:

- From experience of these processes, can any other elements of MEA and MRA be improved?
- Apart from the functions set out above, should there be any other key role for PAC in MEA or MRA?

T02 Assurance Statements



Impact: Assurance, Prevention and Facilitation

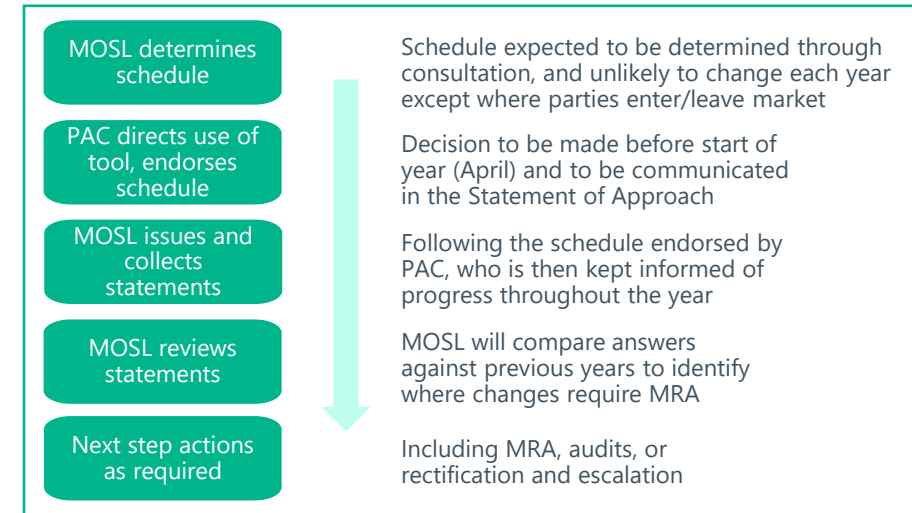
Type: Standard Tool, PAC to make an annual decision whether to apply for given year

How will this work in MPF 2.0?

- MOSL will issue assurance statements annually from April 2025, unless PAC directs MOSL not to any given year (as confirmed in the Statement of Approach). This will be a new MOSL obligation.
- Statements will take the form of a survey which will require respondents to provide information on **company and contact details, use of third parties, transaction/ SPID levels, systems/interfaces, testing methodology, compliance, resourcing**. This will be a new trading party obligation.
- The first iteration for any party will develop a bank of information for subsequent surveys to refer to. Subsequent surveys will present previous answers, asking “has/will there be a change that will affect this?” If yes, MOSL will explore the need for MRA, but this tool does not replace the current code requirement for parties to be proactive in seeking MRA when changes arise.
- MOSL will stagger assurance statements for different parties across the year, based on a schedule endorsed by PAC and published externally. The schedule is unlikely to change apart from where parties enter or leave the market.
- PAC can use audits to monitor compliance (i.e., audit random selections to test authenticity) and gather further information (see slide 9). PAC will also advise on any next step activities as required (including if rectification and escalation is required (see slide 10)).

Workshop questions:

- What information (see suggested themes in bold above) should the assurance statements require of trading parties? Who determines final scope?
- Should PAC be able to add additional questions from time to time (noting that a consistent set of questions would simplify annual comparison)?
- Who should decide notice periods and completion times?
- What happens if a party does not complete and return assurance statements in full and on time?
- How long after MEA should a new entrant be required to complete assurance statements?
- Are there any survey methods that parties find more familiar/logical/simple to complete than others, that this process could use?
- Are there any other possible roles for PAC around this tool?
- What level of detail needs to be set out in code (e.g., general roles and responsibilities vs detailed process and content of assurance statements)?



