

**To promote, challenge and lead the operation and evolution
of the market for the benefit of business water customers**



Market Performance Framework (MPF) Reform Programme

Consultation 4: Detailed Engagement Report

6 September 2024

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers



About Consultation 4

The fourth consultation relating to the proposed reforms of the non-household Market Performance Framework (MPF) ran from 8 July to 2 August 2024.

The consultation focused on 'Part D' of the programme, i.e. proposals relating to financial incentives and penalties. Three [pre-reading documents](#) were issued in advance for stakeholders' early sight.

The quantitative results from the consultation (i.e. responses to closed questions) were [issued on Tuesday 13 August](#). For completeness, the responses to these questions are included below, excluding some of the Section 1 'about you' questions.

A webinar was held on Wednesday 17 August to provide an overview of the consultation and any clarifications that may be needed before stakeholders submit their responses. A recording of the webinar is available on the [MOSL website](#).

About this document

MOSL received 28 responses to Consultation 4. Many of the responses to the qualitative (open) questions were extensive.

This document sets out in tabular format the comments, queries and suggestions received from respondents, and MOSL's response to each. Where comments have included multiple issues, they have been separated to enable MOSL to respond.

Where necessary, some responses have been summarised or condensed due to their length. Where this is the case, we have sought to ensure the meaning of the original response remains unchanged.

A document containing the original, verbatim, responses is [available here](#). A holistic view of comments and the conclusions that MOSL has drawn will be provided at the feedback session on 12 September (see below).

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers



The response numbers correspond with the structure of the questionnaire. Each question is presented, followed by stakeholders' comments. Where appropriate, comments have been moved into the relevant theme.

Our desire to provide transparency and enable stakeholders to see MOSL's response to each of their comments means that this is, unavoidably, a long document. Responses are listed alphabetically by Retailer, then Wholesaler. Trading parties may wish to search the document to find their names (e.g. by CTRL-F). Each response has a unique reference that includes the number of the original question and number of the comment in sequence. Numbers that appear out of sequence were added latterly.

The second and third [pre-reading document](#) provides a good reference of the complete set of proposed metrics and their full descriptions. Readers may find that helpful as respondents and MOSL often used just metric and principle references in the tables in this document.

The results will be presented at the face-to-face meeting in London on [Thursday 12 September](#). The presentation and discussions had on the day will inform the way forward and will ultimately be included in the Recommendation Report for the consideration of the Code Change Committee and Ofwat.

Methodology

Please note that the percentages quoted are based on the number of responses to each question, not the total number of responses to the consultation. The percentages represent only trading parties that expressed a view.

For example: if a question was answered by 27 of the 28 respondents, the results for that question reports on those 27 responses. The number of respondents for each answer to each quantitative question is provided in the breakdowns on slides 7-12. Where the total number of responses to a question is below 28, this indicates that a proportion of parties did not respond to that question.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Section 1 – ‘About you’

Question 1.4. Responses by type of organisation (total: 28)

Wholesalers	Retailers	Other
Affinity Water	ADSM	CCW
Anglian Water	Business Stream	
Dŵr Cymru (wholesaler)	Castle Water	
Northumbrian Water	Clear Business Water	
Portsmouth Water	Dŵr Cymru (retailer)	
SES Water	Everflow Utilities	
South East Water	Nottingham City Council (self-supply)	
South Staffs Water	Pennon Water Services	
South West Water	Sefton Council (self-supply)	
Southern Water	Water2Business	
Thames Water	WaterPlus	
United Utilities	Waterscan	
Wessex Water	Wave Utilities	
Yorkshire Water		
Total: 14	Total: 13	Total: 1

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Section 2 – Principles & Performance Standards

Question 2.1: Do you agree that key performance indicators (KPIs) should have 'minimum' and 'outstanding' standards?

Yes: 23 (82%)

No: 5 (18%)

Question 2.2: If you wish to explain your answer, please add here (see below)

Ref	Respondent	Comment	Response
2.2.1	Business Stream	Minimum and outstanding standards may not be appropriate for every KPI. Careful consideration should be given to these levels as the benefits of having minimum and outstanding standards will be negated if they are set at the same value.	Noted. In some cases the design of a metric may not support that trading parties should achieve less than a perfect 100% standard (e.g. a transfer read that can be achieved by actual or estimated readings). MOSL agrees that minimum and outstanding standards should be discrete to achieve their intended purpose of incentivising service.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.2.2	Castle Water	Several proposed KPIs are not “focused on areas within a trading party’s control”, such that the setting of any ‘minimum standard’ will be problematic and will almost likely fail.	All KPIs have been designed so that the party with the obligation to deliver the underlying action is incentivised. Exceptions have been proposed for metrics where appropriate. In addition, minimum standards below % for some KPIs will also help ensure parties are not unnecessarily penalised for factors that are reasonably outside their control. All MPF 1.0 KPIs are currently set a standard of 100% (less a 5% allowance for cyclic meter read metrics), so the proposal for minimum and outstanding standards can create a fairer target for trading parties.
2.2.3	Castle Water	If the ‘minimum standard’ is fairly set as a true minimum to recognise the multiple elements outside of a trading party’s control on any given metric, that ‘minimum standard’ would likely not be understood, and therefore would be viewed as being too low to be acceptable to all stakeholders.	Noted. MOSL agrees that if the minimum standard was set as the respondent describes that it could be unacceptable to stakeholders. Therefor the minimum standard should not necessarily be set so that every trading party can or will achieve it. This would not incentivise an improvement in performance.
2.2.4	Castle Water	Explaining and justifying what to some would be perceived as a low ‘minimum standard’,	Noted. MOSL agrees that the standards and performance of MPF 2.0 may need explaining

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		would be problematic. For example, consider a combined performance score today of more than 90% reported against metrics MPS18 and MPS19 on the existing MPF; this will likely fall to below 70% on the replacement metric M01. We need to consider the optics and ask ourselves, “will that be capable of being explained/ understood and be deemed acceptable to all stakeholders”? If not, and the bar for the minimum standard is consequently increased, then the entire premise of the new MPF is destroyed.	against the standards and performance of MPF 1.0. MOSL expects that by design, standards may change as average market performance improves.
2.2.5	Castle Water	Principle OP2 notes that “outperformance payments will be calculated at a market level and will not consider regional variations in costs of impacts”. This means no variation across geographic regions, even though the market consists of multiple regional monopolies, each of which looks and behaves differently. There is no common basis and each wholesaler’s exposure to these regional monopolies will be different, often materially different. Those regional monopolies each have different characteristics, which change the cost to serve for trading parties. Therefore, they materially impact on the performance	Noted. Wholesaler-specific KPIs have been developed to target regional performance differences in Wholesaler performance. This is a national market with retailers able to compete across all regions. Customers should be able to expect the same standard of service irrespective of their region. Regional differences would also be impractical to implement, add complexity and create potential confusion for customers operating across a number of regions.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		<p>outcomes, which are being measured. A common standard is inappropriate and inequitable. It undermines the very premise of our new performance framework. For example, the cost to retailers of reading meters is generally significantly less in areas where a wholesaler offers a meter reading service, and the read rate is significantly higher. This would result in improved performance based solely on geography. Simplicity cannot be promoted above the principle of equitability and having a fair baseline against which to compare performance.</p>	
2.2.6	Castle Water	<p>Incorrectly using the argument for simplicity, we have sacrificed the fundamental principle of the 'level playing field'. That is a true principle, recognised by all, unlike many of the pseudo principles listed in Section 2 of the pre-consultation documentation. Yet, in proposing this new MPF, MOSL sees fit to sacrifice the level playing field. The result is an inequitable framework, unsuitable as the basis to compare, report, charge, shame, and reward trading parties.</p>	<p>Noted. All retailers and wholesalers will be held to the same standards. Ensuring a level playing field remains a key principle of the reformed MPF.</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.2.7	Castle Water	Regarding setting an 'outstanding standard', it is inappropriate to reward parties for performance which is "just" doing their job. MOSL argues similarly in its documentation, but somehow then claims that 'outstanding' is doing more than their job. But, if the obligation in the market codes is set at or greater than the level of 'outstanding', then this will always just be a trading party doing its job, i.e., meeting its market obligations. There is no justification to reward.	Noted. All obligations as currently defined in the market codes and for which there is a performance KPI technically require 100% performance. However, the reality is that after seven years of market operation, few trading parties achieve perfect performance where they have more than a few tasks. So, it's fair to say that neither 100% performance, nor market leading performance, is part of most trading parties' BAU. Therefore MOSL believes that setting an appropriately challenging outperformance target can be done in a that does not appear to be BAU to stakeholders or end customers.
2.2.8	Castle Water	For PS2, the example given in the documentation is "100% success or completion". Now consider PS2 in the context of Principle OP1, that outperformance payments are 'designed to reward exceptional performance, not business as usual'. However, if the minimum standard and outstanding standard are each set at the same level, then any outperformance payments will be awarded for "business as usual". This is in direct conflict with OP1 and MOSL's statement under OP1 that outperformance payments	Noted. MOSL will ensure the principle is clear that outperformance payments cannot logically be paid where there's an expectation of 100% performance. The rationale for PS2 does note this, including the statement "In such instances, there would also not be scope for outperformance payments."

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		“are not intended to reward companies for simply doing their job.” It also suggests that not all principles are created equally, with OP1 presumably to be sacrificed to deliver PS1 and PS2.	
2.2.9	Castle Water	The lack of quality in the documentation only adds to that concern and has made it unnecessarily difficult and frustrating to respond to Consultation 4. The documentation is not fit for purpose, not meeting a minimum standard necessary upon which to comment - thereby undermining both the proposals and the consultation process.	MOSL has noted this feedback on the consultation materials.
2.2.10	Castle Water	There are other priorities which likely will determine necessary to set that ‘minimum standard’ at a level higher than otherwise would be necessary. Those priorities include the stated need to generate revenue to fund special projects and, if the case for ‘outperformance payments’ is made (which we do not think it can be), then also sufficient revenue to fund these payments also to deliver the supposed benefits. In this context we note the Strategic Panel’s Statement of August 2023 where it said it	There is no proposal to set the minimum performance standard to generate revenue to fund the outperformance standard. The scale of any future MIF rounds will not influence the size of standards or penalty payments or how they are set. The level of MIF funding rounds will be dependent upon the level of charges expected to be collected and not the other way around.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		priorities include that “we will agree the size of, and set the focus for, the MIF to contribute to our key market outcomes and priorities’.	
2.2.11	Castle Water	MO1 – PAG discussions have inevitably become embroiled in debate about how one makes allowances for issues outside of the control of a retailer in successfully gaining a meter read. Each would require some form of carve out or allowance, and each would dilute the original purity of the metric. MOSL suggests that any carve out would likely be to lower the ‘minimum standard’ – but we think that problematic regarding the optics of what would be reported.	Noted. MOSL agrees that creating exceptions and making allowances dilutes the original focus of the metric. However, these are important in helping to better reflect the control that parties have over measured activities. The optics of where standards are set can be managed through clear communications.
2.2.12	Castle Water	One size does not fit all. For example, there are likely more internal meters in an inner-city than in a rural area. Each regional monopoly wholesaler will have different infrastructure and policies, which will drive different meter reading outcomes. Hence, each trading party would require its own carve out and we’d need an array of minimum standards to be equitable and to provide a meaningful basis for reporting and charging.	See 2.2.5.
2.2.13	Castle Water	The principle of ‘equitability’ and ‘level playing field’ do not feature on MOSL’s extensive list	Noted. As per 2.2.6, ensuring a level playing field remains a key principle of the reformed

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		of lesser so-called 'principles', as they are incompatible with the approach that MOSL has adopted to design its performance metrics and financial tools. The result is going to be an inequitable car-crash, subject to legal challenge, and which will satisfy no-one. Further, it will hamper the route to a flourishing market in which Trading Parties compete to service the needs of NHH customers.	MPF, and is inferred in two of the programme's success criteria: 3) Support competition and 6) Transparent and proportionate. MOSL will, however, consider whether it should be a principle in its own right.
2.2.14	Castle Water	MOSL's proposal is only reconstructing many of the same metrics but with a questionable focus on strengthening the incentives and penalties to drive behaviour. The flaw here is that if a company doesn't control delivery of the metric for which it is being made accountable, then it cannot respond to those incentive and penalties. Instead, they just become additional costs which a trading party will be unable to mitigate, except by exiting the market (where that is an option).	MOSL has noted your comment about the impact of Retailers being accountable for delivery in a situation when there are factors beyond its control.
2.2.15	Castle Water	Due recognition should be given to the 'natural incentives', most notably meter reading. That hasn't happened, adversely impacting on the metrics and now the financial tools that are proposed. For example,	Noted. MOSL agrees that there are natural incentives on Retailers. However, the market's current performance (as evidenced by the MPS/OPS performance, reports from Ofwat, CCW, and others) show that these forces are

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		many of the principles underlying the financial tools deny the existence of natural incentives, rather than build on them, should they be assessed to be insufficient.	<p>not currently sufficient to ensure customers receive the appropriate speed or standard of service. A review and assessment of natural incentives was performed and published in August 2022 as part of the MPF Reform programme, noting that natural incentives were present in the retail segment, but currently not effective.</p> <p>MOSL is considering how natural incentives can be enhanced through the design phase of metrics. Should natural incentives become more effective in future, KPIs can be retired, standards modified and reliance on financial interventions reduced as appropriate.</p>
2.2.16	Castle Water	Those natural incentives are acknowledged by all, yet MOSL has concluded that those natural incentives are insufficient. Specifically, MOSL refers to a report which it commissioned from PwC in August 2022. With respect to cyclic meter reading, we disagree with that view, which was based on the current competitive market conditions being insufficient to make effective the natural incentives.	Noted. MOSL acknowledges that there are market conditions that could be hampering effective natural incentives. Trading Parties and stakeholders can raise change proposals to address these and can refer to initiatives set out in the Panel roadmap.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.2.17	Castle Water	Any lack of competitive pressure between retailers is not a material consideration as to whether a retailer determines to read a meter. It might hinder innovation, the installation of retailer AMR, or reading meters at frequencies greater than those prescribed in the codes. However, it won't stop retailers – whatever the MPF – from needing to read meters at a frequency to align with its invoicing of customers.	Noted. These are good considerations when setting the standards and charges for the M01 metric.
2.2.18	Castle Water	The cost associated with invoicing based on estimates is considerable throughout the value chain, and far greater than the basic cost of visiting a meter to gain a meter read. So, retailers will attempt to read meters regularly – that is an absolute given and, yet it is denied in the proposals which we are being asked to endorse. Hence, we have inappropriate metrics such as M01, and flawed financial tools based upon incorrect assumptions and principles.	The proposal to develop the M01 metric follows significant engagement with the industry and the PAG.
2.2.19	Castle Water	This flawed thinking results in flawed financial tools, which will be unnecessarily penal and put at risk retailers and the customers they serve. Again, it illustrates that earlier points of substance raised in previous consultations and	Noted. The design of the financial tools being proposed, and level at which incentives will be set, aim not to penalise trading parties, but to drive behaviours in the market to ensure customers receive a level of service they

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		meetings have not been addressed in the design of the financial tools upon which MOSL is today consulting, and it exposes a lack of joined-up thinking and logic in the measures which are proposed.	expect. It should also be noted that the proposed MPF consists not only of penalty charges, but provides an opportunity for trading parties to benefit from outperformance.
2.2.20	Everflow Utilities	The effectiveness of these standards in motivating any behaviours will depend on whether the standard levels themselves are set appropriately. It is important to ensure, in accordance with PC8, that the incentives sufficiently outweigh the investments needed to achieve them.	Noted. MOSL agrees that value of the incentives should be weighed against the cost of failing to provide the service or investing in achieving it.
2.2.21	Everflow Utilities	It may be beneficial to implement staggered thresholds for both minimum and outstanding levels, increasing year over year. For example, the threshold in the first year might be set at X, then increase to X + 5% in the second year, and so on. This approach would not only allow parties to gradually scale up their performance, but also to forecast and plan this scaling up in advance. This approach could be particularly beneficial in the first years following the implementation of the MPF, especially for metrics that are new to the framework.	MOSL agrees that this approach could be a fair way to incentivise the market and signal to customers the desired direction and pace of improvement.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.2.22	Pennon Water Services	The idea of having minimum and outstanding standards is ok but there is insufficient information to comment fully, and as such we have selected no. Many of the minimum and outstanding performance standards are yet to be confirmed, and it is difficult to comment when you don't know whether the standards are fair and consider regional variances and difference issues Retailers many face, such as a monopoly meter reader within a wholesale region who is performing under a set threshold.	Noted. An assessment of market performance across all areas would need to be taken to set appropriate minimum and outstanding performance standards.
2.2.23	Water2business	Yes, as these should be used to identify better performers and in the case of retailers, could be a competitive differentiator.	Noted and agreed.
2.2.24	Waterscan	A minimum and outstanding standard will help TPs set targets and gain a better understanding of where they need to improve before it becomes an issue, rather than waiting to be compared against others.	Noted and agreed.
2.2.25	Wave Utilities	Ideally the competitive market should be effective in incentivising Retailer performance. Excellent performance wins new customers and poor performance drives customers to switch away. This would negate the need for a MPF for Retailers, leaving it to focus on	Noted and agreed. Over time, the scope and scale of charges of the MPF could be reduced as performance improves and the market is predominately driven by strong and sustained competitive forces.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		Wholesaler performance which isn't driven by competitive forces and so requires the intervention of regulatory mechanisms. Early on in the MPF reform review, the decision was taken that the competitive market isn't yet fully effective, and therefore the new MPF should, at least for now, include incentives for both Retailers and Wholesalers.	
2.2.26	Affinity Water	We agree that all KPIs should have expected minimum standards, but not necessarily an outstanding standard applied universally in its proposed format. As a wholesaler, we understand the importance of meeting these standards to enable an effective market and support Retailers. Penalties are appropriate for failing to meet these standards, but allowances should be made for challenges outside our control, similar to those faced by Retailers – and these ensure a fairness across all trading parties.	MOSL has noted your comment about the impact of Wholesalers being accountable for delivery in a situation when there are factors beyond its control.
2.2.27	Affinity Water	Outperformance should be recognized for exceptional service delivery or innovation, not for merely meeting basic market functions or obligations. Penalties should establish clear expectations for all wholesalers, ensuring consistent standards across the market. This	Noted. The market agreed that the MPF needs to be reformed because it was not meeting its obligations. Instead of routinely penalising every failure, MOSL considers that outperformance standards recognise that some failures are an inherent part of

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		consistency allows Retailers to operate efficiently and know what to expect, from us and them.	operating in the market and efforts to significantly reduce these failures should be highlighted as an exceptional success.
2.2.28	Affinity Water	We do not agree with the redistribution of penalty charges currently for "outperforming" others under the existing framework and do not wish for this to occur in this new framework as standard. While penalties for breaches of fundamental KPIs are appropriate, rewards for such metrics are not always warranted. The focus should be on creating an environment where all trading parties meet basic standards, reducing friction and fostering an effective market. KPIs alone do not guarantee good results, but including elements that measure lateness or highlight resolution times could help identify and reward exceptional performers rather than business as usual.	Noted. For clarity, please note that the current MPF does not redistribute penalty charges as outperformance rewards for trading parties. Currently all penalty charges (barring those retained for the MIF) are returned to all parties (although a trading party does not receive a share of its own performance charges). This return of penalty charges dilutes the impact of charging in the first instance. Your objection to introducing outperformance rewards in the reformed MPF appears to be based on the concerns that such rewards would be given 'as standard', and potentially where they are not warranted. Outperformance rewards would only be available in the event of exceptional performances.
2.2.29	Anglian Water	Overall, we don't consider that outperformance payments should apply to Wholesaler performance, but that there is benefit in these being applicable to Retailer performance - it is more appropriate for	MOSL would welcome more information about why outperformance payments are not appropriate for Wholesalers. MOSL notes there is scope for Wholesalers to benefit financially where MPF metrics feature in BR-MeX as Ofwat has proposed it.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		Retailers to receive benefits for outperforming based on good performance and behaviours.	
2.2.30	Anglian Water	Outperformance payments could create the potential for 'cherry picking' – there is the possibility that this may drive the wrong behaviours, so you outperform what becomes easy, and seek to benefit from this and to offset this benefit against other penalty charges for lower performing areas.	Noted. MOSL agrees that this is possible, though the same argument could be made for penalty payments. Incentives need to be set in a way that ensure a party is not better off overall for undertaking 'cherry picking' behaviour.
2.2.31	Dŵr Cymru (wholesaler)	We agree there should be minimum and outstanding standards but must take into consideration differences that apply between Wholesalers or Retailers of difference size and structure. One size doesn't suit all and this needs to be considered where financial penalties are involved.	For simplicity and consistency, and to avoid distorting competition or deterring new entrants, MOSL is proposing an MPF which does not vary in its application across trading parties and geographies. The current underlying code obligations are the same for all trading parties across the market and therefore the proposed metrics are too.
2.2.32	South East Water	We broadly agree with this principle, however, the outstanding requirements would need to be realistic and within the wholesaler's control. A good example of this would be Highways authorities, some have more challenges than others (London and the South East for example), this is outside the Wholesalers control and will mean a greater	See 2.2.31

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		proportion of deferred. It is important that regional challenges are understood.	
2.2.33	South West Water	Whilst we support the use of 'minimum' and 'outstanding' standards, it's vital that the outstanding standards incentivise the right behaviours in the market and don't simply serve to consistently reward the same trading party.	Agree.
2.2.34	Southern Water	We agree that there should be minimum standards as there are in the current MPF. We agree with the concept of outstanding standards. However, the standards for each need to be achievable for trading parties especially where a trading party is underperforming through no fault of its own. Likewise, outperformance standards need to be realistic and achievable.	Agree.
2.2.35	United Utilities	We agree that the KPIs should have a minimum & outstanding standard in order to set clear expectations of base levels of performance and what "good" or "outstanding" looks like – rather than simply relying on relative peer rankings.	Agree.
2.2.36	United Utilities	Outstanding KPIs will, with the required level of certainty around financial incentives, encourage trading parties to stretch to try and	Agree.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		achieve better performance. Having a minimum KPI, which can incrementally increase over time as appropriate, sets clear expectations which should help improve customer experience.	
2.2.37	United Utilities	There appears to be a lack of certainty around “outstanding” performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. This suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they will need certainty of financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.	Noted, but as the scale of outperformance payments depend on the extent of failures across the market (i.e. penalty charges) and the funding requirements of the Market Improvement Fund (MIF), the framework cannot guarantee a set payment for outperformance. Potential for payment still provides a better incentive for outperformance than is currently provided, however.
2.2.41	Wessex Water	We are in strong support that KPIs are seen as a minimum standard and TPs should be incentivised to outperform and deliver increased value to customers and the market.	Noted.
2.2.38	Yorkshire Water	If the targets are set at the right levels and fair for all trading parties, then we feel that these are a good set of principles. Some of the KPIs	MOSL agrees there is a need for clarity when it firms up the design and values for charges and standards. MOSL recognises there are

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		do need more clarity on exactly what banding we fit performance to; different trading parties will have different and competing priorities, and wholesalers may suffer from geographic restrictions that we cannot do anything to change.	geographical factors, but for simplicity and consistency the MPF will not vary across trading parties and geographies. The underlying code obligations are the same across the market.
2.2.39	Yorkshire Water	With the financial implications of the new MPF there should be some additional assurance provided by MOSL to ensure that trading party reporting is as accurate as possible, and equivalent to every other trading party. The increased risk of errors in reporting mean that this needs to be given a greater level of quality assurance on all sides.	Agreed. MOSL will consider how to provide such assurance.
2.2.40	CCW	For all KPIs, we want to see trading parties striving to exceed the minimum, in order to deliver greater benefits for customers. Being clear on what constitutes an 'outstanding' performance is useful information for customers by including them in public peer comparison reports.	Agreed.
2.2.41	CCW	We would also expect these standards to be reviewed as performance improves so that standards continue to incentivise the right behaviours to deliver customer service to a high standard and benefits to customers.	Agree, a flexible and evolving MPF is critical to ensuring there is always a suitable incentive to improve performance, whether than be regulatory or natural.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers



Question 2.3: Should performance standards be included in the Market Codes (i.e. with any changes subject to approval by the Code Change Committee and Ofwat), or sit outside the Market Codes (i.e. under the responsibility of the Performance Assurance Committee and Strategic Panel?

Include in the Codes: 15 (56%)

Outside the Codes: 12 (44%)

Question 2.4: If you wish to explain your answer, please add here (see below)

Reference	Respondent	Comment	Response
2.4.1	ADSM	In principle, think it should be Ofwat to set / incentive behaviours within the market.	Noted. The proposed solution seeks an effective balance between flexibility and certainty. MOSL proposes that a change process governed by the PAC, and which is set out in the codes (e.g. with requirements on an evidence base for change, limits to the rate and degree of change, and requirements for engagement, visibility and notice to TPs) provides an effective compromise between certainty and flexibility. It also reduces the dependency on other bodies (e.g., Ofwat) and changes (E.g., code change) and empowers a purposefully created industry group to make impactful decisions more quickly.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.4.2	Business Stream	Due to the financial implications, metrics, charges, and performance tools should be stated in the Codes. The same is also true of the performance standards as these are likely to have a financial impact on trading parties as they move up and down.	See 2.4.1
2.4.3	Castle Water	These standards are too important to put outside of the market codes and we need to find a way to embody them, whilst making our performance framework agile.	See 2.4.1
2.4.4	Castle Water	There is an argument that were standards to sit outside the codes, it would provide a greater degree of flexibility for future change; however, worryingly this would seem to foreshadow a rate of change which would indicate the current framework review fails to identify the correct measures	See 2.4.1
2.4.5	Castle Water	Our framework needs to be robust to today's world and be inherently flexible for tomorrow's world. It also needs true agility, to allow it to make allowance for external events – such as prolonged adverse weather conditions that stop meters being read or replaced.	Agreed. Performance standards may be flexed by the PAC and the KPIs need to be flexible enough to cope with future code changes which may change SLAs, success criteria or exclusions if and when code changes are progressed.
2.4.6	Castle Water	With regard to the measures proposed thus far, there are already fundamental questions being asked, the response to which has been that,	MOSL's metric design proposals have been shared with industry following feedback from PAG. The next step will be to work with the

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		<p>'the Performance Assurance Committee can determine the answer'; however, the trouble with this is, it creates a situation where we defer accurately defining the metrics and thresholds, and therefore our understanding of these, thereby delaying our ability to understand how these metrics will function, and, whether they actually achieve the intended outcome.</p>	<p>PAG to design the standards and charges and have these ready by the autumn.</p> <p>Going forward it is expected by design that the PAC will help steer standards based on the actual performance of trading parties in the market.</p>
2.4.7	Castle Water	<p>It may prove to be the case that there is a future need to alter the standards, and should this be necessary, it should be treated as a code change. We should also include the ability to temporarily suspend or make allowance for events, such as the temporary suspension of market performance charges during the COVID outbreak (which was delivered by code change – where there is a will, there is a way). If we question whether the code change process can be nimble and quick, then that is a question that we should ask of the code change process and address at source, not determine to bypass the proper process by allowing such matters of substance to be deferred to a committee.</p>	<p>Noted. The code change process can be efficient and quick as implied here via the urgent code change process. The reason for the proposal favouring a process where standards are maintained outside the codes, but still subject to a robust and codified change process, is to reduce the dependency on other bodies and changes, and grant the industry group tasked with governing market performance the ability to make impactful decisions and allowances themselves.</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.4.8	Castle Water	It is an absolute requirement that measures that lead to a financial penalty must be codified (as it is currently done), but there is a question of whether also we require a simple and quick method of temporary suspension of the MPF (possibly at the request of the Strategic Panel) to be codified as well. We suggest that the answer to this question is 'yes'.	MOSL would welcome greater clarity about how and under what conditions the MPF would be "suspended".
2.4.9	Castle Water	Before these measures are brought forward, we also need a process of raising disputes against charges (i.e., to review and rework the Market Operator Dispute Section 5 of the Market Terms). As well as covering settlement in the market codes, it should allow a MO Dispute in relation to all charging raised to trading parties by the Market Operator.	If Trading Parties feel that the current MO dispute process is not sufficiently robust, they are free to raise such a code change. Charges will be systemised and based on performance levels. An independent annual assurance process will take place over MOSL's carrying out of its obligations (including auditing charging calculations) with findings and progress on any resultant actions being reported to, and monitored by, the PAC.
2.4.10	Castle Water	We note that if the compensation payments proposal is approved, then an urgent review will be required of Section 12.1 'Liability of the Market Operator' of the Market Arrangements Code (MAC). This could be an absolute minefield and will place considerable risk on the Market Operator.	Noted. MOSL would review this and other relevant sections of the market code before any change is implemented. Compensation payments will be systemised as part of metric design. MOSL will not be making the decision on when and how compensation is paid.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.4.11	Clear Business Water	We believe that performance standards sitting outside of the Codes will allow the PAC to react appropriately and efficiently to emerging market risks and changes in Trading Party performance, as per PS12.	Noted.
2.4.12	Everflow Utilities	Performance standards should sit outside of the codes. This will provide with much needed flexibility, and the ability to make changes more quickly than we might be able to, were these to be codified. This is especially important in our view because over and under performance standards are likely to need a period of calibration to ensure that they are set correctly.	Noted.
2.4.13	Water2business	Sit outside the Codes – this will allow the market to become agile in the case of new & emerging risks, or where a metric is not encouraging a change in behaviour. The current code change process is too long, codifying the performance standards could cause further market frictions.	Noted.
2.4.14	WaterPlus	We support the principle that performance standards should be updated regularly to meet the changing needs and expectations of the market, however we do not yet have sufficient confidence that any change process through	Noted. The proposed solution seeks an effective balance between flexibility and certainty. MOSL proposes that a change process governed by the PAC, and which is set out in the codes (e.g. with requirements on an

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		the PAC and strategic panel would have the level of engagement with the market required to embed changes. For fairness, any significant change in the proposed metrics and standards would require a lead time for participants with enough visibility to allow participants to review and address their own performance.	evidence base for change, limits to the rate and degree of change, and requirements for engagement, visibility and notice to TPs) provides an effective compromise between certainty and flexibility. It also reduces the dependency on other bodies (e.g., Ofwat) and changes (E.g., code change) and empowers a purposefully created industry group to make impactful decisions more quickly.
2.4.15	Waterscan	Performance metrics should be clear and consistent and having these embedded into the market codes will make it clear to all trading parties what the expectations are and their obligations towards them	Noted. See 2.4.1
2.4.16	Wave Utilities	Sitting inside the code would lead to slower development cycles, so if problems were identified it would be slow to make changes to address them, for example, potentially penalising Trading Parties unfairly, or allowing outperformance payments when unjustified until a change was made.	Noted.
2.4.17	Wave Utilities	Outside of codes: There needs to be a clear process and sufficient notice and consultation with trading parties on changes proposed by the PAC and Strategic Panel.	Noted. The proposed solution seeks an effective balance between flexibility and certainty. MOSL proposes that a change process governed by the PAC, and which is set out in the codes (e.g. with requirements on an

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			evidence base for change, limits to the rate and degree of change, and requirements for engagement, visibility and notice to TPs) provides an effective compromise between certainty and flexibility. It also reduces the dependency on other bodies (e.g., Ofwat) and changes (E.g., code change) and empowers a purposefully created industry group to make impactful decisions more quickly.
2.4.18	Affinity Water	There are some standards which we now consider, or at least to some degree, are quite clear and agreed on across most trading parties as fundamental to market operation and these should be included within the codes – unlikely to change hugely in the future.	Noted. It is possible that some standards could be in the code, whether at implementation or later, while others are outside though this could create an inconsistency and confusion about how and why some are in and some are not.
2.4.19	Affinity Water	For other performance standards there should be an ability for these to sit outside the codes, providing the flexibility for these to be adapted and improved on as the market continues to evolve and not confining these to a more rigid and potentially slower change process.	See 2.4.18.
2.4.20	Anglian Water	We feel that the framework and standards are of such significance to the market and TPs that it would not be appropriate for these to sit outside the codes.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.4.21	Portsmouth Water	Changes must be consulted on prior to changes being made.	See 2.4.17.
2.4.22	SES Water	If they are under the PAC, then they will not have to go through the board/panel Ofwat for changes as we need to be able to implement changes where needed with PR24 and the roll out of Smart metering some of the performance measures responsibilities will change especially with Smart metering. There will be more flexibility to tweak. This way any changes can be made without having to wait for decisions to be made.	Noted
2.4.23	South East Water	Inside the codes: It will give greater transparency to whether they are working and provide an evidence base if change is required or challenges are raised.	See 2.4.17.
2.4.24	South West Water	We support the ability to amend the performance standards as required to create a flexible market performance framework. The process for these changes should be set out in code.	Noted.
2.4.25	Southern Water	There would be greater flexibility to change performance standards if they need to be changed via the PAC and Strategic Panel. The process of CCC and Ofwat can have lengthy	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		timescales. We would support a more agile process.	
2.4.26	Thames Water	To maintain full transparency and stable governance that any changes should have the views of all trading parties accounted for under the standard consultation process incorporated within the codes. This will allow full visibility and provide adequate timing for views of those potentially affected to articulate possible issues or inconsistencies with any changes.	Noted. The proposed solution seeks an effective balance between flexibility and certainty. MOSL proposes that a change process governed by the PAC, and which is set out in the codes (e.g. with requirements on an evidence base for change, limits to the rate and degree of change, and requirements for engagement, visibility and notice to TPs) provides an effective compromise between certainty and flexibility. It also reduces the dependency on other bodies (e.g., Ofwat) and changes (E.g., code change) and empowers a purposefully created industry group to make impactful decisions more quickly.
2.4.27	United Utilities	Including Performance Standards in the codes provides visibility and notice for trading parties to prepare for and respond to changes.	See 2.4.26.
2.4.28	United Utilities	We believe that it should still be the responsibility of the PAC to recommend changes to standards and manage flexibility of the framework.	Noted.
2.4.34	Wessex Water	We are in support of an agile framework but believe that the core KPIs should be bound by the market codes to ensure a governed and	Noted. The proposed solution seeks an effective balance between flexibility and certainty. MOSL proposes that a change

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		<p>due process approach to change. If a change is critical in terms of its impact to customers, it should be included in the codes to ensure a "must do" approach rather than a "could do" or a "should do" approach. KPI changes can result in changes in trading party effort and these may require a degree of planning and internal change therefore a governed and standardised approach can support a smooth and efficient implementation. Equally, trading parties should be consulted on what should be key initiatives to improve the identified issues within the market and the minimum standards set to achieve the best outcome for the customer. A broad perspective from trading parties on critical change should be considered a beneficial approach. We have observed in the past differing approaches to performance and the associated methodologies applied in the absence of clear and concise code drafting therefore we recommend that KPIs are governed by the codes to achieve a consistent and accountable approach. We are less concerned about market indicators/additional metrics being bound by the market codes but would still expect to see a strong approach to</p>	<p>process governed by the PAC, and which is set out in the codes (e.g. with requirements on an evidence base for change, limits to the rate and degree of change, and requirements for engagement, visibility and notice to TPs) provides an effective compromise between certainty and flexibility. It also reduces the dependency on other bodies (e.g., Ofwat) and changes (E.g., code change) and empowers a purposefully created industry group to make impactful decisions more quickly.</p>
--	--	---	---

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		governance from both the performance advisory committee and the strategic panel. If this approach is applied, we would look for increased transparency and detailed published rationale for proposed changes to market indicators / additional metrics	
2.4.29	Yorkshire Water	The process to change and adjust the performance standards should be widely published, well in advance of any changes. The governance aspect itself should be codified while the process of changing/administering can sit outside of this to enable flexibility.	Noted.
2.4.30	Yorkshire Water	We would recommend a codified requirement for PAC to conduct the annual consultation/review process. Our preference would be to leave this to sit with MOSL to review and manage, and we would like Strategic Panel to have overall responsibility for approving changes, following any recommendations by PAC.	Noted.
2.4.31	CCW	Outside the codes: This will allow sufficient flexibility, which is one of CCW's key asks of the revised MPF.	Noted.
2.4.32	CCW	Outside the codes: It is important that the new framework can adapt quickly to changing circumstances to ensure that outcomes for	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		customers are not compromised, particularly where it may be appropriate to revise standards. It is important that trading parties remain strongly incentivised and where this would involve tightening standards as performance changes, we would not want it to be delayed through the code change process.	
2.4.33	CCW	The PAC should have a high degree of autonomy to propose changes to standards. While we agree with Strategic Panel having oversight, we would not want the approval process to be too burdensome, as this may negatively impact customers if changes took too long or were overly complex in process. We welcome clarity on Strategic Panel's role in this process and how this might impact the pace of change.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 2.5: In principle, do you agree with the three financial ‘tools’ being proposed for the reformed MPF (i.e. penalty outperformance payments and compensation charges/payments)? You will be asked about specific principles later in the survey.

