Final Modification Report

P398 'Increasing access to BSC Data'

P398 seeks to increase accessibility to data held by Elexon and BSC Agents. It will better align the BSC with the Energy Data Task Force's recommendations in relation to making data easily accessible to market participants.

The BSC Panel recommends **approval** of P398

The BSC Panel **does** believe P398 impacts the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC

This Modification is expected to impact:

- All BSC Parties
- All BSC Agents
- All BSC Party Agents
- BSC Company (BSCCo)
- BSC Panel

Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

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About This Document

Not sure where to start? We suggest reading the following sections:

- Have 5 mins? Read section 1
- Have 15 mins? Read sections 1, 9 and 10
- Have 30 mins? Read all except section 6
- Have longer? Read all sections and the annexes and attachments

This is the P398 Final Modification Report, which Elexon has submitted to the Authority on behalf of the BSC Panel. It includes a summary of the Workgroup's assessment, the Panel's full views and the responses to both the Workgroup's Assessment Consultation and the Panel's Report Phase Consultation. The Authority will consider this report and will decide whether to approve or reject P398.

There are four parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach. It also summarises the Workgroup's key views on the areas set by the Panel in its Terms of Reference, and contains details of the Workgroup's membership and full Terms of Reference.
- Attachment A contains the redlined changes to the BSC for P398.
- Attachment B contains the full responses received to the Workgroup's Assessment Procedure Consultation.
- Attachment C contains the full responses received to the Panel's Report Phase Consultation.

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1 Summary

Why Change?

In June 2019 the Energy Data Task Force (EDTF) published its report 'A Strategy for a Modern Digitalised Energy System'. One of its recommendations was that the energy sector should 'adopt the principle that Energy System Data should be Presumed Open'. The EDTF report recommends that the Department for Business, Energy and Industrial Strategy (BEIS) and/or Ofgem should use legislative and regulatory powers to achieve this recommendation.

The BSC does not currently fully adhere to open data principles. Incorporating these principles into the BSC will provide the benefits of open data to industry. Further, by taking action now, we can remain at the forefront of industry development and will be able to create the precedence for industry to follow/emulate.

Solution

P398 proposes amending the BSC so that all data is assumed open unless there is a reason otherwise. The BMRS Change Board (BCB) committee will determine if there is any reason not to make data available – their starting position will be that all data should be published (subject to checks discussed below), unless they find a reason otherwise. This will be done based on a transparent process of triage and categorisation. In the longer term, and outside the scope of this Modification, we will look at an IT solution to make accessing BSC data even easier than having to make a formal request for release/publication.

Impacts & Costs

Implementation cost estimates			
Organisation	Item	Implementation (£k)	Comment
Elexon	Systems	0	No impact
	Documents	£6k - £8k	Amend the three BSC sections, create the new Category 3 document and develop processes for the handling of data requests
NGESO	Systems	0	No impact
Industry	Systems & processes	None	No costs identified in the Assessment consultation
	Total	£6k - £8k	

Implementation

The BSC Panel recommends that P398 should be implemented:

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- On **25 February 2021** as part of the February 2021 BSC Release if an Ofgem decision is received on or before 15 January 2021; or
- On **24 June 2021** as part of the June 2021 BSC Release if an Ofgem decision is received after 15 January 2021 but on or before 31 May 2020.

Recommendation

The BSC Panel agreed **unanimously** that P398 will **better facilitate** Applicable BSC Objective (c) compared to the current baseline. The Panel therefore recommends P398 should be **approved** and sent to **Ofgem for decision** (not a Self-Governance Modification Proposal).

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2 Why Change?

Background

In November 2017 the Secretary of State for BEIS presented the UK's Industrial Strategy. The Strategy pledged to 'set Grand Challenges to put the United Kingdom at the forefront of the industries of the future'. The first four Grand Challenges are intended to focus 'on the global trends which will transform our future'. One of the Grand Challenges is concerned with Artificial Intelligence and Data; this Modification is concerned with the data aspect of that Great Challenge.

BEIS and Ofgem published a joint policy paper in July 2017: 'upgrading our energy system: smart systems and flexibility plan'. In October 2018, they published a progress update to their policy paper and within this; they established the EDTF. The purpose of the EDTF was to 'look across the energy sector, identify gaps where data can be used more efficiently and make clear, actionable, recommendations for Government, Ofgem and industry.' In June 2019, the EDTF published their report 'A Strategy for a Modern Digitalised Energy System' with five recommendations:

1. Digitalisation of the Energy system – 'Government and Ofgem should direct the sector to adopt the principle of Digitalisation of the Energy System in the consumers' interest'
2. Maximising the value of data – 'Government and Ofgem should direct the sector to adopt the principle that Energy System Data should be Presumed Open'
3. Visibility of data – 'A Data Catalogue should be established to provide visibility through standardised metadata of Energy System Datasets across Government, the regulator and industry.'
4. Co-ordination of Asset registration – 'An Asset Registration Strategy should be established to coordinate registration of energy assets, simplifying the experience for consumers
5. Visibility of Infrastructure and Assets – 'A unified Digital System Map of the Energy System should be established'

What is the issue?

The EDTF report recommends that BEIS/Ofgem should use legislative and regulatory powers to achieve their first three recommendations. The BSC does not fully adhere to the EDTF recommendations, meaning that, unless we take the initiative, we risk having a solution thrust upon us that may not be the best possible outcome for BSC Parties and wider stakeholders. Moreover, incorporating the open data principals into the BSC will provide the benefits of open data for industry, whilst ensuring appropriate safeguards for BSC Parties.

By taking action now, we have the ability to remain at the forefront of industry development, as would be expected of the foremost Code Administrator, and as such, will be able to create the precedence for Industry to follow/emulate

Work to date

Three previous Modifications have made BSC data more available in specific circumstances:

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- P030 'Availability Of Market Information To BSC Parties And Non-BSC Parties' – this made Market Domain Data (MDD) and other some generation related data available;
- P114 'Entitlement of Licence Exemptible Generators (LEGs) and other Non-trading Parties to BSC Membership Without Evidence of Trading' – this allowed License Exempt Generators and non-Trading BSC Parties to access data by virtue of becoming BSC Members; and
- P315 'Suppliers' Meter Volume and MPAN counts' – publication of Gross Supplier Market Share Data by providing further transparency on Supplier's Meter Volume and Meter Point Administration Number (MPAN) counts

The BSC Panel has started the process of implementing the EDTF's recommendations when it approved recommendations made at the September 2019 Panel meeting (294/16 'Cost of Access to Data'), including the raising of this Modification. This will allow the BSCCo to establish a new route to data by allowing access to key data items under the same Open Data licence as the Balancing Mechanism Reporting Service (BMRS) (see Appendix two of BSC Panel paper 294/16 for content of the license).

BSC Panel and it sub-Committees

BSC Section B 'The Panel' details the BSC Panel's responsibilities regarding the operation of the BSC. Within this section, there is provision for the establishment of sub-Committees. Generally, sub-Committees are made up of subject-matter experts to make determinations on specific subjects e.g. the Supplier Volume Allocation (SVA) Group (SVG) makes determinations on matters pertaining to SVA Settlement. Some sub-Committees are established at the prerogative of the BSC Panel, however others, such as the Performance Assurance Board (PAB) are established by the BSC to carry out a specific purpose and the BSC lays down their responsibilities.

Desired outcomes

The BSC should be modified to demonstrate commitment to Open Data principles. The BSC's current default position is that all data is Confidential Information. The default position should be that all data is presumed open in accordance with the EDTF recommendations but, would continue to be treated as Confidential Information until the Panel confirms the specific data is confirmed as Open.

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3 Solution

Solution

The BSC will be amended to allow data to be released following a request. A request form will be created and can be submitted by both BSC Parties and non-BSC Parties. There will be a rigid governance process in place for preparing data releases and determining whether data shall be released. The Panel is recommending that this responsibility is given to the recently created BMRS Change Board (BCB) – as such, this solution, and the proposed draft legal text, is designed around the BSC Panel making such delegation. The Panel's recommendation is based on the BCB having subject matter expertise regarding the publication of BSC data, so are the best positioned to make determinations relating to P398.

While the P398 solution is, in itself, very simple – how the process will work is quite extensive and the Workgroup have developed this in some detail, and as this is part of the P398 solution, we will explore the different parts of the solution below. The elements have been built from open data principles and best practices, including those recommend by the EDTF.

What is data?

The proposed change to BSC Section H will define BSC Data as:

'data or information held by, or on behalf of, BSCCo and which is received, produced or sent by or on behalf of Parties under the Code (including, for the avoidance of doubt, by BSC Agents and Party Agents) for the purposes of Settlement but excluding any data or information that the Code explicitly identifies as confidential'

Prior to BSCCo making any recommendations to the BCB, they shall ensure that they have 'ownership' of any data passed to them by a third party and, if required, they shall consult with the third party as to consent to publish as part of a wider data set (and ensure any legal arrangements are in place if required).

To be explicitly clear this means any data held by BSCCo or BSC Agents that relates to Settlement. Any data that is held by Elexon pertaining to non-BSC matters is not subject to P398. Examples of this may include staff salaries or activities pertaining to its business activities or its subsidiaries that is separate to its role as BSCCo.

Submitting a request

A request form will be created and readily available on the BSC website, including instructions on how to complete and submit the request. The request form will contain:

- Requester's name*
- Requester's Company/organisation (if applicable*)
- Requester's contact details*
- A description of what data is being requested*
- When the data is required by*

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- Reason for request, including (where applicable) the perceived industry benefit for making the data publically available*
- If data being requested is third party data

*Indicates mandatory field

Once a request form is submitted, BSCCo will acknowledge receipt and carry out a 'critical-friend' review before providing feedback to the submitter, including potential changes to make the request easier to comply with.

