





BSC Modification Proposal Form		At what stage is this document in the process?
<b>Mod Title:</b> Enable Elexon to procure ancillary Technology Services for use by BSC Agents		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<b>Purpose of Modification:</b> <p>To remove barriers in BSC Section E that would prevent Elexon updating BSC Agent contracts to enable them to use Technology Services, such as cloud services, procured by Elexon. This should reduce costs for BSC Parties and provide Elexon greater flexibility for the management of cloud platforms.</p>		
<b>Is this Modification likely to/Does this Modification impact any of the European Electricity Balancing Guideline (EBGL) Article 18 Terms and Conditions held within the BSC?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	<p>Elexon recommends that this Modification should:</p> <ul style="list-style-type: none"> <li>be raised by the Panel in accordance with the provisions of Section F2.1.1(d)(i);</li> <li>be a Self-Governance Modification Proposal; and</li> <li>be assessed by a Workgroup and submitted into the Assessment Procedure.</li> </ul> <p>This draft Modification Proposal will be presented to the BSC Panel to the BSC Panel on 8 June 2023. The Panel will determine how best to progress the Modification.</p>	
	<p>High Impact:</p> <p>None</p>	
	<p>Medium Impact:</p> <p>None</p>	
	<p>Low Impact:</p> <p>All BSC Parties</p>	

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Timetable		 Contact: Jacob Snowden  jacob.snowden@elexon.co.uk  020 7380 4260 Proposer: BSC Panel Proposer's representative: Lawrence Jones  Lawrence.jones@elexon.co.uk  0207 3804118
<b>The Proposer recommends the following timetable:</b>		
Present Initial Written Assessment to Panel	8 June 2023	
Initial consideration by Workgroup	w/c 10 July 2023	
Assessment Procedure Consultation (15 WDs)	29 August 2023 - 18 September 2023	
Workgroup Report presented to Panel	12 October 2023	
Report Phase Consultation (10 WDs)	16 October 2023 - 27 October 2023	
Draft Modification Report presented to Panel	09 November 2023	
Final Modification Report submitted to Authority	15 November 2023	

# 1 Why Change?

## What is the issue?

As set out in its [2023/24 business plan](#)<sup>1</sup>, Elexon will, within the next eighteen months complete the roll out of its new platform, Elexon Kinnect. As a cloud-based platform, Kinnect is flexible, scalable and adaptable so that it can support the changing needs of our customers, and replace the ageing systems that are increasingly unsuitable.

The implementation of Elexon Kinnect will change the underlying technology and systems used to deliver BSC Agent services. Elexon is therefore reviewing the contracts with these BSC Agents in order to reflect these technology changes, and to ensure they continue to meet the needs of BSC Parties. Elexon is also reviewing whether any of the changes they may want to make to BSC Agent contracts require a Modification to [BSC Section E \('BSC Agents'\)](#)<sup>2</sup>, as this sets out the framework within which Elexon enters into BSC Agent contracts.

BSC Agent services (as specified through the BSC and the [BSC Service Descriptions](#)<sup>3</sup>) are largely technology agnostic (e.g. provided the Settlement Administration Agent (SAA) is calculating Trading Charges in accordance with the rules set out in the Code, the Code doesn't specify the technology to be used in these processes). However, there are some BSC Agent obligations, which are ancillary to their core Settlement obligations, where the underlying technology is relevant. An example of this is the requirement for BSC Agents to retain Settlement data. Currently, this is being met by BSC Agents retaining Settlement data in on premises servers. This is relevant to Elexon Kinnect in that, in order to meet the requirement to retain Settlement data on a cloud-based platform, the BSC Agent would need to have a sub-contract<sup>4</sup> in place with a cloud service provider.

However, requiring a BSC Agent to procure these cloud-based services on its behalf, may be significantly more expensive than Elexon procuring these services itself. We therefore believe there will be cost savings if Elexon is able to contract directly with Technology Service Providers for ancillary Technology Services.

The issue that this Modification seeks to address is to allow Elexon flexibility to enter into these types of arrangements and, consequently, relieve the relevant BSC Agent of appropriate responsibility for the ancillary Technology Services where Elexon has entered into contract(s) directly with Technology Service Providers. The Technology Service Provider will therefore be responsible for the Technology Service.

