

P401 'Governance arrangements for BSC Panel Alternates'

To clarify the governance arrangements for BSC Panel Alternates in respect of their contribution to quoracy and voting at BSC Panel meetings. This will help to address ambiguity within the existing arrangements.



The BSC Panel initially recommends **approval** of P401

This Modification is expected to impact:

- The BSC Panel
- ELEXON as the BSCCo

Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation



Contact

Jason Jackson

020 7380 4187

jason.jackson@elexon.co.uk



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About This Document

This is the P401 Draft Modification Report, which ELEXON will present to the Panel at its meeting on 12 March 2020. It includes the responses received to the Report Phase Consultation on the Panel's initial recommendations. The Panel will consider all responses, and will agree a final recommendation on whether the change should be made.

There are three parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach.
- Attachment A contains the draft redlined changes to the BSC for P401.
- Attachment B contains the full responses received to the Panel's Report Phase Consultation.

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Why Change?

Existing provisions are ambiguous on BSC Panel Alternates contribution to a quorum. Likewise in respect of the contribution of BSC Panel Members or Alternates attending by teleconference or similar means to a quorum.

Existing provisions have the potential to unduly concentrate power in an individual and undermine the rules relating to quorum and robust decision-making.

This ambiguity presents potential risks to the robustness of BSC Panel Governance.

Solution

Amend Section B of the BSC to clarify that:

- A quorum is based on the number of individuals present; and
- Alternates may only stand in for a single Panel Member, thereby only casting one vote in the case that they are a Panel Alternate and only casting two votes in the case that the appointed Alternate is also a Panel Member.

Impacts & Costs

Impacts will be minimal and limited to the BSC Panel and ELEXON in its role as the BSCCo.

The costs to implement P401 are expected to be £480 (2 days effort) to amend the BSC and update internal ELEXON documents.

Implementation

It is proposed to implement this Proposal on 25 June 2020, as part of the June 2020 Scheduled BSC Release. This is the next available Release.

Recommendation

The **Panel initially unanimously believe** that P401 better facilitates Applicable BSC Objective d – ‘promoting efficiency in the implementation of the balancing and settlement arrangement’, and **should therefore be approved**. The Panel sent P401 directly to the Report Phase and initially believe it should be treated as a Self-Governance Modification Proposal (Panel decision, rather than Ofgem).

Appointing BSC Panel Alternates

While it has never been an issue in the past, it is ELEXON's view that amendments should be made with respect to the process by which, a voting BSC Panel Member appoints an Alternate for a meeting they are unable to attend for the sake of clarification and good governance. These amendments will remove existing ambiguity in respect of voting and ensure the continued good governance of the BSC Panel. We are effectively proposing to enshrine current working practice into the BSC to mitigate the risk of potential abuse.

BSC Panel Quorum

Again while this has not been an issue in the past it is ELEXON's view that amendments should be made to the Code to clarify that BSC Panel Alternates count toward the quoracy of a BSC Panel meeting. In addition the existing BSC text is not explicit that a BSC Panel Member or Alternate counts towards quoracy when attending by teleconference or similar means.

What is the issue?

Existing provisions are ambiguous on BSC Panel Alternates contribution to a quorum. Likewise in respect of the contribution of BSC Panel Members or Alternates attending by teleconference or similar means to a quorum.

Existing provisions have the potential to unduly concentrate power in an individual and undermine the rules relating to quorum and robust decision-making. While this has not been found to be the case in the past this possibility should be mitigated against in order to ensure the continued good governance of the BSC Panel.

This ambiguity presents potential risks to the robustness of BSC Panel Governance. While unlikely to occur the existing ambiguity has the potential to result in a single attending Panel Member passing a vote against a majority of Panel Members in attendance at the meeting.

Proposed solution

Amend Section B of the BSC to clarify that:

- A quorum is based on the number of individuals present in person and/or remotely; and
- That Alternates may only stand in for a single Panel Member, thereby only casting one vote in the case that they are a Panel Alternate and only casting two votes in the case that the appointed Alternate is also a Panel Member.