Accessing data

While the BSCCo has access to an abundance of data, occasionally it may need to call on a BSC Agent to provide data they hold in relation to BSC activities. The BSC Agent may be asked/elected to provide an impact assessment in relation to time and cost. This in turn will inform whether a request should be processed.

Triage

Data requests will be triaged to determine the 'openness' of the data requested to consider whether the data set could cause issues. The triage categories will be:

- **Consumer Privacy** – a person who can be identified from the information requested – either directly or indirectly in combination with other information;
- **Negative Consumer Impact** - Likely to drive actions that will negatively impact consumers;
- **Security** – creates incremental, or exacerbates existing, security issues which cannot be mitigated via sensible security protocols such as physical site security, robust cyber security or buffer databases; or
- **Commercial** – relates to the private administration of a business or, data not collected as part of an obligation by a regulated monopoly and would not have been originated or captured without the activity of the organisation.

These are the categories recommended by the EDTF and will be captured in a new Category 3 document laying out the Open data principle.

Classification

Once triage has taken place the data requested will be classified into one of the following categories:

- **Open** – Available for all to use, modify and distribute with no restrictions;
- **Public** – Publicly available but with some restrictions on usage;
- **Shared** – Available to a limited group of participants possibly with some restrictions on usage; or
- **Closed** – Only available within a single organisation

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These are the classifications recommended by the EDTF and will be captured in the Open Data CSD produced for P398.

Mitigation

In order to make data accessible, Elexon will attempt to apply mitigating actions to the data so that it can be released. Mitigation methods include, but are not limited to:

- **Redaction** - Removal of sensitive data
- **Anonymisation** - Removal of personal data
- **Aggregation** - Combine data sets so the collective sum is less sensitive
- **Limitation** - Only share with specific individuals or group
- **Noise** - Combine original data with dummy data to confuse readers
- **Delay** - Wait until data is less sensitive before sharing
- **Differential privacy** - Obscuring the data in such a way as to mask identities
- **Shift/rotate** - Altering the position or orientation of spatial or time series data
- **Randomisation** - Making random changes to data
- **Normalisation** - Modifying data to reduce the difference between individual subjects

These are mitigations recommended by the EDTF and will be captured in the Open Data Category 3 document produced for P398. Once mitigation has been applied, it will be re-classified and, if necessary, further mitigation may be applied. Mitigation will not be applied until the BCB has determined that the requested data can be released.

It may be necessary to mitigate data for publication to reduce the classification, but an unmitigated dataset be provided to the requester confidentially in order for the requester to make use of the data set – it is envisaged that this would be a rare exception and the BCB should consider this in their determination.

Data release consultation

Prior to the BCB making a determination on whether to release requested data, the BSCCo shall issue a consultation to industry for no more than 15 Working Days (WD). The consultation will follow a standard format and shall include, but not be limited to:

- **Initial triage and classification** – BSCCo's initial assessment of the requested data set
- **Proposed mitigation** – how BSCCo proposes to mitigate the data to make it more open (if applicable) and what the subsequent triage and classification shall be
- **Benefits** – what will be the benefits to BSC Parties, wider industry, and/or requester should the requested data be released
- **Impacts** – what will be the impacts to BSC Parties, wider industry, and/or requester should the requested data be released

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- **Duplication** – whether BSCCo is aware of similar data sets produced by themselves or other organisations
- **Coupling** – whether the data set could be coupled with other data sets (published by BSCCo or others) for commercial, nefarious or other purposes
- **Risk** – what (if any) will be the risk to Settlement, BSCCo and Industry members as applicable
- **Costs** – What will be the cost for the BSCCo in terms of time and money to create the data set. This will include BSC agent costs as well as any ongoing costs if applicable.
- **Periodicity** – whether the data set is proposed to be re-published at given intervals, or as a one-off
- **Review period** – how often the BCB should review whether the data set remains extant or whether it will be published in perpetuity to be reviewed by exception
- **Additional information** – anything else that the BSCCo feels pertinent to allow respondents to make an informed decision
- **Recommendation** – BSCCo's initial recommendation to BCB

Ofgem are developing a central data base of data available in the industry. This should be consulted in relation to duplication and coupling once available.

The Panel is aware that industry is asked to respond to an ever growing amount of requests for information, consultations, meetings etc. To that end, the consultation will be a 'negative response' consultation. That is, it will be assumed that there are no objections if a response is not received.

Responses will be accepted in any format – while a template will be provided, a response as a free text e-mail, or other means of communication will be accepted.

Openness and transparency

Elexon will publish a Category 3 controlled document (the aforementioned Open Data CSD) on its Website as P398 is implemented. It will detail the P398 process and how Elexon will triage, categorise and mitigate data requests. The Workgroup considered whether this should be a BSC Procedue (BSCP) document or other type of document. However, Category three documents were introduced to allow for a relatively simple change process should it be required, and where the BSC is not asking Parties or Party Agents to do something i.e. the BSC is not putting requirements on them. Given that the aim of P398 is to make data as accessible, the Panel agrees with the Workgroup that access should not be hampered by having to wait for changes to governance to allow the data to be released, but recognised that there does need to be some formal governance in place and felt that a Category three document was the best way ahead.

All requests for data will be published, however the requester's details and reasons may be subject to triage, classification and mitigation. This is because a company may not wish for their peers to know they are requesting data and/or why they are requesting data as it may be indicative of wider commercial activity.

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All consultation responses will be published, but triage etc. will be applied to responses at the request of the respondent if, for example, the respondent requires some of their response to remain confidential.

Determinations (regardless of outcome) will be published on the BSC Website, including the reason for the BCB's determination. Again, triaging etc. will be applied to this notification if deemed applicable based on the data requester's wishes and/or BCB's determination. For example, if has been determined that the notice should not name the requester (Triaged as commercial in confidence) then their name can be removed (anonymisation mitigation), but the full notification, without anonymisation may be shared with Ofgem if requested (shared classification).

BCB's role

The BCB shall determine whether a requested data set shall be released and whether any mitigating action shall be applied. The BCB will be presented with BSCCo's recommendation and consultation responses (if any) to assist with their determination. When making its determination the BCB shall consider each of the items listed in the bullet points above pertaining to the consultation.

The BCB's terms of reference are published on the Elexon website – these will be updated to include its responsibilities regarding the release of BSC data and be based on the P398 approved solution. The Terms of reference should also include the cost threshold at which decision should be deferred to the BSC Panel. This shall be the same as other BSC Committees when considering changes i.e. £150,000.

Where approval to publish is not granted, actions to achieve approval shall be suggested and the request may return for consideration at a subsequent meeting. The default position will be that another consultation will be issued following the changes suggested by the BCB being made; unless the change is deemed by the BCB to be so minor that it would not be in industry's interest to re-consult.

Reviewing data release arrangements

The BCB will be required to periodically review the arrangements for releasing data. The first review should be no later than 12 months following implementation, with subsequent reviews no longer than 24 months apart. It may be changed as required and a review can be called upon at any time – a review may be called for by the BSC Panel (or BCB), industry members or BSCCo. For clarity, the review periodicity will be the maximum period between reviews. In determining the periodicity of reviews, the following shall be considered:

- Time since last review
- Number of requests received since last review and impact on BSCCo resources
- Number of appeals raised since last review
- Complexity of requests since last review
- Best practice adopted by third parties
- Any risks that have been identified with the existing process
- Input from the BSC Panel or BSC Panel sub-committees

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- In particular input from the PAB in relation to Settlement Risks

The above list is not exhaustive and is intended for guidance.

Security Concerns

Where there is a belief that releasing certain data, or even acknowledgement of the existence of that data, could cause security concerns, BSCCo and/or the BCB should not hesitate to refuse the request outright. The Workgroup did not envisage any scenario where this could happen, but if, at some point in the future this should change, Ofgem and/or the National Cyber Security Centre (via Ofgem or direct) should be consulted for advice.

It is not envisaged that there is any reason for this to arise at this time, however, in the interests of future-proofing it should be included in the Open Data CSD that will be published as part of the P398 implementation.

BCB directed data release

In addition to determining whether requests for data shall be granted, the BCB may also direct BSCCo to prepare data sets for release. Reasons for making such a direction may include, but not be limited to:

- Carrying out of direction from the BSC Panel;
- Following request from another BSC Committee;
- Following a request from BSCCo; and
- At their own discretion if they feel it will better facilitate the BSC's operation and/or the Applicable BSC Objectives

Appeals process

Any determination by the BCB in relation to a data request determination (regardless of the determination) shall be subject to appeal. Any BSC Party or non-BSC Party may appeal. The appeals window will reflect the Modification Appeal window of 15 WD. This means that the earliest any data set may be published is 16 WD after the BCB's determination.

An appeal may be lodged by anybody communicating with BSCCo that they wish to appeal and in doing so provide a reason for their appeal. Following the receipt of an appeal, the data set shall not be published until the BSC Panel has considered the appeal. The BSC Panel shall consider the appeal at their first meeting following the appeal being submitted, unless there are reasonable circumstances to delay such review (this shall be agreed between the appellant and the BSC Panel Secretary – or suitable deputy).

BSCCo shall publish on the Elexon website a notice that an appeal has been lodged, which will include the details of the appeal and reason for appeal. The notice of appeal will include the next steps, including the date of the BSC Panel meeting to consider the appeal.

