

PANEL GOVERNANCE REVIEW – INITIAL THOUGHT-PIECE: KEY ROLES AND FUNCTIONS OF THE BSC PANEL

1. Aim

- 1.1 The review is seeking to provide clarity in the role of the BSC Panel and, where relevant, how this relates to BSCCo. This will encompass consideration of the manner in which the BSC Panel oversees the terms of the BSC, how pro-active it is in its role and how it might make use of a Panel Strategy and best co-ordinate change activities.
- 1.2 This paper sets out the initial conclusions of the Panel's Governance Review Group for discussion. Further background and additional considerations giving rise to these initial conclusions are set out in Appendix 1.

2. Purpose of the Panel

- 2.1 The companion paper regarding Panel Member Accountability considered the high-level purpose of the BSC Panel. It concluded that:

The BSC Panel is responsible for independently ensuring that the terms of a multi-party contract (the BSC) are given effect and operate fairly and effectively for the benefit of all parties (or prospective parties) to the contract but always in favour of the greater common good in a way which is consistent with achieving the Applicable BSC Objectives in a transparent, economic, efficient and non-discriminatory fashion.

- 2.2 This conclusion will be used as the basis for further consideration of the matters arising in this paper.

3. Review of BSCCo Governance

- 3.1 The BSCCo Board has commenced a review of BSCCo governance (currently being conducted by the board in dialogue with the BSC Panel). It has produced a straw man which includes proposals regarding:
 - BSCCo Board Accountability
 - BSCCo Director Appointments
 - Responsibility for setting the BSCCo Strategy
 - Enhanced communication and engagement
- 3.2 The high-level principles set out in the straw man were discussed by BSC Panel Members in November 2014. BSC Panel Members expressed broad support for these proposals, subject to further work being undertaken to flesh out the details, which have therefore be taken into account when considering the key roles and functions of the BSC Panel.

4. Initial Conclusions for Discussion

- 4.1 **The BSC Panel is the curator of the BSC and its core role is to make decisions regarding the application, amendment and interpretation of the BSC (in consultation with BSC Parties as appropriate).**
- 4.2 The four main functions of the BSC Panel can be summarised as:

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- i) **Setting certain parameters and directing certain actions** to ensure the BSC provides appropriate signals and intended outcomes that demonstrably achieve the Applicable BSC Objectives and align with the greater common good;
- ii) **Amending the BSC¹** to ensure it is robust, fair and continues to facilitate the Applicable BSC Objectives and aligns with the greater common good;
- iii) **Providing assurance to interested parties** that BSC Parties comply with the terms of the BSC and that identified issues are appropriately resolved; and
- iv) **Setting the requirements for BSC services**, including those for BSCCo as an independent provider of services to BSC Parties and the BSC Panel.

4.3 The agreed BSC Panel Strategy implies a pro-active approach to delivery of the Panel's four functions, which should be informed by the BSC Panel's agreed **strategic priorities**. That is:

- i) Protecting, maintaining and efficiently managing the balancing and settlement arrangements as they exist today; and
- ii) Looking ahead to the evolution of the market and how the current balancing and settlement arrangements need to adapt to facilitate such change.

4.4 Such a pro-active approach could include:

1: Setting certain parameters and directing certain actions to ensure the BSC provides appropriate signals and intended outcomes that demonstrably achieve the Applicable BSC Objectives and align with the greater common good

- Ensuring key settlement measures are monitored;
- Establishing principles to underpin the identification of issues or exceptions to the satisfactory operation of the balancing and settlement arrangements;
- Ensuring exceptions to anticipated outcomes are investigated and tracking that appropriate action is taken that resolves the identified issue(s);
- Setting out a transparent programme for regular review of the various settlement parameters required by the BSC to deliver the Panel's desired outcomes (including at the outset of any review conducted by the Panel or its Panel Committees); and
- Being clear about the desired outcomes associated with any proposed changes to settlement

2: Amending the BSC to ensure it is robust, fair and continues to facilitate the Applicable BSC Objectives and aligns with the greater common good

- Actively monitoring and providing input to industry initiatives, regulatory programmes and likely changes within the industry and directing action and analysis to support the timely co-ordination of change both under the BSC and across the industry;
- Highlighting areas of the BSC which could benefit from improvement (in the context of the Panel's purpose) to facilitate resolution via changes raised by BSC Parties;
- Raising issues or changes for the consideration of the industry which would resolve weaknesses in the BSC where such changes have not been, or, in the Panel's view, would be unlikely to be, raised by a BSC Party;
- Directing studies or commissioning expert insight

¹ The BSC encompasses the Balancing and Settlement Code itself and also the wide array of Code Subsidiary Documents (CSDs). The BSC Panel has direct authority for approving changes to CSDs (although it has delegated this, in part, across a number of Panel Committees). Conversely, changes to the BSC itself must (save in certain, specified circumstances) be approved by the Authority following a recommendation of the BSC Panel. It could therefore be said that the BSC Panel's function is to act as a check and balance in this change process: ensuring that amendments to the BSC are developed in consultation with interested parties and are made on the basis of clear recommendations that are supported by robust analysis and evidence. However, within the Modification process, the detailed amendments themselves (in the form of the approved Legal Text that will be inserted into the BSC) are developed and approved by the Panel, either directly or under delegated responsibilities. Consequently, the review group feels it is appropriate to describe the Panel function with an active voice.

