Draft Modification Report

P332 'Revisions to the Supplier Hub Principle'

The Balancing and Settlement Code (BSC) as originally created was designed to support the Supplier hub principle and doesn't recognise the situation where Customers (predominantly in the Industrial & Commercial (I&C) sector) prefer to choose and contract with their own preferred Supplier Agents. The practice of Customers contracting with Supplier Agents, outside of the Supplier hub principle, can give rise to a variety of issues, including making it difficult for Suppliers to manage Supplier Agents' performance, which can impact a Supplier's performance. This Modification aims to provide Suppliers with a 'proxy contract' in the BSC to more effectively, as a last resort, manage Supplier Agents with whom it does not have an existing contract.



The BSC Panel initially recommends **approval** of P332



The BSC Panel **does** believe P332 impacts the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC

This Modification is expected to impact:

- Suppliers
- SVA Half Hourly (HH) Data Collectors
- SVA Non Half Hourly (NHH) Data Collectors

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Phase

- Initial Written Assessment
- Definition Procedure
- Assessment Procedure
- Report Phase
- Implementation

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About This Document

Not sure where to start? We suggest reading the following sections:

- Have 5 mins? Read section 1
- Have 15 mins? Read sections 1, 8 and 9
- Have 30 mins? Read all except section 6
- Have longer? Read all sections and the annexes and attachments

This is the second P332 Draft Modification Report, which Elexon will present to the Panel at its meeting on 13 January 2022. It includes consideration of Ofgem's P332 Send Back Direction and 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 to the Authority on whether the change should be made.

There are eight parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach. It also summarises the Workgroup's key views on the areas set by the Panel in its Terms of Reference, and contains details of the Workgroup's membership and full Terms of Reference.
- Attachment A contains the draft redlined changes to the BSC for P332.
- Attachment B contains the draft side letter for P332.

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- Attachment C contains the P332 interim report, which includes responses to the Request for Information and Data Request.
- Attachment D contains the non-confidential Case Studies provided by the Workgroup.
- Attachment E contains the full responses received to the Workgroup's Assessment Procedure Consultation.
- Attachment F contains the full responses received to the Panel's Report Phase Consultation.
- Attachment G contains the Send Back Direction issued by Ofgem.

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1 Summary

What's changed since the first Modification Report?

The first P332 Final Modification Report was sent to Ofgem on 17 November 2021. Ofgem issued a Send Back Direction for P332 on 14 December 2021.

Ofgem's Send Back Direction stated that:

"We consider that we have not been provided with a sufficient level of evidence regarding the costs and benefits of this modification and are unable to form an opinion on BSC P332 as submitted to us. We are therefore sending the modification back to industry for further work."

Ofgem directed that additional steps are undertaken to address their concerns and that a revised Final Modification Report should then be resubmitted.

Elexon have sought to address the points raised by Ofgem in its Send Back in Section 11 of this report for Panel to consider. More information about the Send Back Direction can be found in Attachment G.

The Sections of this Draft Modification Report that have changed since P332 was first submitted to Ofgem in November 2021 are the Section 10 title 'Panel's Discussions on the first Modification report' and Section 11 – Send Back Process. The Send Back specifically asks for further clarity from the Panel on its views on P332, which will be sought at the Panel meeting on 13 January 2022.

Why Change?

The Balancing and Settlement Code (BSC) when originally created was designed to support the Supplier hub principle, under which the Supplier selects and appoints the Agent with whom it has a contractual relationship and to this end is silent on the practice of 'Customer appointed Agents'. It is the view of the Proposer that the 'appointment' of Agents by Customers, outside of the Supplier hub principle, makes the Supplier management of Agent performance and delivery of obligations within the BSC more difficult than managing Agents with whom it has a contract. This can result in a reduction in a Supplier's ability to manage performance against industry targets and risking non-delivery of specific obligations.

This document will refer to 'Customer Preferred Agents' (CPAs) instead of 'Customer appointed Agents' to avoid confusion with the BSC term 'appointed'. Under the BSC, the Supplier appoints an Agent for all Metering Systems, irrespective of any commercial arrangements that may exist between the Agent and the Customer, as these are outside the scope of the BSC. However, for most Metering Systems, some form of commercial contract usually exists between the Supplier and Agent to agree service levels for core obligations.

The Workgroup remain split on whether CPAs do inhibit a Supplier's ability to manage its Agents performance and the extent to which this is a BSC or commercial issue. In responding to Ofgem expectations that the burden of proof is on those who believe there is an issue, the Proposer and Workgroup have gathered qualitative evidence, but have not been able to quantify the impact CPAs have on Supplier performance. The evidence for and against the case for change is summarised in Section 2.

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Solution

The proposed solution requires all existing Supplier Volume Allocation (SVA) Half Hourly (HH) & Non Half Hourly (NHH) Data Collectors (DCs) to sign a side letter to the BSC, or be subject to the Removal of Qualification process. Any Agents that wish to Qualify in these roles subsequently will be required to sign the side letter as a condition of gaining Qualified status to operate in the market. The side letter will need to be signed by a **Company Director**.

The side letter will be between the DC and Elexon and will enable a Supplier who does not have a direct contract with the DC to enforce, as a last resort, the side letter as a proxy contract under the terms of the Contracts (Rights of Third Parties) Act 1999.

The side letter allows the Supplier to enforce all applicable obligations of SVA Data Collectors specified in the BSC and relevant Balancing and Settlement Code Procedures (BSCPs) and Code Subsidiary Documents (CSDs). If successful in Court, the Supplier would be able to recover losses it had suffered as a result of the breach of the proxy contract. The damages would be calculated so as to put the claimant in the same position as if the contractual obligation(s) had been performed. Elexon does not have any liabilities or obligations under the side letter and will be under no obligation to enforce the side letter. No compensation will be payable by Elexon under this side letter.

SVA Metering activities transferring from the BSC to the REC

Ofgem announced its Decision on 30 April 2021 that SVA Metering activities will transfer from the BSC to the Retail Energy Code (REC) from 1 September 2021. Therefore the P332 solution will apply to SVA HH & NHH Data Collectors only as SVA Meter Operator Agent (MOA) governance are now under the REC and not under the BSC.

Please note that much of the Workgroup discussion set out in this document occurred prior to the Ofgem decision to transfer SVA Metering provisions to the REC, and so reflect the Workgroup's views based on the scope at the time.

Impacts & Costs

Costs Estimates			
Organisation	Implementation (£k)	On-going (£k)	Impacts
Elexon	<1	0	Update BSC documentation and internal LWI
NGESO	N/A	N/A	No expected impact
Industry	Low	Low	DCs will be required to sign the side letter to maintain Qualified status and may need to update commercial arrangements with customers and Suppliers
Total	Low	Low	

Implementation

The P332 Workgroup and the Panel recommends an Implementation Date of **5 Working Days (WDs) after Ofgem approval**.

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All Qualified SVA HH & NHH Data Collectors will be required to sign the side letter **within 6 months** of the P332 Implementation Date (+5 WDs after Ofgem decision) or be subject to the SVA Removal of Qualification process. Any new SVA HH & NHH Data Collectors seeking Qualification will be required to sign the side letter as a condition of gaining Qualified status. The side letter will need to be signed by a **Company Director**.

Recommendation

The majority of the Panel disagree with the Workgroup's recommendation to reject P332 and initially believes that P332 would better facilitate Applicable BSC Objective (c) (competition) and (d) (efficient operation and implementation of the BSC arrangements) and should therefore be **approved**.

The Panel agrees with the Workgroup that P332 **does** impact the EBGL Article 18 terms and conditions as the proposed legal text does impact the existing EBGL/BSC mapping (in BSC Section F 'Modification Procedures' Annex F-2). They do not believe P332 extends the terms and conditions. The Panel agrees with the Workgroup's recommendation that P332 **should not** be a Self-Governance Modification and should be sent to Ofgem for decision.

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2 Why Change?

What is the issue?

