



Minutes of the Market Performance Committee

Meeting 21

19th December 2018 | 10:30 – 15:30

Venue: 1 America Square, 17 Crosswall, London, EC3N 2LB

Status of the Minutes: Final

MEMBERS PRESENT

Nigel Sisman	NS	Independent Chair	Katy Spackman	KS	Retailer Committee Member
Mike Brindle	MB	Retailer Committee Member	Trevor Nelson	TN	Retailer Committee Member
Claire Yeates	CY	Retailer Committee Member	Simon Bennett	SB	Wholesaler Committee Member
Don Maher	DM	Wholesaler Committee Member	Jesse Wright	JW	Wholesaler Committee Member
Mike Rathbone	MR	Alternate Wholesaler Committee Member			

OTHER ATTENDEES

Shaun Kent	SH	Ofwat Observer	Katie Trehella	KT	MOSL representative
Jeremy Downer	JD	Presenter (SES Business Water)	Luke Austin	LA	MPC Secretary
Steve Arthur	SA	MOSL representative	Alex Farr	AF	MPC Secretary
Mike Robertson	MR	MOSL representative	Gladys Sagwete	GS	MOSL representative
Mark Crowley	MC	MOSL representative	Harry Osei-Tutu	HO	MOSL representative
Emma Taylor	ET	MOSL representative	Milo Halford	MH	MOSL representative

APOLOGIES

None					
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1. Welcome and Introductions

Purpose: For Information

- 1.0. The Chair began by welcoming the members of the Market Performance Committee and introductions around the room.
- 1.1. The Chair gave an update about the outcome from the panel meeting that was held the previous day.
- 1.2. Regarding reports to Panel about poor progress with the Data Improvement Plans, the Chair commented that the expectation was that MPC should be taking whatever approach is felt necessary to achieve performance improvement.
- 1.3. MOSL provided, at the request of the Chair, an update from Operations.
- 1.4. The Chair thanked members regarding their participation to deliver on MPC response to Ofwat on the Wholesaler Incentive consultation.

2. Minutes and Outstanding Actions

Purpose: For Decision

- 2.1. The Committee noted that the final version of the MPC20 minutes had only recently been delivered and that several members had not had a chance to review them. As such, the Chair decided that the MPC20 minutes could not be signed off in the meeting until the latest version had been reviewed by more members.

MOSL went through outstanding actions:

The Committee agreed to close **A19_01**.

The Committee agreed to leave **A19_05** open.

The Committee agreed to close **A20_01**.

The Committee agreed to close **A20_02**.

The Committee agreed to close **A20_03**.

The Committee agreed to close **A20_04**, as it was covered at the user forum.

The Committee agreed to close **A20_05**.

The Committee agreed to close **A20_06**.

The Committee agreed to leave **A20_07** open with a target completion date of February 2019; to be revisited before the February MPC meeting.

The Committee agreed to close **A20_08**.



The Committee agreed to close **A20_09**.

The Committee agreed to close **A20_10**.

The Committee agreed to close **A20_11**.

3. Update from Panel on OPS Review

Purpose: For Information

3.0. JW gave an update on the OPS review to Panel.

3.1. JW proposed a communications exercise with case studies on what to do in various scenarios, to build confidence and understanding of the process.

3.2. MOSL with support from the OPSWG to produce a draft OPS guidance document including explanation going beyond that to be included within the codes and case studies, by January 2019 MPC.

A21_01

3.3. MOSL to carry out an OPS communications exercise, by 31 March 2019.

A21_02

3.4. MOSL highlighted that the code has been drafted and the consultation completed. The Committee decided that Zainab Mohammed, Katie Trewhella, Jesse Wright and Jon Fuller would agree a finalised text on behalf of Panel and MPC for submission to Ofwat.

3.5. The Chair requested that the drafting of the guidance documentation, that will sit outside of the code, is defined and agreed by the Chair of OPSWG and MOSL. Subsequently, the OPSWG chair should consult members of the OPSWG for input finalising the codes changes, so that the document is endorsed by OPSWG as being fit for purpose.

3.6. MOSL to share full drafting of the new code changes with MPC prior to the January MPC meeting.

A21_03

3.7. The Chair highlighted the need to ensure that the status and governance of the MOSL guidance document, that will accompany the code, is clearly established. MOSL confirmed that this will be considered alongside the drafting of the document.

