

Public

P370 'Allow the Panel to designate non-BSC Parties to raise Modifications'

Workgroup Meeting 4

23 November 2018
Lawrence Jones

ELEXON

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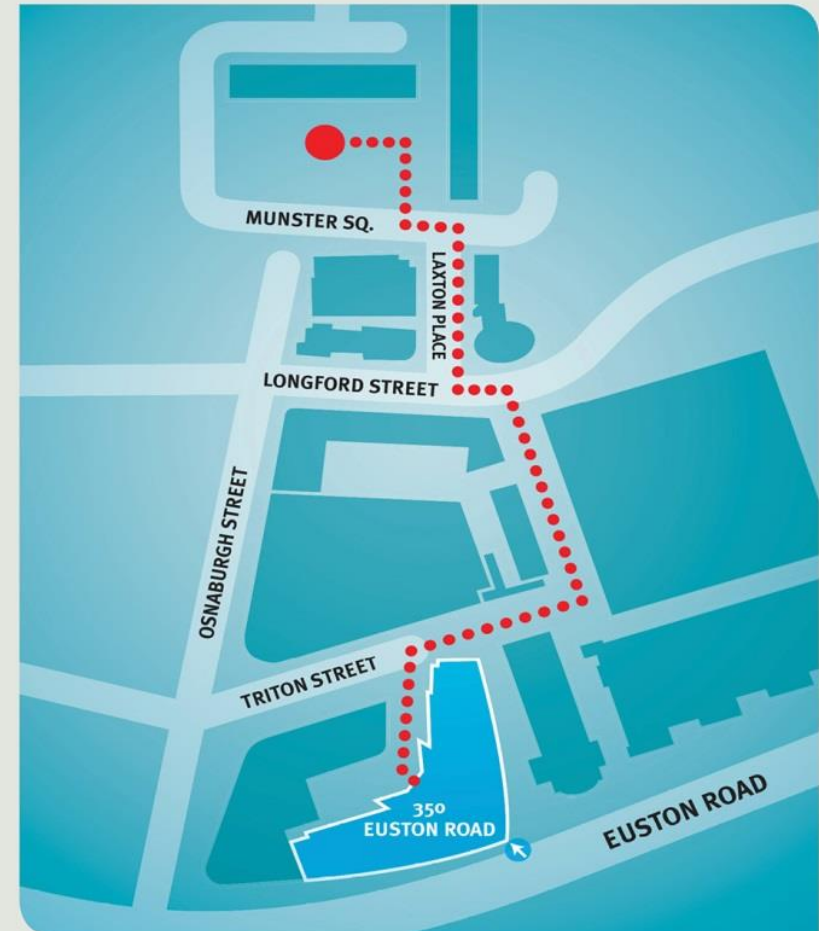
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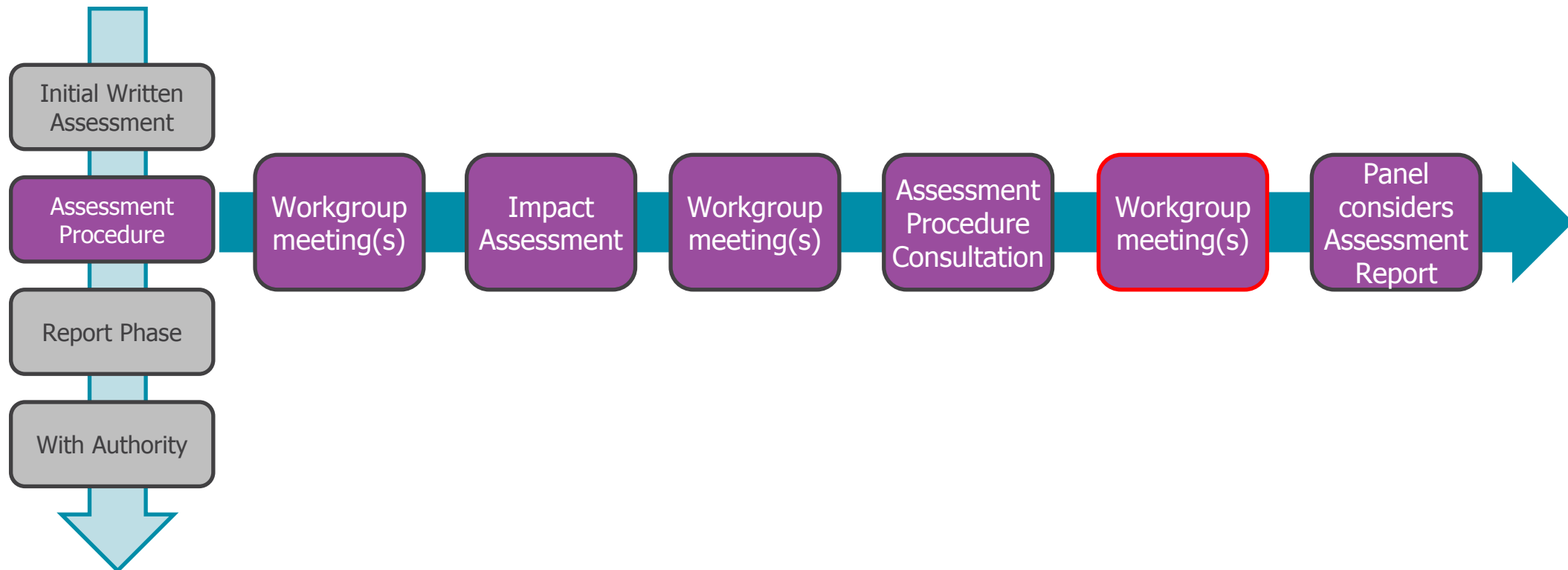


