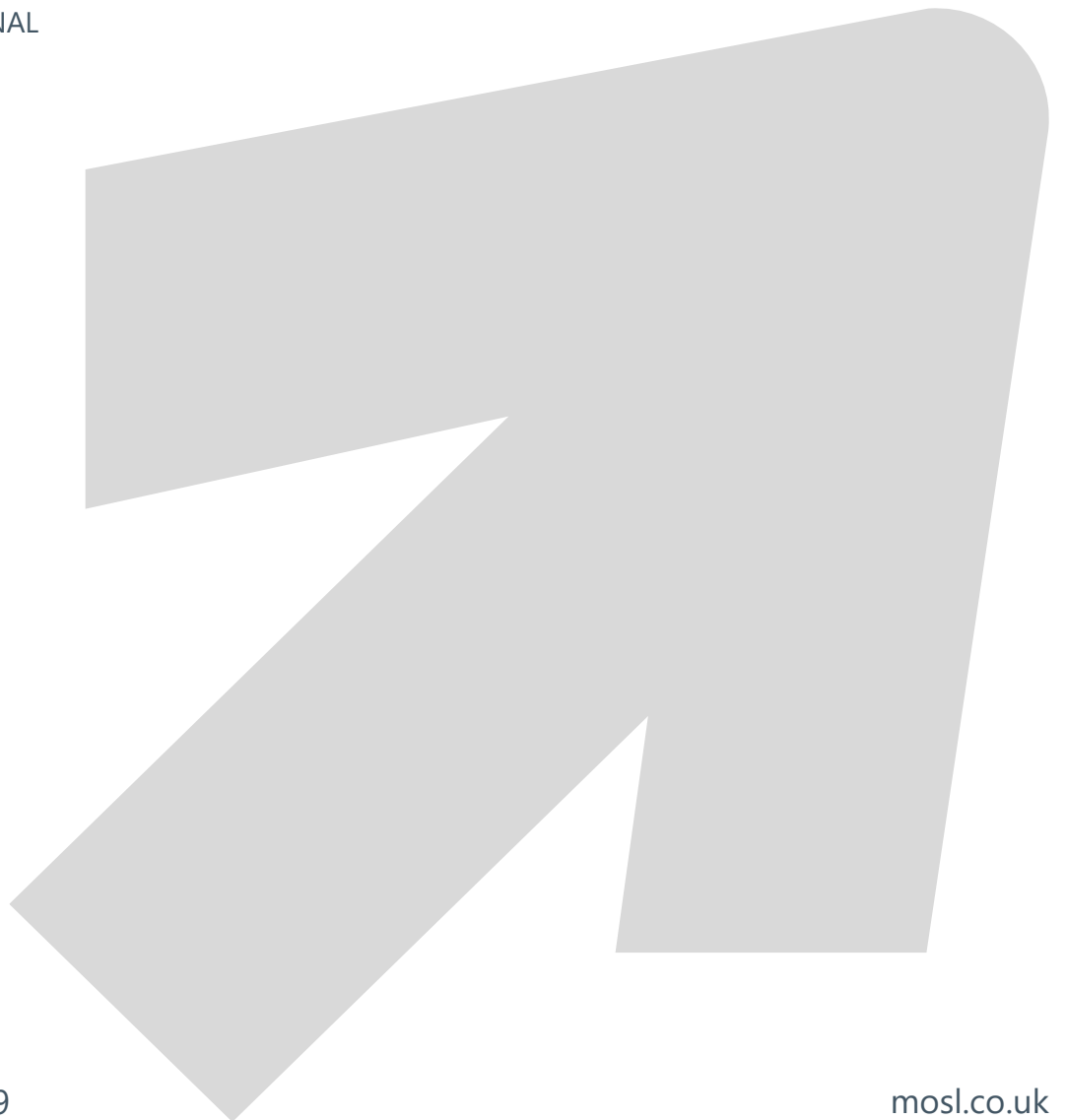


Performance Advisory Group (PAG) 31

Location: MS Teams

Date and time: 14 February 2024, 1000 - 1200

Status of minutes: FINAL



Meeting Minutes

Market attendees

Name	(Initial)	Role/Organisation	Name	(Initial)	Role/Organisation
Adam Boyns	AB	CCW	Karina Soulynhha	KS	Southern
Claire Stanness	CS	Wave	Kate Russell	KR	Yorkshire Water
David Morris	DM	Waterplus	Mike Rathbone	MR	Severn Trent
David Seymour	DS	Thames	Paul Baker	PB	Business Stream
Emily Jerrome	EJ	Water2Business	Shakima Fagan	SF	Everflow
Geoffrey Jones	GJ	Pennon	Shaun Kent	SK	Ofwat
Gillian Bladen	GB	South West	Syndiso Bango-Dube	SBD	Waterscan
Jamie Davies	JD	Castle	Trevor Nelson	TN	Business Stream
Jon Fuller	JF	Wessex	Wendy Monk	WM	Wave

MOSL Attendees

Name	(Initial)	Role	Name	(Initial)	Role
Chris Dawson	CD	Chair	Nichola Sampford	NS	Observer
Oli Robins	OR	Presenter	Luke Coyle	LC	Observer
Janet Judge	JJ	Presenter	Abu Rashid	Ara	Observer
Sam Webb	SW	Observer	Alex Piper	AP	Observer
Axelle Saada	AS	Observer	Candice Baker	CB	Observer
Alex Cowie	AC	Observer	Lisa-Ann Lott	LAL	Notes

<p>1.</p>	<p>Welcome & update</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 also confirmed the key principles being applied to the programme and the reformed framework.</p>
<p>2.</p>	<p>Final update on governance</p>
	<p>OR provided an update noting governance proposals updated following feedback from PAG and thanked members for their recommendations and rationale.</p> <p>OR highlighted the feedback indicating a preference for MOSL not to Chair the PAC as it could cause a conflict of interest as the PAC will be responsible for monitoring market operator compliance and MOSL will be represented on the PAC.</p> <p>OR further highlighted the recommendation for the trading party representation to be increased to ensure a breadth of expertise and experience when challenging performance and testing remedial actions.</p> <p>OR noted the proposals to set out the PAC composition in the terms of reference rather than code and the concerns raised due to PAC having a greater influence than the current MPC.</p> <p>OR confirmed therefore the revised proposal for an independent Chair with a casting vote, trading party representation increased to six trading party members (three retailers, three wholesalers).</p> <p>OR confirmed quorum will be updated to reflect the revised composition and the composition will go into code.