3.8. MOSL to write a clear document setting out how the MOSL guidance provided alongside the code change will be maintained and communicated. This could be documented in the guidance document itself if necessary.

A21_04



4. DCP012: Removal of Submission Time Failure

Purpose: For Discussion

- 4.0. The Presenter was delayed from joining the meeting due to unforeseen problems with the telephone. During the delay, the Committee had a preliminary discussion about the proposal. Members expressed the need for a clear justification for making the change.
- 4.1. The Presenter joined the meeting and gave details on the proposal, arguing that the current standards for late and missing meter reads mean that trading parties can be double-charged for not providing meter reads. The Presenter suggested that this also provides a disincentive to trading parties to provide data, as trading parties could avoid the double-charge in the near-term by not providing the meter read at all. The Presenter argued that removing the double-charging effect would improve reporting. The Presenter stressed that it was not about relaxing the standards, rather making the standards clearer.
- 4.2. Members were not receptive and raised various objections to the proposal, including:
- That the change would reduce the effectiveness of performance reporting (because of delays before “failures” could be established)
 - That it would reduce the incentives to enter reads into the market (performance is already unacceptable, so further relaxation was assessed as undesirable)
 - That it would deprive the trading parties of valuable consumption information (e.g. sewerage retailers)
- 4.3. Members commented that the codes were designed to ensure information was recorded in the system in a timely manner. There was a concern amongst the Committee that the proposed change did not support that purpose. The consensus from members was that more justification would be required, as the proposal was perceived as a relaxation of the of the codes with no clear benefit to market performance.
- 4.4. Members expressed the view that the problem had not been sufficiently clearly stated to understand whether this code change really resolved the problem and suggested it would be helpful if this was clarified, and specified that this should be a written statement, if the proposal was to be carried forward by the proposer. This was essential to ensure that the MPC prevailing view has not missed important evidence of understanding.
- 4.5. The Chair summarised by stating that the Committee was unanimous in not supporting the proposal, particularly because it appears an unwarranted softening of the codes.
- 4.6. The Presenter suggested that he may submit the proposal in its current form to Panel. The Chair noted that three MPC participants sit on Panel, and would likely convey the sentiment that MPC had been unable to identify a case to recommend the proposal for implementation. Whilst the Panel would make an independent decision, the MPC considered that without a stronger case, it was unlikely that the Panel would recommend implementation.



5. MPS, OPS and APIs and performance rectification (Including closed session as required)

Purpose: For Discussion

- 5.0. MOSL presented data on MPS. A member requested that OPS performance be included at the next MPC meeting, this was to familiarise the MPC with current levels of performance ahead of changes in April 2019. MOSL agreed to include OPS performance.
- 5.1. MOSL to define and include for future MPCs presentation, summary performance information relating to OPS in a consistent manner to that presented for MPS.

A21_05

- 5.2. A member asked whether there were any issues regarding confidentiality with showing uncapped charges. MOSL said this would not be an issue.
- 5.3. A closed session was held, for which the observer volunteered to leave the room, whilst MOSL presented confidential data on tracking the performance of individual trading parties versus the planned performance in their submitted plan for October and November reporting periods.
- 5.4. The Committee expressed concerns about the figures, particularly the significant deterioration in the November figures and certain steep negative trends in performance. The Chair said that MOSL should either bring an explanation for outlying cases to the MPC, or committee members should have access to trading party reported reasons for poor performance and view the underlying data themselves. Several members queried the meaning of certain numbers. MOSL identified that in some places the figures were incorrect and so the performance looked worse than it really was. This would be rectified in future issues of the data.
- 5.5. Members asked why certain trading parties were not on a higher monitoring status given poor performance. MOSL clarified that the monitoring status is based on the level of scrutiny applied in accepting the submitted plan, rather than being driven actual performance.
- 5.6. There was a discussion amongst the Committee about the role of MOSL in challenging poor performance, and whether the Performance Team might be adequately resourced, particularly in relation to the time requirements of managing a potential escalation process.
- 5.7. Members of the working group presented the proposed Performance Resolution escalation process, which the MPC discussed and broadly agreed.
- 5.8. The Chair asked the Committee to consider whether an exercise might be contemplated to work through the MPC escalation process once it was formalised. The Chair asked MOSL to consider how an exercise might be contemplated and perhaps in respect of a trading party having an MPC member.
- 5.9. Members discussed the role and possibility of Panel or MPC triggering reassurance for trading parties, to ensure that they can fulfil their obligations as a market participant.



