

Minutes of Panel Meeting 11

26th September 2017 | 10:30 – 15:30

Held at DeVere Holborn Bars, 138-142 High Holborn, London, EC1N 2NQ

Status of the Minutes: Final

MEMBERS PRESENT

| | | | | | |
|----------------|-----|--------------------------------------|---------------------|-----|--------------------------------------|
| Margaret Beels | MBe | Chair | Nicola Smith | NS | Panel Member (Unassociated Retailer) |
| Mike Brindle | MBr | Panel Member (Associated Retailer) | Dylan Freeman | DF | Panel Member (Wholesaler) |
| Wendy Monk | WM | Panel Member (Associated Retailer) | Howard Smith | HS | Panel Member (Wholesaler) |
| Helyn Mensah | HM | Panel Member (Independent) | Julian Tranter | JT | Alternate Panel Member (Wholesaler) |
| Nigel Sisman | NS | Panel Member (Independent) | Chris Scoggins | CS | Affiliated Panel Member (MOSL) |
| Elsa Wye | EW | Panel Member (Independent) | Dan Mason | DM | Affiliated Panel Member (Ofwat) |
| Richard Moore | RM | Panel Member (Unassociated Retailer) | Christina Blackwell | CB | Affiliated Panel Member (CCWater) |
| Trevor Nelson | TN | Panel Member (Unassociated Retailer) | Adam Richardson | ARI | Panel Secretary |

OTHER ATTENDEES

| | | | | | |
|------------------|----|----------------------------|-----------------------|-----|--------------------------------------|
| Elliot Bird | EB | Meeting Secretary | Zainab Mohammed | ZM | Presenter (MOSL) |
| Natasha Sinnet | NS | Observer (MOSL) | Lord Rupert Redesdale | RR | Presenter (The Water Retail Company) |
| Pam Nash | PN | Observer (MOSL) | Oscar McLaughlin | OM | Presenter (MOSL) |
| Antoine Schmidt | AS | Observer (Thames Water) | Abu Rashid | ARa | Presenter (MOSL) |
| Mihai Ciurba | MC | Presenter (MOSL) | Mike Robertson | MR | Presenter (MOSL) |
| Jessica Collinge | JC | Observer (Yorkshire Water) | Jim Keohane | JK | Observer (MOSL) |

APOLOGIES

| | |
|----------------|------------------------------------|
| Simon Wilshire | Panel Member (Associated Retailer) |
| Mark Holloway | Panel Member (Wholesaler) |
| | |

1. Welcome and Introductions

Purpose: For Information

- 1.1. The Chair began the meeting by welcoming the Panel to its eleventh meeting.
- 1.2. The Chair also introduced the Panel to Jim Keohane, the new Chairman of MOSL, who would be observing the Panel meeting.

2. Minutes and Outstanding Actions

Purpose: For Decision

2.1. Minutes

- 2.2. The Panel approved the minutes for meetings 9 and 10 with some minor amendments.

2.3. Actions

- 2.4. The Panel reviewed the actions and agreed to close actions **A08_04**, **A08_11** and **A09_02** from the previous meetings, based on the update provided by the Secretariat.

3. Update from Ofwat

Purpose: For Information

- 3.1. Dan Mason from Ofwat provided an update to the Panel on Ofwat's work since the last meeting and began by confirming the implementation of CPM004, and that CPW018 and 12 were going through Ofwat's internal governance process
- 3.2. A change was currently being developed by Ofwat to align the licensing process of Ofwat with MOSL's market entry assurance process. The Licensing simplification project has had a second round of informal consultations and comments are being considered before a final formal consultation is issued. He also highlighted that there was a planned simulation of the interim supply process to take place between MOSL and Ofwat, following testing to be undertaken by MOSL. The Panel noted that Ofwat was working with MOSL on this simulation. It was suggested that Trading Parties may benefit from being involved in such work.
- 3.3. Panel Members raised questions to Ofwat on its proposed industry workshop on credit issues. Ofwat indicated that it was still planning the event, and required further industry feedback.
- 3.4. The Panel was concerned with this approach, as members believed that issues being seen up to this point by Trading Parties were going to be discussed at the session and they were not aware that Ofwat were looking for further feedback to structure the workshop. DM clarified that, in Ofwat's view, issues were being resolved by Trading Parties and the industry, and that Ofwat had not experienced any unresolvable issues. Ofwat would require some evidence of issues arising around credit that are currently not being addressed by the industry to justify the workshop.
- 3.5. Panel Members felt that the workshop might be more useful as a proactive event to identify areas that may lead to further issues rather than a reactive event to resolve current issues.