</p> <p>TN enquired what the next steps are in respect of processing the revised governance and gaining a decision from Ofwat on the proposal and further enquired if there will be a consultation on the proposal.</p> <p>OR confirmed will be actioned as an ex-committee Strategic Panel paper followed by code drafting alongside the Code Advisory Group (CAG). This will progress to Code Change Committee (CCC) as per any normal code change. OR noted a webinar will be provided to give oversight generally across the market.</p> <p>SK enquired if CCW are represented in the revised composition. NS confirmed CCW are represented and have a vote.</p>

OR ran through an update on performance periods noting the original proposal detailed two main documents which marked the beginning and end of each period; performance period report which looks back at the previous period and the performance period plan which looks forward.

OR noted these documents would replace the AMPR process currently used.

OR further noted the Panel would be responsible for the reports and setting the duration of each performance period most likely within a three-to-five-year range.

OR confirmed following PAG feedback on the need for simplicity and value the revised proposal is with a sole report called the Market Performance Review report which will be requested by Panel from time to time and will evaluate the framework and set out recommendations for future focus.

TN enquired if performance periods will be included within code; noting if no minimum or maximum detailed a performance period could never end and thus a report would not be published.

OR highlighted the Panel decision and the expectation which would be set out in the Market Performance review report.

TN noted with the Panel composition changing every few years a new Panel could effect the duration of the performance period and thus it continue for longer than anticipated. TN recommended including an absolute backstop time period within the code e.,. 10 years.

Attendees generally agreed to the inclusion of a backstop within the codes.

OR shared the rationale for the PAC implementation and the next steps noting the aim for the PAC to be in place in Autumn 2024.

OR confirmed PAC will need to adopt some MPC responsibilities in the first instance and some legacy functions will remain in MPF2.0.

