

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

## Stage 03: Assessment Consultation

# P262: Code Governance Review: Significant Code Reviews, Self-governance and Code Administration Code of Practice

The Ofgem Code Governance Review has recently amended the Transmission Licence to introduce a Significant Code Review Process, the ability for the BSC Panel to make decisions on Self-governance Modifications and provisions for a Code Administrators Code of Practice.

P262 seeks to introduce the necessary procedures and requirements into the BSC to enable the delivery of the new Transmission Licence obligations.

The Group has also developed two potential alternatives which they would like your views on.



Modification Group initially recommends Approval of the Proposed Modification



High Impact: BSC Panel, Parties progressing or partaking in the Modifications process, ELEXON

P262  
Assessment Consultation

01 September 2010

Version 1.0

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### Any questions?

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## About this document:

The purpose of this Assessment Consultation is to obtain views or further evidence from BSC Parties and other interested parties on matters discussed in this document. The P262 Modification Group will then discuss the consultation responses before making its recommendations to the Panel on 14 October 2010.

There are 3 documents for this Assessment Consultation:

- This is the **main document**. It outlines the solution, impacts, costs, benefits and implementation approach for the change. It includes the Group's initial recommendation on whether the change should be approved.
- **Attachment A** provides further supporting details of how the Group's discussions have led it to its initial views. It also contains details of how the Proposer has amended their solution based on discussions with Ofgem and the Working Group
- **Attachment B** contains Proposed Modification legal text.
- **Attachment C** contains the Assessment Consultation questions and response form.

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P262  
Assessment Consultation

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## Why Change?

In July 2010 Ofgem directed that the licence modifications be made to implement the Code Governance Review Final Proposals. They also noted that the industry codes would need to be updated by 31 December 2010. In order to comply with the modified Transmission Licence the BSC will need to be amended to reflect the new processes and policies coming into effect.

## Proposed Solution

The Proposed Modification would align the BSC to the updated Transmission Licence by introducing the following concepts and processes into the BSC:

- Significant Code Reviews
- Self-governance
- Code Administration Code of Practice

## Potential additions/alternatives

The Group has also developed two additional elements to the Proposed solution. These two elements could potentially be included in the P262 solution by the Proposer, or could form a separate Alternative solution. Potential addition 1 relates to the progression of Modifications raised before an SCR Phase, whilst potential addition 2 relates to the change process for the Code Administration Code of Practice. The Group is interested in your views on these potential additions.

Potential addition 1: During an SCR Phase, the Proposer of any Modification raised prior to the SCR Phase may request that they suspend the progression of their Modification Proposal until the completion of the SCR Phase.

Potential addition 2: Places a BSC requirement on ELEXON to gain Panel agreement before they can suggest any changes to the Code Administration Code of Practice.

## Impacts & Costs

P262 would impact the Parties participating in the Modification Procedures, Panel, Modification Groups and ELEXON. The cost to implement P262 is estimated at £2,400, equating to 10 man days effort.

## Implementation

P262 has a provisional initial Implementation Date of:

- 31 December 2010 if an Authority decision is received on or before 10 December 2010;  
or
- 15 Working Days an Authority decision if it's received after 10 December 2010.

## The Case for Change

The Group unanimously agreed that the Proposed Modification would better facilitate **Applicable BSC Objective (a)** as in order to efficiently discharge the Transmission Licence the licensee must ensure that the BSC is consistent with the Licence.

## Recommendations

The initial unanimous recommendation of the Modification Group is approval of P262.

### Code Governance Review

The industry codes contain the contractual arrangements for participating in the Electricity and Gas markets. In November 2007 Ofgem launched the Code Governance Review. The aim of the review was to reduce the complexity and fragmentation, and to increase the transparency and accessibility, of these arrangements. In July 2010 Ofgem directed that the licence modifications be made to implement the Code Governance Review Final Proposals. They also noted that the industry codes would need to be updated by 31 December 2010. In order to comply with the modified Transmission Licence the BSC will need to be amended to reflect the new processes and policies coming into effect.

