

CONCLUSIONS OF THE ISSUE 76 WORKGROUP

After discussion including preliminary legal advice from Dentons, the Workgroup reached the following consensus (brief explanations in brackets). The principles adopted were of simplicity and expediency:

Features of Collection of Funds

- Amounts - Amounts to be based on the existing CM forecast Schedule (simplicity)
- Credit Cover - No credit cover requirement (to avoid double credit cover and cash flow issues since ESC still holds credit cover)
- Mutualisation - No mutualisation (to have mutualisation during the collection period would see paying suppliers doubly suffer if they had to bear mutualisation compared to non paying suppliers)
- Escalation - use existing BSC default sanctions (given no Credit Cover and no mutualisation, escalation and enforcement needs to be swift and meaningful)

Duration

- Open ended (limiting to the current CM year ending Sept 19 considered too short).
- Current CM schedule is for Oct 18-Sept 19. Will need mechanism to obtain 19-20 schedule
- May need to consider ultimate long stop date eg Sept 20 (which could be further extended by a subsequent mod if desired)

Effective Date and historic payments/missing months

- Scheme to be effective from 1 Jan 2019 even if Mod not approved til later (publicising intent from 1 Jan will give more certainty).
- Payments from and including Jan up to month following Mod approval will be invoiced in lump sum once Mod approved
- Payments for months after Mod approved will be invoiced monthly
- Payment for Dec (and for Oct and Nov if no longer held by ESC) will be smeared over remaining months of CM Year (this is to smooth payments for 'missing' months, recognising that if scheme finished before end of CM Year then scheme would be underfunded)

Trigger for Release of Funds and destination of funds

- If ESC invoices for same period, in which case funds released to ESC (alternative of releasing funds to Suppliers to pay to ESC introduces additional non payment risk; or
- If CM suspension is not lifted after all appeals, in which case funds returned to Suppliers
- Consider also long stop date eg Sept 2020 (noted that a subsequent Mod could always extend further)

Account Management

- ELEXON to hold funds as per other ELEXON funds (escrow or trust considered unnecessary)
- Existing ELEXON account governance considered adequate
- Direct Debit - DD may not be available (DD takes time to establish but ELEXON will investigate)

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- Interest – ELEXON to accrue and use to defray costs of this scheme and other BSC Costs (returning interest to suppliers considered too complex, to ESC or to CM Providers considered outside scope of this Mod, to ELEXON to defray industry costs considered most appropriate)

Reporting

- ELEXON to publish amount invoiced and collected

Further considerations within the scope of this BSC Issue

The above is subject to more detailed legal analysis.

Consider impact of a long stop date

VAT and accounting treatment

Obtaining the CM Schedule from ESC may require ESC/Supplier consent

Whether interest should be charged on non payments (not discussed)

Considerations outside of this BSC Issue

Interaction with Ofgem's default tariff price cap – could impact timing of Mod

Ofgem's view on urgency and need (or not) for their own consultation – could impact timing of Mod

How to ensure funds are returned to customers if never required - this issue already exists wrt Oct and Nov payments held by ESC

Accounting treatment by Suppliers – for suppliers to consider

Suppliers ability to insist on payment from customers, particularly I&C customers – depends on Suppliers Ts&Cs