

## Minutes of Panel Meeting 04

12<sup>th</sup> April 2017 | 10:30 – 15:30  
Held at Holborn Bars, High Holborn, London,

Status of the Minutes: Final

### MEMBERS PRESENT

Margaret Beels	(MB)	Chair	Laurel Agnew	(LA)	Unassociated Retailer Panel Member (Alternate)
Dylan Freeman	(DF)	Wholesale Panel Member	Nigel Sisman	(NS)	Independent
Elsa Wye	(EW)	Independent	Richard Moore	(RM)	Unassociated Retailer Panel Member
Helyn Mensah	(HM)	Independent	Simon Wilshire	(SW)	Associated Retailer Panel Member
Howard Smith	(HS)	Wholesale Panel Member	Trevor Nelson	(TN)	Unassociated Retailer Panel Member
Mark Holloway	(MH)	Wholesale Panel Member	Adam Richardson	(AR)	Panel Secretary
Mike Brindle	(MB)	Associated Retailer Panel Member			

### OTHER ATTENDEES

Ben Jeffs	(BJ)	MOSL	Elliot Bird	(EB)	MOSL
Antoine Schmidt	(AS)-	Thames Water Utilities (Observer)	Rebecca Mottram	(RMO)	MOSL
Michael Robertson	(MR)	MOSL (in part)	Lauren Mulholland	(LM)	MOSL (in part)

### APOLOGIES

Steve Hobbs	CCWater
Dan Mason	Ofwat
Nicola Smith	Clear Business Water

## OPEN SESSION

### 1. Welcome and Introductions

**Purpose: For Information**

- 1.1. The Chair began by welcoming the Panel and informing them that sadly Andrew Pinder had passed away. The Panel wished for it to be recorded that it sends its condolences to Andrew's family.
- 1.2. The Chair welcomed Laurel Agnew, as Alternate for Nicola Smith.

### 2. Minutes and Outstanding Actions

**Purpose: For Decision**

**2.1. Minutes**

- 2.2. Panel Members provided several comments on the minutes of the previous meeting.
- 2.3. The MOSL representative agreed to amend their comment from the previous meeting, on the costs of additional settlement runs, after it was found they were unit charges per additional run.
- 2.4. The Panel **AGREED** upon the accuracy of the minutes, subject to some minor amendments, and for the final minutes to be published on the MOSL website.

**2.5. Headline Report**

- 2.6. A Panel Member suggested a minor amendment to the Headline Report, and subject to this amendment, the Panel agreed that MOSL update the published Headline Report to include the suggested minor clarification.

**2.7. Actions**

- 2.8. The Panel reviewed the actions and **AGREED** to close several actions from the previous meetings, based on an update from the Panel Secretary.

### 3. Updated Trading Disputes Committee Terms of Reference

**Purpose: For Decision**

- 3.1. This paper set out an updated Terms of Reference (ToR), for the Trading Disputes Committee, based on comments received from the Panel.
- 3.2. A Panel Member raised a concern that there appeared to be no mechanism to remove someone from a Committee if it was required, which was true across all the Committee ToRs. There was also no mention of Committee Members being appointed for defined terms of office, which they noted should be required to put them in line with Panel Members.
- 3.3. The Panel agreed that it would appoint Committee Members for an initial period of one year and decide on whether it should renew their membership after one year based on their experience and feedback from the Committee Chair. Additionally, the Panel agreed that provision should be made in

each Committee ToR for Panel Members to remove Committee Members if they are not fulfilling their obligations.

- 3.4. A housekeeping change was requested that all mentions of the Chairman in Panel documents should be changed to Chair.

**ACTION 04\_01**

- 3.5. A Panel Member observed that the current Committee membership was weighted in favour of Retailers, when, in their view, an even weighting between Wholesalers and Retailers would be preferable.
- 3.6. Other Panel Members felt that the weighting towards Retail members was consistent with the approach and principles applied by Ofwat in developing the Panel governance arrangements. It was agreed that the composition of Panel Committees should be kept under review and considered again in 12 months time.
- 3.7. The Chair of the Panel suggested that the Trading Disputes Committee (TDC) could run through some case study examples of its work, to get used to ways of working before it is presented with a live issue. The Panel agreed this was a good idea to be included as part of the induction of TDC Members, and suggested that the results of this should also be shared with Trading Parties. The Chair asked that Panel Members provide suggestions for case studies to the Panel Secretary.

**ACTION 04\_02**

- 3.8. The Panel **AGREED** to the contents of the ToR and for it to be published on the MOSL website.

## 4. Market Performance Overview

**Purpose: For Information**

- 4.1. The Panel was presented with an overview of Market Performance, which covered the key activities and objectives of Market Performance and the Market Performance Committee (MPC).
- 4.2. A Panel Member commented that MOSL should reconsider whether Retailers needed to provide additional information, on top of what was already provided, as gathering this information will potentially burden the market unnecessarily.
- 4.3. Panel Members also requested that MOSL outline how the Market Performance Committee (MPC) and the Panel would work together and how the reporting regime between the MPC and the Panel was to work. It was agreed a one-page diagram would better explain this.