The supporting BSC changes fall into 5 distinct areas:

- Significant Code Reviews (SCRs)
- Self-governance
- Code Administration Code of Practice (CACoP), assisting Parties, ensuring consistency with other codes
- Send Back Process
- Environmental Assessment

We have split the relevant Transmission Licence changes into 2 Modification Proposals.

This Modification Proposal covers:

- Significant Code Reviews
- Self-governance
- Code Administration Code of Practice, assisting Parties, ensuring consistency with other codes

### Significant Code Reviews

The SCR process has been introduced to facilitate the progression of significant industry changes in the most efficient manner. Ofgem has the sole right to raise SCRs, but will consult on the scope of the review before commencing the SCR.

Once commenced, the SCR will utilise a number of industry workshops to develop an SCR conclusion. The SCR conclusion may result in an Authority direction that:

- Requires National Grid as the licensee to raise a Modification(s) to the BSC; or
- States no changes to the BSC are needed

The period between the SCR commencing and SCR closing is known as the 'SCR Phase'. Further details on the SCR process can be found in the final licence modifications (see the following [link](#)).

Whilst specific details of the SCR process are outside the scope of the BSC, changes to the BSC are required to accommodate this new process.

## Self-governance

The amendments to the Transmission Licence provide for a Self-governance route for those Modification Proposals which the Panel deem unlikely to have a material effect on:

- Existing or future electricity customers;
- Competition in generation or supply;
- The operation of the transmission system;
- Security of supply;
- Governance of the BSC

and if the Panel believe the Modification is unlikely to discriminate against different classes of BSC Parties.

The Self-governance route allows the Panel to make a determination on a Modification rather than a recommendation to the Authority, who in turn make the final determination.

## Code Administration Code of Practice

The Code Governance Review has created a Code Administration Code of Practice (CACoP) for all Code Administrators to adhere to. The idea of the Code of Practice is to help spread consistency across the industry codes by providing guidelines on minimum standards and practices.

## Other related Code Governance Review changes

[P263](#) has been raised alongside P262 and supports the Code Governance Review changes in the areas of:

- Send Back Process
- Environmental Assessment

As P263 requires no further assessment and development the Panel has directed it straight to Report Phase. The Report Phase Consultation is taking place at the same time as the P262 Assessment Procedure Consultation.

In addition, National Grid has raised similar changes under the CUSC and the Uniform Network Code (UNC). Once again, although we need to be mindful these changes exist, they do not directly interact with P262.

## 3 Proposed Solution – Significant Code Reviews

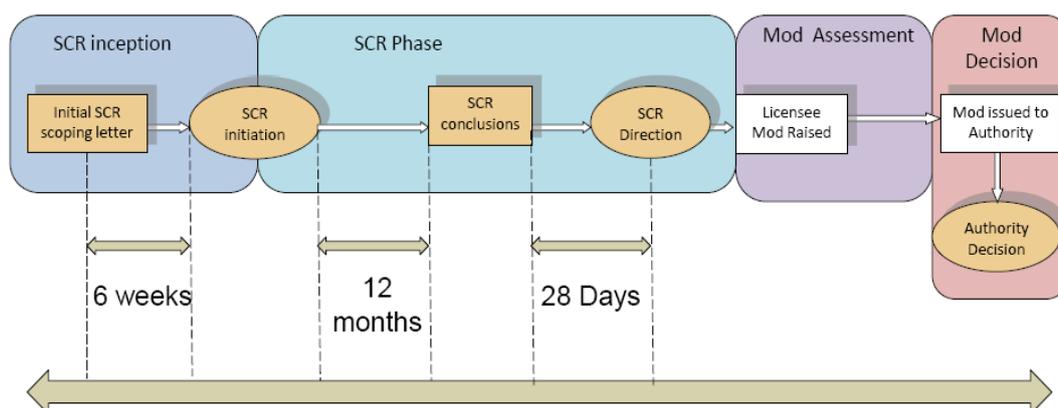
### Significant Code Reviews

The SCR process can be split into three main sections:

- **SCR inception** – the period between the Authority publishing an initial scoping letter and the commencement of the SCR. This period is likely to last around 6 weeks.
- **SCR Phase** – the period starts from the date the SCR is launched, as directed by the Authority, and ends either:
  - When the licensee raises a Modification Proposal as directed by the Authority as a result of the SCR conclusions;
  - 28 days after the Authority has published its SCR conclusions; or
  - If the Authority issue a statement that no directions will be made to the BSC.
- **Post SCR Phase** – the period following the SCR Phase where Modification Proposals are potentially raised by the Licensee in order to enact the SCR conclusions.