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parameters) and reviewing the outcomes of changes to ensure that the desired outcomes have been achieved (and taking subsequent action to address any shortfalls).

from Panel Committees and/or BSCCo to support the assessment of potential impacts on or improvements to the BSC; and

- Being clear about the desired outcomes associated with any proposed changes to the arrangements and reviewing the outcomes of changes to ensure that the desired outcomes have been achieved (and taking subsequent action to address any shortfalls).

3: Providing assurance to interested parties that BSC Parties comply with the terms of the BSC and that identified issues are appropriately resolved

- Establishing a view of the current and potential risks to settlement;
- Prioritising the significance of identified risks and issues;
- Defining an acceptable risk appetite;
- Reviewing, approving and supporting the high-level application of the assurance regime, including the scope of the BSC Audit and the work of the BSC Auditor;
- Setting expectations for the PAB and TDC and ensuring that they are fulfilling their terms of reference;
- Supporting the PAB in securing the compliance of Parties; and
- Facilitating the resolution of weaknesses in the BSC where these are identified, whether by the PAB, TDC, any other Panel Committee or interested Party.

4: Setting the requirements for BSC services, including those for BSCCo as an independent provider of services to BSC Parties and the BSC Panel

- Communicating (via the Panel Strategy and Strategic Work Programme) the focus and priorities of the BSC Panel as a key driver for the focus and priorities of Panel Committees and BSCCo;
- Establishing clear principles / articulating desired outcomes for BSC services and adopting appropriate service-management tools to track progress;
- Actively liaising with BSCCo board directors and the BSCCo executive team to review BSC service performance and discuss potential service improvements;
- Ensuring a regular dialogue with Panel Committees and Panel Committee Chairs to review the work of Panel Committees and performance against their Terms of Reference; and
- Setting out a transparent programme for regular review of the various service parameters and thresholds required by the BSC to deliver the Panel's desired outcomes under the established principles.

4.5 **BSCCo provides independent services to BSC Parties and the BSC Panel under the terms of the BSC.**

4.6 In aggregate, the existing BSC provisions set out in Section C clearly establish BSCCo as a service provider to BSC Parties, operating under the terms of a contract (the BSC)².

4.7 However, BSCCo is required provide its services in a way that is independent from BSC Parties and the BSC Panel. BSCCo may do anything necessary for, or reasonably incidental to, the discharging of the functions and responsibilities that are assigned to it and it must do this in a way that clearly exhibits the principles embodied in the Code Administration Code of Practice (CACoP).

² The terms of the BSC are, in turn, overseen by the BSC Panel in accordance with its purpose.

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- 4.8 While the objectives of the BSC Panel and the BSCCo are aligned, the various obligations regarding independence mean that the views and opinions of the BSC Panel, Panel Members and the BSCCo may not always align. A divergence of views, experienced from time to time, should not be taken to indicate a problem where this is part of a working culture that supports an open and constructive dialogue to address such circumstances when they arise.
- 4.9 Viewing the relationship of the BSC Panel and BSCCo from the perspective of a customer and service provider provides some insight into how the BSC Panel and BSCCo should work in partnership with each other and places context around those areas of ambiguity being discussed under the review of BSCCo governance.
- 4.10 The Panel may wish to consider the steps it should take to determine the service that it needs from BSCCo and ensure that these service requirements are met. This could include consideration of:
- How best to articulate the requirements for non-business as usual work via the Panel Strategy and Strategic Work Programme;
 - Whether there are expected outcomes for the services provided by BSCCo which the Panel should define as Key Performance Indicators (KPIs)³;
 - How to best discharge the Panel's responsibilities relating to Information Systems (IS) policies as set out in Section F of the BSC. For example, it might be that these documents should focus on the desired outcomes and key principles, rather than seeking to detail processes and activities. Regular reviews could be undertaken by the Panel itself or via a Panel Committee, working in partnership with the BSCCo senior management and executive staff responsible for these policies. Other elements could include reporting on exceptions by the BSCCo Board or specific inclusion within the scope of the BSC Audit;
 - How the current reports (particularly the ELEXON report to the Panel and the Quarterly Reports published by BSCCo) may be amended to ensure they are providing the appropriate information in the most appropriate way;
 - Whether to establish additional policies setting out expectations in relation to BSCCo services, including, for example, the adherence to certain standards of good working practice and provisions relating to conflict of interest etc.;
 - Whether to establish a six-monthly review meeting with the BSCCo Board and/or the BSCCo Executive team to review progress against the Panel Strategy and performance in respect of KPIs etc. ; and
 - How the existing provisions relating to BSC Parties that are in breach of the BSC might apply to BSCCo should it fail to deliver services in line with the provisions of the BSC.