The BSC when originally created was designed to support the Supplier hub principle, under which the Supplier selects and appoints the Agent with whom it has a contractual relationship and to this end is silent on the practice of 'Customer appointed Agents'. It is the view of the Proposer that the 'appointment' of Agents by Customers[1], outside of the Supplier hub principle, makes the Supplier management of Agent performance and delivery of obligations within the BSC more difficult than managing Agents with whom it has a contract, resulting in a reduction in a Supplier's ability to manage performance against industry targets and risking non-delivery of specific obligations.

Background

Supplier hub principle and Suppliers choosing Agents

The BSC envisages that the appointment of Agents will be carried out in accordance with the Supplier hub principle, under which the Supplier selects and appoints the Agent.

The BSC established the Supplier hub principle, which introduced obligations for Suppliers to manage Agent performance and meet obligations within the BSC. The effective operational performance is dependent on the commercial arrangements between the Agent, Supplier and Customer. Ineffective management of these commercial arrangements may result in a reduction in a Supplier's ability to manage performance against industry targets and risk non-delivery of specific obligations.

Where a Supplier is the Registrant of a Metering System it is responsible for the Exports and/or Imports for that Metering System. The Supplier is required to appoint Agents for each of its Metering Systems, to fulfil specific roles defined in BSC Section J 'Party Agents and Qualification Under the Code'. The concept of a Supplier appointing and managing Agents to meet its BSC obligations, including BSC performance targets, is known as the Supplier hub principle.

Under the Supplier hub arrangements the Supplier is assumed to be free to appoint an Agent of its choice and to de-appoint the Agent if performance deteriorates. However, the Proposer believes, as a point of principle, that this 'freedom' is undermined where a Customer has contracted with that Agent. Where a Supplier appoints a CPA as instructed by the Customer, the Supplier may not have a contractual relationship with that Agent. The absence of a contractual relationship can leave the Supplier exposed to additional risk, as the Supplier has no commercial mechanism to manage the Agent (which is the Supplier's commercial risk).

The BSC does not define the Supplier hub, nor does it require Agents to accede to the BSC. Rather the BSC requires Agents to Qualify, via the SVA Qualification process. Suppliers typically appoint Agents with whom they have a contract, or, some Customers choose Agents themselves and contract directly with those Agents. In this situation the Supplier can choose to appoint its preferred Agent or to appoint the Customer's preferred Agent. Assuming the two preferred Agents are different, the Supplier can choose to

[1] The BSC defines Customer as person to whom electrical power is provided, whether or not that person is the provider of that electrical power; and where that electrical power is measured by a CVA or SVA Metering System

Who are Supplier Agents and what is the Supplier hub principle?

The BSC requires Suppliers to appoint certain Party Agents to carry out specific functions or perform obligations on their behalf for SVA Metering Systems registered to them. These Party Agents are known as Supplier Agents.

Supplier Agents fulfil the following roles: Data Collector (DC), Data Aggregator (DA), Meter Operator Agent (MOA), and Meter Administrator (MA). For a company to operate as one of these defined roles they must successfully complete the BSC Qualification process to become Qualified.

The Supplier is responsible for its Metering Systems and appointing its Supplier Agents. This Supplier led process is known as the Supplier hub principle. The Supplier hub principle is not explicitly defined in the BSC but is accepted as one of the defining principles of the SVA arrangements.

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appoint its preferred Agent, or appoint the Customer's preferred Agent, which it has been suggested, could increase the risk of Supplier/Agent performance issues.

The BSC facilitates the Supplier hub principle and is silent on 'Customer Preferred Agents'.

The commercial arrangements between Agents and Customers are outside the scope of the BSC.

Agent Qualification

BSC Section J 'Party Agents and Qualification Under the Code' sets out the SVA Qualification process. Qualification and Re-Qualification applications are considered by the Performance Assurance Board (PAB).

To operate in any of the roles listed below, Market Participants need to complete SVA Qualification:

- Supplier
- Half Hourly and Non Half Hourly Data Collector
- Half Hourly and Non Half Hourly Data Aggregator
- Half Hourly and Non Half Hourly Meter Operator[2] and CVA Meter Operator
- Supplier Meter Registration Agent
- Unmetered Supplies System Operator
- Meter Administrator (MA)
- Virtual Lead Party

The arrangements for Qualification are set out in BSC Section J 'Party Agents and Qualification Under the Code' and BSCP537 'Qualification Process for SVA Parties, SVA Party Agents and CVA Meter Operators'.

Removal of Qualification process

The Performance Assurance Board (PAB) can remove a Qualified Person's Qualification if the organisation fails to comply with certain requirements and standards.

The following types of Market Participants may go through the Removal of Qualification (RoQ) process:

- Half Hourly and Non Half Hourly Data Collectors
- Half Hourly and Non Half Hourly Data Aggregators
- Half Hourly and Non Half Hourly Meter Operators and CVA Meter Operators
- Meter Administrators

When the PAB is informed of an organisation's performance or compliance failures it can start the RoQ process. To date, the RoQ process has never been used. It is similar to the

[2] Note that SVA MOA activities, including Qualification, will move to the REC from 1 September 2021. However, the BSC will retain reference to this role.

What is the Performance Assurance Board?

The PAB conducts and administers activities to provide assurance that all participants in the BSC arrangements are suitably qualified and that the relevant standards are maintained.

The PAB is appointed by, and reports to the BSC Panel. The PAB is responsible for the following Performance Assurance Techniques:

-SVA Qualification
-Technical Assurance
-Operational audit
-Liquidated damages
-Peer Comparison

The PAB may also recommend a BSC Modification or Change Proposal to the BSC Panel relating to issues that arise from its work.

PAB Meetings are held in open session where the business discussed is non-confidential. Items relating to confidential or commercially sensitive issues will be held in closed session.

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Error and Failure Resolution (EFR) Process. The PAB and Elexon will work with the underperforming Agent to understand the issues, root causes and what actions must be taken and by when to resolve, or face RoQ.

BSC Parties are not subject to RoQ, significant or persistent breaches of the BSC are addressed under the Breach and Default provisions of the BSC, contained within BSC Section H 'General'.

If an organisation's Qualification is removed, it cannot operate in its previously Qualified capacity. It cannot be the appointed Agent for any Metering System in that role. If a Supplier appoints an Agent that isn't Qualified, the Supplier is in breach of the BSC. The organisation is not prevented from submitting a new Qualification application.

Key milestones of P332

The development of P332 is a story of two halves. Before P332 was paused (pre September 2017) and after P332 was re-started (post November 2019). Before P332 was paused, the P332 Workgroup explored items such as:

- Whether P332 was a commercial or BSC issue;
- The extent to which there was an issue;
- Making Supplier Agents signatories to the BSC – which, at the time, the Proposer believed would address the cause of the issue; and
- Alternative solutions – which the Proposer believed would address symptoms of the issue.

Details relating to these items are detailed in the interim report in Attachment C. This document focusses on how the Workgroup and Proposer have arrived at the current proposed solution and not on the items above.

P332 was paused in 2017, as the baseline against which it was being assessed was likely to significantly change because of Ofgem's Market-wide Half-Hourly Settlement (MHHS) Signification Code Review (SCR). The confirmed MHHS Target Operating Model resulted in P332 focussing its solution on the AMR sector (predominantly non-domestic Customers who are settled HH) and P332 work re-starting in the second half of 2019. Since P332 was re-started, the Workgroup have focussed on:

- Finding a proportionate solution to the issue; and
- Further discussing the evidence related to P332.

The table below summarises the key milestones in the development of P332. Each step is explored in more detail in Appendix 1.

What is the Error and Failure (EFR) Process?

Error and Failure Resolution (EFR) is a key remedial technique in Elexon's Performance Assurance Framework. It is used to assure Elexon, the Performance Assurance Board (PAB) and the rest of the industry that Market Participants understand identified performance issues and have robust plans in place to correct them in a timely manner. As part of the EFR process, Market Participants agree with Elexon what steps they'll take to resolve the identified performance issues. Elexon also uses EFR to provide Market Participants with advice and guidance.

