

Minutes

BSC Panel

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| Meeting number | 334 | Venue | Elexon Offices/Video Conference |
| Date of meeting | 12 January 2023 | Classification | Public |

Please note that unless otherwise stated, all Panel decisions were unanimous.

| Attendees and apologies | | |
|-------------------------|----|--------------------------------------|
| Attendees | | |
| Sara Vaughan | SV | BSC Panel Chair |
| Phil Hare | PH | Deputy BSC Panel Chair |
| Simon McCalla | SM | Elexon CEO |
| Adam Jessop | AJ | Elexon (part meeting) |
| Andrew Colley | AC | Industry Panel Member |
| Caroline Farquhar | CF | Consumer Panel Member |
| Cecilia Portabales | CP | Elexon (part meeting) |
| Claire Huxley | CH | NGESO Panel Member |
| Claire Kerr | CK | Elexon (part meeting) |
| Colin Down | CD | Ofgem Representative |
| Derek Bunn | DB | Independent Panel Member |
| Diane Dowdell | DD | Industry Panel Member |
| Elliott Harper | EH | Panel Secretary |
| Fungai Madzivadondo | FM | Distribution Business Representative |
| Ivar Macsween | IM | Elexon (part meeting) |
| Kayleigh Neal | KN | Elexon (part meeting) |
| Lawrence Jones | LJ | Modification Secretary |
| Lisa Waters | LW | Industry Panel Member |

Attendees and apologies

| | | |
|-----------------|----|--|
| Mark Oxby | MO | Industry Panel Member |
| Tirath Maan | TM | Elexon (part meeting) |
| Tom Edwards | TW | Industry Panel Member |
| Victoria Moxham | VM | Elexon Director of Customer Operations |

Apologies

| | | |
|--------------------|-----|--------------------------------|
| Andy Manning | AM | Consumer Panel Member |
| Fionnghuala Malone | FMa | BSC Administration Team Leader |
| Jon Wisdom | JW | NGESO Panel Member |
| Michael Robertson | MR | Industry Panel Member |

Open Session

1. Introduction

- 1.1 The Chair noted apologies from Andy Manning (Caroline Farquhar appointed as his alternate), Jon Wisdom (Claire Huxley attending in his place) and Michael Robertson (Lisa Waters appointed as his alternate).

Part I: Modification and Change Business (Open Session)

IWA: Initial Written Assessment | **AC:** Assessment Procedure Consultation | **AR:** Assessment Report
RC: Report Phase Consultation | **DMR:** Draft Modification Report

2. Change Report and Progress of Modification Proposals (333/02)

- 2.1 Elexon presented the Change Report and progress of Modification Proposals.
- 2.2 The Panel discussed the P412 extension request and concluded that pending clarity on legislation, related policy decisions on REMA, it was appropriate to extend Assessment Procedure timescales by nine months (rather than the six month extension proposed in the report), with Elexon committing to provide updates in the meantime as appropriate.
- 2.3 The BSC Panel:
- APPROVED** a nine-month extension to the P412 Assessment Procedure;
 - APPROVED** a five-month extension to the P441 Assessment Procedure;
 - APPROVED** a two-month extension to the P444 Assessment Procedure; and
 - NOTED** the contents of the January 2023 Change Report.

3. Initial Written Assessment: Housekeeping and making the BSC gender neutral (334/03)

- 3.1 This Modification sought to correct minor errors and inconsistencies identified in the BSC and make the BSC gender neutral.
- 3.2 A Panel Member asked whether any of the Changes impacted Article 18 Terms and Conditions. Elexon confirmed that there are no material impacts, and that the BSC allows for housekeeping amendments of this type even if they impact EBGL related paragraphs.
- 3.3 The Panel discussed how Elexon could most efficiently address 'housekeeping' type inconsistencies going forwards. Elexon noted that the Digital Code makes it easier to identify inconsistencies, and that it is standard practice to correct any minor errors to a section of the BSC while it is 'open' for any other Modification. A Panel

Member commented that they would be happy with an annual housekeeping Modification to sweep up any outstanding items and keep the BSC in good order.

