

Stage 03: Assessment Report

What stage is this document in the process?

- 01 Initial Written Assessment
- 02 Definition Procedure
- 03 Assessment Procedure
- 04 Report Phase

P247: Proposer 'ownership' of Modification Proposals

P247 would allow the Proposer to vary the solution of the Proposed Modification, and/or withdraw their Modification Proposal, at any time before the Modification Group makes its final recommendation to the Panel.

In addition, the Proposer would have the right to address the Panel to explain why they had (or had not) varied the Proposed Modification solution and to answer any questions.

The Alternative Modification is identical to the Proposed Modification except that it does not give the Proposer a right to address the Panel. The majority of the Group believes it would be discriminatory to give this right to the Proposer.



Modification Group unanimously recommends
Approval of the P247 Alternative Modification



Modification Group recommends
Rejection of the P247 Proposed Modification



Medium Impact:
All participants who are able to raise Modification Proposals and/or who are involved in the Modification Process



Low Impact:
ELEXON as administrator of the Modification Process

166/05

P247
Assessment Report

5 March 2010

Version 1.0

Page 1 of 14

© ELEXON Limited 2010



Any questions?

Contact:

Andrew Wright



andrew.wright@elexon.co.uk



020 7380 4217

Contents

1	Summary	3
2	Why Change?	5
3	Proposed Modification Solution	6
4	Alternative Modification Solution	9
5	Impacts & Costs	10
6	Implementation	12
7	The Case for Change	13
8	Recommendations	14
9	Further Information	14
	Attachment A : Detailed Assessment	14
	Attachment B : P247 Proposed Modification legal text	14
	Attachment C : P247 Alternative Modification legal text	14

About this document:

This document is an Assessment Report, which ELEXON will present to the Panel on 11 March 2010, on behalf of the P247 Modification Group. The Panel will consider the recommendations on the final page, and agree an initial view on whether or not this change should be made.

There are 4 documents for this Assessment Report:

- This is the **main document**. It outlines the solution, impacts, costs, benefits and implementation approach for the change. It includes the Group's 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 views.
- **Attachment B** contains the Group's legal text for the P247 Proposed Modification.
- **Attachment C** contains the Group's legal text for the P247 Alternative Modification

166/05

P247
Assessment Report

5 March 2010

Version 1.0

Page 2 of 14

© ELEXON Limited 2010

Why Change?

Under the current Modification Process, when a Proposal is raised a Modification Group is charged by the Panel with assessing and developing the Proposed Modification solution. The Proposer does not have 'ownership' of the Modification and has no more influence on the development of the solution than any other Modification Group member. This can mean that aspects of the Proposed Modification solution on which the proposal form is 'silent' are developed by the Group in a way which the Proposer did not originally intend.

In addition, the Modification Group can only develop the Proposed Modification in a way that is consistent with the exact wording of the solution in the Modification Proposal form. This can restrict development of the Proposed Modification. Small refinements to the solution, which differs from the proposal form wording, may have to be progressed as an Alternative Modification even if the Proposer supports it. This can be inefficient.

There is also currently no ability to withdraw a Modification Proposal after the first Panel meeting at which it is considered. This can result in wasted effort if the Modification Proposal subsequently proves to not have a business case.

The Proposer has also identified that different Code Panels appear to have different working practices. Some Panels are more open to comment from the floor than the BSC Panel. The Proposer believes that being more open to floor comments improved debate in other Panels. They want to see a similar working practice in the BSC Panel.

Proposed Modification

The Proposed Modification solution has 3 elements:

1. **Proposer Ownership** - the Proposer keeps ownership of the Proposed Modification solution during the Definition and Assessment Procedures. The Proposer would be allowed to refine the Proposed Modification solution up until the Modification Group makes its final recommendation to the Panel, but not after. The Modification Group would advise the Proposer where it believed the solution should be refined or amended, but the Proposer would have the right to disagree and veto the Group's suggested changes. The Modification Group would (as now) have the ability to collectively develop an Alternative Modification if the Group's views diverged from the Proposer's. Any refinement made by the Proposer must continue to address the original issue or defect outlined in the Modification Proposal form;
2. **Withdrawal** - the Proposer could withdraw their Modification any time before the Modification Group makes its final recommendation to the Panel, but not after. Other Parties would have a 5 Working Days to 'pick up' (adopt) the Modification Proposal; and
3. **Addressing the Panel** - the Proposer would have a right to address the Panel during the presentation of the Group's Report to explain their variations to the Proposed Modification solution, their reasons for the variations and where their decisions were contrary to the Modification Group's advice.