The sections below detail the impact the different SCR sections have on Modifications going through the process.

**Figure 1: The SCR process**



### Modifications raised prior to the SCR Phase

Modification Proposals raised before the commencement of the SCR Phase (during SCR inception or earlier) progress through the standard BSC Modification Process as normal.

Modification Groups and the Panel may take into account the ongoing SCR work when forming their recommendations, as they currently do with other wider industry issues, but there are no other obligations or restrictions.

When a SCR Phase commences ELEXON will have discussions with those Proposers that have Modification Proposals already in the process, providing advice on any likely impact. If there is an impact Proposers may wish to withdraw their Modification Proposals, but they do not have to.

### Impact of Send Back Process

[P263](#) is proposing to introduce the ability for the Authority to send a Modification Report back into the process. If this situation was to occur, any Modification Proposal raised before the commencement of a SCR Phase which is sent back by the Authority during an SCR Phase would not be subject to the SCR provisions.

## Modifications raised during a SCR Phase

The amended Transmission Licence gives Ofgem the ability to 'Subsume' a Modification Proposal if it is raised during the SCR Phase. If a Modification is subsumed it will 'freeze' in the Modification Process until the conclusion of the SCR Phase. The intention is to subsume those Modifications that are linked to the SCR topic to prevent the same work being done under the BSC and the SCR. If Ofgem believe a Modification is not linked to a SCR then they may declare it exempt and it will progress through the Modifications Process as normal.

The sections below detail how Modification Proposals will be treated during an SCR Phase.

### Raising a Modification Proposal

If a Modification Proposal is raised during a SCR Phase ELEXON will, prior to the BSC Panel meeting:

- Discuss with the Proposer and the Authority whether or not they believe the Modification falls within the scope of the SCR; and
- Capture the views and rational of Proposer, Authority and ELEXON in the Initial Written Assessment (IWA) report that is presented to the Panel.

To assist in the discussions, the Modification Proposal form (contained in BSCP40 'Change Management') will be updated to include a new section allowing the Proposer to justify why their Modification Proposal is not linked to an SCR, and therefore exempt.

Proposer wishing to contribute to a SCR should contact Ofgem directly rather than raising a Modification Proposal. ELEXON can help Parties by facilitating any discussions with Ofgem.

### SCR exempt Modifications

At any point, from being raised up until the Panel's final recommendation, the Authority may declare a Modification Proposal exempt from the SCR process.

To do this, the Authority inform the BSC Panel that the Modification Proposal is SCR exempt either at a Panel meeting, or in writing, detailing their rationale. It is envisaged that the Authority would generally do this verbally when the IWA is presented to Panel.

Modification Proposals that have been declared SCR exempt enter the normal Modification Procedures following the timetable as detailed in the IWA, or a suitable timetable as agreed by the Panel and the Authority.

### Subsumed Modification Proposals

Modification Proposals which are not SCR exempt will be 'Subsumed' by the Authority. Once the Authority has declared a Modification Proposal to be Subsumed:

- ELEXON will inform the Proposer and other participants within 1 Working Day of the decision to subsume a Modification Proposal; and
- The Modification Proposal's progression through the Modification process freezes until the end of SCR Phase.

The Proposer has the right to withdraw their Subsumed Modification Proposal at any time during the SCR Phase.

## SCR Suitability Assessment

When directed by the Authority the Panel are required to undertake a 'SCR Suitability Assessment'. The SCR Suitability Assessment allows the Panel to provide an assessment to the Authority on whether a Modification Proposal is linked to an SCR and should be subsumed.

