

Market Performance Framework

***PAG Workshop on Governance
and introduction to Part B
tools)***

14 February 2024

A photograph of a person's hands typing on a laptop keyboard. The laptop screen displays a presentation slide with the text 'MARKET VALUE ADDED' in large, bold, black letters. Below this text are two lines of smaller text: '#search #business #concept' and '#keywords #design #innovate'. The slide has a light beige background with a white border. The laptop is on a wooden desk, and the person is wearing a white shirt sleeve.

**MARKET
VALUE
ADDED**

#search #business #concept
#keywords #design #innovate

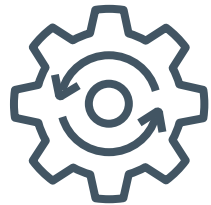
Agenda

	Item	Presenter	Time
1	Welcome & update	Chair	5 mins
2	Update on Governance	OR	30 mins
3	First review of Part B Tools (T01, T02, T06, T07, T08)	OR/JJ	80 mins
4	Upcoming PAG workshop(s) & AOB	Chair	5 mins
			Total: 2 hours

Housekeeping

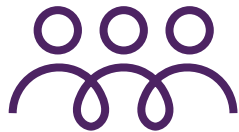


Welcome all (new and well established)



Workshop format

[Minutes and slides](#)

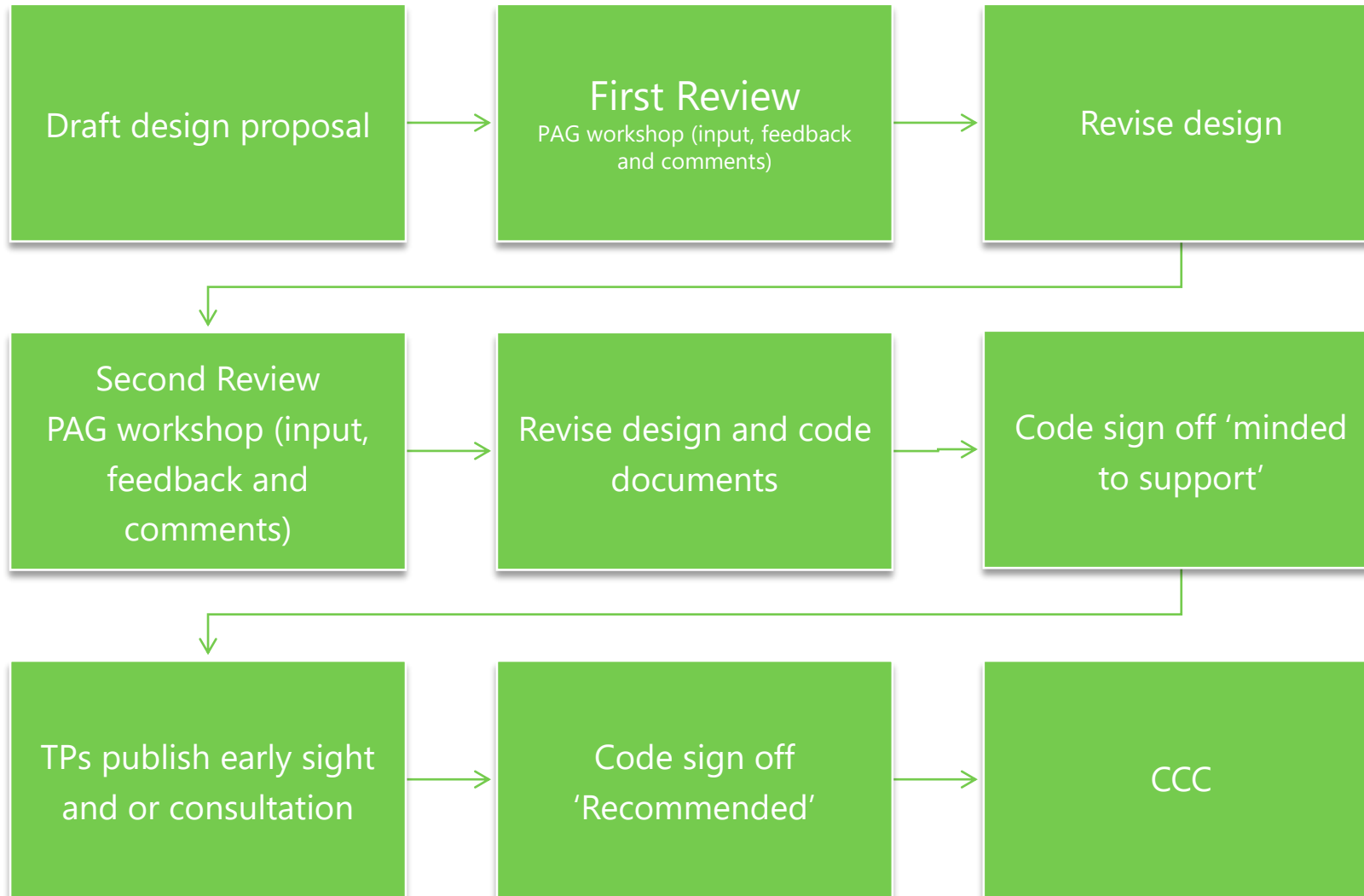


Please introduce yourself



Chat and Questions

Detailed design Approval signoff



Key design principles (1/2)

1. KPIs

- How each KPI is defined and calculated (and how any associated charges are calculated if applicable) will be set in code.
- KPIs can only be created, removed or changed through code change.

2. Target Performance Levels

- Target Performance levels for KPIs (apart from those which are used for BR-MeX incentives) will be defined outside of code. The PAC is responsible for maintaining these.
- The code will set out the steps that must be followed for PAC to change these. Changes must be consulted on, and parties must be given notice of changes.

3. Other metrics

- Market Indicators and Additional Metrics will be defined and maintained outside of code (see slide 18 on T06 Additional Metric Monitoring). The PAC is responsible for these (API process today is driven by MOSL).
- The code will set out the steps that must be followed for PAC to change these. Parties must be given notice of changes

Key design principles (2/2)

4. Performance Assurance Committee (PAC) meetings