Alternative Modification

The Alternative Modification is identical to the Proposed Modification, except that it does not give the Proposer a right to address the Panel during consideration of the Modification Group's report.

The Group has developed the Alternative Modification because the majority believed that the Proposed Modification could potentially introduce discrimination.

Impacts & Costs

P247 would directly impact Proposers of BSC Modification Proposals, Modification Groups, ELEXON and the BSC Panel. ELEXON's costs to implement would be 5 man days or £1,200.

Consultation respondents noted between slight and no impacts to implement P247, and reported low costs. Some respondents highlighted concerns that P247 could increase costs due to Proposers making late variations to the Proposed Modification which could require further assessment.

Implementation

The Group recommends that P247 is implemented:

- 10 Working Days after an Authority decision.

The Group also agreed that the new P247 process should only apply to Modification Proposals raised on or after the P247 Implementation Date. Modification Proposals raised prior to the implementation of P247 would continue to be progressed in line with the current Modification Process.

The Case for Change

The majority of the Group believes that the Proposed Modification would be better than the current arrangements. The Group unanimously believes that the Alternative Modification is better than the current arrangements and the Proposed Modification. The Group cited **Applicable BSC Objectives (c) and (d)** for the Proposed and Alternative Modifications as they believed they would:

- make the Modification process clearer and more user friendly. Encouraging more engagement and participation by Parties;
- give Proposers confidence that their intended solution would be presented to the Authority for decision. This might encourage more Parties to raise Modification Proposals – especially small Parties who may otherwise feel disenfranchised from the process. This would promote competition;
- allow the Proposer to incorporate solution refinements under the Proposed Modification, without finding themselves unintentionally restricted by the original wording of their Modification Proposal. This would remove the need for an Alternative Modification to be progressed for a refinement which the Proposer supports;
- allow a Proposer to withdraw a Modification which it no longer supports. This would increase the efficiency of the BSC arrangements and reduce wasted effort.

A minority of the Group believed the Proposed Modification would not be better than the current arrangements. Arguing against **Applicable BSC Objectives (a), (c) and (d)** they believed P247 would:

- introduce discrimination into the BSC. Allowing the Proposer to address the Panel to argue their case without giving the same status to any countervailing is discriminatory.

It was on this basis that the Group developed the unanimously supported Alternative Modification. The Group agreed the Alternative Modification would remove potential for discrimination by removing the right for the Proposer to address Panel.

Recommendations

The P247 Group's unanimous recommendation is that P247 Alternative Modification should be approved.

166/05

P247
Assessment Report

5 March 2010

Version 1.0

Page 4 of 14

© ELEXON Limited 2010

What's wrong with the current process?

Under the current Modification Process, when a Proposal is raised a Modification Group is charged by the Panel with assessing and developing the Proposed Modification solution. The Proposer does not have 'ownership' of the Proposed Modification and has no more influence on the development of the solution than any other Modification Group member. The Modification Group develops any aspects of the Proposed Modification solution on which the proposal form is 'silent' by majority decision. These developments may be in a way which the Proposer did not originally intend. P247 argues that Proposers therefore have to balance wording a proposal too loosely (running the risk the solution may be developed in a way the Proposer did not intend) or too tightly (constraining the solution).

In addition, the Modification Group can only develop the Proposed Modification in a way that is consistent with the solution as detailed in the Modification Proposal form. This can restrict development of the Proposed Modification. Small refinements to the solution, which differs from the proposal form wording, may have to be progressed as an Alternative Modification even if the Proposer supports it. This can be inefficient.