Agree: 18 (64%)

Disagree: 10 (36%)

Question 2.6: If you wish to explain your answer, please add here (see below)

Reference	Respondent	Comment	Response
2.6.1	Castle Water	It is too early to be asking this question at this time given the lack of substantive detail currently provided. To answer the consultation questions from an informed perspective, parties need details on the level of charges (rather than some questionable principles), KPI thresholds, and confirmation of when charges will go live.	Noted.
2.6.2	Castle Water	Penalties: inconsistently applied, excessive in scale, and potentially damaging to the market were KPIs and performance thresholds to be applied incorrectly, as we fear highly likely. No caps, larger fines, lack of proper accountability, and when looking at M01 specifically, the	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		penalties are generated at a much higher frequency than the current MPF.	Whilst a KPI may be associated with a higher frequency of penalties compared to similar market performance standards (MPS) today, this does not necessarily mean that the total value of penalties across the year will be excessive in scale and orders of magnitude higher.
2.6.3	Castle Water	These penalties, and the supporting documentation, have not acknowledged is the natural incentives that exist in the market for retailers to read meters. Taking more money away from retailers who are trying to deal with those issues is more likely to hinder improved market performance than incentivise it – especially where the party does not have the necessary control. The success criterion ‘transparent and proportionate’ has been overlooked here and throughout.	See 2.2.15, 2.2.16
2.6.4	Castle Water	The success criterion of ‘improve trading party accountability’ has not been met, especially with M01 and for retailers. For example, MOSL has not addressed access issues which are outside of a retailer’s control, and yet these proposals indicate that the fines on those very same meters will significantly increase	The setting of performance standards will account for what is considered outside of control, and the KPIs need to be able to cope with future code changes which may change SLAs, success criteria or exclusions if and when these code changes are progressed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.5	Castle Water	We note that wholesalers are given the option to defer a bilateral for valid reasons if the time limit on that bilateral is not long enough for them to complete the work. However, there is a glaring imbalance in the market, in which wholesalers have been given a system of self-certification to avoid being penalised for breaching a bilateral SLA. Retailers have not been afforded the same or a similar ability when it comes to meter reading. It is discriminatory and it fails to apply the same sound logic which applies to wholesaler deferrals to retailers.	Noted (see also 2.6.4). The reformed MPF is being determined against current code obligations. If and when code changes are progressed, KPIs will be updated to reflect any adjustments to SLAs, success criteria or exclusions. Until then, these reasons for failure will be accounted for in the setting of realistic performance standards. These standards would need to change should code changes be progressed which impact how the KPIs operate.
2.6.6	Castle Water	Larger penalties may facilitate improved customer outcomes by driving correct behaviour, but they could also impede the retailer's ability to facilitate improved customer outcomes due to the increased financial burden of uncapped and more frequent fines.	Noted and agreed. Charges will be determined in recognition of the need to drive the right outcomes, which includes ensuring the market does not become unstable or unviable, monopolistic for retailers, or less attractive to new entrants.
2.6.7	Castle Water	Improved trading party accountability for meter reading issues has not happened, yet they face much bigger penalties for the issues not under their control.	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn. Whilst a KPI may be associated

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			with a higher frequency of penalties (e.g M01) compared to similar MPS today, this does not necessarily mean that the total value of penalties across the year will be excessive in scale and orders of magnitude higher. Furthermore, a proposed concept of performance standards allows penalties for failures only beyond an accepted and realistic level of performance. Proposals will also strengthen Wholesaler attention on resolving bilateral requests meant to help find and fix meters, often a reason that retailers are unable to discharge their meter reading obligations.
2.6.8	Castle Water	The aim of supporting competition has also not been met. When the costs of trading in the NHH market have increased so substantially, it will deter new market entrants compared to today's MPF and could put some of the smaller retailers out of business.	Noted. Charges will be determined in recognition of the need to drive the right outcomes, which includes ensuring the market does not become unstable or unviable, monopolistic for retailers, or less attractive to new entrants.
2.6.9	Castle Water	Compensation payments: accountability has not been improved sufficiently for compensation payments to be an effective tool to deploy in the MPF, especially for retailers.	The only proposal whereby a retailer might be expected to pay a compensation payment is where at transfer, the incoming retailer has not provided a transfer read in time for the outgoing retailer to accommodate within its final customer bill. MOSL believes the accountability on the retailer here is clear.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.10	Castle Water	In page 16 of Section 3 of the supporting documentation, MOSL illustrates compensation payments using M06, with the compensation payment calculated per day late per month from 21BD late to 30BD late. However, the documentation does not detail why 21BD has been chosen as the qualifying threshold that triggers compensation payments. Nor does it make clear if this will be the same for all compensation payments across the MPF? Nor does it explain what happens if the task is still not complete after 30BD? Will it continue to be tracked by MOSL	<p>The 21BD threshold for compensation was discussed at PAG. Toward the end of the transfer read window, during weeks 4-6 (or BD 21-30) there is no longer sufficient time for outgoing retailers to generate a final bill. MOSL can make the summary document clearer on this point.</p> <p>The proposal is that there would be no further penalties or compensation payments after 30 business days (BDs). See transfer read summary document.</p>
2.6.11	Castle Water	Section 3, page 15 states, "The minimum and outstanding performance standards for M04 will be set at 100% at implementation because estimated reads are permitted". If MOSL believes using estimates means that 100% of all transfer reads should be entered on time for M04, why does that logic not also transfer to M06? The details in this proposal for compensation payments do not link together, or with other proposals and logic across the new framework.	M06 captures the 'lateness' of M04 failures. As estimates reads are permitted on M04, there may not be many failures that end up populating M06. However, it is important to ensure that these failures continue to be tracked and incentivised under M06 when they do occur.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.12	Castle Water	Will there be an appeals process for disputing a compensation payment that a trading party believes was not their fault? If a trading party can prove the issue that caused a breach of the performance threshold was something out of their control, or the fault of a different trading party, should they not be able to appeal that penalty before it is paid as compensation to a different trading party?	Compensation payments would be determined automatically. There would not be a bespoke appeals or adjustment process.
2.6.13	Castle Water	If the compensated trading party has been impacted enough to deserve a payment, should some or all that compensation not also be passed onto the end customer? The customer is likely to have been negatively impacted in some of those cases. From a customer's perspective, if their Retailer has been compensated for an issue caused by another trading party, one which impacted the customer too, they would surely expect some of that compensation. This would be administratively costly and challenging.	Agreed. Retailers might choose to pass on compensation where the customer has been significantly impacted, but MOSL cannot administer this as part of the MPF as the market codes are a contract between trading parties, not trading parties and customers.
2.6.14	Castle Water	CP2 details that these payments will be between two parties only. In the case of a late transfer read, if the water SPID has a different Retailer from the sewer SPID, despite being as inconvenienced as the water retailer by the late	The current proposal is that it will be the water SPID that receives the compensation. This has been proposed on the basis of simplicity and with reference to the marginal number of cases where this would materialise.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		transfer read, they receive no compensation. This seems like an oversight. The underlying logic behind compensation payments is flawed at best	
2.6.15	Castle Water	Compensation payments add complexity to a performance framework reform aiming to be 'simple'. This is acutely apparent when referencing CP4 (unit charges must be a 'genuine pre-estimate of loss'). That is an incredibly difficult cost to put a number on, and one which is likely to be disputable in at least some cases. Trying to produce an average cost for this is complex, when considering the number of trading parties and the variations between them	Agree, hence compensation payments have been reserved for a small selection of KPIs where it is realistic to put a reasonable value against a genuine pre-estimate of loss.
2.6.16	Castle Water	Compensation payments should not be part of the new MPF. It is an unnecessarily complex and costly concept to seek to introduce, when there has been no evidence presented thus far showing that this 'financial tool' will have any impact on improving the market.	Noted. MOSL considers that the complexity is warranted and manageable and would welcome rationale from this respondent as to their preference for not protecting/ reimbursing retailers for damages that are not of their own doing.
2.6.17	Castle Water	Outperformance payments: It is an unnecessary concept, without merit. The obligations in the codes are the rules by which all trading parties must operate. Trading parties must meet those obligations to maintain their licence. They are	MOSL agrees that you cannot outperform a code obligation (unless that obligation itself is setting a minimum expectation) as the obligations themselves demand a 100%

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		mandatory obligations, and therefore there is no valid concept of outperformance.	<p>performance level. Thus, the terminology of outperformance could be reconsidered.</p> <p>Nonetheless, it has been argued by several trading parties that factors outside their control prevent 100% performance. The concept of minimum and outperformance standards reflects the reality of operating in the market and acknowledges that some realistic level of failure is inherently part of BAU. Where TPs can minimise failure significantly beyond their peers they should be incentivised and rewarded, hence the proposal for outperformance payments. The alternative that all penalties are redistributed back to Trading Parties regardless of performance, fails the 'improving customer outcomes' and 'party accountability' tests.</p>
2.6.18	Castle Water	If the market codes are written in a way that does not allow trading parties to meet those obligations, then a review of the code is needed alongside regular audits to make sure the codes are being followed. This would be a more cost effective and focussed approach to take, with meaningful output.	Agree. Audits are a useful tool for investigating compliance and for providing qualitative context, but can be expensive and burdensome to administer if used routinely. If failures to meet obligations are due to perceived issues with the obligations themselves rather than poor Trading Party performance, then MOSL would expect Trading Parties to raise relevant code changes.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.19	Castle Water	What outperformance payments do bring into focus is a fundamental principal of this new MPF model is to generate money through penalties.	Penalties are proposed to incentivise performance and protect customers. They will not be calibrated simply to generate funds to be used elsewhere, e.g. outperformance payments. However, it is important that penalties are not simply distributed back to paying trading parties, as is the case currently, as this dilutes the original incentive.
2.6.20	Castle Water	The supporting documentation details that penalties will be allocated to the Market Improvement Fund first, and only the excess will then go to outperformance payments. Hence, there is no guarantee or certainty that there will be money to make outperformance payments and therefore no incentive against which a trading party can act.	The incentive for outperformance is potential for payment, not promise of a set payment. OP5 proposes only that the Panel considers the allocation of monies in the following order of priority: the MIF, outperformance payments and redistribution. The Panel will determine the value of each allocation and may, for example, decide to allocate more funds to outperformance payments than the MIF.
2.6.21	Castle Water	The KPI and performance thresholds will have to be set at a level that allows MOSL to collect enough penalties to cover the MIF and (probably) outperformance payments. The 'minimum standard' will need to be artificially raised to generate the necessary funding, which will just add costs to trading parties. It is an inefficient process of taxation.	See 2.6.19.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.22	Castle Water	Rather than setting those thresholds based on what the market thinks is good performance, this model requires the thresholds to be determined based on finances. It relies upon setting the minimum standard threshold at a level where enough trading parties are being penalised to fund the MIF and outperformance payments, without which this somewhat debatable incentive evaporates.	The incentive for outperformance is potential for payment, not promise of a set payment. Standards would be calibrated at a level that incentivises performance and protects customers whilst being realistic and fair. This might mean there ends up being minimal funds for the MIF and outperformance payments in a given year but that that is considered a justifiable effect of the good market performance that has preceded it.
2.6.23	Clear Business Water	The purpose of the MPF is to incentivise Trading Parties to improve their performance for the benefit of customers and the market overall. We question whether compensation payments to other trading parties are necessary for this on top of other incentives proposed under the revised MPF.	MOSL notes that compensation payments add a degree of additional complexity but consider it warranted in the limited cases where it has been proposed. The primary purpose of the proposed compensation payments is to protect/reimburse retailers for damages that are not of their own doing and are due to the performance of others, whereas the primary purpose of penalty and outperformance payments is to incentivise good performance.
2.6.24	Pennon Water Services	The interventions raise more questions around proportionality, fairness, and materiality and in terms of the tools, we believe that some of the tools could be seen as being anti-competitive in their nature and there seems to be an overuse of financial rewards/penalties without	MOSL would welcome specific examples where this would be a concern to the respondent. A party performing above standard in the new framework should not be incurring penalties but could be receiving compensation and outperformance payments. This is a fairer

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		fully understanding the implications - particularly the use of compensation payments.	regime than today where virtually every failure is penalised and there is no concept of reward or compensation.
2.6.25	Pennon Water Services	Outperformance payments: concept reflects wholesale regulatory framework monitored by Ofwat and therefore effectively being mandated onto retailers through the back door.	MOSL does not agree that as proposed, the MPF seeks to reflect the regulated Wholesale framework. No pre-supplied plan is being sought from Trading Parties nor is there a proposal to reward or penalise TPs against any plan. MOSL notes that the engagement with the industry has been extensive and nothing is being mandated through the back door.
2.6.26	Pennon Water Services	An outperformance regime should not be such that it encourages retailers to cherry pick areas of compliance to focus on. It can't be set such that retailers can game the system by maintaining poor performance in one area because they can off-set it financially through outperformance payments in another	Agree. The aim of the MPF is to ensure trading parties perform consistently well against key criteria that matter to customers. Allowing or encouraging trading parties to 'cherry pick' which KPIs they should perform well based on the relative scale of charges versus potential outperformance payments would not be in keeping with this objective.
2.6.27	Pennon Water Services	Compensation charges – we understand that these are effectively 'liquidated damages' agreeing in advance the amount of damages/compensation due to the retailer as a consequence of a wholesaler's failure to comply with the various time limits etc. set out	Agreed. Compensation would be set in advance for a type of failure, rather than an individualised loss adjustment. Note that compensation could be due to one Retailer from another Retailer in the case of KPI M06 (transfer reads).

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		in the Codes and also obscured by the bilateral hub.	MOSL would welcome further explanation on how the bilateral hub obscures wholesaler's SLA performance. All SLAs for the bilateral hub are set out in the OSD market codes, and SLAs that are incentivised are reported as per CSD 0002.
2.6.28	Pennon Water Services	Many of these requirements were originally easily located in the WRC documents themselves and therefore publicly available. Such obligations for compliance have subsequently been moved onto the bilateral hub obscuring key elements of the Codes from anyone that does not have CMOS access. This is fundamentally wrong.	All SLAs for the bilateral hub are set out in the OSD market codes, and SLAs that are incentivised are reported as per CSD 0002.
2.6.29	Pennon Water Services	The proposed solution for arriving at a genuine pre-estimate of loss (being the definition for a contractual liquidated damages calculation) sounds appropriate in many respects however we are currently calculating our losses as a consequence of the 16 month restriction on back billing where the failure to provide a customer with an accurate bill is a direct consequence of wholesaler failure to repair/replace a meter asset in accordance with the Codes.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.30	Pennon Water Services	How do you propose dealing with the written off sums retailers are then prevented from recovering under the 16 month back billing rule – surely you are not attempting to restrict a retailers right to recover those charges from the wholesaler for a clear breach of Codes and therefore contract? Are you suggesting that retailers cannot bring separate actions against the wholesaler for these direct losses as evidenced by the SKIP codes. This needs more thought because it should be considered in any genuine pre-estimate of loss. If the wholesaler fails its obligations to fix meter assets and retailers are prevented from recovering the consumption charges that wholesalers have been paid for, how will you estimate that?	MOSL has not proposed that the compensation in the reformed MPF (i.e. Genuine Pre-estimate of Loss) would replace any right of trading parties to recover additional losses. MOSL will seek legal advice to ensure no unintentional legal restrictions are placed on trading parties.
2.6.31	Water2business	Monthly compensation payments will not work, particularly where there are fluctuations in performance, it will not be a true reflection of how a trading party is performing.	Compensation payments will be automatically determined based on what is observed in the central systems. The frequency with which compensation payments are invoiced may need to be less regular than penalty payments as MOSL expect these to be lesser in scale and frequency.
2.6.32	Water2business	Compensation payments should be paid to the impacted customer; however, it is unclear how this will be monitored to ensure that the	Agree. Retailers could, in principle, pass on compensation where the customer has been significantly impacted. However, MOSL cannot

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		customer receives the payments, in the case of switched out customers, the retailer may never be able to return the funds to the correct beneficiary.	administer this as part of the MPF as the market codes are a contract between trading parties, not trading parties and customers.
2.6.33	Waterscan	We have some concerns about how a compensation charge will be calculated fairly and consistently and worry that this may be subject to extensive challenges, however in principle it makes sense.	Noted. The additional complexities relating to compensation payments are one reason for limiting their application to a select number of KPIs and conditions.
2.6.34	Wave Utilities	In principle Wave agrees with the three tools, but further work needs to be done in their design and implementation. We are unsure that uncapped penalties in tandem with compensation payments will provide the desired outcome. These being levied on retailers with difficult to read portfolios where resolution is often out of their control could have the opposite effect.	Noted and agree that further work needs to be done.
2.6.35	Wave Utilities	Instead of encouraging retailers to improve performance it may encourage retailers to attempt to offload troublesome customer portfolios and become very cautious at the bidding stage. Some customer portfolios will tip the scale where the associated risk of penalty and compensation costs will outweigh the benefits, leaving some customers in limbo	Agree that the calibration of standards and determination of charge values for the financial tools needs to ensure that market competition, stability and viability (including for new entrants) is not put at risk.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		and/or stuck with their current retailer. On the flip side, some retailers may be stuck with difficult customer portfolios and in a vicious circle of paying penalties and compensation monthly.	
2.6.36	Wave Utilities	Trading Parties who are constantly paying out on uncapped penalties and compensation may not have the funding to address the issues to improve the situation, therefore continuing to levy charges on them is only going to make matters worse.	See 2.6.35
2.6.37	Affinity Water	We do not agree that compensation payments should play a part in the financial tools levied if they are also going to be levied against metrics selected to be within BR-MeX. Metrics selected for BR-MeX should not form part of additional reward/penalties against wholesalers within the MPF.	Agree with the latter point, but compensation payments are not necessarily considered double jeopardy as these serve a different purpose - their primary function is to compensate the impacted Retailer, whereas the primary function of penalties is to incentivise performance - and are likely to be smaller in comparison to penalties (whether through BR-MeX or MPF). These options will be explored further with parties.
2.6.38	Anglian Water	We don't believe that compensation charges/payments should be part of the new performance regime. In particular, where these are proposed for M10 and M17, the concept does not take into account the fact that there	Noted. Whilst yet to be designed and shared with the PAG, it is expected that M10 will accommodate for deferrals in the same way as M15 and M18. There are no material charges being proposed under M17.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		are many reasons that some bilateral requests are not completed with SLAs or are deferred.	
2.6.39	Portsmouth Water	We agree the three financial tools are suitable. As the MPF matures it would be a good opportunity to see if there is scope for retailer to wholesaler compensation payments also.	Noted.
2.6.40	South East Water	We broadly agree with penalties and outperformance but have concerns about compensation as not clear what compensation is for.	Noted. Please see 2.6.23.
2.6.41	South East Water	We question the need for compensation payments and the fairness of only applying in the payment to retailers. If Retailer action impacts supply experience, should the wholesaler not be compensated for rectifying if needed? It's unlikely in terms of possibility but feels unbalanced.	During metric design with PAG, MOSL has yet to identify a scenario where there is a clear and a suitably approximate quantifiable case for a retailer needing to compensate a wholesaler.
2.6.42	South West Water	Compensatory payments are case-by-case and perhaps better managed between Wholesaler/Retailer with payments made where required.	MOSL agrees that in theory, compensation payments are most accurate if determined on a case-by-case basis. But practically, that is impossible for the MPF to manage. MOSL would welcome further information and/or evidence as to whether in this market bilaterally managed compensation payments are working/would work well between retailers and wholesaler.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.6.43	Southern Water	Having three financial tools is a sensible/practical number, simplicity in the MPF is paramount.	Noted.
2.6.44	Thames Water	We do not believe that compensation payments are a suitable tool to incentivise performance of a trading party. There is the possibility that a TP who could benefit from a compensation payment would not operate in a collaborative manner when requesting work to be undertaken.	MOSL agrees. This risk could be factored into setting the value of compensation payments to avoid perverse disincentives against good customer service. However, this risk does not obviate compensation as a financial tool. Trading Parties which look to 'game' the system to maximum their compensation risk exposing themselves to failing KPIs or standing out in Additional Metrics, Audits, etc, which could identify and penalise these behaviours.
2.6.45	Thames Water	There will also need to be objective governance around justifying if a compensation payment is required, and at what level it should be. Current proposals for indicative calculations create a situation where compensation payments may be due where a retailer has not actually incurred any direct or indirect costs. This will only add to the complexity and costs for the market and may risk legal challenge.	See 5.1.1 and 5.1.11 – for simplicity, compensation payments are going to be approximate. MOSL is not proposing to account for any over/underestimation per specific event. See 5.1.26
2.6.46	United Utilities	We believe, if used appropriately, the proposed financial tools can deliver better customer	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		outcomes and help promote positive trading party behaviour.	
2.6.47	United Utilities	Care must be taken to ensure that KPIs are fair measures of a trading parties performance and accountabilities and that trading parties are not penalised where performance is impacted by factors outside of their reasonable control for example regional differences in premises occupancy rates.	Noted, and this will be accounted for when setting realistic and fair performance standards. However, for simplicity and consistency, and to avoid distorting competition or deterring new entrants, MOSL is not looking to have a MPF which varies across trading parties and geographies. The underlying code obligations are the same across the market.
2.6.48	United Utilities	We do not agree that wholesalers should have to pay both performance charges and compensation payments for a single failure – we consider this to be double jeopardy. KPI failures should rightly incur a financial penalty which should be a single penalty and thereafter a decision should be made if this should be made to MOSL or, as a compensation payment to another trading party.	In some cases, the two could work together. This is not seen as double jeopardy – there is precedent in other frameworks – and could be conceived as the failing party receiving a charge that’s simply split two ways (part going to the impacted party, part going into a central penalty ‘pot’).
2.6.49	United Utilities	There appears to be a lack of certainty around “outstanding” performance payments due to the ordering in which charges will be used / allocated. This suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they will need certainty of	Noted, but as the scale of outperformance payments are dependent upon the extent of failures across the market and the MIF, the framework cannot guarantee a set payment for outperformance. Potential for payment still provides a better incentive for outperformance than today.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		financial reward / return. Without this certainty, outperformance payments may not provide the intended incentive as companies cannot develop business cases with the required degree of certainty.	
2.6.61	Wessex Water	We agree that the three financial tools are appropriate to be deployed across the framework to create the correct incentives to deliver the outcomes. We have indicated in our further responses as to the appropriate deployment.	Noted
2.6.50	Yorkshire Water	We have serious concerns regarding Financial Compensation. As a new tool, this raises a number of questions, including why this would not be provided to wholesalers from retailers in instances of poor behaviour. As it stands, this also lacks any sort of challenge or review process to monitor and allow for errors.	Compensation payments will be automatic, instead of being a process by application. They will be limited to a selection of KPIs and conditions where an approximation of financial impact is considered both practical and suitable, and these conditions and calculations will be explicitly set out in the code. MOSL has not identified a scenario where there is a clear and a suitably approximate quantifiable case for a retailer needing to compensate a wholesaler.
2.6.51	Yorkshire Water	We would propose that while the reporting under these new KPIs is conducted monthly, the financial incentives be reconciled on an annual basis. Doing this would not only	Agree that this is a simpler approach, but it significantly lessens the time between a transgression and the subsequent financial incentive to resolve an outstanding issue.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		support better forecasting for trading parties but limit the administrative burden on all participants to a single set of invoices at one point in the year instead of monthly. This reconciliation would take into account all monthly penalties and overperformance payments, converting them into a single invoice rather than 12.	
2.6.52	Yorkshire Water	Compensation should also have higher burden of evidence than the R-MeX process. We feel that if the market performs as it should then the need for compensation payments ought to be minimal, however the process to prove detriment and the need for a compensation payment should have a stringent requirement for evidence, as well as a minimum threshold to ensure payments cover administrative costs to deliver. More than likely this will generate market frictions due to disputes and potential inconsistent behaviour between trading parties as to whether to apply for compensation or not.	Compensation payments will be automatic and approximate, instead of being a process by application. They will be limited to a selection of KPIs and conditions where an approximation of financial impact is considered both practical and suitable, and these conditions and calculations will be explicitly set out in the code.
2.6.53	Yorkshire Water	We are generally happy with Penalty Charges/Overperformance Payments. These should be time-locked so that historic failures	MOSL would welcome clarification on this point: is 'time locking'

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		are not penalised (i.e historic data inaccuracies causing a modern failing).	
2.6.54	CCW	We do not agree with the three financial tools. We strongly support the inclusion of penalty charges in the reformed MPF, we are extremely cautious of outperformance payments and would only expect these to be used in very limited circumstances, and we do not believe compensation payments are needed as a financial tool in the MPF.	Noted and agree that outperformance payments should only be used in exceptional cases performance.
2.6.55	CCW	Once penalty charges are set at a level that genuinely incentivises improved performance, we believe this should result in trading parties improving in key areas, such as meter reading/asset maintenance, and customer data.	Noted
2.6.56	CCW	The inclusion of outperformance payments should only be in very limited circumstances, if at all, particularly as the basic levels of customer service are still not being delivered for all business customers seven years on from the market being fully opened.	Noted.
2.6.57	CCW	Any payments of this nature need to be carefully designed and contingent on other incentives to improve performance. We do not want to see trading parties rewarded for simply performing well in their core functions, or for	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		lesser degrees of failure. We welcome MOSL recognising this in the design principles document of the consultation.	
2.6.58	CCW	For performance to be rewarded, the trading party needs to be a true outlier in terms of exceptional performance, and clear and tangible benefits for customers need to have been delivered.	Agree that outperformance payments should only be available for exceptional performance(s).
2.6.59	CCW	we strongly believe that there should be no 'reward only' KPIs, as this approach is inconsistent with the ODI model used in Ofwat's price controls for water companies. It is important to drive improvements for customers, using strong incentives. We do not believe compensation payments are needed as a financial tool in the MPF, and we question their inclusion.	As things stand, M09 is proposed as the sole 'reward only' KPI by virtual of the minimum performance standard expected to be set at 0%. MOSL welcomes views on how to better incentivise actual transfer reads when estimated reads are permitted (i.e. meaning that they cannot be penalised). See 2.6.54 regarding compensation payments.
2.6.60	CCW	While this might incentivise wholesalers to improve their service to retailers in order to avoid paying compensation, there are already other proposed intervention tools to do this. Customers who are impacted by poor performance will not necessarily benefit from their retailer being compensated either. It could also be seen as another way to reimburse charges to trading parties. Therefore, we do	See 2.6.23.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		not support this tool being included in the revised MPF.	
--	--	--	--

Question 2.7: In principle, do you agree with the proposal not to have a cap on penalty charges and compensation payments?

Agree: 12 (43%)

Disagree: 16 (57%)

Question 2.8: If you wish to explain your answer, please add here (see below)

Reference	Respondent	Comment	Response
2.8.1	Business Stream	In principle, we agree that there should not be a cap on penalty charges. However, as performance standards and charges are yet to be agreed upon and set, care needs to be exercised to ensure that the reformed MPF continues to satisfy the success criteria, most noticeably supporting competition, be proportionate and value for money.	Noted
2.8.2	Castle Water	The MPF reform proposals have in many cases significantly increased the frequency by which a trading party will	Whilst a KPI may be associated with a higher frequency of penalties compared to similar MPS today, this does not necessarily mean that

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		be penalised in comparison with today's MPF. If the proposed charges went live tomorrow, all trading parties would be paying considerably more in charges than they do today.	the total value of penalties across the year will be excessive in scale and orders of magnitude higher
2.8.3	Castle Water	The PAC will need to carefully consider and test the KPI thresholds and performance targets to make sure that those charges are not overly excessive once the new MPF goes live. Is this a reasonable ask, and is it appropriate that the PAC is given this responsibility? We think that this needs to be codified in the market codes, or as a minimum some protections provided therein.	Agreed. MOSL will explore the need for protections with parties and/or ways to implement the MPF so that charges and/or standards are not confirmed and applied until after a period of testing and calibration.
2.8.4	Castle Water	Capping charges, at least to begin with, seems like a prudent and more sensible approach. Much like the KPIs, consideration could be given to allowing the PAC some authority to vary the cap over time, or remove it altogether, but certainly not before the second half of the MPF has been delivered and we have confidence that it is working as intended.	Currently very few trading parties hit the cap, nevertheless, MOSL recognises that it needs to consider market viability and stability. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.5	Castle Water	Having a cap on charges is a safeguard against unintended consequences and a safety net for implementing such a large increase in penalty charges.	Noted. This can also be managed by implementing the MPF in a way so that charges and/or standards are not confirmed and applied until after a period of testing and calibration.
2.8.6	Castle Water	To propose no cap on charges from Day 1 is a further indication that the proposed MPF model is primarily a revenue generation model, rather than one that focuses on true performance. This is disappointing and of concern, but in the case of not having a cap on penalty charges, it seems reckless and an unnecessary risk to take. Provision of a cap is an absolute must have.	The purpose of the MPF is to incentivise trading party performance so that parties and customers are protected and desired market outcomes are routinely achieved, not to generate revenue.
2.8.7	Clear Business Water	Removing the cap on penalty charges risks leaving Trading Parties exposed to perpetual penalty charges that they cannot prevent unless they accept a significant cost (for example, meter relocation or AMR installation) or leaves them at the mercy of the wholesaler taking action in line with their AMP to install a smart meter, which could take years.	Performance standards have been proposed so that not every failure will be penalised – as long as overall performance on a KPI exceeds a minimum standard, there is no risk of perpetual charges on marginal cases.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.8	Dŵr Cymru (retailer)	No: It is difficult to ascertain the level of financial penalties, charges or outperformance payments and so whether this could potentially impact on any trading party financial viability. We believe there maybe, some unintended consequences should a non-performing trading party fail (or be unable) to pay. This also has potential to impact the available funds for overperformance payments to good performing trading parties in the same grouping. We anticipate this is most likely in the retailer cohort.	MOSL notes that the existence of a cap does afford a greater degree of certainty around a party's maximum exposure to charges. At the same time, it is important that the existence of a cap does not conflict with PC8 whereby the cost of penalties must exceed the cost of completing tasks on time.
2.8.9	Everflow Utilities	In principle, we can agree with removing the cap on penalties, but until we have a clear understanding of the financial value of penalty charges and standards, we cannot come to a definitive view on what is realistic under the future framework. We can only base our decision on the current framework - for which we do agree that removing the cap on penalties would be a positive change.	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.10	Everflow Utilities	A cap on penalties can make it more feasible for parties to control and forecast costs to business - this is particularly important for new entrants. Without an understanding of the financial implications of such a decision, making what is a decision that has wide-reaching impacts on financial performance of trading parties is not ultimately possible.	The existence of a cap does afford a greater degree of certainty around a party's maximum exposure to charges. At the same time, it is important that the existence of a cap does not conflict with PC8 whereby the cost of penalties must exceed the cost of completing tasks on time.
2.8.11	Everflow Utilities	Whether the cap should be totally removed in our view depends on how regularly parties hit or exceed their caps under the current framework, as well as the scale of increase in penalty charge amounts from the current framework to the new one. If most parties are often or easily reaching their caps, then there is a stronger incentive to make a change here, however if this is not the case, we have to question the proportionality of this decision.	This analysis will be done before deciding whether a cap is warranted.
2.8.12	Everflow Utilities	We agree with the principle (PC8) that the penalty's cost must exceed the cost of improvement. but realising this goal might mean that totally removing the	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		cap on penalties is an unnecessary commercial risk to introduce into the new framework.	viability (including for new entrants) is not put at risk.
2.8.13	Everflow Utilities	The risks to commercial viability may outweigh the benefits of completely removing the cap on penalties; however, we would support an increase to the cap on penalties that is appropriately calibrated according to a) the scale of increase in penalty charges from the old framework to the new one, and b) the extent to which it can be demonstrated that trading parties are currently relying on the current penalty cap to avoid making improvements	This analysis will be done before deciding on whether a cap is warranted. MOSL also notes the option to have a higher cap than today instead of removing the concept of a cap entirely.
2.8.14	Pennon Water Services	Removing a cap on penalty charges is fundamentally the wrong approach. Almost everything we can think of in all sectors other than damages to Network Rail is capped at some level. You should be considering a better drafted cap mechanism, not simply doing away with it. We are not confident that the correct governance has been applied allowing you to put unlimited penalties into the market.	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk. MOSL also notes the option to have a higher cap than today instead of removing the concept of a cap entirely.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.15	Pennon Water Services	It's highly unusual to see uncapped penalties in any area and is another disincentive and barrier to entry.	Noted.
2.8.16	Sefton Council	Yes: In the past, compensation and penalties haven't been taken seriously.	Noted.
2.8.17	Water2business	Yes: This may encourage trading parties to resolve issues sooner if the cap is removed, however caution should be given to the financial impact this will have on trading parties, this could have an unexpected consequence and be a risk to the market. It may be worthwhile therefore reviewing the data as it stands currently, for each trading party, to allow parties to plan accordingly.	This analysis will be done before deciding whether a cap is warranted.
2.8.18	WaterPlus	No: Depending on the level of individual incentives set, uncapped charges could present a risk that a dip in performance could lead to a negative financial spiral for market participants that prevents a participant from being able to address the underlying issues due to lack of funding.	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk.
2.8.19	WaterPlus	Whilst we acknowledge that a cap on penalties can weaken the individual incentives for participants exceeding the	Noted. MOSL also notes the option to have a higher cap than today instead of removing the concept of a cap entirely.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		cap, in such circumstances a more bespoke approach may be more appropriate to understand and address the underlying issues. This issue remains particularly relevant in advance of understanding the specific levels of charging.	
2.8.20	Waterscan	Yes: A cap could mean that any trading party may not be incentivised to change behaviour if the cost to do so is greater than the capped charges, so having no cap would remove the potential for this.	Noted
2.8.21	Wave Utilities	No: Wave understands that having a cap can drive the wrong behaviour if it is more cost effective to pay up to the cap each month as a cheaper option than addressing the issues. However, we do not think a complete removal of cap is the right approach.	MOSL notes the option to have a higher cap than today instead of removing the concept of a cap entirely.
2.8.22	Wave Utilities	Where a TP is struggling and is under an improvement plan, without a cap or reduced or suspended Penalty Charges then there may not be an opportunity for the TP to recover so removing the cap and levying monthly charges could have the opposite effect to the desired	MOSL acknowledges that the lack of a cap may have a greater impact on struggling trading parties. To note, the option to restrict customer acquisitions was considered when determining the non-financial tools available to the PAC, but was considered disproportionate, anti-

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		outcome and reduce funds available to improve performance. For retailers, perhaps there should be other measures such as no further customer acquisitions during the improvement plan period?	competitive and not without significant risk of legal challenge and unintended consequences.
2.8.23	Wave Utilities	Not all the proposals sufficiently address areas that are out of the Retailer's control. For example, Retailers, and Associated Retailers in particular, will be penalised where they are working with bad data or have difficult customer portfolios with no way to resolve issues that are outside of their control, yet will be charged for these month on month, not only via penalty but also compensation payments.	Noted. Performance standards can set realistic expectations of performance. KPIs on Wholesalers related to data and assets can help to address situations that are out of Retailers' control.
2.8.24	Wave Utilities	Penalty Charges and Compensation Payments feels a little like double jeopardy so when combined should these be capped? Examples of situations outside of retailer control include where customers refuse access. don't provide TE meter reads, or internal meters are in vacant premises. Wholesalers and customers need to be held to account for bad market data or refusing access	Agree that further exploration is required. MOSL notes the option for variations of capping, e.g., capping on penalties but not compensation payments, no capping on either, no capping on either except when both are being applied together etc. The final decision will be based on the outcomes and behaviours being sought alongside considerations of simplicity, transparency, proportionality, accountability etc.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		without retailers being penalised. More work needs to be done on this.	
2.8.25	Wave Utilities	A possible solution could be to incrementally increase the cap as the change in MPF shows desired market improvements.	Noted. A useful suggestion that MOSL can explore further with trading parties.
2.8.26	Wave Utilities	There should also be a Performance Penalty Relief process for exceptional circumstances that impact a Trading Party outside the control of the TP, e.g. Crowdstrike / cybercrime event etc.	Relief could be provided through the urgent code change process as demonstrated in 2020 when performance charges were temporarily suspended due to COVID-19.
2.8.27	Affinity Water	Yes: We are concerned that the level of charges in their design may unintentionally impact smaller trading parties or deter new entrants from entering the market.	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk.
2.8.28	Affinity Water	Smaller trading parties are particularly vulnerable to the impact of unlimited penalties, which can threaten their financial stability and discourage market participation. Under the current design for of some of the metrics we would rather the time allowed under the metric is less punitive – i.e. gives more time for trading parties to resolve issues (i.e.	Noted. The proposals are already designed to accommodate a reasonable level of failure and scope to resolve issues by virtue of charges only applying where performance is below a minimum standard.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		M01) then put them into potential charge territory.	
2.8.29	Anglian Water	Yes: We are supportive of the principle that there should not be caps as they may act as a disincentive in some cases.	Noted.
2.8.30	Anglian Water	We believe that a cap should exist, albeit at a high level. This is to allow protection from impact of catastrophic events such as system failure, or Force Majeure events – Covid-19 being an example of this. The cap would provide protection from the potentially damaging financial impact on a trading party in these type of event, but not act as protection for poor performance.	MOSL notes the option to have a higher cap than today instead of removing the concept of a cap entirely, and that the purpose of such a cap is to provide protection against force majeure events rather than a protection for routinely poor performance.
2.8.31	Dŵr Cymru (wholesaler)	Yes: there is little incentivisation for a trading party to improve performance on failures above the cap.	Noted.
2.8.32	Northumbrian Water	No: Concerns that this may drive incorrect behaviour	MOSL welcomes further views on what incorrect behaviours the lack of a cap may drive.
2.8.33	Portsmouth Water	Yes: Capping the penalty charges and compensation payments disincentives trading parties.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.34	SES Water	Yes: Not capping will drive Performance - not knowing know exactly what potentially the penalty payments and compensation payments will look, also there has not been any decisions on how this looks yet this is something that needs to be re-visited once there is more vision on this.	Noted.
2.8.35	South East Water	No: there should be a cap but we acknowledge that it should be high enough to encourage better performance.	MOSL notes the option to have a higher cap than today instead of removing the concept of a cap entirely
2.8.36	South West Water	No: Including the penalty charge amounts should incentivise the correct behaviours in the market. With no cap on penalty charges, there's a potential risk to smaller trading parties and their ability to financially operate within the market. Whilst we don't support compensation payments, if implemented, we believe these should also be capped.	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk.
2.8.37	Southern Water	No: wholesalers will need to factor into their budgets a £ value for any penalties and compensation that they may incur. Without thresholds this will be difficult	MOSL notes that the existence of a cap does afford a greater degree of certainty around a party's maximum exposure to charges. At the same time, it is important that the existence of

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		to plan in. Also having a cap ensures that the penalty is proportionate to the level of failure caused to the inconvenienced party.	a cap does not conflict with PC8 whereby the cost of penalties must exceed the cost of completing tasks on time.
2.8.38	Thames Water	Yes: We disagree with compensation payments so our response here is regarding penalty payments only	Noted.
2.8.39	Thames Water	The current cap has disincentivized trading parties to improve performance once they have hit a cap as there are no further penalties for failing above that cap. This comment should be taken in the context that penalties are set at a proportionate level to incentivise TPs to do the right things to produce positive outcomes for customers and an efficient market (so keeping costs down to customers), but not be set in a way that would distort the market or act as a brake to the investment available that TPs would make in service improvement.	Noted.
2.8.40	United Utilities	No: Having a cap on penalty charges protects trading parties from unexpected one-off issues such as a systems outage preventing meter	MOSL notes that a cap could provide protection against unexpected events but pose that these would likely need to be force majeure events and not trading party specific.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		readings being submitted during a particular month.	
2.8.41	United Utilities	If trading parties are regularly hitting the cap then the level of the cap can be reviewed. In addition, for trading parties consistently hitting the cap PAC can use other measures to help manage performance, trading parties can have their licence removed for poor performance.	Noted.
2.8.42	United Utilities	BR-MeX, and its associated risk and reward range, largely addresses the concerns regarding a need for meaningful financial incentives associated with wholesaler performance. MPF does not need to be materially different overall to what it is today – the key to driving performance is in setting the right KPIs and performance levels and having penalties that are demonstrated to drive focus on and improvements in performance. We have seen real improvements where measures and targets are set appropriately, managed closely and trading parties held to account.	Noted – although BR-MeX only imposes these material risks and rewards on Wholesalers. The MPF still needs to have meaningful financial incentives on Retailer KPIs (and Wholesaler KPIs that are not linked to BR-MeX).

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.46	Wessex Water	We are in support of caps being removed that diminish the financial incentives in the current framework by reducing the average charge per failure paid when the cap has been reached. However, we do recognise that there may be a requirement for TPs to understand their maximum exposure. If caps to financial incentives were to exist, we would expect other tools to be appropriately applied to ensure the incentives are maintained to the same effect. We would suggest that if capped limits are reached, this should be an indication of significant underperformance that requires a robust intervention and resolve.	Noted
2.8.43	Yorkshire Water	No: We are interested to know what evidence exists to prove that this is necessary; how many trading parties would have exceeded the cap historically? Yorkshire Water would like some data to be produced that clearly demonstrates this and any benefits before being able to comment fully.	This analysis will be done before deciding on whether a cap is warranted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.8.44	CCW	Yes: we strongly agree with the proposal not to have a cap on penalty charges	Noted.
2.8.45	CCW	The existence of a penalty cap is one of our main criticisms of the current MPF, as trading parties are insufficiently incentivised to address poor performance once the cap is reached.	Noted.

Question 2.9: Overall, to what extent do you support the principles for financial tools and performance standards?