As part of an SCR Suitability Assessment the BSC Panel:

- Shall form a recommendation to the Authority as to whether or not the Modification Proposal is linked to an ongoing SCR;
- May consult with industry (optional); and
- Shall direct ELEXON to issue the result of the SCR Suitability Assessment to the Authority for determination. This includes the Modification Proposal, Panel discussions and any relevant representations.

Once the Authority has an SCR Suitability Assessment there are two outcomes:

- The Modification Proposal is not linked to a SCR and will be declared **SCR exempt** by the Authority; or
- Modification Proposals linked to a SCR will be declared **Subsumed** by the Authority. The Authority will direct the Panel, in writing, to freeze the progress of that Modification Proposal until the completion of the SCR Phase.

While the SCR Suitability Assessment is being undertaken the Modification Proposal will not 'freeze' in the process and shall progress as normal through the Modification Procedures. The progression will only stop if the Authority declares a Modification Subsumed.

Only the Authority can direct the Panel to conduct a SCR Suitability Assessment. If the Panel, of its own volition, wishes to conduct a SCR Suitability Assessment on a Modification Proposal then it must first gain agreement from the Authority.

## Treatment of Alternative Modifications

Alternative Modifications will be progressed in line with the Proposed Modifications to which they relate.

For example, if a Modification Proposal is declared SCR exempt, all potential Alternative Modifications are also considered to be SCR exempt until otherwise directed by the Authority.

If the Authority directs the Panel to conduct a SCR Suitability Assessment on a Modification Proposal, both the Proposed and any Alternative Modifications would undergo the SCR Suitability Assessment.

If the Proposed Modification is Subsumed then any Alternative Modifications are also Subsumed.

## Post SCR Phase

### Licensee raised Modifications as a result of a SCR

If the Authority directs the Licensee to raise a Modification Proposal as a result of the SCR conclusions then:

- The Panel cannot refuse to accept such a SCR Modification Proposal on the basis that it has substantially the same effect as a Pending Modification Proposal or a Rejected Modification Proposal;
- The Licensee cannot withdraw the Modification from the process without prior consent from the Authority;
- If a SCR Modification Proposal is withdrawn then the current adoption rules apply. However, we would expect Parties who adopted a withdrawn SCR Modification Proposal to do so because they wanted to progress a viable Alternative Modification which had been developed by the Modification Group;
- If the Licensee has withdrawn its SCR Modification Proposal it would be able to raise another SCR Modification Proposal (including in the event that their original SCR Modification Proposal was adopted). The same SCR Modification Proposal rules apply. To this new SCR Modification Proposal;
- The SCR Modification Proposal shall not be amalgamated with any other Modification Proposal without prior consent of the Authority; and
- The voting rights of the BSC Panel and Modification Groups are not fettered in any way when making recommendations or decisions on the SCR Modification Proposal.

### What happens to Subsumed Modifications after the SCR Phase?

Once the SCR Phase has ended, Subsumed Modification Proposals will re-enter the Modification Procedures. At this point the following will happen:

- ELEXON will discuss with Proposers whether they want to continue the progression of their Modification Proposal. Proposers can choose to continue progression or withdraw their Modification Proposal (normal withdrawal processes and rules will apply).
- If the Proposer chooses to progress their Modification Proposal, ELEXON will present an updated timetable to the Panel for approval. This timetable will include all the activities required to complete the Modification Proposal's progression.
- In formulating the timetable ELEXON will consider whether it is possible to restart the timetable at the point where the Modification Proposal was subsumed. It may be that previous analysis will need to be repeated as it is now out of date. If need be, ELEXON would discuss the progression timetable with the Proposers and other relevant experts.
- Once the Panel has approved the timetable ELEXON (and, if need be, a Modification Group) will complete all required activities.

In the situation that the Proposer cannot be contacted, or refuses to participate in the Modification Procedures, the Panel can use the current provisions for withdrawing Modification Proposals where the Proposer is frustrating the process.

### Other Modifications raised post SCR Phase

Once the SCR Phase has finished, the SCR Phase Modification rules described above no longer apply. All Modification Proposals raised outside of a SCR Phase progress as normal through the process and cannot be subsumed.

