

## Section B: The Panel

### Introduction

[Section B](#) covers the establishment of the Balancing and Settlement Code Panel, the appointment and duties of Panel Members, the powers and functions of the Panel, the proceedings of the Panel, Panel Committees, Annual Reports and the Annual BSC Meeting.

### Establishment and Objectives

The Panel comprises a chairman, five members elected by Trading Parties, two members appointed by a consumer body nominated by Ofgem, a member appointed by the Transmission Company (National Grid), and two independent members appointed by the Panel Chairman. The chairman can also appoint another person if he believes their expertise should be present in the membership of the Panel). ELEXON provides a Panel Secretary.

All members of the Panel are subject to the following objectives when conducting its business:

- (a) that the BSC is given effect fully and promptly and in accordance with its terms;
- (b) that the BSC is given effect in such a manner that facilitates achievement of the following Applicable BSC Objectives<sup>1</sup>:
  - (i) the efficient discharge by National Grid of its Transmission Licence obligations;
  - (ii) the efficient, economic and co-ordinated operation of the Transmission System by National Grid;
  - (iii) promoting effective competition in the generation and supply of electricity and (so far as consistent therewith) promoting competition in the sale and purchase of electricity;
- (c) that the BSC is given effect without undue discrimination between Parties and classes of Party;
- (d) that the BSC is given effect as economically and efficiently as is reasonably practicable;
- (e) that there is transparency and openness in the conduct of the business of the Panel and ELEXON (subject to any explicit provisions in the BSC relating to confidentiality or prejudicing the interests of Parties).

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<sup>1</sup> The Applicable BSC Objectives are set out in paragraph 3 of Condition C3 of the Transmission Licence and form the specific criteria against which any new Modification Proposal to change the BSC is assessed. There are five Applicable BSC Objectives: the three noted in this document, plus 'promoting efficiency in the implementation and administration of the central BSC arrangements' and 'compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or Agency'.

## Appointment of Members, the Chairman and Deputy Chairman

The Panel Chairman is nominated by the BSC Panel in consultation with the ELEXON Board. The nominated candidate must be approved by the Authority and is appointed for a term of three years. There is no restriction on how many times the chairman may be reappointed. The Panel Chairman can be, but is not required to be, the same person as the BSCCo Chairman.

Trading Parties can elect up to five industry Panel Members every two years. Election procedures for the appointment of these Panel Members are detailed in [Section B: Annex B-2](#).

If the Panel Chairman considers that there is a category of the industry where interests are not reflected in the Panel, the Panel Chairman can, in consultation with the Panel, appoint a sixth industry Panel Member. In doing so the chairman must first consider parties generating or supplying in Great Britain and/or Offshore that do not need to hold a Licence and have interests in the BSC, but if, in his opinion there is a further category of Trading Parties whose interests are not reflected in the Panel, then the chairman can appoint that person.

Two independent Panel Members are appointed by the Panel Chairman in consultation with the Panel. The Panel Chairman can (after consulting with the Authority) appoint one of these independent Panel Members as the Deputy Panel Chairman, to act as Panel Chairman if the Panel Chairman is not present. However the Deputy Panel Chairman cannot appoint Panel Members, Directors of ELEXON or determine the remuneration of Panel Members.

One Panel Member is appointed by the Transmission Company. Citizens Advice and Citizens Advice Scotland between them, may appoint up to two Panel Members.

Panel Members hold a two-year term of office that commences on 1 October. The tenure of the chairman and Panel Members will end when their term of office expires, they resign, become bankrupt or are prohibited from being a company director.

### Duties

All Panel Members, whether elected or appointed, must satisfy certain independence requirements throughout their term of office. Panel Members must act impartially and must not be representative of, and must act without undue regard to, the interests of one particular area of the industry.

### Indemnity

ELEXON indemnifies Panel Members, the Panel Secretary, any member of a Panel Committee, the secretary of any Panel Committee, the Modification Secretary and each member of a Modification Group, together with their alternates in relation to the carrying out of their activities under the BSC, other than for costs, expenses, damages or liabilities that arise as a result of wilful default or bad faith of a person.