Largely support: 16 (57%)

Somewhat support: 11 (39%)

Do not support at all: 1 (4%)

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 2.10: If you wish to explain your answer, please add here (see below)

Reference	Respondent	Comment	Response
2.10.1	Business Stream	Somewhat: any principles must be consistent and compatible with the regulatory regime (success criteria 4). Therefore, they should recognise that wholesalers are monopolies without competitive pressure while retailers are already incentivised through competition.	Noted.
2.10.2	Business Stream	Given they are monopolies, the proposals will not act as a strong enough incentive for wholesalers to deliver improved customer outcomes. For example, there is only one metric assessing the accuracy of asset data in CMOS (based on GIS coordinates (M14)) and this has no proposed financial penalty.	See 2.2.15
2.10.3	Business Stream	It was interesting to note that MOSL has proposed in PC6 that there should be no 'double jeopardy' and therefore there wouldn't be financial penalties for wholesalers in the MPF if the metric is adopted for BR-MeX. However, there appears to be no consideration of 'double jeopardy' for retailers with their natural incentives, as following the proposed mapping there appears to be a disproportionate number of financial charges on them. For example, while	See 2.2.15

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		there was no proposed financial penalty for M14 (asset data in CMOS) there is a proposal for a financial penalty on retailers if they fail to have complete and accurate customer names and SIC codes in CMOS.	
2.10.4	Business Stream	While we agree any charge should exceed the cost of addressing the performance issue (PC8) we have concerns regarding the use of average market costs as these vary markedly depending on the wholesale region. The impact of the incentive is likely to be considerably diluted in some regions and of no impact at all in others. This means that in practice this principle will not be met for any trading party incurring higher than average operational charges. Therefore, our preference is that the average market cost is not used and that another calculation is considered that considers regional variances. Consequently, we do not agree with some of the elements of the PC3 proposals.	MOSL welcomes alternative approaches to setting charges which also match the simplicity and cost effectiveness success criteria. The MPF needs to be simple and will not be setting different standards for different types and sizes of trading party. The underlying code obligations are the same for everyone.
2.10.5	Business Stream	When calculating the cost of addressing the performance issue, consideration will have to be given to how the performance issue will be addressed. By way of an example, for M02 the cost to a wholesaler obtaining a smart meter read will be minimal. However, should a smart meter	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		fail to the extent that it is no longer providing consumption data, the wholesaler will need to obtain a visual read and fix the meter. Therefore, for PC8 to be achieved the level of the charge can't be set at the average cost of a smart meter read but must exceed both the cost of repair/replacement and obtaining a visual read.	
2.10.6	Business Stream	As minimum standards should be set at achievable levels, with outstanding standards reflecting above-average performance, the minimum and outperformance standards cannot be set at the same level as this will not achieve the desired outcome as it will dilute the effectiveness of the incentive.	<p>For most metrics the outperformance standard will be significantly higher than the minimum, reflecting that the upper target is only for exceptional performances that go 'above and beyond' (principle OP1).</p> <p>Where outperformances apply, principle OP8 states that the potential payment (reward) should be large enough to incentivise trading parties to outperform.</p> <p>For some metrics it is appropriate to have just one standard (i.e. where the minimum and outperformance standards are the same). For example, Retailers should always provide transfer reads where actual and estimated readings are allowed. The minimum standard is therefore 100%, with no scope for 'outperformance'.</p> <p>Rather than remove the inactive 'outperformance' measure, MOSL proposes it is retained to make</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>building metrics easier and more consistent and to 'futureproof' the metric to allow outperformance should its design change.</p> <p>For clarity, where the minimum and outperformance levels are the same, only penalties or rewards relating to the minimum target level would apply.</p>
2.10.7	Castle Water	Not at all: there are far too many principles – 47 in total, although some are not unique	Noted. MOSL welcomes feedback on what the true number should be.
2.10.8	Castle Water	Many of the principles are not true 'principles' - i.e., not things that one would hold sacrosanct.	Noted.
2.10.9	Castle Water	There are inherent conflicts between principles (see 2.2.8).	Noted.
2.10.10	Castle Water	The multitude of principles put further pressure on our new performance framework meeting the success criteria of 'simplicity', 'value for money', and 'enduring and agile'.	The principles are a means to an end and provide the rationale for the charge models and KPI to incentive mapping. This rationale has been expanded upon in the third consultation document to explain why these designs are considered to hit these success criteria more strongly than the designs in the current framework.
2.10.11	Castle Water	These principles risk the achievement of 'improved customer outcomes' and 'supporting competition'. They pose a threat to retailers, to	See 2.10.10

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		the customers they serve, and to a flourishing market.	
2.10.12	Castle Water	It is not clear how the principles have been determined and whether the principles have driven the financial tools or whether the principles have been created to fit the financial tools.	These principles have been used to inform the design the of the financial tools, not the other way around. The principles themselves have been put forward by MOSL SMEs for trading party comment and are based on the known issues in the current framework and the aims of the new framework. These principles will be updated accordingly post consultation considering party feedback, which would logically then impact the final design of the financial tools.
2.10.13	Castle Water	Many of the principles are not "good" principles. They may suit a particular agenda but are they suited to designing an effective, workable performance framework? In many cases we would argue not.	Noted.
2.10.14	Castle Water	As a principle, to rule out the application of a cap, is foolhardy at best and ill-advised. The explanation offered is that once a cap is hit, parties have no incentive to improve. However, this is flawed on multiple fronts and fails to recognise not only other incentives which are acknowledged to exist, but also other elements of the new performance regime, such as peer reporting, audits, etc. The argument given is	The proposal to remove the cap has not been universally challenged by all parties, but MOSL notes that the existence of a cap does afford a greater degree of certainty around a party's maximum exposure to charges. At the same time, it is important that the existence of a cap does not conflict with PC8, whereby the cost of penalties must exceed the cost of completing tasks on time. As per the calibration of standards

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		spurious, all to put in place limitless charges which later could prove highly problematic and damaging to our market. Without a cap, the PAC or Ofwat (via the change process) may be forced to consider significant reduction to the level of penalty charges to stop trading parties haemorrhaging money.	and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk.
2.10.15	Castle Water	PC8: This will limit the ability to reduce penalty charges to levels that one might need if a penalty regime without any cap proves too penal to be affordable by trading parties. This could be carnage, the modelling appears to be non-existent, and yet MOSL has imposed a risky principle that there shall be no cap. As we note, foolhardy and ill-advised. We recommend an urgent re-think.	Further analysis and modelling will be used to inform the decision. See 2.10.14.
2.10.16	Castle Water	PC4: This provides an example of the tunnel-vision applied to inventing the principles and to designing the resulting financial tools.	The principles are based on the known issues in the current framework and the aims of the new framework and are not put forward to support a pre-conceived final design of the financial tools.
2.10.17	Castle Water	If trading parties regularly hit the cap, then this should be reported and investigated. It might reveal an issue with a trading party's performance that it needs to address, but likely needs to be given time rather than continually hit with penalties that it cannot mitigate in the short-	Agree. It is worth exploring as an alternative to completely removing the cap.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		term. Or it might reveal an issue with the market that requires wider action to address via action or guidance across the market, in the redesign of the codes, or in regulation.	
2.10.18	Castle Water	The cap can serve multiple purposes, but MOSL in its wisdom and based on flawed logic, has determined otherwise. We do not understand MOSL's thinking. Principles can guide, but if we choose the wrong principles, they can be dangerous and constraining, acting as a millstone around our necks. Hence, our assessment that these principles cannot be supported.	The principles are based on the known issues in the current framework and the aims of the new framework and are not put forward to support a pre-conceived final design of the financial tools. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk.
2.10.19	Castle Water	The level of the cap still hit us hard, especially given the limited margins in retail and the cost to serve. That said, it did offer some protection whilst we took action to address issues. Protection that this new framework will not offer.	MOSL notes that the existence of a cap does afford a greater degree of certainty around a party's maximum exposure to charges. At the same time, it is important that the existence of a cap does not conflict with PC8 whereby the cost of penalties must exceed the cost of completing tasks on time.
2.10.20	Castle Water	Removing the cap would have made no difference to performance outcomes nor timescales, but it would have put at risk our business and ability to take/fund the necessary actions when we were able	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.10.21	Castle Water	There is no case for 'outperformance payments' where a market performance regime is designed to measure and report the extent to which market participants comply with key obligations under the market codes that are in their control. An obligation is an obligation.	<p>MOSL agrees that you cannot outperform a code obligation (unless that obligation itself is setting a minimum expectation) as the obligations themselves demand a 100% performance level. However, it has repeatedly argued by TPs that factors outside their control prevent 100% performance and historical performance levels confirm this.</p> <p>The concept of minimum and outperformance standards reflect the reality of operating in the market and acknowledges that some realistic level of failure is inherently part of BAU. Where TPs can minimise failure significantly beyond their peers they should be incentivised and rewarded, hence the proposal for outperformance payments.</p> <p>The alternative is that all penalties are redistributed back to everyone regardless of performance, which fails the 'improving customer outcomes' and 'party accountability' tests.</p>
2.10.22	Castle Water	Despite this inconvenient truth, MOSL has determined to invent nine principles to support its design of an outperformance payment regime.	See 2.10.22.
2.10.23	Dŵr Cymru (retailer)	Largely: Whilst agreeing with the financial tools and performance standards, we do note that they	MOSL is seeking legal advice on whether compensation overlaps with GSS.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		are established to drive an improved customer experience but there is no reference to how (or if) a customer could also benefit, especially from poor performance. We recognise the GSS payments are an accepted avenue for customers to be compensated but has any consideration been given to whether these should dovetail – does MOSL have a view on this?	Retailers could pass on compensation where the customer has been significantly impacted but MOSL cannot administer this as part of the MPF as the market codes are a contract between trading parties, not trading parties and customers.
2.10.24	Dŵr Cymru (retailer)	Compensation to retailers may not be sufficient to cover loss of business i.e. customer switching (especially for larger margin business) when a retailer is clearly not at fault.	or simplicity, compensation payments will be approximate. Furthermore, they should not restrict a Retailer's right to recover other charges from the Wholesaler for other breaches of code/contract.
2.10.25	Everflow Utilities	Largely: we support the proposed principles, but there are some considerations to address.	Noted
2.10.26	Everflow Utilities	We believe that PS12 might require an additional principle that acts as a counterbalance, in order to prevent unnecessary or unreasonable increases in performance standards. A suggestion here is to implement an annual constraint on how much these standards can change.	Interesting suggestion that MOSL can explore further with parties.
2.10.27	Everflow Utilities	It is crucial that performance standards are set based on realistic expectations—which must necessarily be rooted in real market data. This is not addressed by any of the proposed principles.	Agreed, this is a principle MOSL should add.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

2.10.28	Everflow Utilities	We are unable to fully support the complete removal of the penalty cap at this stage of the reform process (as supported by PC4)	Noted, as is the supporting rationale provided on Q2.8.
2.10.29	WaterPlus	Somewhat: Whilst overall we are supportive of the principles suggested, we remain concerned regarding the potential removal of the cap without significant further industry consultation.	Noted, as is the supporting rationale provided on Q2.8.
2.10.30	Waterscan	Largely: The financial tools and performance standards make sense on paper but would like to see them in practice as implementation may be tricky.	Noted.
2.10.31	Wave Utilities	Largely: We agree with accountability for the performance of all Trading parties and the principle of the new tool to allow for fairness, but we do think there is more work to be done around accountability and control and ownership of the metrics.	Noted.
2.10.32	Wave Utilities	Where compensation payments are made by a retailer to another retailer, and the core issue is bad address data, the wholesaler is not being similarly treated and does not have to compensate the retailer.	Compensation payments could be explored as an option under M12 although it is unclear how a GPoL could be determined here. MOSL welcomes further views on this.
2.10.33	Wave Utilities	Some outstanding bilateral activities (C1 and B5) are being taken into account for LUMS, however, more data issues need to be accounted for to either reduce the penalties and compensation	Noted, although there will need to be a compromise with simplicity.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		payments or counteracted with similar compensation payments.	
2.10.34	Anglian Water	Largely: We don't believe there should be Wholesaler outperformance payments due to the nature of being a regulated monopoly company. We agree that these are more appropriate in relation to Retailer activities and provides a good incentive to drive better customer service. The other area we are not in agreement with is compensation payments.	Preferences noted, as is the further rationale provided elsewhere.
2.10.46	Dŵr Cymru (W)	As per answer to Q2.2, i.e. we agree there should be minimum and outstanding standards, but must take into consideration differences that apply between wholesalers or retailers of different size and structure. One size does not suit all and this needs to be considered, where financial penalties are involved. Some examples of where we believe it is appropriate to compare our circumstances with other wholesalers would be: data – meter GPS matches address data; eligibility rules for Welsh undertakers differ to the rest of the market. Properties that are owned the same party, separated only by transport infrastructure, can be joined together onto one SPID (in England there would be a SPID per property). In this scenario the multiple properties	MOSL recognises that where there are just a few a SPIDs in the market, a small number of a failures as a proportion of the total asset base can appear disproportionately high. MOSL will consider how reporting methodology avoids making smaller TPs appear to be disproportionately poor performers.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		<p>have different postcodes, so the meter's GPS will never correlate to the GPS, resulting in perceived data errors. Meters – wholesalers who only have a small number of meters in the market will see a single failure of a meter replacement impact significantly on their % performance. In our area, only customers' sites using 50mm are in the market, which results in us having much higher proportion of meters that are larger sizes. Replacement of 15-20mm meters tends to be a simple screw in-and-out and can be dealt with by a single person visiting a property. 87.38% of properties in the market are 15-20mm, compared to only 20.64% of our meters. In the larger meters, 5.66% of meters in the market are 40mm and over compared to 69.04% of our meters. These larger meter changes are very complex, site-specific surveys need to be completed, if flexible joints are found in the chambers, a complete re-design of the connection is required to ensure H&S risks are minimised before the meter replacement can be planned. For financial penalties to us to be based on an unfair comparison is not appropriate.</p>	
2.10.35	Portsmouth Water	Largely: Whilst we support the principles for financial tools and performance standards, an	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		appropriate financial amount must be applied which is not disproportionate to smaller or larger trading parties.	
2.10.36	SES Water	Largely: I have concerns on how the metrics will be reported – I think the failure should be from the day after the SLA has failed rather when the bilateral has been Closed, there is the evidence provided by MOSL 61% of bilateral requests that were closed between April 2023-March 2024 happened through the time out process.	Noted. The most recent proposal discussed with PAG is to calculate success, failures and days late once an SLA becomes overdue and outstanding, instead of waiting for requests to be closed.
2.10.37	South East Water	Largely: We broadly agree but we do have some concerns that this might drive poor behaviour e.g. providing incorrect data just to satisfy having some sort of data in the Market.	Noted. This is where measures of data accuracy could play an important role.
2.10.38	South West Water	Somewhat: Compensatory payments are case-by-case and perhaps better managed between Wholesaler/Retailer with payments made where required.	The respondent's proposal would be difficult for the MPF to manage. MOSL would welcome clarity as to whether the respondent is suggesting that compensatory payments should simply not be part of the MPF.
2.10.39	Thames Water	Somewhat: we do not believe that compensatory payments should be included with the framework. We believe these do not contribute towards collaborative working between trading parties and can provide an incentive for potential beneficiaries to carry out actions which would result in them receiving compensation payments.	Noted. This risk of gaming could be factored into setting the value of compensation payments to avoid perverse disincentives against good customer service. However, this risk does not obviate compensation as a financial tool.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			Furthermore, Trading Parties which look to game the system to maximum their compensation risk exposing themselves to failing KPIs or standing out in Additional Metrics, Audits etc which could identify and penalise these behaviours.
2.10.40	Thames Water	We have concerns regarding the setting of absolute performance standards and the rationale of how these levels are derived.	Noted.
2.10.41	United Utilities	Largely: It is great to see the level of industry engagement through the PAG and the consultations to date, and that the MPC have taken on board the feedback received. We believe that the proposed MPF is improving at each step.	Noted.
2.10.42	United Utilities	MPF does not need to be materially different overall to what it is today – the key to driving performance is in setting the right KPIs and performance levels and having penalties that are demonstrated to drive focus on and improvements in performance. We have seen real improvements where measures and targets are set appropriately, managed closely and trading parties held to account.	Noted.
2.10.47	Wessex Water	We are largely in support of the three financial incentives proposed, with caveats of the	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		avoidance of double-jeopardy where that may exist, and the current application against the standards that may differ from KPI to KPI.	
2.10.43	Yorkshire Water	Somewhat: We strongly object to the proposed compensation payments system.	Noted.
2.10.44	Yorkshire Water	We are struggling to identify how this quantifiably benefits customers, and the proposals do not cover enough of the process for this to be applied for, reviewed, and decisions made. Overall, it seems like a tool that is not necessary and is over-complicated. In order for this to be transparent, we would argue that the process should be clear enough so that customers can easily understand it; currently even market participants would struggle to do so.	Please confirm which tool is being referred to.
2.10.45	CCW	Somewhat: We somewhat support the principles for tools and performance standards, but not largely or completely for the reasons previously provided.	Noted.

Section 3: Principles and performance standards - Penalty Charges

Question 3.1: Do you have any comments on any of the ten penalty charges principles (including whether any should be removed)? Please refer to each principle by its reference, e.g. PC5 (Performance Charge principle 5)

Reference	Respondent	Comment	Response
3.1.1	ADSM	PC5 (multiple levels) & PC9 (per SPID/per fraction of portfolio) go against the principle of simplicity	<p>Noted.</p> <p>This approach recognises that some failures may occur (from time to time) and avoids the need for undue complexity in metric calculations that seek to account for multiple edge case scenarios. To help ensure the reformed MPF achieves its aim to be simple, focused and clear, the number of charging levels will be limited.</p> <p>MOSL agrees that charging only a proportion of failures may be more complicated than charging for every failure, but this is considered to be a fairer and more proportionate approach than today.</p>
3.1.2	ADSM	PC4 (no cap) & PC8 (setting cost higher than average cost) risk stability in the market. If retailers are currently hitting the MPF cap, this would indicate more fundamental	<p>Noted. A flaw in the current framework is that it can be preferential to receive a performance charge than complete a task. In combination with the proposal not to charge for some</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		structural problems with the market setup, levelling just more penalties is unlikely to help	failure (i.e. where performance is above a de-minimis level) MOSL believes that a clear incentive should apply for performance below this level and that a charge that is significantly lower than the cost of the task does not provide an incentive to complete those tasks below this de-minimis level. Currently very few trading parties hit the cap, nevertheless, MOSL recognises that it needs to consider market viability and stability. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.
3.1.3	ADSM	PC8 is if performance standards are set to stringently, TPs will be penalised for doing their job, but failing to get a result	Agreed. Using past industry performance as a starting point, MOSL can carefully and fairly set performance standards. The market codes set out obligations which tend to be results driven and arguably customers would expect a good result, rather than simply an attempt.
3.1.4	Business Stream	PC1 – Having a charge of £0 for M16 wouldn't achieve the aim of driving timely improvements.	M16 and M17 are still subject to detailed design discussion with the PAG, but as deferrals are permitted by the codes, the current proposal is that a material penalty charge cannot be applied for their use (much like with estimated transfer reads). A £0 charge is

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			proposed for future proofing purposes in terms of the background design and operation of the KPI – this £0 charge may not end up being prescribed in the code at implementation. An outstanding performance payment could be prescribed but the initial thinking is for this to also be set at £0 at implementation until further information and evidence becomes available over time.
3.1.5	Business Stream	PC3 & PC8 - penalty charges should not be calculated at a market-wide level, but should consider regional differences	Taking account of regional differences would introduce more complexity.
3.1.6	Business Stream	PC6 – the proposal of avoiding double jeopardy should be extended to the natural incentives of retail competition	See 2.2.15
3.1.7	Business Stream	PC8 - need to consider the true cost of addressing the performance issue. For example, for M02 the cost to a wholesaler obtaining a smart meter read will be minimal. However, should a smart meter fail to the extent that it is no longer providing consumption data, the wholesaler will need to obtain a visual read and fix the meter. Therefore, for PC8 to be achieved the level of the charge can't be set at the average cost of a smart meter read but must	Noted and agreed,

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		exceed both the cost of repair/replacement and obtaining a visual read.	
3.1.8	Business Stream	PC1 – we agree that penalty charges should be aimed at “solely driving timely improvements”	Noted.
3.1.9	Castle Water	PC1 - To ensure that charges drive timely and meaningful change, trading parties must be able to take actions within their control. Metrics must be designed to accurately identify and understand the actions within trading parties' control	Agreed. Some level of failure may occur from time to time. MOSL proposes not to charge for every failure, only a proportion of failures below a reasonable acceptable level of minimum performance. This avoids the need for undue complexity in metric calculations that seek to account for multiple edge case scenarios.
3.1.10	Castle Water	PC1 - why would we need to raise performance standards further? This suggests that the initial metrics were set incorrectly. Therefore, should also consider situations where they might need to be lowered	The rationale for raising standards could be to drive and sustain further improvements as overall market performance gets better or reflect where code changes have introduced new exclusions onto a KPI. MOSL also recognises that there could be market conditions that lead to some standards lowering in time.
3.1.11	Castle Water	PC1 - it is imperative to establish a clear mechanism for reviewing and adjusting metrics in response to evolving market conditions	Agreed.
3.1.12	Castle Water	PC2 - The review of MPF should have asked whether MPS18 and MPS19 are still relevant as	The MPF reform programme took a 'root and branch' approach when first defining the

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		market performance measures? This does not appear to have happened, given the promotion of a new metric M01. However, based on the performance of trading parties, we suggest that this new metric is redundant (as were MPS18 and MPS19) as a chargeable measure	intended purpose and scope of the new MPF. Timely and accurate meters reads was determined to be one of the key activities for inclusion.
3.1.13	Castle Water	PC2 - What is meant by 'customer impacting'? This term, along with 'customer focused,' has been used throughout the market reform process. However, it remains unclear how we have assessed the customer impact of these measures	Customer impacting refers to Retailer or Wholesaler activities which results in customer contact or impacts billing. The activities within scope of MPF were prioritised at the start of the reform programme and initial consultations against this consideration. Customer focussed refers to the requirement to ensure any KPIs and incentives that are created prioritises the successful delivery of these activities.
3.1.14	Castle Water	PC3 - Penalty charges being levied at a flat rate across the market appears to have been proposed based on perceived 'simplicity' but in so doing it discriminates and does not allow a fair basis of comparison between trading parties. Simplicity cannot be promoted above accuracy and fairness, which appear to have been sacrificed by PC3	The penalty charge value per unit of failure will be the same across parties as the underlying code obligations upon which the MPF is based apply to all parties of a type equally. MOSL is not proposing regional variation, (which is not a feature of the current MPF). This complexity would appear to be less compatible with a national market, operating to consistent rules and obligations.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

3.1.15	Castle Water	PC4 - As a minimum, with any possible shadow period rapidly reducing in length, there is a requirement to include a cap. The calculation of the cap can be reviewed later, but it would foolish and foolhardy not to have this protection in place,	MOSL recognises that it needs to consider market viability and stability. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.
3.1.16	Castle Water	PC4 - Further, provision should be made for replicating the original suspension period when MPF was introduced at market opening.	MOSL considers a suspension period would not be appropriate as trading parties should understand their responsibilities. Having a suspension period could be seen as a disbenefit for customers.
3.1.17	Castle Water	PC8 - penalty charges should exceed the cost of addressing the performance issue' – denies any natural incentive (valuing it at less than zero), but it also leaves considerable debate on the task which one is using to benchmark the cost of addressing the performance issue. For example, on M01 is it the cost of a standard meter read, an ad hoc read, an appointment read, a two-man lift, or replacing the meter?	<p>Natural incentives are currently insufficient for the MPF not to have penalty charges – although over time, these could be lessened or dropped should natural incentives increase.</p> <p>However, it is right to point out that it is incorrect to assume there is zero incentive for a retailer to read a meter on time, and these are the right level of questions to ask regarding the setting of a charge. PC8 could be updated to reflect that it might not be practical or necessary for charges to exceed the cost of completing an activity in every case. There will not be a value that accurately covers all scenarios, but we need to find one which does</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			not unduly discriminate, destabilize, or provide a barrier to entry, but still provides enough incentive to complete tasks at a higher level than is observed today.
3.1.18	Castle Water	PC10 - Outperformance as a concept in market where obligations are mandated in the codes is nonsensical and inappropriate. It would reward for doing what a party is required to do and therefore there is no concept of outperformance	<p>MOSL agrees that you cannot outperform a code obligation (unless that obligation itself is setting a minimum expectation) as the obligations themselves demand a 100% performance level. This raises a good point about whether "outperformance" is the most accurate term MOSL could use.</p> <p>It has been repeatedly argued by TPs that factors outside their control prevent 100% performance and historical performance levels confirm this.</p> <p>The concept of minimum and outperformance standards reflects the reality of operating in the market and acknowledges that some realistic level of failure is inherently part of BAU. Where TPs can minimise failure significantly beyond their peers they should be incentivised and rewarded, hence the proposal for outperformance payments which guides the</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>return of funds to parties that are performing well.</p> <p>The alternative is that all penalties are redistributed back to everyone regardless of performance, which fails the 'improving customer outcomes' and 'party accountability' tests.</p>
3.1.19	Clear Business Water	PC1 - level of charges and performance standards must take into consideration factors that are outside of Trading Parties' control and ensure that they are not unduly penalised for this	Noted.
3.1.20	Clear Business Water	PC2 - The codes allow for estimated transfer reads to be submitted in certain scenarios where it is not possible to obtain a visual read within the required timeframe. Under the proposed KPIs, Trading Parties will be penalised where this scenario occurs, either by a penalty charge where the actual transfer read is not submitted within the SLA (and potentially compensation in this scenario) or by a penalty charge for submitting an estimated read within the SLA and in line with the Codes	There will be no penalty charge for submitting an estimated read within SLA. As estimated reads are permitted, the minimum performance standard on M09 will be set at 0%, meaning that there is no proportion of actual vs estimates performance is liable for penalties. The transfer read KPIs have been designed to promote timely actual reads to ensure customers experience an efficient handover.
3.1.21	Clear Business Water	PC4 - Some failures are outside of a Trading Party's control. Removing the cap on penalty	Noted. A flaw in the current framework is that it can be preferential to receive a performance

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		charges may leave Trading Parties exposed to perpetual penalty charges that they cannot prevent	charge than complete a task. In combination with the proposal not to charge for some failure (i.e. where performance is above a de-minimis level) MOSL believes that a clear incentive should apply for performance below this level and that a charge that is significantly lower than the cost of the task does not provide an incentive to complete those tasks below this de-minimis level. Currently very few trading parties hit the cap, nevertheless, MOSL recognises that it needs to consider market viability and stability. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.
3.1.22	Clear Business Water	PC8 - The value of the penalty charge must also be proportionate to the impact of the failure	Agreed.
3.1.81	Dŵr Cymru (retailer)	No (i.e. no further comments on any of the penalty charges principles)	Noted
3.1.23	Everflow Utilities	concerns around the proportionality of PC8 and PC4 working together. We need to be careful of increasing charges disproportionately by both removing the cap on penalties and ensuring charges exceed cost of addressing the	Noted. See 3.1.2.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		issue; this could introduce barriers to entry for an already difficult to enter and unattractive market	
3.1.82	Everflow Utilities	We strongly support PC5	Noted
3.1.24	Pennon Water Services	PC1 - minimum standards should be proportionate, and some items are out of our control. For example meter installed in a place a retailer cannot read (such as an internal meter). Whose responsibility would that be?	It remains the Retailer's responsibility under the current market codes. Until or unless this changes, the minimum performance standard will be used to set fair and realistic performance expectations of trading parties instead of trying to parametrise everything with exclusions and exceptions.
3.1.25	Pennon Water Services	PC1 - minimum standards should not be introduced as revenue generation and certainly, the suggestion that the PAG will decide to raise the bar certainly suggests that it's a revenue activity. What controls, checks and balances will exist around this to ensure its appropriate and not arbitrary. As written, it could be interpreted that you're simply trying to trip retailers up and raising the bar would need proper justification	Agree. Any amendment to standards would need careful and clear rationale. This could include a need to drive and sustain further improvements or reflect where code changes have introduced new exclusions onto a KPI. In some circumstances the standards may need to be lowered as well as raised. As it is currently proposed, performance standards would be governed by the PAC and Panel and the market codes would provide the certainty of process in terms of industry consultation, PAC

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			determination, and advanced notice periods of change.
3.1.26	Pennon Water Services	PC3 – flat rates will not be an equitable solution as it will create winners and losers. There's a significant difference between wholesaler performance and meter read costs for instance	Different KPIs may have different penalty charges values per unit of failure, but the value for any KPI will be the same across all parties to which it applies. The underlying code obligations upon which the MPF is based apply to all parties of a type equally.
3.1.27	Pennon Water Services	PC4 - should be considering a better drafted cap mechanism, not simply doing away with it. Not confident that the correct governance has been applied allowing you to put unlimited penalties into the market	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and viability (including for new entrants) is not put at risk. MOSL also notes the option to have a higher cap than today instead of removing the concept of a cap entirely. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.
3.1.28	Pennon Water Services	PC4 - unlimited compensation proposal conflicts directly with the principles for limited liability set out in the WR contracts and the Code. Is it appropriate that you deviate from these established contract principles?	Thank you for raising this. MOSL will seek legal advice on this challenge.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

3.1.29	Pennon Water Services	PC11 outlining how the proceeds for charges will be used does not appear to exist. As we've said consistently, until we know the value of the proposed charges we cannot reasonably be asked to agree	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
3.1.30	Pennon Water Services	PC10 – We agree, but could be read as an exercise in revenue generation for the MIF at the sole discretion of the Strategic Panel	Noted. It needs to clear that the purpose of the MPF is to incentivise trading party performance so that parties and customers are protected and desired market outcomes are routinely achieved, not to generate revenue.
3.1.31	WaterPlus	PC10 - believe the allocation order should prioritise outperformance payments above the MIF	Noted. The Panel could still allocate more funds to outperformance payments than the MIF in the proposed model, but under the current proposal it would consider the MIF requirement first.
3.1.32	Waterscan	Agree with the principles stated	Noted
3.1.33	Wave Utilities	PC4 – should be a cap as the REC only allows a certain Average Cost to Serve (ACTS) and it doesn't seem right that the MPF could nullify these	Noted. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability. Regarding the ACTS, Ofwat does not include MPF penalties in assessing allowed costs for setting price caps (Business retail

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			market 2021-22 review of the Retail Exit Code – Decision pg. 2).
3.1.34	Wave Utilities	PC7 - unsure how a dispute would be handled if the calculation was viewed as not accurate by the Retailer. Would the pre-existing dispute process be used where TPs can challenge the application of penalty charges and compensation payments? If not, what would be the dispute process?	Compensation payments will be automatic and based on a define pre-estimate of loss instead of being a process by application. A dispute could be raised if a calculation has not been applied by MOSL in accordance with requirements set out in the codes.
3.1.35	Wave Utilities	PC8 - Should not exceed the cost of addressing the issue. Any fines will limit funding available to resolve operational issues	Noted, but this does lessen the incentive for performance in the first place, particularly where natural incentives are currently insufficient (on retailers) or absent (wholesalers).
3.1.36	Wave Utilities	the risk of uncapped penalties and uncapped compensation needs to be more thoroughly investigated, taking into account small, new, and large retailers to determine if this will truly drive performance improvement rather than have the opposite effect	This analysis will be done. Currently very few trading parties hit the cap, nevertheless, MOSL recognises that it needs to consider market viability and stability. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.
3.1.37	Affinity Water	agree with the principles somewhat, but do not agree with PC6 in which it suggests compensation charges may apply on select KPIs should they be included in BR-MeX	Noted. Compensation payments are not considered double jeopardy as these serve a different purpose (primary function is to compensate the impacted Retailer, whereas the

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			primary function of penalties is to incentivise performance), and are likely to be smaller in comparison to penalties (whether through BR-MeX or MPF).
3.1.38	Affinity Water	PC10 - where there is outperformance correctly applied to an appropriate metric that this is given higher precedence than the market improvement fund	Noted. The Panel could still allocate more funds to outperformance payments than the MIF in the proposed model, but under the current proposal it would consider the MIF requirement first.
3.1.39	Anglian Water	PC1 – the definition does not talk about the basic market functions which are mandatory to the smooth operation of the market – i.e. manage settlement, maintain accurate occupancy data	Noted, these can be added to the rationale.
3.1.40	Anglian Water	should be a cap to protect excessive financial penalties arising from catastrophic events. To address the risk of a cap as a disincentive, it is important that other elements of the MPF such as intervention and enforcement come into play	MOSL notes the option to have a higher cap than today instead of removing the concept of a cap entirely, and that the purpose of such a cap provide protection against force majeure events rather than a protection for poor performance which is routinely hit.
3.1.41	Anglian Water	how will the market average cost for an activity will be calculated?	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			specific calculations is coming in the autumn. MOSL welcomes suggestions from the industry on factors and inputs to consider when calculating costs.
3.1.42	Anglian Water	PC8 – there is no reference to performance by accredited entities, therefore our working assumption is that wholesalers won't be responsible for AEs performance any longer	Noted. MOSL can take away this suggestion to make the proposals clearer. Where accredited entities are carrying out code obligations on behalf of a TP, that TP remains responsible for the delivery of the code obligation.
3.1.43	Anglian Water	PC10 - don't believe wholesale redistribution is appropriate for wholesalers	Noted.
3.1.44	Anglian Water	In relation to the Market Performance fund – we believe there should be a review to evaluate the benefits of these projects and the benefits that customers are receiving prior to any inclusion in the future MPF. There remains a risk that if funding is available, projects receive approval not based on their benefits case	These projects and their benefit cases are carefully managed by the Panel and MOSL and will continue to be under the new regime. MOSL agrees that the projects and benefits need to be kept under review.
3.1.45	Anglian Water	PC6 – we agree that this is an important principle particularly with both the MPF and BR-Mex being developed concurrently	Noted.
3.1.46	Northumbrian Water	I believe these are fair and robust so long as the deferral process is linked. Wholesalers often require help from retailers and/or customers to complete the work - this can take time.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

3.1.47	Portsmouth Water	PC1 - changes to the minimum standard should be consulted upon and sufficient notice should be given for any changes	Noted. The proposal is that this process is codified for clear and consistent application by the PAC.
3.1.48	Portsmouth Water	PC3 - would like to understand more about the levied penalty charge rate. As a smaller wholesaler this could be disproportionate	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
3.1.49	South East Water	PC3 – We strongly disagree that regional differences will not be considered	Noted. MOSL is not proposing regional variation, (which is not a feature of the current MPF). This complexity would appear to be less compatible with a national market, operating to consistent rules and obligations.
3.1.50	Not used	-	-
3.1.51	South East Water	PC4 – how do MOSL propose to discourage fine avoidance (e.g. misuse of the deferral system or submitting bi laterals that are not valid to avoid fines for not reading the meters.eg meter damaged).	This is where additional metrics and audits can be used to investigate and address points of non-compliance.
3.1.52	South Staffs Water	it should be either PC1 or PC2 not both, due to the potential for receiving duplicated penalty charges	There are a range of metrics in the envisaged MPF. These include KPIs, Additional Metrics, and Market Indicators. Only KPIs will attract financial incentives. The understanding is that

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			duplication in charges is avoided when applying these principles across KPIs.
3.1.53	South Staffs Water	Depends on how the penalty charge is anticipating to be used and at what level it would be set at in each scenario before we could really have a view on this	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
3.1.54	South West Water	PC5 requires more definition by MOSL before suitable feedback can be provided	Noted.
3.1.55	South West Water	PC6 appears in MPF and BR-MeX indicates a level of incentivising twice	Compensation charges may still apply on select KPIs should they be included in Ofwat's BR-Mex measure, however. This is because compensation charges and payments perform a different function to penalty charges. The former provides compensation to a counterparty for non-delivery, while the latter provides an incentive to perform to a given level.
3.1.56	South West Water	PC8 - how will MOSL obtain this market cost to address an underperformance issue in all scenarios	Market costs will be obtained through further work with trading parties and consultants, and MOSL welcomes suggestions on sources and techniques from the industry.
3.1.57	South West Water	PC9 - applying a charge based on the portfolio size of a trading part doesn't meet the	Examples of the charge models are set out in the third of the pre-reading documents . MOSL

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		simplicity requirement of MPF. If this could be elaborated upon, with scenarios, we may be able to provide more detail in our response	would welcome the opportunity to discuss PC9 further with the respondent.
3.1.83	Southern Water	PC4 – please refer to our comments above in Q2.8 (No: wholesalers will need to factor into their budgets a £ value for any penalties and compensation that they may incur. Without thresholds this will be difficult to plan in. Also having a cap ensures that the penalty is proportionate to the level of failure caused to the inconvenienced party.)	MOSL notes that the existence of a cap does afford a greater degree of certainty around a party's maximum exposure to charges. At the same time, it is important that the existence of a cap does not conflict with PC8 whereby the cost of penalties must exceed the cost of completing tasks on time.
3.1.58	Southern Water	PC5 – Agree that multiple charging levels can increase complexity and may discourage performance resolution until the next level of charge approaches if the levels are too broad.	Noted.
3.1.59	Southern Water	PC6 – Agree that charges levied in BR-Mex should not also be levied in MPF	Noted.
3.1.60	Southern Water	PC10 – Agree	Noted.
3.1.61	Southern Water	PC10 – Agree	Noted.
3.1.62	United Utilities	Because final value of charges are not included, the methodology can't be considered without an understanding of cost	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>There are several proposed improvements in the charging models compared to current MPF. This includes repeating penalties until KPIs are passed, compensation payments for direct impacts on retailers, outperformance payments for outstanding performance, and penalties and outperformance payments only being applied for the proportion of performance that falls above or below a standard. This consultation is seeking views on these concepts in absence of values so that feedback focusses on customer outcomes instead of being biased towards amounts that parties are willing to pay.</p>
3.1.63	United Utilities	unconvinced that it is appropriate for the full cost to be recovered from the wholesaler (on an average basis). Retailer margin should cover a degree of failure demand inherent in any operation	Noted.
3.1.64	United Utilities	PC1 - principles should look to maintain high performance not just deliver timely improvements	Noted
3.1.65	United Utilities	PC4 - Having a cap on penalty charges protects trading parties from unexpected one-off issues such as a systems outage preventing meter	Noted. As per the calibration of standards and determination of charge values for the financial tools, the final decision regarding a cap will ensure that market competition, stability and

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		readings being submitted during a particular month	viability (including for new entrants) is not put at risk. MOSL also notes the option to have a higher cap than today instead of removing the concept of a cap entirely. TP views on the cap will be taken into account and MOSL will re-examine the case for and design of a cap that balances space for incentives to have an effect with financial viability.
3.1.66	United Utilities	PC6 – Apply compensation payments to KPIs included in BR-MeX is double jeopardy as wholesalers could be penalised via a BR-MeX charge and via a compensation payment	Compensation charges may still apply on select KPIs should they be included in Ofwat's BR-Mex measure, however. This is because compensation charges and payments perform a different function to penalty charges. The former provides compensation to a counterparty for non-delivery, while the latter provides an incentive to perform to a given level.
3.1.67	United Utilities	Needs to be a principle that compensation payments shouldn't be made if the receiving party has the potential to contribute toward the performance failure. For example, if a retailer bulk submits a large volume of cases in a single day or takes a long time to provide customer details after a request for information	Noted. This risk could be factored into setting the value of compensation payments so as to avoid perverse disincentives against good customer service. However, this risk does not obviate compensation as a financial tool. Furthermore, Trading Parties which look to game the system to maximum their compensation risk exposing themselves to failing KPIs or standing out in Additional

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			Metrics, Audits etc which could identify and penalise these behaviours.
3.1.68	Wessex Water	PC1 - the bar should be raised if the desired outcome has not yet been achieved for the identified risk and issue even if the minimum KPI is being achieved across the industry	Agree.
3.1.69	Wessex Water	PC2 - until all metrics are fully defined and tools applied, we cannot make a final assessment on all KPIs at this stage	<p>Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.</p> <p>There are several proposed improvements in the charging models compared to current MPF. This includes repeating penalties until KPIs are passed, compensation payments for direct impacts on retailers, outperformance payments for outstanding performance, and penalties and outperformance payments only being applied for the proportion of performance that falls above or below a standard. This consultation is seeking views on these concepts in absence of values so that feedback focusses on customer</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			outcomes instead of being biased towards amounts that parties are willing to pay.
3.1.70	Wessex Water	PC5 - two stage (or multiple) parameter based KPIs and associated penalties are useful to maintain incentives beyond initial failure	Noted
3.1.71	Wessex Water	PC7 - recommend that performance is accounted for in the month in which a KPI is either breached or achieved vs the current calculation which is based on the date in which a request is closed	Noted. The most recent proposal discussed with PAG is to calculate success, failures and days late once an SLA becomes overdue and outstanding, instead of waiting for requests to be closed.
3.1.72	Wessex Water	PC10 - keen to see a minimal use of redistribution that devalues the incentive of penalty payments when redistribution is purely based on market share	Noted.
3.1.73	Yorkshire Water	PC4 - interested to see the evidence to support the stated assumption that there are disincentives to companies addressing performance once they reach the cap; in particular, how many trading parties have actually reached this cap and how frequently	Noted. MOSL can look to share this analysis.
3.1.74	Yorkshire Water	PC5 - would like to see a few more worked examples of this in action. As it stands the explanation feels too complex without further clarity	Noted. At the time of consultation 4, MOSL has not confirmed a KPI where this will be the case, but will share examples if this changes.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

3.1.75	Yorkshire Water	PC6 - not sure why compensation payments would not be included in this exception (for metrics that are in BR-Mex)	See 3.1.66
3.1.76	Yorkshire Water	PC8 - useful to understand the charging methods a little better here. It is worth noting that there may be regional cost differentials for certain market tasks and therefore this could be unfair to some market participants.	MOSL is not proposing regional variation, (which is not a feature of the current MPF). This complexity would appear to be less compatible with a national market, operating to consistent rules and obligations.
3.1.77	Yorkshire Water	PC10 - useful to see some reasoning for why the Market Improvement Fund would take precedence over Outperformance payments. Additional evidence of market value add, customer benefit, etc. would be useful in understanding this. The commentary around 'redistribution' is a little unclear and should be clarified.	<p>OP5 proposes only that the Panel considers the allocation of monies in the following order of priority: the MIF, outperformance payments and redistribution.</p> <p>The Panel will determine the value of each allocation and may, for example, decide to allocate more funds to outperformance payments than the MIF.</p> <p>'Redistribution' refers to the current process set out in sections 9.3, 9.4 and 9.5 of the Market Arrangements Code, whereby surplus Market Performance Standard Charges and surplus Operational Performance Standard Charges at the end of the year are returned to trading parties in the same proportions as they shared the Market Operator Charges in that Year (excluding each respective Trading Party's own</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			Market Operator Charges), save for what is reserved for the MIF. The current proposal does not look to change this process, but the original surplus could be used to fund outperformance payments.
3.1.78	CCW	PC5 - urge MOSL to implement different levels. If poor performance in a particular area significantly worsens, it is appropriate for penalties to increase in line with this to increase the incentive on trading parties to address it.	Noted. At the time of consultation 4, MOSL has not confirmed a KPI where this will be the case, but will share examples if this changes.
3.1.79	CCW	PC10 - do not believe any charges should be redistributed to trading parties as per the current process. Redistribution risks disincentivising trading parties to improve performance and this should be removed from the MPF.	Noted. MOSL does not consider that redistribution can be completely removed from MPF as there is always a risk of penalty payments exceeding the MIF and outperformance payments, but agree that this should be minimised as much as possible without diminishing the quality and benefit criteria for MIF projects or over-rewarding on MPF performance.
3.1.80	CCW	We generally agree with the first 9 proposed penalty charge principles and believe that if penalties are implemented in line with these, customers should see improved outcomes under the revised MPF.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 3.2: Do you have any comments about how penalties are proposed to be charged, i.e. the process and frequency with which MOSL applies and communicates charges with trading parties?