Agenda

- Welcome and re-cap
- Review Assessment Procedure Consultation responses
- Review Terms of Reference
 - Alternatives?
 - Final views against the Applicable BSC Objectives
- Next steps

Meeting Objective

- Review responses to Assessment Procedure Consultation
- Agree final solution(s) to progress
- Confirm final views against the Applicable BSC Objectives





Assessment Consultation Responses

Q1 - Assessment Consultation Responses (1 of 2)

01 Do you agree with the Workgroup's initial majority view that P370 does better facilitate the Applicable BSC Objectives than the current baseline and so should be approved?

Yes	9
No	2
Neutral	0
Other	0

- Not all provided views against the objectives
- Views aligned with corresponding Workgroup views
- Those in favour:
 - will make the designation process more transparent and better defined for non-Parties, thereby reducing the barriers to becoming a designated party
 - expertise present on the BSC Panel means that the modification is likely to result in a more efficient process that better enables innovation and competition
 - ability to appeal designation rejections to Ofgem is also valuable, giving the appeal process independence and legitimacy
 - existing process for non-BSC parties to raise modifications is inefficiently time consuming and detrimental to competition between BSC and non-BSC parties
 - Allows greater flexibility and broadens source of issues / solutions

Q1 - Assessment Consultation Responses (2 of 2)

- Those against:
 - Allows non-Parties not impacted by the BSC to affect Parties
 - Improves transparency but adds a layer of complexity
 - Not appropriate to shift responsibility from Authority to Panel
 - Authority has wider remit and therefore better placed to decide
 - Confers same right to non-parties as Parties but without cost implications
 - Not appropriate for designation process to be funded by Parties instead of Licence holders

- Not clear there is a systemic issue with existing process
 - Could be better addressed by Authority improvement
 - Authority process not had chance to develop and mature

- No evidence that panel process will be quicker

Q2 - Assessment Consultation Responses

02 Do you agree with the Workgroup that the draft legal text in Attachment B delivers the intention of P370?

Yes	11
No	0
Neutral	0
Other	0

- One Party noted the importance of the proposed H9.4.4 change in conjunction with the Section F change to make clear that the role of Third Party Proposer is not an enduring status

Q3 - Assessment Consultation Responses

03 Do you agree with the Workgroup that the draft redlining in Attachment C and D delivers the intention of P370?

Yes	11
No	0
Neutral	0
Other	0

- Typo corrected in BSCP40
- Suggested that Issue forms should allow for ELEXON raising Issues on behalf of others e.g. Proposer: ELEXON, Originator: Party A

Q4 - Assessment Consultation Responses

04 Do you agree that P370 does not meet the Self-Governance Criteria and so should not be progressed as a Self-Governance Modification?

Yes	10
No	0
Neutral	0
Other	1

- Reasons given align with Workgroup
 - Impacts change process / BSC governance
 - Could impact competition
- Other comment was 'no comment'

Q5 - Assessment Consultation Responses

05 Do you agree with the Workgroup that there are no other potential Alternative Modifications within the scope of P370 which would better facilitate the Applicable BSC Objectives?

