

Stage 04: Final Modification Report

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

▶ 04 Report Phase

P255:

'Profile Administrator: creating flexibility in discharging the service'

This Modification will create flexibility in how the Profile Administrator service is discharged. It will allow ELEXON to bring all or part of the service in house if the Panel agrees this to be the most efficient/cost-effective approach.



The Panel unanimously recommends **approval** of P255.



This change will not impact participants.

P255 is an enabling change and in itself has no impact on the Profile Administrator arrangements.

However, it has a high impact on ELEXON's forthcoming procurement by affecting the possible approaches we can recommend to the Panel.

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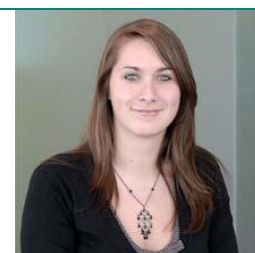
This document is a Final Modification Report, which ELEXON has submitted to Ofgem on behalf of the BSC Panel. It contains the Panel's recommendations on P255, including the BSC legal text in **Attachment A**.

Sections 7 and 8 of this report provide a summary of the industry responses to the Assessment Procedure and Report Phase Consultations. You can download the full responses from our website [here](#).



Any questions?

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Why Change?

The role of the Profile Administrator (PrA) comprises data collection and data analysis services. The current PrA contract includes both these elements of the service and ends on 31 March 2011. Re-procuring the service provides an opportunity to deliver increased value to our customers.

We believe that we can achieve significant cost-savings and efficiencies by splitting out the two distinct aspects of the role. This will allow us to undertake a focused and competitive procurement for the data collection service, whilst enabling ELEXON to bring the data analysis function in house.

The PrA is a BSC Agent. ELEXON cannot undertake BSC Agent roles under the Code.

Previous Modification P133 introduced the ability for ELEXON to provide the PrA service (directly and/or via a subcontractor) under very limited circumstances. These are set out in Section C9 of the Code, and are that:

1. ELEXON must have attempted in good faith to appoint a PrA in accordance with the BSC Agent procurement process in Section E of the Code;
2. The Panel consents to ELEXON providing the service; and
3. ELEXON shall not provide the service for longer than a year without the Panel's further approval.

If ELEXON discharges the PrA role under these circumstances, it acts in its capacity as the Balancing and Settlement Code Company (BSCCo) and not as a BSC Agent.

Although we have not previously exercised the P133 ability, we have now identified the potential for significant cost and efficiency savings if we bring part of the PrA role in house. However, the P133 provisions restrict our ability to do this.

P255 therefore seeks to remove restriction (1) and relax restriction (3) in order to give us greater flexibility in how we can deliver efficiencies/cost-savings in the service. However, it will still retain checks and balances on ELEXON's ability to provide the service as described below.

Solution

P255 will give the Panel 2 options in how the PrA service is discharged:

- The Panel can agree (on the basis of a business case presented by ELEXON) that ELEXON shall assume responsibility for discharging the PrA service. Under this option, ELEXON will assume responsibility for the entire service, but can subcontract part of it to a third-party provider via a competitive procurement; or
- The Panel retains the option to put the entire service out to tender by third-party providers through a full BSC Agent procurement.

P255 is purely an 'enabling' change to give ELEXON and the Panel additional flexibility in discharging the PrA service. Whether or not any part of the service is actually delivered in-house in future will depend on the Panel being satisfied by the business case for doing so.

What problem does P255 address?

The Code does not currently allow us the flexibility to deliver the Profile Administrator service in the most efficient/cost-effective way.

It therefore limits the cost-savings we can secure for our customers through both the forthcoming and future procurement exercises.

If P255 is approved, ELEXON will also be required to periodically present an updated business case to the Panel, in order to satisfy it that an in-house/subcontracted approach remains the most efficient/cost-effective option. The Panel will retain the ability to undertake a full BSC Agent procurement exercise in the future.

You can find more detail in Section 3.

Impacts & Costs

P255 is a Code-only 'enabling' change, impacting Section C, Section H and Annex X-1. The costs to ELEXON of implementing the necessary code changes will be minor, approximately £240. Note that it is not part of this Modification to establish the costs of ELEXON assuming responsibility for the PrA service and bringing part of the role in-house, or to detail the overall cost-savings/efficiencies that this will achieve. This detail will form part of the business case which ELEXON will present to the Panel if P255 is approved.