There is also no ability to withdraw a Modification Proposal after it is first present to the Panel. This can result in wasted effort by the Modification Group, the Panel, the Authority, industry and ELEXON if the Modification Proposal proves to not have a business case.

What do other codes do?

P247 notes that other codes such as the Connection and Use of System Code (CUSC) and the Uniform Network Code (UNC) allow the Proposer to maintain ownership of their original change during its assessment, and to withdraw it at any point before it is submitted to the Authority.

Ofgem's Code Administrator Working Group (CAWG) has concluded that 'Proposer ownership' is an example of best practice in code administration, and this principle is therefore included in the draft Code Administrator Code of Practice developed by ELEXON, National Grid and the Joint Office for the BSC, CUSC and UNC.

Why does the Proposer want the right to address the Panel?

The Proposer has identified that different Code Panels appear to have different working practices. Some Panels are more open to comment from the floor than the BSC Panel. The Proposer strongly believes that being more open to floor comments improves debate in other Panels. They want to see a similar working practice in the BSC Panel. Hence the Proposer has included a right to address the Panel in their Proposed Modification.

3 Proposed Modification Solution

The Proposed solution can be broken down into 3 key parts:

Proposer ownership

The Proposer would retain ownership of the Proposed Modification throughout the Definition and Assessment Procedures.

This will allow the Proposer to vary the Proposed Modification solution however they wish, as long as it continues to meet the original defect or issue as set out in the Modification Proposal form.

ELEXON would capture any amendments to the Proposed Modification solution in the Definition Report and/or Assessment Report as appropriate. No updates to the Modification Proposal form itself would be required. This is consistent with the current process, where the original Modification Proposal form is not updated following the Group's development of the Proposed Modification and any Alternative Modification.

The Proposer's ability to vary the Proposed Modification solution would cease at the point just before the Modification Group makes its final recommendation against the Applicable BSC Objectives. At that stage, the Modification Group Chair would ask the Proposer if there are any further changes. Once the Proposer had agreed that there were no more changes, the Modification Group would make its final recommendation.

With the Proposer's new ability to amend the solution, there is a risk that the solution might significantly change at a late stage in the Assessment Procedure. In these circumstances, the Modification Group may need to request additional time from the Panel to complete the Assessment Report (and potentially to reconsult with industry). This request would be made by the Modification Group Chair (as currently happens). The Group notes this risk, but considers that it is similar to the risk under the current process that a Modification Group can develop an Alternative Modification at a late stage.

For Urgent Modifications, Proposers will be able to vary the Proposed Modification solution where the urgent progression timetable involves a Modification Group (and insofar as is possible under the urgent progression timetable set by the Authority).

For Modification Proposals which go straight to the Report Phase, the Proposer would not be able to vary the solution of their Modification Proposal once it formally enters the Report Phase.

The Panel would retain its existing ability to amalgamate two or more Modification Proposals whose subject-matter is very similar or which are logically dependent on each other. As now, the Proposers would decide which of them would be the Proposer for the amalgamated change (with the Panel appointing one of them if they cannot decide). That Proposer would then 'own' the amalgamated change, and would be able to vary the solution or withdraw the change in the same way as any other Proposer.

Modification Groups and Alternative solutions

The Group would retain its existing ability to collectively develop an Alternative Modification where its views diverged from the Proposer's. As now, any Alternative must continue to address the original issue or defect identified in the Modification Proposal form, and is only progressed if the majority of the Group believes it better facilitates the Applicable BSC Objectives than the Proposed solution (even if the Group does not believe that it is better than the existing baseline).

The Modification Group would continue to collectively develop Implementation Dates, and sign off reports as being the record of all members' views. ELEXON would continue to act as 'critical friend' in chairing/facilitating meetings, and producing/presenting reports. The Group would still review legal text although, for the Proposed Modification solution, it would be reviewing for the robustness/clarity with which the text delivers the solution rather than the solution itself. The Panel would retain its ability to make changes to legal text in the Report Phase. The Panel would still set the Terms of Reference and the progression timetable for any Modification Group.