This means that an Alternate or Panel Member can only ever cast a maximum of two votes.

The desired outcome of this Modification is to ensure the ongoing efficacy and robustness of the BSC Panel governance arrangements.

4 Impacts & Costs

ELEXON does not anticipate any impact of this Modification beyond the BSC Panel or ELEXON in its role as the BSCCo.

Estimated central implementation costs of P401

ELEXON's costs to implement this Modification will be approximately £480. This is primarily driven by the need to implement the changes to the BSC and ELEXON's internal processes:

- 1 Working Days effort to amend internal processes and documents: and
- 1 Working Days to implement document changes to the BSC and Code Subsidiary Documents.

We do not anticipate any additional effort to operate Panel meetings remotely as this is already a service we offer and use.

Indicative industry costs of P401

ELEXON does not anticipate any additional cost to industry.

P401 impacts

Impact on BSC Parties and Party Agents

Party/Party Agent	No Impact
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Impact on Transmission Company

No Impact

Impact on BSCCo

ELEXON - Panel & Committee Support	Minor amendments to working practices as part of implementation.
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Impact on BSC Settlement Risks

No Impact

Impact on BSC Systems and process

BSC System/Process	No Impact
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Impact on BSC Agent/service provider contractual arrangements

BSC Agent/service provider contract	No Impact
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Impact on Code

Section B	Amendments required to B2.10 and B4.3.2
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Impact on Code Subsidiary Documents

CSDs	No Impact
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Impact on a Significant Code Review (SCR) or other significant industry change projects

No direct impact expected. We requested SCR exempt this proposal from any of its open SCRs on 6 March 2020. Ofgem confirmed the exemption on 12 March 2020.

Impact on the Environment

No material impact expected.

5 Implementation

The BSC Panel initially agreed an Implementation Date of **25 June 2020**, as part of the scheduled BSC Release. This is the next available Release.

Amendments to the Code and the required amendments to ELEXON's working practices in respect of BSC Panel attendance will be made from the date of the release this change is included in.

P401 Progression Timetable	
Event	Date
Presented Initial Written Assessment to Panel	13 Feb 20
Report Phase Consultation (14 WDs) Undertaken	18 Feb 20 – 6 Mar 20
Present Draft Modification Report to Panel (late paper)	12 Mar 20
Issue Final Modification Report to Authority	16 Mar 20

6 Panel's Initial Discussions

The request to raise this Modification was presented to the BSC Panel at its meeting on 13 February 2020 ([Panel 299/05](#)). The Panel unanimously agreed to raise this Modification in accordance with Section F2.1.1(d)(i).

The Panel agreed to submit P401 straight to the Report Phase as the proposed changes to the BSC are clear, self-evident and the solution has been fully developed. The changes being introduced are relatively minor and would not warrant taking up industry time through the undertaking of an Assessment Procedure.

The Panel discussed the proposed solution for P401. The Distribution Network Operator (DNO) Representative noted that to their mind the issue regarding Alternates could be resolved in a more straight forward manner were voting to be restricted to one vote per attending Panel Member or Alternate. He believed this was easier and fairer.

The Panel discussed potential amendments to the solution, such as only allowing an attending Panel Member or Alternate to cast two votes if the meeting would not otherwise be quorate.

The Panel agreed that the ambiguity within the Code while not presently an issue should be resolved and that the proposed solution was appropriate.

Panel initial views against the Applicable BSC Objectives

The Panel initially believes that the changes to clarify and improve the governance arrangements for BSC Panel Alternates will better facilitate the achievement of BSC Objective (d) by ensuring the on-going good governance of the BSC Panel and by promoting efficiency through clarifying existing arrangements.

Further, the Panel believes that these changes will ensure that the good governance of the BSC Panel is maintained and that it will better align to the BSC Panel Objectives, particularly Objective (c) "that the Code is given effect without undue discrimination between Parties or classes of Party".