P255 will not alter the role of the PrA in any way, or the responsibilities of any BSC Parties or Party Agents. There will be no change to the description of the service as set out in the Code, the PrA Service Description or any relevant Balancing and Settlement Code Procedures (BSCPs). If ELEXON assumes responsibility for the PrA service, the division of responsibilities between the in-house element and any subcontracted third-party service provider will be set out in the contract with that provider.

Implementation

The Panel unanimously recommends that, if P255 is approved, it should be implemented 5 Working Days after an Authority decision.

This is in line with the unanimous view of the Modification Group and Assessment Consultation respondents. All respondents to the Report Phase Consultation who expressed a view supported this implementation approach.

There is a dependency between P255 and the forthcoming PrA procurement exercise. If the Authority approves P255 within 25 Working Days of receiving the Final Modification Report (its usual KPI), then we will be able to use the P255 solution to give us the flexibility (if the Panel agrees) to procure only the data collection aspect of the service and provide the data analysis aspect in house.

The sooner the Authority decision, the clearer and 'cleaner' the procurement planning process will be, as in the meantime we need to plan for 2 possible outcomes.

If the Authority decision takes longer than 25 Working Days, there is a risk that we may have to default to a full BSC Agent procurement for the entire service in order to have a PrA in place by 1 April 2011.

The Case for Change

The Modification Group and respondents to the Assessment Consultation and Report Phase consultation unanimously believe that P255 will better facilitate the achievement of the Applicable BSC Objectives.

Report Phase Consultation respondents who have referred specifically to the Applicable BSC Objectives believe that P255 will better facilitate the achievement of Applicable BSC Objective (d). Some Group members and Assessment Consultation respondents also believe that there will be a consequential benefit to Applicable BSC Objective (c).

Panel Members unanimously agree that P255 will better facilitate the achievement of Applicable BSC Objective (d) and should be made. Panel Members generally believe that P255 will have no material effect on competition and Objective (c).

You can find more information on the Panel's views, and the Report Phase Consultation responses, in Section 8. You can find a summary of the Assessment Consultation responses, and the Modification Group's views, in Sections 6 and 7.

2 Why Change?

The Profile Administrator Service

All Non Half Hourly (NHH) sites are placed into Profile Classes. Each Profile Class has a specific Load Profile which represents the average pattern of electricity usage of supply market customers within that Profile Class. The Load Profiles are used to allocate the NHH energy to specific half hours in Settlement.

The Profile Administrator (PrA) gathers metered data across the course of the year from a representative sample of NHH customers. This data is then analysed and using regression analysis a series of generic Load Profiles produced. These profiles are subsequently used in Settlement by the Supplier Volume Allocation Agent (SVAA).

As such, the PrA service is broadly split into two parts:

Data Collection

The PrA collects data from meters that make up the profiling sample. There are three different arrangements for doing this:

1. Collecting data from secondary meters that are installed and maintained by the PrA (approx. 2500 sites);
2. Receiving and validating data sent to the PrA by Suppliers (approx. between 150-250 sites – increasing by the same amount year on year going forward, as the older secondary meters are replaced by Half-Hourly capable Settlement metering); and
3. Offering agency services to Suppliers by collecting and validating data from the Half-Hourly capable Settlement metering on behalf of Suppliers, submitting this data to Settlement as well as using the data for profiling (approx. between 150-250 sites – increasing by the same amount year on year going forward).

Data Analysis

This aspect of the service uses the collected data to produce the defined deliverables (Group Average Annual Consumptions, Regression Coefficients and Profile Coefficients) needed to determine accurate NHH profiles. These are produced annually and to a set timetable.

The analysis process involves inputting data into a bespoke application (owned by ELEXON) and manipulating the data using a series of specially designed spreadsheets to produce the values listed above.



Who is the Profile Administrator?

The Profile Administrator (PrA) is a BSC Agent who is responsible for the production of Non Half Hourly Load Profiles.

How the Service is Currently Discharged

Currently, we have a contract with a single third-party provider to deliver both elements of the service (although the service provider separately subcontracts the data analysis aspect of the service). This contract ends on 31 March 2011.