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Key milestones of P332	
Date	Event
July 2016	Request For Information (RFI) issued to gather qualitative evidence of the impact of CPAs on Suppliers, the scope of the P332 solution and solution options. For example, it asked Suppliers whether they find their performance is disproportionately affected where they do not have a direct contractual relationship with a Supplier Agent
May 2017	Elexon recommended that the Panel request an interim report on P332 as P332 was likely to require significant expenditure to develop a solution requiring Supplier Agents to be signatories to the BSC. The Panel agreed that an interim report should be presented
June 2017	In order to validate the qualitative assessment that there were enough CPAs in the market to justify the continuation of P332, the Workgroup issued a Data Request to establish how many Customer Preferred Agents there were in the market. The request confirmed significant numbers in the HHDC serviced sector (particularly the industrial and commercial sector), especially for MOAs
July 2017	P332 interim report presented to the Panel
July 2017	The Panel wrote to Ofgem to seek their views on whether the findings of the interim report are consistent with their provisional thinking and strategic direction
August 2017	Ofgem wrote to the Panel, providing their provisional thinking on P332
September 2017	The Panel considered Ofgem's response and directed the P332 Workgroup to pause its work whilst the Significant Code Review (SCR) on Market-wide Half Hourly Settlement (MHHS) was on-going
May 2018	An update on P332 was provided to the Panel. Elexon's recommendation, endorsed by the Proposer, was to continue to pause P332 until December 2018, pending Ofgem's policy decision on Supplier Agent functions and the further development of the Target Operating Model (TOMs) as part of the MHHS SCR
December 2018	Elexon updated the Panel that a preferred TOM for MHHS had been identified and that detailed work was being carried out related to the preferred TOM. The Panel agreed to continue to pause P332 work until further detail on the TOM was developed
September 2019	The Panel wrote to Ofgem to seek their views as to whether P332 was in line with their current strategic direction and whether P332 is or would be in scope of any of Ofgem's programmes of work
October 2019	Ofgem replied to the Panel reiterating that they continue to believe that there are benefits to customers choosing their own Agents, without impacting on Settlement performance. Ofgem indicated that if P332 were to restart they would welcome evidence of the benefits and costs. The Panel decided work should re-start in P332, to allow for more evidence to be gathered by the Workgroup

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Key milestones of P332	
November 2019	Elexon asked Workgroup Members to provide examples where CPAs have been the cause of or a significant contributing factor in issues resulting in BSC underperformance. The consensus from Supplier representative on the Workgroup was that the amount of time and effort needed to fix issues where the there is no contract in place between the Supplier and the Agent, is significantly higher. The consensus from Agent representatives on the Workgroup were there was no difference in the service they deliver due to the commercial arrangement and the issues identified apply equally to CPA and non-CPA sites. The Workgroup agreed it would be prohibitively costly and potentially not possible to quantify the impact of CPAs on Supplier performance, as it would not be possible to pin any underperformance solely on the contractual relationship i.e. there are too many variables. The Workgroup were advised by Elexon that there were no PAB EFR or BSC Audit issues identified due to CPAs. There were also no performance metrics which demonstrated a pattern of failure. The Proposer identified the way forward as being a side letter linked to accreditation to obliging agents to comply with the requirements in the BSC, rather than making Agents signatories to the code
April 2021	Ofgem's REC Decision was published on 30 April 2021 which confirmed Option 3, which will transfer SVA metering from the BSC to the REC, whilst CVA metering would remain in the BSC. P420 'Retail Code Consolidation Significant Code Review' was raised by Ofgem on 10 May 2021 to make the necessary changes to the BSC. P420 and REC V2.0 (and therefore the movement of the SVA MOA activities) is due to go-live on 1 September 2021

What evidence is there that the appointment of CPAs impacts Suppliers?

The Workgroup have not been able to provide quantified evidence of the impact of CPAs on Suppliers. This is because either they do not believe it is possible to do so, or it would be prohibitively costly to do so, given the complexities involved. However, qualitative evidence has been collected from:

- The Proposer;
- Workgroup Members; and
- Public requests for information.

We summarise this evidence, for and against, below.

Proposer View

The Proposer had stated in the P332 Modification Proposal Form that 90% of MPANs (Meter Point Administration Number) in the I&C sector are associated with direct contracts

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between the Customer and the Agent. This was not an industry statistic, but based on the Proposer's company portfolio at the time this Modification Proposal was raised.

The Proposer acknowledges that the industry has evolved to recognise a Customers' right to choose their own Agents, and for Agents to market their services to Customers. However, the Proposer contends that Customers typically do not know which services are required for Settlement purposes and which are "value-added", and that this causes confusion over what the Customer is paying for and what the Agent or Supplier must pay for.

The Proposer contends that the appointment, effectively, of Agents by Customers (outside of the Supplier hub principle), makes the Supplier management of Agent performance and delivery of obligations within the BSC more difficult than with Agents with who it has a direct contract, resulting in:

- A reduction in Suppliers' ability to manage performance against industry targets;
- The risk of non-delivery of specific obligations; and
- A conflict of interest as the Agent effectively has two 'customers', the Supplier and the end user Customer who provides the Agent's revenue.

The Proposer believes that, while Customers choosing Agents is not a new concept, it is becoming increasingly popular.

July 2016: Request for Information – initial scoping

A Request for Information (RFI) was issued on 8 July 2016, with responses invited by 5 August 2016. The RFI contained 14 questions to seek views from industry to help develop the P332 solution, assess how the P332 issues impact participants and request information on participant's portfolio to try to quantify the issues. 16 responses were received, of which 9 had supply businesses and 9 had Supplier Agent business (some had both).

The majority of respondents believed the BSC should recognise the Supplier/Agent relationship, which the side letter sought to do. The majority of respondents believed:

- Supplier Agents should not be signatories to the BSC;
- P332 should cover Half Hourly and Non Half Hourly sectors; and
- P332 should apply to all appointments, and not just to Supplier Agents who wish to contract directly with customers.

It also collected issues experienced by Suppliers in the last 12 months with customer contracted Supplier Agents and sought views on some possible solution options. The issues experienced covered MOA, DC and across all customer contracted Supplier Agents (please see RFI responses to Question 6).

The responses to the RFI can be found in Attachment C of this document. The majority of respondents reported that Suppliers do find their performance is disproportionately affected where they do not have a commercial arrangement with a Supplier Agent covering all the Agents' obligations under the BSC for which the Supplier is ultimately responsible. Agents reported that their systems and processes are set up to be operated the same, regardless of contract type and they seek the same performance standards for all sites.

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Data Request to establish how many CPAs there are in the market (June 2017)

This Data Request aimed to establish how many CPAs there were in the market (not performance). The Workgroup believed this was an important step as it would provide quantified evidence of how many CPAs there were in the market and support the qualitative evidence from the previous RFI. If there were a lot of CPAs, especially in the I&C sector as suspected, it would justify further assessment of the issue. If not, then there would be a case for withdrawing the Modification or finding more proportionate solutions. It was not intended to establish CPA impacts on Suppliers or Agents.

The Proposer believes the area of the market where the Supplier hub principle is hardest to enforce is the 'traditional' HH or 'HHDC-serviced' Meters where the Supplier is dependent on the HHDC obtaining readings from the Meter, typically an Automatic Meter Read (AMR) Meter. This is exacerbated in the Industrial and Commercial (I&C) sector where one or both of the HHDC and MOA are usually subject to a direct customer contract. This dependency does not exist for current and future HH settled 'Supplier-serviced' Metering Systems where the Supplier can obtain meter readings from a Smart Metering Equipment Technical Specifications (SMETS) compliant Meter, either directly or using a service provider other than a Data Collector.

The table below summarises the Supplier responses to understand how many CPAs are in the market. The Supplier responses represent the following share of the HH market by volume:

- 88% of all HH metered import (~143 TWh of annual consumption)
- 88% of all HH unmetered import (~3.4 TWh of annual consumption)
- 72% of all HH metered export (~45 TWh of annual generation)

The interim report provides a more detailed summary and the responses can be found in Attachment C. Responses were received from 15 Suppliers, 5 MOAs, 6 HHDCs, 6 HHDAs and 1 MA.