Yes	11
No	0
Neutral	0
Other	0

- Panel obligation to review costs is not satisfactory (from Q1)
 - Non-Parties requesting designation should be required to contribute to the costs of the process (as Parties are expected to contribute to change costs)
- The Workgroup have fully explored the options arising from the P370 defect
- Most appropriate alternative is for the Authority to improve its existing process

Q6 - Assessment Consultation Responses

06 Will the implementation of P370 impact your organisation?

Yes	4
No	7
Neutral	0
Other	0

- Yes:
 - It will enable non-Parties to raise changes
 - Indirectly by the actions of non-Parties
 - Parties will be required to fund designation applications, increasing BSCCo costs for Parties
- It gives the opportunity to raise Modifications and Issues where appropriate. To date this has been done by lobbying BSC Parties, which has been a long and drawn out process
- Concern raised with potential volume of changes that could be raised by non-Parties
 - Do not want to be burdened with ill-conceived proposals

Q7 - Assessment Consultation Responses

07 Will your organisation incur any costs in implementing P370?

Yes	0
No	11
Neutral	0
Other	0

- No implementation costs identified
- Panel should monitor the number of associated Mods raised under the designation process to ensure no material increase in the cost burden for Parties

Q8 - Assessment Consultation Responses

08 How long (from the point of Ofgem approval) would you need to implement P370?

- No impact, so no lead time needed

Q9 - Assessment Consultation Responses

09 Do you agree with the Workgroup's recommended Implementation Date?

Yes	10
No	1
Neutral	0
Other	0

- No – FMR should be issued on 10 Jan 19, so that P370 can be implemented on 28 Feb 19
 - Brexit may lead to large volume of change leading up to March 2019
- DMR scheduled for Panel on 10 Jan 18
- ELEXON could issue FMR on 11 Jan 18 if considered urgent
- ELEXON have assessed delivering P370 in Feb Release, but believe it lower risk to deliver it in Mar Release

Q10 - Assessment Consultation Responses

10 If you are a non-Party do you have any Modifications or Issues that you would like to raise, and if so, how many would you estimate you may raise within the first year?

Yes	2
No	7
Neutral	2
Other	0

- Two occasions in the last two years where designation could have been sought (from Q6)
- Expect to rise 1-2 Mods or Issues within first year
 - We do not anticipate having to apply for a designation on a regular basis, but the option is likely to be extremely valuable
- Possibly 2 (SVA) Issues

Q11 - Assessment Consultation Responses (1 of 2)

11 Do you agree with the Workgroup that Parties should be able to appeal a Panel decision to designate a Third Party Proposer and a Third Party Applicant should be able to appeal a Panel decision not to designate them a Third Party Proposer?

Yes	9
No	2
Neutral	0
Other	0

- No: Only Third Party Applicant should be able to appeal a Panel decision not to designate them a Third Party Proposer
 - The two situations are not equivalent as Third Parties have no ability to appeal against a Panel decision to allow a Party to be Proposer for a modification
 - There are also no benefits to giving Parties this ability proposed in the consultation document
 - Makes sense to appeal to Ofgem who have wider remit
 - Not clear on what grounds an appeal against decision to designate could be made
 - Such a route would only be of use to BSC parties looking to erect barriers to Modification proposals whose contents a Party may disapprove of.
 - Given that these parties can already attend and vote in Workgroups to express their opposition to any modification, this seems to create an unwarranted barrier to entry

Q11 - Assessment Consultation Responses (2 of 2)

Yes:

- Allow both Parties and non-Parties to appeal provides some equivalence
 - cannot realistically foresee the Authority ever overturning a Panel decision to designate that was intended to promote effective competition
- We believe that the appeal process as drafted in the proposed red-line text is equitable and transparent
- Both Parties and non-Parties should be allowed the right of appeal to maintain fairness and balance in the arrangement

Q12 - Assessment Consultation Responses

12 Do you have any further comments on P370?

Yes	5
No	5
Neutral	0
Other	0

- P370 seeks to remove a barrier to non-Parties being able to raise Modifications – if more Modifications are raised as a result of P370, this is a sign of success and demonstrates that the current process available to non-Parties is so convoluted that it prevents them from raising Modifications
- Risk of large volume of frivolous or vexatious Modification proposals very low
- As there is an increased trend in BSC Parties raising modifications which have large effects on non-Parties it makes sense that barriers are removed for non-Parties to be able to participate fully in the modification process
- Consideration needed to impact on Panel if increase in requests
- Consideration needed of ELEXON funding arrangements