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³ Such KPI's could also, in time, support reporting to BSC Parties in their proposed role as quasi-shareholders (under the proposals of the review of BSCCo governance)

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APPENDIX 1

1. Background

- 1.1 In the 1999 consultation Ofgem said that the Panel 'will be the key body tasked with ensuring that the BSC is effectively and efficiently managed, and that appropriate revisions to the trading arrangements are secured in a robust and timely fashion.' The consultation went on to describe the function of the Panel 'to establish, supervise and administer the operation of BSC functions, systems and processes.'
- 1.2 The BSC today places an obligation on the BSC Panel to conduct its business with a view to achieving a number of key objectives. These objectives can be summarised as giving full and prompt effect to the BSC consistent with achieving the Applicable BSC Objectives in a transparent, economic, efficient and non-discriminatory way.
- 1.3 The BSC Panel must undertake work and make recommendations so as to better facilitate the delivery of these objectives. ELEXON, as the BSCCo, is the independent organisation which supports the Panel in its work and is the delivery body that ensures that the contract (i.e. the BSC) is given effect.
- 1.4 In its review of Code Governance in 2010, Ofgem confirmed its view that 'governance processes [should be] transparent and accessible, which is particularly important for small participants and consumer groups'.
- 1.5 However, the Knight report⁴ concluded that there is a lack of clarity in the relationship between the BSCCo board and the Panel. The Panel and the BSCCo board are inextricably linked through a shared Chairman and through their joint responsibility in approving the annual BSCCo business plan. The report notes that, as the BSC has bedded in, and ELEXON's role has started to shift as activities have expanded beyond the BSC, it has become apparent that the relationship between the Panel and BSCCo Board is not clear or straightforward.

2. The Review of BSCCo Governance

- 2.1 The BSCCo Board has commenced a review of BSCCo governance (currently being conducted by the BSCCo board in dialogue with the BSC Panel) to address these points. It has produced a straw man which includes the following proposals:
 - **Accountability** - A new power to remove ELEXON directors exercisable by BSC Parties in their role of quasi shareholders:
 - BSC Parties would be able to vote on the removal of directors and raise issues through special resolution which could include, but would not be limited to, strategy. These resolutions would be non-binding, but may lead to further resolutions on director removals;
 - **Director Appointments** - Amendments to director appointments, encompassing:
 - Directors to be appointed based on the recommendation of the Board's Nominations Committee;
 - BSCCo Executive Team members could be appointed as Executive Board Members;
 - Removal of the direct link between the BSCCo Board and the BSC Panel chair such that Panel Chair would automatically sit on the Board and would be eligible but not be required, to be the Board Chair;
 - **Setting Strategy** - BSCCo to become responsible for setting the company strategy, by:

⁴ The [Knight report](#) is an independent review of ELEXON's governance commissioned jointly by the BSCCo Board and BSC Panel

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- Ensuring that the Panel has earlier input to the BSCCo strategy, formulating its own settlement priorities on which it wishes BSCCo to focus;
- Removing the requirement for the BSC Panel to approve the BSCCo strategy since the Panel will have provided input as noted above and the industry will have made its views known through the circulation of the strategy for comment as today;
- Ensuring appropriate focus offered via the capability for BSC Parties remove board members, or even the entire board, through the director removal voting process; and
- **Enhanced Communication** - An increase in routine engagement with industry to ensure the BSC Panel and the industry is familiar with and enables the Board to ascertain the level of support for BSCCo's strategy and activities.

2.2 These principles were last discussed at a joint workshop of BSC Panel Members and BSCCo Board Members held on 13 November 2014. There appeared to be broad agreement that the direction of travel set out in the straw man was appropriate. While it was acknowledged that further work was required to flesh out the details, the principles described above were generally supported by BSC Panel Members and have therefore been taken into account when considering the key roles and functions of the BSC Panel as currently defined.

3. Defined Powers and Functions of the BSC Panel

- 3.1 Apart from a small number of minor exceptions, all companies that generate, supply, distribute or trade energy need to be a Party to the BSC. Parties that accede to the BSC are required to comply with the existing arrangements (they don't have the same freedom to negotiate terms as they would with a normal contract). The contract (i.e. the BSC) therefore mandates an independent body to make decisions regarding the application, amendment and interpretation of the BSC. In many cases, before making a decision, the BSC Panel is required to consult with BSC Parties (a process facilitated by BSCCo).
- 3.2 The BSC prescribes the powers and functions of the BSC Panel in Section B.3. It has the power to:
- Decide any matter which, under any provision of the Code, is or may be referred to the Panel for decision;
 - Establish Panel Committees and to delegate its powers, functions and responsibilities as provided for under the Code to any such Panel Committee. Panel Committees cannot further delegate their responsibilities or powers unless the BSC or the BSC Panel permits this.
- 3.3 Specific powers and functions are identified in BSC Section B3.1.2 and are detailed further in the relevant sections of the BSC and the Code Subsidiary Documents (BSC Procedures etc.). The Panel has delegated some of these functions and responsibilities to its Panel Committees and these various committees and groups can (and should) be free to express their own, independent, views on matters.
- 3.4 In summary, the BSC Panel is responsible for:
- a) Deciding (subject to a reference to or approval of the Authority, as provided in the Code) on the expulsion or suspension of the rights of any Party (see Section H for the Default provisions relating to Credit Default or breach of the BSC);
 - b) Implementing or supervising the implementation of the procedures for modification of the BSC (see BSC Section F for the procedures);
 - c) Establishing arrangements for the resolution of Trading Disputes (see BSC Section W);
 - d) Determining values for trading parameters (to be applied in the BSC) as may be required of the Panel in accordance with any provision of the Code;