Data Request (June 2017) – How many CPAs are in the market?			
Measurement Class	MOA	HHDC	HHDA
C – Half Hourly Metering Equipment at above 100kW Premises	63%	36%	26%
E – Half Hourly Metering Equipment at below 100kW Premises with current transformer	30%	25%	12%
G - Half Hourly Metering Equipment at below 100kW Premises with whole current and not at Domestic Premises	24%	20%	14%
Overall	46%	30%	20%

Whilst this information is now several years old, it should still be indicative of the marketplace. This Data Request helped the Workgroup understand where to target the solution. The consensus at the time was P332 should continue, as there are, as suspected, significant number of CPAs in the market place, particularly with MOAs for HHDC serviced meters in the I&C sector. The take away for the Workgroup was that any solution should focus on MOAs, DCs and DAs (as DAs often come as part of the DC service).

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February 2020: Workgroup Case Studies - Examples of issues caused by CPAs

Once P332 re-started, having been paused for two years, the Workgroup tried again to determine what impact, if any, CPAs have on Suppliers performance. Workgroup Members agreed to provide specific examples and case studies of the types of issues they experience with CPAs. It was hoped this would allow for more targeted analysis and solution definition.

At its meeting on 27 November 2019 the Workgroup were asked to provide Case Studies of where CPAs have affected Settlement. The Case Studies were presented to the Workgroup at its meeting on 6 February 2020.

Case Studies were provided by 5 Suppliers. They contained details of issues relating to Date Collectors and Meter Operator Agents. Agents also provided responses.

The non-confidential responses can be found in Attachment D. The majority of respondents asked for their case studies to be treated as confidential as they contained customer data. All responses will be provided to Ofgem when the Final Modification Report is submitted.

Reported Data Collector Issues

These were the verbatim comments presented during the Workgroup meeting to review the Case Studies:

- Problems with missing data, incorrect data, late data and lack of handheld visits
- Poor Agent Portal performance when attempting to chase outstanding handheld visits or data queries
- Site access for Site Visit downloads
- DNO not taking ownership, difficultly arranging access to substations/HV supplies when required
- Poor communication, difficulty getting hold of advisors and lack of escalation contacts
- Insufficient process concerning hand held reads impacting Settlement performance
- Where a comms fault occurs, DC attempts a hand held read, but their internal process dictates that if this is unsuccessful any further attempts are suppressed until they receive new contact/access information from supplier. No attempt by DC to address this or obtain contact details from customer, previously data was being received regularly either via remote dial or successful manual downloads
- DC do not include a provision in their customer contracts for hand held reads. This meant that whenever meter comms were unavailable (HP/HT) or a comms fault arose, no attempt would be made to obtain data from the meter
    - DC challenge and customers contacted. Approx. Half amended T&Cs
- DC have advised they will not collect data manually where a site is not polling. Supplier have collected the data via site visit and passed on to DC who have been unwilling to load the data as actuals

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- DC accept HHDC appointments despite not having a contract with the customer
- Difficult to compare as no contracts with CPA agents
- A DC with CPAs reported issues with SIM migration but able to put agreement in place with Suppliers to obtain manual reads
- A DC/MOA reported: We make no distinction between CPA and supplier appointed mpans. Any failures are usually for different reasons. More likely access issues rather than CPA. Is this an industry wide issue or specific case by case issue?
- Process for handling adhoc requirements e.g. raising permit requests for secure site access are inadequate
- Meter does not have working Comms a HHDC has a contract with the customer but they are only able to support certain meters. The meter on this site is not supported by this HHDC so they will not accept the HHDC appointment. The incumbent agent has no option but to read the meters manually until the HHDC resolve the meter fault. There is no urgency for the HHDC to resolve the issue as they are not the HHDC and so it is not affecting their performance
    - This is multiplied across all portfolios contracted to this HHDC, where they take on the role of HHDC for sites they know they can dial (increasing their performance) and leaving the manual sites for another agent (decreasing that agent's performance)

Reported Meter Operator Issues

These were the verbatim comments presented during the Workgroup meeting to review the Case Studies:

- Site access for Meter Exchanges or Dial Failures
- Poor Agent Portal performance when supplier attempts to chase outstanding handheld or Dial failures
- Alternative communications not being explored when there is no GSM signal. A BT line if required takes months to be installed
- DNO not taking ownership, difficultly arranging access to substations/HV supplies when required
- Poor communication, difficulty getting hold of advisors and lack of escalation contacts
- Agent not working with Customers to fix communication and Meter Exchanges due to access problems
- HHMOA failed to novate sims across to themselves quickly enough following a change of agent from Supplier HHMO to themselves. This resulted in the comms being switched off for a number of Water sites which in turn impacted settlement performance (coupled with CPA DC not getting reads)
- HHMO advised they were unable to address certain meter faults and 'no comms' sites (HT/HP) because their contract with the customer only included maintenance of the existing meter and would not cover a meter exchange

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- Supplier challenged HHMOA on this due to the impact on SF/R1 performance. HHMOA attempted to amend their customer agreements as far as possible to address this, in order to avoid being de-appointed and favour of our own internal agent to mitigate the ongoing estimation and settlement impact
- Customer via a TPI have agreed to a programme of work across many sites to complete meter exchanges to install AMR metering, without involvement of Supplier. Data flows not being used, so Supplier in the dark about the meter exchanges, likely to impact Settlement e.g. Supplier does not know they need to chase MTDs
    - Also no clarification has been provided regarding the customer being Micro business and having additional obligations for this type of customer
    - Supplier tried to negotiate contract with MOA, but terms offered were not sufficient to allow us to back off our operational performance responsibilities
- Customer's contract with the MOP did not cover meter exchanges or PSTN lines
    - Supplier had to appoint alt. MOA and paid for meter exchanges
- Lack of communication between CPA MOA & CPA DC supplier required to intervene
- Increase in download failures due to Access Issues some of which were linked to the agent not making themselves aware to the contact on site
- Agent no longer has a direct contract with the customer, but Supplier pick up the charge from the agent and pass it through to the customer via their supplier bills
- However, dial failures continued to happen, it was identified that the site required to replace the meter, and the meter operator stated that without a direct contract they would be unable to fix the issue. Supplier arranged to appoint another agent who is willing to take on the role and do the work without a direct contract
- New meters energised by the DNO, but date of work not shared with MOA. MOA has a direct contract and fitted new meters as de energised alongside the existing meters, with the DNO due to energise them at a future date. This info was not shared with the HHDC or Supplier, so when the old meters stopped working, the HHDC and supplier liaised with the customer to arrange for the meters to be investigated, and read manually, but this had no impact as the meters had been de-energised. Supplier arranged access with Supplier to resolve. This impacted Settlement performance

Conclusions

In summary, the key points were that there were instances raised in the Case Studies where there is a discrepancy between CPA agreements not meeting Balancing and Settlement Code Procedure (BSCPs) standards. This is consistent with the evidence provided in the earlier RFI (in June 2016).

Several case study examples were determined to be a feature of the given Supplier and Agent relationship not of CPAs as a concept. However, the consensus from Supplier representatives at the Workgroup meeting was that the amount of time and effort needed

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to fix issues where the Agent is a CPA and not a Supplier preferred Agent is significantly higher.

The Workgroup noted there are issues on both sides of the CPA and Supplier relationship and there are instances of CPAs wanting to engage with Suppliers and not having problems.

The Workgroup summarised that the Case Study examples provided were not specific to CPAs and could be attributed to any Supplier/Agent relationship.

The Workgroup agreed not to do any more targeted analysis as they believed it would be extremely difficult (or not possible) to do so. This is because, in order to prove a CPA was causing Supplier underperformance, you would need to be able to demonstrate that this underperformance was not being caused by anything else, for example, the Supplier's ability to manage the Agent, the Agent's processes, third party dependencies, such as site access etc. The Workgroup did not believe you would easily be able to attribute underperformance to the contractual status.

Even if performance related to CPA sites were on average performing lower than Supplier preferred Agent sites, this would not prove that the contractual status was causing the underperformance. The Workgroup also found it difficult to agree how you would measure such performance. One of the Supplier's main performance metrics is the percentage of energy settled on actuals (97%/99%). Whilst this could be applied to DCs it would not apply to MOAs or DAs.