- PAC will meet quarterly as standard. During its induction, and in exceptional circumstances, PAC may meet more regularly.

5. Reporting metrics

- KPIs will be presented through public peer comparisons which directly rank parties against each other, with the target performance level clearly called out.
- The PAC may remove peer comparisons from public viewing in exceptional circumstances.
- Additional Metrics and Market Indicators can be presented on dashboards are publicly accessible, but there will be no direct ranking of parties against one another. The PAC may request ranked views of these metrics. See slide 18 on T06 Additional Metric Monitoring.

6. BR-MeX

- Only KPIs can be used to inform BR-MeX incentives.
- Where Ofwat has chosen a KPI for BR-MeX, its link to BR-MeX will be set in code, and so will its target performance level.
- Such KPIs will be reported through MPF peer comparisons but will not incur penalties or rewards through the MPF (although it may still require a Wholesaler to directly compensate a Retailer).
- Where performance on a KPI used in BR-MeX is low, Ofwat will determine the best course of action/intervention.
- The relevant KPI and its link to BR-MeX cannot be changed outside a code change.

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Update on PAC Composition

Points of contention from original proposal

- PAC Chair will come from MOSL (appointed by Panel). Concerns raised by PAG members include:
 - MOSL may have undue influence as it is proposed to be represented on the PAC already.
 - Conflicts of interest (e.g., where PAC will be responsible for MO assurance).
- PAC will include 4 Trading Party members (2 Retailer, 2 Wholesaler). Concerns raised by PAG members include:
 - The nature of the role requires a greater breadth of understanding across different types of trading party operation to understand performance challenges and appropriately test remedial actions.
- PAC composition will be set out in its Terms of Reference, rather than the code. Concerns raised by PAG members include:
 - This is disproportionate should PAC have a greater role and influence than MPC today.