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- e) Adopting and from time to time revising Code Subsidiary Documents (see BSC Section F3);
- f) Taking steps to ensure that the Code is given effect in accordance with its terms, and (but only where expressly so provided in the Code) taking steps to ensure compliance by Parties with the provisions of the Code;
- g) Providing or arranging for the provision of reports and other information to the Authority in accordance with the further provisions of the Code;
- h) Approving the Business Strategy prepared by ELEXON for each BSC Year, and revisions to that plan;
- i) Deciding matters which are referred to it (pursuant to any provision of the Code providing for such referral) following any decision or determination of ELEXON or a BSC Agent;
- j) Setting the terms of reference for the BSC Auditor and considering the BSC Audit Report;
- k) If requested by the Authority, conveying any direction or request of the Authority to any Party, ELEXON, the BSC Auditor or any BSC Agent;
- l) Preparing, considering, recommending changes (if necessary) and approving documents relating to performance assurance (in accordance with BSC Section Z) and hearing and determining Risk Management Plan Appeals.

4. Functional Themes

- 4.1 It is possible to consider the responsibilities of the BSC Panel under 4 functional themes encompassing:
- i) Setting commercial levers and directing action;
 - ii) Amending the BSC;
 - iii) Providing assurance to interested parties; and
 - iv) Setting the requirements for BSC services.
- 4.2 These themes can be expanded on by reference to the existing BSC provisions. These references are for illustrative purposes only. They do not represent an exhaustive account of the responsibilities that the BSC allocates to the BSC Panel.

Theme 1: Setting commercial levers and directing action to ensure the BSC provides appropriate signals and intended outcomes that demonstrably achieve the Applicable BSC Objectives and align with the greater common good

Responsibility as defined in BSC Section B3.1.2	Delegated To
(d) Determining values for trading parameters (to be applied in the BSC) as may be required of the Panel in accordance with any provision of the Code	Delegated (in part) to ISG, SVG and the Credit Committee
(k) If requested by the Authority, conveying any direction or request of the Authority to any Party, ELEXON, the BSC Auditor or any BSC Agent	Not Delegated
Other, related, Provisions	Delegated To
Setting the application fee payable by Party Applicants in connection with an application for admission as a party to the Framework Agreement -	Not Delegated

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<i>BSC Section A2.5</i>	
Determining that a non-trading Party's membership should be withdrawn <i>- BSC Section A2.6</i>	Not Delegated
Instructing BSCCo to adjust Funding Shares data in certain, exceptional cases <i>- BSC Section D1.4</i>	Not Delegated
Making various determinations regarding the application of ad-hoc Trading Charges and costs in relation to the established contingency provisions <i>- BSC Section G</i>	Not Delegated
Reviewing and Approving Line Loss Factor Methodologies <i>- BSC Section K1.7</i>	Delegated to SVG/ISG
Revising Grid Supply Points <i>- BSC Section K1.8</i>	Delegated to SVG
Considering Trading Unit Applications <i>- BSC Section K4.3</i>	Delegated to ISG
Determining the Small Scale Third Party Generating Plant Limit for Authority approval <i>- BSC Section L1.5</i>	Delegated review to SVG
Setting various parameters associated with Credit including the 'Credit Assessment Price' and 'Credit Assessment Load Factor' <i>- BSC Section M1.4 and M1.5</i>	Delegated (in part) to the Credit Committee and ISG respectively
Making various determinations in respect of Credit Cover lodged by BSC Parties <i>- BSC Section M2</i>	Not Delegated
From time to time, determining the Payment Calendar <i>- BSC Section N3.3</i>	Not Delegated
Postponing and/or re-scheduling Settlement Runs <i>- BSC Section N6.6</i>	Not Delegated
Setting the limits to apply to historic Bid and Offer Prices in relation to any Contingency Provisions and subject to the approval of the Secretary of State <i>- BSC Section Q5.5</i>	Not Delegated
Setting the fee that Parties must pay for raising a Manifest Error Claim <i>- BSC Section Q7.2</i>	Not Delegated
Approving Line Loss Factors for use by the CDCA <i>- BSC Section R4.2</i>	Delegated to the ISG
Setting, from time to time, the Smoothing Parameter to be used in the calculation of Estimated Annual Consumption <i>- BSC Section Annex S-2</i>	Delegated (in part) to the SVG
Setting various parameters and determining data sets used by the SVAA in its calculations <i>- BSC Section Annex S-2</i>	Delegated (in part) to the SVG
Setting and approving changes to the Market Index Definition Statement <i>- BSC Section T1.5</i>	Delegated (in part) to the ISG
Setting the single imbalance price to apply in respect of various Contingency Provisions and subject to the approval of the Authority <i>- BSC Section T1.7</i>	Not Delegated
Determining, from time to time, the De Minimis Acceptance Threshold for the approval of the Authority <i>- BSC Section T1.8</i>	Delegated (in part) to ISG
Determining, from time to time, the Continuous Acceptance Duration	Delegated (in part) to ISG