The appellant may attend the BSC Panel meeting at which their appeal is considered, and the BSC Panel may invite them to attend (they may oblige anyone subject to compliance with the BSC to attend if they feel it is appropriate).

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Review of data sets

The BCB will be able to review and amend data classifications and mitigations. This should occur as required and/or at the Panel or BCB's discretion. It could be instigated as the result of condition of publishing or if requested by a connected person or group e.g. BSCCo, a BSC Party or the BSC Panel.

Publishing and rescinding of data

Following the BCB's determination that a requested data set may be published, BSCCo will prepare the data set and apply the mitigations directed by the BCB as part of its determination. Data sets shall be named in such a way that their content, origin and purpose is readily apparent; meta data shall amplify this as well as making the data set as discoverable as possible on internet search engines.

Within one WD of the BCB's determination, BSCCo shall publish a notification of the determination and that the appeals window is open. This shall include information on how to appeal (see above) and when the appeals window will close – this notification shall be based on the notification made by BSCCo in relation to Self-Governance Modifications.

At the end of appeal window (i.e. 16WD after the BCB's approval), BSCCo shall publish a notification that the appeals window is closed and that the data set will be published as per the report submitted to the BCB. Again, this shall be based on the Self-Governance Modification window at the end of the Self-Governance appeal window.

Where it is brought to the attention of the BCB that a data set's publication should be discontinued, a determination shall be made at the next BCB meeting. However, should BSCCo consider that publication should desist before then, they shall carry out the required actions and report such to the BCB at its next meeting. The BCB shall then either affirm BSCCo's actions or give direction otherwise to either re-publish in entirety or carry out mitigating actions prior to re-publishing.

Record Keeping

Ofgem have indicated to the Workgroup that they will, in due course, want routine submissions on the things like the number of data requests etc.
To that end, BSCCo will develop a process for recording all data requests – this information will be published by BSCCo on behalf of the BCB quarterly as a routine report i.e. a single snapshot of all requests and their outcomes.

Costs for publishing data

Given that the data set will be published in a public location (Elexon Website); once in the public domain, it can be shared ad-infinitum. The requester will not be charged for making their request. The rationale for this is explained further in Section six. This will not affect any existing processes in place for non-BSC Parties to receive regular reports from the BSCCo (and this was addressed in BSC Panel paper 294/16) as the P398 solution will refer to requests for new data sets, not sets already produced.

To reduce the short term liability on BSC Parties it is proposed that a threshold of £150,000 per request should be introduced. The decision to approve publication where the

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costs exceed this threshold will rest with the BSC Panel and the BCB should pass such decision on with a recommendation on whether to approve publication. This threshold is based on the threshold for other BSC Panel committees to pass approval to the BSC Panel when considering BSC Change Proposals. It is envisaged that the BSC Panel will only approve publication above this cost by exception where they are able to clearly demonstrate that the benefit for the industry as a whole (and not just BSC Parties) outweighs the cost of publication. As with any other data decision, refusal to publish based on cost is subject to appeal, albeit the appellant will be asking the BSC Panel to re-consider their own decision.

The draft legal text for BSC Section H retains the right for the BSC to charge for the release of data should they feel this should become required at some point in the future. For now however, their terms of reference and the Open Data Category 3 document will not allow for charging (as described above) – this means should the BCB wish to exercise the BSC Section H option, they would need to change the Open Data Category 3 document and seek approval to change their terms of reference too.

Legal text

The legal text for the solution can be found in Attachment A.

Applicable BSC Objectives

The Panel believes that this Modification will better facilitate **Applicable BSC Objective (C)**. If information asymmetry (perceived or otherwise) is removed and data is made available, it will lead to a level playing field, and therefore greater competition.

EBGL Objectives

The Modification requires changes to BSC section H, and so impacts on the EBGL Article 18 Terms and Conditions. The Panel believes that these changes are consistent with the EBGL objectives as it fosters competition and ensures transparency.

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Estimated implementation costs of P398

The expected Elexon central implementation cost of P398 is low (<£8k). As this Modification is a document only change this figure reflects the costs to amend the three BSC sections, create the new Category 3 document and develop processes for the handling of data requests.

Implementation cost estimates			
Organisation	Item	Implementation (£k)	Comment
Elexon	Systems	0	No impact
	Documents	£6k - £8k	Amend the three BSC sections, create the new Category 3 document and develop processes for the handling of data requests
NGESO	Systems	0	No impact
Industry	Systems & processes	None	No costs identified in the Assessment consultation
	Total	£6k - £8k	

Estimated on-going costs of P398

On-going cost estimates		
Organisation	On-going cost (£k)	Comment
Elexon	£1.5k - £1.8k	This is the estimated cost to Elexon per request.
Industry	£0.5k - £3k	This is an Elexon calculated estimate for on-going costs assuming an impact of 1 to 3 days work per request. For the avoidance of doubt this estimate is not based on information provided to Elexon by respondents to the Assessment Phase Consultation or Report Phase Consultation.
Total	£0.5k - £3k	Per request

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P398 impacts

Impact on BSC Parties and Party Agents		
Party/Party Agent	Impact	Estimated cost
BSC Parties and BSC Party Agents	All BSC Parties, and BSC Party Agents could, potentially, participate in the data request process once P398 is implemented, subject to approval. The estimated cost is an Elexon calculated estimate for on-going costs assuming an impact of 1 to 3 days work per request. For the avoidance of doubt this estimate is not based on information provided to Elexon by respondents to the Assessment Phase Consultation or Report Phase Consultation.	£0.5k - £3k

Impact on the NETSO	
Impact	Estimated cost
No impact	N/A

Impact on BSCCo		
Area of Elexon	Impact	Estimated cost
All areas of Elexon	Creation of documents and processes as described above	L (<£8k)

Impact on BSC Settlement Risks
No impact

Impact on BSC Systems and process	
BSC System/Process	Impact
No Impact	No impact

Impact on BSC Agent/service provider contractual arrangements	
BSC Agent/service provider contract	Impact
All	All BSC Agents may be requested to provide data sets. However, it is not possible to determine what the nature of these requests will be. As such, the impact and costs on BSC Agents can't be determined. The impact and costs for ad-hoc requests will be considered by the BCB as part of their determinations

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Impact on Code	
Code Section	Impact
Sections B/H/V/X-1	To be amended as per Attachment A to meet the solution detailed in section 3 above

Impact on EBGL Article 18 terms and conditions and objectives
Parts of the proposed changes to BSC Section H form part of the EBGL Article 18 balancing terms and conditions. P398 therefore impacts EBGL Article 18. The Workgroup and Panel believes that these changes are consistent with the EBGL objectives as it fosters competition and ensures transparency.

Impact on Code Subsidiary Documents	
CSD	Impact
No Impact	No impact expected

Impact on other Configurable Items	
Configurable Item	Impact
New Category 3 document	Elexon will publish a Category 3 controlled document (the aforementioned Open Data Category 3 Document) on its Website as P398 is implemented. It will detail the P398 process and how Elexon will triage, categorise and mitigate data requests.

Impact on Core Industry Documents and other documents	
Document	Impact
Ancillary Services Agreements	No impact
Connection and Use of System Code	
Data Transfer Services Agreement	
Distribution Code	
Distribution Connection and Use of System Agreement	
Grid Code	
Master Registration Agreement	
Supplemental Agreements	

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Impact on Core Industry Documents and other documents	
Document	Impact
System Operator-Transmission Owner Code	
Transmission Licence	
Use of Interconnector Agreement	

Impact on a Significant Code Review (SCR) or other significant industry change projects
No impact. We have requested that Ofgem treat this Modification as a SCR Exempt Modification Proposal and they confirmed this.

Impact on Consumers
The EDTF has published how they believe opening data will benefit consumers – P398 will be part of this.

Impact on the Environment	
P398 is consistent with net-zero ambitions. Making data more readily available will assist with the transition to smart grids and future industry design, which is aimed achieving net zero.	

Other Impacts	
Item impacted	Impact
No impacts	No impact

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5 Implementation

Recommended Implementation Date

The Panel recommends an Implementation Date for P398 of:

- 25 February 2021 if the Authority's decision is received on or before 15 January 2021; or
- 24 June 2021 if the Authority's decision is received after 15 January 2021 but on or before 31 May 2021.

These are the next available releases taking into consideration the estimated lead times for delivery.

Self-Governance

The Modification will require changes to Section H which form part of the EBGL terms and conditions; therefore, P398 must be submitted to Ofgem for approval.

Additionally, the Panel believe, based on the Workgroup's recommendation, that P398 would have a material impact on competition, consumers and the market. This is based on the view that P398 will open up the market and could, potentially, make significant changes to how companies come to market, and therefore the products that they offer to consumers.

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6 Workgroup's Discussions

Before the Workgroup developed the P398 solution, they spent some time discussing what data 'is', as well as how the law applies to data and the general theory of releasing data. The Workgroup agreed that this was a sensible approach as the membership was drawn from a broad-church of experience and with different experiences and suppositions of data. By undertaking this discussion first, it meant the Workgroup were all on the 'same page' before developing the P398 solution.

What is data?