Update to be presented to Panel

- **The Chair will be an independent voting member (with a casting vote).**
 - Consistent with the findings of the governance review (which led to creation of CCC and Strategic Panel).
 - Avoids conflicts of interest with MO compliance matters and better aligns with the concept of MOSL having an operative MPF role.
 - Resolves deadlocks in cases of tied votes.
- **Trading party representation on the PAC will be increased to 6 trading party members (3 Retailer, 3 Wholesaler).**
 - Broadens the trading party expertise available to the PAC to support well-informed challenge and debate.
 - Allows material conflicts (e.g., where a PAC member is an employee of a trading party that has been escalated to PAC) to be managed within the proposed quorum without unduly impacting the broad experience the committee can draw on.
 - Does not impact the overall balance of votes across the committee (i.e., will not affect the risk of an industry/non-industry split within voting). Due to the addition of an independent voting Chair, the proportion of votes remains as the original proposal approved by Panel in November (~60:40 industry: non-industry). All trading party members remain bound to act impartially and in the interest of the market as a whole.
- **Quorum will be updated accordingly** to require the Chair plus 1 Retailer, 1 Wholesaler, 2 non-trading party members, and one additional member of any type (previously Chair plus any two trading party members and any two non-trading party members).
 - This will help ensure the minimum requirements of the PAC retain a balance of views with broad experience.
- **The PAC Composition will go in code.**
 - To reflect PAG concerns around proportionality

Update on performance periods

Original Proposal

- Performance Periods will be marked by a **Performance Period Report** (looking back) and a **Performance Period Plan** (looking forward). These reports replace the AMPR process. The Panel will own these reports and will set the duration of each performance period between 3-5 years.
- The **Risk and Issues Tracker** and **Statement of Approach** (which will replace the MPOP) will be refreshed each year within. The Panel may call for fundamental reviews of Risks and Issues as required.

Feedback

- Concepts supported by majority of respondents in consultation 3.
- PAG feedback: these activities need to have value (balance the benefits of certainty and clarity with flexibility and effort).

Updated Proposal

- **As per original proposal but with one report – a Market Performance Review Report - being requested by Panel from time to time to evaluate the framework.**
- This one report will review the framework to date and set out recommendations for future focus/change.
- Comparison vs original proposal
 - More flexible (reviews are not necessarily limited to a set date)
 - More efficient (one report, not two)
 - Still provides a degree of transparency and clarity (each report will likely signal when the next review will be requested)

Update on PAC implementation

Why implement PAC before April 2025?

- The alternative to implementing PAC early would be to wait until April 2025 once all MPF 2.0 components are ready. However, the composition arrangements and responsibilities of the PAC is a step forward for the MPF and it makes sense to realise benefits early and allow PAC to learn its role for a seamless go-live.
- The PAC can keep track of transitional performance scenarios, and fairly account for changes in tools and metrics from MPF 1.0 to MPF 2.0 on a case-by-case basis when interpreting party performance. Nuances and considerations could be lost in a late/sudden change of the responsible group.

Why should PAC adopt MPC responsibilities?

- Not all MPF 2.0 tools and metrics will be available before April 2025. If PAC replaces MPC before April 2025, it will need to adopt legacy functions to minimise risk in the interim. The current tools and metrics are more appropriate than having nothing in place.
- Some legacy MPC functions will have equivalence in MPF 2.0 which will also help PAC learn its role and ensure a seamless go-live in April 2025.
- It would be costly, inefficient, and confusing/complicated to have PAC and MPC running concurrently (especially should some individuals appear on both).

Next steps

- Proposed updates to composition (slide 9) to be ratified by Panel.
- Code drafting to be developed with CAG through February and March.
- Webinar to communicate proposed governance model more widely.
- Draft Recommendation Report to be presented to Code Change Committee for Recommendation in April.
- Ofwat decision by the end of May.
- PAC recruited throughout summer 2024 to replace MPC in autumn 2024.