OR ran through the next steps:-

- Proposed updates to composition to be ratified by Panel
- Code drafting to be developed with CAG though Feb and March
- Webinar to communicate proposed governance more widely
- Draft recommendation report to be presented to CCC in April
- Ofwat decision in May
- PAC recruitment in Summer 2024

<p>3.</p>	<p>Part B tools</p>
	<p>OR provided an overview of the tools for discussion during the workshop noting details had been provided in advance of the meeting.</p> <p>OR reminded attendees comments/questions can be provided outside of the meeting via mpreform@mosl.co.uk</p> <p>OR noted MPF tools are required to enable the key governance groups to intervene when metrics indicate issues with activities in the market.</p> <p>OR highlighted interventions are not solely focused on incentivising performance through fines and reputational measures they also ensure new entrants meet the requirements to operate in the market and to manage market change and risk.</p> <p>OR noted tools are to drive improvements in competencies and data and support under-performing parties to improve.</p> <p>OR reminded attendees of the definitions of standard and discretionary tools. Standard tools being those which will be applied against all trading parties at a defined frequency and discretionary tools which will be deployed on a case-by case basis.</p> <p>OR noted the need to consider relevancy to end customers when reviewing each tool along with value and simplicity.</p> <p>OR displayed details of the first five tools for consideration, the MOSL rationale for including them within the framework and feedback received via consultation three on each one.</p> <p>TN noted the slide does not contain the additional rationale for why MOSL is either rejecting or accepting the consultation feedback.</p> <p>OR explained any changes made as a result of consultation feedback will be detailed in the discussions on each tool and any rationale will be documented once entirely clear on the approach for each tool.</p> <p><i>T01 Market Entry Assurance (MEA)</i></p> <p>OR ran through the details of T01, Market Entry Assurance noting its focus on mitigating risk and supporting new entrants in the market.</p> <p>OR highlighted consultation feedback noting need to ensure no duplication with other processes and ensuring the use of the tool is proportionate and of value.</p>

OR noted T01 is a standard tool which is applied at defined points and this tool is proposed to continue to operate as at present and as detailed in CSD 0301.

OR ran through the process an applicant to the market undertakes noting where MPC is detailed to approve documents this responsibility will be the PAC's under the reformed MPF.

OR noted a small code drafting amendment will be required to clarify the purpose and existence of the process as a tool of the MPF.

OR highlighted consultation three indicated process changes however to maintain simplicity and efficiency these are no longer required e.g., moving HVI access assurance from reassurance to T01 would not have any practical effect thus will remain as is. PAC to recommend approval or rejection of every market entry application is now proposed to be by exception when requested by MOSL which prevents slowing the process unnecessarily.

OR asked attendees to consider whether any elements of market entry assurance and market reassurance could be improved and whether any additional functions not detailed should be the responsibility of the PAC in regard to market entry assurance or market reassurance.

CD reminded attendees of the opportunity to feedback outside of the meeting once reviewed with their own teams.

EJ enquired if reassurance is included within the process or are they intended to be two separate processes and what are the triggers for reassurance if required.

OR noted market reassurance process more relevant to T02 Assurance Statement.

CB confirmed the triggers for reassurance are detailed in the market codes and there are 11 material changes that would trigger reassurance and requested trading parties familiarise themselves with those.

CB detailed the example of material change eight which covers changes of key operational staff which would trigger the requirement to provide the reassurance information return completing the areas which have changed.

EJ noted therefore may need to be a separate process to the market entry assurance.

CB provided the matrix during the meeting:-

Material change	MIT	BSA	SCD	IDTT	MST
1. Trading Party has completed self-certification MEA but would now like to access the HVI		✓		✓	✓
2. Trading Party wished to use the HVI for additional data transaction and is familiar with the HVI		✓		✓	✓
3. Trading Party has completed self-certification MEA but would now like to access the HVI in relation to the Bilateral Hub		✓		✓	✓
4. Trading Party intends to take on customer(s) after a period of twelve months or longer without any Supply Points being registered to that Trading Party	✓	✓	✓	✓	✓
5. Trading Party hardware platform changes where is already familiar with the HVI				✓	✓
6. Trading Party communications change (for example changes to network or ISP)				✓	✓
7. Trading Party data handling software platform change		✓		✓	✓
8. Trading Party data handling software platform upgrade				✓	✓
9. Significant changes to operational staff which require induction over and over that normally taken	✓				
10. Changes to business process(es) which are highly relevant to compliance with the market codes		✓	✓	✓	✓
11. Retail Exit in which the transferee acquires a significant number of supply points, triggering one of the events above	✓	✓	✓	✓	✓