If Parties have alternative proposals to the Licensee raised SCR Modification Proposal, then they should endeavour to raise these in time to be considered alongside the Licensee's SCR Modification Proposal.

## 4 Proposed Solution – Self-governance

It is proposed that provisions for a Self-governance process is introduced into the BSC to reflect the Transmission Licence drafting.

### Becoming a Self Governance Modification

#### Raising a Modification

The Proposer should indicate, with justification, on the Modification Proposal form as to whether they believe their Modification Proposal is Self-governance. The Modification Proposal form will be amended to include a relevant Self-governance section.

As part of the raising of the Modification Proposal ELEXON will:

- Discuss with the Proposer and the Authority any issues on Self-governance and assist the Proposer in completing the form; and
- Capture the views and rationale of the Proposer, the Authority and ELEXON in the initial Written Assessment (IWA) report that is presented to the Panel for their consideration.

#### Panel Self-governance Statement

If the Panel decide that a Modification Proposal should proceed under the Self-governance route (and no Authority determination has been made on Self-governance - see below), the Panel must complete a "Self-governance Statement".

The Self-governance statement informs the Authority of the Panel's decision to proceed down the Self-governance route. It will include the Proposal form, the Panel's rationale and discussions as to why the change is Self-governance.

ELEXON will issue a 'Self-governance Statement' to the Authority within 1 Working Day of the Panel decision.

If the Panel submit a Self-governance Statement they must consult with industry on the suitability of the proposal for Self-governance. The responses to the consultation must be issued to the Authority at least 7 days before the Panel make a final decision on the Modification Proposal.

- If a Modification Proposal is in the Assessment Procedure, the Self-governance consultation will form part of the standard Assessment Procedure consultation. The consultation responses will be reviewed by the Panel when they consider the Assessment Report and issued to the Authority following the Panel meeting.
- If a Modification Proposal is in the Report Phase, the Self-governance consultation will form part of the standard Report Phase consultation. Once received, the consultation responses will be issued to the Authority at least 7 days prior to the Panel meeting where a final decision is made.

It should be noted if a decision to proceed as Self-governance is taken after the Report Phase Consultation, by either the Panel or the Authority, a consultation will be required to elicit industry opinions on the suitability of Self-governance and/or revised Implementation Dates.

#### Withdrawing the Self-governance Statement

At any time after issuing the Self-governance Statement up until the Panel's final recommendation, the Panel may withdraw the Self-governance Statement. The

consequence of withdrawing the Self-governance Statement is that the Panel waive the right to make a final decision and instead make a final recommendation to the Authority.

The rationale for withdrawing the Self-governance Statement will be captured in the Final Modification Report.

### **Vetoed Self-governance Statements**

At any time after issuing the Self-governance Statement, up until the Panel's final recommendation, the Authority can veto the ability for Self-governance.

To do this the Authority must write to the Panel with rationale as to why they believe the Self-governance criteria has not been met.

### **Authority initiated Self-governance route**

At any time up to the Panel's final decision, the Authority may determine that a Modification Proposal is Self-governance. In that case the Panel does not need to provide a Self-governance Statement.

### **Panel decision on Self-governance Modifications**

If the Authority does not veto a Self-governance Statement, and the Panel does not withdraw the Statement, then the Panel shall a final decision on the Self-governance Modification Proposal.

ELEXON will update the Final Modification Report and notify participants of the Panel's decision on the day that the Panel makes a decision.

Modifications approved by the Panel may not be implemented within 15 Days of a Panel decision, this is to allow for any potential appeals.

### **Appeals process**

Participants have 15 Working Days in which to raise an appeal following the Panel decision. This time period includes the day of the Panel decision.

To raise an appeal a participant must write to the Authority and the Modification Secretary outlining their appeal. Within 1 Working Day ELEXON will notify participants that an appeal has been raised and that the implementation of the Modification Proposal is now on hold.

In an appeal is launched, the implementation of a Modification Proposal will not proceed until a direction is received from the Authority.