- 3.6. Panel Members agreed to provide Ofwat with examples of issues with credit currently being faced by the industry. The Panel also agreed to issue an information request to Trading Parties for issues they currently facing with credit such that these matters can be relayed to Ofwat.

ACTION 11_01 AND 11_02

- 3.7. The Panel **NOTED** the presentation from Ofwat.

4. Update from MOSL

Purpose: For Information

- 4.1. Chris Scoggins (CS) the Chief Executive of MOSL provided an update on the key activities at MOSL including the current strategic review and survey sent to member CEOs.
- 4.2. CS indicated that the feedback of the CEO survey was currently being reviewed and a session was being planned for Chief Executives to meet with MOSL and provide feedback on the survey and review the results. This is in addition the senior leadership team who were engaging with senior staff of Trading Parties to get feedback on MOSL's role and performance.
- 4.3. MOSL announced that its offices would be changing at the end of October, and that the decision to move office aligns with the strategic review by managing risks to the organisation whilst delivering significant budget savings.
- 4.4. It was also announced that CMOS Release 3.0 had been deployed into the MPS2 environment for Trading Party testing and was expected to go live on Saturday 30th October 2017, which would deliver the 15 code changes that were scheduled for implementation following agreement from the Interim Code Panel, the enduring Panel and the Authority.
- 4.5. An update was provided on the first meeting of the User Forum, which had recently replaced the Workplan Review Group (WRG), and it was reported that 26 organisations attended (13 remotely) and participated in the group.
- 4.6. Details on upcoming publications were provided, including the monthly market charts that have been published and the CEO quarterly market update, which is being prepared to be published on the 26th October 2017. Changes to member communications were also highlighted, with the fortnightly call being moved to a monthly call and the Weekly update being moved to be a monthly update.
- 4.7. Details were also provided on the CCWater customer matters workshop, which had occurred earlier in the month.
- 4.8. The Panel **NOTED** the presentation from MOSL.

5. Change Report

Purpose: For Information

- 5.1. The Panel was provided with an update on the Change Report, and were given the opportunity to discuss improvements that had been made since the last meeting to the Change Register on the MOSL website and the Change Report. This was in addition to an update into planning work MOSL had undertaken to better present future Change Proposal work,
- 5.2. Panel Members welcomed the revisions to the Change Register on the MOSL and indicated that it was a significant improvement from the previous iteration.
- 5.3. Panel Members requested that all open Change Proposals to be listed in the summary sheet at the beginning of the Change Report.

ACTION 11_03

- 5.4. Additionally, a Panel Member requested that the diagram on page four (4) of the Change Report clearly indicate change proposals that had been recommended for rejection to the Authority (e.g. Flags on D1 Settlement Report, CPW012) .

ACTION 11_04

- 5.5. The Panel agreed that it was important to monitor possible upcoming Change Proposals, to better decide how the Panel will manage its workload. Especially considering that the consultations and papers from Panel may be creating a heavy workload for Trading Parties. MOSL agreed to circulate this list to Panel Members following the meeting.

ACTION 11_05

- 5.6. The Panel **NOTED** the contents of this paper.

6. Draft Recommendation Report: CPM003 – Revised MIMP Committee Composition

Purpose: For Decision

- 6.1. The Panel considered consultation responses received in relation to a proposal to re-work the provisions of the Market Incident Management Plan (MIMP) Committee as specified in Schedule 11 of the Market Arrangements Code.
- 6.2. MOSL provided the Panel with a summary of the responses received from the Industry Consultation for CPM003, including an explanation of the feedback given for each question in the consultation.
- 6.3. Panel Members agreed with the Trading Party request from the consultation to introduce a requirement that members of the sub-group are also members of the committee and that this requirement should be in the Committee Terms of Reference rather than the MAC.
- 6.4. Separately from this, a Panel Member highlighted that the drafting currently indicates that the MIMP Committee will be accountable to the Panel, which is not the case. The Committee is set up by the Panel but is not required to consult or report to the Panel in relation to the management of incidents.

They suggested some minor amendments to the proposed legal text amendments to be made in the MAC. The Panel agreed that these amendments be made to the text.

- 6.5. The Panel noted and agreed with the rationale for the changes provided against the Principles and Objectives. The changes will enable efficient decision making and management of an incident through the establishment of a subgroup and also promote operation between different parties. Panel Members also felt that the change would improve the existing provisions around the MIMP Committee, making them more concise and clearly expressed.
- 6.6. The Panel:
 - **CONSIDERED** the Recommendation Report;
 - **AGREED** to recommend implementation of CPM003 – Revised MIMP Committee Composition for approval; and
 - **AGREED** the recommended implementation date of 10 Working Days following Authority approval.