The Proposer's view was that although there was difficulty in obtaining Quantitative analysis due to the time and expense this would incur (also arguably not possible) there was sufficient Qualitative, Anecdotal and Intuitive evidence to conclude there is an issue present and to proceed with the Modification solution development.

Summary

The Proposer contends that Customers choosing their own Agents (instead of Suppliers, as envisaged under the Supplier hub principle) can give rise to a variety of issues, including making it difficult for Suppliers to manage Supplier Agents' performance, which can impact a Supplier's performance. The consensus of Suppliers, both in the Workgroup and from the RFI aligns with this view. However, Supplier Agent consensus forms the opposite view, that CPAs are not a cause and any issues are more attributable to specific site-by-site or relationship issues between Suppliers and their Agents.

Desired outcomes

The Proposer is seeking to ensure that Suppliers have a route to better manage Agents with whom they do not have a direct contract, whilst maintaining the Supplier hub principle.

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3 Solution

Proposed solution

Overview

The scope of P332 has changed and through the development of the Modification, the Proposer no longer proposes that Agents become signatories to the BSC.

The proposed solution now is a side letter as part of the Qualification process, to require SVA HH & NHH Data Collectors to treat all Appointments the same, regardless of contract status. The side letter will need to be signed by a **Company Director**. SVA MOAs have been removed from the solution as SVA Metering activities will move to the REC from 1 September 2021, subject to P420 'Retail Code Consolidation Significant Code Review' and other code modification approvals by Ofgem. P420 makes the necessary changes to reflect the close down of the Master Registration Agreement (MRA) and the transition of Supplier Volume Allocation (SVA) Metering arrangements from the Balancing and Settlement Code (BSC) to the Retail Energy Code (REC), as part of the Retail Code Consolidation Significant Code Review (SCR). It also inserts the required drafting to give effect to the new Cross Code Steering Group (CCSG) and cross-code modification arrangements, as part of the SCR.

The side letter will be between the DC and Elexon and will enable a Supplier who does not have a direct contract with a DC to enforce the side letter as a proxy contract.

The side letter allows the Supplier to enforce all applicable obligations of SVA Data Collectors specified in the BSC and relevant BSCPs.

All Qualified SVA HH & NHH Data Collectors will be required to sign the side letter within 6 months of the P332 Implementation Date (+5 WDs after Ofgem decision) or be subject to the Removal of Qualification process. Any new SVA HH & NHH Data Collectors seeking Qualification will be required to sign the side letter. Any DCs that are in the process of Qualifying during the 6 months period for existing DCs to sign the letter would have until the end of the 6 months before the side letter became effective.

The obligations of the side letter will become effective 6 months after the P332 Implementation Date to ensure a consistent effective from date, to ensure there is no incentive or disincentive to sign the side letter early or at the last minute.

The side letter will be signed at a company level, so if a DC is Qualified in the role of both SVA HH Data Collector and SVA NHH Data Collector for example, they will only need to sign one side letter. This means larger organisations with several companies will need to sign for each legal entity (and not at the parent company level). If an Agent was going through a change of ownership, the company taking on the old company would need to have already signed the letter (as a Qualified Agent).

Who is required to sign the side letter?

Both new and existing SVA HH & NHH Data Collectors will be required to sign the side letter.

The side letter will only apply where the Supplier Agent has been appointed to a Metering System and that appointment has been registered in the Supplier Meter Registration Service (SMRS). In practical terms, this means where the Supplier Agent has accepted, via Data Transfer Catalogue (DTC) Data Flow D0011 'Agreement of Contractual Terms', an

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appointment notification contained within DTC Data Flow D0155 'Notification of Meter Operator or Data Collector Appointment and Terms' and the identity of the Supplier Agent has been registered in SMRS. This is because it is the SMRS registration status that identifies the responsible Agent when referencing BSC obligations.

The BSC arrangements do not facilitate the ability of an Agent to formally terminate their appointment. The Workgroup acknowledged that Agents would be able to advise the Supplier that their contract with the customer has terminated (end of contract term, insolvency, change of tenancy, etc.) so that the Agent is no longer a CPA at a metering point. This would enable the Supplier to select another Agent or contract directly with the incumbent Agent.

Although the letter agreement is between Elexon and the Agent, Elexon will not enforce the letter agreement.

The proposed legal text will give Registrants of a Metering System (the Supplier of the Metering System registered in SMRS) to enforce the terms within the letter agreement under the Contracts (Rights of Third Parties) Act 1999.

What happens if Agents do not sign the side letter?

If a new SVA HH & NHH Data Collector is seeking Qualification then they will need to sign the side letter as a requirement of gaining Qualified status.

If an existing SVA HH & NHH Data Collector does not sign the side letter then they would be subject to the Removal of Qualification process (as detailed in Section 2) as signing of the letter will be a requirement of maintaining Qualified status.

Side letter (letter agreement)

Overview

The letter requires the Agents to comply with all applicable BSC obligations, rather than specific BSC Sections or BSCPs.

The side letter is a contract between Elexon and the Agent, but it will not be enforced by Elexon. Instead, in the absence of a direct contract between the Supplier and the Agent it will allow the Registrant of the Metering System i.e. the Supplier, to enforce the provisions of the side letter as if it were a party to the side letter, under the Contracts (Rights of Third Parties) Act 1999. A failure by an Agent to comply with the obligations would constitute a breach of contract. The Supplier would therefore have the right to seek legal remedies for the breach. The most common remedy would be a breach of contract claim, which, if successful, would enable the Supplier to recover losses it had suffered as a result of the breach. The quantum of the damages (i.e. the amount of damages that a person is seeking or that the Court awards to a successful party) would be calculated so as to put the claimant in the same position as if the contractual obligation(s) had been performed.

There is a limitation on liability and it is acknowledged that no types of claim are excluded. A Supplier would be able to bring a "Quantum Meruit" claim, which is "a reasonable sum of money to be paid for services rendered or work done when the amount due is not stipulated in a legally enforceable contract".

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What does the side letter mean for Suppliers and Agents?

The purpose of the side letter is to allow Suppliers to enforce, against SVA Data Collectors, all applicable obligations of SVA Data Collectors specified in the BSC and the BSCPs. A failure by an Agent to comply with these obligations would constitute a breach of contract. As a result, the relevant Supplier will have the right to seek legal remedies for this breach. The most common remedy would be a breach of contract claim which would, if successful, enable the Supplier to recover losses it had suffered as a result of the breach. The quantum of the damages would be calculated so as to put the claimant in the same position as if the contractual obligation(s) had been performed.

There are various factors that the Courts take into account when determining loss. The first factor is whether the breach actually caused the loss being claimed. If/once that is proven, the Courts will look at how remote the loss was from the breach (i.e. losses that are too remote will not be recoverable). The normal test of remoteness is whether the losses would have been reasonably foreseeable. A loss is reasonably foreseeable where it was regarded by the Parties as:

(1) not being unlikely to incur in the ordinary course of things; or

(2) a loss that arises outside the ordinary course of things but the defendant had actual knowledge of the special circumstances that resulted in the loss.

Most contracts will seek to exclude the second of these – you will have seen clauses in contracts that exclude indirect or consequential losses, which is a reference to the second limb above. Many contracts additionally exclude liability for other types of loss, for example loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working.

Elexon's view is that the Courts would not consider any other contractual arrangements in place when determining loss. For example, the Supplier would not have recourse to pursue the Customer directly for the failure of their Agent to perform BSC obligations.

The side letter as originally drafted did not include any exclusions or limitations so in theory a Party Agent could be liable to a Supplier for indirect/consequential losses, or loss of profit etc., but only if these losses actually arose as a result of the breach and only if the Agent had (in very high level terms) actual knowledge of the special circumstances that resulted in such losses. However, the Proposer was happy for limitations and a cap on liability to be included in the side letter. This addition to the side letter makes clear that a Party Agent or Supplier shall not, in the event of any breach of the side letter, be liable for:

(a) any loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working; or

(b) any indirect or consequential loss.