**ACTION 04\_03**

- 4.4. Independent Panel Members requested that they be given access to the Market Performance data on the MOSL website, which is a member only area.

**ACTION 04\_04**

- 4.5. The Panel **NOTED** the content of the presentation as a straw man to be developed going forward.

## 5. Updated Market Performance Committee Terms of Reference

### **Purpose: For Decision**

- 5.1. Following the Market Performance Overview, the Panel was presented with a ToR for the MPC for approval.
- 5.2. The amendments that were suggested earlier in the meeting for all Committees were agreed to be added to this ToR.
- 5.3. A Panel Member raised the concern that the ToR seemed to imply that the Panel was delegating decision-making authority to the MPC, when it had previously agreed not to do so. It was agreed that the MPC should consider the ToR and provide a recommendation on what they think the ToR should be, as the Panel needs to be clear on where they are delegating powers.
- 5.4. A Panel Member noted the volume of nominations received from Wholesalers and suggested that the composition of this Committee should be amended to have 4 (rather than 3) Wholesale Members.
- 5.5. Panel Members also highlighted that the quorum for the TDC and the MPC was inconsistent because the MPC specified the type of Retailers while the TDC did not. The Panel agreed that there should be consistency and that both Committees should refer to Retailers, rather than Associated and Unassociated Retailers.
- 5.6. The Panel agreed that the MPC should have 4 Wholesaler members and 4 Retailer members, with a required quorum of 2 from each.
- 5.7. The Panel **AGREED** a working version of the ToR with some amendments, but felt it should be reviewed by the newly formed MPC, and agreed to publishing it on the MOSL website.

## 6. Panel and Committee External Communications Policy

### **Purpose: For Decision**

- 6.1. The Panel was presented with a paper that set out the policy for the Panel and its Committees to follow when dealing with the press or members of the public.
- 6.2. Panel Members considered whether the Chair of the Panel and the Chair of a Committee should speak on behalf of Committees, or if it is just the Chair of the Panel. The Panel decided that the Chair of the Panel should be designated to speak on behalf of the Panel or its Committees, but in respect of Committee matters the Panel Chair could delegate this role to Committee Chairs if they wish.
- 6.3. A Panel Member also suggested that the policy include a duty for Panel Members to promote the Panel's role in the governance of the market.
- 6.4. The Panel **AGREED** the proposed External Communication Policy for Panel and Committee Members; and **NOTED** that it will be published on the MOSL website.

## 7. Panel and Committee Recording and Broadcasting Policy

### **Purpose: For Decision**

- 7.1. An overview of the policy was provided, highlighting that it related to both recording and broadcasting at future Panel and Committee meetings. The purpose of recording was administrative – to have a reference source to inform the production of accurate minutes. Broadcasting was to improve transparency of the Panel’s activities to those unable to attend meetings as observers.
- 7.2. A Panel Member asked whether any recordings of Panel meetings would be subject to the Freedom of Information Act (FOI Act). MOSL clarified that the Panel is not a public body so that is not the case.
- 7.3. Another Panel Member raised a concern that, as they work for a public body, they may be subject to the provisions of the FOI Act. The Panel considered this matter and felt that, on balance, it was unlikely that materials the Panel Member received in his capacity as a Panel Member would be subject to the FOI Act. In particular, the Panel is not a public body and, each Panel Members’ employer has provided written confirmation that, when acting as a Panel Member, their duties as a Panel Member take precedence over those as an employee.
- 7.4. A Panel Member requested clarity on whether it was mandatory to record Panel meetings, following this policy being accepted or not. The Panel Secretary confirmed that recording and broadcasting were both optional, but, where meetings were either recorded or broadcasted, the policy should be followed and attendees should be informed in advance. It was agreed that the policy be reworded to clearly reflect this.
- 7.5. A Panel Member felt it was important that the Intellectual Property (IP) section of the policy be updated to make it clear that MOSL is permitted to circulate, broadcast and publish information provided to the Panel unless the holder of any IP expressly withholds such permission.
- 7.6. The Panel **AGREED** the proposed Recording and Broadcasting Policy for Panel and Committee meetings subject to some amendments; and **NOTED** that it will be published on the MOSL website.

## 8. Panel Calendar and Standing Agenda Items

### **Purpose: For Information**

- 8.1. Panel Members were presented with an information piece that explained the items that would likely be repeated on the agenda for each meeting, and the calendar for future Panel activities.
- 8.2. A Panel Member made a suggestion on the proposed order of agenda items, noting that any additional papers that are decision papers should be brought towards the top of the agenda.
- 8.3. A Panel Member suggested that there should be an update from the Authority in every meeting. The Panel agreed that an update from Ofwat would become a standing item on the agenda.
- 8.4. The Panel was presented with a calendar that detailed estimated dates of outputs from the Panel and its Committees. Panel Members asked if they could be provided with a version of this calendar following the meeting.