### **Grounds for appeal**

A Party cannot appeal on the grounds that it believes a Modification Proposal should not follow the Self-governance route, but it can appeal on the following grounds:

1. The appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or
2. In the case of a Panel decision to approve, the Proposed or Alternative Modification may not better facilitate the achievement of at least one of the Applicable BSC Objectives; or
3. In the case of a Panel decision to reject, the Proposed or Alternative Modification may better facilitate the achievement of at least one of the applicable BSC objectives; and
4. The appeal is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

## Outcome of appeals

A Self-governance appeal to the Authority has the following outcomes:

1. The appeal is refused by the Authority due to being trivial, vexatious, having no reasonable prospect of success or being out of time. In such cases the Panel decision stands and implementation or non-implementation occurs accordingly.
2. The appeal is heard, but the Authority determines that the grounds for appeal have not been met. In such cases the Panel determination stands and implementation/non-implementation occurs accordingly.
3. Appeal is heard and the Authority determines that the grounds for appeal have been met. The Authority quashes the Panel decision (which has now become a recommendation) and issues its decision. In such cases in the Authority decision is not in line with the Panel's recommendation. Therefore, the Competition Commission appeal route is open as the decision is opposite to the Panel majority.
4. Appeal is heard and the Authority determines that the grounds for appeal have been met. However, on quashing the Panel decision, the Authority is unable to take a decision based on the Final Modification Report. It therefore sends the Final Modification Report back under the Send Back Process (see [P263](#) for details). Once the Send Back Process is completed the Authority is able to make a decision on the Modification Proposal. If that decision is in opposition to the Panel recommendation then the Competition Commission appeal route is open.
5. The appeal is heard and the Authority determines that the grounds for appeal have been met, quash the Panel decision and direct that the Panel re-take its decision (potentially with a direction to consider particular evidence (e.g. new evidence)). In this case the Modification Proposal is still under the Self-governance route and the Panel will need to remake their decision.

## 5 Proposed Solution – Code Administration Code of Practice

The following requirements would be introduced into the BSC:

- BSCCo shall act consistently with the relevant principles of the Code Administration Code of Practice;
- The BSC Modification Procedures shall be consistent with the relevant principles of the Code Administration Code of Practice;
- BSCCo, in conjunction with other code administrators, shall maintain, publish, review and amend from time to time the Code Administration Code of Practice. Any amendments to the Code of Practice shall first be approved by the Authority. As a working practice, BSCCo shall discuss any potential changes to the Code Administration Code of Practice with the BSC Panel;
- BSCCo shall assist Parties and consumer representatives with the following (but not limited to):
  - drafting modification proposals;
  - understanding the operation of the BSC;
  - understanding the Modifications Procedures, including how Parties can get involved and be represented during the processes (including but not limited to panel and/or workgroup meetings); and
  - accessing information relating to Modification Proposals;
- BSCCo shall check that the BSC is consistent with other Codes and Core Industry Documents and shall notify the Licensee and the Panel where it identifies such inconsistencies
- Introduce definitions in Section X-1 for the following:
  - Code Administration Code of Practice:
  - 'Modification Group' becomes 'Workgroup': this term has been changed in the Licence. It would be updated in Annex X-1 and throughout the BSC.

### Code Administration Code of Practice Change Process

The Code of Practice contains a high level process of the steps that must be completed in order to amend the Code of Practice. Part of this process allows Code Administrators and participants to raise potential changes, the approval of which will sit with Ofgem.

The Modification Group considered a possible addition to the Proposed solution (addition 2) where a BSC requirement would be introduced for ELEXON to gain agreement from the Panel for all ELEXON raised CACoP changes.

Under the Proposed Modification, this requirement would not be included in the BSC. Whilst supportive of the intention, the Proposer and ELEXON believe the detail of the CACoP change process should be contained in the CACoP and not in the BSC.

However, ELEXON has committed to taking all suggested amendments to the Panel for endorsement prior to raising them at the Code Administrators Working Group. Under the Proposed Modification ELEXON would issue a statement outlining this.

ELEXON would raise the subject of the Code Administration Code of Practice change process at the next Code Administrators Working Group meeting with the intention of making the Code Administration Code of Practice change process more robust.

## 6 Potential alternative solutions

The Group has developed two potential additions to the proposed solution as detailed in sections 3-5.