Many contracts also include a cap on liability, which is often determined by reference to the value of the contract. In this case, the value of the underlying transactions is unknowable so it would be difficult to set a financial cap and so one has not been included.

A further common remedy for breach of contract is 'specific performance' which in effect is a Court order requiring the defendant to perform the terms of a contract. The Court has the power to order this at its discretion. It is what is known as an equitable remedy which means it is not a contractual right and is therefore not covered in the side letter.

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De-appointment

The side letter shall not apply where the Agent has asked the Supplier to de-appoint them (for a Metering System or Metering Systems), in the situation where the Agent does not have a contract with the Customer or the Supplier.

Legal text

The P332 solution will insert new paragraphs into BSC Section J 'Party Agents and Qualification Under the Code'.

The proposed redlined changes to the BSC and the proposed side letter to deliver P332 can be found in Attachment A and B respectively.

Are there any (other) alternative solutions?

The Workgroup did not identify any alternative solutions which it believed would better facilitate the Applicable BSC Objectives when compared with the proposed solution. However, the Workgroup have identified and discussed many solution options, which are detailed in the P332 interim report (Attachment C of this document) and the Workgroup's Discussions Section of this document.

Original proposed solution

When P332 was raised on 28 January 2016, the Proposer indicated his preference that all Supplier Agents (Data Collectors, Data Aggregators, Meter Operator Agents and Meter Administrators) should become signatories to the BSC. Agents would be directly responsible for meeting relevant BSC/BSCP obligations and all of their activities would be directly accountable to the Performance Assurance Board (PAB) and Elexon. The breach and default process in BSC Section H 'General' would apply to Agents as it does to BSC Parties. Agents would then be subject to the ultimate sanctions of a breach where their performance was deemed to be unacceptable. The Proposer believed that Agent performance generally would improve if there was a direct relationship between Elexon and Agents.

The Proposer subsequently suggested a less extreme solution could be a revision to the Supplier hub principle only where there is no contractual relationship between the Customer Preferred Agent and the Supplier, however, this would require a change to the appointment flows to identify the relevant contractual situation. This was explored in detail by the Workgroup in 2018 and detailed in the P332 interim report. Ultimately, the Proposer did not believe this addressed the root cause, and rather focussed on the symptom and so was not pursued.

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4 Impacts & Costs

Estimated implementation costs of P332

The central implementation cost for P332 is expected to be low.

Details of the total estimated costs are provided in the table below:

Implementation cost estimates			
Organisation	Item	Implementation (£k)	Comment
Elexon	Systems	N/A	No impact to systems
	Documents	<1	Update to BSC Section J, new side letter and also internal Local Working Instruction (LWI)
	Other	N/A	No other impact
Industry	Systems & processes	Low	We sought confirmation of the impacts on Industry systems & processes via the Assessment Consultation, including expected implementation costs
	Total	Low	

Responses to the Assessment Procedure Consultation confirmed that the majority of respondents would require no changes to their documents, systems and processes. Agents may need to make changes to contractual arrangements.

Estimated on-going costs of P332

The estimated on-going cost of P332 is expected to be low.

Details of the total estimated on-going costs are provided in the table below:

On-going cost estimates		
Organisation	Implementation (£k)	Comment
Elexon	N/A	No expected impact
Industry	Low	We sought confirmation of the impacts on Industry systems & processes via this Assessment Consultation, including expected on-going costs
Total	Low	

Responses to the Assessment Procedure Consultation confirmed that the majority of respondents would require no changes to their documents, systems and processes. Agents may need to make changes to contractual arrangements.

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P332 impacts

Impact on BSC Parties and Party Agents		
Party/Party Agent	Impact	Estimated cost
Suppliers	A Supplier will be able to enforce the side letter as a proxy contract (under the Contracts (Rights of Third Parties) Act 1999) where it does not already have a direct contract with a Data Collector and could therefore take the Agent to Court for breach of contract. However, it is hoped that the presence of the side letter will be a route for the Supplier to be able to engage with the Agent and to discuss resolving the issues without needing to proceed to legal action	L
SVA HH and NHH Data Collectors	New and existing SVA HH and NHH DCs will be required to sign the side letter, once per legal entity, within 6 months of the P332 Implementation Date, as a requirement of Qualified Status. If an Agent is already meeting all BSC obligations, then there would be no impact. Where not all BSC obligations are being met, it may encourage an Agent to amend its contracts with Customers to ensure all BSC obligations are covered, or for the Agent to enter into a contract with a Supplier, where one is not already in place	L

Impact on the NETSO	
Impact	Estimated cost
No expected impact	N/A

Impact on BSCCo		
Area of Elexon	Impact	Estimated cost
Document Management	Changes to BSC documentation	L

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Impact on BSC Settlement Risks
As P332 impacts on BSC obligations for Suppliers and SVA Data Collectors, Elexon's view is that P332 could indirectly impact a number of Settlement Risks related to SVA Data Collectors, for example Settlement Risk 007: SVA metered data is not retrieved, such that the proportion of estimated data being used in Settlement contributes to performance standards not being met; and Settlement Risk 008: SVA metered data is not processed or transferred correctly, or at all. The exact impact on Settlement Risks will depend on the nature of the commercial arrangements in place between the Data Collector, Supplier and Customer. Some Workgroup Members believe that it would reduce the Settlement Risk likelihood, but not the impact, as DCs may be more incentivised to enter into contract with Suppliers or meet Supplier requests

Impact on BSC Systems and process	
BSC System/Process	Impact
N/A	No expected impact

Impact on BSC Agent/service provider contractual arrangements	
BSC Agent/service provider contract	Impact
N/A	No expected impact

Impact on Code	
Code Section	Impact
BSC Section J 'Party Agents and Qualification Under the Code'	Changes are required to BSC Section J which governs Qualification requirements and processes. The BSC Section J Simple Guide will also need to be updated

Impact on EBGL Article 18 terms and conditions
As part of its analysis, Elexon identified that the BSC legal text which P332 seeks to amend (BSC Section J 3.3) constitutes EBGL article 18 terms and conditions, as listed in BSC Section F 'Modification Procedures' Annex F-2. Elexon believe that P332 is neutral and consistent against the EBGL Objectives as the proposed solution relates to SVA Data Collectors, but as BSC Section J 3.3 is impacted, the EBGL process will need to be followed. The Workgroup and the Panel unanimously agreed with this assessment and agreed that P332 should also be treated as an EBGL change when progressed to the Report Phase

Impact on Code Subsidiary Documents	
CSD	Impact
BSCP537 'Qualification Process for SVA Parties, SVA Party Agents and CVA Meter Operators'	Side letter to be included in the Appendices of BSCP537

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Impact on a Significant Code Review (SCR) or other significant industry change projects
P332 was raised before an SCR and therefore cannot be subsumed into it

Impact of the Modification on the environment and consumer benefit areas:	
Consumer benefit area	Identified impact
1) Improved safety and reliability	Neutral
2) Lower bills than would otherwise be the case	Neutral
3) Reduced environmental damage	Neutral
4) Improved quality of service The Proposer contends that this Objective would be better facilitated because the Modification would ensure Customers would receive comparable levels of service regardless of whether their Agent is Customer preferred or Supplier preferred. In addition, the Proposer contends that P332 would mean that Suppliers are not disadvantaged commercially by the 'appointment' of Agents by CustomersAdd rationale and comments here	Positive
5) Benefits for society as a whole	Neutral



What are the consumer benefit areas?

1) Will this change mean that the energy system can operate more safely and reliably now and in the future in a way that benefits end consumers?

2) Will this change lower consumers' bills by controlling, reducing, and optimising spend, for example on balancing and operating the system?

3) Will this proposal support:

i) new providers and technologies?

ii) a move to hydrogen or lower greenhouse gases?

iii) the journey toward statutory net-zero targets?

iv) decarbonisation?

4) Will this change improve the quality of service for some or all end consumers. Improved service quality ultimately benefits the end consumer due to interactions in the value chains across the industry being more seamless, efficient and effective.

