
P416 Digital Meeting Etiquette

- Welcome to the P416 Workgroup meeting 1 – we'll start shortly
- No video please to conserve bandwidth
- Please stay on mute unless you need to talk – use IM if you can't break through
- Talk – pause – talk
- Lots of us are working remotely – be mindful of background noise and connection speeds

ELEEXON

P416 Workgroup 1

Introducing a route of appeal for the Annual Budget in line with the proposals for the Retail Energy Code

14 December 2020

Meeting Outcomes & Agenda

Meeting Outcomes

- Consideration of P416 and its background
- Consider the P416 Terms of Reference; and
- Consider any potential solutions which may require further development for discussion at future meetings.

Agenda Item	Lead
1. Welcome and meeting objectives	Claire Kerr (<i>Chair</i>)
2. Terms of Reference and timetable	Chris Arnold (<i>Lead Analyst</i>)
3. Overview of P416	Kevin Woollard (<i>Proposer</i>)
4. Consider P416 Proposed Solution and any potential alternative solutions for P416	Workgroup
5. Areas for consideration	Workgroup
6. Views on the Modification with respect to the Applicable BSC Objectives	Workgroup
7. Next steps	Chris Arnold
8. Meeting Close	Claire Kerr



TERMS OF REFERENCE AND TIMETABLE

P416 Terms of Reference

- a) What controls would need to be in place to prevent frivolous and vexatious appeals or that would result in Elexon being unable to meet its obligations or duties?
- b) Do the current BSCCo Annual Budget deadlines for draft publication, comment summary and BSCCo Board decision need to be changed to accommodate the appeals process? – Do current timescales allow General Meetings to be convened in a timely manner if BSC Parties wish to raise concerns on the BSCCo Annual Budget?
- c) What process (if any) is needed to resolve a disagreement before an appeal is raised?
- d) How would the existing mechanisms handle such an appeal and are these sufficient?
- e) What are the potential benefits/dis-benefits of this Modification?
- f) How will P416 impact the BSC Settlement Risks?
- g) What changes are needed to BSC documents, systems and processes to support P416 and what are the related costs and lead times? When will any required changes to subsidiary documents be developed and consulted on?
- h) Are there any Alternative Modifications?
- i) Should P416 be progressed as a Self-Governance Modification?
- j) Does P416 better facilitate the Applicable BSC Objectives than the current baseline?
- k) Does P416 impact the EBGL provisions held within the BSC, and if so, what is the impact on the EBGL Objectives?

P416 Progression Timetable

Milestone	Date
Workgroup Meeting 1	14 December 2020
Workgroup Meeting 2	W/B 18 January 2021
Assessment Consultation	15 February 2021 – 5 March 2021
Workgroup Meeting 3	W/B 15 March 2021
Panel Meeting	8 April 2021
Report Phase Consultation	12 April 2021 – 26 April 2021
Panel Meeting	13 May 2021
Issue Final Modification Report to the Authority	17 May 2021

Implementation approach

- The Proposer intends for the Modification to be implemented in time for it to be applied to the 2022/2023 Annual Budget process and suggests implementation 5 Working Days after Authority approval.



OVERVIEW OF P416

Issue and Proposed Solution



Issue

There is currently no direct route of appeal for any BSC Parties not in agreement with any items in the Annual Budget, and who feel their comments have not been addressed during the drafting phase of the Business Strategy/Annual Budget

There is also a lack of consistency across codes on the appeal route for code-related budgets. In particular, the current version of the proposed legal text for V1.1 of the Retail Energy Code (REC) specifies a route to appeal the REC Budget to Ofgem

Proposed Solution

The change will allow for an appeal to the Authority in the case that a BSC Party reasonably believes that an item in the Annual Budget:

- was not consulted upon as part of the draft Annual Budget process, or the Board failed to have reasonable regard to the comments submitted;
- is not a legitimate item of expenditure for the Board;
- is a manifestly inappropriate provision for the activity in question, and there are not insufficient safeguards in place to ensure that the actual costs incurred will be efficient; or
- will, or is likely to, prejudice unfairly the interests of one or more Parties, or cause them to be in breach of this Code, the Energy Licences and/or Law.

