

## Stage 03: Attachment A: Detailed Assessment for P262

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

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

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## About this document:

This is Attachment A to the Assessment Consultation/Report. This attachment provides additional information, including details of the Modification Group's discussions.

## 1 Terms of Reference

### P262 Terms of Reference

The P262 Modification Group should consider the following items:

|   |   |
|---|---|
| 1 | The effect of the Modification on the Applicable BSC Objectives.  |
| 2 | Is there any Alternative Modification which would better facilitate the achievement of the Applicable BSC Objectives in relation to the identified issue or defect. |
| 3 | The most appropriate implementation approach for the Modification.  |
| 4 | The most appropriate legal drafting to deliver the solution.  |

## 2 Amendments to the Proposed Modification solution

After receiving clarifications from Ofgem on the final updated Transmission Licence, the Proposer has made a number of amendments to the Proposed Modification solution from the solution included in the Modification Proposal form. They are as follows:

### **Modifications undergoing SCR Suitability Assessment do not stop their progress until an Authority direction**

The final Transmission Licence drafting allows the Modifications Procedures to continue while the Authority is deliberating on a SCR Suitability Assessment. Therefore the Proposer has updated the solution so that, while Modification Proposal is undergoing a SCR Suitability Assessment, the Modifications Procedures continue until the Authority direct that the Modification Proposal is Subsumed. This removes the need for putting the Modification Proposal on hold for a period of time.

### **Only the Authority can initiate an SCR Suitability Assessment**

The Proposer has also updated another element of the SCR section of the solution. Only the Authority may direct that an SCR suitability assessment is undertaken. In previous solutions the Panel also had the ability to request that an SCR Suitability Assessment be undertaken. The Proposer believes it is more appropriate that the Authority should be the only one that has the ability to trigger a SCR suitability assessment, since they will ultimately declare if a Modification Proposal is SCR exempt.

It also removes concerns that a SCR suitability assessment could be suggested by Modification Groups to the Panel as a filibustering tactic.

### **Adoption of SCR Modifications which are withdrawn**

The Proposer has amended the Proposed solution so that SCR Modification Proposals can be adopted (using the current BSC adoption rules) if withdrawn by the Licensee. The Modification Group believed this would be beneficial as valid alternatives may come out of the SCR Modification Proposal Assessment Procedure. Parties should have the ability to take these alternatives forward in the most cost effective way. It is more cost effective to adopt a withdrawn SCR Modification Proposal rather than raising a new Modification Proposal.

## Treatment of SCR exempt Alternatives.

The Modification Group noted that it was unclear whether the alternatives for a SCR exempt Proposed Modification would also be SCR exempt. The Group agreed that the default position should be that if the Proposed Modification is exempt, all alternatives shall also be considered SCR exempt.

### 3 Modification Group's Discussions

The following sections details some of the discussions and consultation the Group had when progressing P262.

#### Significant Code Reviews

##### Exemption process should not be onerous

The Group were concerned that the SCR exemption process could be overly onerous and bureaucratic for something that should be simple. ELEXON clarified that they envisaged Ofgem providing SCR exemptions at the Panel where the Modification Proposal was presented. If the Ofgem representative was unable to attend then the SCR exemption could be provided in writing (either before or after the Panel).

##### Should Proposers raise Modifications in order to be subsumed into an SCR?

One member questioned whether a Proposer should raise a Modification Proposal with the express intent of having it Subsumed into a SCR and therefore become part of the SCR debate. The Ofgem representative noted that the Transmission Licence prevented this – Parties were not allowed to raise Modification Proposals with the express intention of being included in an SCR. This did not prevent Parties raising Modification Proposals in good faith that were subsequently Subsumed into a SCR. If a Party had an issue they wanted to have discussed as part of SCR then they should contact Ofgem directly.

##### Does the Panel always need to conduct an SCR Suitability Assessment?

One member questioned whether the Panel always needed to conduct a SCR Suitability Assessment. In situations where the Modification Proposal was self evidently linked to an SCR surely the Panel did not need to conduct a SCR Suitability Assessment. ELEXON clarified that the Transmission Licence required the Panel to conduct a SCR Suitability Assessment for all Modification Proposals that were not declared SCR exempt by the Authority. However, the SCR Suitability Assessment would not be onerous and be virtually no additional work for Panel or ELEXON.

##### What happens to Subsumed Modification Proposals after the completion of SCR Phase?

One member requested clarification for what happens to Subsumed Modification Proposals at the end of SCR Phase. They noted that this should be more fully defined in the solutions. ELEXON has defined the process in Section 3 of the main document.

## Self-governance

ELEXON presented the Proposed solution for Self-governance Modification Proposals. The Group noted the solution and had no further comments.

## Code Administration Code of Practice

### Should ELEXON get Panel approval to raise changes to the Code Administration Code of Practice?

This discussion led to the development of 'potential addition 2' and is captured in the main document section 6.

### What about other Code Administration Code of Practice changes?

One member asked whether P262 would seek to enact all of the potential Transmission Licence and Code Administration Code of Practice changes. For example, changes to the way the BSC Panel Chairman is appointed. ELEXON noted that P262 would put in place the minimum requirements to implement the Code Governance Review Transmission Licence updates. There may be other changes that would be progressed in the future and these would be considered in time. However, P262 would ensure the BSC was consistent with the updated Transmission Licence.

## 4 Timetable and Responsibilities

### Timetable

| Assessment Activity                | Date                             |
|------------------------------------|----------------------------------|
| Modification Group 1               | 23 August 2010                   |
| Draft Consultation Document        | 24 August – 31 August 2010       |
| Assessment Procedure Consultation  | 01 September – 22 September 2010 |
| Modification Group 2               | 28 September 2010                |
| Draft Assessment Report            | 29 September – 07 October 2010   |
| Submit Assessment Report to Panel  | 08 October 2010                  |
| Present Assessment Report to Panel | 14 October 2010                  |

### Attendance list

| Member         | Organisation                              | 23/04/10 |
|----------------|---|----------|
| Adam Lattimore | ELEXON (Chairman)                         | ✓        |
| Andrew Wright  | ELEXON ( Lead Analyst)                    | ✓        |
| Steven Lam     | Proposer's Representative (National Grid) | ✓        |
| Chris Stewart  | Centrica                                  | ✓        |
| Steven Eyre    | EDF Energy                                | ✓        |
| Man Kwong Liu  | Accenture                                 | ✓        |
| Esther Sutton  | E.ON                                      | ✓        |
| Garth Graham   | SSE                                       | ✓        |
| Robin Healey   | npower                                    | ✓        |
| Lisa Waters    | Waters Wye Associates                     | ✓        |
| Attendee       | Organisation                              |          |
| David Ahmad    | ELEXON (Lawyer)                           | ✓        |
| Clare Cameron  | Ofgem                                     | ✓        |