

---

**Meeting name** BSC Panel

**Date of meeting** 15 November 2001

**Paper Title** P28: FURTHER INTERIM REPORT

**Purpose of Paper** For Decision

**Synopsis** This paper constitutes a further interim report from the GMG on Modification Proposal P28. The Panel is invited to provide further views and clarification on the Alternative Modification developed by the GMG following the Panel's previous instructions and to agree a revised way forward for the production of the P28 Assessment Report, including a consultation on the issue of guidelines, suggested by the Panel as an element of the Alternative Modification.

---

## **1. INTRODUCTION**

- 1.1 This paper constitutes a further interim report to the Panel from the Governance Modification Group on Modification Proposal P28: Review of Governance and Modification Procedures.
- 1.2 At its meeting on 18 October 2001, the BSC Panel considered an interim report from the Governance Modification Group (GMG) on Modification Proposal P28 (Review of Governance and Modification Procedures). The Panel and the Authority were requested to provide views on the findings of that report. In light of those views, the Panel instructed the Modification Group to develop an Alternative Modification and to produce the legal drafting for that alternative only. The Authority has indicated that developing legal drafting in respect of the alternative only is acceptable. The full P28 Assessment Report was due to be presented to the BSC Panel at its meeting on November 15 2001.

## **2. ISSUES**

- 2.1 Subsequent meetings and correspondence with the GMG have demonstrated that there remains a level of uncertainty within the group as to the precise views of the Panel and the Authority. In addition, the group believes that some areas of the alternative proposal require further consideration, in order to allow the group to provide the Panel with sufficient information and analysis to make an informed recommendation. The GMG is conscious of the fact that the Panel has expressed a desire for Modifications Groups to reach a recommendation wherever possible. Given the divergence of opinion within the GMG on some aspects of P28, the group is unlikely to reach true consensus on all points. However, the group wishes to be able to provide the Panel with a full understanding of the source of all viewpoints.
- 2.2 In particular, there is uncertainty as to the status and content of the guidelines suggested by the Panel as an alternative to hard-wiring aspects of the proposal into the BSC. The concept of guidelines has emerged relatively recently in discussions and, in seeking to assess this proposal and complete the legal drafting, it has been recognised that some further detail and discussion on the guidelines is required. Indeed, the group believes that there would be merit in consulting on this matter, given that the concept was not discussed in the previous consultation.

### 3. PROPOSED WAY FORWARD

#### Further Panel Discussion

- 3.1 In order to aid resolution of the issues described above, the Panel is invited to consider the constituent elements of P28 and the Alternative Modification developed since the October Panel meeting and to confirm or clarify its views. The proposals are described in the table in section 4 below, together with a summary of the Panel, GMG and Authority comments previously recorded in respect of each element.

#### Authority Views

- 3.2 It would be appropriate for this further interim report to be the basis of a further request to the Authority to provide written views in respect of its provisional thinking (given the additional issues, including some where such a view was not previously sought). The Authority has indicated that a paper setting out its preliminary thinking might be made available prior to the Panel meeting.

#### Applicable BSC Objectives

- 3.3 It is assumed that where the Panel previously expressed a preference that this implied support for arguments put forward by respondents to consultation relating to the better achievement of the Applicable BSC Objectives. However, it would be particularly helpful to the GMG if the Panel could confirm or clarify its views on each element of the proposals with explicit reference to these objectives.

#### Guidelines

- 3.4 Some provisional thinking on the scope and content of guidelines is set out in section 5 below. The Panel is invited to consider the questions highlighted and to endorse that these form the basis of a consultation.

#### Timetable

- 3.5 An extension to the timetable for the completion of the P28 Assessment Report is required to allow consultation to be undertaken on the guidelines and for the GMG to further consider and assess the Alternative Modification. It will then be necessary to complete the legal drafting in respect of the clarified alternative modification. The Panel is invited to agree that the completed Assessment Report should be submitted to the Panel on January 17 2002.