- 3.4 A Panel Member noted that the parameter for CADL reviews is hard wired into the Code as 15 minutes. They asked Elexon to bear this in mind for future CADL reviews, and suggested that Elexon be mindful of any other, similar parameters hard wired into the BSC text. It was suggested that this hardwiring could be removed from the BSC to remove the need for a Modification each time it changes, as there is already a robust change process around it (and therefore the Modification adds little extra value).
- 3.5 The Panel discussed the use of Chair v Chair Person and agreed to amend the draft legal drafting references from 'Chair Person' to 'Chair'. A Panel Member, concerned that some Parties may reference some of the paragraph numbers that are changing in P450, may need some extra time to consider P450. The Member therefore asked if the 15 Working Day appeal window could be extended. The Modification Secretary confirmed it could not and noted this is longer than Parties would normally get for Report Phase Consultations.
- a) **RAISED** the Modification Proposal in, in accordance with BSC Section F2.1.1 (d) (iv);
 - b) **AGREED** that the Modification DOES NOT impact the EBGL Article 18 terms and conditions held within the BSC;
 - c) **AGREED** that the Modification should be progressed as a Fast Track Self Governance Modification;
 - d) **AGREED** that the Modification **DOES** better facilitate Applicable BSC Objective (d);
 - e) **AGREED** that this Modification should be approved;
 - f) **APPROVED** an Implementation Date of: 23 February 2023, if no objections are notified;
 - g) **APPROVED** the draft legal text; and
 - h) **NOTED** that Elexon will issue the Fast Track Self-Governance Modification Report (including the BSC legal text), which will then be subject to a 15 Working Day objection period.

4. **Issue 95 'Assessing the continued use of TIBCO service as a source of data for market participants' (334/04)**

- 4.1 This document was the Issue 95 Group's Report to the BSC Panel. Elexon tabled this report at the Panel's meeting on 12 January 2023.
- 4.2 A Panel Member asked who would raise the Modification suggested by the Issue Group. Elexon confirmed that the Panel could raise it, and the BSC Panel was supportive of this suggestion, on the basis that it would help to ensure the further work is progressed in a timely fashion.
- 4.3 The Panel noted the discussions held by the Issue group and members highlighted that the raising and progressing of a BSC Modification to uncouple the Balancing Mechanism Reporting Agent (BMRA) from the obligation to provide Balancing Mechanism Reporting Service (BMRS) data via the High Grade line would need to be handled carefully to ensure impacted parties were aware and able to feed in. The Panel noted that, despite repeated attempts, Elexon had been unable to engage with all TIBCO users for Issue 95 but stated that the raising of a Modification may help to promote the work and attract further engagement with those who had not already given their views.

5. **Issue 104 'Extending RTS Cost Recovery Arrangements Under the BSC' (Late Paper) (334/05)**

- 5.1 This document was the Issue 104 Group's Report to the Balancing and Settlement Code (BSC) Panel. Elexon tabled this report at the Panel's meeting on 12 January 2023.
- 5.2 A Panel Member noted that this was not the first occasion that Elexon had signalled a desire to cease recovery of RTS costs via the BSC budget. The Panel discussed how this could be taken forward given that, currently, there was no viable alternative solution to RTS, and that without it there was a real risk to up to 1m consumers with this type of meter (although it was commented that there is no definitive estimate of the number of consumers affected)..
- 5.3 The Panel noted the importance of ensuring that the right signals, pressures and incentives are in place to encourage resolution of the issue. These signals would be stronger if RTS costs were borne by Suppliers only, and particularly if costs were apportioned to Suppliers according to their share of impacted customers.

- 5.4 A Panel Member suggested that the Cost Recovery Arrangements might better sit under the remit of the REC. Another member commented that this could be seen as passing the buck and wouldn't necessarily help – the key aim should be to find a solution to the underlying issue.
- 5.5 The Panel noted that responsibility really sits with BEIS/Ofgem to put an obligation on Suppliers to find a solution. Elexon asked CD to raise the issue within Ofgem.

