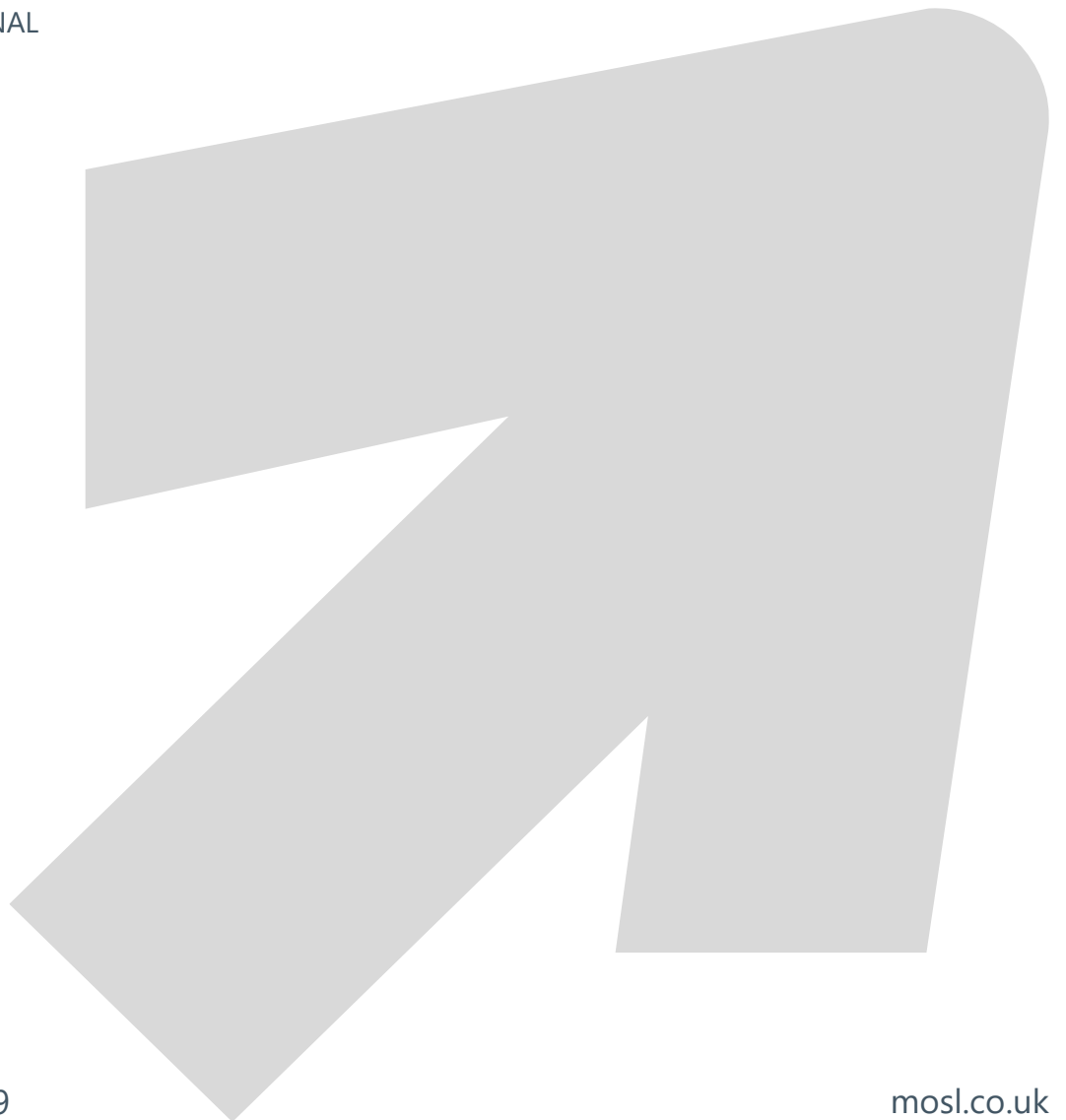


# Performance Advisory Group (PAG) 60

**Location:** MS Teams

**Date and time:** 06 November 2024, 1000 - 1200

**Status of minutes:** FINAL



## Meeting Minutes

### Market attendees

Name	(Initial)	Role/Organisation	Name	(Initial)	Role/Organisation
Clare Garland	CG	United Utilities (W)	Lewis Campbell	LC	Castle (R)
Daniel Proctor	DP	Waterplus (R)	Pam Nash	PN	C&C (O)
David Moss	DM	Castle (R)	Paul Baker	PB	Business Stream (R)
Emily Jerome	EJe	Water2Business (R)	Paul Walmsley	PW	Yorkshire (W)
Gerard Lyden	GL	Thames (W)	Robert Hetherington	RH	Ofwat (O)
Gillian Bladen	GB	South West (W)	Shakima Fagan	SF	Everflow (W)
Harriet Eames	HE	Yorkshire (W)	Shaun Kent	SK	Ofwat (O)
James Mackenzie	JM	CCW (O)	Sian Forward	SFo	Northumbrian (W)
Jamie Davies	JD	Castle (R)	Sindiso Bango-Dube	SBD	Waterscan (R)
Jon Fuller	JF	Wessex (W)	Victoria Milton	VM	South West (W)
Jordanna Lo	JL	Business Stream (R)	Wendy Monk	WM	Wave (R)
Letoia Mann	LM	Clear Business (R)			