#### Panel Sponsor

- 3.6 In order to ensure strong communication between the Panel and the GMG and to aide the development of an assessment report that meets the Panel's requirements, the Panel is invited to consider whether it wishes to appoint a Panel sponsor to attend meetings of the group.

#### 4. SPECIFIC ASPECTS OF P28

##### Summary of Proposals and Views Recorded

- 4.1 The following table provides an outline of the preliminary views of the Panel and of the Authority and, subsequently, the views of the GMG. In the light of these views, the table also provides a summary of the elements of P28 (alternative), by comparison with the original consolidated proposal. However, as discussed above, in a number of areas some members of the GMG have continuing concerns as to the status and interpretation of the views provided and, hence, remain unclear as to the appropriateness of the proposed alternative.

ORIGINAL CONSOLIDATED PROPOSAL	P28 (ALTERNATIVE)	COMMENTS
All aspects of the proposal 'hard-wired' into the BSC.	The Panel considered that guidelines should be established for matters which might otherwise render the BSC too cumbersome.	Some GMG members were concerned that this would introduce a new layer of bureaucracy, separate from BSC governance, and would leave participants less able to propose change (as it was unclear how the guidelines would be modified).
All non-confidential Panel/Committee business to be held in open session.	All non-confidential Panel/Committee business to be held in open session where practical.	The Panel considered that the presumption of openness was appropriate, recognising the practicalities. The Authority suggested that the Chairman's discretion could be used to determine where openness might not be practical.
Any Panel and Committee member to be able to invite comment from the floor.	Panel/Committee chairmen's discretion to invite proposer (for Modifications) and others to speak to be described in guidelines.	The Panel were concerned at the possibility of extending the ability to speak at meetings with regard to the risk of lobbying. The Authority supported this view.
Standing Groups to deal with Modifications in general areas.	Modification Groups to deal with Modifications in general areas.	The Authority did not feel the need to 'hard-wire' a new term.
Standing Groups to consider issues in advance of specific Modification proposals being raised.	Modification Groups to consider issues in advance of specific Modification proposals being raised.	The Panel did not raise any points on this element of the proposal. The GMG presumption was that it should remain. The Panel did agree that whilst Terms of Reference were required, 'strict' control was regarded as excessive.

ORIGINAL CONSOLIDATED PROPOSAL	P28 (ALTERNATIVE)	COMMENTS
No core membership, self-selection, no impartiality and no indemnity for Standing and Modification Groups.	Core membership, impartiality and indemnity for Modification Groups to remain unchanged.	The Panel considered that this element of the proposal could undermine the pre-eminence of consultation. The Authority supported retention of these features.
ELEXON to be responsible to the Panel for delivery of reports etc.	Modification Group to retain responsibility to produce reports etc.	This was not widely supported (for example, the Authority did not support this proposition). The presumption of the GMG was that the GMG view should prevail (i.e. that this approach would sit with a move away from a core membership).
Evaluation to replace Definition and Assessment.	Evaluation to replace Definition and Assessment.	This element was not raised explicitly by the Panel. The GMG presumption was that it should remain.
Only one mandatory consultation.	Two mandated consultations	The Panel were concerned at the potential for reducing the level of consultation.
Panel recommendation to be made after final consultation.	Panel recommendations to be made after final consultation.	No points were raised, the GMG presumption was that it should remain.
Content of report to the Authority is unchanged.	Content of report to the Authority is unchanged.	This point was not explicitly raised.
Urgent Modification arrangements unchanged.	Urgent Modification arrangements unchanged.	A potential variant (Parties being able to request urgent treatment directly from the Authority) was rejected by the Panel.
Re-consultation to be mandated if material changes arise for a Pending Modification.	Re-consultation to be undertaken if material changes arise for a Pending Modification.	The Panel considered that this could be enshrined in guidelines, rather than the BSC. The Authority considered that re-consultation was desirable.
Panel to be able to apply to Authority to bring forward implementation dates after a Modification has been approved.	Panel to be able to apply to Authority to bring forward implementation dates after a Modification has been approved.	No specific points were raised by the Panel. (Note: This is likely to impact the Transmission Licence, condition 7A4(c) which currently only allows for extension of Implementation Dates).