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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 16	<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 17	<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 18	<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 19	<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 20	<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. "

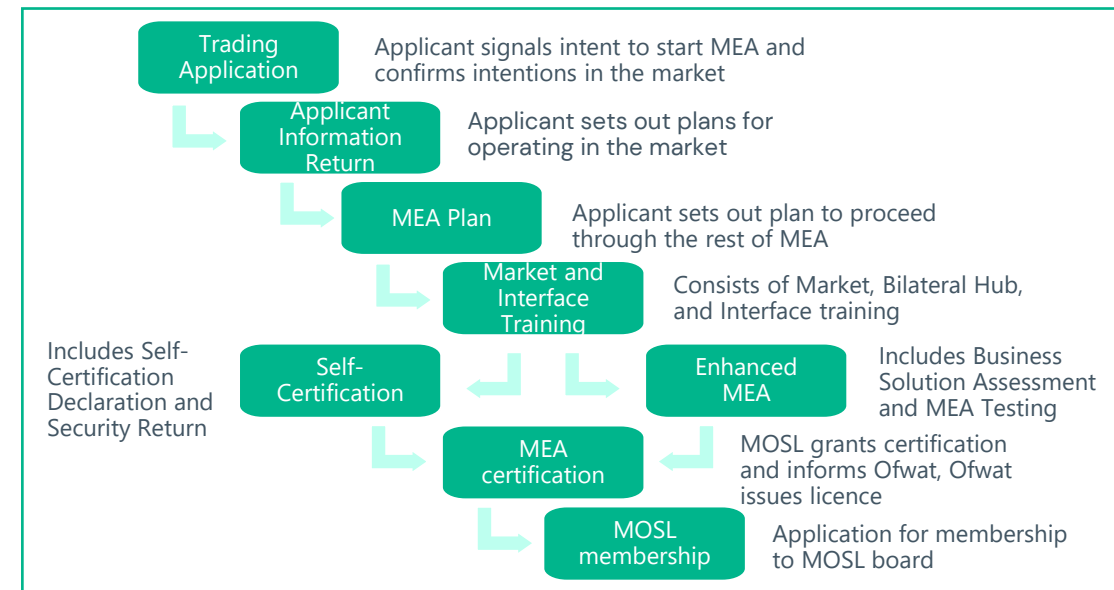
T01 Market Entry Assurance (MEA)

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 (see slide 21).
- 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:

- 1) From experience of these processes, can any other elements of MEA and MRA be improved?
- 2) 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

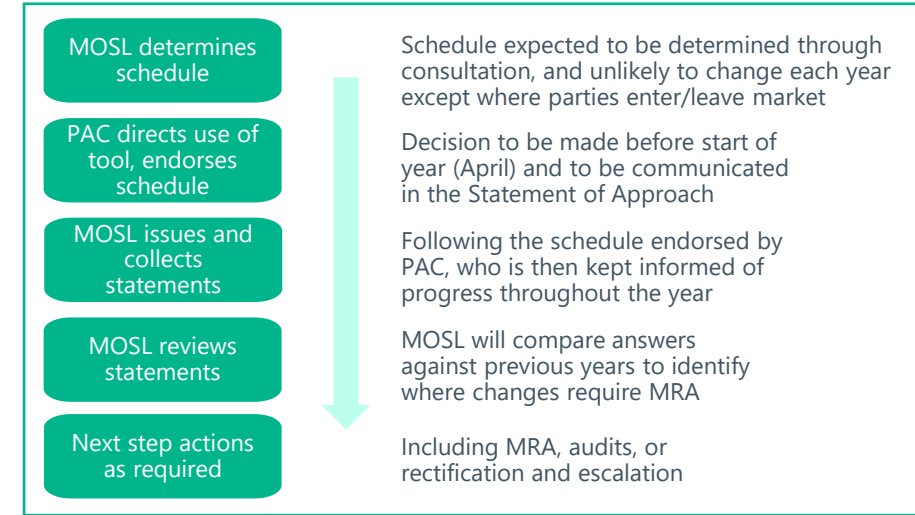
Type: Standard Tool, PAC to make an annual decision whether to apply for given year

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. 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 19). PAC will also advise on any next step activities as required (including if rectification and escalation is required, (see slide 20).