Reasons for Change

The data analysis service requires skills and experience in statistical analysis which we already have within ELEXON. Furthermore, whilst the data collection aspect of the service is a full time role, the data analysis function only needs to be performed during a certain period of the year. Our initial estimates therefore indicate that we can obtain material cost savings for our customers by delivering this part of the service in-house. This may also help us achieve a more focused procurement, if the organisations who are able to provide the data collection role do not have data analysis expertise.

While at the moment we only intend to bring the data analysis aspect of the PrA service in house, P255 will also give the flexibility for us to deliver other aspects of the service in house in the future if the Panel agrees this is the most efficient/economic approach. Metering technology is continually evolving. Future planned developments in the market such as the introduction of smart metering highlight this. Enabling greater flexibility in delivering the PrA service ensures that as the market evolves, and what is the most efficient method of discharging the service changes, we can rapidly adapt to continue to provide the most efficient/economic approach.

3 Solution

Proposed Solution

P255 will allow ELEXON (if the Panel agrees the business case) to assume full responsibility for the PrA, and to either discharge all of the service in house or subcontract part of it to a third-party service provider. If the Panel does not agree, then we will put the entire service out to tender through a full BSC Agent procurement.

If ELEXON assumes responsibility for the PrA role, then it will do so in its capacity as BSCCo and not as a BSC Agent – and any subcontractor will be a service provider rather than a BSC Agent.

ELEXON will be required to present a revised business case to the Panel periodically (at least every 5 years) to satisfy it that this remains the most efficient/cost-effective approach. The business case can also be re-examined at any other time if there is a material change in ELEXON's systems or processes (including resources) which raises the reasonable expectation of an impact on our ability to deliver the service efficiently. The Panel will retain the ability to undertake a procurement each time it re-examines the business case.

The Modification Group has agreed that the Code shall not state which parts of the role ELEXON may perform in house. This will give us the flexibility to adjust the split between the in-house and service provider elements over time, if the Panel agrees that this will achieve further efficiencies/cost-savings. However, our current intention is only to bring the data analysis functionality of the PrA in house and we will complete a competitive procurement for the data collection service. Any change to this approach will require the Panel's agreement.



What checks and balances will there be if ELEXON discharges the PrA role?

ELEXON will only assume responsibility for the PrA service if the Panel agrees that this is the most efficient/cost-effective approach.

The Panel will periodically reassess the business case and will retain the option to undertake a full BSC Agent procurement for the entire role.

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Group's Discussion of the Solution

The Modification Group notes that P255 is not intended to set a precedent for ELEXON undertaking any other BSC Agent roles. The Modification is building on the P133 provisions already contained in Section C9 regarding the PrA rather than removing parts of Section E 'BSC Agents'.

The Group has queried why, where ELEXON assumes responsibility for the PrA role and subcontracts part of it, the subcontractor will be a service provider rather than a BSC Agent. ELEXON has clarified that it cannot be a BSC Agent, and will be acting as BSCCo when undertaking any in-house element of the role. For any sub-contracted element, there are advantages in contracting for this as a service provider (non-BSC Agent) role. One is that it potentially widens the pool of available bidders, because the restriction that BSC Parties cannot be BSC Agents will not apply. Another is that ELEXON will be responsible for the delivery of the entire service (including the subcontracted element), avoiding the potential for any disagreement or ambiguity over responsibilities.

It also avoids the need to amend the PrA Service Description to separate out elements of the role, as ELEXON will assume responsibility for delivering the whole Service Description directly and through any service provider. Putting the division of responsibilities in the contract with the service provider gives the flexibility to adjust these over time if necessary and if agreed by the Panel. Leaving the Service Description unchanged also means that if the Panel decides to put the entire role out to tender as a BSC Agent procurement then the Service Description can be quickly utilised for this in its current form.

The Group has queried whether the procurement of the data collection role will be any less competitive or transparent if this is a service provider, rather than a BSC Agent, role. ELEXON has clarified that, although the procurement process will be slightly different the basic principles are the same. It will be a full competitive procurement following EU procurement guidelines, and the Panel will still have involvement and scrutiny.

The Group has noted that the Panel will need to agree the business case for ELEXON actually undertaking any part of the role before a competitive tender takes place for any part of the service.