These additions may be included into the Proposed solution at the next Group meeting, or may form an Alternative solution. Either way the P262 Group request your views on both.

### Potential addition 1 – suspending the progress of Modifications raised before a SCR Phase

Potential alternative 1 is as follows:

- For Modification Proposals raised before the start of the SCR Phase the Proposer can request to the Panel that progression is suspended on their proposal whilst the SCR Phase is ongoing. The Proposer would need to provide rationale as to why this suspension was justified.
- The Proposer can make this request at any time up until the final Modification Group recommendation in the Assessment Procedure
- ELEXON would present this request to Panel.
- The Panel would then make a decision about suspending progression until the completion of SCR Phase. This decision is a 'one way ticket' – once suspended the Modification Proposal will not be progressed until the completion of SCR Phase
- The Authority would have no veto on extending the Assessment Procedure in this case.
- The Proposer can withdraw their Modification Proposal while it is suspended.

### Group's discussion

The Group thought that it may be beneficial to delay work on a Modification Proposal that is linked to a SCR, but raised before a SCR Phase (and therefore cannot be subsumed). Progression of the Modification Proposal in this circumstance could potentially lead to duplication of work with that being completed under the SCR. This is consistent with the underlying rationale for Subsuming Modification Proposals raised during the SCR Phase.

It was also thought that Proposers may wish to suspend work on their Modification pending an outcome of the SCR, so they could amend their proposal based on the SCR findings. This would ensure a Proposer can submit the best possible solution, in their opinion, to the Authority.

The Group unanimously agreed potential addition 1 was a sensible improvement to the Proposed Modification.

### Potential addition 2 – BSC requirement for Panel approval of any ELEXON suggested changes to the Code Administration Code of Practice

As discussed in the section above, the Modification Group considered a second possible addition to the Proposed solution. This would place a requirement in the BSC for ELEXON to gain agreement from the Panel for all ELEXON suggested CACoP changes.

### Group's discussion

The Group noted the ELEXON commitment under the Proposed Modification to take all ELEXON suggested changes to the CACoP to the Panel for approval. However, the Group considered that there may be merit including this requirement in the BSC as it would be clearer and more transparent. It would also be in line with the BSC Modification

Procedures, where ELEXON cannot raise Modification Proposals on its own and must request Panel do so.

A member was concerned that without Panel oversight ELEXON could potentially raise changes to the CACoP which were beneficial to ELEXON or disadvantageous to the BSC as a whole. Another member was concerned that changes to the CACoP could be used as a backdoor to change the BSC. If the principles of the CACoP were to change then the BSC may need to change. On that basis it was appropriate that checks and balances were in place.

A member of the Group noted that any concern should consider that it was clear in the CACoP and the Ofgem Code Governance Review consultations that the BSC takes precedence over the CACoP.

ELEXON commented that their concern was not with the principle, but placing the requirement in the right place. In ELEXON's opinion the BSC was not the right place for including change process details for the Code Administration Code of Practice (a document which was not a Code Subsidiary Document) and the CACoP change process should be contained within the CACoP.

It was also suggested that placing the obligation in the BSC may be inconsistent with the Transmission Licence. The Group requested that ELEXON's legal advisor clarify whether including the requirement in the BSC was consistent with the Transmission Licence during the Assessment Consultation.

#### Assessment Consultation question

Are there any alternative solutions, which the Modification Group has not identified, that they should consider?

The Group invites you to give your views using the response form in Attachment C.

## 7 Impacts & Costs

### Costs

ELEXON Cost	ELEXON Service Provider cost	Total Cost
£2,400 (10 Man Days)	£0	<b>£2,400</b>

### Impacts

#### Impact on BSC Systems and process

None identified

#### Impact on BSC Parties and Party Agents

Those participants raising modifications will need to be aware of the new process

#### Impact on Transmission Company

If raising a Modification due to a SCR conclusion, the Transmission Company will have to be aware of the regulations surrounding such a change.

#### Impact on ELEXON

Area of ELEXON	Potential impact
Change Management	ELEXON will be required to updated all processes relating to the Modification Process. And to give assistance to parties wishing to use the process. As a Code Administrator ELEXON will have to adhere to the principles of the CoP.