Action 334(01)

Part II: Non-Modification Business (Open Session)

6. Elexon Report Minutes of previous meetings and Actions arising

- 6.1 The BSC Panel approved the draft minutes for BSC Panel meeting 333. Elexon presented the actions and associated updates for the January 2023 Panel meetings.
- 6.2 The Panel discussed a previous action relating to its letter to Ofgem on defaulting Parties, and expressed disappointment at Ofgem's reluctance to formally respond to the Panel's letter. However, the Panel noted that there had been useful engagement between Elexon and Ofgem on the subject, and that the Issue Group on Credit was due to be launched. Given this, the Panel concluded it was pragmatic to accept Ofgem's position, as well as the offer Ofgem had made to attend future meetings on this topic.

7. Chair Report

- 7.1 The Chair provided a comprehensive update on a recent Energy Industry Panel Chairs meeting she had attended on Ofgem's Code Reform Call for Input.
- 7.2 The BSC Panel:
a) **NOTED** the update

8. Elexon Report – (334/01)

- 8.1 SM provided an update on Kinnect and SAA. He noted that the project was on track, and that the team had confidence in the progress being made. While he acknowledged that there had been some delays to SAA implementation, he noted that it was critically important to get it right.
- 8.2 SM also updated the Panel on an Energy Market Bodies Forum he'd attended, convened by Ofgem. This presented a good opportunity for the Code Bodies to collaborate, particularly around data issues. The Panel welcomed this, but it led to some discussion about the role of the CACoP (Code Administrators' Code of Practice) forum, and whether the CACoP forum should be disbanded to avoid duplication of effort. The Ofgem Representative shared some personal reflections on the benefits and limitations of the CACOP forum".
- 8.3 The BSC Panel:
a) **NOTED** the contents of this paper.

9. Distribution Report

- 9.1 The Distribution Business representative provided an update on the winter preparedness action raised at previous Panel Meetings. The issue has been passed to relevant DNO experts. The DNO group Emergency Planning Managers Forum (EPMF) discussed the issue on 11 January. The ENA will be in touch with a response/next steps on this issue.

10. National Grid Report

- 10.1 The NGESO Panel Member provided updates on the BM audit; C16 update; overview.
- 10.2 Timelines for the BM Audit had been agreed and published; NGESO was working closely with Elexon to make sure that the BM Audit was meeting the requirements of the BSC. Currently, it was running on time and to
- 10.3 The publication date for the C16 formal consultation had been postponed by a week, opening on 16 January and closing on 13 February. An Ofgem decision was expected by 20 March, with statements going live by 1 April.

11. Ofgem Report

- 11.1 Delta: Ofgem provided an update on the provisional order placed on Delta. Confirmation of the order to be finalised, subject to any representations received by 2 February.
- 11.2 FWP: Ofgem has published its forward work plan. Responses due by 3 February.
- 11.3 Consumer Scotland: A new non-ministerial body in Scotland has been created through legislation (Consumer Scotland). Ofgem understands it has assumed some of the duties of Citizens Advice Scotland (CAS). Last year Ofgem changed one of the ESO's licence conditions (SLC C3 of Electricity Transmission licence) to introduce reference to Consumer Scotland - this licence change was implemented alongside the RIIO-2 Appeals suite of licence modifications. Ofgem asked Elexon to review the BSC and subsidiary documents for any consequential modifications which are required to align with the licence.

Action 334/02

- 11.4 A Panel Member brought to Ofgem's attention the issue of liquidity, specifically the fact that liquidity is so bad that Parties are unable to trade. The Panel Member noted that this is a critical issue, and requested that Ofgem address the issue in its forward work plan.

12. UMSUG Update

- 12.1 The UMSUG Chair provided a report from the UMSUG.
- 12.2 The Panel discussed whether a piece of work should be progressed to assess whether equipment historically classed as 'unmetered' would more appropriately be treated as metered. The Panel suggested that Elexon liaise with the Distribution Business Panel Rep to get a DNO view. SM questioned whether universal metering should be a policy stance of Elexon/the Panel, and whether a strategic view should be developed on the right approach under the BSC to unmetered installations, particularly as technology develops. This is something that requires further work and thinking.