7. Draft Recommendation Report v2.0: CPW013 – Meter Reading Validation

Purpose: For Decision

- 7.1. The Panel considered an updated solution for CPW013 which sought to amend the Meter Reading Validation rules. The updated solution sought to introduce additional flexibility in the application of the validation rules and was developed, at the Panel's request, based on the recommendation of the Change Proposal's Working Group.
- 7.2. Panel Members acknowledged that at the August Panel meeting they had favoured an option of making changes to CMOS to allow parameterisation of the validation standards in a way which would enable the solution to be flexible to easily revert to the current validation rules – or to new rules. However, the Panel was advised that this was not feasible without the risk of significant degradation in the performance of CMOS.
- 7.3. MOSL confirmed that it was possible to implement a specific change to the rules in a way that allowed reversion to the existing validation rules. However, the Panel noted that the cost of the change was high and that, following further review, while flexibility in the Meter Reading Validation Rules could be achieved, certain amendments to these rules (including rolling back to the current Meter Reading Validation Rules) would incur additional cost.
- 7.4. The Panel believed that there must be a continuing focus on improving data quality. Panel Members expressed concern there was insufficient evidence that the quality of data in CMOS would remain undiminished as a result of implementing the proposed changes to the Meter Reading Validation rules. Some Panel Members felt that if erroneous meter reads entered the central system as a result of changes to Meter Reading Validation rules, additional work may be incurred in resolving such errors.
- 7.5. The Panel was therefore not convinced that the change would further the Objectives and Principles of the Wholesale-Retail Code.

- 7.6. In particular, the Panel felt that implementation of this Change Proposal could potentially worsen the quality of data in CMOS. This would have a subsequent effect on settlement charges, with an increased likelihood of a higher number of settlement corrective runs and Trading Disputes.
- 7.7. The Panel stated that more time was needed to assess the situation in the market, as it could not readily recommend a Change Proposal so early on in the market which relaxed validation rules and put at risk the quality of data in the Central Systems. The Panel agreed that meter reading validation rules should be reviewed in the light of a full year's operation.
- 7.8. The Panel:
- **AGREED** to recommend the updated Draft Recommendation Report is rejected by the Authority;
 - **AGREED** that meter reading validation rules should be reviewed in the light of a full year's operation; and
 - **NOTED** that if the Authority approves implementation of CPW013, MOSL will draft a policy document for Panel approval prior to implementation date.

8. Assessment Update: CPW019 – Alternative Eligible Credit Support

Purpose: For Decision

- 8.1. The Panel considered a proposal to introduce a new form of Eligible Credit Support into the Wholesale Contract, Schedule 1, Part 2: Business Terms. The Panel noted the outcome of the assessment work undertaken to date.
- 8.2. The Panel was presented the progress of the Change Proposal by its Proposer, Lord Rupert Redesdale, Chief Executive of the Water Retail Company. The Chair noted that the Proposer had previously indicated that matters of commercially confidential nature may be driving the timetable for this change. Therefore, the Chair suggested holding this item in a closed session, to enable the Proposer to update the Panel on any relevant matters that might impact the timescales from this change.
- 8.3. The Chair invited Panel Members to declare any conflict of interests, DF declared a conflict of interest and absented himself from this item.

DF left the meeting

CLOSED SESSION

- 8.4. The Proposer supported the progression of the change to a Working Group or an Industry Consultation – notwithstanding the urgent need for resolution of commercial issues with one of its wholesale suppliers.
- 8.5. The issue was introduced by the Proposer who highlighted their view that the processes behind negotiating and agreeing credit terms under Schedule 3 of the Business Terms of the WRC are incredibly onerous, and existing eligible forms of credit seem to be drafted with only very large firms in mind. In the Proposer's view, small companies will be faced with very great difficulties of engaging with all 15 Wholesalers to agree, potentially, 15 different terms.