- 5.10. A member suggested that, as part of the escalation process, any escalation of a trading party to Panel by MPC should come with a recommendation for further steps. A member of the working group responded that, by this stage, all further steps would have been exhausted, and the only other route would be escalation to Ofwat. There was further discussion around this issue, particularly on other “soft” measures, such as peer exposure, that had not yet been mentioned. Members commented that it would be helpful to have more detail from Ofwat regarding their process of dealing with escalation.
- 5.11. Ofwat to provide a provisional view, preferably by February 2019 MPC, regarding how Ofwat envision its enforcement policies and powers; and how it will work with the performance resolution escalation process and at what stages Ofwat may get involved, so that this can be incorporated into the MPC working documents.

A21_06

- 5.12. MPC noted that its process might need to be structured to gather evidence that would be used in Ofwat’s later examination of poor performance. This would help to ensure that trading parties would be responsive to earlier MOSL, MPC and Panel steps in the process. The Committee recognised that the definition of the escalation process under the code needs to be considered in conjunction with Ofwat’s role and powers to address poor performance. There is therefore merit in MPC working closely with Ofwat to define an “end-to-end” process on poor performance.
- 5.13. A member said that Panel should be consulted about what other steps they think there could be, and whether they have a plan for escalation. Members agreed that more input was required from Panel, but that they should be consulted with recommendations rather than only questions. The escalation process should be defined to include Panel escalation, and the MPC’s view of what this might entail.
- 5.14. Other potential options were discussed, such as stopping trading parties acquiring more customers and license revocation, although it was envisaged that these could only be imposed by Ofwat.
- 5.15. Members discussed the need for legal clarification on the codes, and the need for separating the treatment of wholesalers and retailers due to their different priorities. The Chair suggested that some of these issues could be worked through offline.
- 5.16. MOSL, in their capacity as the MPC Secretariat, to draft a Performance Escalation Process and policy, with input from the MPC working group members. Draft to be available for comment by next MPC in January 2019.

A21_07

- 5.17. MOSL to draft a written template letter to be used when MPC issues a formal written letter to a contract manager to notify them that their performance is being escalated, in the manner discussed at this MPC (refer to CSD 002 section 7.6.4).

A21_08

- 5.18. MOSL to provide the MPC with a high-level summary of the legal enforcement powers, relating to market performance, available to MOSL, MPC and Panel as provisioned through the market codes and



licences, so that MPC can understand what enforcement powers (if any) MPC and Panel might have.
First draft by January 2019 MPC.

A21_09

5.19. The Chair to ask Panel (at next Panel meeting in January 2019) to confirm whether they are happy for MPC to trigger market reassurance as a result of escalated poor performance, without reference to Panel as allowed under the codes, or whether they would always want market reassurance recommendations to be referred to Panel.

A21_10

5.20. Committee members agreed that escalation should be a standing agenda item for discussion in future meetings. MOSL to add a performance escalation slot to the standing MPC agenda for the next MPC meeting in January 2019.

A21_11

6. MOSL Data Improvement Plans

Purpose: For information

- 6.0. MOSL presented a review of the actual performance of trading parties versus planned forecasts, plus additional analysis and provision of further reporting.
- 6.1. The Chair noted some participants' views that there had been too much time spent at MPC meetings focusing on NULL value YVEs. The Chair noted MOSL's view that benefits would arise from YVE action plans and commented that there should be more focus on unread meters, with only 4 Trading Parties having reached their targets so far.
- 6.2. MOSL reported that Trading Parties overall need to act to meet their improvement trajectories. MOSL said that poor performance in November could be a warning of a worrying trend, or it could be an isolated poor period. MOSL commented that the picture will be clearer at the January MPC.
- 6.3. MOSL noted that they could publish the dashboards so that peer performance is visible to everyone, thus exposing those who do not meet their Data Improvement Plans satisfactorily.

7. Market Issues Register Update

Purpose: For Discussion

- 7.0. MOSL opened the discussion on the Market Issues Register (MIR) and explained that the reason for sharing this is to gauge the reactions of wider groups.
- 7.1. MOSL gave an overview of the process used to identify the market outcomes within the MPOP, in relation to the MIR.