### MOSL Attendees

Name	(Initial)	Role	Name	(Initial)	Role
Miles Robinson	MR	Chair	John Gilbert	JG	Observer
Oli Robins	OR	Presenter	Nichola Sampford	NS	Observer
Adam Richardson	AR	Observer	Sam Webb	SW	Observer
Amanda Plumb	AP	Observer	Sauda Dickinson	SD	Notes
Evan Joannette	EJ	Observer	Simon Bennett	SB	Observer
Huw Comerford	HC	Observer	Steve Formoy	SFor	Observer
Janet Judge	JJ	Observer			

1.	<p><b>Welcome &amp; update</b></p>
	<p>MR welcomed all members to the meeting and confirmed the agenda.  MR reminded attendees that agenda, minutes and slides are published on the MOSL website for review and questions and comments to be sent via mpfreform@mosl.co.uk.  MR presented a reminder on the delivery phases for part C and the MPF plan.  MR presented the revised programme plan.  MR presented an overview of the MPF delivery plan.</p>
2.	<p><b>Approach to penalty charge cap</b></p>
	<p><b>OR urged members to send through any further feedback or views offline, following today's discussion.</b></p> <p>OR presented a reminder of <b>Consultation 4 proposal and feedback</b>, as on slide 10.  OR presented <b>Context on Cap</b> values, as on slides 11-13.  OR presented the <b>Emerging proposal</b>, as on slides 14-15.  OR presented <b>other options considered</b>, as on slide 16.  OR presented the <b>Discussion points</b>, as on slide 17.</p> <p>SK noted there would be merit having a cap moving to a new MPF, noting that there should options for having sunset clauses, glide paths or review points to potentially remove the cap at a later stage.</p> <p>JD advised that the PAC should have influence reviewing the cap, noting that the cap is one of many different indicators and advised that removing the cap removes a level of market indicator for performance.</p> <p>OR advised that the cap could be used either as a tool to identify cases of poor performance or used as a backstop in extreme scenarios.</p> <p>OR queried whether the PAC should have a role in amending the level of the cap.</p> <p>JD advised that the PAC is meant to be a committee that investigates performance issues and if the cap is not being hit after a year or two, the PAC should be able to reassess and adjust the level of the cap if necessary.</p> <p>OR noted that there was agreement from some members on the PAC's role.</p> <p>MR noted that there were questions around the when the cap would be reviewed and advise that there needs to be clarity around the review process and timelines.</p>

GB advised that original request was to have the cap removed completely, which was challenged as it could cause unwanted impact to the market, but if no-one is hitting the cap, there would be no concern over market impact, which would indicate that a cap is not required but individual parties constantly hitting the cap indicates that audit measures need to be taken.

JD advised that the PAC should consider how the cap should possibly be used as a performance indicator and as a backstop to ensure a trading party do not get breached for just a system issue.

OR advised that it is important to set the cap at a realistic level to ensure that it is useful.

DM advised that if the cap is set too high, it may indicate that performance is at lower levels across trading parties and that there should be an average benchmark to inform where the cap needs to be readjusted.

SK noted understanding that the reason for the cap was to limit trading parties' exposure to unexpected effects from performance measures and financial penalties that were not linked to performance or the controllability of trading parties and advised that it would be concerning if the cap was only seen as an additional performance indicator.

SK further advised that there have been instances of one-off reduced performance and many instances of sustained performance, noting that should not be protected or encouraged with how the cap operates. We need be clear on the reasoning and rationale for the cap.

JL agreed with the proposal of having a cap as it allows new trading parties to enter the market, protects smaller trading parties trying to understand the market, and helps protect the data of trading parties trying to migrate into a different system.

JL advised that it is important to have a review process for the cap and it should be reviewed on an annual basis.

SF advised that the cap should act as a backstop safeguarding against extreme events and allowing certainty in commercial risk for new entrants.

SF further advised that the cap should not be a performance indicator as we have those in abundance and there should be clarity around the reasoning and rationale for the cap and the cap should act as a safety net for extreme instances.

GL agreed with the proposal of having a cap and advised that it should not be used as a performance tool but rather as a safety net, particularly for smaller trading parties.