The Group has discussed how ELEXON will continue to provide evidence of the efficiency/cost effectiveness of any parts of the role carried out in house. It is satisfied that the costs will be more transparent to industry than currently as they can be included in ELEXON's budget reporting and forecasting (currently ELEXON only has limited transparency over the costs of the data analysis service because this is a subcontracted part of the overall contract costs). The Group is keen that, while the Panel will be provided with a robust business case for ELEXON performing parts of the role, a proportional approach shall be taken when carrying out benchmarking exercises in the future.

The Group has discussed whether Panel agreement of the business case is necessary, or whether approval by ELEXON's Board is sufficient. The Group believes that it is still right that this falls under Panel governance to give assurance to industry that the business case is robust and in the industry's best interests. The Group believes that the Panel should retain the right to undertake a full BSC Agent procurement if it believes the business case is unproven.



What is an 'enabling' change?

P255 is purely a change to the Code to enable the Panel to consider more flexible approaches to discharging the PrA service.

The business case for whether ELEXON should actually bring any part of the service in house is outside the scope of this Modification, and will be considered by the Panel separately if P255 is approved.

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The Group has asked what will happen if ELEXON or the Panel later determines that it is no longer more efficient to undertake some of the work in house. In these circumstances a separate procurement could be carried out for that part of the work. It would not be necessary to wait until the end of any other PrA service contracts to end before procuring, although the Panel could choose to do so and then procure both elements together.

Overall, the Group is satisfied that there will be sufficient checks and balances to ensure that ELEXON only assumes responsibility for the PrA service (now and in the future) if the Panel agrees this to be the most efficient/cost-effective approach. The Group agrees that there will be no reduction in transparency or in the competitiveness of the procurement for any subcontracted element of the role.

The Group agrees that the P255 legal text should leave it open to the Panel to determine what constitutes an appropriate and proportionate business case.

The Group notes that one approach could be for the Panel to request that ELEXON undertakes a tender process to confirm that it is the most efficient/economic provider of the service. However, the Group notes that there is a cost associated with a tender process which will ultimately be passed to the industry. There may be some circumstances where the cost-savings of ELEXON delivering part of the role are so significant that undertaking a tender process would be an unnecessary and inefficient expense. The Group agrees that it should therefore be for the Panel to decide what level of cost benchmarking is sufficient for it to have confidence in the business case.

Currently, the PrA calculates the Group Average Annual Consumptions, Regression Coefficients and Profile Coefficients, and ELEXON then checks these calculations. **The Group notes that, if ELEXON delivers the data analysis part of the PrA service in-house, separate staff will calculate and check these deliverables in order to ensure that the level of robustness in the calculations remains unchanged.** One respondent to the Assessment Consultation notes that these deliverables are also checked by the Profiling Expert Group (PEG) for accuracy.

Alternative Solution

Neither the Group nor any of the consultation respondents have identified any alternative solutions.

4 Impacts & Costs

Costs

ELEXON Cost	ELEXON Service Provider cost
Minor costs to update the Code, approximately £240. The costs of ELEXON bringing the data analysis service in house (and managing the data collection aspect as a subcontracted service) are outside the scope of this Modification and will be considered as part of the business case that ELEXON will present to the Panel if P255 is approved.	None – the Modification itself will not alter the PrA arrangements.

Indicative industry costs

None, as there will be no change to the PrA service itself.

Impacts

Impact on BSC Systems and process

None – the Modification itself will not alter the PrA arrangements.

Impact on BSC Agent/service provider contractual arrangements

None – the Modification itself will not alter the PrA contract.

Impact on BSC Parties and Party Agents

None, as there will be no change to the PrA service itself.

Impact on Transmission Company

None.

Impact on ELEXON

Area of ELEXON's business	Potential impact
Service Delivery	Will potentially have the ability to perform parts of the PrA service and subcontract out others.
Commercial and Procurement	Will be able to propose an alternative procurement approach to the only existing option of re-procuring the PrA service in its entirety as a BSC Agent.

Impact on Code

P255 impacts Section C, Section H and Annex X-1.
You can find the legal text in Attachment A.

Impact on Code Subsidiary Documents

None. The description of the PrA service in the Service Description and BSCPs will remain unchanged.