Summary of proposed T02 process

T06 Additional Metric Monitoring

Impact: Facilitation

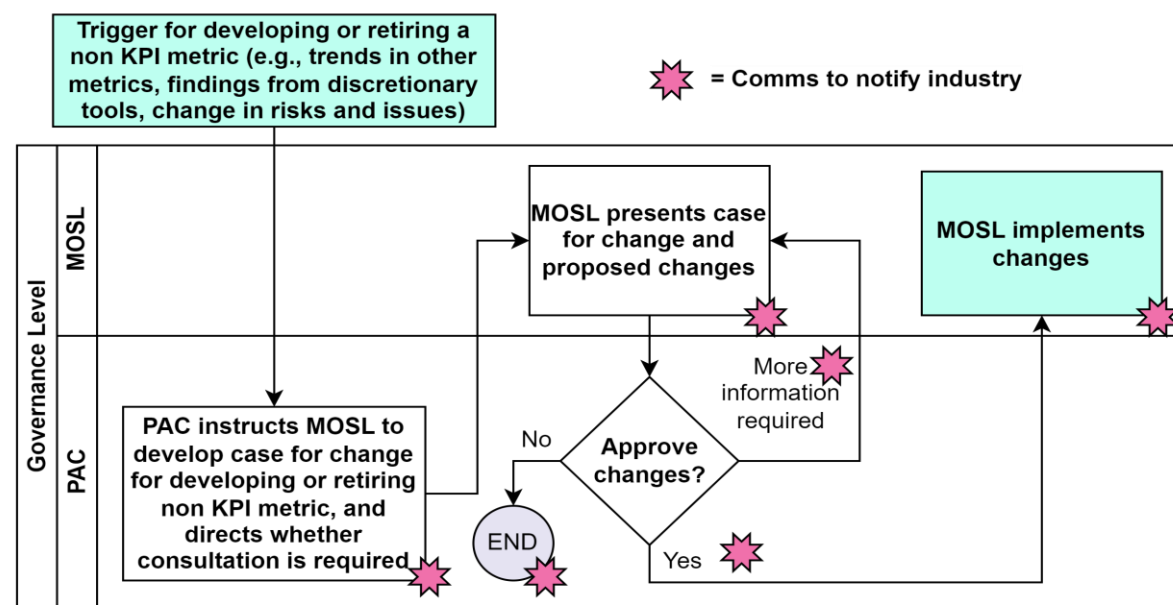
Type: Discretionary Tool, to be applied by PAC as required

How will this work in MPF 2.0?

- The PAC is responsible for choosing to create or retire Additional Metrics and Market Indicators. MOSL will develop the cases for change and the changes themselves.
- Additional Metrics and Market Indicators will be stored in a non-code document to be approved and maintained by the PAC. MOSL and PAC will determine how best to present performance against these metrics, and PAC will be responsible for monitoring performance and directing next step actions when required.
- PAC may seek advice from a range of stakeholders when deciding whether to create or retire Additional Metrics and Market Indicators (e.g., trading parties, Ofwat, RWG, Panel committees, CCW, MOSL), but will determine the level of engagement required on a case-by-case basis. For example, PAC may choose to consult on changes but will not be required to in every instance.
- PAC will be required to provide advanced notice of changes to trading parties before they are made and may implement new metrics “in shadow” initially.

Workshop questions:

- Should performance against these metrics be public as standard, or should PAC have the option to limit publication as industry only in some cases?
- Should PAC be able to request an audit based on trends around Market Indicators and Additional Metrics, e.g., where trends point towards a potential compliance issue?
- Should all rectification and escalation options (slide 10) apply to Additional Metrics, or only a subset of options (e.g., limited to MOSL Letter of Concern), or none (meaning rectification and escalation is limited to KPIs only)?
- Should the code set a minimum notice period of changes to these metrics?
- Should PAC be able to create Additional Metrics on an individual or confidential basis?
- What level of detail needs to be set out in code (e.g., general roles and responsibilities vs detailed process)?



T07 Trading Party Audits *previously referred to a Targeted Audit

Impact: Assurance, Prevention, Correction and Facilitation

Type: Discretionary Tool, to be applied by PAC as required

How will this work in MPF 2.0?

- Each year, MOSL will present PAC with an annual schedule of audits to endorse. This schedule will be summarised in the PAC Statement of Approach.
- The schedule will list the audits which are planned for the year, alongside approximate timeframes for 1) agreeing statements of work with PAC for each audit, 2) providing notice to subject trading parties for each audit, 3) completing and reporting results from each audit, and 4) agreeing next step actions.
- Initially, the schedule of audits for the year will only cover audits that have strategic/tactical drivers, or which address performance issues that are ongoing from the previous year. Where PAC decides to conduct previously unforeseen audits across the year, for example to test selections of assurance statements and confirm any need for MRA, or to identify potential compliance issues as suggested by trends in Market Indicators and Additional Metrics (see slide 8), or for checking rectification or investigating underperformance (see slide 10), MOSL will present how these fit into an updated schedule of audits.
- Prior to commencing each audit, MOSL will present PAC with a statement of work to endorse. Each statement of work will set out the specific rationale for the audit, the selection criteria for subject trading parties, and the proposed form and timing of audit (e.g., letters, interviews, requests for data or process documents etc.).
- PAC will monitor the progress of audits throughout the year (MOSL will report non-redacted findings back to PAC) and agree next step actions as required.
- This tool only concerns audits on trading parties. MOSL is responsible for carrying these out but may procure external resources to do so.

Start of year: MOSL develops and presents schedule of audits.

Start of year: PAC endorses schedule of audits, confirms use of tool in its Statement of Approach.

In year: MOSL presents specific statements of work for PAC to endorse prior to initiating each audit.

In year: MOSL updates PAC where previously unplanned audits are required (e.g., to decode poor performance).