Reference	Respondent	Comment	Response
3.2.1	Castle Water	The increase in charging frequency coupled with the expected increases in charge values have the potential to negatively impact customers. There will be an increase in costs for retailers to raise bilaterals to avoid being charged in the new MPF	<p>The amendments to MPS18 and 19 that were made in December 2023 introduced the concept that performance charges should not apply in certain cases. The introduction of this amendment has not seen a large increase in the volume of bilaterals being raised. Retailers should not raise bilaterals in order to avoid being charged. Bilaterals should be raised where there is a genuine issue. The PAC will be able to monitor abnormal increases in bilaterals.</p> <p>MOSL notes the concern that an increase in charging frequency could lead to an increase in charges. The programme acknowledges that it will be important to consider the size of the aggregated incentive that arises month on month. MOSL notes, from this feedback, that a monthly charge equivalent to the single-instance failure that is levied in relation to MPS18 and 19 may be excessive if applied on a</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>monthly basis. For example, the significance of reading one month later than required is different to reading six months later than required. Consequently, it is envisaged that the monthly incremental charge may be smaller than the current charge for MPS 18 and 19. However, this could aggregate to a charge in excess of MPS18 and 19 should the read not be taken after many months. MOSL acknowledges and understand the importance of setting these charges carefully and engaging with trading parties in doing so over the coming months</p>
3.2.2	Castle Water	<p>The increase in bilateral requests will mean wholesalers will also need more staff to manage those requests, the associated work, and where necessary to defer. This will require an increase in staff numbers and create a section of the market where the focus, time and money must be put towards form filling and processing</p>	<p>The amendments to MPS18 and 19 that were made in December 2023 introduced the concept that performance charges should not apply in certain cases. The introduction of this amendment has not seen a large increase in the volume of bilaterals being raised. Retailers should not raise bilaterals in order to avoid being charged. Bilaterals should be raised where there is a genuine issue. The PAC will be able to monitor abnormal increases in bilaterals.</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			Retailers and Wholesalers are required by code to cooperate so that customers do not experience unnecessarily long wait times for completion of bilateral requests.
3.2.3	Dŵr Cymru (retailer)	It is not clear if consideration has been given to the different complexities of SPIDS i.e. the greater challenges, risks and timeframes to resolve the more complex requirements of larger multi-meter sites e.g. T1 chamber v T3/T4 chamber; larger SPID's may have more than one meter etc. Typically, we find that larger more complex sites are more difficult to undertake operational work on	Noted. This is where the minimum performance standard come in to set realistic and fair expectations of performance.
3.2.4	Wave Utilities	Finance teams will need to manage and understand these, so there needs to be clarity around what payments refer to what, to make this as simple as possible and keep administrative costs to a minimum	Noted. All calculations will be codified to ensure clarity.
3.2.5	Dŵr Cymru (wholesaler)	PC3 – charges do not consider some of the complexities associated with some of the performance standards. There is a large difference in B5 for a small 15mm meter change to a 200mm complex B5 request. Should these be measured in the same way?	There is precedent for simplicity here, for example the current OPS SLAs within a given operational process e.g., B1, B3, B5 etc, are the same regardless of the meter type/complexity of a specific request. With the application of performance standards MOSL does not see a

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			rationale for changing this standardisation at this point.
3.2.6	Dŵr Cymru (wholesaler)	PC5 – charging levels should be limited	Noted. MOSL agrees these should be limited.
3.2.7	Dŵr Cymru (wholesaler)	PC7 – charges should be on a monthly basis so that TPs are aware of the implications asap	Agreed. Performance charges will be applied monthly.
3.2.8	Dŵr Cymru (wholesaler)	PC8 - is there further information anywhere on how PC8 intends to assess the average market cost of addressing the issue.	Noted. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn. MOSL welcomes suggestions from the industry on factors and inputs to consider when calculating costs.
3.2.9	South East Water	We are broadly happy with this and agree with the monthly timescales	Noted.
3.2.10	South East Water	It is important that estimate reads are not used when calculating M01 and only actual read data is used	Only actual reads (Regular Cyclic Read (C), Initial (I), Temporary Disconnection Read (X), Reconnection Read (Y) or “Actual” Transfer Read (T) (Transfer read method of Visual, Customer or Remote) would count towards M01.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

3.2.11	South Staffs Water	need more information on the proposals for thresholds and what the associated penalties would be	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn. MOSL welcomes suggestions from the industry on factors and inputs to consider when calculating costs.
3.2.12	South West Water	recommend that any penalties are charged and communicated promptly following each failure to incentivise changes in trading party behaviour	Agreed. Performance charges will be applied monthly.
3.2.13	Southern Water	All seems straightforward	Noted
3.2.14	United Utilities	agree with the frequency being set as monthly however it would be beneficial for all the reports to be aligned and available at the same time	Noted
3.2.15	Wessex Water	would challenge MOSL to improve its timetable of an earlier publish of raw performance data and for invoices to not appear before raw data is available which has been experienced in the past	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

3.2.16	Wessex Water	Would welcome communications (Invoices, raw data results etc) to move to MyFiles instead of SharePoint	Noted
3.2.17	Yorkshire Water	Some consideration may need to be given to the administrative costs involved in monthly payments, if these are eventually required. Although penalty payments are expected to be applied 'as close to the underperformance as possible' this does not necessarily allow for challenge, review and assurance processes	Noted.
3.2.18	CCW	agree it is sensible to calculate penalties by basing them on a trading party's individual performance, and apply based on the reporting frequency of the KPI.	Noted
3.2.19	CCW	important to have a system that is simple for trading parties to understand, and give a high degree of confidence that they are being charged accurately	Noted

Section 4: Principles and performance standards – Outperformance Payments

Question 4.1: Do you have any comments on any of the 9 outperformance payments principles outlined? Please refer to each principle by its reference, e.g. Outperformance Payments principles, OP1

Ref	Respondent	Comment	Proposer Response
4.1.41	ADSM	Outstanding performance seems like an arbitrary distinction.	Outperformance standards and charges will be developed by working with the PAG and industry and considering historical past performance levels.
4.1.1	Business Stream	OP1 & OP8 - incentivisation will be diluted if the minimum standard is set at the same level as the outperformance standard.	<p>Agreed. Though in some cases obligations would call for the two standards to be the same. For most metrics the outperformance standard will be significantly higher than the minimum, reflecting that the upper target is only for exceptional performances that go 'above and beyond' (principle OP1).</p> <p>Where outperformances apply, principle OP8 states that the potential payment (reward) should be large enough to incentivise trading parties to outperform.</p> <p>For some metrics it is appropriate to have just one standard (i.e. where the minimum and outperformance standards are the</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>same). For example, Retailers should always provide transfer reads where actual and estimated readings are allowed. The minimum standard is therefore 100%, with no scope for 'outperformance'.</p> <p>Rather than remove the inactive 'outperformance' measure, MOSL proposes it is retained to make building metrics easier and more consistent and to 'futureproof' the metric to allow outperformance should the design of code obligations change.</p> <p>For clarity, where the minimum and outperformance levels are the same, only penalties or rewards relating to the minimum target level would apply.</p>
4.1.2	Business Stream	OP3 - outperformance payments should not awarded if a company's performance falls below the necessary standard for a proportion of the year	<p>Principle OP3 states that outperformance payments will be based on a company's average performance. Companies will only be eligible for outperformance payments if their performance goes 'above and beyond' and is sustained so that average performance at years' end remains outstanding.</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>The MPF aims to incentivise companies to always push themselves to outperform. If a company is precluded from outperformance payments because it has dipped below the minimum standard, there will be no incentive to improve their performance above the minimum, nor strive to outperform, for the rest of the year – to the detriment of the customer and the market.</p> <p>The proposal is to take a more holistic assessment of a company's performance over the course of the year to determine whether it meets the standard to be eligible for an outperformance payment.</p> <p>From a practical perspective, it would be very unlikely that a party would be able to turn around a sustained underperformance and go on to achieve an average performance level that meets or exceeds the 'outperformance' standard.</p>
--	--	--	--

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.1.3	Business Stream	<p>OP3 - outperformance standards could be based on a different variant of the KPI that drives the performance charge. For example, for cyclic reads (M01 and M19), the minimum standard could exclude vacant properties while the outperformance standard could include vacant supply points.</p>	<p>The MPF proposals recognise that there are factors that can make meeting an obligation more challenging.</p> <p>The minimum standard would make allowance for a proportion of these factors, while the outperformance standard may allow for a very limited number of factors - or none at all.</p> <p>The alternative proposal would result in there being two KPIs: a standard KPI with a minimum performance standard, and an additional non-standard KPI with an outperformance standard.</p> <p>In practice, this would significantly increase the complexity of the MPF, making interpreting and comparing companies' performances, and the PAC's ability to determine potential interventions, more difficult.</p> <p>MOSL welcomes the suggestion but do not believe it would be in keeping with the ambition to make the reformed MPF simpler to apply.</p>
--------------	-----------------	--	---

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.1.4	Castle Water	Outperformance payments are a model that requires performance thresholds to be set from a financial perspective. Performance alone is insufficient.	MOSL will be seeking clarification of respondent's comment in due course. MOSL would like to discuss this further in developing the sizing and scaling of the specific standards and charges.
4.1.5	Castle Water	Alternative is to set the minimum performance threshold using a financial basis for any metric, with an outperformance payment rather than focussing on what good performance should be	The programme will seek to set minimum standards at levels which are appropriate to delivering adequate service to customers and certainty across settlement. MOSL does not believe these standards should be set so as to provide sufficient funding for assumed outperformance payments.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.1.6	Castle Water	OP8 - For this incentive to influence trading party behaviour, the payment would need to be significant, and it would need to be certain. But to do so, would further impose unnecessary cost on trading parties by further increasing the level of the minimum standard	<p>MOSL notes the view that the payment would need to be significant.</p> <p>The programme will seek to set minimum standards at levels which are appropriate to delivering adequate service to customers and certainty across settlement. MOSL does not believe these standards should be set so as to provide sufficient funding for assumed outperformance payments.</p> <p>MOSL agrees that this means there will be less certainty over whether outperformance payments will be available to trading parties and that this could suppress their incentive effect. However, it is appropriate to prioritise the return charges to parties that are performing well, rather than the basic redistribution under the current MPF. Regardless of the value of any outperformance payments, MOSL believes there is an operational and reputational benefit to be had in a competitive market from excelling at the given metric(s).</p>
4.1.7	Castle Water	It is demonstrable that the natural incentives in the markets for Retailers are both present and far more valuable,	See 2.2.15

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		adding further evidence that unjust and excessive penalties are necessary for this incentive	
4.1.8	Clear Business Water	OP8 - we would agree with this but question how achievable this is given that outperformance charges will be funded by penalty charges (OP5) and redistributed after penalty charges have been allocated to the MIF (PC10).	<p>The programme will seek to set minimum standards at levels which are appropriate to delivering adequate service to customers and certainty across settlement. MOSL does not believe these standards should be set so as to provide sufficient funding for assumed outperformance payments.</p> <p>MOSL agrees that this means there will be less certainty over whether outperformance payments will be available to trading parties and that this could suppress their incentive effect. However, the programme believes it is appropriate to prioritise the return charges to parties that are performing well, rather than the basic redistribution under the current MPF. Regardless of the value of any outperformance payments, MOSL believes there is an operational and reputational benefit to be had in a competitive market from excelling at the given metric(s).</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.1.9	Clear Business Water	OP9 - question whether a unit charge per SPID is the right calculation for this. Some Trading Parties could stand to receive significantly more from outperformance than others, even if they have the same performance rate. For example, where outperformance is 90%, a Trading Party that has achieved 95% of 1000 supplies, will receive a payment on 50 supplies based on 5% outperformance. However, a Trading Party that achieves 97% of 100 supplies would only receive payment on 7 supplies based on 7% outperformance	<p>To be equitable, MOSL believes the size of the trading party or volumes of the task should be taken into account. The same potential methods of calculation are proposed for penalties.</p> <p>The alternative would be for all parties, regardless of scale, to qualify for the same magnitude of payment for every percentage point above the outperformance line, e.g., £1,000 for every % point above 95%.</p> <p>However, MOSL does not believe it would be equitable for a trading party with 100 SPIDs to receive the same amount for outperformance as a trading party that has maintained the same performance against 10,000 SPIDs.</p>
4.1.10	Dŵr Cymru (retailer)	Retailers and Wholesalers financial pots being ring-fenced could restrict the available funds to reward and drive market improvements. (Two smaller pots rather than one larger combined)	MOSL considered having a single outperformance fund for both Wholesalers and Retailers, but believe it would not be appropriate for Retailer penalty payments to be used to fund rewards for wholesalers or vice versa.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>The current MPF raises much more money from Retailers than it does Wholesalers. Failing to ringfence penalties between Wholesalers and Retailers would be open to accusations of cross subsidy and unfairness.</p> <p>It would also distort competition. With separate pots, Retailers are directly incentivised to do better than their competitors on the same suite of KPIs, whereas this is blurred if outperformance payments will also be funded by Wholesalers' underperformance on completely different KPIs.</p> <p>There is also a risk that one pot might reduce the incentive for collaboration and innovation between Wholesalers and Retailers if they benefit financially from the underperformance of the other.</p>
4.1.12	WaterPlus	OP5 - the allocation order should prioritise Overperformance payments above the market improvement fund	See 4.1.8
4.1.13	WaterPlus	OP7 - principle is positive, but concerned may be limiting in the long run in specific areas of concern such as water efficiency	OP7: outperformance payments should encourage good performance for all customers equally.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			MOSL will be seeking clarification of respondent's comment in due course.
4.1.14	Waterscan	Agree with the principles	Noted
4.1.15	Wave Utilities	Agree to all in principle, however outperformance payments are only possible if penalty payments are being made	Noted. Agreed.
4.1.16	Wave Utilities	OP7 - could affect bid activity leaving some 'difficult' customers with nowhere to go and some retailers stuck with them and in a continuous loop of underperforming and paying out penalties	<p>OP7: outperformance payments should encourage good performance for all customers equally.</p> <p>A minimum performance standard provides 'grace' such that penalty charges only apply if overall performance is below standard. So, whilst not directly intended to safeguard against 'difficult' customers, such customers could be covered by this 'grace'.</p> <p>Furthermore, more metrics and tougher incentives on Wholesalers will help remedy the very situations that can lead to a continuous loop of performance failures by retailers.</p>
4.1.17	Affinity Water	OP1 - Agree with principle of OP1 but not seeing the application of this in the metrics outlined	The application of the metrics will become clearer once outperformance standards are set. Outperformance assumes a level that

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			would be unexpected from TPs operated at a BAU level.
4.1.42	Anglian Water	No (as per answer to Q2.1, 'Do you agree KPIs should have minimum and outstanding standards)	Noted
4.1.18	Portsmouth Water	OP5 – It is good to have two separate pots for retailers and wholesalers.	Noted
4.1.19	Northumbrian Water	A review will be necessary after implementation.	Agreed
4.1.20	Northumbrian Water	Are some customers are being prioritised over others to achieve better performance? Would be keen to know more in this area.	Noted. Some customers/premises are already prioritised over others, as demonstrated by long unread/legacy long unread meters, for example. MOSL agrees the proposals should not create a new core of customers who are de-prioritised over others (i.e. 'forgotten'). The ability to introduce additional metrics or undertake audits should help us learn more about this area.
4.1.21	South East Water	OP1-2. Need further clarification on what the parameters of exceptional are	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			specific calculations is coming in the autumn.
4.1.22	South Staffs Water	OP1 - How will these outperformance payments work in the scenario where everyone is tightly packed together in terms of performance	<p>Outperformance payments aim to reward exceptional performance, i.e. the exception, rather than the norm.</p> <p>The performance standards will be set at a level to reflect this and will need to consider the possibility of companies' performances being very similar (particularly if averaged).</p> <p>If a large number of trading parties are achieving or exceeding the upper standard, the PAC may consider whether the standard is set too low.</p>
4.1.23	South West Water	See our comments in section 3. We would support OP5 and OP6 regarding monthly calculation and annual application in this case.	Noted
4.1.24	Southern Water	OP3 – Positive to see that outperformance will be based on an annual performance to allow for any performance issues that may happen throughout the year.	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.1.25	Southern Water	OP7- Consideration that outperformance does not compromise quality of outcome for customers	MOSL recognises that the KPIs are largely driven by time, rather than quality parameters. Additional metrics and audits should provide reassurance that quality of outcome is not suffering.
4.1.26	Southern Water	Agree with all other principles.	Noted
4.1.27	United Utilities	OP2 - Due to regional factors impacting performance, this measure is not simply a measure of performance but instead a measure of underlying regional differences	<p>In line with the current MPF, the reformed MPF will measure performances at a market level and will not take account of regional differences.</p> <p>Attempting to do so at a macro level would make the framework more complex</p> <p>Where it is logical and practical at a micro level, some KPIs will 'except' factors that may have an element of regionality (e.g., reasons for deferrals on M15 and M18).</p>
4.1.28	United Utilities	OP5, OP7 & OP8- lack of certainty around "outstanding" performance payments due to the ordering in which charges will be used / allocated i.e. charges will be used to fund market improvement activities first. Suggests that outperformance payments will not be guaranteed. For trading parties to plan and invest to achieve levels of outperformance, they	See 4.1.6, 4.1.8, 4.1.10 and 4.1.12

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		will need certainty of financial reward / return	
4.1.29	United Utilities	OP6 - needs to be explained in more detail. Is this an average of monthly averages? If so, this isn't appropriate.	Noted. MOSL will define this specific calculation over the coming months through dialogue with TPs.
4.1.30	United Utilities	OP6 - calculation should be based on trading parties' annual performance. Should not be eligible if performance over the year is below target	Agreed. A party would not be eligible if average annual performance was below a standard. Good performance would need to be sustained at a level that balances out any short term below standard performance.
4.1.31	Wessex Water	OP3 - do not necessarily agree with an average approach when severe underperformance has resulted in an intervention by PAC and/or the Authority	<p>MOSL recognises this concern. However, at some point after a PAC intervention it should be anticipated that performance will recover. If this is swift and timely it may be possible for a party to recover sufficiently to achieve outstanding performance within a year. Such improvements should be welcomed as successful.</p> <p>However, MOSL anticipates that the PAC will intervene only where performance has dropped below the minimum standard for a period. Experience to date has been that trading parties in this situation take some time to correct such underperformance. Therefore, for all practical purposes, for an</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			average yearly performance to rise to outperformance levels after sustained poor performance (sustained over many months so as to justify PAC/Ofwat intervention) is unlikely.
4.1.32	Wessex Water	OP3 - outperformance payments cannot exist when the vast majority of the year for a trading party has been below acceptable performance levels. Improvement needs to be recognised but only when it is demonstrated as sustainable	<p>Principle OP3 states that outperformance payments will be based on a company's average performance. Companies will only be eligible for outperformance payments if their performance goes 'above and beyond' and is sustained so that average performance at years' end remains outstanding.</p> <p>The MPF aims to incentivise companies to always push themselves to outperform. If a company is precluded from outperformance payments because it has dipped below the minimum standard, there will be no incentive to improve their performance above the minimum, nor strive to outperform, for the rest of the year – to the detriment of the customer and the market.</p> <p>The proposal is to take a more holistic assessment of a company's performance</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>over the course of the year to determine whether it meets the standard to be eligible for an outperformance payment.</p> <p>From a practical perspective, it would be very unlikely that a party would be able to turn around a sustained underperformance and go on to achieve an average performance level that meets or exceeds the 'outperformance' standard.</p>
4.1.33	Wessex Water	OP6 - Consideration could be given to a rolling 3 month average calculated at each month in the reporting year	<p>Noted. MOSL believes this rolling average (and, MOSL assumes, monthly outperformance payments based on the 3-month rolling average) would be more complex vs average performance across the year. The requirement to maintain performance across a twelve month period would also appear to be beneficial.</p>
4.1.34	Yorkshire Water	OP5 - useful to understand the reasoning why outperformance payment funding sits behind Market Improvement Funds. In particular, greater evidence and documented customer benefits would be appreciated.	See 4.1.6, 4.1.8, 4.1.10 and 4.1.12
4.1.35	Yorkshire Water	OP9 - Limiting complexity should be a priority	Agreed

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.1.36	CCW	use of outperformance payments should be very limited, if at all, and only rewarded where a trading party is a true outlier in terms of exceptional performance	Agreed. Careful consideration will be given to setting performance standards so that outperformance does not become the norm and can change over time.
4.1.37	CCW	outperformance payments could also be determined by the levels of customer activity in the market	Agreed. As natural incentives to performance increase, such as customers leaving (and taking their payments with them) the need for MPF-driven financial incentives and disincentives lessens. The model that goes live in April 25 is likely to evolve over time in terms of charges, KPIs and performance standards. The proposed MPF should therefore be flexible enough to account for changing risks, issues, etc.
4.1.38	CCW	If the levels of customer switching and engagement increase, not be appropriate for retailers to be rewarded for exceptional performance when they would be benefiting from attracting more customers	See 4.1.37.
4.1.39	CCW	Do not believe outperformance payments are needed or should apply once the market becomes more competitive	See 4.1.37
4.1.40	CCW	Same principle could also apply with penalties (<i>ref 3.31 & 3.32</i>)	See 4.1.37

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 4.2: Do you have any comments about how outperformance payments are proposed to be paid, i.e. the process and frequency with which MOSL applies and communicates payments with trading parties?

Reference	Respondent	Comment	Proposer Response
4.2.1	Business Stream	What would happen if all trading parties on average outperform? Suggest a ranking should be applied and only the consistent, top performers are rewarded	<p>MOSL proposes that if multiple TPs are performing at an exceptional level, individual outperformance payments will be reduced by virtue of being spread across a large number of parties.</p> <p>The PAC could also consider changing outperformance standards if outperformance becomes the new normal.</p> <p>MOSL welcomes hearing more from this respondent about outperformance payments for only most consistent performers. This would add another layer of complication. For example, how would MOSL define the best of the best? The top three, or is there a super outperformance level?</p>
4.2.2	Castle Water	Outperformance payments are incompatible with the codes. The you can 'outperform' on an obligation is illogical	<p>MOSL agrees that you cannot outperform a code obligation (unless that obligation itself is setting a minimum expectation) as the obligations themselves demand a 100% performance level. MOSL can consider if the</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>term outperformance needs to be changed to reflect the fact.</p> <p>It has repeatedly argued by TPs that factors outside their control prevent 100% performance and historical performance levels confirm this.</p> <p>So conceptually, minimum and outperformance standards reflect the reality of operating in the market and acknowledges that some realistic level of failure is inherently part of BAU. Where TPs can minimise failure significantly beyond their peers they should be incentivised and rewarded, hence the proposal for outperformance payments.</p> <p>The alternative is that all penalties are redistributed back to everyone regardless of performance, which fails the 'improving customer outcomes' and 'party accountability' tests.</p>
4.2.3	Castle Water	The MPF Reform Programme should have reviewed the codes at the beginning of the programme to determine if the codes themselves needed reforming	<p>Noted. MOSL recognises that the PAG and its members have illuminated some specific areas where code obligations could be changed (either new obligations inserted or removed). MOSL will support the consideration of these amendments through the change mechanism</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			and welcomes further discussion on specific proposals.
4.2.4	Dŵr Cymru (retailer)	An unknown annual outperformance payment into a retailer/sales/ customer service environment could disincentivise a retailer (with limited funds) and defer service innovation and continuous improvement until funds are received.	Minimum performance standards would apply to incentivise a retailer to maintain a good core level of service. As the current framework has no outperformance payments at all, MOSL would argue that any outperformance payment, even if deferred until the end of the financial year is a bonus over what exists in the current framework. It will be challenging to achieve an outperformance standard and MOSL would argue that continuous improvement would be necessary to have a chance of qualifying. It would be unlikely for trading party to be a candidate for outstanding performance standards if they habitually wait for outperformance to 'happen'.
4.2.5	Everflow Utilities & Anglian Water	Should be calculated monthly in the same way as penalty charges and paid on the same frequency to penalty charges	The proposal reduces the incentive on Trading Parties to sustain outstanding performance over 12 months. The point of outperformance payments is that they should be stretching.
4.2.6	Dŵr Cymru (wholesaler)	OP1 – Agree TPs should be considered for outperformance based on overall performance, but again this will depend on exactly this is being measured	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.2.7	Dŵr Cymru (wholesaler)	OP3 – Agree will incentivise TPS to improve even if they have some failures	Noted.
4.2.15	South Staffs	We would prefer that frequency is monthly and if it is possible, to confirm the data that sits behind these payments for validation purposes.	Noted. MOSL believes that monthly outperformance payments would be more complex vs average performance across the year. The requirement to maintain performance across a twelve month period would also appear to be beneficial.
4.2.8	Southern Water	this all seems straightforward.	Noted
4.2.9	Wave Utilities	Disparity between penalties paid on a monthly basis but outperformance payments only paid annually. Means that strong outperformance may not be rewarded and may be lost in the approach of averaging the performance levels. But it gives trading parties a fair chance of outperforming over the full year by being average based, therefore encourages trading parties to keep trying to achieve it rather than being defeated at the first hurdle.	Agreed. See also 4.2.5.
4.2.10	United Utilities	Would like further details on how the calculation will be made	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

4.2.11	United Utilities	calculation should be based on trading parties' annual performance	Agreed.
4.2.12	United Utilities	Trading parties should not be eligible to receive outperformance payments if their performance over the year is below target, even if some months they are above	Agreed.
4.2.13	Yorkshire Water	Would make some logical sense to charge both annually, subtracting underperformance payments from outperformance ones to create a 'net' figure	MOSL agrees that this might be simpler to manage. However, this lessens the incentive to resolve failures quickly as it's easier to ignore a repeating failure if the penalty could be deferred by up to 12 months.
4.2.14	CCW	Outperformance payments for retailers should be very limited, if used at all, and only rewarded where a trading party is a true outlier in terms of exceptional performance	Agreed, outperformance payments should be reserved for truly exceptional performance. MOSL welcomes this respondent's view on how limited outperformance payments should be for Wholesalers?

Section 5: Principles & Performance Standards - Compensation Payments

Question 5.1: Do you have any comments on any of the 7 compensation payment principles? Please refer to each principle by its reference, e.g. Compensation Payments Principle 2 (CP2)

Reference	Respondent	Comment	Proposer Response
5.1.1	Business Stream	Compensatory payments being levied at a flat rate (CP3) though they understand the simplicity, specific variations such as geography will mean unit charges will be an inaccurate pre-estimate of loss (CP4)	<p>Agreed. GPoL is limited in its ability to truly remedy a loss, but that is a trade off against increased complexity and cost of administering a loss adjustment regime. Nonetheless, GPoL represents another incentive and an improvement upon the current framework where there is no compensation at all.</p> <p>The proposal for GPoL, as for penalties, is that it be applied at the same level across the national market, which will require careful consideration when setting the charge.</p>
5.1.2	Business Stream	Compensatory charges must include any performance charges incurred by the other trading party, but the proposed payment is set at £0. This will mean they will not be an accurate pre-estimate of loss (CP4)	Noted. If a common result of poor service of another party, penalty payments could be among the factors considered in establishing GPoL. MOSL welcomes working with the respondent to look into this further.
5.1.3	Castle Water	The principles for compensatory payments do not link together; some scenarios will	In the case of M06, a transfer read needs to be provided within 21BDs for the outgoing

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		lead to trading parties not being compensated at all and payments taking 21 BDs to be incurred, despite a highly demanding performance standard of 100% for M04	<p>Retailer to use the read in its final bill to the customer and the impact of not having one can be approximated in monetary terms at a market level.</p> <p>MOSL would argue that the 100% M04 performance standard is not highly demanding since estimated transfer reads are permitted to satisfy that KPI. The Metering Committee is looking at the obligations regarding estimated T-reads and any changes that arise separately from the MPF reform programme would be reflected in the metric.</p>
5.1.4	Castle Water	The logic for M04 and M09 should be consistent but they are not, without explanation	<p>Because estimated reads are permitted the minimum performance standard for M04 must be 100% (see 5.1.3 for rationale) and outperformance payments cannot logically apply.</p> <p>As estimated reads at transfer are allowed in the code, M09 cannot have penalties. If the Metering Committee, or any proposer sought to pursue a change that led to disallowing estimated reads, then MOSL would agree that</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			M04 and M09 could be redesigned more consistently to each other.
5.1.5	Castle Water	Little or no focus on how principles for compensatory payments affect customers or whether they address true risks faced by the market.	Compensatory payments focus on the interactions between contracting parties - particularly the wholesaler and retailer. The MPF cannot directly compensate customers. Nonetheless, Retailers could use compensation payments to improve services or signal to their customers that they actively choose to pass compensation along to customers where the customer has been impacted.
5.1.6	Castle Water	Focussed audits on trading parties who submit estimated transfer reads would be more effective and fair than proposed approach.	MOSL agrees that focussed audits are part of MPF. The recommendation from the PAG to audit this area is being taken forward and, under the new framework, the PAC will prioritise the scheduling of audits.
5.1.7	Castle Water	Setting a minimum performance standard for using estimated transfer reads does not align with market codes or highlight trading parties relying on estimated over actual transfer reads	MOSL agrees that the market codes would need to be updated to set a minimum standard, or charge a penalty. A peer comparison of differing retailer estimation rates at transfer inherently highlights identifies trading parties that are relying on estimated transfer reads.
5.1.8	Castle Water	Compensatory payments being exclusively from one party to another (CP2) may lead	MOSL welcomes examples of where this is of specific concern.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		to parties not being compensated fairly if another trading party fails to meet SLAs.	
5.1.9	Castle Water	Creating a 'genuine pre-estimate of loss' (CP4) will add more complexity to the market	MOSL agrees this is a complication for developing and implementing the model but GPoL will not need to be recalculated that frequently and it could update in line with inflation.
5.1.10	Castle Water	Creating a 'genuine pre-estimate of loss' (CP4) will ignore the customer and make little difference to the compensated party.	Noted. See 5.1.5
5.1.11	Clear Business	Would question the methodology of using averaged industry costs to create a 'genuine pre-estimate of loss' (CP4) as it could expose parties to real losses or paying charges above industry average	See 5.1.13
5.1.12	Clear Business	Also question using REC costs as a reference point for 'genuine pre-estimate of loss' (CP4) as they don't represent the scale of costs faced by parties	The REC is one source for MOSL to source costs. PAG and Trading parties are other sources of information. MOSL would welcome advice from the respondent if there are other areas worth looking at.
5.1.50	Dŵr Cymru (retailer)	No (i.e. no comments on any of the principles)	Noted
5.1.13	Everflow	Levying compensatory payments at a flat rate across the market (CP3) will likely require a counterbalance – an additional mechanism to recoup funds where	MOSL accepts that some TPs may benefit or lose out against actual losses. But accounting for differences in market rate and actual losses

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		evidence of significant material difference between market rate set and losses incurred	or truing up would make the framework more complex. See 5.1.11, 5.1.14
5.1.14	Pennon Water Services	Concerned that estimates of loss won't take into account all circumstances – failing CP4	See 5.1.13
5.1.15	Pennon Water Services	Liquidated damages for compensatory payments will prevent retailers being able to bring contractual damages to wholesalers set out in the codes	MOSL's intent in proposing compensation as part of MPF is not to prevent contractual damage action being taken by either party. This will be a core consideration in determining the way forward on compensation payments. MOSL will seek legal advice on this question.
5.1.16	Sefton Council/ Waterscan	Agree with principles	Noted
5.1.17	Water2business	Governance of compensatory payments will need to be strict to ensure payments are passed onto the customer	See 5.1.5
5.1.18	Water2business	Difficult to quantify claims for genuine loss as all trading parties are different	MOSL agrees. Therefore it has proposed a market rate GPoL to keep things simple. See 5.1.11, 5.1.13 and 5.1.14
5.1.19	Water2business	Financial impact of compensatory payments could be significant; causing negative customer impacts such as having no funds available for other innovative projects	MOSL would argue the converse also applies. Through no fault of its own, a Retailer may bear additional costs in resolving the customer impact due to the non-performance of another party and finds itself short of funds for its own innovative projects. Compensation payments

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			increase accountability and fairness across the board.
5.1.20	Wave	Principle of compensation needs fleshing out to account for factors outside of retailer control such as bad address data from wholesaler, etc.	MOSL agrees. Compensation payments will be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms. This automatically limits the applicability of this tool to a select number of KPIs and select performance scenarios within.
5.1.21	Affinity	Would query rationale for excluding wholesalers from compensation payments in principle (CP1)	Retailers rely on Wholesalers for the maintenance of customer impacting assets and data, and therefore accurate billing and customer relationship management. MOSL welcomes suggestions on which market interactions result in the Wholesaler suffers losses due to the retailer's service shortfalls, which it cannot already recover via non-primary charges.
5.1.22	Anglian Water	Do not support the concept of compensation payments being part of the MPF	Noted. MOSL would welcome rationale from this respondent as to their preference for not protecting/reimburse Retailers for damages that are not of their own doing.
5.1.23	Anglian Water	The principle that wholesalers are not adversely impacted is inaccurate, if there are issues with a transfer read a settlement	MOSL would propose that USRs raised for a single transfer read would be relatively low, but would welcome the opportunity to discuss this

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		run will have to take place at wholesaler cost (CP1)	or other wholesaler impacts further with the respondent.
5.1.24	Anglian Water	If payments are levied across the market, compensatory charges just become penalty charges – it is unclear what makes the two different (CP3)	Compensation payments go directly from the impacting to impacted party. Penalty charges go into a central pot for all Retailers or Wholesalers and this pot is allocated to the MIF, outperformance payments, and redistribution.
5.1.25	Anglian Water	The charge calculation for genuine estimate of loss (CP4) is overly complex and fails CP8 (simplicity).	See 5.1.9
5.1.26	Dŵr Cymru (wholesaler)	It is unclear what the process is to determine a retailer has been impacted by poor wholesaler performance and how wholesaler could challenge this (CP1)	Compensation payments will only apply for a limited number of KPIs and these conditions and calculations will be explicitly set out in the code. This is an automatic process not a process by application. See 5.1.1 and 5.1.13
5.1.27	Dŵr Cymru (wholesaler)	Compensatory charges being calculated at market level may not consider the complexities associated with performance standards (CP3) – i.e. a B5 is significantly different between a 15mm small meter change and a 200mm complex request	Different KPIs may have different penalty charges values per unit of failure, but the value for any KPI charge will be the same across all parties to which it applies. The underlying code obligations upon which the MPF is based apply to all parties of a type equally. The respondents proposal to further break the KPI down by meter size would increase complexity.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.1.28	South East Water	It is unclear how it is decided a retailer should be compensated and where exceptions would apply (CP1)	See 5.1.26
5.1.29	South East Water	The genuine estimate of loss (CP4) will need a mechanism for wholesalers to validate and ensure fair calculation	See 5.1.26
5.1.30	South Staffs Water	Request to consider cases where retailers may need to pay compensation for wholesalers (CP1)	See 5.1.21
5.1.31	South West Water	Compensatory payments are best made case by case and between wholesaler retailer so recommend removing CP1-CP7	Agree that in theory, compensation payments are most accurate if determined on a case-by-case basis. But practically, that is impossible for the MPF to manage.
5.1.32	Southern Water	Confusion as to which retailer receives the compensation payment if different retailers provide each service component (CP2)	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn. Expect to be the water retailer in the limited numbers of cases where compensation payments will only apply.
5.1.33	Southern Water	Not enough clarity to understand genuine projection of loss (CP4)	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
5.1.34	Southern Water	Being calculated and paid monthly may not be achievable as there may be disputes /challenges over compensation payments (CP5)	The principle for compensation, as with penalties, is that payments are calculated at a defined rate based on recorded performance. Such performance is based on information in the market systems at the time of the calculation and this information should be consistent with the outlook and actions of trading parties at the time. This makes the proposed compensation payments distinct from compensation claims made on a case by case basis where disputes or challenges over the validity of such claims might be anticipated. See 5.1.26 regarding disputes and challenges.
5.1.35	Thames Water	A trading party who could possibly benefit from compensation payments would not operate in a collaborative manner when requesting work. Meaning an incentive to work against customer interests.	MOSL agrees. This risk could be factored into setting the value of compensation payments so as to avoid perverse disincentives against good customer service. However, this risk does not obviate compensation as a financial tool. Furthermore, Trading Parties which look to game the system to maximum their compensation risk exposing themselves to

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			failing KPIs or standing out in Additional Metrics, Audits etc which could identify and penalise these behaviours.
5.1.36	Thames Water	There needs to be an objective around justifying compensation payments and what levels they should be.	Agreed.
5.1.37	Thames Water	Current proposals for indicative calculations mean some compensation payments could be owed to a retailer who has not occurred any costs – accounting for this will add to complexity/costs and risk legal challenges	See 5.1.1 and 5.1.11. For simplicity, compensation payments are going to be based on a pre-defined value and MOSL is not proposing to account for any over/underestimation per specific event. See 5.1.26
5.1.38	Thames Water	Given many customers are loss making or so small they generate little income, compensatory payments would provide an incentive not to work towards successful delivery of services by wholesalers as retailers could make more money if wholesaler fails.	See 5.1.35.
5.1.39	United Utilities	Compensation payments should not apply if the recipient has the potential to impact the performance measure that leads to payments	See 5.1.35.
5.1.40	United Utilities	To avoid double jeopardy, it should be ensured there is no overlap with	There is no intended overlap.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		compensatory payments made through GSS	
5.1.41	United Utilities	Disagree with the principle of uncapped compensatory payments (CP7). Having a cap protects against one off unexpected issues that are not the party's fault.	By definition, compensation payments will be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms. This automatically limits the applicability of this tool to a select number of KPIs and select performance scenarios where impact is avoidable, and as such, a cap is an unnecessary grace on the responsible party.
5.1.42	United Utilities	It would also be useful to have a cap on compensatory payments as hitting the cap regularly could provide useful rationale for managing performance	MOSL agrees that this could be a useful marker to trigger performance rectification and escalation, but see 5.1.41 on why MOSL is not proposing a cap. MOSL would note that levels of underperformance would be highlighted by the underlying metric itself and the TP's performance vs a minimum standard.
5.1.43	United Utilities	BR-MeX largely addresses the need for meaningful financial incentives associated with wholesaler performance	Agree that BR-MeX is expected to carry the greatest financial incentives, but there is no mechanism within BR-MeX that sees payments being returned to retailers impacted by poor performance.
5.1.44	Wessex Water	Direct compensation to customers should be explored further	See 5.1.5

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.1.45	Yorkshire Water	No real clarity why compensation payments do not apply from retailers to wholesalers – wholesalers not being paid creates inequality and friction in the market and requires additional work to ensure fairness	See 5.1.21
5.1.46	Yorkshire Water	GSS and loss-of-business claims already create a route for parties to seek compensation, this could cause confusion and duplication	MOSL's intent in proposing compensation as part of MPF is not to prevent contractual damage action being taken by either party. This will be a core consideration in determining the way forward on compensation payments. There is also no intended overlap with GSS. MOSL will seek legal advice on this question.
5.1.47	Yorkshire Water	Concerns about the complexity of monthly calculation and payments (CP5) – monthly will cause great complexity and challenges	Agree that it may not be practical to calculate and administer compensation payments on a monthly basis, MOSL is yet to confirm frequency for each KPI. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
5.1.48	Yorkshire Water	Putting no cap on compensation payments (CP7) may create an additional disputes and challenges due to lack of subjectivity –	See 5.1.1, 5.1.11 and 5.1.41. For simplicity, compensation payments are going to be predetermined and MOSL is not proposing to

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		trading parties may receive varying levels of compensation compared to others	account for any over/underestimation per specific event. MOSL agrees that different parties will receive varying levels of compensation depending on the service they have received.
5.1.49	CCW	There may need to be a mechanism for compensating impacted trading parties but it should not sit within an MPF designed to incentivise better outcomes for customers – unclear what value compensatory payments would have in providing an extra incentive on parties to deliver better service	See 5.1.5.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 5.2: Do you have any comments on the distinction between penalty charges and compensation payments? Please provide evidence to support your comments where appropriate.