Proposers Representatives

As with the current process, the Proposer would be required to nominate a Representative and a Representative's Alternate, who would represent them on the Modification Group. As now, these can be anyone of the Proposer's choosing and do not have to be from the same organisation as the Proposer (e.g. small Parties could use a consultancy to represent them at meetings).

There is an option for the Proposer to nominate ELEXON as their Representative. In this case the Modification Process will run as it does currently, with the Modification Group owning the Modification Proposal and making solution decisions by majority (i.e. the Proposer could not vary the solution). This ensures that Proposers who may not have the resource to attend Modification Group meetings in person or by teleconference (or who are unable to find another participant willing to act on their behalf) are not disenfranchised from being able to raise Modification Proposals. ELEXON would impartially feed the Proposer's views into the Group's discussions, as we do under the current arrangements for anyone unable to attend a meeting who has comments. ELEXON would not act as an advocate for the change and would remain impartial and independent (and non-voting). The Proposer would still have the right to withdraw their Modification Proposal.

If the Proposer's Representative or Representative's Alternate does not attend a meeting then decisions on the Proposed Modification will be conducted as under the current arrangements – by majority Modification Group decision at the meeting. However, the Proposer would still have the right to vary their solution if they disagreed with the Group's decision.

To reduce the risk that the Proposer might continually not attend meetings and 'veto' any decisions made by the Group in their absence, P247 introduces the ability for the Panel to initiate withdrawal for a Modification Proposal if it believes that the Proposer is deliberately frustrating the process.

Withdrawals and adoption process

The Proposer would be able to withdraw their Modification Proposal at any time from raising the Modification to just before the Modification Group makes its final recommendation against the Applicable BSC Objectives. At that stage, the Modification Group Chair would ask the Proposer if they wanted to withdraw the Modification Proposal. Once the Proposer had agreed that the Modification Proposal would not be withdrawn, the Modification Group would make its final recommendation.

In order to withdraw the Modification Proposal, the Proposer would notify ELEXON in writing. In practice, this would be via an email to ELEXON's Modifications email address (modifications@elexon.co.uk).

For Modification Proposals which go straight to the Report Phase, the Proposer would be able to withdraw their Modification Proposal up to the point that it formally enters the Report Phase.

Adopting Proposals

If a Modification is withdrawn there would be a window in which any other participant, that is able to raise Modification Proposals, could nominate themselves to take over as the new Proposer of the Modification Proposal. This provides a check that Modifications would not be frivolously or vexatiously withdrawn where they still have industry support.

The adopting Proposer would have the same rights to vary the Proposed Modification solution and to withdraw the Modification Proposal as the original Proposer. The Group would have the same ability to develop an Alternative.

The Party that originally withdrew the Modification Proposal and any Affiliate of that Party would not be able to adopt the Modification Proposal again at a later stage of its progression, if a subsequent replacement Proposer decided to withdraw it.

When a Modification is being withdrawn, ELEXON would notify the industry. Parties would then have 5 Working Days starting at 12pm on the next Working Day to adopt the Modification Proposal.

If more than one participant wanted to adopt a withdrawn Modification then it is the first to contact ELEXON ('first-past-the-post') which would become the new Proposer. This allows Proposals which still have some support to resume their progression quicker than having to wait to the end of the 'adoption window' and removes the need for a process to decide between potential adopters.

If no-one comes forward to adopt a Modification Proposal, then the whole proposal (i.e. both the Proposed Modification and any Alternative Modification) would be formally withdrawn and its progression through the Modification Process would cease.

For Urgent Modifications, although a Proposer will be able to withdraw the Modification before it goes to Report, there will not be an opportunity for another Party to take over as Proposer.

Proposer addresses Panel

The Proposer would have a right to address the Panel when ELEXON present the Assessment Report to the Panel. This would be in order to explain:

- any amendments to the original Proposed Modification solution which they had made or vetoed; and
- why they deviated from the Group's view (where this had occurred).

Alternative Modification

The Alternative Modification is identical to the Proposed Modification on the areas of Proposer ownership and the withdrawals and adoption process. The Alternative Modification differs from the Proposed Modification in that it does not give the Proposer a right to address Panel during Panel's consideration of the Assessment Report.