ACTION 334/03

- 12.3 The BSC Panel
 - a) **NOTED** the update

13. Tabled Reports

- 13.1 The BSC Panel noted the tabled reports from the ISG, SVG, PAB and TDC.
- 13.2 A Panel Member highlighted an issue that they had raised with the ISG Chair on the use of Settlement Meters in capacity market schemes, and the impact on associated metering dispensations and BSC Metering arrangements. EH (in his role as CMAG Chair) confirmed he was aware of this issue, and that he would discuss further with the Panel Member outside the meeting to ensure joined up thinking from CMAG.

ACTION 334/04

14. Dissolution of unused Elexon subsidiaries (334/06)

- 14.1 Elexon invited the Panel to note the Board's agreement for Elexon to commence the dissolution of Poolit Limited and Poolserco Limited and to retain ownership of BSC Co Limited.
- 14.2 The BSC Panel
 - a) **NOTED** the Board's agreement to commence the dissolution of Poolit Limited and Poolserco Limited; and
 - b) **NOTED** the Board's agreement to retain ownership of BSC Co Limited.

15. Elexon Business Plan

- 15.1 Elexon provided a summary presentation of the draft Elexon strategy and budget. PH noted that the BSC Panel providing a formal response was a valuable part of the process, and thanked MO and DD for volunteering to work with him to finalise the Panel response. He noted that he, MO and DD had had some preliminary discussions, and a key theme was that they were supportive of the proposed strategy and budget, but had some concerns around the levels of efficiency gain, particularly if any budget cuts introduced a risk that Elexon may not be able to respond to requests from industry. SM reassured the Panel that he was mindful of not removing valuable knowledge resource, and that this was not the area where efficiencies were being sought.

His focus was on providing the best possible value for funding parties rather than cutting costs, per se, with the main focus for savings coming from third party and outsourced costs.

15.2 A Panel Member noted a concern that the industry recognised the value in Elexon's skilled research, and there was a risk of Elexon losing these people. SM reassured her that his intention was to ensure a pipeline of talent and expertise was in place. She was pleasantly surprised by the numbers in the budget, and if anything worried that the budget was too low.

15.3 PH noted that he, MO and DD would finalise the Panel's formal response.

15.4 The BSC Panel

a) **NOTED** the update

16. Code Reform Consultation Response

16.1 Before discussing the Panel's response to the Code Reform call for input, Panel Members agreed that there was no conflict of interest for either the Panel Chair or the Ofgem representative, and that they were happy for them to contribute to discussions.

16.2 PH led the discussion, welcoming contributions from the Ofgem representative, and seeking views from Panel Members on the 11 questions set out in the call for input.

Q1,2,3 Consolidation

16.3 A Panel Member expressed disappointment with the progress made by Ofgem on the Code Reform proposals.

16.4 The Panel discussed the concept of consolidation, and noted that it was unclear how consolidation would avoid complexity. There is a risk that dumbing down a complex set of rules could introduce ambiguity and remove the certainty of what is in effect a legal contract. Absolute clarity is required for the market place to operate properly. There may be opportunities to consolidate and merge common elements of the various codes, e.g. change processes; however it is important to maintain the complexity of individual codes, regardless of end solution.

16.5 The Panel questioned the validity of using the early days of the REC as the sole reference point, and commented that organisational theory might be a more appropriate reference point. SM suggested that lessons could be learnt from other industries.

16.6 The Panel commented that more thought was required on how best to merge the various Codes. This should be done from the perspective of signatories that use the Codes. There are some obvious candidates for merging in whole or in part; for example the BSC and CUSC. It would be preferable for alignments to be found, with consolidation falling into place around those alignments, reflecting how code parties organise themselves and which elements logically sit together (e.g. charging, connections, access).