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Limit for the approval of the Authority - <i>BSC Section T1.9</i>	
Making determinations in respect of applicable Trading Charges where SAA systems have failed - <i>BSC Section T5.4</i>	Not Delegated
Determining the timetable for Extra Settlement Determinations and Post Final Settlement Runs and Post Final Volume Allocation Runs - <i>BSC Section U2.2</i>	Delegated to the TDC
Delaying a Timetabled Reconciliation Volume Allocation Run or a Timetabled Reconciliation Settlement Run - <i>BSC Section U2.3</i>	Not Delegated
Determining, from time to time, the charges that Parties must pay in relation to the High Grade BMRS Service - <i>BSC Section V2.3</i>	Not Delegated
Determining, from time to time, various elements of data that will be available on the BMRS Website - <i>BSC Section V4.3</i>	Not Delegated

Theme 2: Amending the BSC to ensure it is robust, fair and continues to facilitate the Applicable BSC Objectives and aligns with the greater common good

Responsibility as defined in BSC Section B3.1.2	Delegated To
(b) Implementing or supervising the implementation of the procedures for modification of the BSC (see BSC Section F for the procedures)	Cannot be Delegated (apart from limited provisions that enable the Panel to delegate assessment work to Modification Workgroups).
(e) Adopting and from time to time revising Code Subsidiary Documents (see BSC Section F3)	Mainly delegated to: ISG and SVG but also TDC & PAB
Other, related, Provisions	Delegated To
Establishing or adopting and subsequently amending the Data Catalogue - <i>BSC Section O1.1</i>	Delegated (in part) to ISG and SVG

Theme 3: Providing assurance to interested parties that BSC Parties comply with the terms of the BSC and that identified issues are appropriately resolved

Responsibility as defined in BSC Section B3.1.2	Delegated To
(a) Deciding (subject to a reference to or approval of the Authority, as provided in the Code) on the expulsion or suspension of the rights of any Party (see Section H for the Default provisions relating to Credit Default or breach of the BSC)	Not Delegated
(c) Establishing arrangements for the resolution of Trading Disputes (see BSC Section W)	Delegated (in part) to TDC
(f) Taking steps to ensure that the Code is given effect in accordance with its terms, and (but only where expressly so provided in the Code) taking steps to ensure compliance by Parties with the	Mainly delegated to PAB

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provisions of the Code	
(j) Setting the terms of reference for the BSC Auditor and considering the BSC Audit Report	Delegated (in part) to PAB
(l) Preparing, considering, recommending changes (if necessary) and approving documents relating to performance assurance (in accordance with BSC Section Z) and hearing and determining Risk Management Plan Appeals	Mainly delegated to PAB
Other, related, Provisions	Delegated To
Instructing BSCCo to take proceedings against Parties determined to be in breach of the BSC - <i>BSC Section C3.3</i>	Not Delegated
Determining the precedence of conflicting BSC provisions and taking steps to remove such conflicts - <i>BSC Section H1.5</i>	Not Delegated
Setting the SVA Qualification Requirements for Qualified Parties - <i>BSC Section J2.2</i>	Delegated, in part, to the PAB
Issuing derogations to any Qualified Person in respect of the Qualification of such Qualified Person - <i>BSC Section J3.9</i>	Not Delegated
Determining, in certain circumstances, the Party responsible for Import or Export volumes - <i>BSC Section K1.2</i>	Not Delegated
Determining, in certain circumstance, whether Generating Plant is Exemptable - <i>BSC Section K1.5</i>	Not Delegated
Monitoring rectification steps taken by BSC Parties to address non-compliances associated with Line Loss Factor Methodologies - <i>BSC Section K1.7</i>	Delegated to SVG/ISG
Approving or rejecting Metering Dispensation Applications - <i>BSC Section L3.4</i>	Delegated to ISG/SVG
Establishing the Metering Systems to be sampled by the Technical Assurance Agent each year and monitor the results - <i>BSC Section L7</i>	Delegated to the PAB
Reviewing a Lead Party's compliance with the provisions relating to Final Physical Notification Data - <i>BSC Section M1.8</i>	Not Delegated
Waiving the requirement for a BSC Party to maintain a Settlement Account at a Settlement Bank - <i>BSC Section N4.3</i>	Not Delegated
Considering Manifest Error Claims and determining appropriate settlement adjustments - <i>BSC Section Q7.4, 7.5 and 7.6</i>	Delegated (in part) to the TDC
Considering claims regarding compensation for outages - <i>BSC Section Q8</i>	Delegated to the Q8 Committee

Theme 4: Setting the requirements for BSC services, including those for BSCCo as an independent provider of services to BSC Parties and the BSC Panel