Elexon do not believe that this approach will impact risk in that:

- The risk of BSC Agent services being delayed or disrupted due to a failure in the Technology Services will be the same regardless of whether Elexon or a BSC Agent is contracting with a Technology Service Provider for these services;
- It seems likely that BSC Agents would expect their contract with Elexon to mirror any liability exclusions or limitations that they were subject to in their cloud contract. Since Technology Service Providers (e.g. cloud providers) invariably contract on standard terms (so Elexon would

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<sup>1</sup> <https://www.elexon.com/documents/about/finances-report-policies/business-plan/elexon-business-plan-2023-24/>

<sup>2</sup> <https://bscdocs.elexon.co.uk/bsc/bsc-section-e-bsc-agents>

<sup>3</sup> <https://bscdocs.elexon.co.uk/service-descriptions>

<sup>4</sup> From a contractual perspective, the BSC Agent would remain responsible under the BSC, and as between itself and Elexon, for the acts and omissions of its sub-contractors. It will therefore meet its BSC Agent obligations through having a sub-contract in place, even though not actually delivering this service itself.

contract with them on exactly the same terms as the BSC Agent), BSC Parties would gain little if any additional value from Elexon contracting for cloud services through the BSC Agent; and

- Providers of BSC Agent services (both current providers and potential future providers) will not accept liability for failures in Technology Services (such as cloud providers) over which they have limited control. Even if it was possible to negotiate contracts with current and future BSC Agents that include these terms, it would be likely to come with a significant risk premium that would not be cost-effective.

## Desired outcomes

BSC Section E should be amended to:

1. Recognise that, because of the move to host and maintain applications and services on cloud platforms, certain services falling within the scope of BSC Service Descriptions (such as retaining data) may depend on cloud providers (rather than taking place in a data centre controlled and operated by the BSC Agent, as would have been the case twenty-five years ago when BSC Section E was first drafted); and
2. Allow Elexon to amend BSC Agent contracts to recognise that, for services that Elexon procures directly from a Technology Service Provider (e.g. cloud services) rather than via a BSC Agent, the BSC Agent would no longer be contractually responsible for these specific services to the extent they were beyond its reasonable control. The responsibility, and therefore liability, for these services would be with the Technology Services provider.

This solution is specifically targeted at ancillary Technology Services that are similar to the sorts of Technology Services that Elexon already procures and which are not BSC Agent services (e.g. service management, systems development, systems support and maintenance). The solution should be clear that core BSC Agent services that are required to deliver Settlement must continue to be delivered by BSC Agents under the existing Section E arrangements.

These changes are intended to facilitate a model in which cloud services are procured by Elexon, although still operated day-to-day by BSC Agents. Elexon and BSC Agents will work together to ensure that cloud services are procured and used in a manner that is robust and consistent with best practice, and that any potential risks to Settlement arising from the use of cloud services are understood and mitigated. A Workgroup may also want to consider what role (if any) the BSC Panel should have in this process.

## 2 Solution

### Proposed Solution

In order to meet the desired outcomes described above, we have drafted some 'strawman' legal text (see Attachment B) for consideration by the Workgroup.

The drafted approach amends Section E to accommodate BSC Agents using a Technology Service provider which the BSCo has appointed for ancillary technology services only. The solution would add new definitions under new paragraphs, Section E 1.2.7(a), (b), (c) and (d) as follows:

- a) **BSC Agent Services** means the services specified in a BSC Service Description or otherwise pursuant to the Code;
- b) **Related Technology Services** means any Technology Services that are, or may be, a BSC Agent Service but which are ancillary to the performance of Settlement processes, assurance services or audit services by a BSC Agent including, inter alia, data retention and help-desk services;
- c) **Technology Services** means technology services and products used by BSCo in the performance of its functions under the BSC including data and application hosting, service management, systems development, systems support and maintenance, infrastructure management and other related activities;
- d) **Technology Services Provider** means a person, not being a BSC Agent, who provides Technology Services.

It will also be made clear that Technology Service Providers would not be BSC Agents themselves, hence a change to Section E 1.2.1 to reflect this.

Section E 1.2.8 recognises the potential impact that this will have on BSC Agent contracts by allowing Elexon to relieve the BSC Agent of responsibility for performing services that are being delivered by a Technology Service Provider, and therefore also liability for matters that are beyond the BSC Agent's reasonable control. Instead the Technology Service Provider would pick up responsibility for the provision of this service.

The suggested legal text is drafted so as to relate specifically to ancillary technology services, and would therefore not apply to the Settlement functions performed by the BSC Agents.