The Workgroup offered the following examples of what they consider to be data during a brainstorming at the first Workgroup meeting:

- Relationship between sets of numbers
- Structured information
- Enables the derivation of information
- Is 'owned' by someone
- Information collected for decision making
- It is meaningless without context
- Can be transformed or shared
- Drives analysis
- Is a 'thing' and not a concept/idea
- Can be combined with other information/data
- Combination of unrelated information
- Information passed between systems or companies that can be extracted
- Needs to be grouped and combined to give knowledge
- Anything that can be used as evidence
- Measure of something and has 'dimensions'
- An input to an insight service
- Can be manipulated
- Anything that can be classified as information
- Gives property and character about a 'thing', even other data
- Everything that is recorded
- Enables interoperability of systems
- Can be used to function visible information e.g. base data/Meta data
- Should be a single source of truth

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During the same brain storming secession the Workgroup offered the following thoughts on handling of data:

Need to understand hierarchies	Meta data is key	Understand how data sets are produced	Allow for data sets to be independently verified
State data quality	Need to understand the context of the data	Consideration for liability around inaccuracies	Shouldn't release data that identifies individuals or specific sites
Publish protocols for how data is derived	Allow data to be interpreted	Balancing Mechanism data should be explicitly public and open	Consideration should be given to commercial sensitivities
Data made available should be able to be re-used	There should be only one source of truth. Data sets that disagree are not useful	Need to provide education on the data	Data doesn't need to be 100% accurate to be released
Compilers need to understand the need for the data	Backing data behind data sets should be known	Right of access should be considered [National Park right to roam analogy]	It should be possible to recreate data sets

Principles of presumed open data

Having considered what is data, the workgroup were then asked to consider what the principles should be for 'presumed open data':

Anyone can request data	There should be tiers of 'open data'	Need to differentiate between 'energy-system' data and 'free-market' data	Meta-data should be subject to the same principles
There should be a rationale for denial	There should be limited scope for denial	Can be enriched later for the benefit of the 'community'	Provides transparency of the originator and/or collator
Has sufficient quality to be useful	Needs to be in an understandable format	Needs to be user friendly	Should be able to run queries on meta data
Self-serve as much as possible	Context must be clear	Should not conflict with legislative obligations	Should be fully auditable and source traceable

Questions raised about Open Data

During the breakout sessions, there were also some questions raised:

Does there need to be a central controller for data across the industry?	Would the entity receiving the data have any form of liability?	Should Open Data be free at point of access?	Should enriched data be presumed open?
Should Elexon be mindful of how data available elsewhere could impact BSC data	Should people make requests or should everything be available	Does the context of the request ned to be known before data is provided	Can a decision on whether to release be made once or will multiple requests for

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			different reasons change the decision

This brainstorming session was used to ensure that all Workgroup members had a similar view on what data 'is' and how it should be handled as well as what is meant by 'open data'. This was then used to develop the P398 Business Requirements, as well as the P398 proposed draft legal text.

BSC held data

BSCCo presented slides at the first Workgroup showing the array of data that is available for BSC Parties. They also showed the following inexhaustive list of sources of BSC Data:

- Business Definition Documents
    - BMRS Data Catalogue
    - Central Volume Allocation (CVA) Data Catalogue
    - SVA Data Catalogues
    - Reporting Catalogue
- NETA Interface Definition Documents
- BSC Service Descriptions
- User Requirement Specifications
- BSC Section V 'Reporting'

None of the Workgroup were aware of any other sources of BSC data

Data and the law

The P398 Elexon Lead Lawyer presented to the Workgroup how the law relates to data, particularly regarding P398. The Workgroup discussed these implications and how they should be taken account of when developing the P398 solution.

Intellectual property

Individual items of data and information are not 'intellectual property'. However, compilations of data and information can be intellectual property, for example:

- Original literary work e.g. the BSC itself;
- Original non-literary written work i.e. compilations of data protected as a database right

The law relating to copyright and database rights are set out in the Copyright Designs and Patents Act 1988. The creator of a work automatically gets copyright protection or database right upon creation. This can be assigned to others by way of contract. As an example, I (Chris Wood) created slides for Workgroup meetings, so copyright ostensibly vests in me. But, my employment contract assigns ownership to Elexon.

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Confidential Information

Whilst intellectual property law only protects the format in which data is presented, confidentiality protects the data itself. Common law rules on confidentiality apply where:

- Information has 'necessary quality of confidence' e.g. not in the public domain; or
- Information disclosed in circumstances imparting an obligation of confidence e.g. as set out in the confidentiality rules in the BSC

To bring an action for breach of confidence, there must have been an unauthorised use of that information to the detriment of the rights holder. Confidential information can be disclosed with the consent of the owner e.g. see the BSC confidentiality provisions in BSC Section H4.

General Data Protection Regulation and the Data Protection Act 2018

The General Data Protection Regulation (GDPR) sets out (amongst other things):

- Rules on how personal data may be processed;
- Lawful bases for processing personal data;
- Only processing personal data for specific purposes;
- Only collecting necessary personal data, keeping it only for as long as necessary and ensuring it is accurate;
- Ensuring appropriate technical and organisational security measures; and
- The rights of individuals in relation to their personal data

The Data Protection Act (DPA) 2018 incorporates GDPR into domestic law i.e. GDPR will be in force in the UK regardless of the UK's relationship with the European Union going forward.

Personal data is information relating to an individual who can be identified from that data, or from that data combined with other information.

Data ownership under the BSC

Data ownership provisions are set out in H4.6 and H4.7:

- **Relevant party data** is data created by a Party (or on their behalf e.g. by Party Agents) and provided by them to BSCCo, the Panel, BSC Agents etc. ('relevant persons'). This data is owned by the relevant BSC Party
- **Relevant BSC data** is data created by relevant persons for the purposes of the Code. This data is owned by Elexon
- **BSCCo Materials** includes the BSC documents, code Subsidiary Documents (CSDs), specifications for BSC Systems etc. This data is owned by Elexon.

The BSC contains a number of rules allowing BSC data to be licensed to others, including Parties and non-BSC parties. These will not be changed by P398 and are being looked at elsewhere (See BSC Panel paper 296/14)

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One Assessment Phase consultation respondent questioned whether the proposed text changes to BSC Section H conflict with BSC Section L with regards to ownership of data. Elexon explained that any conflict is resolved by BSC Section H4.6 and H1.2. based on Elexon's explanation, the Workgroup were happy that no further action was required.

Rights to use BSC data

BSC Section V contains data requirements relating primarily to balancing mechanism data:

- BMRS data to be published on BMRS;
- Trading Data is available subject to the rules in V3.2 and Annexes 2 to 7, 9 and 10. These categorise data such that they are available:
    - Only to the Party to which the data relates;
    - Any Party on request;
    - All suppliers; and
    - Any person (on request) (provided they enter into a licence agreement with Elexon and pay a fee (V3.2.7))

Other BSC Sections and CSDs contain provisions relating to specific data on publication of certain Performance Assurance data, (e.g. BSCP533 'PARMS Data Provision, Reporting and Publication of Peer Comparison Data') but subject to general rules on confidentiality and publication.

General rules on confidentiality and publication

BSC Section H4 contains the rules on confidentiality. In principle, all BSC data is treated as confidential. BSC Section H4 contains rules on when confidential information may be disclosed e.g. if required by the BSC or another industry document; with consent; if already in the public domain; or if legally required.

BSC Section B3.3 gives the Panel a general right to use and disclose BSC data as it sees fit for the purpose of discharging its functions and duties under the BSC. **NOTE:** This does not apply to the Trading Data set out in the annexes (other than annex 1) to Section V.

The BSC Panel would normally be expected to exclude commercially sensitive data unless disclosing that data is necessary to fulfil the Panel's functions or the Party consents to disclosure.

The PAB and the Trading Disputes Committee (TDC) are not permitted to disclose commercially sensitive information other than as expressly permitted by the BSC, or if necessary to perform their duties.

These are being adapted to meet the P398 requirements.

Assessment Phase consultation feedback

It was suggested that the legal text should make it explicit that data should be released and presumed open. The concern was that the BCB may be inclined to use mitigation, classification and triaging as barriers not to release data. Elexon's lawyer is happy that

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openness is implied however, it was agreed that there is no reason why the legal text shouldn't be amended to be more explicit as this would be a minor change. The point was made that if one respondent is concerned, there may be other industry members equally as concerned, but didn't respond to the consultation.

There was concern from one respondent that third parties may be asked to provide data. However, it was confirmed by Elexon and Workgroup members that this would not be the case – BSCCo would only request data from their Agents (BSC Agents). It was agreed that the legal text should be tweaked to reflect that only Settlement data will be made available – again, this is a minor and simple change. Further, it was agreed that if someone does ask for third party data, BSCCo would inform them that it is not available when the request is submitted, and would refer them to who does hold the data should they wish to submit a request to the data holder – e.g. if someone asks for NGESO data that BSCCo does not have, then BSSCo will suggest the requester contacts NGESO.

One respondent suggested that a Data Protection Impact Assessment should be conducted as a matter of course. Elexon suggested that this is not necessary as the BSC already requires this to take place if there is any concern that personal data may exposed. However, it was agreed that a prompt will be added to the Cat three document to reflect this need.

A question was asked about the meaning of 'Incremental security risk'. Elexon explained that this term was lifted from EDTF's guidance. A Workgroup member suggested that it could be interpreted to mean a situation where newly released data, combined with existing data, could increase the risk of a data breach. Elexon will amend the legal text to reflect this discussion.

Elexon vs. BSCCo

It was agreed that any data held by Elexon in relation to its responsibilities as BSCCo would be subject to P398. However, anything held by Elexon in relation to Elexon as a company (i.e. not BSC related) would not be within the remit of P398. It was agreed that Elexon would be able to make these arbitration when they review the application form and, if in doubt, refer to the BCB for affirmation.