- 7.2. MOSL explained that the most pressing update to the Register since October is the lack of Wholesaler incentives to increase performance. Members asked for more detail about the ratings being shown. MOSL then provided more detail. Members felt that more evidence was needed for the risk ratings.
- 7.3. Some members highlighted and there was significant discussion on the lack of broader consideration as to the impact on both wholesaler efficiency and wider customer protection within the prioritisation process set out within MPOP. Some member felt that this imbalance created incorrect prioritisation.
- 7.4. Members discussed the underlying issues related to vacancy, which was identified in the MIR. MPC members commented that it was not clear how an issue such as this that was low on the MIR at last assessment would be escalated if MPC and other parties felt it was of higher importance.
- 7.5. Some members felt that prioritisation issues were caused by unclear market outcomes and overarching deliverables. For example, regarding vacancy, given that wholesaler efficiency, leakage and increases in charges to customers were not a significant element of the MPOP consideration, vacancy was only considered in relation to its effect to retailers being able to switch the customer or charge correctly.
- 7.6. MOSL observed that the increase in vacancies meant that wholesaler charges were spread over a smaller base. The committee raised the point that vacant sites should not be considered as one issue, rather the result of numerous factors.
- 7.7. The Chair asked that more scoping of issues should be performed before in-depth analysis is conducted, particularly to identify whether there is a genuine issue. Several members agreed. However, MOSL highlighted that scoping is already done before any in-depth analysis.

8. Market Entry Assurance

Purpose: For Information

- 8.1. MOSL presented the current picture of the market, with;
 - 74 active trading parties,
 - 4 applicants currently in the entry process,
 - 1 trading party currently in re-assurance,
 - 3 new trading parties in the past month.
- 8.2. MOSL stated that the reassurance process needs to ensure parties can demonstrate the robustness of their plan, and that the MPC should lay groundwork for Ofwat. There were some concerns from members that the reassurance process might not be as substantial a step as was previously thought. The Chair concluded that the Committee wanted to understand whether re-assurance would give greater confidence regarding meters available in the market, and asked MPC to review the process.



- 8.3. MPC members to read CSD0001 relating to Market Reassurance to understand the process and provide any comments or suggestions for how this might be used in relation to MPC performance escalation at the January 2019 MPC meeting.

A21_12

- 8.4. MOSL responded by reaffirming that the process is a big undertaking that requires a trading party to complete a large amount of work.

9. MPC Forward Planning

Purpose: For Information

- 9.0. MOSL gave a high-level overview of the MPC agenda.
- 9.1. The Chair said that the timing of certain items could be changed to be quarterly, semi-annually, annually or even *ad hoc*. The Chair also highlighted that preparation time for larger items should also be scheduled.
- 9.2. A member pointed out that OPS Charges should be added for June 2019.
- 9.3. Committee members agreed to review the MPC standing agenda items and their frequency for February 2019 MPC meeting.

A21_13

10. Any Other Business (AOB)

Purpose: For Information

- 10.0. The Chair requested information on resourcing, and how MOSL will be supporting the MPC with ownership of tasks (given the new hires and departures).
- 10.1. MOSL to provide a summary to MPC at January 2019 MPC, of the resources they have available to support MPC, including number of people and the time they must spend on performance related issues.

A21_14

11. The next MPC meeting is scheduled for: 30th January 2019

Venue: Etc. Venues Monument,
8 Eastcheap,
London EC3M 1AE



12. Action Log

New/Outstanding actions are identified with no shading.

Actions shaded in grey were closed at this MPC meeting and will be removed from this log in future minutes.