### Benefits

It is anticipated there will be significant on-going cost savings for Elexon, and therefore BSC Parties, if Elexon is able to contract directly with Technology Service Providers for ancillary technology services rather than through sub-contracts that are likely to include material mark-ups.

### 3 Relevant Objectives

Impact of the Modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence	Neutral
(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System	Neutral
(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	Neutral
(d) Promoting efficiency in the implementation of the balancing and settlement arrangements	<b>Positive</b>
(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]	Neutral
(f) Implementing and administrating the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation	Neutral
(g) Compliance with the Transmission Losses Principle	Neutral

The most relevant objective for purposes of this Modification is Objective (d), “*promoting efficiency in the implementation and administration of the balancing and settlement arrangements*”. In the absence of a change Elexon would have to fall back to requiring BSC Agents to procure their own cloud services. This would significantly raise costs by increasing overheads.

## 4 Potential Impacts

### Impacts on Core Industry Documents

Impacted Core Industry Documents			
<input type="checkbox"/> Ancillary Services Document	<input type="checkbox"/> Connection and Use of System Code	<input type="checkbox"/> Data Transfer Services Agreement	<input type="checkbox"/> Use of Interconnector Agreement
<input type="checkbox"/> Retail Energy Code	<input type="checkbox"/> Transmission License	<input type="checkbox"/> System Operator Transmission Owner Code	<input type="checkbox"/> Supplemental Agreements
<input type="checkbox"/> Distribution Code	<input type="checkbox"/> Grid Code	<input type="checkbox"/> Other (please specify)	<input checked="" type="checkbox"/> None

This Modification is not anticipated to impact any other industry codes.

### Impacts on BSC Systems

Impacted Systems				
<input type="checkbox"/> CRA	<input type="checkbox"/> CDCA	<input type="checkbox"/> PARMS	<input type="checkbox"/> SAA	<input type="checkbox"/> BMRS
<input type="checkbox"/> EAC/AA	<input type="checkbox"/> FAA	<input type="checkbox"/> TAAMT	<input type="checkbox"/> NHHDA	<input type="checkbox"/> SVAA
<input type="checkbox"/> ECVA	<input type="checkbox"/> ECVA Web Service	<input type="checkbox"/> Elexon Portal	<input type="checkbox"/> Other (Please specify)	<input checked="" type="checkbox"/> None

This Modification is not anticipated to impact any BSC systems.

### Impacts on BSC Parties

Impacted Parties			
<input checked="" type="checkbox"/> Supplier	<input checked="" type="checkbox"/> Interconnector User	<input checked="" type="checkbox"/> Non Physical Trader	<input checked="" type="checkbox"/> Generator
<input checked="" type="checkbox"/> Licensed Distribution System Operator	<input checked="" type="checkbox"/> National Electricity Transmission System Operator	<input checked="" type="checkbox"/> Virtual Lead Party	<input type="checkbox"/> Other (Please specify)

It is anticipated this Modification will have a positive effect on all BSC Parties through potential cost savings made by Elexon if they decide to procure their own cloud services as opposed to sub-contracting through BSC Agents with material mark-ups.

## Impacts on consumers and the environment

Impact of the Modification on consumer benefit areas:	
Consumer benefit area	Identified impact
Improved safety and reliability None identified	Neutral
Lower bills than would otherwise be the case  It is anticipated this Modification will have a positive effect on all BSC Parties through potential cost savings, however, likely not to be a material change to end consumer's bills.	Neutral
Reduced environmental damage None identified	Neutral
Improved quality of service None identified	Neutral
Benefits for society as a whole None identified	Neutral

## Legal Text Changes

This Modification proposes to update Section E, proposed Legal Text would introduce new sub-clauses in Section 1.2 as per below:

### 1.2.7 *For the purposes of Section E:*

- (a) **BSC Agent Services** means the services specified in a BSC Service Description or otherwise pursuant to the Code;
- (b) **Related Technology Services** means any Technology Services that are, or may be, a BSC Agent Service but which are ancillary to the performance of Settlement processes, assurance services or audit services by a BSC Agent including, *inter alia*, data retention and help-desk services;
- (c) **Technology Services** means technology services and products used by BSCCo in the performance of its functions including data and application hosting, service management, systems development, systems support and maintenance, infrastructure management and other related activities;
- (d) **Technology Services Provider** means a person, not being a BSC Agent, who provides Technology Services.