- 8.6. The Proposer had considered several questions posed by Wholesalers around their alternative credit arrangements involving insurance, and now proposed the use of an escrow account to give greater assurance to Wholesalers. This proposed arrangement was explained to the Panel and presented as a new credit arrangement to be included in the Schedule 2 of the Business Terms (Credit Terms) as a form of eligible credit.
- 8.7. Panel Members acknowledged that the proposal was seeking to address many of the issues previously raised but were interested to explore specific questions on the solution particularly around the way the timings of payments would work.
- 8.8. The Panel raised concerns with how portable the proposed arrangement might be for use by another Retailer since it seemed to describe a bespoke arrangement for a specific business model. The Proposer felt that it was still a possibility for other Retailers in a similar position to make use of this solution.
- 8.9. Panel Members agreed that the best approach would be to hold a Working Group to discuss the Change Proposal and then hold an Industry Consultation to collect industry views.
- 8.10. The Panel suggested that in establishing the Working Group it should seek to include individuals who have insurance and credit experience. The Chair also suggested that there were members of the Panel who could contribute to this discussion.
- 8.11. The Chair was keen to avoid waiting a month for the Panel to agree the ToR of the group and that it should be circulated and agreed in advance of the next Panel meeting, to allow recruitment of members to the Working Group as soon as possible.
- 8.12. The Panel:
 - **CONSIDERED** the findings of this Assessment Report;
 - **AGREED** to progress this change to further assessment by a Working Group; and
 - **AGREED** to begin recruitment for the group, following the agreement on a Terms of Reference by the Panel.

OPEN SESSION

DF re-joined the meeting

9. Issue Paper: Credit Dispute Mechanism

Purpose: For Decision

- 9.1. The Panel noted a potential mismatch between the timescales for considering defaults and disputes relating to the negotiation of Alternative Eligible Credit Support.
- 9.2. MOSL presented a proposal for a piece of work to investigate the disputes process involved in resolving credit term negotiations disputes resolution. There was a mismatch (referred to in the discussion of CPW019) (between the timeframe to resolve a dispute and time within which a Trading Party can be found to be defaulting).

- 9.3. Some Panel Members expressed doubt on the extent to which disputes would come about in relation to Alternative Eligible Credit Support, as the only requirement is that credit meets the Credit Support Amount set out in the WRC.
- 9.4. Some Panel Members argued that it seemed contradictory for a negotiation conducted in good faith to require a formal disputes process.
- 9.5. Other Panel Members noted that, given the clear differential in the timescales for default and the timescales for disputes to be resolved, there may be merit in considering whether there was a case for change.
- 9.6. The Panel agreed that it was appropriate for MOSL to investigate this matter but that the work should not be considered a priority.
- 9.7. The Panel **ENDORSED** the investigation of this issue by MOSL.

10. Defining the Approach to the Standards Review

Purpose: For Decision

- 10.1. The Panel considered the scope of the Market Performance Framework (CSD 0002) review being undertaken by the Market Performance Committee (MPC), including a timeline, key considerations and delegation of activities to the MPC.
- 10.2. It was highlighted that the Review needs to be completed before the end of the calendar year which means the MPC is working to a very tight timeframe.
- 10.3. The Committee had identified that its proposal would likely have implications for the central system (CMOS) and therefore any system-affecting elements would be difficult to implement before performance charges come into effect in April 2018.
- 10.4. It was suggested that, to circumvent this issue, charges could be introduced some time during the year rather than at the start, to allow work to be completed. It was important that Trading Parties were incentivised to improve data quality.
- 10.5. The Panel also highlighted that the level of the charges will have a substantial effect on Trading Parties opinions of the introduction of charging, and needed to be thoroughly reviewed. Panel Members discussed the differential margins between England and Scotland and the extent to which performance charges should take this into account and how charges are re-distributed among Trading Parties.
- 10.6. The Panel:
 - **APPROVED** the scope of the review of the performance standards; and
 - **CONFIRMED** that the MPC should continue its activities as set out in this paper.

11. Updated Trade Effluent Issues Committee Terms of Reference

Purpose: For Decision

- 11.1. The Panel considered a revised Terms of Reference (ToR) for the Trade Effluent Issues Committee (TEIC), taking into account Panel Members' feedback from the August 2017 Panel meeting.
- 11.2. A Panel Member suggested that 5 days' notice was not sufficient notice to schedule a meeting, and that it should be changed to 10. This was agreed by the Panel.
- 11.3. The Panel:
 - **AGREED** the Terms of Reference (ToR) for the Trade Effluent Issues Committee (TEIC); and
 - **AGREED** to publish the ToR on the MOSL website.