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Responsibility as defined in BSC Section B3.1.2	Delegated To
(h) Approving the BSCCo Business Strategy prepared by ELEXON for each BSC Year, and revisions to that plan	Not Delegated
Also (b) and (e) as outlined above under Theme 2	
Other, related, Provisions	Delegated To
Nominating the Panel (and BSCCo) Chairman (in consultation with the BSCCo Board) for Authority approval - <i>BSC Section B2.1</i>	Delegated (in part) to the BSC Panel Chair Nomination Committee (BPCNC)
Providing input to the Board regarding the Appointment of BSCCo Board directors - <i>BSC Section C4.1</i>	Not Delegated
Providing input to the Board regarding the Appointment of the BSCCo Chief Executive - <i>BSC Section C4.6</i>	Not Delegated
Providing input on the accounting policies adopted by BSCCo - <i>BSC Section D2.3</i>	Not Delegated
Determining the 'Minimum Invoice Amount' for the purposes of BSCCo Charges - <i>BSC Section D4.3</i>	Not Delegated
From time to time, determining the various 'Specified BSC Charges' to be used by BSCCo in relation to each BSC Year - <i>BSC Section Annex D3</i>	Not Delegated
Specifying the services which are required to be provided by BSC Agents (via BSC Service Descriptions) ⁵ - <i>BSC Section E1.3</i>	Not Delegated
Receiving reports from BSCCo regarding the performance of BSC Agents - <i>BSC Section E2.2</i>	Not Delegated
Providing input to the development of the Contract Principles used by BSCCo to shape the contracts and management of BSC Agent Services - <i>BSC Section E2.3</i>	Not Delegated
Providing input to the procurement processes used to appoint new BSC Agents from time to time - <i>BSC Section E2.7</i>	Not Delegated
Establishing and implementing IS policies including, but not limited to: quality management systems; design authority; change co-ordination for BSC Systems; security arrangements - <i>BSC Section F4.1</i>	Not Delegated
Approving changes to BSC Systems where such changes do not require amendments to the BSC or its subsidiary documents - <i>BSC Section F4.2</i>	Not Delegated
Instructing BSCCo (as the MRA BSC Agent) in relation to the Master Registration Agreement, and supervising the MRA BSC Agent in the performance of its functions - <i>BSC Section Annex K1</i>	Not Delegated
Setting out principles or guidance as to the basis on which the existence	Delegated to the Credit

⁵ BSC Agents are not parties to the BSC, consequently, BSCCo has a corresponding obligation under the BSC to ensure that the contracts it enters into with BSC Agents, reflect the requirements of the BSC (including the BSC Service Descriptions)

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or absence of material doubt is to be established by BSCCo - <i>BSC Section M1.7</i>	Committee
Approving the form of the 'funds transfer agreement', any amendments to the funds transfer agreement, and the 'BSC Banker' - <i>BSC Section N4.2</i>	Not Delegated
Approving, from time to time, the form of a credit facility agreement - <i>BSC Section N4.9</i>	Not Delegated
Determining the 'Advice Note Threshold Limit' for the purposes of issuing advice notes - <i>BSC Section N7.1</i>	Not Delegated
Approving the validation principles to be used by the CDCA - <i>BSC Section R5.2</i>	Not Delegated
Directing the SVAA to provide additional, related services - <i>BSC Section S4.1</i>	Not Delegated
Directing the Profile Administrator to provide appropriate reporting for defined load research programmes and additional, related, services - <i>BSC Section S4.2</i>	Not Delegated
Commissioning load research programmes for Unmetered Supplies - <i>BSC Section S8.1</i>	Delegated to the SVG, which is supported by the UMSUG
Approving the form of the agreement associated with the provision of data, by BSCCo, to non-BSC Parties - <i>BSC Section V3.2</i>	Not Delegated

- 4.3 The remaining responsibilities noted below and defined in BSC Section B3.1.2 relate to the general oversight that the Panel has in respect of the BSC and could apply to each of the themes described above depending on the subject matter.

Responsibility as defined in BSC Section B3.1.2	Delegated To
(g) Providing or arranging for the provision of reports and other information to the Authority in accordance with the further provisions of the Code	Delivered by Panel and across Panel Committees as appropriate
(i) Deciding matters which are referred to it (pursuant to any provision of the Code providing for such referral) following any decision or determination of ELEXON or a BSC Agent	Not Delegated

5. Discharging BSC Panel Responsibilities

5.1 Development and Use of the Panel Strategy

- 5.1.1 The BSC Panel has put in place a BSC Panel Strategy (incorporating a Strategic Work Programme) to provide a key input to the development of the annual BSCCo business plan prepared by ELEXON for each BSC Year. It sets out the non-business as usual activities that address the strategic priorities highlighted by the Panel. That is:

- i) Protecting, maintaining and efficiently managing the balancing and settlement arrangements as they exist today**

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ii) Looking ahead to the evolution of the market and how the current balancing and settlement arrangements need to adapt to facilitate such change

- 5.1.2 Progress against the Strategy is to be regularly reviewed by Panel Committee Chairs and Panel Sponsors with a view to better co-ordinating Committee work programmes and actions and improving communication of activities across ELEXON, the BSC Panel and Panel Committees.
- 5.2 Pro-active Management of the BSC:
- 5.2.1 Some Panel Members have suggested that, in today's evolving industry, the BSC Panel could take a more pro-active stance in ensuring that the contract remains effective and fit for purpose. This might include consideration of the Panel's role in setting parameters and managing risk and compliance, how the Panel should make use of its powers to raise changes to the BSC and its role in providing appropriate checks and balances.
- 5.2.2 The Panel has set a direction of travel through its strategy by identifying programmes of work and actions which are designed to achieve intended goals. Creation and maintenance of such a strategy, implies a pro-active approach to delivery of the Panel's four functions, which should be informed by the BSC Panel's agreed strategic priorities.
- 5.2.3 The tables in the main body of this document explore what a pro-active approach to managing the BSC could entail in respect of each of the Panel's four functions.