MIT: Market and Interface Training; BSA: Business Solution Assessment; SCD: Self-Certification Declaration; IDTT: Interface and Data Transaction Testing; MST: Market Scenario Testing

TN enquired why market entry assurance is part of the MPF and not simply a prerequisite of joining the market noting reassurance has not been reviewed under the current MPF either.

TN noted a number of trading parties had gone through market entry assurance, received approval and not taken on any supply points or taken up their self-supply.

TN recommended if a trading party remained dormant or not traded they should be subject to MEA again as opposed to reassurance.

OR noted the rationale for including MEA as an MPF tool is to mitigate risk for the market and the intent is for the PAC to have a role within MEA and reassurance moving forward.

TN highlighted market entry had not been identified as a key risk or issue and enquired what performance risk this is trying to mitigate.

TN noted need for minimum standard for entry to the market and MEA should be a prerequisite but not an actual tool of performance.

CD highlighted the material change which triggers reassurance is when a trading party is dormant for 12 months or longer.

TN enquired if the process in this case would be exactly the same as MEA or are there differences.

CB confirmed would go through reassurance to establish if their have been material changes to their processes and/or resourcing. CB noted currently some trading parties have been dormant since the inception of the Bilateral Hub and thus reassurance would include Hub training.

AB noted not clear as to how MEA relates to performance tools and what value the PAC would add to the process, enquiring if the PAC would review the new trading party against their potential ability to perform against the required market activities and metrics and ensure a plan in place to meet those standards.

OR to update and provide rationale for including in the reformed MPF.

T02 Assurance Statements

OR provided an overview of how Assurance Statements will function within MPF2.0.

OR noted this tool will assist MOSL in monitoring and tracking changes within trading parties that may require the market reassurance already discussed and to reduce the risk of reassurance being missed or applied retrospectively.

OR highlighted instances where reassurance has been applied retrospectively or at pace as MOSL not aware of trading parties changes until late in development.

OR confirmed this is a standard tool and the assurance statements will be required each year from April 2025 unless PAC decides it is not necessary in any given year.

OR further confirmed PAC will decide whether the statements will be issued and this would be confirmed in their statement of approach which is one of the key governance documents for the reformed MPF.

OR noted this can be considered as a type of survey and the initial survey will request key information from trading parties such as company and contact details, use of third-party transactions, SPID levels, systems and interfaces and testing methodology. Essentially, seeking confirmation of all processes, systems, policies, people and resources a party has to maintain compliance with the requirements of the market codes.

OR further noted the obligation within the codes for trading parties to seek market reassurance and the triggers for this as confirmed earlier.

OR confirmed MOSL would stagger these assurance statements for different parties across the year and this would be based upon a schedule which PAC endorse.

OR further confirmed PAC would determine if a party was required to go through reassurance or progress to any form of rectification/escalation if required.

OR noted the initial survey will be larger and the subsequent surveys will be lighter touch issued at most once a year as determined by PAC.

OR enquired what information should the assurance statements require of trading parties and who should determine the final scope and should the final scope be set in code, a decision by MOSL or decision by the PAC. Additionally, should the PAC be able to ask other questions on subsequent surveys from time to time.

CD noted the connection with the previous tool and confirmed assurance statements could be used to trigger the market reassurance process.

DS noted the light touch approach and enquired how assurance and performance are being linked as could result in a heavy routine and process.

DS enquired if the at least once a year is still too frequent and how this monitoring would increase trading party performance.

OR noted the initial information exercise would be a significant ask for trading parties and MOSL however subsequent once a year maximum check ins would be lighter. OR further noted the PAC may decide not to issue surveys in any given year.