### Alternates

If the Panel Chairman permits, a Panel Member can appoint an alternate to attend a Panel meeting where that member is unable to attend. Panel Member alternates are subject to the same rights and obligations as Panel Members. If the alternate is also a Panel Member himself, he can cast his own vote, plus a vote for each of the Panel Members for whom he is acting as alternate.

### Expenses, remuneration and facilities

Panel Members can claim for reasonable costs and expenses incurred in attending meetings or otherwise conducting Panel business. Panel Committee members can also claim for costs and expenses. Panel Member and Panel Committee members cannot be paid any remuneration or benefits under the Code other than these costs and expenses.

The Panel Chairman is entitled to any remuneration and benefits from ELEXON that the Authority considers appropriate. The independent Panel Members appointed by the Panel Chairman are entitled to any remuneration and benefits the chairman considers appropriate.

### Other Attendees

A representative of the Authority is entitled to attend and speak at any Panel meeting but not to vote at the meetings (and is not a Panel Member).

A person appointed by a distribution-representative body is entitled to attend and speak at any Panel meeting but not to vote at any Panel meeting (and is not a Panel Member).

The Chief Executive of ELEXON is entitled to attend and speak at Panel meetings but is not entitled to vote and is not a Panel member.

### Powers and Functions of the Panel

The Panel has the powers, functions and responsibilities provided in the BSC and Code Subsidiary Documents including:

- implementing or supervising the BSC Modifications Procedures and adopting and revising Code Subsidiary Documents ([Section F](#));
- determining values of specified parameters;
- ensuring that the Code is given effect in accordance with its terms and that BSC Parties comply with the provisions of the Code;
- deciding on the expulsion or suspension of the rights of a Party ([Section H](#));
- establishing arrangements for the resolution of Trading Disputes ([Section W](#));
- preparing, considering, recommending changes (if necessary) and approving documents relating to performance assurance ([Section Z](#));
- setting the terms of reference for the BSC Auditor and considering the BSC Audit Report ([Section H](#)); and
- implementing or supervising the procedures for BSC Sandbox Applications and monitoring BSC Derogations ([Section H](#)).

The Panel may do anything necessary for or reasonably incidental to the discharge of the functions and responsibilities assigned to it in the BSC.

The BSC Panel may also establish arrangements for resolving disputes pursuant to the Warm Home Discount (Reconciliation) Regulations 2011.

### Use of Data

The Panel can use and disclose data as it sees fit but must not disclose data relating to the affairs of an individual Party which is commercially sensitive, unless the Panel thinks that the data should be disclosed for them to fulfil their duties or the Party consents to the disclosure of the data. In addition, the Panel can decide not to disclose data to any person (other than the Authority) if it thinks that disclosing that data would prejudice the interest of others, unless the Authority directs otherwise.

If a Party thinks that data that it provides (other than Trading Data) is commercially sensitive and should not be disclosed, it must identify that data to the Panel Secretary. However the Panel is not bound by the Party's view in deciding whether the data should be disclosed.

If the Panel decides that data is commercially sensitive but should be disclosed, where possible the Panel will notify the Party in advance of the disclosure of that data and discuss the timing of the disclosure.

The disclosure provisions do not apply to disclosure of data to the Authority, ELEXON, any Panel Committee, any BSC Agent, where the data is in the public domain, where the Panel is required or permitted to disclose the data in accordance with a Legal Requirement or where the disclosure of the data is required under the BSC.

## **Proceedings of the Panel**

Panel meetings are held at least every month, but a regular meeting can be cancelled if the Panel Chairman decides there is no Panel business and no Panel Member objects to the cancellation.

The Panel Chairman or Modification Secretary can convene a Panel meeting before the next regular Panel meeting to conduct Modification Business.

The Panel Chairman can also hold special meetings of the Panel. No Panel meeting, where normal business is to be discussed, can be held unless at least twenty-four hours' notice of the meeting and its agenda is provided. However, special provisions exist for the Panel to consider any matter of a particularly urgent nature, and a meeting can be convened with as little as one hour's notice.

The Panel Secretary sends out notices of Panel meetings together with an agenda and papers to each Panel Member and copies them to the Authority, each Party, any alternate of a Panel Member, the distribution-representative body appointee and anybody else entitled to receive this information under the BSC.