General principles for establishing open data governance

It was discussed that what P398 is attempting is ground breaking and is an embryonic process. While every effort will be made to avoid errors, it is reasonable to expect that industry has a degree of accountability too. That is, where industry identifies a duplication, Elexon would expect it to be raised so that corrections can be made.

The Workgroup were keen to ensure that data released should be a Single source of truth, particularly where there is duplication of data sets across Codes etc., for example, there are lots of overlaps between Elexon and National Grid Electricity System Operator (NGESO) in terms of what data each holds and can, therefore be released under open data (e.g. asset Registration – there are multiple names across multiple systems for what is, physically, the same thing.) Regulation on wholesale Energy Market Integrity and Transparency (REMIT) is another example of duplication of the same data by any other means. Identifying overlaps is as important as filling in the gaps too.

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Elexon's role

The Workgroup needs to be mindful that as much as Elexon (in its role as BSCCo) is happy to make the data available, they are hesitant about becoming the monopoly for data. Their principle purpose is to 'do' the BSC and not be a data factory. However, the Workgroup needs to ensure there is good governance in place regarding the release of data and as such we are able to provide a quality service to our customers without impacting our primary purpose. Simplified, there needs to be a balance between effort and reward and if analysing requests and making recommendations to BCB is becoming too onerous, alternate solutions will need to be sought.

To ensure BSCCo does not become too overly burdened by multiple data requests, there should be a regular review of the release process. If it becomes apparent that BSCCo is becoming overly burdened, a review of the process can be instigated at any time to make changes as soon as possible. Similarly, the governance process, while being relatively rigid, should equally be relatively easy to change as it becomes apparent how much the P398 solution will be called upon.

Having discussed the general principles and theory, the Workgroup then moved on to discuss the specifics of how they should be applied to BSC data in order to arrive at the proposed P398 solution.

Treatment of data

Elexon presented the EDTF's recommendations for triaging, categorisation and mitigation. The categorisations were accepted without discussion, but the Workgroup did discuss their application in respect of the BSC. [These are in Section three above and have been copied directly into the P398 solution without amendment].

The challenge around releasing data will be the balance between the treatment of data vs utility of the data i.e. how useful data will be after it has been 'tidied-up'. The focus should be on the end product – what is required and how we can help rather than just releasing or denying because that is what the 'rules' say should be the outcome.

The Workgroup discussed that, in terms of reducing the risk associated with releasing data, i.e. when determining what mitigation to apply. They concluded that who will carry the risk should be the guider – i.e. will the risk be borne by the subjects of the data, the requesters or BSCCo should the data be published. The Workgroup's recommendation is that this should be considered when recommending which mitigations to apply as well as how to triage and classify data.

Questions were asked about the usefulness of 'commercial' as almost all BSC data could be classified as 'commercial. It was discussed that a lot of market information may not be in the public domain and could be market information however, there may be some pieces of data that aren't 'commercial'. Ultimately though, it was accepted that 'commercial' is a standard descriptor put forward by EDTF and will become an industry standardised term in due course.

A question was asked about paragraph 11.2.1(a) in the proposed legal text, specifically the inclusion of the term 'for the purpose of Settlement'. The Workgroup discussed whether everything the BSCCo has could be held in relation to data e.g. staff wages pertain to Settlement as it is indicative of the cost of managing the BSC. Moreover though, the example given would be Data flows that contain multiple J-Items where only some of them are used for Settlement purposes and the others are for Balancing purposes. BSCCo would

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hold the non-Settlement related data, so would it be releasable under this paragraph? The reasoning was that if the data flow was received for Settlement purposes, then arguably, anything within the data-flow can be released. The counter argument was that if the data is not received in relation to Settlement then for the purposes of P398 it, essentially, does not exist.

We also discussed how this would relate to Electricity Market Reform Service (EMRS) data as it is the BSC that gives Elexon varies to operate EMRS and workgroup members were concerned whether BEIS would veto P398 because of this. However, it was pointed out that Settlement Data is a defined term n BSC Section X-1 and does not cover EMRS.

The Workgroup's final position was to leave it as is and let people respond in the consultation if they feel that the wording needs to be tighter. It was also discussed that Workgroup members can respond to consultation with their views and that a final decision doesn't need to be made until the final workgroup meeting in September. No concerns were expressed in the Report Phase consultation and so the drafting remains unchanged.

Cost-Benefit Analysis

The Workgroup were in favour of some sort of Cost-Benefit-Analysis (CBA) whereby releases are rejected on this basis. However, it was acknowledged that this can be subjective and as such, there needs to be some sort of right of review following the Panel/sub-committee decision i.e. an appeals process. The CBA should also be mindful of the impact on BSC Agents. A CBA should be carried out for each data request.

There was concern in the consultation responses that the cost threshold could be a barrier to innovators and/or new entrants. To clarify, the concern was that if an innovator/new entrant requested data that would enable them to change and/or enter the market, but it breached the £150,000 threshold, then they would not receive the data they need. The workgroup affirmed their previous thoughts that while they want to encourage new entrants and innovation, there needs to be a balance so that the costs are not excessive and/or too much time is given by BSCCo, at the expense of other tasks. The Workgroup did however recognise that there was nothing to prevent the BSC Panel from approving a data release even if the threshold is breached if they believe that the benefit outweighs the cost.

Consultation

We discussed the amount of information that industry receives and is requested to respond to. It was acknowledged that most of the time people will only respond if they have concerns i.e. silence could be construe as consent as people don't have the time to say 'yes, I agree, carry-on'.

It was agreed that the consultation should ask that, if they are opposed to releasing the data, whether there are any mitigations that could be taken so that they would be happy for the data to be released.

The BCB should consider the results of the consultation as well as the BSCCo's recommendation. This should also be taken into account when deciding whether defer to the BSC Panel This is so that any deferral can be accompanied by a BCB recommendation.

We also discussed the form/template of the consultation. With the intent to keep the impact on industry as little as possible, we discussed whether there was a need for a full

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formal consultation that takes time to read, consume and respond. As an alternative, a simple e-mail could be used and the consultation feedback would be responding to that e-mail. In conclusion the Workgroup agreed that the consultation should be by negative response i.e. people need only respond if they disagree with the proposed release of data. Further, while a formal response would be preferred, any form of response should still be considered by the BCB.

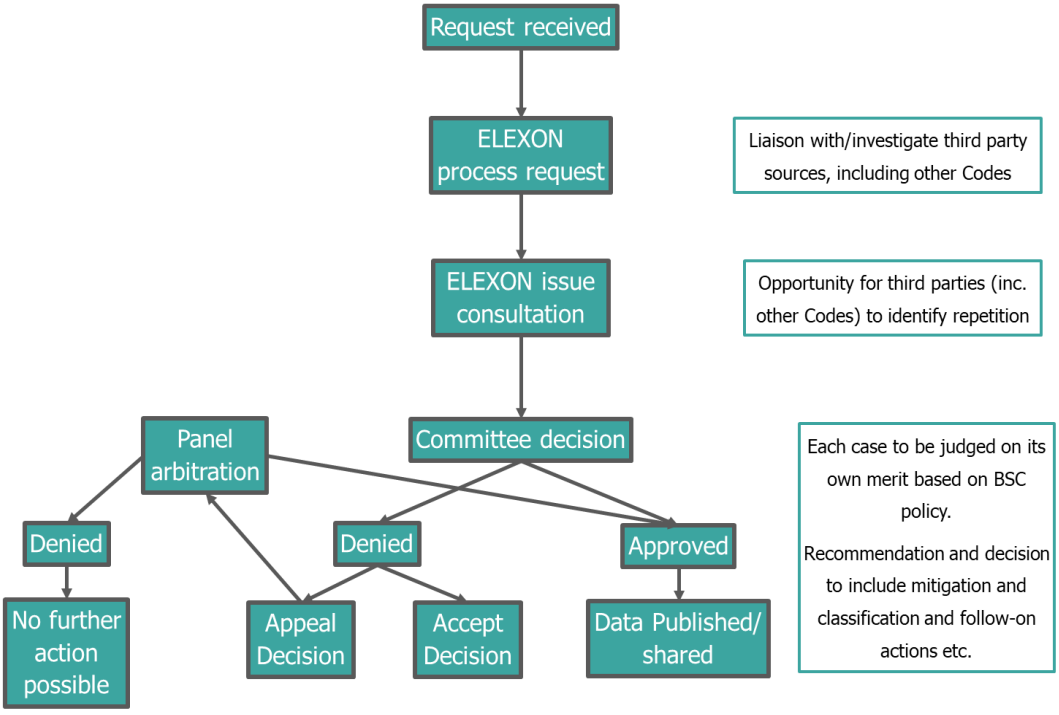
Decision makers

It was agreed that decisions should be by a BSC Panel sub-Committee as this would allow the Panel to be the arbitration body should a decision be appealed. It was agreed that the responsible sub-committee should be the newly formed BCB as they will already be responsible for what data is published on the BMRS and as such, will have sufficient familiarity with the publication of data to make decisions.

The Workgroup agreed that BCB decisions should be by majority rather than unanimous – It was felt that this was best practice as there would likely be numerous cases of one member disagreeing and as such, data may not be released, which on balance is consistent with the open data approach, but may duly disadvantage a party e.g. if they currently have access to information that gives them an unfair advantage they may not want to change this position. As 'decision by majority' is already incorporated within the BCB's Terms of Reference, no changes will be required to implement P398.