6. BSCCo roles and responsibilities

- 6.1 BSCCo is established as a party to the contract (the BSC) to provide services under the terms of that contract and be the contracting body for the BSC Panel and its committees.
- 6.2 Section C of the BSC outlines the role, functions and responsibilities of BSCCo (ELEXON Ltd). It aligns the objectives of BSCCo with those of the BSC Panel (Section C1.3.1) and it confirms that the principle role of BSCCo is to provide and procure facilities and services required for the proper, effective and efficient implementation of the BSC (Section C1.2.1). This explicitly includes the resources required by the Panel and its Panel Committees and the services defined by the Service Descriptions that relate to each defined BSC Agent.
- 6.3 Section C1.2.4 of the BSC also affords BSCCo some leeway in how it provides these services. It confirms that (subject to the provisions of Section C) BSCCo may do anything necessary for, or reasonably incidental to, the discharge of the functions and responsibilities assigned to it in the Code or by the Panel pursuant to the Code.
- 6.4 A key limitation is that (under Section C1.2.6) BSCCo must always act consistently with the Code Administration Code of Practice (CACoP) Principles wherever these are applicable.
- 6.5 The CACoP is clear that in providing these services, BSCCo must act as a critical friend. The regulator has previously said that it sees the role of a 'critical friend' being that of a 'devil's advocate', testing the appropriateness of analysis that is being contemplated and the strength of the conclusions that can be drawn from it.

7. Relationship between the BSC Panel, BSC Parties and the BSCCo

- 7.1 In aggregate, the provisions of the BSC clearly establish BSCCo as a service provider to BSC Parties, operating under the terms of a contract (the BSC). The terms of the BSC are, in turn, overseen by the BSC Panel. Some of these services are provided to BSC Parties directly (e.g. Accession, and Central Settlement Services). Others are provided to the BSC Panel itself (e.g. Panel Secretariat) or on behalf of the Panel (e.g. acting as the contracting body for procuring services required by the BSC Panel and conducting reviews and

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consultations on settlement parameters). BSCCo is required provide its services in a way that is independent and autonomous from BSC Parties and the BSC Panel and that clearly exhibits the principles embodied in the Code Administration Code of Practice (CACoP). This includes ensuring assumptions do not go unchallenged, that decisions are appropriately substantiated and that all interested parties views are expressed (including those of small market participant/consumer representatives) and providing impartial input in respect of the BSC. Such independence is facilitated by the provisions of the BSC which ensure that BSCCo has no financial interest in respect of the balancing and settlement arrangements and that it operates on a zero-profit basis.

- 7.2 This creates a special relationship. It means that, taking account of the various obligations relating to independence, while the objectives of the BSC Panel and the BSCCo are aligned, the views and opinions of the BSC Panel, Panel Members and the BSCCo may not always align. A divergence of views, experienced from time to time, should not be taken to indicate a problem but it is important to create a culture that supports an open and constructive dialogue to address such circumstances when they arise. Consequently, it is essential that the key roles, responsibilities and functions of the BSC Panel and the BSCCo are clear.
- 7.3 The BSC Panel sets the obligations that apply to BSC Parties, including the requirements of the required BSCCo services, through its core role making decisions regarding the application, amendment and interpretation of the BSC⁶.
- 7.4 However, while the Panel oversees the terms of the contract (the BSC), there is no direct contract between the BSC Panel and the BSCCo. In fact, unlike Suppliers and Generators and other industry parties, the BSC Panel itself is not a Party to the BSC. Nevertheless, the BSC and its subsidiary documents do contain definitions of the services that the BSCCo must provide and these are the requirements and obligations to which each party to the BSC (including BSCCo) must adhere.
- 7.5 Service Management
- 7.5.1 Viewing the relationship of the BSC Panel and BSCCo from the perspective of a customer and service provider provides some insight into how the BSC Panel and BSCCo should work in partnership with each other and can place helpful context around any areas of ambiguity.
- 7.5.2 For example, while it is not anticipated that clients manage the detailed operation of their service providers, there are certain, output focused elements that form good working practice in respect of service management. These are explored in the table below:

Service Management Good Working Practice	Equivalent Provisions relating to BSCCo
<p>Service Definition (making sure the service aligns to business need, setting out clear delivery objectives)</p>	<p>Over and above the requirements documented in the BSC itself (i.e. the service contract) the newly approved BSC Panel Strategy sets out a series of priorities and specific work programmes that BSCCo must support.</p> <p>This feeds directly into the BSCCo business plan which is reviewed by BSC Parties and aligns with their role as quasi-shareholders as identified in the BSCCo review of governance.</p>

⁶ In some cases, the Panel (or its Panel Committees) sets these provisions itself, in other cases, the Panel's determinations take the form of recommendations which must be approved by the Regulator.