Any Panel Member can add matters for consideration at a Panel meeting, if they provide at least three days notice before the meeting.

Where the Panel Chairman considers it appropriate, a meeting of the BSC Panel may be held by telephone conference call. However, the Panel may not conduct any Code Modification business (other than Urgent Modification Proposals) by teleconference.

The Deputy Panel Chairman chairs Panel meetings in the absence of the Panel Chairman. If no Deputy Panel Chairman exists or is present at the meeting in the Panel Chairman's absence, the other Panel Members will nominate one from their number to act as chairman of the meeting.

Approved minutes of Panel meetings are published on the [BSC Website](#).

## **Quorum**

Panel business cannot be transacted unless a quorum is present at the meeting. A quorum is more than 50% of Panel Members (or their alternate(s)). Non-quorate meetings are adjourned for a week, however if at the rescheduled meeting a quorum is still not present, those present at the meeting constitute a quorum.

## **Voting**

Any matter to be decided at a Panel meeting can be put to a vote if requested by the Panel Chairman or a Panel Member. Each Panel Member has one vote. The chairman only votes if a casting vote is needed. A simple majority decides a matter (unless the BSC states otherwise). The National Grid Panel Member does not vote on Modification Proposals.

## Attendance by Other Persons

BSC Panel and Panel Committee meetings are open to attendance by BSC Parties, the Authority and any other person entitled to receive notice of such meetings. The Chairman may also invite any person to attend at all or any part of the meeting and may invite any person attending the meeting to speak at the meeting.

This does not include the meetings of the Trading Disputes Committee (TDC) or confidential elements of the Performance Assurance Board (PAB) or meetings where the chairman of that meeting considers it inappropriate for the subject matter of that meeting to be discussed in open session owing to its confidential or commercially sensitive nature.

## Urgent Business

Where an Urgent Modification Proposal is submitted (or any other urgent matter requires consideration), the normal notice requirements for Panel meetings do not apply and the meeting can, if considered necessary by the Panel Chairman, be held in closed session. In addition, the normal quorum requirements do not apply, and in the event that the Panel Chairman cannot contact more than four Panel Members to get their vote, the Panel Chairman can decide the matter.

## Panel Committees

The Panel may establish Panel Committees, either on a standing basis or for a fixed period of time. Panel Committees can comprise whatever membership the Panel considers appropriate, and can include Panel Members, nominees of Parties and ELEXON employees. The BSC obliges the Panel to establish the Trading Disputes Committee ([Section W](#)) as a Panel Committee. The Panel also establishes a Performance Assurance Board (PAB), further details of which are set out in [Section Z](#).

Unless the BSC states otherwise, the Panel can delegate any of its powers, functions and responsibilities to a Panel Committee. The unanimous agreement of all Panel Members present at the Panel meeting and entitled to vote is required to delegate powers to a Panel Committee.

The Panel cannot establish Panel Committees for discharging the Panel's functions in relation to:

- BSC Modifications ([Section F](#));
- approving the Business Strategy or revisions to it ([Section C](#));
- exercising powers in relation to a Defaulting Party ([Section H](#)); and
- determining precedence between conflicting documents ([Section H](#)).

The BSC expects Parties to make available suitably qualified personnel to act as members of Panel Committees. The Authority is notified of Panel Committee meetings and can send (non-voting) representatives to them.

Panel Committees are subject to the same objectives as the Panel when conducting committee business and the same requirements for impartiality apply. The Panel can set the way the proceedings and the business of Committees are conducted.

Panel Committee decisions are only binding on Parties if the BSC or a Code Subsidiary Document provides for a Panel decision on that matter to be binding on Parties and the Panel has delegated that decision-making power, or approved the Committee's decision.

## Annual Reports and Annual BSC Meeting

Each June the Panel provides a report (to all Parties and the Authority) summarising the implementation of the BSC and the activities of the Panel and its Committees and of ELEXON in the preceding BSC Year. The 'Annual BSC Report' reviews and reports on:

- the operation of Settlement and the implementation of the BSC;
- the implementation of the Modification Procedures and the Modification Proposals;
- the performance by each BSC Agent of its functions under the BSC and pursuant to its BSC Agent Contract;
- the ELEXON Business Strategy and actual expenditure against the Annual Budget;
- the performance of each Supplier Meter Registration Service and compliance with the BSC requirements for the Master Registration Agreement (MRA,);
- Trading Disputes (as mentioned in [Section W](#)); and
- the performance by each Market Index Data Provider.

