

Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

P401 'Governance arrangements for BSC Panel Alternates'

To clarify the governance arrangements for Balancing and Settlement Code (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 Self-Governance Appeal Window for P401 closes:

5pm on Thursday 2 April 2020

If no appeals are notified by this time, the Panel's decision is final.



The BSC Panel **approved** P401 at its meeting on 12 March 2020.

This Modification is expected to impact:

- The BSC Panel
- ELEXON as the Balancing and Settlement Code Company (BSCCo)

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About This Document

This is the P401 Final Modification Report, the BSC Panel approved this Modification under **Self-Governance**, and the appeal window will close on 2 April 2020. It includes the Panel's full views and the responses to the Panel's Report Phase Consultation.

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.
- Attachment A contains the approved redlined changes to the BSC for P401.
- Attachment B contains the full responses received to the Panel's Report Phase Consultation.
- Attachment C contains the Proposal Form for P401.



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P401
Final Modification Report

17 March 2020

Version 1.0

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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.

P401 approval

At its meeting on 12 March 2020, the **BSC Panel unanimously approved** P401 under Self-Governance arrangements (Panel decision, rather than Ofgem), as it better facilitates Applicable BSC Objective d – ‘promoting efficiency in the implementation of the balancing and settlement arrangements’.

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.

Approved 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 Day 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 the National Electricity Transmission System Operator (NETSO)

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 (The Panel)	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

At its meeting on 12 March 2020, the BSC Panel agreed an Implementation Date of **8 April 2020**, as an ad hoc release to ensure it is implemented ahead of the April 2020 BSC Panel meeting. This is the earliest opportunity this Modification can be implemented, in case the provisions need to be utilised on 9 April 2020 (April 2020 BSC Panel meeting)

Amendments to the Code will be made in time for 8 April 2020.

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
Presented Draft Modification Report to Panel	12 Mar 20
Self-Governance appeal window closes	2 April 2020
Implementation Date	8 April 2020

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.

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.

The BSC Panel discussed P401 at its meeting on 12 March 2020 and noted the Report Phase Consultation responses.

Request to Raise a Further Modification

The Distribution System Operator (DSO) Representative suggested that the BSC Panel raise a further change to restrict the number of votes a Panel Member could cast to one. The DNO Representative noted that in their view it was fairer to have only one vote cast per Panel Member. The BSC Panel discussed this possibility and agreed that it was in the interest of representation at Panel meetings to maintain with the existing arrangements (as amended by P401). The Panel Chair called a vote and no votes were cast in favour of the DNO Representative's motion to raise a further Modification.

Panel's final decision

The BSC Panel voted unanimously to approve the Modification on the basis that the ambiguity within the Code should be resolved. The Panel voted unanimously in favour of all recommendations within the Draft Modification Report. The BSC Panel also determined that the implementation date should be brought forward to 8 April 2020 in order to align with the implementation date for P400 'BSC Panel Modification Business via Video/Teleconference' after consideration was given to confirm that there would be no impact on market participants.

Appendix 1: 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
NETSO	National Electricity Transmission System Operator

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