Proposer's views against Applicable BSC Objectives



Objective (d):

There is currently no direct route of appeal for any BSC Parties not in agreement with any items in the Annual Budget, and who feel their comments have not been addressed during the drafting phase of the Business Strategy/Annual Budget.

A Party who is sufficiently motivated could lobby other BSC Parties to support the removal of Elexon Board members, which would be both disproportionate and inefficient in most cases. Introducing a route to challenge items in the Annual Budget in a limited and specific way is therefore an improvement in efficiency in the implementation of the balancing and Settlement arrangements.



CONSIDER
PROPOSED
SOLUTION &
POTENTIAL
ALTERNATIVES

Proposed Solution Features

Proposed Solution

The change will allow for an appeal to the Authority in the case that a BSC Party reasonably believes that an item in the Annual Budget:

- Was not consulted upon as part of the draft Annual Budget process, or the Board failed to have reasonable regard to the comments submitted;
- Is not a legitimate item of expenditure for the Board;
- Is a manifestly inappropriate provision for the activity in question, and there are not insufficient safeguards in place to ensure that the actual costs incurred will be efficient; or
- Will, or is likely to, prejudice unfairly the interests of one or more Parties, or cause them to be in breach of this Code, the Energy Licences and/or Law.



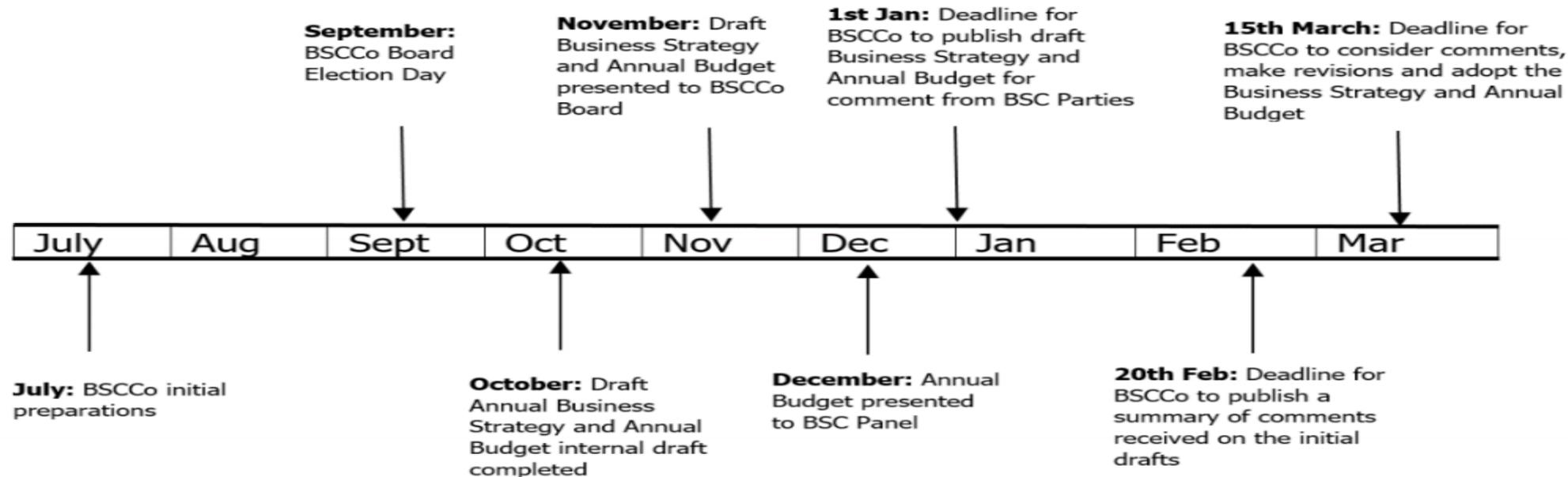
AREAS FOR CONSIDERATION

P416 Areas of Consideration

- a) What controls would need to be in place to prevent frivolous and vexatious appeals or that would result in Elexon being unable to meet its obligations or duties?
- Who should be able to raise appeals to the Annual Budget?
 - Should a certain number of other Parties need to agree prior to able to appeal?
 - What if an appeal prevented Elexon from being able to fund its core services?
 - Are the appeal criteria in the solution sufficient?
 - Who determines whether the appeal criteria is valid?