Panel initial views on Self-Governance

The Panel initially believe P401 should be progressed as a Self-Governance Modification Proposal and not sent to Ofgem for decision. The changes being introduced will be relatively minor and clarify existing arrangements ensuring the on-going good governance of the BSC Panel and BSC Change processes, rather than making significant or material changes to the Code's governance or Modification procedures.

7 Report Phase Consultation Responses

This section summarises the two responses to the Panel's Report Phase Consultation on its initial recommendations. You can find the full responses in Attachment B.

Summary of P401 Report Phase Consultation Responses				
Question	Yes	No	Neutral/ No Comment	Other
Do you agree with the Panel's initial recommendation that P401 should be approved?	1	1	0	0
Do you agree with the Panel that the redlined changes to the BSC deliver the intent of P401?	0	1	1	0
Do you agree with the Panel's recommended Implementation Date?	1	1	0	0
Do you agree with the Panel's initial view that P401 should be treated as a Self-Governance Modification?	2	0	0	0
Do you have any further comments on P401?	0	2	0	0

Misunderstanding with Respect to 'as is' Arrangements

One of the two respondents did not support P401 on the basis that they felt that the proposed solution goes against the spirit of the BSC Panel, whereby one representative has one vote. They also flagged concern that the ability to appoint an alternate could result in Panel Members habitually not attending BSC Panel meetings and that this could reduce the consumer representation at BSC Panel meetings.

ELEXON has engaged with the respondent by email to clarify that the respondent has misinterpreted the 'as is' arrangements. Most pertinently that BSC Panel Members are already able to appoint an Alternate and that BSC Panel Members/Alternates are not currently limited to one vote each where an alternate has been appointed. On that basis this Modification would in fact go some way to mitigate against the respondents stated concerns by limiting the number of votes a single Panel Member/Alternate is able to cast. In addition we have attempted to contact the respondent by telephone.

Legal Text Challenge

The other of the two respondents, while supportive of the Modification has challenged the drafting of the Legal Text identifying that the redlining to section 4.3.2 of Section B is in service to P400 rather than P401. Provided both Modifications are approved this won't have a material impact on the final drafting of the Code. However were either P400 or P401 rejected the legal text for the Approved Modification would need to be updated to ensure that the intention of the Approved Modification is delivered.

The other respondent provided no comments on the legal text.

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Implementation Date

One of the two respondents did not agree with the Implementation Date on the basis they do not agree P401 should be approved, as currently drafted.

Further Comments

The respondent who disagrees with the current solution suggested that an alternative would be to ensure that each Panel Member has their own alternate.

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8 Recommendations

We invite the Panel to:

- **AGREE** that P401:
 - **DOES** better facilitate Applicable BSC Objective (d);
- **DETERMINE** (in the absence of any Authority direction) that P401 is a Self-Governance Modification Proposal;
- **APPROVE** P401;
- **APPROVE** an Implementation Date of:
 - 25 June 2020
- **APPROVE** the draft legal text; and
- **APPROVE** the P401 Modification Report.

Appendix 1: Estimated Progression Effort

The following tables contain the estimated effort in progressing P401:

Assessment Effort	
Participant	Effort (man days)
ELEXON	2
Workgroup members	N/A
Total	2

Consultation Response Effort	
Consultation	No. of responses
Industry Impact Assessment	0
Assessment Procedure Consultation	N/A
Report Phase Consultation	0.2
Total	0.2

Appendix 2: Glossary & References

Acronyms

Acronyms used in this document are listed in the table below.

Acronyms	
BSC	Balancing & Settlement Code
BSCCo	Balancing & Settlement Code Company
DNO	Distribution Network Operator
SCR	Significant Code Review
WDs	Working Days

External Links		
Page(s)	Description	URL
9	P401 IWA Panel 299/05	https://www.elexon.co.uk/meeting/bsc-panel-299/