5) Are there any other identified changes to society, such as jobs or the economy.

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5 Implementation

Recommended Implementation Date

The P332 Workgroup and the Panel recommends an Implementation Date of **5 Working Days** after Ofgem approval.

All Qualified SVA HH & NHH Data Collectors will be required to sign the side letter **within 6 months** of the P332 Implementation Date (+5 WDs after Ofgem decision) or be subject to the Removal of Qualification process. Any new SVA HH & NHH Data Collectors seeking Qualification will be required to sign the side letter as a condition of gaining Qualified status. The side letter will need to be signed by a **Company Director**.

An Implementation Date of 5 WDs after Ofgem approval would then give DCs the 6 month period to sign the side letter before it takes effect. There is no requirement to assign P332 to a scheduled BSC Release.

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6 Workgroup's Discussions

In this Section we detail the thinking behind the Workgroup's solution, the options considered and the outcomes.

P332 is a Modification with two distinct assessment periods. The period before P332 was effectively 'paused' in September 2017 (to wait and see whether the baseline against which P332 was being assessed would significantly change as a result of MHHS) focussed on whether the defect could be addressed in alternative ways and considered whether making Agents Parties to the Code could be justified. The period from November 2019, when P332 're-started' focussed on finding a more proportionate solution. This Section focusses on the Workgroup discussion since P332 're-started'. The Workgroup discussions before P332 was 'paused' are detailed in the P332 interim report in Attachment C of this document.

Side letter development

Initial thinking

When considering whether to 're-start' P332, the Panel wrote to Ofgem in September 2019, to understand its latest thinking regarding P332 and whether it fell within scope of any of Ofgem's programmes of work. Ofgem responded in October 2019 and amongst other things, confirmed that it continued to "believe there is a lack of evidence to show that the issues identified by the Proposer could not be addressed under the current arrangement" and it "would welcome evidence of the benefits and costs in light of the narrowed scope as part of the Workgroup process." Reflecting on this the Proposer proposed an alternative solution.

The Proposer suggested that the way forward could be a side letter linked to accreditation to require Agents to agree that appointments are treated the same regardless of contract status, such that they comply with the requirements in the BSC. Elexon confirmed that there is already a form of side letter in use for Qualification in section 3.4 of BSCP537 'Qualification Process for SVA Parties, SVA Party Agents and CVA Meter Operators' which contractually binds Party Agents into the Qualification process obligations so this model is already established.

It was expected that the side letter would be sufficiently worded to point at Agents obligations in general, rather than specific clauses, to ensure that the side letter will be future proofed and would not need to be amended if new obligations were added or if changes were to be made to existing obligations. The Workgroup identified that it would be preferable to have a single side letter to cover both the MOA and DC roles. The Proposer had initially suggested that the scope of the solution should be reduced to MOAs only as this focussed on the Agents with the most CPAs and where the Proposer was seeing the most CPA related issues. However, the Case Studies (provided by the Workgroup in winter 2019) had indicated issues with DCs too, so the Proposer had agreed to include DCs in the solution. The Proposer initially considered that the side letter should make reference to Customer Preferred Agents, by referring to agreements made outside of Supplier arrangements i.e. a direct contract between the Agent and Customer, as he believed this was important.

The Workgroup considered what should be included in the side letter. The Proposer's initial view was that the side letter should focus on obligations to:

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- Contract with customers in a manner which reflects all the Agents' obligations in the BSC;
- Focus on Settlement outcomes i.e. prioritise those issues which will have the greater impact on Settlement; and
- Not behave in any way which might discriminate against Suppliers on the basis of how the services are contracted.

The draft legal text and side letter has been through a number of iterations to incorporate feedback from the Proposer and the Workgroup as the solution has been developed. These developments are described below.

Development of the side letter

Elexon prepared a draft side letter based on the above principles. The draft side letter had been prepared by Elexon and also reviewed by external lawyers[3], who were engaged to ensure that the Supplier hub principle is maintained and that the draft legal text, side letter and approach is legally robust and enforceable.

The Workgroup had indicated their preference that a side letter should be drafted and there should be a change to the legal text to include an obligation on Agents not to unduly discriminate between Registrants of Metering Systems.

However, Elexon had concerns over the approach from a legal perspective, as the side letter would be enforceable by Elexon and not the Supplier, so was not consistent with the Supplier hub principle. Also, as the obligation was not tightly defined it would be difficult for Elexon to monitor and enforce.

The Proposer and Elexon therefore worked to develop another approach. MOAs and DCs would be required to enter into a side letter, which would require these Agents to comply with specified BSC/BSCP obligations. The side letter would be between the Agent and BSCCo, but would give the Supplier rights under the Contracts (Rights of Third Parties) Act 1999 to enforce the side letter against Customer Preferred Agents i.e. the side letter effectively becomes a proxy contract between the Supplier and the Customer Preferred Agent.

The BSC, in addition to mandating this approach, would recognise that although BSCCo has a side letter with MOAs and DCs, the Supplier would remain fully responsible for performance of the MOA and/or DC and that BSCCo would be under no expectation or obligation to enforce the side letter.

This approach would ensure that the Supplier hub principle is maintained but would give Suppliers contractual rights with regards to MOAs and DCs where they do not otherwise have a direct contract.

This approach and the legal text was reviewed by external lawyers who confirmed that this approach is legally robust and consistent with the existing arrangements.

The Workgroup discussed that this would give Suppliers a route to hold Agents with whom they don't have a direct contract to account.

[3] The cost of this work was ~£6k

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Who should the solution apply to?

Which Supplier Agents should be required to sign the side letter?

The Proposer had initially been minded to only apply the solution to MOAs, as this was where Customer Preferred Agents were most prevalent and where the Proposer was encountering the majority of CPA related issues.

The Workgroup discussed and agreed that the solution should apply to SVA MOAs and DCs only as issues had been reported by Suppliers for both roles and would ensure a more consistent approach. Some Workgroup Members noted that it could be considered discriminatory to only apply to SVA MOAs, without sufficient justification, which had not been provided. For DCs, the scope focussed on SVA only, as for CVA (Central Volume Allocation), the DC role is carried out by the Central Data Collection Agent (CDCA) and therefore there is no option for Customers to choose to contract with their own preferred Agent. For CVA MOAs, customers typically do choose their own MOA, but no CVA issues had been reported by Suppliers as there is no Supplier hub equivalent in CVA. The Workgroup agreed that the solution should apply to both SVA HH and NHH Agents only and not CVA.

The Workgroup discussed whether Data Aggregators should be in scope or not. The Proposer stated that Customer Preferred Agents were usually operating in the role of MOA and/or DC. Elexon stated that the nature of DAs meant it was unlikely there would be selective non-compliance and any significant issues impacting Settlement would likely be picked up by Elexon or the Performance Assurance Framework (PAF).

Therefore the side letter that had been initially drafted would apply to all SVA Meter Operators and Data Collectors (both HH and NHH) but would only be enforceable against Customer Preferred Agents.

Which SVA Metering Systems should the side letter apply to?

The Workgroup discussed whether the side letter should apply to all Agents or just those under contract. The principle is that all SVA Agents will sign up to the side letter in respect of all of the roles that they provide, because the side letter can be signed once by each organisation across all of their roles. The actual provisions in the side letter are only likely to be invoked where the Supplier believes that the Agent with whom it does not have a direct contract is not fulfilling their obligations.

A Workgroup Member proposed that the side letter could refer to all Agents, not just Customer Preferred Agents, but would not 'bite' where a contract is in place (with the Supplier or Customer). This was to ensure that an Agent could not be held responsible for an activity when the Customer or Suppler has asked the Agent not to perform this activity.

The Workgroup therefore agreed that it should apply to all SVA Metering Systems and not just those instances where the Supplier did not have a direct contract with the Agent. Further, the Supplier does not always know if the Customer has contracted directly with an Agent, so it would be simpler to apply the contract in all instances.