OR highlighted need to consider whether within scope of the MPF and whether it focuses on performance or if it includes focus on compliance with the requirements under the market terms which is the content of these assurance statements.

OR noted the view that assurance is completely relevant to the MPF.

DS noted not possible to test the compliance of every trading party against every part of the code and depends on what questions are looking at and are they relevant to performance type issues rather than other issues.

OR noted looking at processes and systems parties are using to mitigate the risk of any changes impacting party performance and requiring reassurance.

CD noted members can see impact on performance if assurance not up to date however members questioning how it is relevant to the MPF.

TN highlighted the design criteria of improved customers outcomes and could not see how this tool improves customer outcomes.

TN noted the concern trading parties are not going through reassurance before making a change however tool does not provide additional assurance only highlighted reassurance should have been provided and thus does not eliminate risk.

TN further noted if this is to act as a reminder to seek reassurance MOSL send regular reminders for other processes e.g., gap site allocation on an annual basis.

TN highlighted not certain of the value for money in trading parties collating information to be provided on an annual basis in particular if PAC can choose it's not required for the following year.

CB noted seeking to use the assurance statements not only to establish if a change has occurred but are any changes planned.

CD highlighted in monitoring SPID levels there is generally a level at which trading parties move from LVI to HVI and this would enable MOSL to provide additional assistance in regard to systems and interfaces e.g., when a system removed from the market which could preempt a drop in performance and prevent reassurance from occurring.

TN noted MPF not designed to aid MOSL but to provide improved outcome for customers and this process applied for all trading parties would only have value for a limited number of trading parties.

CS highlighted it maybe the name of the tool and whether the wording should be survey as opposed to statement.

T06 Additional Metric Monitoring

JJ noted the current additional performance indicator process forms part of the codes and is driven by MOSL in conjunction with the existing MPC.

JJ reminded members under the reformed MPF the PAC is responsible for creating or retiring additional metrics and market indicators with support from MOSL and these metrics would be included in non-code documents which will be approved and maintained by the PAC who will also determine how to present performance against the metrics.

JJ noted the PAC will seek advice from a range of stakeholders when deciding to create or retire additional metrics and market indicators e.g., trading parties, Ofwat, MOSL, Strategic Panel etc

JJ highlighted the PAC may choose to consult on changes but will not be required to do so in every case and the PAC will be required to provide advance notice of changes to trading parties before they are made.

JJ asked members their opinion on performance against these metrics and whether these should be public as standard or should PAC have the option to limit publication.

EJ enquired if additional metrics will be targeted against individual trading parties or against the market as this may determine whether they should be published.

JJ provided a reminder to attendees for both market indicators and additional metrics.

JJ confirmed market indicators are to assess whether overall performance in the market is improving and whether KPIs and tools used as part of the framework are effective and these would not be published individually only at market level.

JJ noted MOSL provides significant information via dashboards at present and the ability exists to drill down to the lower detail. In respect of the additional metrics these do not correlate to performance as closely as a KPI as there are other drivers that could affect them however they will be used to monitor and indicate areas of concern or provide understanding of performance.

JJ highlighted would not be intending to publish either on individual trading parties.

EJ noted this will be similar to the holistic measures in that an element could be public facing as a good tool for customers to determine trading party performance.

EJ raised concern if the additional monitoring was targeted for individual trading parties as it requires context to explain the reasons and could be reputationally impacting.

KR agreed should not be publicly available however should be available to trading parties, MOSL and the PAC to drill down into.

TN noted better tools are available to assess individual trading parties such as the discretionary tools of audit.

TN enquired if there is a design criteria for developing additional metrics given the whole MPF has design principles including improves customers outcomes and value for money.

JJ noted consultation three included proposals for KPIs as well as additional metrics and market indicators and when considering maintaining, changing or retiring those they will go through the same design principles to provide justification.

AB noted supportive of these being published to ensure as much transparency as possible and whilst not useful for all customers certain customers would benefit from indication of market level metrics.

CD clarified for market indicators and additional metric monitoring the intention to publish where metrics cannot be attributed to any one particular trading party however where additional metric monitoring can be attributed this would not be published.