16.7 A Panel Member noted that the codes are all highly technical, requiring different knowledge and expertise across the codes. They commented that excessive merging could just evolve into the formation of specialised sub-groups, which would look very similar to the current landscape.

Q4

16.8 A Panel Member asked who will hold Code Bodies to account. Either Ofgem or industry parties need to ensure that Code Administrators are delivering their role and obligations. If this is Ofgem's role, it needs to explain to industry how it will achieve this. There's value in having an industry voice as a check and balance. Q4: LW – either ofgem or parties need to make sure that code administrators don't go rogue. If ofgem doing it, need to explain to industry how. Importance of having industry voice as a check and balance.

Q5, 6 Licencing

16.9 The Panel questioned the need for licencing, or the benefit it brings, and the appropriateness of it. Most of the proposed licence conditions are already within the BSC, or are already being met as a result of complying with the general law or good governance.

16.10 The Panel expressed concerns around incentives and penalties. Is it appropriate for Code Bodies to be rewarded just for doing their job? A question was also raised around the appropriateness of incentives, for just doing job – this makes no sense, especially in a NFP model. If penalties are in place – who pays these, and how does it create the correct incentives (particularly under funding arrangements where code bodies are funded by parties who have no say in how they are operated). In addition, if a Code manager has failed to

deliver for parties, who are its funders, it is also those funders who would ultimately pay any penalties imposed. It is important that there is some accountability to those who are providing the funding.

- 16.11 The Ofgem Representative confirmed that the Energy Bill requires licensing to be in place, such that it will be illegal to operate as a Code Manager without it, but noted the clear view from the Panel that conditions within the licence will need to be appropriate and proportionate.

Q8

- 16.12 The Ofgem Representative confirmed the narrowness of this question. If simply referred to an administrative shift of conditions (in particular for the BSC).

Q9 Stakeholder Advisory Forums

- 16.13 The Panel noted that it had given its views on Stakeholder Advisory Forums in previous consultation responses. They raised concerns over the aims of the SAF, and questioned how different they really are from Panels. They thought that the call for input provide limited detail, and lacking detail on the relationship between SAFs and Code Managers, so it was hard to provide comments. How much power would SAFs have? Generally, the Panel was worried about the risk of SAFs could evolving into lobbying forums. SM suggested lessons could be learnt from other industries.
- 16.14 The Panel noted that the success of any group (Panel, forum, SAF) would rest on the quality of its terms of Reference.
- 16.15 The Panel discussed attendance – only the larger industry players would have sufficient resource to attend; smaller organisations may not be able to attend all groups. This could lead to the risk of skewed discussion/decision making. In contrast, the Chair noted that the constitution of the BSC had been carefully balanced to ensure that there was no preponderance of a particular view. The SAFs would need to be equally rigid to avoid capture by one particular organisation/sector.
- 16.16 The Panel expressed a concern that under a SAF model, there was a real risk of Ofgem losing the expertise currently provided by industry participants sitting on the various Panels, groups etc. Retaining that expert input is essential and must not be lost. The question was asked how the SAF could be designed to make people want to be part of it – self-interest was not considered to be sufficient (and risked the “capture” point highlighted above. It was suggested that, if the CM were to have a licence obligation to engage with the SAFs, there should be a corresponding licence obligation on parties to engage with the CM.
- 16.17 CD left the meeting.
- 16.18 PH thanked the Panel for their comments, and agreed to draft a response, which would be circulated to Panel members for further comment before submission. Ofgem’s deadline is 1st February 2023.

17. Contingency Imbalance Price Creation Methodology (334/09)

- 17.1 In response to an action raised at the November 2022 Panel Meeting, Elexon tabled a paper outlining how a Contingency Imbalance Price would be created. The Panel noted the paper; Elexon agreed to keep the related action open to enable the Panel to consider the paper in more detail and raise any questions with Elexon.

Part III: Confidential Business (Closed Session)

18. Next meeting

- 18.1 The next scheduled meeting of the BSC Panel will be held in the Elexon Offices on Thursday 9 February 2023