12. Update on GDPR Issue Committee Findings and Approach Date

Purpose: For Information

- 12.1. MOSL and the Chair of the GDPR Issues Committee provided a verbal update to the Panel on the findings and approach of the Committee.
- 12.2. The Panel noted that the Committee papers for the upcoming meeting had been circulated to Panel Members for information and reference.
- 12.3. The Panel noted that the Committee had taken account of the Data Management Protocol (DMP) developed prior to market go-live but had adopted a lighter touch approach and looked to removed unnecessary excess requirements.
- 12.4. The Chair of the GDPR Issues Committee highlighted some concepts that underpin its work such as the need for data controllers in common to be able to share information and deal with requests from data subjects. The Chair of the committee provided background on the newly drafted elements, such as the additional Schedule to the MAC which defines the processes to deal with these communications.
- 12.5. The Chair indicated that the intention of the Committee was to consult on the current solution in October, resolve any issues identified by it and bring a recommendation to the Panel in November. The Panel endorsed this approach.
- 12.6. The Panel **NOTED** the update on the GDPR Issues Committee.

13. Any Other Business (AOB)

Purpose: For Information/Decision

- 13.1. MOSL and the Panel agreed that a separate workshop should take place in December to allow the Panel to review its work and operating practices to date. Panel Members agreed that this workshop be supported by a separate facilitator. It might be combined with a lunch or dinner for Panel members.

ACTION 11_06

- 13.2. The Panel noted that MOSL would simplify the Headline Reports from each Panel Meeting to ensure they only capture decisions made.

- 13.3. The Panel requested clarity on what input it would have on the MOSL budget and Business Plan. The Chief Executive of MOSL confirmed that the Panel would be expected to provide input and recommendations for the MOSL budget and Business Plan but that it would be agreed by the MOSL Board. The Panel noted that it would receive a copy of the MOSL Business Plan for discussion at the next Panel meeting.
- 13.4. There was no further business for consideration in open session.

CLOSED SESSION

14. MPC and TDC Vacancies

Purpose: For Decision

- 14.1. The Panel noted that vacancies that had arisen in the Trading Disputes Committee (TDC) and Market Performance Committee (MPC).
- 14.2. The Panel discussed how to fill the two vacancies that have appeared in the MPC and the TDC, following Jo Dando stepping down from her position on both Committees.
- 14.3. At the meeting, Nicola Smith indicated that she wished to stand down from her position on the MPC, and that, subject to the approval of the Panel, her Alternate, Trevor Nelson, had agreed to take her place on the Committee.
- 14.4. The Panel agreed that it should appoint MPC Members from former nominations to the Committee. The Panel therefore appointed Trevor Nelson in place of Nicola Smith and Mike Brindle in place of Jo Dando.
- 14.5. The Panel noted that there were no un-appointed retailer nominees for the TDC and agreed that the best approach to appointing a new member to the TDC would be to hold a new round of nominations for the Committee.
- 14.6. The Panel
- **AGREED** to begin a new round of Committee Member nominations for the TDC;
 - **AGREED** to appoint from previous nominations that had applied for a place on the MPC.

15. Trade Effluent Issues Committee Nominations and Approval

Purpose: For Decision

- 15.1. The Panel considered the nominations that were received for the Trade Effluent Issues Committee.
- 15.2. The Panel:
- **APPOINTED** Tony Mchattie, Matthew Atkin, Patricia Quintana, Andrew Stringer and Mark Needham as the 5 Wholesaler Members of the Committee.

- **APPOINTED** Jenny Mclean, Janet Bulbick, Carolina Zenklusen, Phil Sinclair and Jamie Mack as the 5 Retailer Members of the Committee.
- **NOTED** that MOSL will seek confirmation letters and employer release letters for all appointed committee members, and organise a date for the first committee meeting; and
- **NOTED** that MOSL is to appoint the chair of the Committee.

Actions:

- A11_01:** The Panel to provide Ofwat with examples of issues with credit currently being faced by the industry.
- A11_02:** MOSL to issue an information request on behalf of the Panel to the industry for issues they currently facing with credit.
- A11_03:** MOSL to amend the Change Report to include open Change Proposals in the summary sheet at the start of the paper.
- A11_04:** MOSL to amend the Change Report to clearly indicate, in the diagram on page four (4), which Change Proposals have been recommended to the Authority for rejection.
- A11_05:** MOSL to circulate the list of pipeline changes to Panel Members following the Panel meeting.
- A11_06:** MOSL to prepare and organise a workshop for the Panel to review its progress and working practices, to be facilitated by the new Chairman of MOSL.
- A11_07:** MOSL to redraft the format of the Headline Reports to reduce the volume of content and focus on key decisions.

The next Panel meeting is scheduled for: **31st October 10:30 – 15:30, at: Holborn Bars, Holborn, London, EC1N 2NQ**

The nearest tube stations are Chancery Lane, Farringdon and Holborn.