Reference	Respondent	Comment	Proposer Response
5.2.0	ADSM	Think it is good	Noted.
5.2.1	Business Stream	The difference between compensation payments and penalty charges is not clearly differentiated	<p>Penalty charges are paid by the failing party to MOSL, who collects these across two central pots, one for Wholesaler penalty charges and one for Retailer penalty charges. These 'pots' are then used at the end of the year to fund the MIF, outperformance payments, and redistribution (similar to OPS and MPS today, but outperformance payments are new).</p> <p>Compensation payments are paid by the failing party to MOSL, who then passes the payment directly across to the Retailer who has been impacted by the poor performance of the failing party. Compensation payments will therefore be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms.</p> <p>MO should not retain any of these charges, so, they are returned to parties, firstly to those performing well (via outperformance</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			payments) and then, any remaining funds are distributed across parties as today. This ensures that high-performing parties receive more benefit.
5.2.2	Business Stream	A failing wholesaler can unfairly impact an otherwise performing retailer – therefore data and service requests should be in wholesaler metrics not KPIs	MOSL would welcome clarity from the respondent on which specific metrics they mean.
5.2.3	Castle Water	Compensation requires a much a higher degree of lateness than penalties which is not transparent, proportion or fair	Compensation payments are more complicated than penalty charges. They will be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms. This automatically limits the applicability of this tool to a select number of KPIs and select performance scenarios within.
5.2.4	Castle Water	Both compensation payments and penalty charges add complexity to a supposedly simplicity motivated MPF	Agreed. Including compensation as a financial incentive does make the financial model more complex. But the trade-off is that compensation recognises aggrieved parties and ensure there's a direct line of remedy between the accountable failing service provider and the injured party. Compensation

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			payments will be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms. This automatically limits the applicability of this tool to a select number of KPIs and select performance scenarios within, whereas penalty charges are applicable across a greater number and variety of KPIs.
5.2.5	Castle Water	Not enough evidence that either compensation payments or penalty charges will have any impact on customers or the market	MOSL is sighted on years of performance data that shows that some key activities are not being performed at the best level for customers or the market (e.g., same premises repeatedly not being read, actual transfer reads not being taken, bilateral requests forgotten once the SLA has failed, inaccurate or unassured data) and comparison with other industries shows that our current MPF framework is missing tools such as compensation and performances charges may not be incentivising enough.
5.2.6	Clear Business Water	Compensation payments are not necessary, and no rationale behind M06 having both a penalty payment and compensation payments	MOSL discussed the rationale for M06 with PAG and shared this with the industry in its transfer read summary document. At a point in time, the failure of the incoming retailer to take a reading leads to the outgoing retailer incurring a potential additional cost.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.2.7	ADSM/ Water2Business	Penalty payments encourage good behaviour as many teams do not budget penalty payments	Agreed.
5.2.8	Wave utilities	In principle, compensation being paid per unit charge per supply for all failures is fair as it compensates costs attributed to failure	Agreed.
5.2.9	Wave utilities	Compensation charges need to be attributed fairly and should also be levied on other data items owned by wholesalers, in part or in whole.	Agreed that charges need to be fair. Do not fully understand second point, clarity required.
5.2.10	United Utilities	Disagree both performance charges and compensation payments should apply for a single failure – this would be double jeopardy – this should be one or the other	In some cases, the two could work together. could be conceived as the failing party receiving one charge and this charge being split two ways (part going to the impacted party, part going into a central penalty pot).
5.2.11	Yorkshire Water	If a company marginally misses out on outperformance payment due to another party failing, it needs to be clear if they are able to claim back the missing outperformance payment	The MPF will not and cannot do this, for simplicity reasons and due to the fact that these problems are BAU realities of operating in a market and managing bilateral relationships. The disputes channel is available where certain criteria are met.
5.2.12	CCW	Though there is clear distinction between penalty charges and compensation payments, the latter is not suitable for inclusion. The MPF should incentivise results for customers, not	MOSL agrees that the MPF should incentivise outcomes for customers., MOSL proposes that compensation payments can be part of the incentive toolbox. Through no fault of its own, a Retailer may bear additional costs in

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		provide a mechanism for parties to be compensated for poor performance	resolving the customer impact from non-performance of another party and may have less funds available for its own innovative projects as a result. Compensation payments are intended to cover this loss and mitigate the follow-on customer impact.
5.2.13	CCW	It is unclear how compensation payments might incentivise parties to improve performance, therefore they should sit outside of MPF	See 5.1.5
5.2.14	ADSM	Costs scale very non linearly with size so will be hard GPoL will be hard to work out	<p>MOSL appreciates that costs will be approximate and there might be winners and losers in terms of slightly under/overpaying compared to compensation calculated on a case-by-case impact analysis. Compensation payments are proposed on a small number of metrics where MOSL believes it is realistic to determine a GPoL at a market level.</p> <p>As performance SLAs and charges do not vary across regions, MOSL is proposing that the same market-level approach to GPoL will be taken.</p>
5.2.15	Business Stream	CP4 cannot be achieved if GPol is calculated using market-wide unit charges as the MPF should observe differing geographical costs	See 5.2.14

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.2.16	Castle Water	Current calculations of GPoL adds complexity	See 5.2.4
5.2.17	Castle Water	Current calculations of GPoL is not transparent	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
5.2.18	Castle Water	Current calculations of GPoL will likely result in an unrealistic sum	See 5.2.14
5.2.19	Castle Water	Current calculations of GPoL will lead to double jeopardy with normal penalties	See 5.2.10
5.2.20	Castle Water	Current calculations of GPoL would struggle because accountability is not good enough for this to be fair – parties routinely pay for breached SLAs beyond their control	MOSL considers the accountabilities for taking transfer read or completing a bilateral request (these are the April 25 KPIs where MOSL is proposing compensation payments) are clear and simple.
5.2.21	Castle Water	Current calculations of GPoL does not recognise the customer	See 5.2.12
5.2.22	Clear Business Water	Using averaged industry costs could leave parties exposed to real losses above what is considered industry average or being required to pay compensation charges above those the other party incurred	Agreed. GPOL are not actual losses, but estimates. Fully costed and individualised loss adjustment would be time consuming, expensive and impractical. Variances of GPoL versus actual losses will be minimised by virtue of compensation

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			payments being reserved for a small number of metrics. MOSL proposes that the facility to be compensated, even if at pre-determined levels, is an improvement over the status quo, where no element of loss is provided for.
5.2.23	Clear Business Water	Using the REC costs as a reference point will not accurately represent the scale of costs faced by parties	Agreed. GPOL is an estimate, not a case by case loss adjustment. Fully costed loss adjustment would be time consuming, expensive and impractical. See 5.2.22
5.2.24	Dŵr Cymru (retailer)	Question if poor service from wholesaler leading to loss of customer has been considered as a loss	MOSL does not believe it is possible (or the function of) the proposed compensatory damage regime to consider these longer-term implications.
5.2.25	Dŵr Cymru (retailer)	With great cost pressures on wholesalers anticipated in PR24, question how priorities will change based on performance commitments	Noted. MOSL agrees that the scale of PR24, and the incentives likely to come from BR-Mex are much higher than MPF but MPF tools are proposed to be stronger than what currently exists.
5.2.26	Everflow	The GPoL calculation will need to consider that each metric will require a different approach and methodology to ensure relevance	Agreed. MOSL proposes compensation for a select few KPIs where this is practical and warranted.
5.2.27	Everflow	The GPoL calculation will require, at a minimum, real anonymised market data that is representative of the relevant losses the MPF seeks to compensate	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.2.28	Everflow	Where material losses are realised above the level accounted for in this MPF, compensation through a GPoL will not be sufficient	See 5.2.22
5.2.29	Everflow/ WaterPlus	Further consultation outside of planned consultations will be necessary to appropriately consider how to calculate GPoL	Agreed. MOSL has considered using the Retail Exit Code, the PAG and industry request for information (RFI) as sources.
5.2.30	Everflow	M10 – calculation of GPoL should account for failures resulting in bill shock and percentage of bad debt associated with the LLUM – compensation could also be proportional to how long a meter has existed unread	Noted. A useful suggestion that MOSL can explore further with trading parties.
5.2.31	Everflow	M06 – GPoL should be based on financial impact of incorrect final bills – average daily charge for relevant supply multiplied by the number of days late. Average daily charge could be estimated by calculating an average daily rate for a given SPID based on SIC code	MOSL proposes that GPOL will need to be simple. The respondent's suggestion would generate a different GPOL in individual circumstances. Nevertheless this is a novel suggestion to consider. Thank you..
5.2.32	Everflow	GPoL should not be the only compensatory tool under this framework, to account for cases where loss is more than compensation levels, an additional 'market rate GPoL' and a 'truing up mechanism' would be appropriate	MOSL has proposed GPoL as a much simpler alternative to actual losses. Fully-costed loss adjustment that could allow for "truing up" would be more complex.
5.2.33	Water2Business	As all trading parties are different, it will be impossible to provide a standard calculation	GPoL is limited in its ability to truly remedy a loss, but that is a trade off against increased complexity and cost of administering a loss adjustment regime. Nonetheless, GPoL

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>represents another incentive and an improvement upon the current framework where there is no compensation at all.</p> <p>The proposal for GPoL, as for penalties, is that it be applied at the same level across the national market, which will require careful consideration when setting the charge.</p>
5.2.34	Waterscan	Both GPoL and deferrals will be difficult to determine what is genuine and what is not – any determination could be subjective	See 5.2.33.
5.2.35	Anglian Water/Yorkshire Water/Castle Water	Methodology of GPoL is too complex	The proposal for GPoL, as for penalties, is that it be applied at the same level across the national market, which will require careful consideration when setting the charge.
5.2.36	Thames Water/Yorkshire Water/CCW	GPoL will be difficult to calculate and bear no relation to actual loss; potentially leading to legal challenges	GPoL is limited in its ability to truly remedy a loss, or full costs. That is a trade off against increased complexity and cost of administering a loss adjustment regime. Nonetheless, GPoL represents another incentive and an improvement upon the current framework where there is no compensation at all. It's not clear how a GPoL would increase legal challenges over the status quo where TPs have absolutely no compensation recourse in MPF.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.2.37	United Utilities	It is inappropriate for full costs to be recovered from wholesalers; retailer margins should cover a degree of failure inherent in any operation	<p>GPoL is limited in its ability to truly remedy a loss, or full costs. That is a trade off against increased complexity and cost of administering a loss adjustment regime. Nonetheless, GPoL represents another incentive and an improvement upon the current framework where there is no compensation at all.</p> <p>The proposal for GPoL, as for penalties, is that it be applied at the same level across the national market, which will require careful consideration when setting the charge.</p>
5.2.38	Castle Water	No explanation why 21BD late has been chosen as the qualifying threshold that triggers compensation payments, or if there is an appeal process	The 21BD threshold was discussed at PAG. Toward the end of the transfer read window, during weeks 4-6 (or BD 21-30) there is no longer sufficient time for outgoing retailers to generate a final bill. MOSL can make its summary document clearer on this point.
5.2.39	Everflow Utilities	It is essential to carry out a review of the MPF in its entirety, including recalculating 2023-2024 figures under the new framework to ensure incentivisation without imposing unfair penalties	MOSL agrees that part of baselining the new values requires an examination of current OPS and MPS charges and performance.
5.2.43	South West	Compensation payments cover the cost and impact for a retailer dealing with customers where the poor performance of a wholesaler,	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		or another retailer, has impacted the service and experience provided. Compensation payments can be made from a wholesaler to a retailer, or retailer to another retailer. It does not apply to KPIs that would require retailers to compensate wholesalers.	
5.2.44	Southern Water	None (i.e. no comments)	Noted
5.2.40	Wave utilities	Need for clarity around what payments are to be made to keep costs low and ensure simplicity	Agreed - when calculations are confirmed, these will be set out in the code for clarity and transparency.
5.2.41	Wessex Water	Where possible, these should be aligned with other payment timescales	Agreed – will just need to ensure that the benefits of consistency outweigh the practical demands. E.g., compensation payments might be more complicated to determine than penalty charges and might be incurred less frequently, so it may be more effective to run these payments every X months instead of monthly.
5.2.42	Yorkshire Water	If there are KPIs that retailers would want to be compensated for over others, it could create a trend of prioritising KPIs that incur compensation payments	MOSL agrees. This risk could be factored into setting the value of compensation payments so as to avoid perverse disincentives against good customer service. However, this risk does not obviate compensation as a financial tool. Furthermore, Trading Parties which look to game the system to maximum their

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			compensation risk exposing themselves to failing KPIs or standing out in Additional Metrics, Audits etc which could identify and penalise these behaviours.
--	--	--	---

Question 5.3: Do you have any comments on the methodology or evidence that should be used to calculate the genuine pre-estimate of loss (GPoL)?

Reference	Respondent	Comment	Response
5.3.1	ADSM	Costs scale very non linily (linearly?) with size so will be hard GPoL will be hard to work out	See 5.2.14 (all comments in this section 5.3 are repeated above in section 5.2)
5.3.2	Business Stream	CP4 cannot be achieved if GPoL is calculated using market-wide unit charges as the MPF should observe differing geographical costs	See 5.2.14
5.3.3	Castle Water	Current calculations of GPoL adds complexity	See 5.2.4
5.3.4	Castle Water	Current calculations of GPoL is not transparent	See 5.2.17
5.3.5	Castle Water	Current calculations of GPoL will likely result in an unrealistic sum	See 5.2.14
5.3.6	Castle Water	Current calculations of GPoL will lead to double jeopardy with normal penalties	See 5.2.10
5.3.7	Castle Water	Current calculations of GPoL would struggle because accountability is not good enough for this to be fair – parties routinely pay for breached SLAs beyond their control	See 5.2.20

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.3.8	Castle Water	Current calculations of GPoL does not recognise the customer	See 5.2.12
5.3.9	Clear Business Water	Using averaged industry costs could leave parties exposed to real losses above what is considered industry average or being required to pay compensation charges above those the other party incurred	See 5.2.22
5.3.10	Clear Business Water	Using the REC costs as a reference point will not accurately represent the scale of costs faced by parties	See 5.2.22 and 5.2.23
5.3.11	Dŵr Cymru (retailer)	Question if poor service from wholesaler leading to loss of customer has been considered as a loss	See 5.2.24
5.3.12	Dŵr Cymru (retailer)	With great cost pressures on wholesalers anticipated in PR24, question how priorities will change based on performance commitments	See 5.2.25
5.3.13	Everflow	The GPoL calculation will need to consider that each metric will require a different approach and methodology to ensure relevance	See 5.2.26
5.3.14	Everflow	The GPoL calculation will require, at a minimum, real anonymised market data that is representative of the relevant losses the MPF seeks to compensate	See 5.2.27
5.3.15	Everflow	Where material losses are realised above the level accounted for in this MPF, compensation through a GPoL will not be sufficient	See 5.2.22 and 5.2.28

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.3.16	Everflow/ WaterPlus	Further consultation outside of planned consultations will be necessary to appropriately consider how to calculate GPoL	See 5.2.29
5.3.17	Everflow	M10 – calculation of GPoL should account for failures resulting in bill shock and percentage of bad debt associated with the LLUM – compensation could also be proportional to how long a meter has existed unread	See 5.2.30
5.3.18	Everflow	M06 – GPoL should be based on financial impact of incorrect final bills – average daily charge for relevant supply multiplied by the number of days late. Average daily charge could be estimated by calculating an average daily rate for a given SPID based on SIC code	See 5.2.31
5.3.19	Everflow	GPoL should not be the only compensatory tool under this framework, to account for cases where loss is more than compensation levels, an additional ‘market rate GPoL’ and a ‘truing up mechanism’ would be appropriate	See 5.2.32
5.3.25	Pennon Water Services	We are not confident that all the appropriate factors will be taken into account.	MOSL recognises the challenge of taking into account all appropriate factors.
5.3.26	Sefton Council	Seems fine	Noted
5.3.20	Water2Business	As all trading parties are different, it will be impossible to provide a standard calculation	See 5.2.33

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.3.27	WaterPlus	We believe it is crucial that there is further industry consultation once preliminary values have been identified	Further consultation with trading parties is expected through PAG and other means.
5.3.21	Waterscan	Both GPoL and deferrals will be difficult to determine what is genuine and what is not – any determination could be subjective	See 5.2.33 and 5.2.34.
5.3.22	Anglian Water/Yorkshire Water/Castle Water	Methodology of GPoL is too complex	See 5.2.35
5.3.28	Dŵr Cymru (wholesaler)	Does the methodology depend on the KPI that has been failed, i.e. if a retailer's cost to serve a particular customer exceeds average due to a failure by the wholesaler, then it is appropriate that compensation is based on a review, if information provided in the examples in CP4, but will this always be the case?	Compensation payments would be determined automatically. There would not be a bespoke appeals or adjustment process.
5.3.29	South West	Please see our previous comments relating to compensation payments. In line with previous comments, a MOSL survey for GPoL calculations and determination of costing methods is not our preferred approach.	Noted. Does the respondent have other suggestions on methods MOSL should use?
5.3.30	Southern Water	The documentation confirms the GPoL for any application KPI will be calculated using industry average costs, which will be determined later in the MPF programme using a collaboration of	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		costing methods (e.g. market surveys, REC costing, etc). The unit charge for the GPoL will then be applied in a code-specific calculation, as per CP6 to determine the final compensation for a given event. MOSL has stated that the payment could be low for trading parties, but because this calculation has not yet been determined, it is difficult to understand what will be. More clarity is required.	information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
5.3.23	Thames Water/Yorkshire Water/CCW	GPoL will be difficult to calculate and bear no relation to actual loss; potentially leading to legal challenges	See 5.2.35 and 5.2.36
5.3.31	Wessex Water	We would expect MOSL to not approach this with a 'light touch' and would expect any proposals to be supported by robust data and calculations with opportunity to comment through consultation. There are many variables that will influence this calculation.	Noted
5.3.24	United Utilities	It is inappropriate for full costs to be recovered from wholesalers; retailer margins should cover a degree of failure inherent in any operation	See 5.2.37

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 5.4: Do you have any comments on the way compensation payments are proposed to be made, i.e. the process and frequency with which MOSL applies and communicates charges/payments with trading parties?

Reference	Respondent	Comment	Response
5.4.1	Castle Water	No explanation why 21BD late has been chosen as the qualifying threshold that triggers compensation payments, or if there is an appeal process	<p>Thank you for drawing attention to the 21BD threshold for compensation. This was discussed at PAG. Toward the end of the transfer read window, during weeks 4-6 (or BD 21-30) there is no longer sufficient time for outgoing retailers to generate a final bill. MOSL can make its summary document clearer on this point.</p> <p>MOSL is not proposing an appeals process - compensation payments will only apply for a limited number of KPIs and these conditions and calculations will be done automatically as set out in the code.</p>
5.4.7	Dŵr Cymru (retailer)	As per Q3.2: It is not clear if consideration has been given to the different complexities of SPIDS i.e. the greater challenges, risks and timeframes to resolve the more complex requirements of larger multi-meter sites e.g. T1 chamber v	(As per Q3.2) Noted. This is where the minimum performance standard comes in to set realistic and fair expectations of performance.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		T3/T4 chamber; larger SPID's may have more than one meter etc. Typically, we find that larger more complex sites are more difficult to undertake operational work on	
5.4.2	Everflow utilities	It is essential to carry out a review of the MPF in its entirety, including recalculating 2023-2024 figures under the new framework to ensure incentivisation without imposing unfair penalties	See 5.2.39
5.4.8	Pennon Water Services	No – as we understand it will reflect current practices.	Noted.
5.4.9	Sefton Council	Seems fine	Noted
5.4.10	South East	We broadly agree with the proposal, and it would be preferable for payments to be made monthly.	Noted
5.4.3	Wave utilities	Need for clarity around what payments are to be made to keep costs low and ensure simplicity	See 5.2.40
5.4.11	Waterscan	As as long as it is consistent, no preference	Noted
5.4.12	Dŵr Cymru (Wholesaler)	As per answer to Q5.3 (above): Does the methodology depend on the KPI that has been failed, i.e. if a retailer's cost to serve a particular customer	Compensation payments would be determined automatically. There would not be a bespoke appeals or adjustment process.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		exceeds average due to a failure by the wholesaler, then it is appropriate that compensation is based on a review, if information provided in the examples in CP4, but will this always be the case?	
5.4.13	South East Water	Broadly agree with the proposal and it would be preferable for payments to be made monthly	Noted.
5.4.14	South West	No, although as mentioned previously, we feel compensatory payments are perhaps better managed between wholesalers/retailers, with payments made as appropriate.	MOSL agrees that in theory, compensation payments are most accurate if determined on a case-by-case basis. But practically, that is impossible for the MPF to manage. There is precedent for centrally governed compensation payments in other industries. MOSL would welcome further information and/or evidence as to whether in this market bilaterally managed compensation payments are working/would work well between retailers and wholesaler.
5.4.15	Southern Water	No, this all seems clear apart from our comments regarding CP5	Noted.
5.4.16	Thames Water	We fundamentally believe that compensatory payments should not be made.	Noted.
5.5.17	United Utilities	We support the proposal	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

5.4.4	Wessex Water	Where possible, these should be aligned with other payment timescales	See 5.2.41
5.4.5	Yorkshire Water	If there are KPIs that retailers would want to be compensated for over others, it could create a trend of prioritising KPIs that occur compensation payments	See 5.2.42
5.4.6	CCW	We do not have any specific comments on the way payments are proposed to be made as we do not believe compensation payments should sit within the MPF.	Noted.

Section 6: Principles & Performance Standards – Financial principles ('other')

Question 6.1: Do you have any comments on any of the six additional financial incentives principles outlined?
Please refer to each principle by its reference, e.g. AP4

Reference	Respondent	Comment	Proposer Response
6.1.1	Business Stream	AP6 – How inflation is calculated should be stated in the Codes	Agreed.
6.1.2	Business Stream	AP6 – the methodology used should mirror that of the Retail Exit Code.	Agreed. MOSL will reference REC principles where possible.
6.1.3	Business Stream	AP6 - Consider that for some KPIs the increase in unit costs may not be directly linked to inflation, for example the increase could be linked more closely to wage increases	Noted. MOSL/PAC should consider this when the framework is fully reviewed from time-to-time, and this could be addressed through code change.
6.1.4	Castle Water	The framework should not reward failure	MOSL agrees that failure should not be rewarded.
6.1.5	Castle Water	A more appropriate principle would be, the framework will not penalise trading parties for issues beyond their control	MOSL agrees that the framework should not penalise trading parties for issues outside their market code responsibility.
6.1.6	Castle Water	the reference to "lesser degrees of failure" demonstrates a lack of understanding of the drivers of performance and what is within a trading party's control	The principle states that the framework should not reward failure. An example of this is a missed read. Once late, the submission of a read will not be rewarded even if provided one day late compared to a market average of 5 days late.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.1.7	Castle Water	The timeline illustrates the development of metrics and financial measures is too rushed to be effective and to allow for the suggested calibration to understand the impact of metrics in isolation and as a package	MOSL notes the timeline pressure and will ensure that charges and standards are not confirmed and applied in the MPF until after an appropriate period of testing and calibration.
6.1.8	Castle Water	strongly encourage MOSL to revisit its timeline for the delivery of the MPF, as well as its approach to designing the associated metrics	MOSL notes the timeline pressure. The PAG has afforded subject matter experts from trading parties far more time and influence on the proposed KPIs compared to what would been achieved through a series of consultations. As the product owner, MOSL has to confirm a design at some point that improves upon the baseline and aligns to the programme principles (e.g., customer outcomes, trading party accountability, cost effectiveness) even if there is no clear consensus on the optimal design from the market, noting that periodic reviews and flexibility are inherently built into the proposed MPF model should the initial suite of KPIs and tools that are delivered suggest further changes are required.
6.1.9	Castle Water	MOSL cannot continue to develop measures independently and without significantly more involvement from trading party members with operational experience in the market	See 6.1.8.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.1.10	Castle Water	AP4 - The MPF framework should be consistent in the treatment of charges for KPIs that are similar in theme and calculation, wherever possible	MOSL agrees
6.1.11	Castle Water	Terms such as "charges" and "incentives" are used interchangeably, which causes confusion. The current drafting needs significant improvement if principles, metrics, and related codes are to be clearly understood and effectively implemented	MOSL acknowledges that code drafting needs to be clear and unambiguous. The CAG will be essential in ensuring this.
6.1.12	Castle Water	what does "consistent in the treatment of charges" mean? Does it refer to the value of the charge, how or when it is applied, the design of the metric, or all these aspects together?	All aspects together. The reference to 'wherever possible' is a note to recognise that trading party behaviours and customer outcomes associated with any KPI are the primary driver for its design and the design and value of the financial tool attached, however at a high level, KPIs of similar theme and calculation should have commonality in charge values, charge type and frequency, and metric design. This helps to create a model that is simple to apply and understand.
6.1.13	Castle Water	We have repeatedly highlighted the need for a consistent approach to deferrals for cyclic meter reads, consistent with the wholesaler's ability to defer a bilateral case for reasons beyond their control. However, no similar proposal has been made for the cyclic meter read measures	The MPF is focussed on measuring performance against current code obligations, which require Retailers to read meters and Wholesalers to complete bilateral requests within SLAs. The codes permit the use of deferrals by

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>Wholesalers – there is no equivalent mechanism for Retailers. If Trading Parties believe there is a case for change on the basis of ensuring fairness and customer benefit, then that can be raised as a code change outside of the MPF reform programme.</p> <p>Notwithstanding this, MOSL has proposed that the MPF should provide leeway for failures outside parties’ control. The minimum performance standard on meter reading KPIs will be set to accommodate a reasonable level of failure.</p> <p>Should an equivalent deferral mechanism for cyclic meter reads be implemented in code it is likely the minimum performance standard for this metric would increase.</p>
6.1.14	Castle Water	wholesalers can defer a bilateral service request for reasons beyond their control, but there is no similar and consistent mechanism for the retailer cyclic meter read measure. Without such consistency, the framework lacks fairness, and it remains unclear how this principle addresses these discrepancies	See 6.1.13

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.1.15	Castle Water	meter reading measures and bilateral both have a pass/fail time element but are not treated the same in the current or new MPF	See 6.1.13
6.1.16	Castle Water	We need to consider the conflict between PC8 and AP6. Notably, is AP6 not redundant as PC8 would indicate the "penalties" have to be individually calculated each year where you give "average market cost +X%". However, some 6 pages later in the consultation documentation, it says to calculate once and just increase it every year by inflation	Agree PC8 is not indicating that the penalties will need to be recalculated each year. PC8 is stating that the initial setting of charges will ensure that it is not cheaper to incur a charge than complete a task in the first instance or resolve the underlying cause of underperformance. These charges will need to change with inflation to ensure this principle holds from year to year. It is also possible that periodic reviews may identify a need for a more detailed recalibration on longer timescales if good performance and outcomes are not being sufficiently incentivised.
6.1.17	Clear Business Water	AP2 states that only one financial tool shall normally apply to a KPI. However, KPI M06 has both penalty charges and compensation payments. We would seek clarification on the rationale behind this given it's diversion from principle AP2 and the number of penalty charges that Trading Parties are potentially exposed to for transfer reads as outlined in our response to question 3.1	Agree that there is a slight conflict but AP2 does note that there may be justification for exceptions. See rationale in transfer read summary document for selections on M06.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.1.18	Dŵr Cymru (retailer)	Which inflationary indicator will be used (RPI, CPI, CPIH)?	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
6.1.37	Everflow	We strongly support PC8 (note: moved from Q4.1)	Noted
6.1.19	Nottingham City Council	Agree with these.	Noted
6.1.20	Water2Business	We agree with all principles outlined.	Noted
6.1.21	WaterPlus	an additional principle is required to ensure that participants are never incentivised against the provision of additional accurate information, this would typically include measures that penalise 'late' submission when there would be no additional penalty for not submitting	Agree. The KPIs are being designed in a way that is should never be advantageous not to compete the required activity. For example, overdue and outstanding bilateral requests will continue to be penalised until complete and missing reads will continue to be penalised until provided.
6.1.22	Wave Utilities	AP1 makes reference to not rewarding failure, but equally it should not penalise TPs for matters outside their control	MOSL agrees that the framework should not penalise trading parties for issues outside their market code responsibility.
6.1.23	Anglian Water	AP2 – we question the use of 'normally' ("only one type of financial incentive will normally apply	AP2 refers only to penalties and compensation, not outperformance payments.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		to a KPI") – this only applies to three metrics and one of these is subject to two types of financial penalties	
6.1.24	Anglian Water	AP6 – we do not see what the basis for this is - GSS is not inflation linked, so why would market coded penalties be inflation linked?	MOSL proposes that the codes should allow for the possibility of inflationary adjustments to ensure that performance charges retain their originally intended level of incentive. Ofwat's recommendation the UK government in 2018 was that GSS should track inflation.
6.1.25	Northumbrian Water	What is the definition of 'above and beyond' is for each applicable metric and how this will be applied in a fair and consistent manner	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
6.1.26	Portsmouth Water	AP1 – We agree recognising outperformance is important.	Noted
6.1.27	Portsmouth Water	AP2 – We agree that double jeopardy must be avoided	Noted
6.1.28	Portsmouth Water	AP3 – We agree this is the right approach	Noted
6.1.29	South West Water	AP2 – We believe only penalty charges should apply	Compensation payments are proposed to increase accountability and fairness and ensure that Retailers have an approximate cover for bearing additional costs in resolving the

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			customer impact from poor performance of another party. These will be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms. This automatically limits the applicability of this tool to a select number of KPIs and select performance scenarios within.
6.1.30	South West Water	We support AP1	Noted
6.1.31	South West Water	AP5 – We broadly agree with this principal though note we wouldn't welcome frequent surveys to update charges. Though AP6 goes some way to alleviate concerns	Agree
6.1.32	Southern Water	No, they all seem clear & fair.	Noted
6.1.33	United Utilities	In principle we agree with these.	Noted
6.1.34	Yorkshire Water	Overall, we are quite happy with these. We are pleased that it allows PAC the flexibility to address emerging trends.	Noted
6.1.35	CCW	We agree with most of the additional financial incentives principles, in particular AP1	Noted
6.1.36	CCW	AP2 - outperformance payments should only be used in very limited circumstances, if at all, and	MOSL agrees about outperformance payments. Respondents comments about compensation are noted. See 5.1.5 and 5.1.49.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		we do not believe compensation payments should sit within the MPF	
--	--	---	--

Question 6.2: Do you have any comments on any of the 14 performance standards principles outlined? Please refer to each principle by its reference, e.g. PS11

Reference	Respondent	Comment	Proposer Response
6.2.1	ADSM	PS2 - hard to envision a scenario where 100% performance is achievable all the time	Example here is M04 – if estimated transfers reads are permitted, MOSL is yet to hear of a valid reason not to submit a read that passes the required SLAs.
6.2.2	Business Stream	PS2 – We do not agree that the minimum and outstanding performance standards can be the same especially when we consider for PS4 that both will be published in peer comparison reports	See 6.2.1 for M04 example but agree this could be confusing on peer comparison reports (particularly those which are customer facing). This is an important point to consider when designing these outputs.
6.2.3	Business Stream	PS4 - peer comparison reporting must be fully understood by the customer. The reports should explain the importance that wholesaler performance has on retailers' performance	Agree with the first point. Important not to overload customers with too much information and caveating.
6.2.4	Business Stream	PS12, 13 & 14 - performance standards should be laid down in the Codes	MOSL's preference is for flexibility noting that the codes will still provide the certainty of process in terms of industry consultation,

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			PAC determination, and advanced notice periods of change. MOSL will seek clarification from respondent in due course on their rationale for their preference.
6.2.5	Castle Water	Terms such as "most" are unhelpful and inappropriate in a document like this on Performance Standard Principles. They are ambiguous and lead to confusion. The drafting is not precise enough to ensure the principles are clearly understood	MOSL encourages trading parties to get in touch to clarify any points of ambiguity or confusion before they respond to consultations.
6.2.6	Castle Water	How can we launch something without knowing what the standards are?	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
6.2.7	Castle Water	If a standard's level turns out to be 60%, is that really the message we want to convey? This suggests the framework might be measuring the wrong things or failing to design the correct measures	See 2.2.11

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.2.8	Castle Water	The notion that performance standards will be absolute, except when they are not, is not a helpful principle. It is unclear what purpose this principle serves	Noted. MOSL will review the clarity of the wording for this principle.
6.2.9	Castle Water	The terms "performance standards" and "KPIs" seem to be used interchangeably. This is not helpful, as it creates confusion and displays a concerning lack of attention to detail, which should not be present in a document of this type	Noted. MOSL agrees that the terms Performance standards and KPIs mean different things and endeavours to use the right terms in its documentation.
6.2.10	Castle Water	Some KPIs will be measured by other means, but based on what criteria? The level of vagueness is inappropriate and lacks the detail needed for further comment	The mechanism of measurement for every KPI will be discussed at PAG and shared with the industry.
6.2.11	Castle Water	urge MOSL not to proceed with launching the MPF until the measures are clearly understood, particularly how they interact and function as a package	See 6.1.7 and 6.1.8
6.2.31	Dŵr Cymru (retailer)	No (i.e. no comments on the performance standards principles)	Noted
6.2.32	Everflow	Please see Q2.7 and Q2.10.	
6.2.33	Pennon Water Services	No (i.e. no comments on the performance standards principles)	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.2.12	Waterscan	PS12 - decreasing minimum performance due to significant number of parties not meeting the standard, should only come about after investigation and consultation, unless genuinely impossible to achieve	Agreed.
6.2.13	Affinity Water	PS1 - most KPIs will require both a defined minimum and outstanding performance standard and all should have a minimum.	Agreed.
6.2.34	Anglian Water	PS10, as we previously stated we don't believe compensation payments should be part of the regime. PS13 and PS14 – refer to Question 2.3 (i.e. that performance standards SHOULD be included in the codes)	Noted. MOSL would welcome rationale from this respondent as to their preference for not protecting/reimburse Retailers for damages that are not of their own doing.
6.2.14	Dŵr Cymru (wholesaler)	With all of Performance standards we have to take into account some of the complexities associated with some of the performance standards. (as stated in 3.2)	Agreed.
6.2.15	South Staffs Water	PS10 if only 1 financial incentive is applicable to each performance standard, should this not also be the case for penalty?	MOSL notes that the framework can provide for a TP to in theory get an outperformance payment and RECEIVE compensation. Compensation (covers loss) and performance payments (incentivises performance) do two different things.
6.2.35	South East Water	PS1 – we would need to work closely with all trading partners to establish fair, minimum and outstanding performance standards.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.2.16	South West Water	PS1 - requires more definition by MOSL before suitable feedback can be provided	MOSL welcomes further discussion with the respondent on this point.
6.2.17	South West Water	PS2 - provide more detail on how the circumstances will be determined which define where there's no justifiable reason for trading parties not to complete a task. Once this detail has been provided, we would welcome the opportunity to provide more feedback prior to any implementation	An example here is M04 – if estimated transfers reads are permitted, MOSL is yet to hear of a valid reason not to submit a read that passes the required SLAs.
6.2.18	South West Water	PS3 - principal and explanation are contradictory. Many of the measures are already reported upon or data readily available and we prefer that the majority of performance standards be set pre-launch, to minimise the need for changes to be made later on	Agree that it is better to have the correct answers in place at implementation rather than updating as we go.
6.2.19	South West Water	We support PS4 through to PS9 in the MPF	Noted.
6.2.20	South West Water	We support PS11 and PS12, the latter being a positive step for a flexible MPF. We support PS13-14 although ask that changes and consultations be kept to a minimum where possible	Noted and agreed. MPF will not be flexed for the sake of flexing.
6.2.21	Southern Water	PS1 - For some KPIs the standard may need to be confirmed after the reformed MPF is launched to allow time to consider companies' performance levels under the new	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		framework. This raises some questions, how long will this be, 3 months, 6 months?	suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn. At that point MOSL should have a better idea of the implementation plan for each KPI as well.
6.2.22	Southern Water	PS3 – Same considerations as PS1, how long for necessary gathering of evidence?	See 6.2.21
6.2.23	United Utilities	PS2 - don't think it is a reasonable expectation for 100% to be set as the minimum for any measure as there could always be a justifiable reason for trading parties being unable to complete tasks	See 6.2.17
6.2.24	United Utilities	PS6 - there are regional factors impacting performance in some areas. This measure is, therefore, not simply a measure of performance but instead a measure of underlying regional differences	See 4.1.27
6.2.25	United Utilities	PS10 - do not agree that wholesalers should have to pay both performance charges and compensation payments for a single failure – we consider this to be double jeopardy	In some cases, the two could work together. This is not seen as double jeopardy – there is precedent in other frameworks – and could be conceived as the failing party receiving one charge and this charge being split two ways (part going to the impacted party, part going into a central penalty pot).

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.2.26	United Utilities	PS13 - performance standards should not sit outside of the codes. We believe PAC should suggest changes however these should be part of the codes and approved by Code Change Committee allowing trading parties time to implement changes on their side such as recruit new staff to ensure sufficient resources are available	Noted. Our preference is for flexibility noting that the codes will still provide the certainty of process in terms of industry consultation, PAC determination, and advanced notice periods of change.
6.2.27	United Utilities	KPIs included in BR-MEX should not be included in any relative performance reporting as part of MPF. It would seem unfair to "penalise" a trading party twice for poor performance against a single measure	MOSL does not consider that publishing granular KPI performance under the MPF is the same as the higher level reporting that may be expected under BR-MeX.
6.2.28	United Utilities	PS14 - we support the need for trading party consultation before performance standards are changed	Noted and agreed.
6.2.29	CCW	with the exception of PS10, we generally agree with the performance standards principles and believe they should drive the right trading party behaviours, and good customer outcomes. In particular, where there has been a failure, there is a clear customer impact that needs to be rectified as swiftly as possible. We, therefore, agree that some performance standards should be set at effectively 100%, as outlined in PS2 and PS5	Noted and agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

6.2.30	CCW	PS9 - outperformance payment tool needs to be carefully designed so there are no rewards for simply doing a good job. Trading parties needs to be true outliers in terms of exceptional performance, and clear and tangible benefits for customers need to have been delivered. In addition, we strongly believe that there should be no 'reward only' KPIs	Agree in the main, challenge on the last point with specific reference to M09 – without outperformance payments, how can MOSL create an incentive for actual transfer reads when estimated reads are permitted (meaning that MOSL cannot penalise these)?
---------------	-----	---	---

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Section 7: Metric-to-tool-mapping

Question 7.1: Do you have any general comments on the four Charging Models? Please specify which you are referring to in your answer.

Reference	Respondent	Comment	Proposer Response
7.1.33	ADSM	Seems OK	Noted
7.1.1	Business Stream	Model 4 - as wholesaler's performance can affect retailer's ability to obtain meter reads, this model should be extended to include M01 and M04	MOSL would welcome further discussion with the respondent on this suggestion.
7.1.2	Castle Water/Pennon Water Services/Anglian Water/Thames Water/United Utilities	Having four charging models adds unnecessary complexity – making it impossible to explain to customers and making it even harder to make adjustments that would benefit performance levels	MOSL proposes that customers just need to know that retailers and wholesalers are being financially incentivised. The charging models will be invisible to them.
7.1.3	Castle Water	The proposed models fail the test of proportionality as they will be clunky to administer and fail to improve flexibility	MOSL is confident it can administer the proposed models. Variable will be used as much as possible in design to ensure that there is flex going forward.
7.1.4	Castle Water	Outperformance payments cannot be justified as the performance regime measures compliance with code mandated obligations	MOSL agrees that code obligations are absolute (unless that obligation itself is setting a minimum expectation). However, Trading parties themselves have repeatedly informed MOSL that the current

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>regime penalises them for factors outside their control and therefore 100% performance is not realistically achievable as part of business as usual.</p> <p>The concept of performance standards and outperformance payments reflects the reality of operating in the market and acknowledges that failures are inherently part of BAU. Where trading parties can minimise failure significantly compared to their peers MOSL proposes this should be incentivised and rewarded. The alternative is that all penalties are redistributed back to everyone regardless of performance, which fails the 'improving customer outcomes' and 'party accountability' tests.</p>
7.1.5	Castle Water	Outperformance payments will be insufficient to cover the tasks out of a trading parties' control and so serve no purpose.	There is precedent elsewhere which proves the purpose and value of outperformance payments and invalidates the assertion that the presence or absence of outperformance payments is irrelevant to performance.
7.1.6	Castle Water	There is no equitable basis to set minimum and outstanding performance standards.	MOSL will explore the most equitable basis for setting standards with Trading Parties, including those on the PAG.
7.1.7	Castle Water	MOSL provides no evidence to support the view that only outperformance payments would incentivise trading	Using only penalties has led to stagnating or declining performance across many key areas. MOSL proposes that outperformance and other

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		parties performing adequately to improve	refined tools in MPF 2.0 will offer new incentives to improve. Trading Party feedback to the proposal for outperformance is mostly positive. See 7.1.5 also.
7.1.8	Castle Water	Performance that would qualify for outperformance payments is likely outside a trading party's control (i.e., percentage of accessible meters for M01) so will fail to incentivise appropriate behaviour	MOSL's engagement with Trading Parties as part of performance monitoring and formal audits shows that not all failures are necessarily out of TP's control. MOSL believes that some TPs can and will be able to achieve outperformance.
7.1.9	Castle Water	As there is no guarantee there will be money available for outperformance payments, a trading party could outperform but still be paid nothing – thus a failed incentive	MOSL agrees that at the beginning of the financial year, the incentive is potential for payment, rather than a guarantee. But the respondent's own hypothetical is that the trading party has outperformed on just the potential. Based on historical levels of penalty charges collected, MOSL proposes that it would be unlikely to expect the pot of penalty charges to be insufficient to pay outperformance charges.
7.1.10	Castle Water	Compensation payments (models 3 and 4) appear to be unnecessarily complex; having penalty charges, compensation charges, and final charges cannot possibly be deemed simple.	MOSL agrees that multiple modes of financial incentive introduce a degree of complexity above what is present in the current framework. But this is outweighed by the potential benefits in terms of behaviours and outcomes for customers, alongside greater simplicity elsewhere in the framework (e.g.,

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			simpler metrics, simpler code drafting, simpler non-financial tools).
7.1.11	Castle Water	With the proposed MPF in mind, MOSL have budgeted an annual cost of £550k to administer the new MPF but this will likely prove insufficient – MOSL intend to spend >£1m to set up and £550k to administer for a budgeted benefit of £171k meaning a loss of over £2.1m over the first three years.	The business case for the reformed MPF wasn't to recoup its costs, it was to improve performance and outcomes for customers. The internal development resource will be redeployed into modernisation programmes after MPF reform has concluded.
7.1.13	Castle Water	Each party incurring its own costs before performance charges are added will only add to bills and risks for customers are make the market less attractive for new entrants.	MOSL agrees that TP costs to provide a service should be factored in when considering performance charges.
7.1.13	Castle Water	No evidence is provided to claim that the revised MPF will deliver improved customer/market outcomes.	Throughout Consultation 4 MOSL has referred to the problems with the current MPF and why the proposals offer an improvement. It is impossible to predict how these improvements materialise in terms of performance before the new KPIs and tools are live. But in terms of precedent, MOSL is aligning the framework to key principles which have been observed to be successful elsewhere.
7.1.14	Castle Water	Applying monthly charges whilst 'failures' remain open will often punish trading parties for not completing a task	MOSL has proposed that few KPIs, including M01 which is described by the respondent, will be set with an expectation for 100% performance.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		within a single month even if not achievable within that timeframe – which the metering committee recognises to be the case.	
7.1.15	Castle Water	Replacing the current '200 business day' timeframe for MPS18 with the proposed M01 will not improve outcomes but will add costs to trading parties for reasons previously mentioned.	MOSL does not consider it being in the customer interest that the failure of a Retailer to read a biannual meter should reset the clock another half year before the Retailer could incur another failure.
7.1.16	Castle Water	The proposed MPF and related charging models are not compatible with current realities nor robust to wider changes in the market such as smart meter rollout.	The proposed model, by way of minimum and outperformance standards acknowledges the realities that 100% performance expectations are unrealistic. The proposal also accommodates smart meter rollout through the design of M01 and M02 metrics.
7.1.17	Castle Water	It is difficult to assess charging models without knowing the scale of the charge, £50 may be reasonable but £500 would not, so it is impossible to comment fully on an abstract concept.	Noted. MOSL must work with trading parties to develop the standards and charges for metrics now that their mechanical design has been explored at PAG.
7.1.18	Clear Business Water	M13 has been allocated a charging model without any associated financial tool	Noted. Thank you for pointing this out the oversight in charge model 1 table.
7.1.19	Clear Business Water	M19 has an associated financial tool but no associated charging model	Noted. Thank you for pointing this out the oversight in charge model 1 table.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.1.20	Dŵr Cymru (retailer)	Cannot identify timeframes or planned communications to notify parties of charges or payments – when does this happen?	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn. This will include further information on invoicing too.
7.1.21	Everflow Utilities	The combination of annual outperformance with monthly penalties could result in skewed charging	<p>MOSL believes this approach best balances the need for incentives which are closely linked to the actual occurrence of the transgression without overcomplicating the framework.</p> <p>There is no risk of skewed performance because the monthly performance which is the basis for monthly penalties will be the same monthly performance which is then taken at years' end when determining average performance across the year for the purpose of establishing what outperformance payments are due.</p>
7.1.22	Everflow Utilities	Outperformance must be calculated on a monthly basis similar to penalty charges and should accrue/be paid monthly.	MOSL's view is that this could be complicated and burdensome to administer. And if trading party eligibility is fundamentally about sustained outperformance, a monthly reward would not practical.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.1.23	Sefton Council/South West Water	Model 1 seems most comprehensive and fair.	Noted.
7.1.34	Southern Water	We agree with the four charging models.	Noted.
7.1.24	WaterPlus	The specific combinations of metrics and level of incentive will require further discussion – though broadly agree with principles and underlying charging models.	Agreed.
7.1.25	Wave Utilities	Retailers be expected to pay compensation or penalties for issues out of their control so additional factors should be built into metrics to offset.	Noted. Metric design and performance standards are being designed with the expectation that 100% performance is not always achievable.
7.1.26	Northumbrian Water	Query if a trading party completes NO tasks in a month, are they exempt from penalty or outperformance charges.	Parties will be exempt if there were no tasks or expiring SLAs in the reporting month. For example, if the task is a monthly meter read, the lack of completion in that month will result in a penalty. If the task is a biannual meter read, the lack of completion will only result in a penalty if the read is due. If the task is a bilateral request, the lack of completion will only result in a penalty if the bilateral task is overdue and outstanding.
7.1.27	Castle Water/Anglian	Not supportive of compensation payments.	Compensation payments are proposed to increase accountability and fairness and ensure that

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

	Water/South West Water/Thames Water/Wessex Water/CCW		Retailers have an approximate cover for bearing additional costs in resolving the customer impact from poor performance of another party. These will be reserved for instances where there is direct and avoidable impact on a Retailer and this impact can be approximated in monetary terms. This automatically limits the applicability of this tool to a select number of KPIs and select performance scenarios within.
7.1.35	South East Water	We have no issue with the charging model.	Noted.
7.1.28	South West Water	Consideration needs to be given for open C1 or B5 requests and for LUMs.	Exclusions are being considered on a KPI-by-KPI basis. It is important not to dilute the KPIs too much whilst also recognising where the KPIs need to be fair in what is being reported as passes and failures.
7.1.29	United Utilities	<p>A more workable set of charging models would be the following:</p> <ul style="list-style-type: none"> • Outstanding performance threshold (can be 100% if no outperformance payments were appropriate) • Minimum performance threshold (can be 100% if no minimum standard were appropriate) 	Thank you for providing an alternative model MOSL would be interested in discussing this further to consider if this is more workable than our current proposal.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		<ul style="list-style-type: none"> • Performance charge per failure (can be £0 if no performance charge is due) • Compensation charge per failure (can be £0 if no compensation charge is appropriate) • Out-performance value (can be £0 if no outperformance payment is appropriate) 	
7.1.30	Wessex Water	Penalty charges and compensation charges should not exist for the same KPI but can be applied at different points for the same situation. A two-stage charging model would address this.	Thanks for this suggestion. MOSL can see similarities to the proposal for M06 metric where compensation comes in at a later stage, albeit in M06, penalties will continue alongside thereafter. MOSL would be interested to discuss further the KPIs to which a two-stage charging model could work and why this is better than what is being proposed. MOSL currently does not agree that a penalty charge and compensation necessarily is double jeopardy.
7.1.31	Yorkshire Water	Yorkshire offers a service of providing value-add meter reading with a number of retailers meaning they directly provide reads, hard to tell how this will be measured as wholesalers don't get tested for M01	Retailers could use these reads to pass M01 – Wholesalers will not be measured against the provision of these value-added reads. Should CPW142 be implemented, Wholesaler will be measured against the provision of smart meter reads through M02.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers



7.1.32	CCW	In order to support an agile MPF, MOSL should undertake a comprehensive review of the charging models two years from implementation to ensure models are fit for purpose and driving appropriate outcomes	Agree. Specific timing will be determined by the Panel and the programme team.
--------	-----	---	--

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 7.2: Theme 1: Market meter reads

We would now like your feedback on each of the six themes into which KPIs were grouped.