In year: PAC agrees next step actions (e.g., publication of findings, confidential sharing of findings with other committees, code changes, development of other metrics, escalation and rectification etc.).

Workshop questions:

- Are there any other possible roles for PAC around this tool? What next step actions could the PAC/MOSL take following an audit?
- What level of detail needs to be set out in code (e.g., general roles and responsibilities vs detailed process and content of audits)?
- What should happen if a trading party does not cooperate with an audit?

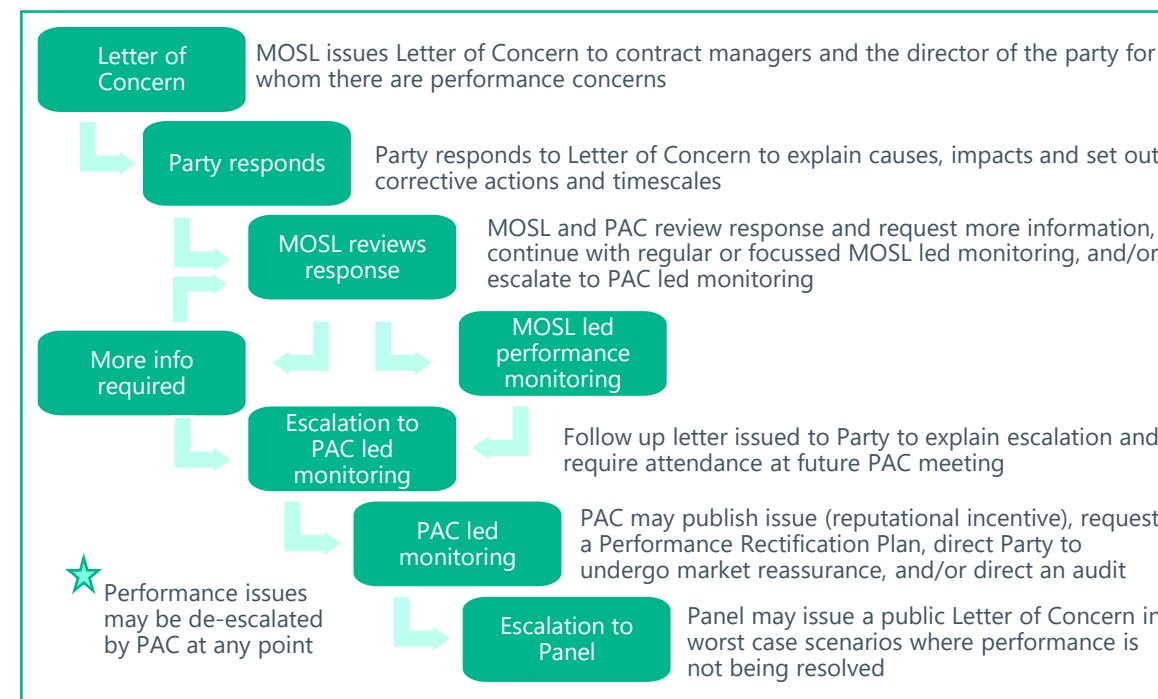
T08 Rectification & Escalation

Impact: Reputational , Corrective and Facilitatory

Type: Discretionary Tool, to be applied by PAC as required

How will this work in MPF 2.0?

- Rectification and Escalation in MPF 2.0 is proposed to be largely performed [as per the recently revised process](#), noting that PAC will replace the MPC (meaning route of escalation = MOSL to PAC to Panel). The PAC will meet quarterly as standard.
- The first step where poor performance is being sustained and/or having a significant impact, will see MOSL issuing a Letter of Concern. Parties will be now required by code to respond to these letters.
- The Initial Performance Rectification Plan step will be removed from code for clarity.
- There will be a new provision for the Strategic Panel to issue a public letter of concern in worst case scenarios where issues have been escalated.
- Audit findings may be a trigger for rectification and escalation (as PAC will want to see issues/non-compliances being addressed and resolved). An audit activity may be pursued as part of checking rectification (or investigating underperformance). The [current working practice document](#) will be updated along with the code. This working practice document will be owned by Panel and reviewed annually.
- Potential license breaches will be escalated to Ofwat.



Summary of proposed process (based on recently revised process [as set out in working practice](#))

Workshop questions:

- Should these activities be limited to KPIs, or can they also be applied against Additional Metrics?
- What areas of rectification and escalation can be improved? What factors should MOSL consider before escalating an issue to PAC?
- Should the process define triggers/criteria for interventions by MOSL and PAC or should these be discretionary?
- What level of detail needs to be set out in code (e.g., general roles and responsibilities vs detailed process and content of rectification activities)?
- Is there value in establishing a challenge process for rectification and escalation?
- What should a letter of concern (and response to such) be required to set out?

MOSL