**ACTION 04\_05**

- 8.5. The Panel **NOTED** the contents of this presentation and agreed to follow this structure for future meetings, with some minor amendments.

## 9. Any Other Business (AOB)

### **Purpose: For Information**

- 9.1. A Panel Member felt that the current process for notifying Trading Parties about consultations undertaken by MOSL on behalf of the Panel; was insufficient, and that the most recent consultation on Change Proposal CPW018 might not have been received by all Trading Parties.
- 9.2. The Panel Secretary confirmed that the notification of consultation was issued to over 500+ registered users. Additionally, the reminder in the weekly update was issued to 800+ contacts.
- 9.3. A Panel Member raised the concern that the large number of communications they receive from MOSL means that an email from MOSL could easily be lost, and suggested that this should come from the Panel Secretariat mailbox to ensure its status.
- 9.4. It was also suggested that notifications of consultations be sent to the Contract Managers (as this is a formal role defined under the codes) from the Panel Secretariat mailbox. Panel Members also requested that they be added to the distribution list for notifications on consultations.

**ACTION 04\_06**

- 9.5. The Chair highlighted to Panel Members that MOSL is recruiting for a new Chair of the MOSL Board. She noted that the Chair of MOSL was required by the Market Arrangements Code to also be the Chair of the Panel. Consequently, the Chair invited Panel Members to provide their views on the skills and experience they would expect of the future Chair of the Panel. It was requested that Panel Members provide their comments within the next week, excluding the Bank Holiday for Easter.

**ACTION 04\_07**

- 9.6. There was no further business and the Chair closed the open session part of the meeting.

## **CLOSED SESSION**

## 10. Market Performance Committee Nominations Update and Approval

### **Purpose: For Decision**

- 10.1. The Panel Secretary had been seeking nominations over a 3-week period, submitted from Trading Parties, for members to form the MPC. This Committee will act on behalf of the Panel on matters relating to Market Performance, and report back their recommendations for Market Performance related decisions.
- 10.2. The Panel considered the nominations received and **APPOINTED** Don Maher, Natalie Tanner, Jessie Wright and Simon Bennet as the 4 Wholesale representatives of the MPC;

- 10.3. The Panel **APPOINTED** Jo Dando and Katy Spackman as the 2 Associated Retailer representatives;
- 10.4. The Panel **APPOINTED** Nicola Smith and Claire Yeates as the 2 Unassociated Retailer representatives;
- 10.5. The Panel **NOTED** that confirmation letters and employer release letters will be sought for all appointed MPC members, and a date organised for the first MPC meeting; and
- 10.6. The Panel supported MOSL's decision to appoint Nigel Sisman as the Chair of the MPC.

## 11. Trading Disputes Committee Nominations Update and Approval

### **Purpose: For Decision**

- 11.1. The Panel Secretary had been seeking nominations over a 3-week period, submitted from Trading Parties, for members to form the TDC. This Committee will act on behalf of the Panel to investigate and resolve Trading Disputes between Trading Parties.
- 11.2. The Panel considered the nominations received and **APPOINTED** Julian Tranter, Martin Mavin, Paul Stelfox and Tim Orange as the 4 Wholesaler representatives;
- 11.3. The Panel **APPOINTED** Neil Pendle, Cleo Acraman and Jo Dando as the 3 Retailer representatives;
- 11.4. The Panel **NOTED** that confirmation letters and employer release letters will be sought for all appointed committee members, and organise a date for the first committee meeting; and
- 11.5. The Panel supported MOSL's decision to appoint Elsa Wye as the Chair of the TDC.

### Actions:

**A04\_01** Panel Secretariat to change references of Chairman to Chair in Panel documents.

**A04\_02** Panel Members to convene with their employers to build case studies for use in TDC initiation.

**A04\_03** MOSL to provide an outline of how the Market Performance Committee (MPC) and the Panel will work together, including how the reporting regime will work.

**A04\_04** Independent Panel Members to be given login details for the MOSL website, to access Market Performance data.

**A04\_05** Panel Secretariat to provide Panel Members with a version of the Panel and Committee calendar.

**A04\_06** Panel Secretary to put in place measures to make sure consultation notifications in future go from the Panel Secretariat mailbox to contract managers and Panel Members.

**A04\_07** Panel Members to provide the Chair with their preferred skills and experience required of a newly elected Chair of the Panel.

The next Panel meeting is scheduled for: **4<sup>th</sup> May 2017, 10:30-15:30, at:  
Holborn Bars**

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EC1N 2NQ

The nearest tube stations are Chancery Lane, Farringdon and Holborn