The Group has developed the Alternative Modification because the majority of them believe that:

- the Proposed Modification could potentially introduce discrimination; and
- Proposers and Modification Group members can already attend the Panel meeting and can speak to the Panel if the Chairman grants them the opportunity.

The Proposer's representative has requested that the Panel consider amending their working practices in order that they are more open to attendees speaking from the floor (be they Proposers, Modification Group member or anyone else).

5 Impacts & Costs

Costs

ELEXON Cost		ELEXON Service Provider cost	Total Cost
Man day	Cost		
5 man days	£1,200	£0	£1,200

Indicative industry costs

Proposed Modification and Alternative Modification

Respondents reported low costs to implement the Proposed Modification.

Impacts

Impact on BSC Systems and process

Proposed Modification and Alternative Modification

None

Impact on BSC Agent contractual arrangements

Proposed Modification and Alternative Modification

None

Impact on BSC Parties and Party Agents

Proposed Modification and Alternative Modification

Respondents noted between slight and no impact.

One respondent commented that there could be an increase in costs from late variations to the Proposed Modification.

Another respondent noted a potential increase in costs due to more Modification Proposals being raised.

Impact on Transmission Company

Proposed Modification and Alternative Modification

Transmission Company has reported no impact

Impact on ELEXON

Area of ELEXON's business

Proposed Modification and Alternative Modification

Change Delivery

- The standard Modification Group Terms of Reference, which are approved by the Panel and form the starting point for each individual Group's Terms of Reference would need to be amended to take account of P247;
- ELEXON's working practices as the administrator of the Modification Process would need to be amended to take account of P247; and

166/05

P247
Assessment Report

5 March 2010

Version 1.0

Page 10 of 14

© ELEXON Limited 2010

Impact on ELEXON	
Area of ELEXON's business	Proposed Modification and Alternative Modification
	<ul style="list-style-type: none"> ELEXON's guidance documents for Parties on the Modification Process would need to be updated.

Impact on Code	
Code section	Proposed Modification and Alternative Modification
F	Section F of the BSC, which sets out the Modification Process and the rights and obligations of all participants in that process, would need to be updated

Impact on Code Subsidiary Documents	
Proposed Modification and Alternative Modification	
None	

Impact on Core Industry Documents and other documents	
Proposed Modification and Alternative Modification	
None	

Impact on other Configurable Items	
Proposed Modification and Alternative Modification	
None	

Other Impacts		
Item impacted	Proposed Modification	Alternative Modification
BSC Panel	<p>The Panel working practice would need to change in order to take account of:</p> <ul style="list-style-type: none"> The potential for variations to the Proposed Modification solution; The withdrawal's process – including the Panel ability to initiate the withdrawal's process where the Proposer is frustrating the process; and The Proposer's right to speak at the Assessment Report stage; 	<p>As Proposed Modification, except that there would be no required change to the Panel's working practices. However, the Proposer and Group members support the introduction of greater informality in Panel proceedings, such that the Panel invites comments from the floor.</p>

166/05

P247
Assessment Report

5 March 2010

Version 1.0

Page 11 of 14

© ELEXON Limited 2010

The Group recommends that P247 is implemented:

- **10 Working Days after an Authority decision.**

Why 10 Working Days?

The Group had originally suggested an Implementation Date 5 Working Days after an Authority decision. However, one of the consultation respondents noted:

“We note that the CUSC allows for a ten day period between an Authority decision and implementation. We are mindful, especially in this half term week, that if approved around the holiday period that a code change might be approved and implemented whilst many parties are absent from work. For that reason we believe if Elexon are to go down the CUSC route of determining implementation X days after an Authority decision that X is set at ten, rather than, as is proposed with P247, five days.”

The Group agreed that 10 Working Days would allow more time for potential Proposers of Modification Proposals to consider whether they still wished to raise a proposal under the revised process, and has amended the Implementation Date accordingly.

P247 only applies to Modification Proposals raised after the P247 Implementation Date

The Group agreed that the new P247 Modification process rules would only apply to Modification Proposals raised on or after the P247 Implementation Date. Modification Proposals raised prior to the P247 implementation would be progressed in line with the current rules.