ORIGINAL CONSOLIDATED PROPOSAL	P28 (ALTERNATIVE)	COMMENTS
	Process for establishing the membership of Modification Groups should allow for a broad interpretation of suitable expertise and/or experience and allow for individuals to nominate themselves for consideration.	The GMG considered that this sentiment could be enshrined in guidelines, given some concerns regarding the retention of core membership, based on lists of experts.
	Modification Group Terms of Reference should include explicit requirements for reporting.	A potential variant was that Modification Group meetings should be minuted. This point was not raised by the Panel and the GMG considered that the suggested approach would ensure that all views were reflected, without duplicating effort.

## 5. GUIDELINES

5.1 There are a number of key features of the guidelines that need to be described in order that they can be developed and be of value to the relevant processes under the BSC. These features are as follows:

- Scope; to what, or to whom, should the guidelines relate?
- Ownership; who should be responsible for producing and revising the guidelines?
- Process; how often should reviews be undertaken and how should such reviews be conducted?
- Content; how comprehensive should the guidelines be?
- BSC Drafting; to what extent should the above features be prescribed in the BSC?
- Implementation; should the establishment of guidelines be tied to the implementation of P28 (alternative), or could they be implemented at some point after the implementation of P28?

5.2 In so far as the answers to the above questions are concerned, the range of possibilities that may be considered is as follows:

- Scope; the guidelines could relate to the Panel, Panel Committees, Modification Groups, or combinations thereof. If the guidelines are all encompassing, some exclusions may be appropriate, for example the TDC, or PAB.
- Ownership; the logical presumption is that the Panel would be responsible for producing and revising the guidelines. ELEXON would provide the administrative support

- Process; Reviews could be undertaken either via narrow consultation with Panel, Committee and Group members, and/or via wide consultation with interested parties. The style of such consultation could be that of an ongoing open ability to provide comments (which the Panel would consider at a subsequent meeting), or as a formal invitation to provide views on the guidelines current at the time (which the Panel would consider with a view to a new version being produced).
  - Content; specific guidelines could include the following – notice for meetings, agendas for meetings, papers for meetings (templates, where appropriate), conduct of meetings (including when open sessions may not be practical, inviting representations from the floor, reporting and consultation requirements), role of ELEXON. There is also the question of whether, for completeness, such specific guidelines should cover aspects that are mandated elsewhere, such as the BSC, or whether the guidelines should include additional points only.
- 5.3 In order to assist with the further development of the guidelines and in recognition that the guidelines constitute a new concept, not previously considered, it is suggested that the above points should form the basis of a consultation exercise which would provide views to the GMG and for the Panel. On the basis of this input, the GMG would develop the associated legal drafting relating to the guidelines and, if Modification proposal P28 (alternative) were to be accepted, the Panel could initiate the production of an initial set of guidelines for introduction, either at the time of implementation, or at some point thereafter.

## 6. RECOMMENDATIONS

### 6.1 The Panel is invited to:

- **CONFIRM/CLARIFY its views on the constituent elements of P28 (alternative);**
- **SEEK the views of the Authority as to whether the findings of this interim report are consistent with the Authority's provisional thinking in respect of P28 (in accordance with BSC F2.6.10);**
- **INSTRUCT the GMG to undertake a consultation with respect to the development of guidelines.**
- **INSTRUCT the GMG to produce an Assessment Report which describes the Alternative Proposal, as confirmed (or clarified).**
- **CONFIRM the instruction to the GMG to produce legal drafting for P28 (alternative).**
- **ENDORSE that the Assessment Report should be submitted to the BSC Panel meeting on January 17 2002.**
- **CONSIDER whether it wishes to nominate one or more Panel Members to act as sponsor to the GMG, with a view to attending meetings of the GMG in respect of the above Panel instructions.**

Gareth Forrester  
Modifications Manager