### 1.2.8 *Where BSCCo has appointed a Technology Services Provider to provide Related Technology Services for which a BSC Agent would otherwise be responsible:*



- (a) *the relevant BSC Agent Contract may include provisions relieving the BSC Agent from the obligation to perform those Related Technology Services and relieving that BSC Agent from liability for breaches that, as a consequence, are beyond its reasonable control; and*
- (b) *the provisions of this Section E shall not apply in respect of those Related Technology Services or the Technology Services Provider.*

It will also be made clear that Technology Service Providers would not be BSC Agents themselves, hence an additional clause within Section E 1.2.1 to reflect this as per 1.2.1 (b) below in red.

1.2.1 The person for the time being appointed for the purposes of providing the services specified in a BSC Service Description is a BSC Agent. This does not include:

- (a) BSCCo where BSCCo provides the Profile Administration Services;
- (b) *a person appointed pursuant to paragraph 1.2.7.*

## 5 Governance

### Self-Governance

<input type="checkbox"/> <b>Not Self-Governance</b> – A Modification that, if implemented:	
<input type="checkbox"/> materially impacts the Code's governance or modification procedures	<input type="checkbox"/> materially impacts sustainable development, safety or security of supply, or management of market or network emergencies
<input type="checkbox"/> materially impacts competition	<input type="checkbox"/> materially impacts existing or future electricity consumers
<input type="checkbox"/> materially impacts the operation of national electricity Transmission System	<input type="checkbox"/> is likely to discriminate between different classes of Parties
<input type="checkbox"/> involves any amendments to the EBGL Article 18 Terms and Conditions related to Balancing; except to the extent required to correct an error or as a result of a factual change	
<input checked="" type="checkbox"/> <b>Self-Governance</b> – A Modification that, if implemented:	
Does not materially impact on any of the Self-Governance criteria provided above	

The Workgroup will need to consider whether the proposal meets the Self-Governance criteria or not. Based on the current proposed legal text, we believe the Proposal could be treated as a Self-Governance Modification Proposal. Whilst the proposal does amend the BSC's governance procedures, we do not believe the amendments are material. The solution allows Elexon to procure ancillary Technology Services and relieves the BSC Agent of relevant responsibilities. The risks and liabilities associated with the ancillary Technology Services remain substantially the same, regardless of who has procured it. However, as the solution is assessed and developed by the Workgroup, this view will need to be reviewed.

### Progression route

<input checked="" type="checkbox"/> <b>Submit to assessment by a Workgroup</b> – A Modification Proposal which:	
does not meet any criteria to progress via any other route.	
<input type="checkbox"/> <b>Direct to Report Phase</b> – A Modification Proposal whose solution is typically:	
<input type="checkbox"/> of a minor or inconsequential nature	<input type="checkbox"/> deemed self-evident
<input type="checkbox"/> <b>Fast Track Self-Governance</b> – A Modification Proposal which meets the Self-Governance Criteria and:	
is required to correct an error in the Code as a result of a factual change including but not limited to:	
<input type="checkbox"/> updating names or addresses listed in the Code	<input type="checkbox"/> correcting minor typographical errors
<input type="checkbox"/> correcting formatting and consistency errors, such as paragraph numbering	<input type="checkbox"/> updating out of date references to other documents or paragraphs

☐ **Urgent** – A Modification Proposal which is linked to an imminent issue or current issue that if not urgently addressed may cause:

☐ a significant commercial impact on Parties, Consumers or stakeholder(s)

☐ a Party to be in breach of any relevant legal requirements.

☐ a significant impact on the safety and security of the electricity and/or gas systems

We believe this Proposal should be assessed by a Workgroup, as although there is draft legal text and the change is small, it is important that the Proposal is scrutinized and alternative solutions to address the issue and meet the desired outcomes are considered.

### **Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?**

No. We do not believe this Proposal impacts any open SCRs.

### **Does this modification impact the code drafting and system development for Market wide Half Hourly Settlement (MHHS), if so, how?**

No, we do not believe this impacts the code drafting or MHHS design.

### **Does this Modification impact any of the EBGL Article 18 Terms and Conditions held within the BSC?**

No. We do not believe it likely this proposal will impact the EBGL Article 18 balancing terms and conditions.

### **Implementation approach**

This Modification is anticipated to be document only and not incur any system or process changes for Elexon or Market Participants. As such it is recommended the Modification is implemented as soon as reasonably practical to allow Elexon to procure Technology Services directly, if they choose to, and to pass any costs savings on to BSC Parties as soon as possible. Therefore, an initial Implementation Date of 5 Working Days following Authority decision is recommended.