The Annual BSC Report is accompanied by the Annual Report and Accounts of ELEXON, the most recent BSC Audit Report and BM Auditor's report, and the Business Strategy and Annual Budget adopted by ELEXON for the current BSC Year.

The Annual BSC Meeting is held in July. Parties are entitled to attend and speak at this meeting. Each Panel Member, ELEXON Director and the Chief Executive of ELEXON attends the Annual BSC Meeting unless prevented from doing so by exceptional circumstances. The Panel Chairman chairs the meeting.

The meeting provides an opportunity to explain and discuss the accounts and reports for the previous BSC Year and the Business Strategy and Annual Budget provided for the current BSC Year. It also offers an opportunity to respond to any questions raised at the meeting by BSC Parties or submitted in advance of the meeting.

The Annual BSC Meeting is not a general meeting of ELEXON or a meeting of the Directors of ELEXON or of the Panel and there is no power to take a decision at the meeting and no votes are taken at the meeting (other than in certain circumstances, where Voting Parties are voting on the appointment, reappointment or removal of directors or where a non-binding resolution has been raised by one or more Voting Party in relation to the activities of the Board). However, Board members may make representations to the BSC Panel where a request to remove a Director of ELEXON has been received. Such requests must be submitted by a Party or Panel Member at least two weeks before the Annual BSC Meeting and can only be made in respect of Directors appointed since the last Annual BSC Meeting where the process used for their appointment has not complied with the Code. In such circumstances, the BSC Panel considers the removal of the relevant Director at a BSC Panel Meeting convened immediately following the Annual BSC Meeting.

### Annex B-1: No Longer Used

## Annex B-2: Election of Industry Panel Members

Annex B-2 sets out the procedures to follow when electing Industry Panel Members. Trading Parties in place on 20 June in an election year are entitled to vote. ELEXON administers the election arrangements.

Trading Parties are invited to nominate candidates, each can nominate one candidate. Annex B-2 sets out requirements that candidates have to fulfil to be eligible for nomination. If five or fewer eligible candidates are nominated, no voting takes place and they are automatically elected. If more than five are nominated, each Trading Party is entitled to one vote per Energy Account that it holds. However a Trading Party Group (i.e. a Trading Party and every Affiliate of that Trading Party) can only have one of its Trading Parties submitting voting papers.

Election results are made known no later than 15 September in the election year.

The election is conducted on the basis of preference voting and voting rounds. Trading Parties indicate a first, second and third preference from among the candidates. Candidates are elected in three voting rounds (with a fourth only if necessary). In each voting round, a threshold for a number of votes is calculated. In the first voting round, first preference votes are counted and all candidates receiving votes greater than or equal to the threshold are elected. In the second voting round the remaining voting papers (i.e. those which did not contain a first preference vote for a successfully elected candidate) are counted. If the number of first and second preference votes allocated to any remaining candidate is greater than or equal to a recalculated threshold amount, those candidates are elected. In the third voting round the remaining voting papers (i.e. those which did not contain a first or second preference vote for a successfully elected candidate in either of the previous voting rounds) are counted. If the number of first, second and third preference votes allocated to any remaining candidate is greater than or equal to a recalculated threshold amount, the candidate is elected. If any Industry Panel Member is still to be elected after the third voting round the remaining candidates are ranked in order of the number of first preference votes allocated to them and the candidate(s) with the greatest number of votes are elected.

Annex B-2 also contains rules for election in the event that an Industry Panel Member ceases to hold office either less than six months before the expiry of his term of office or more than six months before the expiry of his term of office (different rules apply in each case).

Trading Party votes are confidential but the BSC Auditor can be asked to scrutinise the conduct of the election at a Trading Party's request. The number of votes each candidate received during the voting round is published on the [BSC Website](#).

## Need more information?

For more information please contact the **BSC Service Desk** at [bscservicedesk@cgi.com](mailto:bscservicedesk@cgi.com) or call **0370 010 6950**.

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