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5 Implementation

Because of the interaction with the forthcoming PrA procurement exercise, an Authority decision is needed before we issue the formal Invitation to Tender (ITT) for the service. This will allow us to know which parts of the service we need to procure.

If we do not obtain a decision in time, or if the Modification is rejected, ELEXON will undertake a full procurement for the role of the PrA as a BSC Agent.

Participants will not have to make any changes for implementation. Therefore the Modification Group and the Panel unanimously recommend that P255 is implemented **5 Working Days after an Authority decision.**

Note that, from the point of view of the procurement exercise, it is the timing of the Authority decision (rather than the point that the Code changes go live) which is important and gives certainty as to which procurement approach we recommend to the Panel.



What are the Applicable BSC Objectives?

(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 electricity 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

Modification Group's views

The Group unanimously agrees that P255 will better facilitate the achievement of Applicable BSC Objective (d).

A majority of group members agree that it will also better facilitate Applicable BSC Objective (c), although this is more of a consequential impact than the main benefit.

The Group's views are as follows:

Applicable Objective (d)	
Benefits	Disadvantages
<ul style="list-style-type: none"> Enhances efficiency by removing any constraints that prevent ELEXON from ensuring the efficient provision of the PrA service. Potential to provide material cost savings to industry, recognising natural efficiencies (e.g. existing ELEXON expertise) of bringing data analysis role in house. Allowing the data collection aspect of the role to be procured separately may widen the pool of bidders – allowing for a more competitive procurement. 	<ul style="list-style-type: none"> None identified.

Applicable Objective (c)	
Benefits	Disadvantages
<ul style="list-style-type: none"> Reduces costs to Suppliers which enables them to spend money elsewhere to the benefit of their customers, thereby promoting competition. 	<ul style="list-style-type: none"> None identified.

Further Rationale

The Group has discussed the changes in the market that will come with smart metering. It believes that building in flexibility to adapt to this and have the ability to take advantage of smart metering is the right approach.

The Group also notes that, given the expectation that profiles will become obsolete in the future, it is possible that organisations will not want to undertake something so specific as the data analysis element in the knowledge that it may be a diminishing service.

7 Assessment Procedure Consultation Responses



What do respondents think?

Assessment Consultation respondents unanimously support the Group's views.

The unanimous view of Assessment Consultation respondents is that P255 should be approved.

Respondents shared the views of the Group that this Modification will allow for a more efficient provision of the PrA services, allowing increased transparency and flexibility.

The following table summarises respondents' views. You can download the full responses from our website [here](#).

Question		Response
1	Would P255 help to achieve the Applicable BSC Objectives?	6 Yes 0 No
2	Do you support the implementation approach?	6 Yes 0 No
3	Are there alternative solutions that the Modification Group has not identified, that it should consider?	0 Yes 6 No

8 Panel's Views and Report Phase Consultation Responses



What were the Panel's initial views?

By majority, the Panel agreed that P255 promotes efficiency and should be made.

One Panel Member did not agree with this recommendation.

Panel's Consideration of Assessment Report

The Panel discussed the principle of ELEXON undertaking the PrA role, whether in whole or in part. One Panel Member believed strongly that it would be inappropriate for ELEXON to perform a BSC Agent role, as the BSC was designed so that ELEXON would contract out these services and would simply oversee the contracts. The Panel Member believed that P255 would go against this principle and would set an unacceptable precedent for the future. They were also concerned that sufficient checks and balances must be in place to ensure that any conflicts of interest are addressed when procuring and delivering the PrA role. This Panel Member therefore considered that P255 is more than simply an 'enabling' change.

A majority of Panel Members disagreed with this view, and agreed with the Modification Group that P255 is an enabling change to give the Panel the ability to consider the business case for ELEXON delivering any element of the PrA service in house. These Panel Members agreed that this could promote efficiency. These Members agreed that it is not part of the Modification to outline the actual business case, since the Panel will consider this separately once the Code is changed to allow it to do so. These Panel Members agreed that it is crucial that P255 contains sufficient checks and balances, and believed that it does so by leaving the ultimate decision with the Panel as to how the service is discharged. They noted that, if the Panel does agree that ELEXON should bring part of the service in house, then ELEXON will be required to periodically represent the business case for Panel approval. The Panel will always retain the ability to put the whole PrA service out to tender by third-party providers.