DS noted good comment on the visibility and highlighted the comparison with KPIs and raised concern on the time and effort MOSL and PAC may spend reviewing these despite not being related to key performance. DS further noted escalation should only apply to a key performance indicators and would not want large number of additional metrics which had not been through the same governance process to become a KPI.

JJ enquired if DS would agree to an audit potentially being requested from data obtained via additional metrics.

DS confirmed could be used to highlighted where specific audit may be useful.

JJ reminded members to share any additional feedback via mpfreform@mosl.co.uk.

T07 Trading Party Audit (previously referred to as "Targeted Audit")

JJ noted previously named Targeted Audits however renamed to reflect these are only for trading parties.

JJ highlighted MOSL is responsible for carrying out the audits but may procure external resource to do so.

JJ confirmed for MPF2.0 the PAC will determine the schedule of audits for the year and these will be summarised in the PAC statement of approach. The schedule will list the planned audits for the year ahead and the approximate timeframes.

JJ highlighted the initial schedule of audits would only cover those which have a strategic or tactical driver or address performance issues ongoing from the previous year.

JJ noted where PAC decides to conduct previously unforeseen audits due to poor performance MOSL would present how these fit into an updated schedule and present PAC with a statement of work to endorse for the rationale for each audit.

JJ further noted the PAC will monitor the audit reports throughout the year and will be provided with the unredacted versions of the report.

EJ noted important function which MOSL provides and enquired how this will work throughout the year if emerging issues arise and where will the resource come from in particular should third parties be required which will have an additional cost.

AS confirmed currently experiencing some difficulties with audits when emerging issues arise. Current approach involves rescheduling other audits to allow time for emerging issues. Additionally, not all MOSL resource allocated 100% to audits allows for flexibility to increase time/resource for emerging issues.

EJ noted may want to complete more audits against new MPF and the financing of the resource to action this needs to be considered.

CD noted the description of the tool may require additional wording to describe how additional audits would be resourced and handled.

TN enquired how targeted audits as a result of emerging issues/poor performance fit into the trading party audits and the scheduling.

AS noted 70% of time allocated to targeted audits and as these are likely to be less time consuming than current audits this should be sufficient.

AS further noted the question of what triggers a targeted audit and how they can be targeted in the correct way which will come from the escalation tool.

DS endorsed the use of targeted audits and endorsed the MOSL team actioning the audits given their understanding of the market and the need to understand performance which may have wider market impacts.

DS noted should non-cooperation with the audit occur this should raise a red flag.

GB noted discussion on targeted audits however it has been renamed trading party audits so should the word targeted be returned to the title.

JJ noted renamed as could be used for multiple trading parties or a single trading party.

GB noted targeted could be either targeting a trading party or targeting a wider issues and would be supportive or targeting as opposed to having an audit to a date.

JJ noted would not be audit everybody and could be a sole trading party in connection with their performance.

TN enquired if to provide flexibility for MOSL team could both types be applied i.e., trading party audits in a similar market audit type approach and targeted audits as part of the escalation process.

AS noted renamed to enable trading party audits and market audits to occur under the same banner however could be separated as a statement of work may not be used for a targeted audit. Targeted audits could be part of the escalation tool.

MOSL to review and revert.

TN noted provides agility around publishing and targeting.

JJ noted these are discretionary tools and could be useful to make a distinction.

T08 Rectification and Escalation

JJ confirmed the proposed process is to be largely similar to the recently revised process in the current MPF.

JJ noted rectification and escalation will occur in closed sessions of the PAC with the PAC meeting quarterly as standard.

JJ highlighted the first step where poor performance is identified will be for MOSL to issue a letter of concern and responses to these letters will be mandated in the code.

JJ confirmed the Initial performance rectification plan step will be removed from code for clarity and a new provision for the Strategic panel to issue a public letter of concern in worst case scenarios will be added.

JJ noted a trigger for rectification and escalation could include audit findings which may be pursued as part of checking/investigating underperformance.

JJ further noted the current working practice document would be updated and owned by the Strategic Panel and reviewed annually.

JJ highlighted the final step of the process where a licence breach has occurred those would be escalated to Ofwat.