Regarding Theme 1 - Market meter reads - do you have any comments on: The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any, and; the calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Reference	Respondent	Comment	Proposer Response
7.2.1	Business Stream	As evidenced in Deloitte's insufficiently read meters report, 100% success cannot be guaranteed therefore the penalty charge for M01 and M19 should exclude any vacant properties	Agree that 100% success cannot be guaranteed. Instead of diluting what the KPI stands for, MOSLs preference is to accommodate factors such as vacancy in the setting of the performance standards to be achieved.
7.2.2	Business Stream	M01 and M19 should still include outperformance payments	Agreed, this is part of the proposal.
7.2.3	Business Stream	M01 should exclude any unread meters where a C1/B5 bilateral request has been raised	Agreed, this is part of the proposal.
7.2.4	Business Stream	M01 should not discount unread meters where a C1/B5 has been raised but a successful read has been submitted into CMOS	Agreed, this is part of the proposal
7.2.5	Castle Water/Wave Utilities	Where obtaining a meter is not within retailer's control, it should not be	This is why the minimum performance standard will not be set at 100%. It will be

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		viewed as poor performance but is treated as such	set at a level that acknowledges that a proportion of 'failures' are outside a retailer's control. If the standard is set at 75% and a Retailer is performing at 76%, that will not be viewed as poor performance.
7.2.6	Castle Water	Existing MPS18/19 is unfair and proposed MPF would continue punishing trading parties for things out of their control with no improvement of accountability	Accountability is improved because failures on biannual meters will not longer reset the clock. M01 will not punish retailers for things outside their control because 1) meters with active C1, B5 and C5 bilateral requests will be excluded, and 2) the minimum performance standard will be set at a level that acknowledges that a proportion of 'failures' are outside a retailer's control.
7.2.7	Castle Water	As the Market Improvement Fund depends on penalty charges, minimum standards of value of penalty charges will have to be carefully considered in open sessions	Agreed.
7.2.8	Castle Water	Outperformance as a concept does not belong in the MPF as it attempts to reward parties for meeting code obligations at significant cost	MOSL agrees that you cannot outperform a code obligation (unless that obligation itself is setting a minimum expectation). However, as respondents have pointed out,

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>the current regime penalises parties for factors outside their control.</p> <p>The concept underlying performance standards and outperformance payments is that the new MPF should better reflect the reality of operating in the market and acknowledge that failures are inherently part of BAU.</p> <p>Minimising that failure beyond what is being reported by other trading parties should be incentivised and rewarded, hence the proposal for outperformance payments. The alternative is that all penalties are redistributed back to everyone regardless of performance, which fails the 'improving customer outcomes' and 'party accountability' tests.</p>
7.2.9	Castle Water	Compensation payments should be outside the Market/MOSL/PAG remit.	<p>See 5.1.5.</p> <p>There is precedent for centrally governed compensation payments in other industries. MOSL would welcome further information and/or evidence as to whether in this market bilaterally managed, compensation payments are working/would work well between retailers and wholesalers.</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.2.10	Castle Water	Reimbursement of incorrectly charged amounts should be prioritised over funding the MIF.	Agree that reimbursement should be prioritised if there has been an error in the calculation of charges or the calculation has not been performed in accordance with the requirements set out in the market codes.
7.2.11	Dŵr Cymru (retailer)/ Wave Utilities	MPF should consider activities which are delayed outside of trading parties' control	Agree. This is where the standards play a role in confirming realistic expectations of poor/good/outstanding performance.
7.2.12	Everflow Utilities	Neither outperformance nor penalty charges are necessary to apply to M07; it appears analogous as M23 which was presented as an additional metric	In Consultation 3, M23 was presented as a market indicator 'proportion of settlement on actuals'. M07 breaks this performance down by individual trading parties. It has been noted that M07 is more complicated than M01 and having a financial incentive here would risk trading parties being charged twice, as well as potentially having an unintended impact on consumption behaviour.
7.2.13	Everflow Utilities	It is not appropriate to penalise using estimates for meter reading if they continue to be allowed by the market codes and remain required in some circumstances	MOSL agrees that so long as the codes allow for estimates, it would be difficult to argue that penalties could apply. Only outperformance payments have been proposed for M09.
7.2.14	Everflow utilities	Pleased with the proposal for M01 and view outperformance as a concept to be an improvement	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.2.39	Pennon Water Services	It remains to be seen how this will work in practice.	Noted
7.2.15	Sefton Council/WaterPlus	All seems to be fine – nothing to remove or additional to include	Noted
7.2.40	Southern Water	None (i.e. nothing to add)	Noted
7.2.16	Water2Business	It is not fair to penalise a party monthly for the same failure, particularly where circumstances are out of the party's control	This is where the standards play a role in confirming realistic expectations of poor/good/outstanding performance. However, it is not in the best interest of a customer for a failure to read a biannual meter to reset the clock another half year.
7.2.17	Water2Business	Large retailers would be punished as they would be unable to respond to all skipped read attempts within a single month (W2B noted 10.000 in a month)	There is an obligation of retailers to read meters. However this is where the standards play a role in confirming realistic expectations of poor/good/outstanding performance.
7.2.18	Water2Business/South Staffs Water	Wholesalers will be unable to progress a large increase in bilateral cases which may be the result of proposed MPF	Agree that this is an important risk to understand and factor into the design of related KPIs. However, MPF cannot solve everything, the codes require good planning, cooperation and communication between Retailers and Wholesalers and bilateral relationships are a fundamental element of any competitive market for participants to maximise and benefit from. Note that Retailers and Wholesalers can

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			agree to deprioritise low impacting requests in the Bilateral Hub.
7.2.19	Waterscan	For M07: R1s would naturally have a high level of estimated consumption compared to R2 onwards so it would need to be made clear what good performance looks like	Agree.
7.2.20	Wave Utilities	M01: removing the cap on penalties needs risk assessing and the implications addressing.	Agree.
7.2.21	Wave Utilities	M22/M39: retailers with incumbent portfolios have a natural disadvantage	Market Indicators and Additional Metrics will not be associated with financial tools. In cases of interpreting performance, it is recognised that the PAC needs to appreciate context and contributing factors.
7.2.22	Affinity Water	Suggest removing outperformance payments – it is expected behaviour – standard should be set high but reasonable to meet this	Our view is that outperformance payments will better incentivise innovation and improvement so parties can achieve these stretching targets. It is also preferred to penalty charges being redistributed to all parties at years' end regardless of performance. Finally, MOSL wants to ensure equivalence and fairness across Wholesalers and Retailers so if Wholesalers can qualify for outperformance payments on certain KPIs, Retailers should be able to as well.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.2.23	Dŵr Cymru (wholesaler)	A missed biannual read is likely to have more impact on customers than a missed monthly meter	Agreed; hence why the failure to read a biannual meter will not reset the SLA.
7.2.24	Northumbrian Water	Presuming performance standards are set correctly, seems fair.	Noted.
7.2.41	Portsmouth Water	M10 – should take consideration of W reads in CMOS. It is not correct or fair to assume that if there is no C read then the meter is long unread.	Noted. This is something MOSL can consider when designing M10.
7.2.25	South East Water	Happy with all themes but query is there should be an M09 on Theme 3 for SMART metering?	Request clarification from respondent
7.2.26	South West Water	Calculations and rationale for M01 do not raise any concerns and in support.	Noted.
7.2.27	South West Water	M07 needs more information before comment can be given including calculations, and a rationale that does not impact market for lower consumption customers obtaining reads for large sites.	Further information will be available once detailed design work has started on this KPI. It has been noted that M07 is more complicated than M01 and having a financial incentive here would risk trading parties being charged twice, as well as potentially having an unintended impact on consumption behaviour.
7.2.28	United Utilities	M01 – it is not appropriate to apply penalties within a month for a monthly meter, there needs to be a	Noted. The proposal for M01 design is to look back at months before the reporting month. The design will incorporate a

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		buffer to account for reads submitted a few days after the month ends	reporting buffer period as indicated by the respondent.
7.2.29	Wessex Water	Compensation payments should be to customers as the primary impact is on customer bills	The market codes are a contract between trading parties, not trading parties and customers. Therefore, the MPF cannot directly compensate customers, but the expectation is that Retailers should use compensation payments to improve services or choose to pass these along to customers where the customer has been impacted also.
7.2.30	Wessex Water	Financial penalties should be applied to M07 as it would incentivise more accurate estimation.	Noted, detailed design work still to come on this KPI but currently, M07 is considered more complicated than M01 and having a financial incentive here would risk trading parties being charged twice, as well as potentially having an unintended impact on consumption behaviour.
7.2.31	Wessex Water	MOSL has insufficiently demonstrated its understanding of process B5 and C1. Evidence should be gathered to assess what proportion of the requests have been valid.	This can be managed through audits in the reformed MPF. This is also where the standards play a role in confirming realistic expectations of poor/ good/ outstanding performance of Wholesalers on bilateral requests based on the proportion of requests which are expected to be valid.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.2.32	Wessex Water	It is fair for retailers to have a deferral mechanism however in Wessex's experience, 20% of B5 and C1s are not required.	Agree, but not something for MPF to deliver. Invalid bilateral requests can be investigated through audits and recognised in the setting of standards.
7.2.33	Yorkshire Water	Yorkshire would like some clarity around scenarios of reads with unsuccessful attempts to read and what should be included or excluded.	All meters are open to failures on M01 unless there is an active B5, C1 or C5 request.
7.2.34	Yorkshire Water	A monthly charging model instead of annual will lead to greater admin costs	Agree, but outweighed by the need for incentives which are closely linked to the actual occurrence of the transgression in order to trigger prompt resolutions.
7.2.35	CCW	Strongly support retailers continuing to be penalised until a meter read has been taken.	Agreed.
7.2.36	CCW	M01: target levels need to be set high enough to ensure retailers are providing a service considered above and beyond – this would not be every 7 months for biannual meters	Agreed.
7.2.37	CCW	M01 – retailers should not be rewarded for providing a core service like meter reading	See 7.2.8
7.2.38	CCW	Charges should not be redistributed to trading parties as this dilutes all related incentives – these and	MOSL does not consider that redistribution can be completely removed from MPF as there is always a risk of penalty payments

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		outperformance should not be interdependent- they should be used to further other improvement projects to benefit customers.	exceeding the MIF and outperformance payments but agrees that this should be minimised as much as possible without diminishing the quality and benefit criteria for MIF projects or over-rewarding on MPF performance. Today, there is only so much surplus that can reasonably be used for MIF purposes.
--	--	--	---

Question 7.3: Theme 1: Market Meter Reads (continued)

Where they apply, are there any particular factors that should be considered when determining: 1) The financial value of charges for each KPI within this theme and 2) How the value of performance standards are calculated

Reference	Respondent	Comment	Proposer Response
7.3.1	Business Stream	M01: There will be significant geographical differences in meter read costs – this will alter the incentive to take meter reads if cost is averaged out at a market wide level	The MPF needs to be simple. There is no geographic variation to MPS charges in the current MPF and Retailers are obliged to read meters. A geographically variable MPF might also distort competition and deter new entrants.
7.3.2	Business Stream	M02: the cost of a wholesaler obtaining a smart meter read should be minimal, unless the meter is broken. For PC8 to be achieved, the charge cannot be set at the cost of a smart meter read but must exceed cost of repair and replacement	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.3.3	Castle Water	If a retailer successfully obtains a read and still needs to raise a read, is that read still excluded from performance?	Further clarification required
7.3.4	Castle Water/Clear Business Water	The minimum performance standard must consider other elements that are outside the trading party's control	Agree.
7.3.5	Castle Water	M01 should return to PAG for further discussion	MOSL will share all metrics in the round with PAG once the whole suite, including the incentives, have been designed.
7.3.6	Castle Water	The possibility of smart meters being switched to wholesaler control is discussed. But it does not make sense that it does not take into consideration geographical differences caused by different smart meter rollouts as well as accounting for meter health by wholesaler area. Whilst this is being address charging should be set to £0	MOSL recognises the concern here. Setting charges to £0 during the transition is an option to consider but it is unlikely to pass the customer outcomes test. Also, at what point do we consider transition sufficiently complete to switch on charges? The preferred option is to accommodate this transition by flexing the performance standards.
7.3.7	Everflow Utilities	Support a 95% performance standard for M01 as it is currently effective and reasonable.	Noted.
7.3.8	Everflow Utilities	Crucial that both penalties and outperformance are calculated monthly.	See 7.1.21
7.3.9	Pennon Water Services	These need to be proportion and reflect responsibilities and obligations; clarity needed on the nature of these values changing in future.	Agree.
7.3.36	Sefton Council	No factors to add	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.3.10	WaterPlus	Further engagement and consultation is required.	Agree
7.3.11	Wave Utilities	Vacant SPIDs should be considered and brought under this KPI as the amount of them should be considered when calculating performance standards	Instead of diluting the KPI, the preference is to accommodate vacancy by setting realistic performance expectations when determining the performance standards for meter reading KPIs.
7.3.12	Affinity Water	M01 does not account for existing challenges with the meter estate and the lack of key information to explain failure percentages (no facility to input skip data into CMOS)	M01 is being designed so that it can be adjusted to any future code changes including skip code functionality in CMOS. Until then, a realistic allowance for failures will be accommodated in the performance standards associated with M01.
7.3.13	Affinity Water	M01: the calculation could lead to a significant increase in bilateral activity for all meters if trading parties fall below a threshold at large expense for trading parties	Noted, see 7.2.18.
7.3.14	Affinity Water	M01 could force reactive operational activities driven by the KPI rather than a customer focused approach	The amendments to MPS18 and 19 that were made in December 2023 introduced the concept that performance charges should not apply in certain cases. The introduction of this amendment has not seen a large increase in the volume of bilaterals being raised. Retailers should not raise bilaterals in order to avoid being

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			<p>charged. Bilaterals should be raised where there is a genuine issue. The PAC will be able to monitor abnormal increases in bilaterals.</p> <p>MOSL notes the concern that an increase in charging frequency could lead to an increase in charges. The programme acknowledges that it will be important to consider the size of the aggregated incentive that arises month on month. MOSL notes, from this feedback, that a monthly charge equivalent to the single-instance failure that is levied in relation to MPS18 and 19 may be excessive if applied on a monthly basis. For example, the significance of reading one month later than required is different to reading six months later than required. Consequently, it is envisaged that the monthly incremental charge may be smaller than the current charge for MPS 18 and 19. However, this could aggregate to a charge in excess of MPS18 and 19 should the read not be taken after many months. MOSL acknowledges and understand the</p>
--	--	--	---

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			importance of setting these charges carefully and engaging with trading parties in doing so over the coming months
7.3.15	Affinity Water	M01 does not consider challenges that are beyond a trading party's control	See 7.2.5
7.3.16	Affinity Water	Time should be allowed for trading parties to address failed attempted reads; though the amount of time will vary based on the specific details of the scenario	If a biannual read is missed, a retailer will have at least another month to rectify before being penalised again (longer if it has been less than six months since the last read).
7.3.17	Affinity Water	Penalties for missed readings should be applied slightly later for biannual meters or a three-month mark for monthly meters rather than immediately – this would both be fairer and align closer with settlement – charges could be higher in this case	MOSL is open to exploring further, but this does create a risk that failures are more likely to be forgotten.
7.3.18	Affinity Water	Monthly penalties could lead to increased charges for customers due to the pressure of short resolution periods	MPS is charged monthly today – where does M01 introduce a new risk?
7.3.19	Affinity Water	The market is not fully equipped to deal with smart meters so immediate application would be challenging	MOSL notes the complexity/uncertainty – the MPF is designed to have flex to deal with such (e.g., performance standards that can be varied over time).

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.3.20	Northumbrian Water	It is right to look at industry average however the impact of a missing read and effort for customer to address should be considered	Agreed that this should be considered when establishing charge values and performance standards.
7.3.21	South East Water	Unclear if a skip code should determine the value of a fine or the SLA	It will not unless there is a code change outside the MPF programme which introduces such a mechanism.
7.3.22	South West Water	Penalty costs need to outweigh the cost of meeting the standard whilst not being excessive	Agree.
7.3.23	South West Water	A trading party not meeting the standard will need time to address and monthly charges would be unfair	MPS is charged monthly – a lesser frequency does create a risk that failures are more likely to be forgotten about.
7.3.37	Southern Water	None (i.e. no other factors to be considered)	Noted
7.3.24	Thames Water	The proposed MPF incentivises parties to raise unnecessary bilateral work requests rather than address issues in a timely manner	These risks will be explored on each KPI and will be factored into setting the value of penalties, outperformance payments and compensation payments to avoid perverse disincentives against good customer service. Trading Parties which look to 'game' the system to maximum their payment potential (e.g., avoid penalties or qualify for payments) would risk exposing themselves to other KPIs or Additional Metrics or standing out in audits, which could identify and penalise these behaviours.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.3.25	Thames Water	MOSL need to provide meaningful analysis to suggest they have considered the impact of a significant increase in bilateral work requests	I'm not sure this concern impacts the design of M01 or the design of M18 and M15, but it might impact the setting of the performance standards under the latter, so will be taken into consideration when work is done on that.
7.3.26	Thames Water	MOSL additionally need to consider whether the proposed MPF will actually lead to a reduction in long unread meters	MOSL is intending to introduce a KPI on LUMS, Retailers should be incentivised more than ever to raise bilateral requests where meters cannot be read, and Wholesalers should be incentivised to resolve these fully.
7.3.27	Thames Water	The proposal fails to provide distinction between failed meter reads due to poor performance and issues outside of a party's control.	This distinction will be provided when setting the performance standards.
7.3.28	Thames Water	meter locations and customer characteristics vary significantly between wholesaler areas; great care will need to be taken to ensure the framework does not create sustained winners and losers due to factors beyond a party's control	Agreed.
7.3.29	Thames Water	MOSL should carry out further analysis of the possible impacts of proposed meter reading incentives and bilateral work	See 7.3.25
7.3.30	Thames Water	The current design of incentives will encourage retailers to raise bilateral requests to avoid penalty	The PAC may introduce additional metrics at some point to track rejections, resubmissions etc, will be able to audit

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			bilateral requests for legitimacy, and may choose to design new incentives should the new KPIs and incentives be driving unintended behaviours.
7.3.31	Wessex Water	Further work is required to assess the number of actual transfer reads	M09 will provide a basis from which the PAC can better investigate trends in actual and estimates transfer reads, including through audits if required.
7.3.32	Yorkshire Water	MOSL would be advised to future proof KPIS to ensure smart meter rollout does not undermine KPI design	Agreed.
7.3.33	Yorkshire Water	It is worth considering seasonal performance swings – i.e. access is more difficult around Christmas time – instead of charging being annual or monthly, quarterly would balance out the two	Thank you for this suggestion. Currently, MOSL does not consider that charging at a lesser frequency would account for seasonal performance swings any differently (unless the standards change across the year, the total payment for failure across the year will be the same whether it appears in one invoice, four invoices, or 12). Quarterly charges may be easier to administer than monthly, but it does mean that some failures will not be penalised until several months after the event.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.3.34	CCW	Effectiveness of incentive is determined by value of charge – large enough to motivate retailers to address root causes of problems	Agree
7.3.35	CCW	M01 should ensure retailers are in control of activity with strong penalties – if it is not in their control, the retailer can pass responsibility onto the wholesaler with a bilateral request	Agree that this is where the charges and standards need to be set at a level which is stretching but does not promote unintended behaviours. Needs to be supplemented by other tools and metrics.

Question 7.4: Theme 2: Transfer Reads

Do you have any comments on: The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Reference	Respondent	Comment	Proposer Response
7.4.1	ADSM	Unclear how incorrect transfer reads should be handled – in some cases, it can cause significant issues for both the outgoing and incoming retailer	The creation of M09 is expected to increase the incentive for actual transfer reads and therefore reduce the likelihood of incorrect reads being submitted. MOSL has also noted suggestions for an additional metric to track transfer reads which are subsequently amended, which could provide an evidence basis for further KPIs or PAC actions.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.4.2	Business Stream/South West Water	Obtaining visual ad hoc meter reads is expensive in some regions and retailers are relying on estimating transfer reads or asking customers to pay; likely to be worsened by smart meter rollout – this is not addressed in MPF	MOSL is not proposing regional variation, (which is not a feature of the current MPF). This complexity would appear to be less compatible with a national market, operating to consistent rules and obligations. Furthermore, the proposal on M09 is not to penalise estimated reads, instead it is to reward actual reads. Retailers will not be worse off than today if they are unable to take actual reads.
7.4.3	Business Stream	If the read history in CMOS for a meter is poor, there is a high risk that the incoming retailer calculates an inaccurate meter read – this is not addressed in MPF	The creation of M09 is expected to increase the incentive for actual transfer reads and therefore reduce the likelihood of incorrect reads being submitted. MOSL has also noted suggestions for an additional metric to track transfer reads which are subsequently amended, which could provide an evidence basis for further KPIs or PAC actions.
7.4.4	Business Stream	The read window for obtaining and submitting a transfer read is restrictive and does not allow a customer to provide a read to incoming retailer at point of transfer	The window for read submission was increased (CPW078 / CPM020 Priority performance regime change) from -/+2 BD to -2/+7 BD, and since the change was implemented in April 2020, the submission of actual transfer reads has not improved.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			This suggest that increasing the window further will not improve things for the customer.
7.4.5	Business Stream	Naturally the codes do not account for planned smart meter rollout where cyclic reads will be available in CMOS every month for all meters – this will not be addressed until November 2025 in current plan	The proposed KPIs will accommodate for smart meter rollout and the industry is currently awaiting an Ofwat decision on CPW142 'Wholesaler Smart Reads' .
7.4.6	Business Stream	There is inadequate incentivisation on wholesalers to ensure that incoming retailers can locate the meter	M14 will specifically incentivise the accuracy of meter GIS coordinates.
7.4.7	Business Stream	M01 will not create an incentive for retailers to read meters in regions where the cost of a read is greater than the proposed financial penalty	MOSL is not proposing regional variation, (which is not a feature of the current MPF). This complexity would appear to be less compatible with a national market, operating to consistent rules and obligations.
7.4.8	Castle Water	Outperformance payments should be removed as a financial incentive from transfer reads (and the rest of MPF)	Without outperformance payments, there is limited incentive for Retailers to take an actual transfer read instead of relying on estimated. This can be seen in current performance figures on estimates vs actual transfer reads.
7.4.9	Castle Water	Thresholds need to be set at a level that generates enough penalties to	The setting of standards is to be based on what performance is considered

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		cover any outperformance payments – unclear if this is a performance tool or money generation process	appropriate for customers, not what standards will guarantee funding of outperformance payments. The incentive for outperformance is potential for payment, not promise of a set payment.
7.4.10	Castle Water	Penalty payments should be removed from M09; estimates are allowed by the current market codes in some situations and therefore MOSL cannot punish their use – audits would be more appropriate	The current proposal states that the minimum performance standard could be set so that no estimates receive a penalty charge, which reflects that estimates are currently permitted in the market codes. MOSL also notes that in the absence of code change, audits are an appropriate tool for investigating the use of estimates. Simultaneously, a lack of actual transfer reads will not be rewarded, and the possibility of out-performance payments on M09 provides an incentive for Retailers to take an actual transfer read instead of relying on estimates (the latter behaviour being observed in current performance figures on estimates vs actual transfer reads).
7.4.11	Castle Water	The charging model must either be set to levels that would primarily fund outperformance payments or at performance thresholds (which would	The setting of standards is to be based on what performance is considered appropriate for customers, not what standards will guarantee funding of

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		underfund outperformance payments) – neither of these outcomes addresses issues discussed at PAG	outperformance payments. The incentive for outperformance is potential for payment, not promise of a set payment.
7.4.12	Castle Water	Further discussion of transfer read metrics is required at PAG.	The mechanism of measurement for every KPI has or will be discussed at PAG and shared with the industry. The PAG has afforded TP SMEs far more time and influence on the proposed KPIs compared to what would be achieved through a series of consultations. As the product owner, MOSL has to confirm a design at some point that improves upon the baseline and aligns to the programme principles (e.g., customer outcomes, trading party accountability, cost effectiveness) even if there is no clear consensus, noting that periodic reviews and flexibility are inherently built into the proposed MPF model should further changes be required. There will also be a holistic playback with PAG in light of consultation responses and final decisions across the entire suite of KPIs. MOSL recognises that members have illuminated some specific areas where code obligations could be changed (either new

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			obligations inserted or removed). MOSL will support the consideration of these amendments through the change mechanism and welcomes further discussion on specific proposals.
7.4.13	Clear Business Water	Compensation payments should not apply to M06 in addition to penalty charges.	The primary purpose of the proposed compensation payments is to protect/reimburse retailers for damages that are not of their own doing and are due to the performance of others, whereas the primary purpose of penalty and outperformance payments is to incentivise good performance.
7.4.14	Clear Business Water	Each KPI for transfer reads has a penalty charged assigned to it, meaning performance standards will have to be set at achievable levels – not 100%. Unless a Trading Party has perfect performance and obtains a visual read in all scenarios, they will incur some form of penalty	MOSL welcomes suggestions on reasons why a party cannot achieve 100% performance when estimates are permitted.
7.4.15	Everflow utilities	M04 and M09 are both fine to be set at 100% performance as standard as long as estimates are not penalised.	Noted.
7.4.16	Everflow utilities	It is unclear why penalty charges should apply to M09 if estimated reads	The current proposal states that the minimum performance standard could be

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		are allowed in the current regulatory regime; unclear why any charging on this metric is appropriate.	set so that no estimates receive a penalty charge, which reflects that estimates are currently permitted in the market codes. MOSL also notes that in the absence of code change, audits are an appropriate tool for investigating the use of estimates. Simultaneously, a lack of actual transfer reads will not be rewarded, and the possibility of out-performance payments on M09 provides an incentive for Retailers to take an actual transfer read instead of relying on estimates (the latter behaviour being observed in current performance figures on estimates vs actual transfer reads).
7.4.17	Everflow Utilities	The PAG identified that the main issues with transfer reads is if they are very late or very inaccurate – this is not addressed in the MPF and there is little evidence to support estimates necessarily being inaccurate for transfer reads.	The creation of M09 is expected to increase the incentive for actual transfer reads and therefore reduce the likelihood of incorrect reads being submitted. MOSL has also noted suggestions for an additional metric to track transfer reads which are subsequently amended, which could provide an evidence basis for further KPIs or PAC actions.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.4.18	Everflow Utilities	Suggest that M09 is removed from the suite of KPIs and instead be an additional metric.	Noted. MOSL considers that M09 an additional metric would not provide the necessary incentive as an additional metric could not be associated with outperformance payments.
7.4.19	Pennon Water Services	M09 – does not cover or address behavioural issues of retailers not attempting to put an actual read into the market. If the standard is set at 0% why have it?	The current proposal states that the minimum performance standard could be set so that no estimates receive a penalty charge, which reflects that estimates are currently permitted in the market codes. MOSL also notes that in the absence of code change, audits are an appropriate tool for investigating the use of estimates. Simultaneously, a lack of actual transfer reads will not be rewarded, and the possibility of out-performance payments on M09 provides an incentive for Retailers to take an actual transfer read instead of relying on estimates (the latter behaviour being observed in current performance figures on estimates vs actual transfer reads).
7.4.20	Sefton Council	Agree there should be both penalties and compensation for failure.	Noted.
7.4.21	Water2Business/ South West Water	Customer choice has not been considered when designing the metric	The cost of obtaining a reading are factored into the REC. The codes state an

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		around transfer reads – taking actual reads is expensive and customers may choose to rely on estimated reads – this may undermine competition as point of differentiation	actual reading should always be attempted to be obtained, and the MPF is being based the KPIs on code obligations. MOSL considers the proposals should incentivise competition and innovation by putting greater prominence on the taking of actual transfer reads.
7.4.22	Water2Business	The issue with transfer reads is bad estimates, not estimates in themselves.	Agree that this is something else to be worked through but not as part of delivering KPIs which measure current code obligations (see transfer read summary doc).
7.4.23	Water2Business	Reviewing estimated vs actual meter reads is unlikely to encourage actual readings until the cost of transfer reads is reviewed by the market	The cost of taking an actual transfer read will be an important consideration when setting charges associated with M04, M06 and M09.
7.4.24	WaterPlus	The values identified for each incentive structure will require further consultation once a complete picture is clear	Agree.
7.4.25	WaterPlus	Introduction of a late meter read incentive may lead to increased use of estimated reads and a subsequent late actual read – outgoing retailers could receive additional charges due to this	Noted. This is why penalties on M04 and M06 and not being proposed in isolation – there are outperformance payments available on M09 which should mean that poor performance on M09 is not completely accepted as part of succeeding

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		they cannot bill as the customer has transferred.	on M04 and M06. MOSL has also noted that the amendment of transfer reads is an important element to pick up once the KPIs are implemented (see transfer read summary document).
7.4.26	WaterPlus	75% under performance threshold in the indicative table would appear to be too low if estimated reads are acceptable.	Figures are indicative for now.
7.4.27	Wave Utilities	Transfer reads have higher level of skips and estimated reads - it's unfair to punish both an attempted read and not attempting one at the same level.	Agree that an attempted read should not be treated as harshly as not attempting a read. This is the reason for M06, which will penalise the absence of a read so there is an incentive to get something in as soon as possible once the M04 SLA has been missed. The proposed transfer read KPIs and additional tools available to the PAC should also provide a basis for the PAC to investigate issues of this nature and determine appropriate actions.
7.4.28	Wave utilities	Customer and site type, bad data, and reading history are not being taken into account; only LUMs with open B5/C1 transactions have been factored. Further areas need addressing, essentially.	The codes do not set out differential treatment of these scenarios – the obligation to take transfer reads is simple and universal and the KPIs are being built around these obligations. MOSL notes that there these KPIs will not deliver an

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			immediate resolution of all known issues in their entity – this is where other tools (e.g., audit) and metrics are required (see transfer read summary note), and code changes are welcomed where parties consider a need for more fundamental change.
7.4.29	Wave utilities	M09 could effect customers with difficult to read sites meaning retailers could choose to never take them on, leaving both the current retailer and customer stuck in uncomfortable circumstances	The proposed transfer read KPIs and additional tools available to the PAC should provide a basis for the PAC to investigate issues of this nature and determine appropriate actions.
7.4.30	Affinity Water/South Staffs Water	Actual reads are crucial and should be prioritised.	Agree.
7.4.43	Northumbrian Water	I believe these are set correctly	Noted.
7.4.31	Portsmouth Water	These are set correctly.	Noted.
7.4.44	Southern Water	None (i.e. no additional comments)	Noted.
7.4.32	South West Water	Support that no outperformance be made for M04 as estimated reads are allowed	Noted.
7.4.33	South West Water	M04 and M06: calculation does not refer to number of days however worked examples follow a reasonable calculation and rationale	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.4.34	South West Water	M09: an estimated reading is not necessarily a bad thing, as seen for M04, so no penalty should occur for M09. With the acceptance of estimates we would support M09 being removed	Noted. M09 will provide a basis from which the PAC can better investigate trends in actual and estimates transfer reads, including through audits if required.
7.4.35	Yorkshire Water	Agree with overall direction of financial incentives.	Noted.
7.4.36	CCW	Except for compensation payments, agree with incentives attached to M04 and M06	Noted.
7.4.37	CCW	According to CCW research, 88% of SMEs believe it is important bills are based on reads and not estimates – including when they switch.	Noted. This supports our proposal to better incentivise actual transfer reads.
7.4.38	CCW	M09 should have penalties only and agree that M06 has a 100% performance level for late transfer reads.	The current proposal states that the minimum performance standard could be set so that no estimates receive a penalty charge, which reflects that estimates are currently permitted in the market codes. MOSL also notes that in the absence of code change, audits are an appropriate tool for investigating the use of estimates. Simultaneously, a lack of actual transfer reads will not be rewarded, and the possibility of out-performance payments on M09 provides an incentive for Retailers

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			to take an actual transfer read instead of relying on estimates (the latter behaviour being observed in current performance figures on estimates vs actual transfer reads).
7.4.39	CCW	Clarity is required on the incentivisation for M09, outperformance payments would be unacceptable and penalty charges need to be included. However, as estimates are permissible, clarity is needed as to in what circumstances charges would apply	The current proposal states that the minimum performance standard could be set so that no estimates receive a penalty charge, which reflects that estimates are currently permitted in the market codes. MOSL also notes that in the absence of code change, audits are an appropriate tool for investigating the use of estimates. Simultaneously, a lack of actual transfer reads will not be rewarded, and the possibility of out-performance payments on M09 provides an incentive for Retailers to take an actual transfer read instead of relying on estimates (the latter behaviour being observed in current performance figures on estimates vs actual transfer reads).
7.4.40	CCW	A proposed better alternative for M09 would be to measure number of accurate reads vs inaccurate estimated	This suggestion has potential for further investigation, but is not currently possible under the MPF's minimum viable product. The proposed transfer read KPIs and

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		reads – this would better capture the impact on customers	additional tools available to the PAC should provide a basis for the PAC to assess the need for further intervention or KPIs.
7.4.41	CCW	Risk that proposed MPF could encourage parties to just put in possibly bad estimates just to avoid penalties	MOSL notes that there these KPIs will not deliver an immediate resolution of all known issues in their entity – this is where other tools (e.g., audit) and metrics are required (see transfer read summary note), and code changes are welcomes where parties consider a need for more fundamental change.
7.4.42	CCW	It is important that metric design is agile enough to respond to changing circumstances caused by smart metering rollout	Agreed.

Question 7.5: Theme 2: Transfer Reads (continued)

Where they apply, are there any particular factors that should be considered when determining: The financial value of charges for each KPI within this theme? How the value of performance standards are calculated?