P416 Areas of Consideration

- b) Do the current BSCCo Annual Budget deadlines for draft publication, comment summary and BSCCo Board decision need to be changed to accommodate the appeals process? – Do current timescales allow General Meetings to be convened in a timely manner if BSC Parties wish to raise concerns on the BSCCo Annual Budget?



General Meeting/Resolution Requirements

- Request for a Resolution to be voted on from Voting Parties with a combined Actual Voting Share (as published on the BSC Website on the day such request is received) of at least five (5) per cent (%).
- Within 2 WDs BSCCo issue notice of the resolution to all Parties and the Authority
- BSCCo schedule meeting to be held no earlier than 15 working days and no later than 25 working days from the date of the resolution notice

P416 Areas of Consideration

c) What process (if any) is needed to resolve a disagreement before a formal appeal is raised?

- Is a pre-appeal process required?

Possible pre-appeal process requirements?

- Which groups should be involved and in what capacity? Possible groups to include:
 - Elexon
 - BSCCo Board
 - Ofgem
 - Other BSC Parties
 - New groups
- Who within the above organisations should have the ability to raise appeals?
- What timescales would be suitable for the pre-appeal process?
 - Before the 1st April deadline? – approx. 12/13 days
 - Set periods of time after publication? X WD to set up a meeting, if no solution reached by Y WD escalate to Ofgem

P416 Areas of Consideration

d) How would the existing mechanisms handle such an appeal and are these sufficient?

- Currently no formal appeal mechanism
- Informal appeal through use of General Meeting/Special Resolutions?

e) What are the potential benefits/dis-benefits of this Modification?

- Formal challenge route
- Impact on wider BSC Parties
- Impact on governance and accountabilities.

P416 Areas of Consideration

- f) How will P416 impact the BSC Settlement Risks?
- g) What changes are needed to BSC documents, systems and processes to support P416 and what are the related costs and lead times? When will any required changes to subsidiary documents be developed and consulted on?
 - Document only change
- h) Are there any Alternative Modifications?
- i) Should P416 be progressed as a Self-Governance Modification?
 - Materially impacts the Code's governance or modification procedures
- j) Does P416 better facilitate the Applicable BSC Objectives than the current baseline?
 - Next section
- k) Does P416 impact the EBGL provisions held within the BSC, and if so, what is the impact on the EBGL Objectives?
 - To be confirmed once solution is finalised



VIEWS OF
MODIFICATION
WITH RESPECT TO
THE APPLICABLE
BSC OBJECTIVES

Applicable BSC Objectives

Applicable BSC Objectives

The Applicable BSC Objectives are:

- a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence
- b) The efficient, economic and co-ordinated operation of the National Transmission System
- c) Promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity
- d) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements
- e) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency [for the Co-operation of Energy Regulators]
- f) Implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation
- g) Compliance with the Transmission Losses Principle

Proposer's View

There is currently no direct route of appeal for any BSC Parties not in agreement with any items in the Annual Budget, and who feel their comments have not been addressed during the drafting phase of the Business Strategy/Annual Budget.

A Party who is sufficiently motivated could lobby other BSC Parties to support the removal of Elexon Board members, which would be both disproportionate and inefficient in most cases. Introducing a route to challenge items in the Annual Budget in a limited and specific way is therefore an improvement in efficiency in the implementation of the balancing and Settlement arrangements.



NEXT STEPS



MEETING CLOSE

ELEXON