If the BCB does not think data should be released, they should advise what actions need to be taken to make the data releasable. As a matter of default, the industry consultation will need to be reissued, unless the BCB has determined otherwise.

The following was presented as an example of the decision making process:



BCB expertise

We discussed if the BCB would have sufficient knowledge to make a decision on publishing and questioned whether the membership would need specific skills or rotating to reflect he

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nature of the request. It was agreed upon however, that the situation would be no different in reality to the role of any other committee in that while every effort is made to make the membership as diverse as possible in terms of experience etc. it can't account for all eventualities. Additionally, with time, the BCB and Elexon will build up expertise when making decisions and recommendations respectively. There will be a consultation process in order for industry to make representation to the BCB and in addition, there will be an appeals process in case it is felt the BCB were wrong. Given P398 will introduce a new function for the BCB, Elexon will review the BCB membership, following P398 approval to ensure there is appropriate coverage of expertise of different types of BSC data.

Appeals process

We discussed that appealing to Panel would elongate the process and, to avoid an endless succession of appeals and delays, there should be a limit to the number of appeals per request. As such, the number of appeals is to be limited to one appeal per request per person. However, anyone can appeal a decision to publish, including non-BSC Parties –this is in line with the principle that all data shall be open to all persons. Therefore, if anyone can request data, anyone should be able to appeal a determination made regarding that request.

We discussed that at the moment there is no legislation or such to 'force' the Panel/Elexon to release data. As such, if the Panel/BCB decision is disagreed with, there is no higher entity to turn to. Considering this, we discussed whether the Panel/BCB could send decisions and/or appeals to the Authority [Ofgem] in a similar manner to how some Modifications are sent to the Authority. It was pointed out that the Authority may not have an appetite to accept this role without a legal basis to arbitrate. It was discussed whether the Assessment Procedure consultation should ask for industries views on this matter, but the Workgroup agreed that respondents could bring any support for Ofgem involvement out in the 'any alternative solutions' question.

One assessment phase consultation respondent did ask whether there would be an escalation route if they disagreed with the BSC Panel's decision. As nothing has changed, the BSC Panel's decision will be final until such time Ofgem has the varies to review the BSC Panel's decision.

Publishing the request

We discussed whether the request and/or the requester should be in the public domain. It was represented that the requester may be against this as they may not want their peers/rivals to know what data requests they are making as it could be indicative of changes in business models.

It was agreed that a request form should be developed and within that, the requester will be able to state their desired level of anonymity. The form should also ask the reason for requesting the data but this could either be left blank or not releasable. The reason for this is that the information will be useful to Elexon in preparing the release but, businesses may not want their rivals to know why data is being requested etc. This was discussed in detail and at the third Workgroup meeting it was agreed that applicants should submit their reason for requesting data and if they have concerns, they should discuss with BSCCo how best to word this section to allay their concerns. That is. It will be mandatory to complete this section, but the requester should discuss with BSCCo if there is a way to word the request so as not avoid the requester's concerns.

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The periodicity of publishing data sets was discussed and it was agreed that this should be on a case by case basis and will form part of BCB's decision.

It was discussed that all datasets should be classified and published as a matter of course. This is okay for more common datasets however, given the vast swathes of raw data and exceptionally large number of ways that data can be combined to produce some many permutation of data sets, this is not a practicable task.

It was agreed that the BCB will have the ability to direct the BSCCo this way if it feels prudent to do so and similarly, the BCB will have the ability to raise data requests/direct BSCCo to release certain data sets.

The de-facto location for publishing data will be the Elexon website but, depending on uptake, a stand-alone website may need to be developed to host the published data sets. A comment was made as to whether Elexon would have the capacity/ability to do this given that most of the Portal data is populated by BSC Agents and not Elexon. Elexon assured the workgroup this wouldn't be a problem. It was suggested that the Government Digital Service's open data portal may be a source of best-practise for the organisation of a data-specific website.

The Workgroup discussed and agreed that on occasion an unmitigated dataset may need to be passed to the requester in confidence so they can make practicable use of the data. However, this would be a rare occurrence and the risk of it being released publically should be considered by the BCB.

The Workgroup agreed that timelines for publishing of data should be published to help with the management of expectation.

Cost of meeting a request

There was some concern over who will pay the cost for making data open, particularly when the request originates from a non-BSC Party. It would be simple enough to apply a charge for datasets in these circumstances – as is already done in relation to data sets now.

However, it is not as simple as this. If the data set is published/shared, then there will, potentially, be multiple beneficiaries therefore, how is cost attributed?

The BSC is at the centre of the industry and arguably has one of the greatest sets of data available in terms of breadth of information and granularity – there is very little that can be analysed from BSC data other than maybe some niche areas of the industry – and even then, BSC data can be used for general/ big picture analysis. By releasing BSC data for free, BSC parties will be doing a great service to the Industry. Similarly, they will be able to take advantage of data sets published following requests form their peers so, ultimately, the cost will be socialised.

One of the aims of increasing access to data, and therefore P398, is to increase competition in the market; this includes assisting new companies in entering the market. It is envisaged that business models will change a lot over coming years and new models will be far more data driven than in the past. Having access to large swathes of data will assist this. Furthermore, while a lot of data can be inferred or reverse engineered from multiple open-sources, it is no substitute for reliable data from a reliable source i.e. the BSC. By publishing BSC data when requested the industry will be able to develop and evolve with confidence, and all members, both old and new, will be able to take advantage of this.

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Ultimately, the cost of publishing will be borne by the consumer and this cost is passed onto them via BSC Parties. It has been established by the EDTF that there are numerous advantages for the consumer in publishing data; particularly in how access to multiple data will drive market transformation for consumer benefit and as part of the drive towards net-zero.

It was agreed that each case should be determined on its own merits and Elexon's Paper to the BCB should include the cost and impact to enable them to make a decision.

When reviewing the draft legal text, the Workgroup discussed that the proposed BSC Section V paragraph V3.2.7 allows for fees to be charged. It was explained to the Workgroup that charges will not be applied, as this was agreed previously for the reasons explained above. However, this will be retained in the legal text should that change at some point in the future.

One respondent to the Assessment Phase consultation expressed concerns with the costs associated with releasing data. They felt that industry would be funding the cost of providing a product that would give the requester a commercial advantage. The Workgroup however, were in agreement that as all data sets will be published for public consumption, the requester would have no more advantage than anyone else. Further, as discussed pre-consolation, it is expected that things will 'balance-out' over time as more and more people request data sets for public consumption.

Central data catalogue

It was discussed and agreed that a Central data catalogue i.e. who hold what data across the industry would be extremely helpful. However, the creation of such a catalogue would either need to be voluntary or a consequence of legislative change. Ofgem are working on this and will communicate further in due course – this is an EDTF recommendation.

Gaming

The workgroup considered whether the P398 solution should include something to prevent gaming. It was agreed that while intellectually it was something to be considered, ultimately we are not in a positon to recommend anything practicable. Further, it was agreed that it should be Ofgem's role to analyse requests (as discussed above, we expect Ofgem to request information about requests at some point in the future) and identify any potential gaming occurring, and not unto the BSCCo to undertake such a role.

Refusing requests

As previously discussed, refusal may be as a result of the CBA. In this situation however, suggestions should be made to enable release following actions appropriate to the case.

It was touched on several times but, when assessing whether data should be released, Elexon (recommendation) and the BCB (decision) should be aware of the sensitivity of data, meta-data and what it could be used for when added to other data from a third party.

It was discussed that where data requests are refused due to the output of a CBA i.e. it's too expensive/difficult for that isolated request, Elexon and BCB should consider how similar requests will be treated in the future. They should also consider what the data

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could be used for when combined with other data and/or similar sets are released periodically i.e. if the CBA says 'no' this time, before making their final determination, the BCB should consider if there could there be benefits at some point in the future which would justify the cost at this time.

The Workgroup recognised that this would require BSCCo to understand what other data is available. The asset database will be useful for this in the future, as will cooperation with other Industry Codes. The Workgroup noted that Ofgem is already engaging with other codes regarding co-ordination in this matter. Furthermore, it is expected that industry will make BSCCo aware of any issues through the consultation process, and in addition, the expertise of the BCB will help to mitigate any concerns. It is expected that with time this process will become more finessed.

Security concerns

There may be occasions that, for whatever reason a refusal to release data would be an implicit acknowledgement of having the data in a situation where-by it is not appropriate to acknowledge that the data even exists. An example of this could be security sensitive data however, none of the Workgroup could think of examples of this in relation to the BSC. In the unlikely event of this happening, Ofgem and/or the National Cyber Security Centre (via Ofgem or direct) should be consulted for advice. It was also agreed that this principal could apply to metadata too.

Performance Assurance data

It was agreed that any information relating to Performance Assurance (i.e. covered by Section V and Section Z of the BSC) would be subject to triage and classification. It was assumed that most of the data would be classified as closed however, if mitigation can be applied, there is no reason why some of this data shouldn't be released.

The draft text proposes that Trading Data may only be released if the Party to which it relates cannot be identified. It was therefore asked that if this is in place, is mitigation required. Types of data and what may be included were discussed, ultimately though, it was agreed that P398 is trying to put in place governance processes so that we can release data. A question was asked whether there may be cases where the P398 process may be more restrictive than current rules. It was suggested that some of the Trading Data reports in BSC Section V can now be released with third party consent, but the P398 solution may not permit this. However, it was pointed out by Elexon that the proposed solution does allow for third party data to be released with that third parties consent and the Open Data CSD will cause such consent to be sought.

In conclusion, Performance Assurance data could be released if the BCB determines that the application of mitigations means that it is no longer sensitive data.