	<p><b>MR summarised that the discussion indicated a desire from PAG members for clear rationale on the cap and flexibility, mixed views on what the extent of the protection should be and mixed views on whether it should be an additional performance indicator.</b></p>
<p><b>3.</b></p>	<p><b>Approach to Performance-based Redistribution</b></p>
	<p>OR presented a reminder of <b>Consultation 4 proposal and feedback</b>, as on slide 120.  OR presented <b>Context</b>, as on slide 21.  OR presented the <b>Emerging proposal</b>, as on slide 22.  OR presented the <b>Discussion points</b>, as on slide 23.</p> <p>GB queried whether there was a definitive list of KPIs which would have performance-based redistribution.</p> <p>OR advised that it would be the same KPIs proposed in Consultation 4.</p> <p>PW provided a tabled view, in the chat, of the KPIs eligible for performance-based redistribution.</p> <p>JD noted concerns that a trading party could perform well for one KPI and very poorly in another KPI and advised that redistribution on holistic performance would be better as trading parties who performed well holistically should be given more of the redistribution.</p> <p>SK advised that redistribution based on individual KPIs might encourage trading parties to focus on particular KPIs that may be easier to achieve.</p> <p>SK noted previous discussions around trading parties not receiving the money they had paid into the redistribution pot and queried what the decision was on that.</p> <p>OR confirmed that the funds a trading party had paid would not be included in their redistribution payment.</p> <p>DM advised that a holistic approach would be better as redistribution based on individual KPIs could be subject to gaming.</p> <p>DM queried, as a lot of the charging amounts are not being changed, whether the amount of the performance-based redistribution pot would look much different than what we currently have.</p> <p>DM advised that discussions are needed around the MIF and what it currently serves and caters towards as it needs to be informed by the MPF, noting that there would be issues of</p>

trading parties reaching caps or having poor performance in some areas and the MIF should be more informed to directly feed back into those issues.

EJ agreed that the MIF could be more focused and noted that the next round of the MIF may be more linked to the flourishing roadmap, further noting discussions around what else the money could be used for could be had outside of the MPF.

DM noted that the programme needs to be directly informed by the MPF and the discussion needs to be around what the criteria for the MIF is, who should get the funding, how it would directly impact performance failures and how it could be used improve the market.

DM queried what happens to funds that are not used in the MIF.

EJ advised that any money not used from the MIF is paid back to trading parties.

MR advised that the changes on charges would be confirmed in Consultation 5.

JL noted that the purpose of performance-based redistribution is to drive the right behaviours and agreed that performance should be look at holistically and performance-based redistribution for individual KPIs could be subject to gaming.

JL further advised that there may be a forum needed that support the market on how technical changes are made on processes that do not currently exist.

GL noted that from discussions, there might not be a strong case for changing from the design we have today, noting that the new proposal seems complex and getting a part of the complex calculation wrong could result in unexpected impacts and advised that using penalty payments to fund the MIF would be a positive approach, rather than having an overly complex mechanism of reward-based redistribution.

GL further advised that the current redistribution mechanism is better and that we could focus other opportunities through the MIF.

PW noted that feedback on Consultation 4 was to move from monthly charges to annual or quarterly charges, noting the moving to a lower frequency could reduce the potential for gaming and add flexibility and advised that it could potentially be measured monthly but not charged monthly.

PW further noted that the would be benefit in having a view of different options for the approach to performance-based redistribution for PAG members to consider.

SK agreed that it would be beneficial to use the money to fund projects that improve the market as that would benefit the whole market.

	<p>SK noted that as some of the elements of the proposal are complex, it would be challenging to predict or understand the incentive effects and it would be worth considering minimising the amount of the redistribution.</p> <p><b>OR noted there were mixed views around either retaining the current mechanism and placing more emphasis on funding the MIF or exploring the proposed holistic approach further to expand on how it would work.</b></p> <p><b>MR added that the discussion indicated a stronger support for a holistic approach to performance-based redistribution and advised that it would be helpful to share a view of the other options considered.</b></p>
<p><b>4.</b></p>	<p><b>General approach for setting charges and standards</b></p>
	<p>OR presented the <b>approach to a final model for chargeable KPIs</b>, as on slide 26.</p> <p>OR queried whether there was another way to approach setting the values and charges and standards, other than looking at the activity costs, looking at the current MPS charges the equivalent in the current framework and looking at the impact of poor performance we want to mitigate.</p> <p>The were no initial views or suggestions from PAG members.</p> <p><b>OR noted that the aim would be to share the slide pack with PAG members offline and encouraged members to send through any feedback offline, noting that the discussion will be brought back in a couple of weeks.</b></p> <p>MR confirmed that with the plan for Consultation 5, the final approach for setting charges and standards will be shared as one of the pre-read documents.</p>
<p><b>5.</b></p>	<p><b>Upcoming PAG workshop(s) &amp; AOB</b></p>
	<p>SFor advised that it would be helpful to raise the points with the Panel around having a closer link between what the MPF is measuring in terms of performance and what is driving that and how we focus potential projects on the MIF, noting that the code has criterion stating that MIF cannot be used for BAU and queried whether PAG members would want to revisit the BAU clause on the MIF.</p> <p>GB advised that it would be beneficial to reconsider the clause as it has been mentioned that there is a need for improved processes in the market.</p>

SK agreed that it would be worth revisiting as the public benefit of the MIF is greater than the private benefit and that is a rationale for having the fund.

MR confirmed upcoming workshops.

EJ noted that we are still under a time pressure to ensure that the BR-MeX metrics are ready, and that code drafting has started and is to appear at Code Change Committee in January.

MR noted the webinar on M01 is aimed to take place on the 21<sup>st</sup> of November and the invitation would be sent out soon.

MR closed the meeting.