Action No	Action	Actioner	Due Date	Date Closed	Comment / Update
A19_01	Consider whether MPC should be provide a response as MPC to the Ofwat consultation on Wholesaler Performance	MPC Members		MPC21	MPC to agree to provide a response. See action A20_02.
A19_05	OPS clinics to better understand the proposed OPS changes, to be made available to TP between now and March 19	OPSWG	31 March 2019		Ongoing.
A20_01	Extension of MPC members tenure to be clarified as part of the upcoming nominations process. MOSL to include in appropriate documents	MOSL		MPC21	The Chair confirmed that Panel was expecting that MPC member expend their tenure by 3 months, and this statement at MPC21 should be considered notification of such.
A20_02	MPC members to provide comments to MPC Chair on what to include in the MPC response to the Ofwat consultation on wholesaler performance.	MPC Members	30/11/18	MPC21	Comments provided, and response sent to Ofwat
A20_03	Performance Escalation working group to meet and provide a more detailed proposed escalation process	Performance Escalation Group members	MPC21	MPC21	Proposed process presented at MPC21 and minuted in section 5.
A20_04	Present overview of performance escalation process at next User Forum	MOSL	20/12/18	MPC21	Presented at Dec 18 User Forum
A20_05	Extract the summary relating to second MPS review from the paper and write as a covering note	MOSL		MPC21	Paper completed
A20_06	Incorporate any outstanding OPSWG comments to draft CPM012 & CPW049 before submission to Panel	MOSL		MPC21	CPM012 & CPW049 submitted to Panel.
A20_07	Agenda item to be added to future MPC meeting to discuss how we may get more consultation responses from New Entrants	MOSL	MPC22		Revised due date to January 2019; to be revisited before the February MPC meeting.
A20_08	Provide any final comments on OPS consultation response before submission to Panel	MPC members		MPC21	CPM012 & CPW049 submitted to Panel.



Action No	Action	Actioner	Due Date	Date Closed	Comment / Update
A20_09	Update on MPOP and present Market Issues Register to MPC	MOSL	MPC21	MPC21	Information presented and minuted in section 7.
A20_10	Agenda item to be added to next MPC to discuss forward planning	MOSL	MPC21	MPC21	Covered as part of agenda item 9.
A20_11	DCP012 – further clarification on the proposal required before any MPC view can be formed.			MPC21	The proposed presented at MPC21 and comments are minuted under agenda item 4.
A21_01	MOSL with support from the OPSWG to produce a draft OPS guidance document including explanation going beyond that to be included within the codes and case studies, by January 2019 MPC.	MOSL	MPC22		
A21_02	Carry out an OPS communications exercise, by 31 March 2019	MOSL	31 March 2019		
A21_03	The Chair requested that the drafting is defined and agreed by chair of OPSWG and MOSL prior to being provided to Ofwat by 21 December 2018. The OPSWG chair should consult members of the OPSWG for input finalising the codes changes.	MOSL/ OPSWG	21 December 2018		
A21_04	MOSL to write a clear document setting out how the MOSL guidance provided alongside the code change will be maintained a communicated. This could be documented in the guidance document itself if necessary.	MOSL	MPC23		
A21_05	MOSL to define and include for future MPCs presentation, summary performance information relating to OPS in a consistent manner to that presented for MPS.	MOSL	MPC22		
A21_06	Ofwat to provide a provisional view, regarding how Ofwat envision its enforcement policies and powers fit and will work with the performance resolution escalation process and at what stages Ofwat may get involved, so that this can be incorporated into the MPC working documents.	Ofwat	MPC23		



Action No	Action	Actioner	Due Date	Date Closed	Comment / Update
A21_07	Working group to draft a Performance Escalation Process and policy to be signed off by MPC.	Performance Escalation working group	MPC22		Draft to be available for comment by next MPC in January 2019.
A21_08	MOSL to draft a written template letter to be used when MPC issues a formal written letter to a contract manager notify them that their performance is being escalated, in the manner discussed at this MPC	MOSL	MPC22		
A21_09	MOSL to provide the MPC with a high-level summary of the legal enforcement powers, relating to market performance, available to MOSL, MPC and Panel as provisioned through the market codes. First draft by January 2019 MPC	MOSL	MPC22		
A21_10	The Chair to ask Panel (at next Panel meeting in January 2019) to confirm whether they are happy for MPC to trigger market reassurance as a result of escalated poor performance, without reference to Panel as allowed under the codes, or whether they would always want market reassurance recommendations to be referred to Panel	MPC Chair	MPC22		
A21_11	MOSL to add a performance escalation slot to the standing MPC agenda for the next MPC meeting in January 2019.	MOSL	MPC22		
A21_12	MPC members to read CSD0001 relating to Market Reassurance to understand the process and provide any comments or suggestions for how this might be used in relation to MPC performance escalation at the January 2019 MPC meeting	MPC members	MPC22		
A21_13	MPC members agreed to review the MPC standing agenda items and their frequency for February 2019 MPC meeting	MPC members	MPC23		
A21_14	MOSL to provide a summary to MPC at January 2019 MPC, of the resources they have available to support MPC, including number of people and the time they have to spend on performance related issues	MOSL	MPC22		