#### Impact on Code

Code section	Potential impact
Section B, C, F and H	To allow for the new processes as defined above
Section X Annex X-1	For the inclusion of new definitions

#### Impact on Code Subsidiary Documents

CSD	Potential impact
BSCP40	Updates to the Modification Proposal form.

#### Impact on Core Industry Documents and other documents

Document	Potential impact
Connection and Use of System Code	The CUSC is introducing similar provisions.
Uniform Network Code	The UNC is introducing similar provisions.

### Assessment Consultation question

What are the impacts and costs of the Proposed Modification on your organisation?

The Group invites you to give your views using the response form in Attachment C.



## Recommendation

Modification Group recommends approval of the P262 Proposed Modification.

The Group is also interested for your views on their potential alternatives.

## 8 Implementation

National Grid has a 'best endeavours' licence obligation to implement the Code Governance Review BSC changes by 31 December 2010. Hence we are proposing an Implementation Date of:

- 31 December 2010 if an Authority decision is received on or before 10 December 2010; or
- 15 Working Days if an Authority decision is received after 10 December 2010;

### Assessment Consultation question

Do you support the Modification Group's preferred implementation approach?

The Group invites you to give your views using the response form in Attachment C.

## 9 The Case for Change

### Proposed Modification vs. current arrangements

The Group unanimously agreed that the Proposed Modification would better facilitate

**Applicable BSC Objective (a)** as:

- To efficiently discharge the Transmission Licence the licensee must ensure that the BSC is consistent with the Licence. P262 aligns the BSC with the Transmission Licence and hence better facilitates Applicable Objective (a).

### Assessment Consultation question

Would the Proposed Modification P262 help to achieve the Applicable BSC Objectives when compared to the current arrangements?

The Group invites you to give your views using the response form in Attachment C.

### Potential addition 1

The Group unanimously believed potential addition 1 would better facilitate **Applicable BSC Objective (a)** in the same way as the Proposed Modification.

When compared to the Proposed solution the Group unanimously believed potential addition 1 would also better facilitate **Applicable BSC Objective (d)** as:

- It would potentially prevent the same work being done under the BSC and the in the SCR Phase.

A minority of the Group also saw benefit against **Applicable BSC Objective (c)** as:

- Small Parties with limited resources would be able to suspend progress of their Modification Proposal where it was clear that similar work was being done in the SCR. This would allow them to focus their limited resources on the SCR, or hold off work until the conclusions of the SCR were clear. They could then restart the work once the SCR work was complete. This would encourage small Parties to raise and participate in the Modification Procedures.

### Assessment Consultation question

Would potential addition 1 provide any benefits over and above the Proposed solution?

The Group invites you to give your views using the response form in Attachment C.

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## Potential addition 2

The majority of the Group believed potential addition 2 would better facilitate **Applicable BSC Objective (a)** in the same way as the Proposed Modification.

In addition the majority of the Group believed the potential alternative would also better facilitate **Applicable BSC Objective (d)** as:

- It would provide more clarity and transparency for the Panel to approve ELEXON's CACoP changes.
- It would be consistent with BSC Modification Procedures, where ELEXON cannot raise Modification Proposals on its own and must request Panel do so.

A minority of Group members noted their position was dependent on legal advice as to whether potential addition 2 was consistent with the updated Transmission Licence. The reasons were as follows:

### Assessment Consultation question

Would the potential addition 2 provide any additional benefits over and above the Proposed Modification?

The Group invites you to give your views using the response form in Attachment C.

## 10 Further Information

For further detail on the Ofgem Code Governance Review please see [Ofgem's website](#).

For the final Transmission Licence updates use the following [link](#).

To view the Code Administration Code of Practice use the following [link](#).

Attachment **A**: Detailed Assessment.

This information includes:

- Modification Group membership
- Modification Group discussions
- Process followed for P262

Attachment **B**: Proposed Modification Legal Text

Attachment **C**: Assessment Consultation response questions

All related documents can be downloaded from the [P262 page](#) of the ELEXON website.