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A majority of Panel Members did not believe that P255 sets a precedent for ELEXON undertaking other BSC Agent roles. They agreed with the Modification Group that there are specific characteristics of the PrA role (especially the data analysis element) which mean that it could be pragmatic/efficient for ELEXON to deliver part of the role in house. They noted that the legal text states that this ability only applies to the PrA role, and that this builds on the existing P133 Code provision that ELEXON may deliver the PrA role in certain limited circumstances.

One Panel Member asked why P255 has been raised now, as they felt it would have been more appropriate to wait for the outcome of the Profiling and Settlement Review Group (PSRG). This Panel Member was uncomfortable with the short timescales (one-month Assessment Procedure) under which P255 has been considered and questioned why, if the procurement approach is dependent on the change, it was not raised sooner. ELEXON responded that, while not ideal, the timescales for the Modification are necessary in order to provide clarity on the shape of the service that ELEXON is procuring before the Invitation To Tender (ITT) is issued. The option of delivering the data analysis in house has only been identified due to the work being done around the future of profiling in Settlement.

Another Panel Member noted that the raising of P255 follows discussion at the Supplier Volume Allocation Group (SVG), and this Member believed that the change will allow the anticipated recommendations of the PSRG to be taken advantage of more easily rather than provide further complications. This Panel Member agreed with the Group that P255 will enable ELEXON and the Panel to have greater flexibility in adapting to future industry developments such as smart metering, and some other Panel Members supported this view.

By majority, the Panel's initial recommendation was therefore that P255 better facilitates the achievement of Applicable BSC Objective (d) and should be made. Generally, these Panel Members did not believe that there will be a material impact on competition and Objective (c).

The minority view of one Panel Member was that P255 does not better facilitate the achievement of Applicable BSC Objectives (c) or (d) and should not be made, due to their concerns as outlined above.

Panel Members noted that they had the ability to change their views if any issues were raised by Report Phase Consultation respondents.

Panel Members initially agreed the draft legal text and implementation approach without comment, subject to any views received from the consultation.

Report Phase Consultation Responses

Respondents unanimously agree that P255 will give ELEXON and the Panel more flexibility to ensure the efficient and economic provision of the PrA service, and that the Modification should therefore be approved.

The following table summarises respondents' views. You can download the full responses from our website [here](#).

Question		Response
1	Do you agree with the Panel's initial majority view that P255 should be approved?	8 Yes
2	P255 is an enabling change. Do you agree that it contains sufficient checks and balances on any decision to bring part of the Profile Administrator service in house to ELEXON?	7 Yes 1 No
3	Do you agree with the Panel's suggested Implementation Date?	7 Yes 1 Neutral
4	Do you agree that the legal text delivers the intention of P255?	6 Yes 2 Neutral



What do respondents think?

Report Phase Consultation respondents unanimously agree that P255 should be approved.

Respondents' comments on the checks and balances

All but one of the Report Phase Consultation respondents believe that P255 contains sufficient checks and balances on any decision to bring part of the PrA service in house to ELEXON.

The other response is from the current provider of the PrA data analysis service (the subcontractor of our existing BSC Agent). This response agrees that P255 will give greater flexibility and should be made. However, it questions the level of cost savings and efficiencies that ELEXON can deliver by bringing the data analysis service in house. As this relates to the business case rather than the Modification, we have discussed this element of the response with the Panel separately to P255.

Respondents' comments on the legal text

The legal text requires that, if the Panel consents to ELEXON bringing any element of the PrA service in house, then ELEXON must subsequently present a revised business case to the Panel at least once every 5 years. This is intended to provide the Panel and industry with ongoing assurance that ELEXON continues to remain the most efficient/economic provider of the service.

One respondent agrees that the legal text delivers the intention of P255, but suggests that the text should be changed to require ELEXON to present a revised business case at least once every 3, rather than 5, years. We have clarified with the respondent that the Modification Group agreed 5 years so as to be comparable with the usual duration of a BSC Agent contract. However, the legal text allows the Panel to reassess the business case at any time, if there is a material change to ELEXON's systems or processes (including resources) which raises the reasonable expectation of an impact on our ability to deliver the service efficiently. The Panel will retain the ability to undertake a procurement each time it re-examines the business case.