Workshop questions:

- 1) What information (see suggested themes in bold above) should the assurance statements require of trading parties, and who determines final scope?
- 2) Should PAC be able to add additional questions from time to time (noting that a consistent set of questions would simplify annual comparison)?
- 3) Who should decide notice periods and completion times?
- 4) What happens if a party does not complete and return assurance statements in full and on time?
- 5) How long after MEA should a new entrant be required to complete assurance statements?
- 6) Are there any survey methods that parties find more familiar/logical/simple to complete than others, that this process could use?
- 7) Are there any other possible roles for PAC around this tool?
- 8) 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

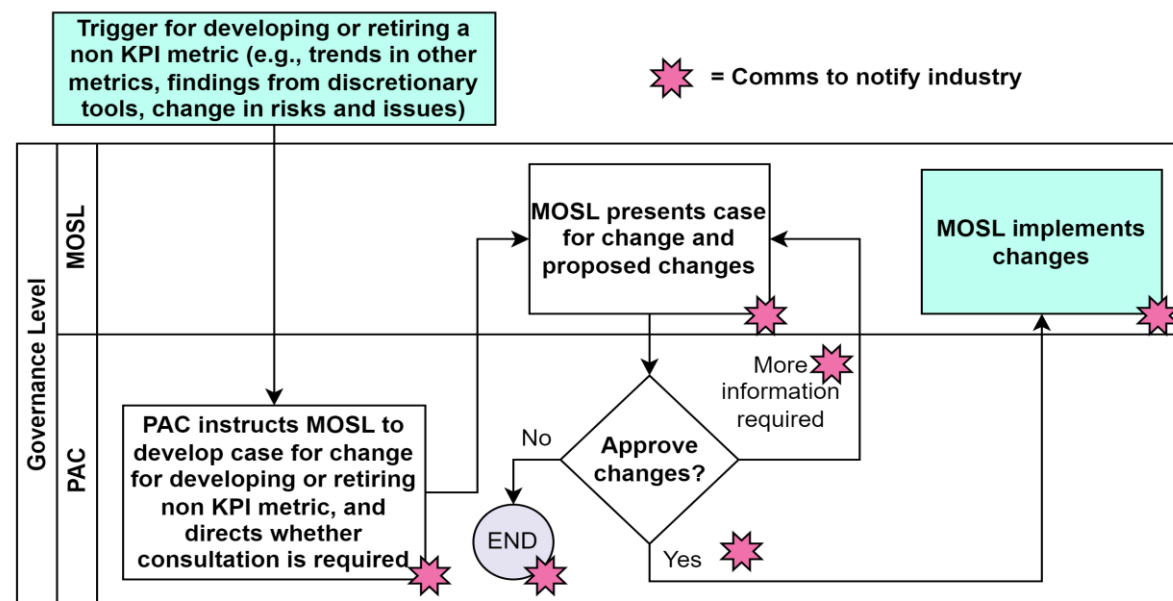
Type: Discretionary Tool, to be applied by PAC as required

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:

- 1) Should performance against these metrics be public as standard, or should PAC have the option to limit publication as industry only in some cases?
- 2) 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?
- 3) Should all rectification and escalation options (see slide 20) 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)?
- 4) Should the code set a minimum notice period of changes to these metrics?
- 5) Should PAC be able to create Additional Metrics on an individual or confidential basis?
- 6) 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 (see slide 17), or to identify potential compliance issues as suggested by trends in Market Indicators and Additional Metrics (see slide 18), or for checking rectification or investigating underperformance (see slide 20), 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:

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

T08 Rectification & Escalation

Impact: Reputational , Corrective and Facilitatory

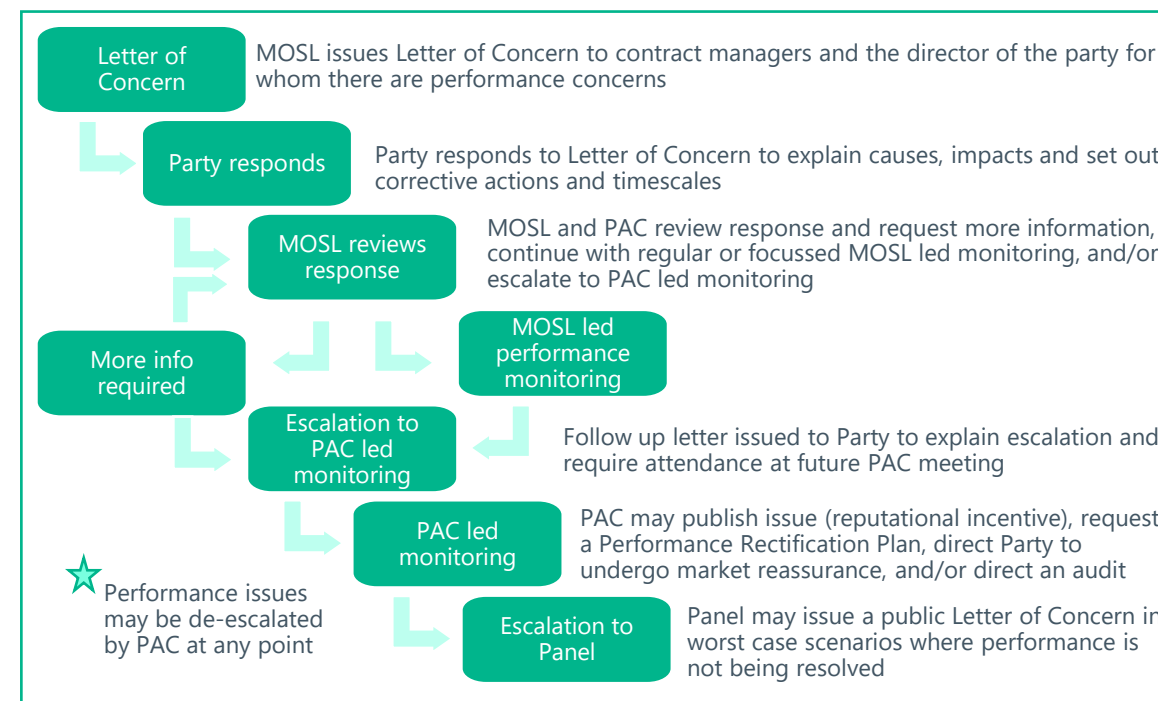
Type: Discretionary Tool, to be applied by PAC as required

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). See slide 19.
- 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.

Workshop questions:

- 1) Should these activities be limited to KPIs, or can they also be applied against Additional Metrics?
- 2) What areas of rectification and escalation can be improved?
- 3) What factors should MOSL consider before escalating an issue to PAC?
- 4) Should the process define triggers/criteria for interventions by MOSL and PAC or should these be discretionary?
- 5) 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)?
- 6) Is there value in establishing a challenge process for rectification and escalation?
- 7) What should a letter of concern (and response to such) be required to set out?



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

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Upcoming PAG workshop(s)

Date	For discussion	Detail
29.02.24	MPF Tools	Workshopping T01 Market entry assurance, T02 Assurance statements, T06 Additional metric monitoring T07 Targeted audits, T08 Rectification & escalation
13.03.24	MPF Tools	Workshopping T01 Market entry assurance, T02 Assurance statements, T06 Additional metric monitoring T07 Targeted audits, T08 Rectification & escalation
From March	MPF Metrics	

MOSL