Transmission Company Analysis

- No impact on Transmission Company (ESO)

Views against the Objectives:

- “We consider the change may be more positive against (C) as although it allows parties to raise changes who do not contribute to the costs of the BSC, potentially increasing costs on those who do, allowing a broader set of parties to raise changes to the code may encourage competition. On balance, we consider it to be negative against (D) as the scope for additional steps in the process (such as appeals) and the potential for increased amounts of change overall in our view outweigh the potential minor improvement of moving the process to the BSC Panel.”



Terms of Reference

Terms of Reference Summary

Item	Status
P370 Specific ToR	✓ - addressed at previous meetings
Costs and impacts	✓ - identified and considered
Self-Governance	✓ - Not Self-Governance
Any Alternatives	✓ - consideration needed
Views against Objectives	✓ - Final views needed

Proposer Views: Applicable BSC Objectives

- The Proposer believes this proposed Modification would better facilitate Applicable BSC Objectives (c) and (d) compared with the existing baseline for the reasons set out below

Proposer views against **Objective (c)**

- This proposed Modification would have a positive impact on competition in the generation and supply of electricity by enabling more participants to raise changes, which may result in increased variety of solutions in serving customers throughout the electricity industry

Proposer views against **Objective (d)**

- This proposed Modification would have a positive impact on efficiency in the implementation of the Balancing and Settlement arrangements. The improved accessibility of the Modification Procedures to non-BSC Parties, would remove perceived barriers to innovation and change.

Initial Workgroup views on Applicable BSC Objectives

Objective	View
(a) – TC discharge of Transmission Licence obligations - neutral	
(b) - efficient, economic and co-ordinated operation of Transmission System - neutral	
(c) - Promoting effective competition	Majority support - more efficient designation process and more modification proposals from a wider audience will facilitate competition Minority – detrimental - new process less efficient and increases costs
(d) - Promoting efficiency in the implementation of the BSC arrangements	Majority support - clearly defined process, where the Panel, made up of BSC experts, will decide whether to designate will be more efficient Minority detrimental – the new process is more complex and Panel has a narrower remit than Ofgem which will limit its ability to designate efficiently and effectively Minority neutral - efficiency gains balanced out by the additional complexity
(e) – Compliance with EU law - neutral	
(f) - Implementing and administering the arrangements for the operation of CFD and CM - neutral	
(g) - Compliance with the Transmission Losses Principle - neutral	

Workgroup Members' initial views

Member	(a)	(b)	(c)	(d)	(e)	(f)	(g)
Andy	N	N	-	-	N	N	N
David	N	N	+	+	N	N	N
Clare	N	N	+	+	N	N	N
James	N	N	+	N	N	N	N
Lisa	N	N	+	+	N	N	N
Carline	N	N	+	+	N	N	N
+	0	0	5	4	0	0	0
-	0	0	1	1	0	0	0
N	6	6	0	1	6	6	6

Final Workgroup views: Applicable BSC Objectives

- a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence
- b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System
- c) Promoting effective competition in the generation and supply of electricity and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity
- d) Promoting efficiency in the implementation of the balancing and settlement arrangements
- e) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency [for the Co-operation of Energy Regulators]
- f) Implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation
- g) Compliance with the Transmission Losses Principle



Next Steps

Next Steps

- 29 Nov to 3 Dec - Workgroup review Assessment Report
- 13 Dec 18 - Assessment Report presented to Panel

Progression Plan

Event	Date
Initial Written Assessment to Panel	12 Jul 2018
WG1	3 Aug 2018
WG2	28 Aug 2018
WG3	4 Oct 2018
Assessment Procedure Consultation	23 Oct to 12 Nov 18 (15WDs)
WG4	23 Nov 2018
Present Assessment Report to Panel	13 Dec 2018
Report Phase Consultation	18 Dec to 3 Jan 2018 (10 WDs)
Present Draft Modification Report to Panel	10 Jan 2018
Issue Final Modification Report to Authority	16 Jan 2018