TN noted the similarity with the current process and enquired if closed sessions should be used to discuss performance issues given the KPIs will be published and thus all stakeholders including customers will be aware a party is being escalated.

TN enquired if there would be more transparency if the sessions were not closed with the exception of any session where the party was attending the session.

JJ agreed to review and revert as may have other implications in holding in open session.

GB enquired if the 'happy path' and 'unhappy path' still exist as per the webinar from consultation three as this indicated the triggers for escalation.

JJ noted the worked examples contained these however the triggers were not detailed as yet to be defined however suggestions were included e.g., not based upon a single month of underperformance.

JJ enquired if the process should define the triggers and criteria for intervention.

GB noted would be useful to have definition as would not want escalation to occur when a party had very poor performance in one area for one month and then returned to normal the following month however if repeat behaviour occurred this would require escalation.

DS noted escalation should only apply to KPIs and considered in closed session as per the current process. DS further noted if not working the Panel writing a public letter relies on peer pressure and this may not be sufficient. Ultimately Ofwat will be responsible as this would have licensing implications.

DS further noted no need for any sort of challenge process as Ofwat would need to implement.

TN recommended taking into account the size of the trading party within the escalation process given the trading party would be failing their obligations to their customer it should focus on those with a large customer base.

OR noted question four was to establish what degree this should be a mechanical process or a truly discretionary process and should the focus be on principles and considerations which would always go to PAC.

JD noted activity should be limited to KPIs and the additional metrics should be used carefully.

JD noted should be a balance between a mechanical process and a discretionary one not just defined by the metrics as some situations will require common sense to be applied.

JD further noted for certain circumstances a challenge process would be useful as previously the opportunity to challenge against rectification/escalation due to factors not being considered has not been available.

CD enquired if the MPS18/19 scenario would be an example of when a challenge process would have been useful.

JD highlighted change being implemented of consideration to read meters when a Bilateral is outstanding where historically it was not considered this way when performance was being measured would be an example of when a challenge process would have been useful.

AB noted preference to apply to additional metrics and KPIs as where poor performance is identified against additional metrics which is impacting customers there would not be a tool to address that.

AB further noted could be a KPI however these will be detailed in the codes thus meaning the change process would apply to make alterations and this would not be quick or agile.

AB highlighted should not be a risk as PAC will be scrutinising the additional metric data. However, need to be clear on what circumstances have to exist to be escalated further to Panel and then to Ofwat.

CD highlighted additional metrics could influence audits and these may influence escalation and trading parties have indicated additional metrics should not influence escalation.

SK noted need to have a process around the additional metrics in particular as wider framework has a process and a process for modifying KPIs.

SK further noted disadvantages of rectification and escalation against additional metrics.

SK highlighted for Ofwat breaches of the WRC by trading parties can be construed as a breach of licence and ultimately there is a role for Ofwat, however Ofwat would require evidence and a sense of the customer harm that was associated with that.

KR noted TN's comment on the relative size of trading parties and highlighted customers should not be disadvantaged by using a smaller trading party.

	<p>KR further noted if the additional metrics are to be used this strengthens the requirement for a robust challenge process as it may not be the sole responsibility of one trading party if performance drops.</p> <p>KR highlighted need to understand what the outcome of any audit would be and where would that go if it identified issues which should be included in the rectification and escalation process.</p> <p>JJ noted audit findings could be a trigger for rectification and escalation.</p>
4.	Upcoming workshops & AOB
	<p>CD confirmed a further two meetings to review the tools discussed.</p> <p>CD further confirmed metrics discussions will begin in March</p> <p>TN enquired if the design work shown on the programme plan correctly reflects the current position.</p> <p>JJ confirmed the design phases shown on the programme plan reflect the MOSL internal SME discussions and noted overlap on design phases.</p> <p>TN noted at BR-MeX workshop readiness of some metrics called into question and enquired if these will be ready for December should Ofwat want to include them.</p> <p>JJ confirmed the discussion is more a question of suitability as opposed to readiness.</p> <p>TN confirmed therefore can still be included in BR-MeX as will be fully considered in time.</p> <p>CD noted slides available on the website and requested members send feedback to mpreform@mosl.co.uk</p>