One consultation respondent requested the Group consider implementing P247 for all open Modification Proposals. The Group considered this request but on reflection believe it was important for a Modification Proposal to be progressed consistently through its lifecycle using the same set of rules. A change to the BSC which applied to changes currently in the process would mean that the Proposer could effectively ‘unwind’ any decisions which had already been made by Modification Groups, resulting in extra work.



Proposed Modification vs. current arrangements

The majority of the Group and a minority of the consultation respondents believed the Proposed Modification would be better than the current arrangements. They cited arguments against Applicable BSC Objectives (c) and (d). The reasons were as follows:

Applicable BSC Objective (c):

- P247 would make the Modifications processes clearer and more user friendly. This would encourage maximum engagement and participation by Parties, including classes of user who may hold a minority view or do not often engage in the process;
- Proposer ownership of Modification Proposals would give all Parties confidence that their original solution could be presented to the Authority for decision. This would encourage all classes of Party to raise Modification Proposals.

Applicable BSC Objective (d):

- Introducing the ability for a Proposer to further develop and refine their initial proposal with the assistance of the Modification Group and ELEXON would allow the Proposer to correct any errors or oversights in the original wording. This would remove the need for raising another Modification Proposal to fix the original's error.
- Introducing the withdrawals process would allow the Proposer to withdraw Modifications which had no business case. This would increase the efficiency of the BSC arrangements by reducing wasted effort for the Panel, the Authority, ELEXON, the Modification Group and industry.

A minority of the Group and the majority of the consultation respondents believed the Proposed Modification would not be better than the current arrangements.

They cited the following arguments:

Applicable BSC Objectives (a), (c) and (d):

- P247 would introduce discrimination into the BSC by allowing the Proposer to address the Panel. This would not better facilitate Applicable BSC Objectives (a), (c) and (d).

Applicable BSC Objective (d):

- The Proposed Modification introduces the potential for significant variations late in the Assessment Procedure which would require additional Mod Group work – inefficient and time consuming.

Alternative Modification vs. current arrangements

The Group unanimously believed the Alternative Modification would be better than the current arrangements. They cited the same arguments as the Proposed Modification (see above). The Proposer's representative noted that their support was on the basis that ELEXON would highlight the Proposer's concerns to the Panel, and working practice would alter to become more open to accepting comments from the floor.

Recommendation

The Modification Group unanimously recommends **approving the Alternative Modification**

166/05

P247
Assessment Report

5 March 2010

Version 1.0

Page 13 of 14

© ELEXON Limited 2010

Alternative Modification vs. the Proposed Modification

The Group unanimously believed the Alternative Modification was better than the Proposed Modification. The Group believed the Alternative Modification was better because:

Applicable BSC Objective (c):

- The Alternative Modification would not introduce potential discrimination into Panel proceedings.

8 Recommendations

The P247 Modification Group invites the Panel to:

- **AGREE** an initial recommendation that P247 Proposed Modification **should not** be made;
- **AGREE** an initial recommendation that P247 Alternative Modification **should** be made;
- **AGREE** an initial Implementation Date for the Proposed or Alternative Modification of 10 Working Days after an Authority decision;
- **AGREE** the draft legal text for P247 Proposed Modification;
- **AGREE** the draft legal text for P247 Alternative Modification;
- **AGREE** that Modification Proposal P247 be submitted to the Report Phase; and
- **AGREE** that ELEXON should issue P247 draft Modification Report for consultation and submit results to the Panel to consider at its meeting on 8 April 2010.

9 Further Information

More information is available in

Attachment **A**: Detailed Assessment

This information includes:

- Terms of Reference;
- Full Modification Group discussions;
- Summary of Assessment Consultation responses; and
- Modification Group Membership and assessment process and timetable followed for P247.

Attachment **B**: P247 Proposed Modification legal text

Attachment **C**: P247 Alternative Modification legal text

All consultation and impact assessment responses are on the [P247 page of the ELEXON Website](#).