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Service Management Good Working Practice	Equivalent Provisions relating to BSCCo
<p>Key Performance Indicators and Service Levels (Designed to define what good looks like, KPIs quantify the performance of the supplier and monitor adherence to the service levels set out in the contract, KPIs should be set so as to drive the right behaviours by making things measurable and including service credits)</p>	<p>Given the way in which BSCCo is funded and operated as a zero-profit entity, it is difficult to envisage a how a simple service credits regime could work since any service credit would ultimately be funded by BSC Parties.</p> <p>Currently there are no options available to the BSC Panel or BSC Parties should BSCCo fail to deliver the required services in compliance with the BSC save for very limited "step-in" provisions whereby National Grid can be directed by Ofgem to take responsibility for progressing a modification to the BSC in certain circumstances as defined in BSC Section F1.7.</p> <p>Proposals under the review of BSCCo governance would create an arrangement where BSC Parties could raise a special resolution at any point in time. Such resolutions could ultimately give rise to a vote to remove one or more directors of BSCCo. The adoption of KPIs and Service Levels would support reporting and monitoring to the BSC Panel and BSC Parties in their proposed role as quasi-shareholders.</p>
<p>Risk Management (Identification of threats to the service and confirmation that appropriate mitigation actions and preventative steps have been taken) And Business Continuity (Encompassing appropriate IT Disaster Recovery as well as people continuity - Establishing service criticality / expectations, confirmation that appropriate mitigation actions, preventative steps and regular testing have been taken)</p>	<p>The BSC Panel already has responsibility for establishing and implementing IS policies in relation to the services delivered by BSCCo (directly and via BSC Agents). Consideration should be given as to how these responsibilities can be actively discharged. This could be by the Panel itself or via a Panel Committee, working in partnership with the BSCCo senior management and executive staff responsible for these service elements to regularly review the policies that are in place. Importantly, these documents should focus on the desired outcomes and key principles, rather than seeking to micro-manage BSCCo by documented detailed processes and requirements.</p> <p>The BSCCo board monitors risks and compliance with such policies and BSCCo should report to the Panel on a regular (quarterly?) basis, any exceptions that have been identified.</p> <p>The BSC Panel should consider including a review of these controls and BSCCo's adherence to these policies within the scope of the BSC Audit.</p>
<p>Reporting (Regular, usually monthly performance dashboard, transparent reporting of significant events / deliverables)</p>	<p>The BSC Panel receives a regular monthly report from BSCCo. Quarterly Reports are also published by BSCCo which are focused on the delivery of its defined BSC services.</p> <p>Significant events are communicated to the Panel and BSC Parties via ELEXON Circulars and/or Newscast on an ad-hoc basis.</p> <p>The Panel may wish to consider the how these various reports could be improved.</p>
<p>Change Processes (Impact Assessment processes, appropriate change and version controls, utilisation of service acceptance criteria)</p>	<p>The BSC (Section F) and its subsidiary documents (BSCP 40 'Change Management') contain detailed provisions regarding the assessment of change and the processes used by BSCCo and the Panel to review and make determinations in respect of proposed changes.</p> <p>BSCCo's change implementation policies and processes are based on the relevant standards which incorporate service acceptance criteria.</p>

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Service Management Good Working Practice	Equivalent Provisions relating to BSCCo
<p>Operations (Alignment to appropriate good working practice (e.g. Information Technology Infrastructure Library (ITIL)), managing the operational relationship and incident / problem management)</p>	<p>The Panel may wish to establish additional policies setting out expectations in relation to BSCCo services (over and above those provided for under BSC Section F4). These might include, for example, the adherence to certain industry standards, provisions relating to conflict of interest etc.</p> <p>Importantly, the recommendations of the BSCCo governance review highlight the desire to improve communications between the BSCCo Board, Executive and the BSC Panel. Enhancing this communication and ensuring appropriate engagements will support the development of the operational relationship.</p> <p>Requirements already exist across the BSC which confirm, where incidents arise, the extent to which BSC Panel input or approval is required in respect of the existing services and the application of the BSC.</p>
<p>Service Reviews (Regular Meetings between client and provider to make sure of delivery against SLA and contracts, track performance and initiate / evaluate service improvements).</p>	<p>The Panel has recently instigated quarterly reviews of its Strategic Work Programme with a view to tracking progress and ensuring the direction of travel remains appropriate.</p> <p>In addition, BSCCo has undertaken to engage with Panel Members in the development of an IS Strategy to deliver improvements to BSC systems and processes.</p> <p>The Panel may wish to establish a six-monthly review meeting with the BSCCo Board and/or the BSCCo Executive team to review progress against the Panel Strategy and performance in respect of SLAs etc.</p>
<p>Commercial Aspects (Establishing the variation in the cost of services across the year / contract, assessing and ensuring value for money and managing budgets)</p>	<p>BSCCo publishes a transparent budget in support of the business plan. Quarterly reports provide an update on actual versus forecast costs in the third quarter each year BSCCo reviews the projected spend and, wherever possible, reduces the subsequent call on funds from BSC Parties via the funding shares mechanism.</p> <p>The BSC requires that BSCCo inform the BSC Panel if the approved budget will be exceeded and the Panel may adapt the strategy accordingly.</p> <p>As noted elsewhere, the Panel may wish to assess the effectiveness of changes that have been introduced. In some cases, these assessments may provide insight as to whether the Panel and / or industry has received value for money. However, the customer survey conducted by BSCCo each year and provided to the BSC Panel also provides insight into the extent to which BSCCo is felt to be providing value for money.</p>