Reference	Respondent	Comment	Proposer Response
7.5.18	Business Stream	As per 6 x comments to Q7.4	See answers to 6 x Q7.4
7.5.1	Castle Water	the model for transfer reads is not one Castle Water supports at all. Outperformance payments on M09 are reliant upon enough charges being generated to fund them, which means the focus for M09 is balancing charges again performance payments, not actually focussing on performance	See 7.4.11
7.5.2	Castle Water	M04 and M06 focus on SLA breaches, not whether the read is visual or estimated. M09 can only incentivise more visual reads to go in if there are enough charges to fund those payments.	See 7.4.11
7.5.3	Castle Water	The fundamental model behind trying to encourage more visual transfer reads is flawed and the charges should remain at the level they are today as there is no evidence that they incentivise anything that today's MPF does not already	As the market codes permit the use of estimated transfer reads, there is currently no financial incentive associated with the distinction between actual and estimates transfer reads in the current MPF. The proposals seek to address that within what is permitted by the codes. If it transpires that

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			rewarding the submission of actual transfer reads does not result in any changed behaviour, the MPF is intended to be flexible enough to evolve through regular reviews and plans.
7.5.4	Clear Business Water	What is being considered an actual read? Would a customer read, as permitted by the Code, also be considered an actual read for these purposes	Yes. A customer read would be considered an actual read. MOSL has published a summary document on how the mechanics of the proposed transfer read metric would work.
7.5.5	Everflow Utilities	There is a need for a wider discussion on the GPoL calculation--recognizing its complexity and variability across parties--and some consideration of whether efforts around those metrics mapped to compensation payments should focus on improving collaboration as well as facilitating compensation	Agree that further discussion is required. Compensation payments are deliberately approximate so the framework remains simple – but this is still considered an improvement on today whereby retailers are not protected against the poor performance of other parties that impacts them.
7.5.6	Nottingham City Council	Unclear on how you are going to decipher expected numbers of transfers per month for NCC	The transfer read KPIs work retrospectively, i.e., are based on transfers which have happened, not transfers which are expected to happen.
7.5.7	Pennon Water Services	How frequently will these values be changed and how arbitrary is that	The PAC and Panel will need to balance agility with the need for certainty and clarity across all areas of the framework. This is recognised as a vitally important and potentially complex equilibrium to manage

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			hence why trading party representation on these groups is key.
7.5.8	Sefton Council	the financial value should be significant enough to be taken seriously	Agree.
7.5.9	WaterPlus	concerned that in combination with a potential removal or increase in the cap, increases to individual charging levels could represent a significant risk to the financial health of trading parties in the market and should be carefully considered and discussed	Agree that setting the incentives cannot occur without consideration for the viability and stability of the market.
7.5.10	Wave Utilities	M09 will unfairly penalise Retailers who have always attempted transfer reads and have been forced to genuinely skip	MOSL is not proposing penalties on estimated reads as these are currently permitted by the market codes.
7.5.11	Wave Utilities	It is unfair a retailer who has attempted, but failed, to obtain a transfer read will be penalised alongside retailers who simply don't attempt to visit them at all	Agree that an attempted read should not be treated as harshly as not attempting a read. This is the reason for M06, which will penalise the absence of a read so there is an incentive to get something in as soon as possible once the M04 SLA has been missed. The proposed transfer read KPIs and additional tools available to the PAC should also provide a basis for the PAC to investigate issues of this nature and determine appropriate actions.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.5.12	Wave Utilities	It could also cause changes to bidding activity leaving customers with tricky portfolios out in the cold	Agreed, but this could also promote innovation and specialisation. It is recognised that some unintended consequences might not be identifiable/diagnosable until after implementation, but this is why the framework is designed to be agile and why the PAC will have various other tools and metrics at its disposal.
7.5.13	Wave Utilities	As transfers rely heavily on good market data, data measures M11, M12, M13, M14, and bilateral M10 should be factored in and offset against any penalties or reporting	The proposal from this respondent would make the transfer read metric much more complex. The metrics that the respondent cites will be incentivised in their own right to improve market data.
7.5.14	Northumbrian Water	number of estimated reads should be tracked	Agreed. The number of estimates will be a core component of the calculation of the M09 metric.
7.5.15	South West Water	M09 - Setting the performance standard to 0% on M09 would remove our concerns raised in 7.5 however there then becomes no need for it to be in the revised MPF.	This is the minimum performance standard. An outstanding performance standard could still be set at a level higher than 0%. Within M09, there can be no MPF incentive for the submission of actual over estimated transfer reads.
7.5.19	Southern Water	None (i.e. no factors to be considered)	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.5.16	Wessex Water	We do not support estimated reads in M04 being used for performance unless they are supported by metrics for accuracy	MOSL has noted what else needs to be developed in time to sit alongside these KPIs. The KPIs are centred on current code requirements – as estimated are permitted, these must be counted at success on M04.
7.5.20	Yorkshire Water	As above, it would be advisable for MOSL to apply some future proofing to these KPIs with the smart meter rollout. Once smart meters are widely available, there should be no reason for late reads.	Agreed. MOSL has anticipated that Wholesalers should become responsible for smart meter reads as per CPW142 and the standards for reading such meters on time should be very high.
7.5.17	CCW	Charging needs to be set at a level that incentivises retailers to address root causes of problems reading meters and submitting reads	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 7.6: Theme 3: Smart meter reads

Do you have any comments on: the financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Reference	Respondent	Comment	Proposer Response
7.6.1	Business Stream	M02 should mirror M01 following the activation of a smart meter, assuming that CPW142 is approved	This is the current preference. Will be explored further when M02 is subject to detailed design discussion with the PAG.
7.6.2	Business Stream	It is appropriate for M02 to also have a compensation payment to the retailer. This could help to address any impacts on billing and collection for failure to provide the read	The preference is for M02 to mirror M01 and M19 in terms of incentives for simplicity and consistency, but this can be explored further when M02 is subject to detailed design discussion with the PAG.
7.6.3	Business Stream	the charge model for M02 should not be based upon the cost of obtaining a smart meter read, as this will be minimal but should instead consider the impact on retailers and the cost of repairing the faulty meter and providing a visual read. The cost of the ad hoc visual read will also vary by region	Agree with the first point. The cost of an ad-hoc visual read may vary by region but reflecting this in the design of M02 introduces an unreasonable level of complexity and uncertainty.
7.6.4	Everflow Utilities	this area is likely to need regular revision and increased flexibility as the market evolves	Agreed, the MPF is designed to be agile and responsive to changes in the market.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.6.5	Everflow Utilities	Where access to this data has not yet been realised at a market level, no charges should be levied against retailers for these metrics	Smart meter metrics will align to which meters a trading party is responsible, not the the type of readings. MOSL recognises the interplay with CPW142.
7.6.6	Sefton Council	There are no financial penalties associated with this KPI. Is this an issue where a smart meter is found out to be faulty?	It is proposed that M02 should have financial incentives that work in a similar way to those on M01 and M19. M07 will not have financial incentives to minimise the risk of double counting performance and unintended impacts on consumption behaviour.
7.6.20	WaterPlus	We do not have any significant views on this metric at this stage	Noted
7.6.7	Waterscan	All smart meters should be read monthly	Noted, will be explored further when M02 is subject to detailed design discussion with the PAG.
7.6.8	Affinity Water	Those currently ahead in their rollout programme should not be penalised unfairly and more time is needed to understand how this will actually affect the market.	Noted. MOSL also notes that design of metric has inter-dependencies with CPW142 which has not yet been approved. Barring problems, provision of a smart read by a Wholesaler should be simple and very achievable once the smart meter is fitted. The potential for failure should be far less than a Retailer taking a visual reading. The performance standard will incorporate all these considerations.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.6.9	South East Water	Incentives should include the proportion of transferred SPIDs that have an estimated SMART meter reading	MOSL would welcome further clarification about this proposal from the respondent ahead of designing the smart meter read KPIs.
7.6.10	South West Water	M11, M12 – we support charges and outperformance payments in principle, also with the inclusion of M11-14 in the framework. We would however require assurance from MOSL on how they will be validating the accuracy of the data in order to measure party performance	MOSL will work through the design detail with the PAG and share how the metrics work in writing with the industry in due course.
7.6.11	South West Water	require a straightforward assurance process to replace the monthly SharePoint upload	MOSL agrees that a safe, reliable and easy system is needed to access MPF report data.
7.6.12	Southern Water	There is no consideration for the transition of responsibility of providing the reads. The roll out of smart meters will introduce significant fragmentation	See 7.6.8
7.6.13	Thames Water	the reading of smart meters by the wholesaler as a performance measure is not incentivising an increase in the volume of smart meters being installed, rather it is a disincentive as it introduces potential penalties to those wholesalers who are providing an enhanced service to customers	See 7.6.8
7.6.14	Thames Water	The setting of this performance measure to align with the proposals for M01 is illogical, provision of smart meter reads into CMOS is	See 7.6.8

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		an enhanced level of customer service and wholesalers should not be penalised for providing a better service whilst reducing the costs for retailers	
7.6.15	Thames Water	MOSL should consider a fairer smart metering performance framework which incentivises the rollout of smart metering and acknowledges a period of transition to a high smart meter market penetration. For example, here could be solely an outperformance payment set at a low level with no penalty charges. Alternatively it could be restructured to incentivise wholesalers that provide meter reads free to the market, regardless of meter type	See 7.6.8
7.6.16	Thames Water	This consultation format is not suitable for including substantive data analysis and scenarios to illustrate our concerns but we believe such data-driven evidence needs to be added as part of this stage of consultation and would be happy to work with MOSL to set this out	Limitations of this consultation are noted, and MOSL agrees there is a need for further substantive data analysis when M02 is subject to detailed design discussion with the PAG.
7.6.17	United Utilities	There is a potential conflict in that those companies who invest in smart metering are exposed to penalties that those companies who don't invest in smart metering are not	See 7.6.8

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.6.18	Yorkshire Water	We would flag that there could be gaps due to broken meters that are difficult to access; these require both wholesaler and retailer to agree that there is an issue and action should be taken. These cases are usually noted under a bilateral form and therefore we would suggest any case in CMOS with a form to flag these be excluded from reporting	Noted - consistency with M01 and M19 around the exclusion of certain bilateral requests is the current preference, but this will be explored further when M02 is subject to detailed design discussion with the PAG.
7.6.19	CCW	Given the relative ease of reading smart meters, we would expect all wholesalers to be performing at a high level for M02, so they should not be rewarded for meeting what should be an expected high standard. Therefore, it is not appropriate for outperformance payments to be included in this incentive	MOSL agrees in principle that the standard for a metric should reflect the relative ease of satisfying the activity.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 7.7: Theme 4: Data

Do you have any comments on: The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Reference	Respondent	Comment	Proposer Response
7.7.1	Business Stream	M11 - Given the natural incentives that retailers already face to get this information correct, it is unclear how a penalty will further drive improvements in this area. This metric could be very expensive to measure and be reliant on a data consultancy such as Sagacity to provide	<p>The business case for change for creating and populating a KPI like M11 has already been established by the data assurance programme. MOSL agrees that the standard and penalty for this metric should be considered.</p> <p>MOSL agrees that there are natural incentives on Retailers. However, the market's current performance (as evidenced by the MPS/OPS performance, reports from Ofwat, CCW, and others) show that these forces are not currently sufficient to ensure customers receive the appropriate speed or standard of service. A review and assessment of natural incentives was performed and published in August 2022 as part of the MPF Reform programme, noting that natural incentives were present in the retail segment, but currently not effective.</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			We are considering how natural incentives can be enhanced through the design phase of metrics. Should natural incentives become more effective in future, KPIs can be retired, standards modified and reliance on financial interventions reduced as appropriate.
7.7.2	Business Stream	M11 - Given that this metric will not be introduced until November 2025, our view is that no charge should be considered until the metric has been developed and the running costs are fully understood, with a consultation held should a financial penalty be proposed	Agreed that a financial incentive will not be implemented before the KPI has been developed and running costs understood. Further consultation with trading parties is expected through PAG and other means.
7.7.3	Business Stream	M14 – we have already commented in several areas that we consider this metric should incur a financial penalty	MOSL would be interested to understand what type of financial incentives and the rationale why.
7.7.4	Castle Water	How many times have MOSL used the power granted to them under 4.2.4 section E of the market terms? Has there been a request for information, or has time been allowed to gather information out of the Bilateral Hub F7 processes on the use of Market Terms 4.2.4, section D, by trading parties?	Section 4.2.4 - Responsibilities for providing data - does not mandate parties to fix the data. Having KPIs that measure data quality provides visibility and promotes correction of that data.
7.7.5	Castle Water	M11 not SIC. This must be provided by the customer due to HMRC implications, so once	The scope of M11 and whether SIC should be part of that scope is going to be reviewed by the Data Assurance Programme during the Autumn.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		again are you being “judged” on what you have no control over?	
7.7.6	Castle Water	M12 advises accurate address data via VOA and UPRN, but there seems no code requirement to match the “VOA” address to the Premise Address D5003-D5009. In the end, does this measure achieve desired outcome or is it forcing the inputting of a VOA without the preparatory collaborative work between wholesaler and retailer, possibly causing further confusion	The obligation is to provide an accurate address and assign the associated UPRN and VOA to that address. M12 requires that the wholesaler provides accurate and complete premises and address data, not specifically utilise premises data to arrive at an accurate address.
7.7.7	Castle Water	Data item D5011. Out of some 1,375,820 water SPIDs there are only 15,600 Post Office ‘PAF’ references. Is this the data item that needs to be considered in the updating of D5011?	MOSL has looked at whether D5011 (PAF address key) is a viable means of triangulating data and do not believe it is necessary as PAF alongside UPRN address forms part of Address Based Premium.
7.7.8	Castle Water	M13 and M14 are being maintained basically at a ‘Holistic Reporting’ level. Great effort has been made via Holistic Reporting and the Data Cleanse Programme, but the MPF measures are being brought in prematurely before these other programmes have been completed and be able to remove/correct the historic migration issues which they identify	MOSL supports that metrics from holistic reporting that are working well could be taken forward into the MPF and supported for escalation to KPI if appropriate.
7.7.9	Castle Water	Compensation payments should be outside the Market/MOSL/PAC remit	GPoL represents another incentive and an improvement upon the current framework where there is no compensation at all.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			The proposal for GPoL, as for penalties, is that it be applied at the same level across the national market, which will require careful consideration when setting the charge.
7.7.10	Castle Water	As a concept in market performance being rewarded for doing what you were always required to do, is just overcomplicating the whole programme and creating a legion of bureaucrats and expense in managing something that is (though may be not universally liked) and is covered already by Section 9.5 and 9.5 of the MAC. As such, it is not required.	MOSL proposes that outperformance payment will incentivise trading parties to aim for performance above the average level of their peers.
7.7.11	Clear Business Water	Since the data accuracy is verified using an external source, how will the data comparison be funded? The data cleanse programme is currently funded by wholesalers, but is it expected that this would be the case for any enduring data assurance measures	We anticipate that future data assurance activities will become part of 'business as usual' activity within our core services, particularly as part of the new MPF.
7.7.12	Clear Business Water	How will it be determined that the external data source is correct compared the information available to the Trading Party, particularly for information that can change regularly such as customer name? Suppliers have a direct	Assuming respondent is referring to M11, MOSL will be utilising trusted data sources to highlight potential issues for occupancy status and customer name. We acknowledge that customer data may be more fluid than other data items and will ensure that any metric and assessment

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		relationship with their customer and are often best placed to have the most up to date details	is underpinned with TP assurance process. At least three different external data sources will be used, so there is an inbuilt checking mechanism for up-to-date data.
7.7.13	Clear Business Water	Before supporting any financial tools for data accuracy, we would want to see demonstrable evidence of a successful data comparison process and suggest that penalty charges be removed from these KPIs until such a time as the data assurance programme has completed their work	Agreed that a financial incentive will not be implemented before the KPI has been developed and running costs understood. Work is commencing in the Autumn to pilot Customer Data Assurance. MOSL will share the results of this on a regular basis and is happy to welcome more new retailers to the Data Assurance working group.
7.7.14	Pennon Water Services	Customers move in and out without informing us, but you are proposing to fine us for this. Perhaps it would be more helpful to the market if you would petition Defra for a corresponding obligation on customers to notify us reflecting practices in the energy sector?	MOSL is looking to pilot a customer data assurance solution that is under-pinned by verifiable address and premises data and that considers a reasonable timing window that does not unfairly penalise retailers. Obligations on customers fall outside the codes and the MPF.
7.7.15	Pennon Water Services	Our business model would be transformed and our debt materially reduced if there was any obligation on customers to tell us they're there and who they are and even what their business is.	Obligations on customers fall outside the codes and the MPF.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.7.16	Pennon Water Services	Ofwat recently accepted in the CPCoP consultation that retailers simply could not obtain this level of accurate data about their customers and it's not our business model to do so. How then does MOSL think it can introduce more radical proposals and then fine us for it.	Assuming respondent is referring to M11, MOSL is yet to design this metric. Will need to design it in a way that is practical. We recognise 100% performance is not realistic.
7.7.17	Sefton Council	suggest meters are hard to locate and good quality on data for x y coordinates should be worked toward to assist everybody as meters do go missing and hard to locate	Agree that M14 is extremely important.
7.7.18	WaterPlus	Do not currently have sufficient confidence in the approach to 'verification' to believe that either of these chargeable metrics should be included at this stage	See 7.7.12
7.7.19	WaterPlus	M11 - different market participant portfolios will represent significantly different challenges. Associated retailers can retain a significant proportion of transferred customers who have not been highly engaged with the market, and therefore the expectation should be different for a new entrant with an almost exclusively proactively contracted base. As the reasonable expectation for performance of a market participant is dependent on both size and proportion of transferred vs switched customers,	The MPF needs to be simple and will not set different standards for different types and sizes of trading party. The underlying code obligations are the same for all Trading Parties. While new entrants have better control of customer data for accounts they have actively acquired this is offset by the time and costs expended to tender and acquire these customers. Penalties are proposed to be charged at % point below standard and these are set in part to

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		we do not believe this metric is appropriate for inclusion.	recognise that not all parties have the same number of tasks per KPI.
7.7.20	WaterPlus	M12 – Support the principle but not yet confident in the methodology and remain concerned that the listed approach could lead to bulk submissions of data that may achieve 'compliance' with the metric but not represent good data quality	Noted. MOSL considers the approach under M12 of driving the wholesaler to ensure all 3 of the following data sources match and line up with each other (Address, UPRN and VOA) mitigates the risk of poorer data.
7.7.21	WaterPlus	M14 - concerned that Wholesalers could elect to address M14 failures by simply entering the GIS co-ordinate of the post code itself in bulk which would report success against this metric whilst not locating the meter itself	MOSL agrees that this is not behaviour we want to incentivise. Whilst detailed discussion is still to happen at the PAG, based on the current design of the metric included in holistic reporting for wholesalers, meters with GIS coordinates correlating with the post code centre are flagged as having potential data issues i.e they are not counted as a success..
7.7.22	Affinity Water	If M14 is not included within BR-MeX, there may be no real incentive to manage churn compared to other measures with associated charges and would query why there are no penalty charges/outperformance applied. We would need to understand what the market constitutes outperformance in this measure as we feel this is a metric that should have a high standard applied to it	M14 could use financial incentives. The current MOSL view is that this could prove too controversial or complicated at implementation. Something that could be introduced at a later phase once the PAC has an evidence base for things that are working or not working.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.7.23	Anglian Water	How will accuracy be assessed, this will need to be fully clarified, and it is likely that wholesalers will need a period of time to align to the requirements	Assuming the respondent is referring to M12 - Premises and Address data will be assessed through verifying the address, UPRN and VOA against trusted external data sources to determine can they be identified and do they align together. If for any reason the assessment identifies an issue with data that a TP believes to be correct, the matching criteria will be underpinned with an assurance process.
7.7.24	Northumbria Water	How will outperformance be determined?	Recognition of what is realistically achievable will drive the setting of standards and equally the value financial incentives. Outperformance will be set to be stretching and not something that is readily achievable by all participants without concerted effort to improve baseline levels of performance.
7.7.25	Portsmouth Water	M12 – As members of the Data Cleanse working group we have been reviewing the proposed address changes are disagree with the majority of the proposed changes. How will this be catered for?	The working group has established the principle of the KPI and populating it. Concerns over the changes should be directed there. The MPF is taking those outputs and determining how best to present and incentivise performance.
7.7.34	South Staffs	We are broadly in agreement with this measure.	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.7.26	South East Water	How will the accuracy of the data be checked by MOSL to allow calculation of the financial incentives.	See 7.7.12 and 7.7.23
7.7.27	South West Water	In order to incentivise better performance the penalty cost needs to outweigh the cost of meeting the standard, the average cost of a desk top survey or use of a third part (void inspector) could inform the basis of a charge. We are supportive of model 1 for calculating the value of performance standards.	Agreed.
7.7.35	Southern Water	None – we are in agreement	Noted
7.7.28	Thames Water	Need to clarify the proposed address quality measures	A financial incentive will not be implemented before the KPI has been developed. Further consultation with trading parties is expected through PAG and other means.
7.7.29	Wessex Water	The consultation does not adequately explain the rationale for the application of financial tools to the different metrics and why it applies to one and not the other. It simply cites 11 and 12 as strong candidates.	M11 and M12 are considered the most appropriate for financial tools at implementation out of the data accuracy KPIs given the observed extent of data quality issues in the market in these areas, the potential benefits that getting this data right will achieve, and ensuring an appropriate level of equivalence in the liability of retailers and wholesalers to charges.
7.7.30	Yorkshire Water	The introduction of a correctly applied vacancy flag in CMOS would help to segment cases	Agreed and noted for future discussions.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		where the premises is unoccupied and therefore excluded from the KPI	For metric M11 Customer Assurance as part of the Data Assurance programme MOSL are looking at how we can and cannot assure occupancy status and will be piloting that throughout the Autumn. If for instance CMOS states that a SPID is vacant but in actuality it is occupied then this will fall into M11 as in effect the customer name info is incorrect. But also where we can through external audit assure vacancy we can flag then genuine vacant premises.
7.7.31	CCW	would urge MOSL to develop M14 as a KPI. Retailers having reliable information of where a customer's meter is located is crucial to ensuring the meter can be read successfully	Agreed, M14 is being proposed as a KPI.
7.7.32	CCW	Given the development of the proposed KPIs rely on the data assurance programme, we believe this programme needs to complete before these could be considered for inclusion in BR-MEX	The Data Assurance Programme has identified the key components for M12 - premises and address and the process for the data audit through piloting and has extensively workshopped internally and externally. M11 – Customer data is due to commence pilot work through the autumn. The MPF is taking the outputs from the audit and determining how best to present and incentivise performance.
7.7.33	CCW	MPF metrics included in BR-MEX may not benefit from the same flexibility as the rest of	Noted and agreed. See 7.7.32

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers



		the MPF, so we do not want to see metrics included that have not been fully developed and tested	
--	--	--	--

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 7.8: Theme 4: Data (continued)

Where they apply, are there any particular factors that should be considered when determining: The financial value of charges for each KPI within this theme? How the value of performance standards are calculated?

Reference	Respondent	Comment	Proposer Response
7.8.1	Castle Water	This should be handled by Market Terms Section 4.2 – i.e., holistically, and direct action by the market operator or by market operator audit and trading parties where they identify issues	Data audits will be required to populate some of the KPIs in this theme (e.g., M11 and M12), but charges will not be determined on a case-by-case basis through audits as well. The data assurance programme has already established the principle of these KPIs in terms of their design and the process for populating them with data. The MPF is taking these outputs and determining how best to present and incentivise performance.
7.8.2	Castle Water	This could be revisited later once other programmes have had a chance to impact	The data assurance programme has already established the principle of these KPIs in terms of their design and the process for populating them with data. The MPF is taking these outputs and determining how best to present and incentivise performance.
7.8.3	Clear Business Water	without further information from the data assurance programme, we do not agree that financial tools should apply to this KPI or that performance standards should	See 7.7.12

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		be based on comparison to third party data.	
7.8.4	Pennon Water Services	How frequently will values be changed and how arbitrary is that?	The PAC and Panel will need to balance agility with the need for certainty and clarity across all areas of the framework. This is recognised as a vitally important and potentially complex equilibrium to manage hence why trading party representation on these groups is key.
7.8.5	Pennon Water Services	Who decides if the data is accurate or correct? Is there a danger this just promotes filling data regardless of accuracy?	See 7.7.12
7.8.6	Sefton Council	Is it possible to have a tapered charge if progress is consistently poor? i.e. charges get higher the longer they remain poor quality?	Thank you for this suggestion. A tapered chart might ultimately prove too complex, but it can be considered when setting the value of charges.
7.8.7	WaterPlus	We do not have any specific views or suggestions on a methodology to calculate the value of penalty charging at this stage, however we believe further consultation and industry discussion will be critical once this is identified. We are concerned that in combination with a potential removal or increase in the cap, increases to individual charging levels could represent a significant risk to the	Further consultation with trading parties is expected through PAG and other means. MOSL agrees that setting the incentives cannot occur without consideration for the viability and stability of the market.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		financial health of trading parties in the market and should be carefully considered and discussed.	
7.8.8	Anglian Water	No (particular factors)	Noted
7.8.9	Northumbrian Water	concerns with the limited time to assess the Data Assurance findings	Data assurance is being piloted with the Data Assurance Working Group with the aim of releasing to the market in September 2024. This would provide six months for trading parties to work on data before the metric becomes part of MPF. It is also proposed that the data assurance audit will be carried out on a quarterly basis which allows time between audits for trading parties to act on the findings, for example to amend or assure the data that the process has identified as 'of concern'/unverified.
7.8.10	South East Water	More clarity on how the accuracy of the data will be checked by MOSL to allow calculation of the financial incentives	See 7.7.12 and 7.7.23
7.8.11	South West	In order to incentivise better performance the penalty cost needs to outweigh the cost of meeting the standard, the average cost of a desk top survey or use of a third part (void inspector) could inform the basis of a charge. We are supportive of	Noted. Thank you for pointing to factors that should be considered setting charges.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		model 1 for calculating the value of performance standards.	
7.8.12	Southern Water	None – we are in agreement	Noted
7.8.13	United Utilities	How can M11 be a KPI shared between wholesalers and retailers when the data fields that are updated are solely maintained by the retailer (except when setting up new SPIDs)	M11 is a retailer-owned metric.
7.8.14	United Utilities	M12 - not appropriate to have outperformance on M12. Addresses are either correct or incorrect	Agree that addresses are either correct or incorrect, but the MPF reform programme recognises that 100% performance is unrealistic across every SPID in the market. The concept of an outperformance standard is intended to highlight where a trading party is performing above and beyond on average compared to baseline levels of performance elsewhere across the market.
7.8.15	United Utilities	M13 - if the wholesaler confirms any long-term vacant premises is now occupied these are excluded from the list as the retailer should then be responsible for updating the occupancy status in CMOS	Agree and noted for future detailed design discussion with the PAG.
7.8.16	United Utilities	M13 - We believe there may be an error in the articulation of this measure. Should	Agree that the name could use updating. The KPI is intended to track the proportion of long

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		it read "What proportion of total SPIDs are unassured LTV"?	term vacant (LTV) SPIDs that have not been assured in the reporting period.
7.8.17	Wessex Water	Risk that performance is incorrectly reflected against a trading party due to assessments of data quality not being robust	See 7.7.23
7.8.18	Yorkshire Water	Concerns about what data set is being used to calculate 'accuracy'	See 7.7.23.
7.8.19	CCW	See comments on Q7.7 x 2	See 7.7 x 2

Question 7.9: Theme 5: Bilateral Transaction Requests

Do you have any comments on: The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any, or the calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Reference	Respondent	Comment	Proposer Response
7.9.1	Business Stream	M15 – metric calculation should not be based on when the request is completed, but should be based on late bilateral requests relative to SLAs	Agree that M15 will capture overdue and outstanding requests at the point of an SLA being missed, instead of waiting for requests to be completed.
7.9.2	Business Stream	M15 – minimum and outstanding performance standards should be set at the same level and outstanding standard should be based on shorter SLA	Expectation is that KPIs that are associated with lateness will either not have performance standards or these standards are both set at 0 days late.
7.9.3	Business Stream	M16 – penalty charge and outstanding charge should not be set to the same level as it will dilute the incentive	M16 and M17 are still subject to detailed design discussion with the PAG, but as deferrals are permitted by the codes, the current proposal is that a material penalty charge cannot be applied for their use (much like with estimated transfer reads). A £0 charge is proposed for future proofing purposes in terms of the background design and operation of the KPI – this £0 charge may not end up being prescribed in the code at implementation. An outstanding

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			performance payment could be prescribed but the initial thinking is for this to also be set at £0 at implementation until further information and evidence becomes available over time.
7.9.4	Business Stream	M17 – compensation charge should not be set to £0 – if it is to be paid, it must have a value	A £0 charge is proposed for future proofing purposes in terms of the background design and operation of the KPI – this £0 charge may not end up being prescribed in the code at implementation.
7.9.5	Castle Water	Further analysis on what should or should not be included when measuring performance is needed – the topic is very complex	Agreed.
7.9.6	Castle Water	Fundamental assumptions have been used to create the tools are flawed and further consideration needed	Noted – this consultation was intended to test these assumptions before distracting respondents with values for charges and standards.
7.9.7	Dŵr Cymru (retailer)	A deferral category where both trading parties are unable to influence or resolve an issue has not been considered	Interesting suggestion for additional bilateral hub functionality but the Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand.
7.9.8	Nottingham council	Unclear if charge only applies to wholesalers or if retailers are also at risk	Charges will only apply to Wholesalers in this theme.
7.9.45	Pennon Water Services	See answer to Q7.2 (we would not be able to answer any	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		question without an understanding of the values associated)	this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
7.9.46	Sefton Council	Agree with content	Noted
7.9.9	Water2Business	Caution should be used with compensation charges to ensure no double jeopardy	Agreed.
7.9.10	WaterPlus	M15 – concern that current methodology does not account for a risk of a high volume of smaller failures could mitigate impact of a single larger failure	Concern noted. This is why the proposal is to apply charges per every day late per SLA, not relative to average lateness across SLAs. A high number of smaller failures might lower the average lateness, but it will come at significant cost to the Wholesalers in terms of lateness charges. In terms of facilitating meaningful interpretations of performance, M15 and M18 might need to be presented alongside one another.
7.9.11	WaterPlus	M17 – further consideration required on deferrals to ensure they aren't used to avoid SLA failure	Agree that deferrals need to be monitored and scrutinised in the reformed MPF, hence why they are proposed to be subject to KPIs.
7.9.12	WaterPlus	Bulk submissions do not appear to be factored into MPF and should be.	How should bulk submissions be factored in? The Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.9.13	WaterPlus	Unclear what will happen if a deferral occurs after it has failed SLA	The impact of a retrospective deferral will only be reflected in performance reporting and charging if submitted before the report is run for the performance month. This incentivises prompt deferrals by Wholesalers.
7.9.14	Waterscan	Need for clarity of use of deferrals and when wholesalers should end ongoing deferrals	The Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand
7.9.15	Wave utilities	M10 – clarity required if M10 will recognise the fact that fines for not reading meters will already be suspended due to open bilaterals	M10 is still subject to detailed design discussion with the PAG but the interaction is noted and will be to be reflected in the final design.
7.9.16	Wave utilities	M12 – poor wholesaler owned address data on retailers causes significant cost and so there should be compensation for this	M12 is currently a strong candidate for BR-MeX incentives. The current view is that compensation would be difficult to determine at a simple market level.
7.9.17	Wave utilities	M15 and M18 only affecting currently reported OPS SLAs will drive focus on a subset on SLAs – it should cover all SLAs	The Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand. The OPS SLAs are all currently tracked and reported by the Bilateral Hub and the simplest approach is to implement M15 and M18 with these in mind. If there is a strong case to make more SLAs reportable and add these into the M15 and M18 pot, this can be explored outside MPF reform (M15 and M18 will be

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			designed to accommodate any future inclusions or changes).
7.9.18	Affinity Water	Unclear why compensation payments are applicable for BR-MeX scenarios	BR-MeX incentives will not compensate Retailers for Wholesaler failures – the financial benefits under BR-MeX are fed through to Wholesalers and customers.
7.9.19	Affinity Water	M17 deferrals are being viewed as negative but these are difficult to calculate without investigation and recent audits have confirmed no major cause for concerns	An automated KPI provides useful information for the PAC on performance across different trading parties and different periods at low risk and cost. MOSL agrees that audits are required to assess whether these represent genuine variation of reasons for deferrals or rather represent incorrect usage and therefore non-compliance.
7.9.20	Affinity Water	M18 is a metric that is not appropriate for outperformance payments; outperformance would be better related to speed of turnaround than just meeting minimum standards	Noted, but measuring the amount within SLA that tasks have been completed does introduce an additional level of complexity. Instead, the framework understands that failures are part of BAU and efforts to drive performance above a BAU level of failure should be rewarded. BR-Mex would similarly reward top performers.
7.9.21	Anglian Water	M16 and M17 – a financial incentive would drive non-customer centric behaviours from wholesalers and encourage wholesalers to reject bilateral requests that cannot be deliver or	Concern is noted – hence why no material charges are being proposed on M16 and M17 at implementation. See 7.9.3.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		deploy statutory powers regardless of customer's requests	
7.9.22	Dŵr Cymru (wholesaler)/ South East Water	The reason for a fail may be out of party's control if not on the list of permitted deferrals and further work is needed	Interesting suggestion for additional bilateral hub functionality but the Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand.
7.9.23	South Staffs Water	Bilaterals may be raised inappropriately, and additional controls will be needed to prevent	MOSL also understands that some Wholesalers do charge for unnecessary site visits
7.9.24	South West Water	M16 – use of deferrals by wholesaler is required and not indicative of poor performance	An automated KPI can provides useful information for the PAC on performance across different trading parties and different periods at low risk and cost. MOSL agrees that audits are required to assess whether these represent genuine variation of reasons for deferrals or rather represent incorrect usage and therefore non-compliance.
7.9.25	South West Water	A qualitative review is needed to gauge compliance with M16 and cannot be measured within the framework	It is noted that qualitative means of investigation such as audits may be required to contextualise any KPIs in this space.
7.9.26	South West Water	M15 - welcome a decision from MOSL on how existing late processes be considered from go-live	Importance of implementation and transition clarity is noted and this will be provided in advance.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.9.27	South West Water	M17 – the length of deferrals does not provide any additional value if the deferral is valid,	Agree this is not necessarily the case but an automated KPI can provide useful information for the PAC on performance across different trading parties and different periods at low risk and cost. MOSL agrees that audits are required to assess whether these represent genuine variation of reasons for deferrals or rather represent incorrect usage and therefore non-compliance.
7.9.28	South West Water	M15 - by calculating after completion, there is no ongoing incentive to complete task sooner	Agree. The most recent proposal discussed with PAG is to calculate days late once an SLA becomes overdue and outstanding, instead of waiting for completion.
7.9.47	Southern Water	We are in agreement	Noted
7.9.29	Thames Water	M1 and M10 – create a perverse incentive to raise bilateral requests where issues preventing reads are outside of wholesaler control	The PAC will be able to investigate where bilateral requests are being raised spuriously. Wholesalers can reject such requests and both Retailers and Wholesalers have obligations to work together to resolve such issues without causing encounter unnecessary hardship. Parties should not be reliant on the MPF to solve inefficient bilateral relationships. The implementation of CPW144 intended to give retailers a respite from MPS charges if bilaterals were raised on missing or faulty meters. MOSL has not noted a significant surge in bilaterals.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.9.30	Thames Water	M16 – including deferrals as a performance measure is inappropriate, audits of incorrect use of deferral codes would be more appropriate	An automated KPI can provide useful information for the PAC on performance across different trading parties and different periods at low risk and cost. MOSL agrees that audits are required to assess whether these represent genuine variation of reasons for deferrals or rather represent incorrect usage and therefore non-compliance.
7.9.31	Thames Water	M17 – length of deferrals is not indicative of poor performance by wholesaler; the largest number of deferrals relate to customer or retailer issues (table of data provided)	See 7.9.30
7.9.32	Thames Water	All of the measures relating to this theme can be affected by poor data quality of bilateral requests from Retailers to Wholesalers and therefore may not be wholesaler's fault	This has been noted and the PAC may need to introduce other metrics which help to identify the quality of request submission and other points of inefficiency and low efficacy.
7.9.33	United Utilities	M10 – dealing with a B5 or C1 within SLA is not poor performance	M10 is yet to be worked through with the PAG but the initial expectation is that this KPI will focus of LUMs with outstanding (i.e., overdue) B5/C1 requests. This means that the SLA on such requests has already been missed and therefore the KPI is picking out low performance on a particular subset of meters of concern (LUMs).

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.9.34	United Utilities	M10 – a retailer raising a B5 or C1 does not mean wholesaler is poorly performing	See 7.9.33
7.9.35	United Utilities	M10 – if B5 or C1 is completed outside SLA this should be covered through M15	Agree that some of the same meters may be picked up across both KPIs, hence why M10 is proposed to have compensation payments instead of penalties as in the case of M15. At a high level, lateness on a request associated with a LUM is penalised more strongly (penalty + compensation) than lateness on a non-LUM (penalty only).
7.9.36	United Utilities	M15 – MPF should also consider how many B5 or C1 cases are rejected or where they are in deferral status because the wholesaler cannot progress the request	This has been noted and the PAC may need to introduce other metrics which help to identify the quality of request submission and other points of inefficiency and low efficacy.
7.9.37	United Utilities	M16 – wholesalers should not be penalised if a case is deferred as they only apply where a wholesaler cannot progress a case for reasons beyond their control	Concern is noted – hence why no material charges are being proposed on M16 and M17 at implementation.
7.9.38	United Utilities/Yorkshire Water/Wessex Water	M1/17 – the number and length of deferrals are outside wholesaler's control if in line with market codes; this means it is a	See 7.9.30

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		compliance issue and not a performance issue	
7.9.39	United Utilities	M15/M18 - if these measures are included in BR-MeX then they should not incur charges or compensation payments as that would be double jeopardy	Agree that these KPIs should not incur penalty charges or outperformance payments. However, compensation payments are not necessarily considered double jeopardy as these serve a different purpose (primary function is to compensate the impacted Retailer, whereas the primary function of penalties is to incentivise performance), and are likely to be smaller in comparison to penalties. These options will be explored further with parties.
7.9.40	Yorkshire Water	These financial incentives feel like a moot point if the KPIs are included in BR-MeX	Agree regarding penalties and outperformance payments, but there is still the option of compensation payments to consider.
7.9.41	Yorkshire Water	M10 – whilst useful to track, it may not drive correct behaviour as it could be gamed using bilateral forms	This has been noted and the PAC may need to introduce other metrics which help to identify the quality of request submission and other points of inefficiency and low efficacy.
7.9.42	CCW	Strongly agree with penalties as an incentive to answer bilateral requests	Noted
7.9.43	CCW	There is a risk that poor performance against B5 and C1 requests may be masked by good performance against other requests – therefore they should	OR: M10 is yet to be worked through with the PAG but the initial expectation is that this KPI will focus of LUMs with outstanding (i.e., overdue) B5 and C1 requests. This does mean that some of the same meters may be picked up across M10 and M15, hence

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		be separated from M18 and M10 should be a standalone metric	why M10 is proposed to have compensation payments instead of penalties as in the case of M15. At a high level, lateness on a request associated with a LUM would be penalised more strongly (penalty + compensation) than lateness on a non-LUM (penalty only). MOSL expects the PAC and industry to be able to breakdown report by the included process types across all the bilateral request KPIs.
7.9.44	CCW	M17 should not be associated with a charge as there is no evidence that deferrals are being applied inappropriately	Noted. See 7.9.19, 7.9.21 and 7.9.4

Question 7.10: Theme 5: Bilateral Transaction Requests (continued)

Where they apply, are there any particular factors that should be considered when determining: The financial value of charges for each KPI within this theme? How the value of performance standards are calculated?

Reference	Respondent	Comment	Proposer Response
7.10.13	Business Stream	As per 4 x comments on Q7.9	As per 4 x answers on Q7.9
7.10.1	Castle Water	Bilaterals should have a cap on charges and no charges at all to begin with to allow the new MPF to be observed in action and allow adjustments with minimal risk exposure	Noted. Good suggestion for implementation/transition, which MOSL will take on board.
7.10.14	Dŵr Cymru (retailer)	As per Q7.9: A deferral category where both trading parties are unable to influence or resolve an issue has not been considered	As per Q7.9: Interesting suggestion for additional bilateral hub functionality but the Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand.
7.10.15	Pennon Water Services	See answer to Q7.2 (we would not be able to answer any question without an understanding of the values associated)	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.10.16	Anglian Water	No (particular factors)	Noted
7.10.17	Dŵr Cymru (wholesaler)	As per answer to Q7.9, i.e. the reason for a failure may be out of TP's control if it is not on the list of permitted deferrals. Should we revisit the deferral reasons to include things outside the wholesaler's control?	Interesting suggestion for additional bilateral hub functionality but the Bilateral Hub KPIs are being proposed against the current code obligations and functionality at hand.
7.10.2	South East Water	Concerned about being penalised for deferrals where they are outside of control	OR: Concern is noted – hence why no material charges are being proposed on M16 and M17 at implementation. See 7.9.3.
7.10.18	South West	See answers to 7.9	See 7.9.24 to 7.9.28.
7.10.19	Southern Water	None – we are in agreement	Noted
7.10.3	Wessex Water	The proposal presumes that all B5s and C1s are valid and wholesaler at fault, but this is not always the case as data confirms	This has been noted and the PAC may need to introduce other metrics which help to identify the quality of request submission and other points of inefficiency and low efficacy.
7.10.4	Wessex Water	Assuming deferrals are due to wholesaler failure will lead to wholesalers	No material charges are being proposed on M16 and M17 at implementation. An automated KPI can provide useful information for the PAC on performance across different trading parties and

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		challenging results due to unfair assumption that it is their fault	different periods at low risk and cost. MOSL agrees that audits are required to assess whether these represent genuine variation of reasons for deferrals or rather represent incorrect usage and therefore non-compliance.
7.10.5	Wessex Water	Governance of deferrals should apply to an additional metric	This is an option that can be considered when M16 and M17 are subject to detailed design discussion with the PAG. The current view is these warrant the higher prominence and significance of KPI status as this sets a stronger expectation for compliance.
7.10.6	Wessex Water	Bilateral hub metrics should not be limited only to wholesaler actions	This has been noted and the PAC may need to introduce other metrics which help to identify the quality of request submission and other points of inefficiency and low efficacy. The ability to report on these areas may be provided for through the final bilateral hub release under CPW139 & CPM051 .
7.10.7	Wessex Water	Absence of measuring all time impacts can mean published performance differs from customer experience	This has been noted and the PAC may need to introduce other metrics which help to identify the quality of request submission and other points of inefficiency and low efficacy. This may include a complete start to finish metric that captures the total time for resolution as actually experienced by a customer.
7.10.8	Wessex Water	The framework should take a degree of responsibility to inform customers on performance and where accountability lies as this would drive better customer outcomes	Agreed, this is where the publication of performance needs to be effectively tailored to different audiences in terms of what is being presented and how it is being presented.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.10.9	Wessex Water	The framework assumes customers are aware of where responsibility lies for each component part of delivering a request – this is an unrealistic and big assumption	See 7.10.8
7.10.10	Wessex Water	There is a risk that current proposal would incorrectly attribute financial incentives and fail to drive improved outcomes	Potential risk noted but the material sets out the rationale as to why these proposals are considered more effective than today. E.g., there is no current charge for the degree of lateness and SLAs on resubmitted requests are not liable to charging. There is also the BR-MeX link to consider.
7.10.11	Yorkshire Water	More evidence should be provided to support the worked examples – including a one-off snapshot of the entire market based on proposals	MOSL will look to provide further examples when communicating the final models.
7.10.12	CCW	Charges should be set to genuinely incentivise wholesalers to improve performance against standards. It should not be more cost effective to pay penalties, than address the	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		root causes of performance failures.	
--	--	--------------------------------------	--

Question 7.11: Theme 6: Non-market meter reads

Do you have any comments on: The financial incentives (i.e. penalty charges/outperformance payments/compensation payments) assigned to this theme, e.g. would you add or remove any? The calculations and rationale for the charging model(s) applied to the KPIs within this theme?