Record Keeping

Ofgem informed the Workgroup that they will, in due course, want records routinely on number of data requests etc. however, at the time of the workgroup, the nature of such request was still being considered and Ofgem were unable to give more detail.

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Bearing this in mind, it was agreed that BSCCo should draft quarterly reports to publish on the Elexon website, with a view to these becoming an industry wide template. BSCCo should liaise with Ofgem so far as possible in preparing these reports.

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7 Workgroup's Conclusions

The Workgroup agreed unanimously that P398 should be implemented.

Proposer's views

Elexon recommended to the Panel, at its meeting on 12 December 2019, that a Modification should be raised to increase access to BSC data. The Panel agreed to raise P398, in accordance with Section F2.1.1(d)(I) and they in turn nominated Jeremy Caplin of BSCCo to be their representative. However, as per BSC Section F paragraph 2.4.5(c), the Panel's representative, where an employee of BSCCo as for P398, is not able to vote against the Applicable BSC objectives therefore, unlike with other proposed BSC Modifications, the Proposer's views are not represented.

Applicable BSC Objectives

Objective (a)

The Workgroup unanimously agreed that P398 is neutral in relation to Applicable BSC Objective (a) as there is no license obligation to make BSC data more open at this time on the Transmission Company, but noted that Ofgem are planning to introduce one in the future.

Objective (b)

The Workgroup were neutral by majority (3 vs. 6) as to their views on whether P398 would better facilitate Applicable BSC Objective (b). The three Workgroup members that were positive thought that access to more open data would lead to greater innovation and therefore more efficiency with one adding that the use of existing open data has allowed BSC Parties to exert pressure on NGESO to improve efficiency of BM operation. Therefore, we can expect availability of more data to improve transparency and accountability and therefore efficiency, on the same basis. The remainder however, were neutral because even though access to more data could make the operation of the Transmission System more efficient, they did not think it would be in the foreseeable future.

Objective (c)

The Workgroup unanimously agreed that P398 would be positive in relation to Applicable BSC Objective (C). They were in agreement that if we remove information asymmetry (perceived or otherwise) to make data available, it will lead to a level playing field, and therefore greater competition.

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Objective (d)

The majority of the Workgroup (5 of 9) thought that P398 would be neutral against Applicable BSC objective (d). One Member thought that even though there are some mechanisms within the BSC already for the release of data, P398 would make it easier and more transparent. This was echoed by others who were positive, with one adding that ultimately, there will be so much data available, a publically accessible data warehouse (or similar) would be created, making the BSC more efficient. The five Members that were neutral were unsure on whether the implementation of BSC arrangement would be more efficient, with one adding that it would depend on BSCCo's ability to handle numerous requests.

Objective (e)

The majority of Members thought that P398 is neutral against applicable BSC Objective (e) as there is no European requirement to make data open. However, one Member was positive as P398 is in the same spirit of the European Regulation (EU) 1227/2011 on wholesale Energy Market Integrity and Transparency (REMIT).

Objectives (f) & (g)

This Workgroup unanimously agreed that P398 will be neutral against BSC applicable Objectives (f) and (g).

Does P398 better facilitate the Applicable BSC Objectives?		
Obj	Proposer's Views	Other Workgroup Members' Views
(a)	• Not applicable	• Unanimously neutral
(b)	• Not applicable	• Majority (6) neutral, remainder (3) positive
(c)	• Not applicable	• Unanimously positive
(d)	• Not applicable	• Majority (5) neutral, remainder (4) positive
(e)	• Not applicable	• Majority (8) neutral, remainder (1) positive
(f)	• Not applicable	• Unanimously neutral
(g)	• Not applicable	• Unanimously neutral

It should be noted that those Workgroup Members that gave their views ahead of the Assessment Phase consultation did not change their views post-consultation. However, three more Members offered views post-consultation, which is why the overall Workgroup views changed.

Self-Governance

The Workgroup unanimously thought that P398 should **not** be a Self-Governance Modification and the decision on whether to implement should be made by the Authority (Ofgem). They agreed that P398 would have a material impact on competition, consumers and the market and as such, should be sent to Ofgem. Their belief is that P398 will open

What are the Self-Governance criteria?

A Modification that, if implemented:
(a) does not involve any amendments whether in whole or in part to the EBGL Article 18 terms and conditions; except to the extent required to correct an error in the EBGL Article 18 terms and conditions or as a result of a factual change, including but not limited to:
(i) correcting minor typographical errors;
(ii) correcting formatting and consistency errors, such as paragraph numbering; or
(iii) updating out of date references to other documents or paragraphs;
(b) is unlikely to have a material effect on:
(i) existing or future electricity consumers; and
(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and
(iii) the operation of the national electricity transmission system; and
(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
(v) the Code's governance procedures or modification procedures; and

(b) is unlikely to discriminate between different classes of Parties.

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up the market and could, potentially, make significant changes to how companies come to market, and therefore the products that they offer to consumers.

Originally, two Members thought the BSC Panel should make the determination (i.e. should be Self-Governance). They thought that the impact would not be material and as such, P398 should not be sent to Ofgem for determination. However, their views were changed based on consultation feedback.

Regardless, because P398 impacts the EBGL Article 18 balancing terms and conditions it must be sent to Ofgem for decision.

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8 Panel's Initial Discussions

The Panel considered the P398 Initial Written Assessment at its meeting on 12 December 2019 and agreed an initial view that the Modification should not be treated as a Self-Governance Modification as well as agreeing to progress the Modification to the Assessment Procedure. Four Workgroup meetings and an Assessment Procedure Consultation were held between January 2020 and September 2020.

The P398 Assessment Report was presented to the Panel at its meeting on 8 October 2020 (Panel 307/07). The Panel initially agreed unanimously with the following:

- **AGREE** that P398:
  - **DOES** better facilitate Applicable BSC Objective (c);
- **AGREE** an initial recommendation that P398 should be **approved**;
- **AGREE** an initial Implementation Date of:
  - 25 February 2021 if the Authority's decision is received on or before 15 January 2021; or
  - 24 June 2021 if the Authority's decision is received after 16 January 2021 but on or before 31 May 2021;
- **AGREE** the draft legal text;
- **AGREE** that P398 does impact the EBGL Article 18 Terms and Conditions and is consistent with the EBGL Objectives;
- **AGREE** an initial view that P398 **should not** be treated as a Self-Governance Modification;
- **AGREE** that P398 is submitted to the Report Phase; and
- **NOTE** that Elexon will issue the P398 draft Modification Report (including the draft BSC legal text) for a one month BSC and EBGL consultation and will present the results to the Panel at its meeting on 10 December 2020.

The Panel agreed with the rationale provided by the Workgroup (as detailed in the previous sections of this report) and did not have any further comments on P398.

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9 Report Phase Consultation Responses

The Report Phase Consultation was issued on 15 October 2020, with responses invited by 16 November 2020. We received two responses from a Supplier Agent and a Distributor who both responded to the previous Assessment Procedure Consultation. This section summarises the responses to the Panel's Report Phase Consultation on its initial recommendations. You can find the full responses in Attachment C.

Summary of P398 Report Phase Consultation Responses

Question	Yes	No	Neutral/ No Comment	Other
1) Do you agree with the Panel's initial unanimous recommendation that P398 should be approved?	2	0	0	0
2) Do you agree with the Panel that the redlined changes to the BSC deliver the intent of P398?	2	0	0	0
3) Do you agree with the Panel's recommended Implementation Date?	2	0	0	0
4) Do you agree with the Panel's initial view that P398 should not be treated as a Self-Governance Modification?	2	0	0	0
5) Do you agree with the Panel's initial view that P398 does impact the EBGL Article 18 terms and conditions related to balancing held within the BSC?	1	0	1	0
6) Do you have any comments on the impact of P398 on the EBGL objectives?	0	2	0	0
7) Do you have any further comments on P398?	0	2	0	0

Both respondents agreed with the first four questions detailed above and did not provide any new arguments or views. One respondent highlighted that in their view the Modification would better facilitate BSC Objective (c) which aligns with the Panel's initial view.

Both respondents agreed that the Modification should not be treated as a Self-Governance Modification. One respondent stated that this was due to the material impact that the change could have on competition.

One respondent agreed with the Panel initial view that Modification would have an impact on the EBGL Article 18 terms and conditions on the basis that Section H of the BSC required Modification whereas the other respondent did not express a view commenting that they were reliant on the Panel's recommendation.

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10 Panel's Final Discussions

P398 was presented to the Panel for decision at its meeting on 10 December 2020 (309/07). A Panel member queried the scope of data that would be governed under processes detailed in P398. Elexon clarified that the Proposed Modification would not replace existing data governance processes but would rather provide a governance structure so that any new requests for data that are not covered elsewhere under the BSC would be by default governed under the processes detailed within P398.

Elexon also clarified the following:

- That the cost escalation threshold to the Panel for the BCB is £150k in line with other Panel Committees; and
- No changes to the BMRS would be required under this change.

The Panel noted the consultation response and unanimously approved P398 and made the following decisions. The BSC Panel:

- **AGREED** that P398:
  - DOES better facilitate Applicable BSC Objective (c);
- **AGREED** a recommendation that P398 should be approved
- **APPROVED** an Implementation Date of:
  - 25 February 2021 as part of the February 2021 BSC Release if an Ofgem decision is received on or before 15 January 2021; or
  - 24 June 2021 as part of the June 2021 BSC Release if an Ofgem decision is received after 15 January 2021 but on or before 31 May 2020
- **APPROVED** the draft legal text; and
- **APPROVED** the P398 Modification Report.