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The same respondent suggests that ELEXON could undertake annual benchmarking of the efficiencies/economies of its approach. As outlined above, ELEXON and the Panel could re-evaluate the business case at any time following a material change in ELEXON's provision of the service, and must re-examine the business case at least once every 5 years even if there has been no material change. The Modification Group believes that any benchmarking should be proportionate in its scope and frequency, so that the effort involved does not undermine the flexibility for cost savings that P255 is intended to facilitate. The Group has agreed the legal text as delivering this intention.

No other respondents had any comments on the legal text. However, the Panel agreed some subsequent minor clarifications to the text after the consultation as explained below.

Minor Clarifications to Draft Legal Text

Following the Report Phase Consultation, we made 4 minor clarifications to the legal text as a result of discussions with Ofgem. The changes are non-material, do not alter the intention of the text, and therefore do not require further industry consultation.

In all 4 cases we believe that the original wording of the text was legally clear and robust in delivering the intention of P255. However, we agree that making the intention more explicit could add beneficial clarity in these areas.

The 4 clarifications are:

- **Changing "BSCCo may" to "BSCCo shall" in C9.1.1.** This adds extra clarity that, if the Panel approves the business case, ELEXON then has the responsibility to provide the PrA service. Although we believe this was clear when read in conjunction with the rest of the text, changing the "may" to a "shall" could help make the resulting obligation on ELEXON to provide the service even more explicit.
- **Including an additional sentence in C9.1 that, if the Panel does not give consent to ELEXON providing the PrA service, then ELEXON will undertake a BSC Agent procurement in accordance with Section E of the Code.** We believe this is already clear when the legal text is read in conjunction with the existing provisions of Section E (which are unchanged by P255). However, adding an explicit statement in the text to this effect may aid clarity and provide a useful "hook" back to the Section E provisions.
- **Reinstating some deleted text in the title of Section C9.1.** Originally we had deleted the words "in certain circumstances". However, following the previous clarification above, we believe it is clearer for these words to remain (the "certain circumstances" being met if the Panel gives consent to ELEXON providing the PrA service). The titles of Code sections have no legal effect. However, they are guides to interpretation and as such reinstating this wording could aid clarity.
- **Changing "systems or processes" to "systems, processes or resources" in C9.1.3 (now C9.1.4 in the updated text).** We believe this change is not strictly necessary, and that the reference to "systems and processes" (using the wider dictionary meaning of "systems" rather than just IT systems) would be wide enough to include any change in personnel that is likely to impact our ability to efficiently deliver the PrA service. However, including a specific reference to "resources" could help avoid confusion.

We therefore invited the Panel to approve this text, including the 4 additional minor clarifications.

Panel's Consideration of Draft Modification Report

The Panel Member with the minority view at the previous meeting was not present. Another Panel Member shares some of the absent Member's concerns as expressed at the last meeting. They also do not agree with the Modification Group's views on Applicable BSC Objective (c), as they believe it cannot be said with certainty that there will be cost savings to Parties. However, the Panel Member does believe that P255 marginally enhances efficiency by removing constraints and is therefore supportive of the Modification. The rest of the Panel's views are unchanged, and Members continue to believe that the relevant Applicable BSC Objective is (d), not (c).

The Panel agreed the 4 minor clarifications to the legal text, noting that these are non-material and do not require further consultation. Recognising the consultation response regarding the legal text, the Panel agrees that 'at least every 5 years' provides sufficient scope for a review of the business case to be taken earlier if the Panel wishes.

Panel's Final Recommendation to the Authority

The Panel's final unanimous recommendation to the Authority is therefore that P255 better facilitates Applicable BSC Objective (d) and should be made, with an Implementation Date of 5 Working Days after an Authority decision.

You can find the legal text agreed by the Panel in Attachment A.

9 Recommendations

Having considered the P255 draft Modification Report, the BSC Panel unanimously recommends:

- that P255 **should** be made;
- an Implementation Date of 5 Working Days after an Authority decision; and
- the proposed text for modifying the Code, as contained in Attachment A.



Recommendation

The Panel's unanimous recommendation is that P255 should be made.

10 Further Information

You can find more information in:

Attachment **A**: Legal Text

You can download all P255 documents, including copies of the full responses to the Assessment Procedure Consultation and Report Phase Consultation, from our website [here](#).