Reference	Respondent	Comment	Proposer Response
7.11.1	Business Stream/ Water2Business/ WaterPlus/ SES Water/ South West Water/ Wessex Water/ CCW	Calculation for M19 should mirror approach for M01	Agreed
7.11.2	Castle Water	Calculation for M19/M20 penalises parties for issues outside of their control	This is where the performance standards come in to set realistic expectations of what should be achieved.
7.11.3	Castle Water	To prevent unfair charging, the market must acknowledge submeters can be vacant and B5 bilateral can be raised against non-market meters to suspend MPF chargers	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.11.4	Castle Water	Work carried out by MOSL on CPM048 and CPW131 would indicate a realistic minimum performance standard would be closer to 50/60% than the 80% included in the example	Noted. Thank you for pointing to a source that could be referenced when setting performance standards.
7.11.5	Castle Water	Outperformance as a concept – i.e. being rewarded for what you were required to do – does not work and will require additional costs and be burdensome to carry out	MOSL agrees that a Trading Party cannot outperform a code obligation (unless that obligation itself is setting a minimum expectation). However, Trading Parties have noted that the current regime penalises parties for factors outside their control. The concept underlying performance standards and outperformance payments is that the new MPF should better reflect the reality of operating in the market and acknowledge that failures are inherently part of BAU. Minimising that failure beyond what is being reported by other trading parties should be incentivised and rewarded, hence the proposal for outperformance payments. The alternative is that all penalties are redistributed back to everyone regardless of performance, which fails the 'improving customer outcomes' and 'party accountability' tests.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.11.6	Castle Water	Compensation payments are outside the Market/MOSL/PAC remit	Noted – as per comments elsewhere, MOSL considers compensation payments to have a place in the reformed MPF to protect Retailers from damages which are endured following the poor performance of other parties.
7.11.7	Everflow Utilities/Pennon Water Services	Compensation payments would be appropriate for M19 to account for cases where a lack of NMM reads impact bill of NHH customer	This is an option which can be explored further. For consistency and simplicity, the current proposed incentives and charging models for the non-market cyclic meter read KPIs align with those proposed for market cyclic meter reads, but the consultation did note that compensation payments could feasibly apply on M19.
7.11.8	WaterPlus/Northumbrian Water/Thames Water	The data in CMOS does not allow NMM to be identified as vacant so change may be required to ensure fair performance can be measured – this may cause delays if not considered in the implementation of this metric	A new data item within CMOS to capture the occupancy status of non-market meters can be considered in the future, but it is not essential for the delivery of this KPI. It would only apply for a small proportion of meters and vacancy concerns can be accounted for in the setting of fair and realistic minimum performance standards.
7.11.9	Affinity Water	Outperformance payments for metrics on NMM would be inappropriate	MOSL welcomes explanation of why this is considered inappropriate. The rationale set out in Consultation 4 is that this provides a

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			degree of consistency in the incentivisation of market and non-market meter reads.
7.11.10	Thames Water	Similar exemptions to M1 need to be applied; where a wholesaler identifies a bilateral-type intervention is needed, where a deferral category would apply, or where a premises is vacant much of this data does not exist in CMOS, but needs to for the KPI to be measured fairly for financial incentives	MOSL agrees that M01 and M19 could share exceptions where practical and logical. MOSL would welcome clarity on situations where the respondent feels that bilateral requests have been raised on non-market meters. Vacancy will be accounted for when setting realistic and fair minimum performance standards.
7.11.11	Yorkshire Water	Advisable to future proof KPI to note that once smart meters are rolled out, there should be no reason for late reads	Agreed.
7.11.12	Sefton Council	Agree with the principles	Noted
7.11.13	SES Water	The same rationale needs to be applied to these reads as M01	Noted.
7.11.14	South Staffs	We are broadly in agreement with this measure.	Noted.
7.11.15	Southern Water	None – we are in agreement	Noted.

Question 7.12: Theme 6: Non-market meter reads (continued)

Where they apply, are there any particular factors that should be considered when determining: The financial value of charges for each KPI within this theme? How the value of performance standards are calculated?

Reference	Respondent	Comment	Proposer Response
7.12.1	Business Stream/ WaterPlus/ South West Water	M1 and M19 should mirror each other	Agree, and this is the proposal outlined in the M19 summary document.
7.12.2	Castle Water	Minimum performance standards must consider elements outside party's control	Agreed.
7.12.3	Castle Water	M20 – further work is required to identify what the actual triggers are for improvement in this measure and work carried out re CPM048 and CPW131 would help	Agreed. M20 is yet to be discussed with the PAG and CPM048 and CPW131 could be useful sources of information.
7.12.4	Everflow Utilities	Calculations for charging should consider non-market meters producing bill shock for NHH customers	Agreed.
7.12.5	Pennon Water Services	These need to be proportionate and reflect responsibilities and obligations – more clarity is needed on frequency and nature of value changes	Noted and this will be provided. If the calculations and charges are codified then the frequency and nature of value changes will be governed by code change process.
7.12.6	Affinity Water	The application of charges applying from next month do not provide ample time or reflect the realities of the challenges around them – there	Noted. Where it is not possible to remedy an unread meter within the month, it's expected that TPs will benefit from the

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		should be more flex to resolve and higher penalties to reflect this.	leeway provided by a performance standard that's set at less than 100%.
7.12.7	Affinity Water	Key information is not visible to fully explain/understand performance levels and what action is being taken	Noted. MPF 2.0 will allow for additional metrics to add context as to why TPs are performing on KPI level metrics as they are.
7.12.8	South East Water	More clarity on type of skip codes being taken into consideration is needed	Unless and until a skip code mechanism is codified these are not going to be exclusion for cyclic non-market meter reads. MOSL can however, build leeway into the performance standards.
7.12.9	United Utilities	M19 – not appropriate to apply a penalty if monthly reads have not been submitted; there should also be a sensible buffer to account for reads submitted a few days after the end of the month as this is a likely practice	As per M01, M19 will have a 10 business day submission window available to allow any meter readings taken on the last day of the month to be submitted to CMOS before meters are assessed.
7.12.10	United Utilities	M20 – reporting on industry average may not be appropriate	M20 is yet to be discussed in detail with the PAG, further exploration required.
7.12.11	Wessex Water/ Yorkshire Water	Improvements are needed in CMOS to mark non market meters as vacant so they can be excluded	A new data item within CMOS to capture the occupancy status of non-market meters can be considered in the future, but it is not essential for the delivery of this KPI. It would only apply for a small proportion of meters and vacancy concerns can be accounted for in the setting of fair and realistic minimum performance standards.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

7.12.12	Yorkshire Water	The rationale for M19 does not mention the age of the read meaning it could be gamed – unclear if oversight or deliberate	M19 SLAs set out in the summary document.
7.12.13	CCW	In line with our previous comments, the financial value of charges needs to be sufficiently high to genuinely incentivise wholesalers to perform well against the standard.	Noted.
7.12.14	South Staffs	We are broadly in agreement with this measure.	Noted.
7.12.15	Southern Water	None – we are in agreement	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Section 8 – About the MPF and Consultation 4

Question 8.1: How significant do you think the proposed changes will be to your organisation and/or the market, compared to the current MPF?

Extremely significant: 9 (33%)

Very significant: 10 (37%)

Somewhat significant: 8 (30%)

Question 8.2: If you wish to explain your answer to Q8.1, please add it here:

Reference	Respondent	Comment	Proposer Response
8.2.1	ADSM	Large amount of upfront work to model/implement revised performance metrics into planning tools.	Noted. MOSL will discuss the implementation plan with TPs to ensure there is sufficient time for them to implement new processes/controls.
8.2.2	Business Stream	We do not consider that the incentivisation of wholesalers is sufficient to drive material change and that's likely to be diminished further with the introduction of BR-MeX	The level of incentivisation has yet to be determined. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.2.3	Castle Water	metrics are not solely focused on tasks within a trading party's control	Based on feedback from PAG, metrics have been designed to incorporate exception to account for significant challenges outside the trading party's control (e.g. where bilateral requests have been raised on meters). Performance standards can help to set realistic expectations of trading party performance.
8.2.4	Castle Water	To make such a regime work, one would need the protection of a cap (but that's not permitted under Principle PC4) and to reduce the individual monthly charges to a level almost certainly so low that they would breach Principle PC8, by being less than the cost of addressing the performance issue	Different options for a cap can be explored. MOSL has noted at 3.1.17 that PC8 could be updated to reflect that it might not be practical or necessary for charges to exceed the cost of completing an activity in every case.
8.2.5	Castle Water	M01 charging each month for a failure will add considerable cost to meter reading and potentially to customer bills as a retailer might consider scheduling meter reads every five or four months – for all meters, unless we have perfect foresight of what will be skipped	Charges will only be applied where performance is below minimum standard.
8.2.6	Castle Water	M01 - what today is largely good performance against MPS18/19, will overnight be reported as being terrible performance. The optics will be difficult to explain	Noted. The standards and performance of MPF 2.0 may need to be explained in comparison to the standards and performance of MPF 1.0.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.2.7	Castle Water	The proposed performance regime will introduce unwelcome tensions in working relationships between retailers and wholesalers	Noted
8.2.8	Castle Water	rather than sharing skip data with wholesalers immediately and in bulk, retailers will need to employ small armies (which they cannot afford) to shovel bilateral requests to wholesalers, adding unnecessarily to everyone's workload and costs, but for no tangible benefit	Bilateral requests should be raised for the reasons outlined in the market codes which in turn sees Wholesalers held to MPF standards. Performance standards will set realistic expectations of retailers so that not every failure where there is not a bilateral request will be penalised.
8.2.9	Clear Business Water	The revised MPF sets stretching standards to improve market performance which go above and beyond the current MPS and Market Code requirements. To evaluate our performance and give us the best chance of success, we will need to make significant system changes for the new KPIs.	Noted. MOSL will discuss the implementation plan with TPs to ensure there is sufficient time for them to implement new processes/controls.
8.2.10	Pennon Water Services	do not feel we can answer this fully, as we do not know the values associated with charges	Noted. See 8.2.2
8.2.11	Pennon Water Services	have doubts as to how much the retailer 'view' matters and to what extent it's a done deal but most importantly, we cannot think of another instance where we've been asked to approve and comment on significant aspects of this regime change in isolation from all other parts	Noted. MOSL appreciates that TPs were asked some tough questions without seeing the full picture, including standards and charges which are yet to be developed. Rest assured that retailer views do matter and engagement on MPF reform will continue.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.2.12	Pennon Water Services	should be an opportunity to review the entire MPF holistically and failing that, some consideration should be given to shadow running the new parts of the regime	The MPF reform programme took a root and branch approach when first defining the intended purpose and scope of the new MPF. The framework will be subject to regular reviews by the Panel. There are various options available for implementing the framework, including shadow periods, and these will be considered further.
8.2.13	WaterPlus	WP monitors its own performance in line with the market codes and incentives, and tailors its processes to best match the specific requirements. Changes to how (and when) metrics will be assessed may represent fundamental changes in how we are required to schedule our metering agents and this may take some time to coordinate.	Noted. MOSL will discuss the implementation plan with TPs to ensure there is sufficient time for them to implement new processes/controls.
8.2.14	Water2Business	We feel that the April 25 deadline is fast approaching and yet the design phase hasn't finished yet, which doesn't allow trading parties a huge amount of time to review internal processes, update these, test them to ensure they work and do not cause any undue impact to customers. We believe there will be a large drop in performance once the first phase goes live, which will lead to increased customer contact &	There are various options available for implementing the framework, including shadow periods, and these will be considered further.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		complaints, we do not believe that the MPF reform should go live until it is fully ready	
8.2.15	Waterscan	We are already performing against most of these KPIs and it would be good to see actual measured performance and comparing against the market. We might need to adapt a few processes but nothing significant.	Noted. MOSL will discuss the implementation plan with TPs to ensure there is sufficient time for them to implement new processes/controls. Some TPs may find implementation more significant.
8.2.16	Anglian Water	This is materially different to what exists today, which will require changes to delivering service. This will also result in contractual changes to partners, systems, and at the same time as the commencement of a new AMP period.	Noted
8.2.17	Northumbrian Water	Amazing work, thank you. This is the right thing to do and should reduce friction in the market.	Noted. Thank you.
8.2.18	SES Water	Not just because of the actual changes, but the behaviour change it needs to drive the wider business.	Noted.
8.2.19	South East Water	It is not clear how Wholesalers/Retailer can validate the incentive so that they can learn from them to improve performance. We also think it would take a considerable amount of work to implement.	MOSL would welcome clarity on how the respondent would want to validate incentives. Feedback on implementation noted.
8.2.20	South West	For the organisation, there will be significant charges for reporting and education at all levels of the business.	Noted. These are important points for MOSL to consider in its implementation plan.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.2.21	Southern Water	We have chosen 'very' as we are unsure of the actual significance of the changes to our organisation without the MPF reform being in place to make a clear assessment.	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
8.2.22	Wave Utilities	These changes will significantly impact retailers. Care needs to be taken on penalty and compensation decisions especially around whether or not to retain a cap, to ensure the desired outcome. These changes need to be fleshed out and scrutinised more thoroughly taking factors that are out of Retailer control into account before levying any type of penalty or compensation charge.	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
8.2.23	Thames Water	costs and risks do not currently appear avoidable to us and actions taken to mitigate them likely to increase wholesaler and retailer costs and frictions rather than enable us to better co-operate in the interests of customers. We believe these issues can be addressed with some relatively small changes to the proposed framework	Noted, MOSL welcomes further information on where these changes are considered necessary.
8.2.24	United Utilities	The new MPF will have limited impact on our systems, however we need to reprioritise	Noted. These are important points for MOSL to consider in its implementation plan.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		activities and refocus resources. We will need to make updates to the dashboards, reports and scorecards and will also be a need for the new MPF to be fully understood and embedded within our organisation.	
8.2.25	Wessex Water	We do not see at this stage that the proposals to date will significantly move the performance framework forward enough to address some of the key performance areas	Noted. The framework will be subject to regular reviews by the Panel and the framework will be flexible to further strengthening should there be evidence to require it.
8.2.26	Wessex Water	We believe that MOSL has not fully capitalised on existing data in a number of areas to fully understand where problems may be present.	Where practically possible, MOSL has looked to base proposals against available data, and this will be a priority when determining values for charges and standards too.
8.2.27	Yorkshire Water	would like the first year of MPF to be a 'shadow' year without actual charges applied; this should allow for more refinement and fairness for all trading parties so that real world evidence can be applied. Ofwat could continue to use the defined MPF metrics for the first year of BR-MeX in AMP8, but for all other purposes regard this as a shadow year to allow trading parties to adapt, understand, and tweak any metrics that do not end up proving fit for purpose	There are various options available for implementing the framework, including shadow periods, and these will be considered further.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 8.3: How impactful do you think the proposed changes will be to your organisation and/or the market compared to the current MPF?

Extremely impactful: 5 (19%)

Very impactful: 10 (37%)

Somewhat impactful: 12 (44%)

Question 8.4: If you wish to explain your answer, please add it here:

Reference	Respondent	Comment	Proposer Response
8.4.1	Anglian Water	Despite the effort to move to the new approach to MPF, we believe this will provide a better all-round approach to the service to the customers.	Noted. Thank you for your support.
8.4.2	Business Stream	As per Q8.2: do not consider that the incentivisation of wholesalers is sufficient to drive material change and that's likely to be diminished further with the introduction of BR-MeX	Noted. See 8.2.2
8.4.3	Clear Business Water	performance standards and level of charges must ensure that Trading Parties are not unfairly penalised for unachievable goals or issues that are outside of their control	Agreed.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.4.4	Castle Water	Question unclear, notable how 'significance' under 8.1 differs from 'impactful' in 8.4.	Based on consultation 3, some TPs had a view that proposals were not significant enough to have an effect. MOSL's significance question was an attempt to see if that was still a view held by some TPs. MOSL's impactful question was looking to understand if those significant changes would likely impact the respondent. Feedback around potential lack of clarity is noted and will be taken on board for any further engagement.
8.4.5	Penon Water Services	As per Q8.2: have doubts as to how much the retailer 'view' matters and to what extent it's a done deal but most importantly, we cannot think of another instance where we've been asked to approve and comment on significant aspects of this regime change in isolation from all other parts	Noted. See 8.2.11
8.4.6	SES Water	Not just because of the actual change, but the behavioural change it needs to drive the wider business.	Noted
8.4.7	WaterPlus	While we believe that the change between MPF frameworks will represent a challenge and incur cost we believe that we are already focused on many of the key areas identified in the new MPF and already driving for improved performance. We expect to see	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		some additional benefit on the additional wholesaler metrics, as we do not have strong ability to incentivise wholesaler performance and that these are sufficiently strong to drive improved customer outcomes.	
8.4.8	Waterscan	We should be performing against all these KPIs already, however we will be much more involved with Wholesaler KPIs under this MPF than previously, so will need monitoring and challenging where necessary.	Noted. MPF reporting will help with monitoring both wholesaler and retailer performance and allow the PAC to challenge where necessary.
8.4.9	South East Water	As per Q8.2, it is not clear how Wholesalers/Retailer can validate the incentive so that they can learn from them to improve performance. We also think it would take a considerable amount of work to implement.	MOSL would welcome further discussion with the respondent on the idea of “validating” the incentive.
8.4.10	South West	This will, however, be dependent on the value of the charges. Until TPs see the consequence of the penalties and outstanding performance, we may not see the impacts on the desired changes to behaviour	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
8.4.11	Southern Water	We have chosen ‘very’ as we are unsure of the actual impact of the changes to our	MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		organisation without the MPF reform being in place to make a clear assessment.	finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
8.4.12	Thames Water	We do not believe that the changes proposed will create significant benefits for end customers above those already in place. In order for benefits to arise for customers, more collaboration is required between trading parties and these proposals do not endanger that behaviour.	Noted.
8.4.13	United Utilities	The measures are broadly aligned with our current activities, they may change some of our operational focus and priorities, along with potentially the way we work with Retailers to manage cases. There are unknowns in terms of behaviour changes that we knew the MPF may drive, particularly around bilateral case management.	Noted.
8.4.14	Wessex Water	We are not convinced that the suggested framework to date will significantly move performance forward. We believe that the framework should be bolder in attributing accountability to target incentives effectively, and that all proposals should be backed by further insights to inform decision-making.	Noted. The framework will be subject to regular reviews by the Panel and the framework will be flexible to further strengthening should there be evidence to require it.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.4.15	Yorkshire Water	difficult to assess the impact without knowing more detail on thresholds, compensation, amounts, frequency – where we would have incurred these over the last financial year	Noted. See 8.2.1
8.4.16	Yorkshire Water	Budgeting for 2025 and beyond is near impossible because of a lack of information at this stage; with no clarity on shadow period we don't know how to forecast	Noted. MOSL recognises that TPs will need clarity on charges and standards so they can model their potential performance.
8.4.17	Yorkshire Water	BR-MeX being worked on in parallel to this adds increasing complications due to overlap	Complication noted although this is being managed.

**To promote, challenge and lead the operation and evolution
of the market for the benefit of business water customers**



Question 8.5: Overall, how clear have you found the Consultation 4 process?

Extremely clear: 1 (4%)

Very clear: 12 (43%)

Slightly unclear: 13 (46%)

Very unclear: 2 (7%)

Question 8.6: If you attended the webinar on 17 July prior to submitting your response, how useful did you find it?

Extremely useful: 2 (11%)

Very useful: 2 (11%)

Somewhat useful: 10 (55%)

Not very useful: 3 (17%)

Not useful at all: 1 (6%)

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 8.7: If you have not found the consultation process and/or webinar clear, please can you explain why and how we might improve in the future

Reference	Respondent	Comment	Proposer Response
8.7.1	ADSM	Was not able to attend webinar but the catchup needed better overviews	Noted re providing a better overview. MOSL recorded the webinar to allow TPs to view on their own time. MOSL was available to answer any follow up questions or queries at any time during the consultation period.
8.7.2	Business Stream	Issuing material before the consultation was useful and allowed time for consideration, but it would have been more useful to have the webinar shortly before consultation was issued with a clearly stated objective	Noted
8.7.3	Castle Water	The documentation issued for this consultation was unnecessarily difficult to consume as it was repetitive, inconsistent, and incomplete	Noted.
8.7.4	Castle Water	There were too many questions in the consultation encouraging engagement only with multi-scale answers with further explanatory questions being presented as optional	Noted. MOSL opted for a flexible and open approach, offering up all elements of the proposal for discussion whilst allowing each respondent to provide as little or as much detail as they wanted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.7.5	Castle Water	Many questions in the document relied on multiple elements (six themes, 14 performance standards etc.) meaning the actual number of questions is much higher and questions are harder to answer and represent an unreasonable ask of any respondent	See 8.7.4
8.7.6	Castle Water	Castle does not feel that they have been listened to and are now being asked to comment on something they have previously been ignored about.	MOSL has considered trading party feedback from previous consultations, including specific challenges from trading parties, in PAG meetings as part of metric design.
8.7.7	Castle Water	Cannot agree that webinar feedback might suffice as being consultation feedback as it did not offer sufficient detail and avoided difficult questions.	Trading Parties were free to decide if they wanted to feedback via the webinar or in writing to consultation 4 or both. MOSL is grateful to have received a wealth of information as written responses to the consultation as evidenced by this and other published consultation 4 documentation.
8.7.8	Castle Water/Pennon Water Services/Sefton Council	By no objective measure does the proposed MPF fall under the category of 'simple' and MOSL arguing so undermines credibility.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.7.9	Castle Water	MOSL's analysis and commentary of how proposals meet success criteria is weak, superficial and selective only to prove a point and not give balance. Honesty and quality are both needed and not forthcoming in this consultation.	Noted.
8.7.10	Clear Business Water	Whilst issuing several pre-reading documents and consulting in phases has aimed to improve ease of understanding, it has made the process disjointed and made it difficult to engage holistically	Noted
8.7.11	Nottingham City Council	An executive summary of the key points would massively help.	Noted
8.7.12	Nottingham City Council/ Pennon Water Services	The enormity of the reading required for consultation responses has made it difficult to fully engage for smaller trading parties who do not have dedicated teams to review.	Noted. This is why MOSL issued pre-reading in phases.
8.7.13	Pennon Water Services	Not confident other views from around the market have been captured and considered.	MOSL has worked on KPI design in dozens of meetings with PAG members accumulating 100s of contact hours with trading party representatives. Final models for the financial tools will take account of feedback from this consultation.
8.7.14	Water2Business	Improve the layout of documentation – they are hard to understand	Noted.
8.7.15	Water2Business	Webinars are very useful so please continue with these for future consultations	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.7.16	WaterPlus	It remains unclear how much additional opportunity there will be to discuss the proposed metrics and financial incentives combinations that will be available. It is critical that market participants are given the opportunity to comment on the final combinations and while it is useful to provide insight and perspective at the design phase, it is not yet clear how much opportunity there will be. It is particularly relevant that these metrics remain in development and do not represent a final proposal and as such believe it will be necessary for a final package of measures to be consulted upon.	KPI designs have been openly worked on with PAG, the final models for the financial tools will be accounting for feedback from this consultation, and MOSL will continue to provide opportunities for discussion with parties before the models are confirmed.
8.7.17	Affinity Water	Concerned smaller trading parties' views have not been captured in this process as it is tough to know if they engaged with the webinar – larger trading parties have more personnel so can engage more	This concern is noted and is why MOSL issued pre-reading in phases and continues to invite parties to get in contact for dedicated discussion if required.
8.7.18	Anglian Water	The webinar was not a good use of time; insufficient opportunity was there to discuss the consultation and raise questions	Noted.
8.7.19	Anglian Water	It is useful to receive pre-read documents ahead of consultation, but Anglian found reviewing digitally challenging and printed documents out physically	Noted
8.7.20	South East Water	It would have been useful to have a summary for the consultation as there were a lot of documents to read	Noted

**To promote, challenge and lead the operation and evolution
of the market for the benefit of business water customers**

8.7.21	South West Water	The amount of information provided for the consultation should have been condensed, or at least, a condensed version of consultation documents should have been provided	Noted
8.7.22	Southern Water	The webinar was not clear – was it intended to be an update on the programme’s progress or a debate on the issues of MPF reform? This was clarified halfway through but at the cost of wasted time	Noted
8.7.23	United Utilities	The webinar was too high level, and the debate was focussed on broad principles instead of the details of consultation 4 specifically	Noted
8.7.24	United Utilities	Releasing pre-consultation in stages helped, but it would have helped to provide the relevant consultation questions with each stage – doing so would allow drafting responses before consultation is finally published	Noted
8.7.25	Yorkshire Water	Though not within MOSL’s control, the timing of the consultation clashed with draft determination, strategic panel’s flourishing market roadmap, and Yorkshire Water’s internal systems roll-out. The amount of time allowed to respond helped, however.	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 8.8: To what extent do the proposals satisfy the MPF programme's success criteria?

	Completely	Largely	To some extent	Not at all
Overall	0 (0%)	17 (68%)	7 (28%)	1 (4%)
Principles & standards	0 (0%)	16 (64%)	7 (28%)	1 (4%)
Metric-to-tool mapping	1 (4%)	15 (60%)	6 (24%)	1 (4%)

Question 8.9: If you wish to explain your answer to question 8.8, please add here

Reference	Respondent	Comment	Proposer Response
8.9.1	Business Stream	To better facilitate improved customer outcomes financial penalties need rebalancing to ensure wholesalers are appropriately incentivised	Noted, specific suggestions are invited.
8.9.2	Business Stream	To improve trading party accountability, M01 is not achievable as retailers will be held accountable for reading meters, they do not have the ability to	Reading every cyclic meter is a retailer obligation under the market codes. Nonetheless, the performance standards for M01 will set realistic expectations of performance.
8.9.3	Business Stream	To support competition, financial charges should be set at levels to recognise regional variations	There is an argument that this could stifle competition and innovation. The underlying code obligations apply the same to all trading parties of one type.
8.9.4	Business Stream	The proposed KPIs have not recognised wholesalers are monopolies and retailers operate with natural incentives	MOSL agrees that there are natural incentives for Retailers to perform. However, the market's current performance (as evidenced by MPF performance,

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			reports from Ofwat, CCW, PWC and others) demonstrate that these forces are not currently sufficient to ensure customers receive the appropriate speed or standard of service. The MPF can adapt and reduce its reliance on financial interventions as these natural incentives increase. Wholesaler KPIs may feed into more substantial incentives in BR-MeX.
8.9.5	Business Stream	Some elements such as financial penalties for M11 and M14 do not appear proportionate	Noted.
8.9.6	Business Stream	M11 could be prohibitively expensive to administer	The case for change in terms of creating and populating a KPI in this space has already been established by the data cleanse programme. Piloting M12 will give us a benchmark for assessing the cost.
8.9.7	Business Stream	There is still too much complexity in proposed MPF	Noted. The MPF can evolve and become simpler over time as performance improves – but current performance and customer outcomes requires the implementation of these new KPIs and incentives. Each component being proposed is considered fundamentally necessary.
8.9.8	Castle Water	Castle has argued that there is a lack of a detailed analysis of factors that influence market failure and therefore incorrect identification of the appropriate remedy	Not all analysis has been shared given the length and complexity of consultation 4. Further analysis and modelling will be shared when information on the scaling of financial tools and standards and specific calculations is provided. MOSL

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			acknowledges and understands the request for clarity on the numbers themselves and will provide this when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn.
8.9.9	Castle Water	MPF consultation 4 ignored the analytical framework that the principle of 'support competition' demands	Noted.
8.9.10	Castle Water	MOSL does not have the powers of a competition or regulatory authority and should not therefore develop and apply rules	MOSL's development of proposals for MPF 2.0 has been collaborative with the industry and within the scope of its authority. As market operator, within the market code framework, MOSL can and does propose rule changes to help facilitate improvement programmes on behalf of regulatory and industry bodies (e.g., Strategic Panel).
8.9.11	Castle Water	In attempting to create a new MPF MOSL has complicated the system to the extent of creating a new industry	Proposals for calculating metrics are simpler and the overall number of KPIs has been reduced.
8.9.12	Castle Water	There is no tie-back of the penalty regime to any quantification of harm or explanation of how each penalty will take into account existing incentives	MOSL will take this on board.
8.9.13	Castle Water	No explanation of how performance standards relate to culpability or rationale	See 8.9.12

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		for culpability of a given trading party for harm	
8.9.14	Castle Water	The concept of 'outperformance' is one that is unsuited to a competitive market	See 4.2.2
8.9.15	Castle Water	Compensation payments should only apply to compensate customers for wrongdoing or to follow through breaches in competition law – they have no place in penalising industry participants	MOSL considers that compensation payments do have a place in the reformed MPF to protect Retailers from damages which are endured following the poor performance of other parties.
8.9.16	Castle Water	Using penalty payments to fund the market improvement fund is distortive of the wider market and acts as a tax under HM treasury rules	The Market Improvement Fund is already funded via MPF penalty payments which was approved years ago as part of a code change (CPM018).
8.9.17	Castle Water	The non-financial tools contain several additional unjustified metrics with a near unlimited potential for MOSL to expand the scope of the MPF regime	Governance checks and balances on MPF 2.0 does not allow MOSL unlimited potential to expand the scope of the MPF regime
8.9.18	Pennon Water Services	The simplicity of the existing regime is lost. Nothing about this would be simple to anyone coming to it for the first time so we don't believe it reaches a success criteria.	Proposals for calculating metrics are simpler and the overall number of KPIs has been reduced.
8.9.19	Pennon Water Services	The proposed MPF is akin to a monopolistic market and would discourage new entrants into the NHH market by making it more prescriptive and allow lower returns for retailers	Charges will be determined in recognition of the need to drive the right outcomes, which includes ensuring the market does not become unstable or unviable, monopolistic for retailers, or less attractive to new entrants

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.9.20	Water2Business	It is difficult to see at the moment, in some elements we would agree, however we do have concerns.	Noted.
8.9.21	Waterscan	Metric-to-tool mapping is not going to be simple, and success will hinge on accurate metric measurements – which would be difficult to work out	MOSL acknowledges that further work is required to ensure the final model is fully appropriate.
8.9.22	Portsmouth Water	M10 should take W reads into consideration	Noted for future detailed design discussion with PAG.
8.9.23	Portsmouth Water	M12 pilot outputs have not been overly successful	MOSL notes good data approval rates from some Wholesalers but recognises there is still pilot work to do to socialise M12 with trading parties.
8.9.24	South East Water	There is a risk that dysfunctional methods could be used to avoid fines and no confidence that processes will be able to highlight this	The PAC will be able to audit performance and introduce new metrics where required.
8.9.25	South East Water	Question the need for compensation payments	MOSL considers that compensation payments have a place in the reformed MPF to protect Retailers from damages which are endured following the poor performance of other parties.
8.9.26	South East Water	Question compensation payments applying only in the payment to retailers – if retailers cause issues, should wholesalers not be compensated for fixing those issues?	MOSL would argue that Retailers rely on Wholesalers for the maintenance of customer impacting assets and data, and therefore accurate billing and customer relationship management. MOSL welcomes suggestions from the respondent on which market interactions result in the

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			Wholesaler suffering losses due to the retailer's service shortfalls, which it cannot already recover via non-primary charges.
8.9.27	South West	Where we felt the principles and performance standards haven't met the success criteria, we have noted these in our response to the consultation	Noted
8.9.28	Southern Water	Concerns about reformed RF not being proportionate and potential winners and losers based on calculation of minimum performance standards	There may be occasional instances where there are 'winners' and 'losers' but MOSL has not identified where this is likely to be sustained without a change being made to the framework.
8.9.29	United Utilities	Criteria 2: Some measures are not aligned to accountability – trading parties should not be penalised for matters out of their control or where they are complying with code compliant processes	Minimum performance standards will set realistic and fair expectations of trading party performance. If a trading party is fully compliant with the code, they will not experience any penalties under the MPF.
8.9.30	United Utilities	Criteria 4 and 6: Risk of double jeopardy on a number of measures by applying compensation payments and performance penalties or double counting between MPF and BR-MeX	MOSL agrees that MPF and BR-mex should not be double counted when it comes to financial penalties. However, compensation payments serve a different purpose (primary function is to compensate the impacted Retailer) to penalties (incentivise performance), and are likely to be smaller in comparison to MPF or BR-mex penalties. Compensation will be considered further.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.9.31	United Utilities	Criteria 8: There is scope to simplify some of the approaches outlined and make calculations more intuitive for trading parties	MOSL welcomes specific suggestions from respondents.
8.9.32	Wessex Water	Please see previous responses linked to customer outcomes	Noted.
8.9.33	Pennon Water Services	How can we be asked whether something that isn't concluded and hasn't been put into practice improves customer outcomes.	Noted.
8.9.34	Southern Water	The amount of documentation to digest and the amount of input into consultations etc, feels complex. To answer the question fully will be based upon the reformed MPF being in place and trading parties becoming familiar with it over time. We have yet to understand whether it will be proportionate as some concerns have already been raised about potential winners and losers based upon minimum performance standards and how these will be calculated.	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 8.10: Would you like to be contacted to discuss your response in more detail, or any other aspect of the MPF reform programme? Please provide a brief summary of any topic(s) you would like to cover. Only those asking to be contacted are listed below.

Reference	Respondent	Comment	
8.10.1	Business Stream,	Happy to discuss our response if MOSL requires clarity or would like more detail.	Noted.
8.10.2	Castle Water	We would like to discuss all points raised in Castle Water's response to this consultation and seek a detailed written response to each point, and those raised previously. The risks and issues raised are ones of genuine substance, and should be addressed by MOSL with both us, and the wider market.	This document aims to answer all respondents' questions about, and comments on, Consultation 4. There will be further opportunity for discussion on 12 September session for Consultation 4 feedback
8.10.3	Dŵr Cymru (retailer)	Please contact us if further clarity is required on any response provided.	Noted
8.10.4	Portsmouth Water	Happy to discuss our response if MOSL would like to	Noted
8.10.5	South East Water	Yes	MOSL will reach out to the respondent in due course.
8.10.6	South Staffs Water	If you wish	Noted

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

8.10.7	Thames Water	Yes	MOSL will reach out to the respondent in due course.
8.10.8	Wessex Water	Happy to engage in our responses and continue to contribute to an improved market for the benefit of customers	MOSL will reach out to the respondent in due course.
8.10.9	Everflow Utilities	Interested in discussing payment schedule around outperformance payments and charges mapped to M09	Calculating and paying outperformance payments on the same frequency to penalty charges i.e. monthly makes the Panel's decision on MIF funding more difficult and reduces the incentive on Trading Parties to sustain outstanding performance over 12 months. The point of outperformance payments is that they should be stretching.
8.10.10	Nottingham CC	Interested in discussing expected charges for transfer reads as well as the charges for having a B5 open against a LUM.	MOSL will reach out to the respondent in due course. All TPs are invited to attend and discuss these types of issues at the PAG.
8.10.11	Water2Business	Interested in discussing concerns over transfer reads	See 8.10.10
8.10.12	United Utilities	No – although we would be very happy to provide further input or discuss our feedback.	Noted

**To promote, challenge and lead the operation and evolution
of the market for the benefit of business water customers**



8.10.13	WaterPlus	Interested in discussing removing the cap on performance charges and approach to calculate performance penalties	See 8.10.10
8.10.14	Yorkshire Water	Interested in discussing thinking around financial compensation	See 8.10.10

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

Question 8.11: If you have any other comments or feedback, please enter it here (includes general comments about the process from elsewhere in the consultation)

Please note that any additional comments that relate to any of the other questions have been moved to the appropriate section. This section contains only comments about topics that have not been raised above.

Reference	Respondent	Comment	Proposer Response
8.11.1	Castle Water	MOSL should delay the date of new MPF going live to next year and revisit some of the detailed conversations that have only recently been discussed at PAG including: innovation in CMOS data, SKPI data leading to better accountability, along with a reform programme led by trading parties	Noted.
8.11.2	Dŵr Cymru (retailer)	It was noted Retailer MPF will launch April 25 and Wholesaler MPF 6 months later – this should either be aligned or retailers should not be financially penalised or rewarded until wholesaler MPF is launched	Noted. There are no plans to target different launch dates purely on a retailer / wholesaler split. As planned, a combination of retailer and wholesaler metrics would go live at the same time.
8.11.3	Wave Utilities	Work required on ownership of metrics and penalties occurring outside of owner's control especially on internal meters in vacant premises and fairness.	Agreed. Minimum performance standards should be fair and realistic.
8.11.4	Affinity Water	Despite our previous opposition, it is now believed that a shadow year will be required	Noted. There are various implementation options which will be considered further.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		to ensure all trading parties understand new MPF and all impacts	
8.11.17	Affinity Water	Prefer the introduction of the new MPF was delayed as a whole rather than have a phased approach.	Noted. There are various implementation options which will be considered further.
8.11.5	SES Water	Not clear what M02 seeks to measure	Will be explored further when M02 is subject to detailed design discussion with the PAG, but the current expectation is for M02 to mirror M01 and M19 but focussing on smart meter reads only.
8.11.6	SES Water	All metrics need to be aligned between retailers and wholesalers in order to be fair	Noted.
8.11.7	SES Water	Rationale for metric, under performance penalty, and over performance payment needs to be clear as it should be easy to communicate	Noted.
8.11.8	Thames Water	Wish to discuss issues highlighted where there is belief proposed MPF will not deliver better outcomes for customers	MOSL will reach out to the respondent in due course.
8.11.9	Castle Water (Q2.2)	The lack of quality in the documentation only adds to that concern and has made it unnecessarily difficult and frustrating to respond to Consultation 4. The documentation is not fit for purpose, not meeting a minimum standard necessary upon which to comment - thereby undermining	Noted.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		both the proposals and the consultation process. This adds to the case for a much-needed pause in the MPF Reform Programme, to take stock and redirect, before more Trading Party monies are wasted on a flawed MPF that, by design, will be found wanting once implemented, to the detriment of the market and its customers.	
8.11.10	Castle Water (Q2.2)	<p>We are being asked to comment on details which are insufficiently explained, or which are yet to be developed. We are asked to rely upon principles, which are inadequate, unclear, in conflict, or unsuitable.</p> <p>A Trading Party's view may well change depending upon whether a performance charge is set at £5 or £500. However, both outcomes are possible, and we are asked to trust others later to set charges at an appropriate level, but without any certainty or confidence.</p>	<p>There are several proposed improvements in the charging models compared to current MPF, including: repeating penalties until KPIs are passed; compensation payments for direct impacts on retailers; outperformance payments for outstanding performance; and penalties and outperformance payments only being applied for the proportion of performance that falls above or below a standard.</p> <p>This consultation is seeking views on these concepts in absence of values so that feedback focusses on customer outcomes instead of being biased towards amounts that parties are willing to pay. Charges are expected to be codified and so trading parties should have the confidence in the code</p>

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

			change process, code change committee and Ofwat to ensure that charges are only implemented when they are appropriate.
8.11.11	Castle Water (Q2.2)	We ask that throughout our consultation response that MOSL refers to the views of Castle Water previously expressed on the new MPF, which remain valid and pertinent. These views include our responses to the first three consultations for which we haven't received a detailed response and MOSL has failed to address in the proposed metrics and now in the principals and design of the financial tools upon which it is now consulting.	MOSL has considered trading party feedback from previous consultations, including specific challenges from trading parties, in PAG meetings as part of metric design.
8.11.12	Castle Water (Q2.2)	In considering our response to Consultation 4, MOSL should also refer to our considerable input at the Performance Advisory Group and at other market fora over recent years, where we have articulated in detail our concerns with the direction of the MPF Reform process and the failure to address the substantive points of design which Castle Water has raised throughout the MPF Reform process.	See 8.11.11
8.11.13	Castle Water (Q2.2)	As we have repeatedly explained and stressed previously, any rationale process would therefore ensure that one or more of the resulting success criteria majored on "control".	'Control' falls under accountability and this is why the proposal seeks to introduce minimum performance standards to set fair and realistic expectations of performance.

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers

		Hence our disbelief that 'control' isn't one of the eight success criteria which MOSL has determined. And we've never had an answer from MOSL as to why.	
8.11.14	Castle Water (Q2.2)	We have a criterion of 'improve trading party accountability', but accountability without responsibility is by any objective assessment a measure of 'failure' and not of 'success'.	See 8.11.13
8.11.15	Castle Water (Q2.2)	The MPF Reform Programme should undertake a long overdue review of the Market Codes, with a view to focus on redefining the core obligations to ensure that they are within the control of a trading party. In reforming our performance framework, first we must get the obligations right and second, we monitor performance against those obligations to see where we require a new MPF metric.	A full market code review was considered and rejected at the outset of the MPF reform process. Trading parties can and should raise code changes where they believe obligations are not supporting good customer outcomes.
8.11.16	Castle Water (Q2.6)	The supporting documentation does not include analysis on the potential risks nor unintended consequences of increasing the scope and frequency of penalties so substantially. Improvements in process, data and systems like CMOS have not happened (such as facilitating the housing of skip data centrally, giving retailers a deferral option etc),	Not all analysis has been shared given the length and complexity of consultation 4. Further analysis and modelling will be shared when information on the scaling of financial tools and standards and specific calculations is provided. MOSL acknowledges and understands the request for clarity on the numbers themselves and will provide this

To promote, challenge and lead the operation and evolution of the market for the benefit of business water customers



		which means the market does not have any further visibility or insight into access issues.	when requirements are finalised. It has been suggested that further information on the scaling of financial tools and standards and specific calculations is coming in the autumn..
--	--	--	---