The Panel made no further comments.

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11 Recommendations

The BSC Panel recommends to the Authority:

- That the P398 Proposed Modification should be **approved**
- That the P398 Proposed Modification **does** impact the EBGL Article 18 terms and conditions held within the BSC;
- An Implementation Date for the P398 Proposed Modification of:
  - On **25 February 2021** as part of the February 2021 BSC Release if an Ofgem decision is received on or before 15 January 2021; or
  - On **24 June 2021** as part of the June 2021 BSC Release if an Ofgem decision is received after 15 January 2021 but on or before 31 May 2020.
- The BSC legal text for the P398 Proposed Modification.

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Appendix 1: Workgroup Details

Workgroup's Terms of Reference

Specific areas set by the BSC Panel in the P398 Terms of Reference	Conclusion
What is meant by 'data' and what types of data are there	This has been included in the draft legal text and was discussed in the break-out session of Workgroup One
What data is held in relation to the BSC and by whom, and should all of this data be subject to P398	This was presented and discussed at the first Workgroup meeting
What is the relevant legislation	Discussed during the first Workgroup
What best practice is available and to what extent should it be replicated in the BSC	BSC is the first Code to do this, so the closest best practice is how Ofgem applies the Freedom of Information process
How should the BSCCo respond to request for data, including treatment of third party data	We have developed a process for this – See above
What form should an enduring IT solution take	The Workgroup gave feedback at first and Second Workgroup
How will P398 affect delivery of the Performance Assurance Framework	Any data pertaining to the PAB is subject to triage, classification and Mitigation as per any other data set
How should data be published and/or shared (dependant on classification) and should there be a right of appeal either before or post-publication/sharing	Data will be published on Elexon's website. There will be an appeals process – this is explained above in some detail
Guidance and/or Terms of Reference for the Panel to determine whether data should be made open	The Open data CSD BSCCo will produce will act as guidance. The BCB's terms of reference will be updated to reflect P398
A recommendation on whether the Panel should delegate responsibility to a sub-committee and if so, which sub-committee	The Workgroup recommends delegating responsibility to the BCB as discussed above
How are other codes treating data and is there anything that can be learned	Other Codes are not yet making data open and available
How industry should be made aware of the changes P398 will introduce	Elexon will make industry aware of P398 and the consequences through their standard communication channels
What are the potential gaming risks and how can they be mitigated	The Workgroup discussed gaming and concluded that it is the responsibility of the regulator to identify gaming
How will uptake be monitored post-implementation	Data on the number and type of requests and their outcomes will be gathered and published

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Specific areas set by the BSC Panel in the P398 Terms of Reference	Conclusion
The impact on BSC Settlement Risk	The Workgroup recommends the PAB consider whether a specific risk needs to be raised
What changes are needed to BSC documents, systems and processes to support this Modification and what are the related costs and lead times? When will any required changes to subsidiary documents be developed and consulted on?	See Section four
Are there any Alternative Modifications?	None were suggested
Should the Modification be progressed as a Self-Governance Modification?	The Workgroup's recommendation at this stage is that it shouldn't
Does this Modification better facilitate the Applicable BSC Objectives than the current baseline?	The Workgroup believes it does – see below.

Assessment Procedure timetable

P398 Assessment Timetable	
Event	Date
Panel submits P398 to Assessment Procedure	12 Dec 19
Workgroup Meeting 1	16 Jan 20
Workgroup Meeting 2	30 Mar 20
Workgroup meeting 3	18 Aug 20
Assessment Procedure Consultation	24 Aug 20 – 14 Sep 20
Workgroup Meeting 4	25 Sep 20
Panel considers Workgroup's Assessment Report	8 Oct 20

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Workgroup membership and attendance

P398 Workgroup Attendance					
Name	Organisation	16 Jan 20	30 Mar 20	18 Aug 20	25 Sep 20
Oli Meggitt	Elexon *(Chair)*	✓	✗	✗	✗
Elliott Harper	Elexon (Chair)	✗	☎	✗	✗
Chris Wood	Elexon *(Lead Analyst)*	✓	☎	☎	☎
Jeremy Caplin	Elexon *(BSC Panel's representative and Design Authority)*	✓	☎	☎	☎
Aily Armour-Biggs	Global Energy Advisory	✓	✗	✗	✗
Andrew Colley	SSE	✗	☎	☎	☎
Colin Frier	Siemens	✓	☎	✗	✗
Ian Hall	IMServ	☎	☎	✗	☎
Jacqui Barton	Western Power Distribution	☎	☎	☎	☎
James Murphy	Stark	✓	☎	✗	✗
Meg Wong	Stark	✗	✗	☎	✗
Neil Morgans	NGESO	✓	☎	✗	
Nik Wills	Stark	✓	☎	☎	☎
Paul Coates	RWE	✓	☎	☎	☎
Phil Russell	Consultant	✓	☎	☎	☎
Robert Selbie	Eleclink	✗	✗	☎	✗
Tom Chevalier	Meter Manufacturer's Association	☎	☎	✗	☎
Nicholas Brown	Elexon *(Lead Lawyer)*	✓	☎	☎	☎
Assad Ijaz	Elexon (*Business Analyst*)	✓	☎	☎	☎
Emma Tribe	Elexon (*Subject Matter Expert*)	✓	☎	✗	☎
Steven Steer	Ofgem	✓	✗	✗	✗
Ben Chamberlain	Shell Energy	☎	☎	✗	✗
Eli Treuherz	Arenko Group	✓	☎	☎	☎
Lee Francis	SMS	☎	✗	✗	✗

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Appendix 2: Glossary & References

Acronyms

Acronyms used in this document are listed in the table below

Acronyms	
Acronym	Definition
BCB	BMRS Change Board
BEIS	Department for Business, Energy and Industrial Strategy
BMRS	Balancing Mechanism Reporting Service
BSC	Balancing and Settlement Code
BSCP	Balancing and Settlement Code Procedure
CBA	Cost Benefit Analysis
CSD	Code Subsidiary Document
CVA	Central Volume Allocation
DPA	Data Protection Act
EBGL	Energy Balancing Guidelines
EDTF	Energy Data Taskforce
EMRS	Electricity Market Reform Service
GDPR	General Data Protection Regulation
MDD	Market Domain Data
MPAN	Meter Point Administration Number
NETA	New Electricity Trading Arrangements
NETSO	National Grid Transmission System Operator
NGESO	National Grid Electricity System Operator
PAB	Performance Assurance Board
PARMS	Performance Assurance Reporting and Monitoring System
SCR	Significant Code Review
SVA	Supplier Volume Allocation
SVG	Supplier Volume Allocation Group
TDC	Trading Disputes Committee
WD	Working Day

External links

A summary of all hyperlinks used in this document are listed in the table below.

All external documents and URL links listed are correct as of the date of this document.

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External Links		
Page(s)	Description	URL
3, 5	Energy Data Taskforce	https://www.gov.uk/government/groups/energy-data-taskforce
3, 5, 18	A Strategy for a Modern Digitalised Energy System	https://es.catapult.org.uk/news/energy-data-taskforce-report/
5	Grand Challenges	https://www.gov.uk/government/publications/industrial-strategy-the-grand-challenges/industrial-strategy-the-grand-challenges
5	Upgrading our energy system: smart systems and flexibility plan	https://www.gov.uk/government/publications/upgrading-our-energy-system-smart-systems-and-flexibility-plan
6	P030 – Availability of Market Information to BSC Parties and non-BSC Parties	https://www.elexon.co.uk/mod-proposal/p030-availability-of-market-information-to-b-s-c-parties-and-non-b-s-c-parties/
6	P114 - Entitlement of Licence Exemptible Generators (LEGs) and other Non-trading Parties to BSC Membership Without Evidence of Trading	https://www.elexon.co.uk/mod-proposal/p114-entitlement-of-licence-exemptable-generators-legs-and-other-non-trading-parties-to-bsc-membership-without-evidence-of-trading/
6	P315 - Suppliers' Meter Volume and MPAN counts	https://www.elexon.co.uk/mod-proposal/p315/
6	BSC Panel Meeting 294	https://www.elexon.co.uk/meeting/bsc-panel-294/
6, 13	BSC Panel Meeting 294 – Cost of Access to Data	https://www.elexon.co.uk/documents/groups/panel/2019-meetings/294-september/294-16-cost-of-access-to-data/
6	BSC Section B 'The Panel'	https://www.elexon.co.uk/the-bsc/bsc-section-b-the-panel/
7	BMRS Change Board (BCB)	https://www.elexon.co.uk/group/balancing-mechanism-reporting-service-change-board-bcb/
7	BSC Section H	https://www.elexon.co.uk/the-bsc/bsc-section-h-general/
23	BSC Panel Meeting 296	https://www.elexon.co.uk/meeting/bsc-panel-296/
24	BSCP533 Webpage	https://www.elexon.co.uk/csd/bscp533-parms-data-provision-reporting-and-publication-of-peer-comparison-data/
25 & 35	Regulation on wholesale Energy Market Integrity and Transparency	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011R1227
30	Government Digital Service's open data portal	https://data.gov.uk/

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External Links		
Page(s)	Description	URL
30	Elexon Electricity Industry Data Page	https://www.elexon.co.uk/data/
37	Panel Meeting 307	https://www.elexon.co.uk/meeting/bsc-panel-307/
39	Panel Meeting 309	https://www.elexon.co.uk/meeting/bsc-panel-309/

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