The Workgroup considered that the side letter could apply when a contract is in place, rather than the Agent relationship. However, a Workgroup Member expressed concern that this might make the side letter difficult and complex to administer as it would be difficult to monitor the contract status and therefore suggested a better approach would be for the letter to apply to all SVA MOAs and DCs, regardless of contract status. If it were

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to refer to contract status, then Elexon would need to have visibility of contract status and it was therefore deemed sensible by the Workgroup to refer to all SVA MOAs and DCs.

Commercial arrangements and contracts between Suppliers and Agents and Customers and Agents are outside the scope of the BSC. Suppliers will often not know the status of a contract between an Agent and a Customer and neither would Elexon and it was felt that even if the status were known, then a process would need to be put in place to notify any change of appointment and this would require a development of a new process. It could also be difficult to define contractual relationship, an actual signed contract could have expired, however, the Agent is still performing tasks and activities and therefore legally this would still be considered a contract in law. Improving visibility of CPAs or contract status was considered before P332 was paused, but all options were complex and had issues with sharing commercially sensitive information.

One issue raised by the Workgroup was that the side letter needs to ensure that it does not place an incentive on the Supplier (or Agent) to not renegotiate a contract with an Agent. Careful consideration would be needed for how the Supplier would know a contract is in place between the Agent and the Customer or when this expires.

Agent Appointments

The Workgroup considered what was meant by the term "appointed" as referred to in the side letter and draft legal text and whether this definition is based on the status in SMRS, as it was noted that there are scenarios where it does not reflect the situation in practice. Agents would not want to be 'on the hook' for sites where they are not currently appointed. The view of whether an Agent is appointed or not can differ between Suppliers and Agents. For example, a DCs view would include all sites where they had accepted via a D0011 regardless of whether they are in SMRS, as DCs have no view of SMRS. However, the only record of who is "appointed" is held in SMRS, and that is the data that DAs report against for missing or incorrect data.

Elexon explained that there are references to the term "appointed" in both BSC Section J 'Party Agents and Qualification Under the Code' and BSC Section S 'Supplier Volume Allocation' but "appointed" isn't a defined term in the BSC.

The Workgroup discussed whether the side letter should apply where only D0011 confirmation is received, but after discussion suggested that the legal text and side letter should refer to "appointed and registered in SMRS". Workgroup discussion confirmed that the side letter should only apply when the Supplier Agent has accepted (DTC Data Flow D0011 'Agreement of Contractual Terms) an appointment notification (DTC Data Flow D0155 'Notification of Meter Operator or Data Collector Appointment and Terms') and the identity of the Supplier Agent is registered in SMRS. It is the SMRS status that identifies the responsible Agent when referencing BSC/BSCP obligations.

The 'BSC contract' is with the Agent registered in SMRS and the 'Supplier contract' is with the Agent that has accepted the D0155 via D0011 flow. For the side letter to be enforceable, the named Agent has to be subject to both conditions (appointed and registered) i.e. "has been appointed and is registered under the SMRS".

The BSC arrangements do not facilitate the ability of an Agent to formally terminate their appointment. The Workgroup acknowledged that Agents would be able to advise the Supplier that their contract with the customer has terminated (end of contract term, insolvency, change of tenancy, etc.) so that the Agent is no longer a CPA at a metering

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point. This would enable the Supplier to select another Agent or contract directly with the incumbent Agent.

Summary

It was agreed that the side letter should apply to all SVA HH & NHH Meter Operator Agents and Data Collectors, where the Agent has been appointed and is registered in SMRS.

How long should existing Agents have to sign the side letter?

The legal text as drafted would require Agents to sign the side letter as a requirement of Re-Qualification within a specified number of months after the Implementation Date of P332. The Proposer's suggestion was that MOAs and DCs would be required to sign the side letter within 3 months of the Implementation Date of P332. The Workgroup were asked for their views. A Workgroup Member suggested that there should be sufficient time allowed for any contracts to be renegotiated and signed, and therefore 6 months would be more appropriate. The Proposer was happy to amend to 6 months.

The Workgroup noted that the side letter as drafted at the time would become effective immediately from when it was signed. It was felt that this created a disincentive to sign the side letter until the last minute. Therefore the Workgroup decided that it would be better if the requirement was to sign within [x] months of the Implementation Date, but that the effective date would be consistent for all Agents.

It was initially drafted in the legal text that the signing of the side letter would effectively be Re-Qualification and there were concerns that all of the specified Agents would be required to go through the entire formal Re-Qualification process. It was agreed that the signing of the side letter was not Re-Qualification (as this had other implications, such as assessing material changes to an Agent's Qualified status), rather it would be a requirement for an Agent in order to maintain Qualified status.

What would happen if an Agent doesn't sign the side letter?

If an Agent does not sign and submit a side letter within the specified timescales, this would allow the Performance Assurance Board to commence the Removal of Qualification process. The Breach and Default process would not be triggered as Agents are not a Party to the BSC.

What obligations should Agents be 'on the hook for'?

The Proposer and the Workgroup considered which BSC obligations to apply the side letter to. Elexon legal counsel advised that targeting specific obligations (such as those linked to the reported 'pain points' by Suppliers) would be easier to enforce. The Proposer initially suggested that the BSC and BSCP obligations in the side letter should include:

- BSCP514 'SVA Meter Operations for Metering Systems Registered in SMRS' – BSCP514 defines the processes that both the Half Hourly and Non Half Hourly Meter Operator Agent shall use to carry out the work for meter operations. This includes, appointment changes, market data activities, connections, disconnections, reconfiguration or changes and where required proving (of HH

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Metering Systems) for all Supplier Volume Allocation MS registered in the Supplier Meter Registration System

- BSC provisions on Agent appointment and de-appointment

The Workgroup were asked to provide their views on which specific BSC and BSCP obligations should be referenced in the side letter i.e. which obligations Agents 'should be on the hook for'. The Workgroup felt the obligations should be at a high level relating to the role. Workgroup Members suggested that existing commercial contracts between Suppliers and Agents don't mention specific BSC Sections or BSCPs, so this approach would be consistent. The Proposer agreed that the side letter should reference 'all relevant BSC obligations' or words to that effect. The proposed wording in the side letter states that for the duration of the Agent's Qualification, they shall "comply with, and perform all applicable obligations of SVA Data Collectors in accordance with the BSC, as amended, and any other applicable BSC Procedure".

A Workgroup Member noted that in some contracts, the Agent is only specified to perform certain tasks so they shouldn't be 'on the hook' for when they are not contracted to carry out certain tasks. The Workgroup therefore requested that it was referenced in the side letter that in this scenario the direct contract would prevail.

The side letter requires Agents to abide by the terms in sections within the BSC in BSC Section C 'BSCCo and its Subsidiaries' and BSC Section H 'General' as detailed below. The Workgroup asked for further clarification on the terms contained within these Sections. Elexon explained that these were standard 'boilerplate' terms and should relate to obligations that Agents are already catering for as an Agent, e.g. Agents should already be catering for confidentiality.

Elexon provided further information to the Workgroup on each of the sections:

- BSC Section C5: Relationship between Parties and BSCCo – is the BSC clause that limits Elexon's liability to BSC Parties. The reference here extends that limitation to the side letter which reflects the position that the side letter is a contract between Elexon and the Agent (albeit one that Elexon will be hands off). Although highly unlikely to ever be needed, this is necessary to protect the parties that fund Elexon.

- BSC Section H4: Confidentiality and other Intellectual Property Rights – covers confidentiality, Intellectual Property Rights (IPR) and ownership of BSC data and therefore just ensures that any BSC data that is transferred between the Agent and the Supplier under the side letter is subject to the rules set out in the BSC about confidentiality, etc.

- BSC Section H9: General – these are the BSC boilerplate clauses on agreement, severance, jurisdiction etc. These are standard in all contracts so this reference incorporates them so we don't need to list them all out in the side letter.

After Workgroup discussions, the revised side letter was updated to reference that no remuneration would be payable by BSCCo to Agents. A Workgroup Member was concerned that the side letter should not interfere in commercial arrangements as these are outside the scope of the BSC. However, they were concerned that an Agent could be 'on the hook' if they were appointed but there was no contract in place and with no right to remuneration. Elexon explained that if an Agent is performing tasks then they would be able to legally recover costs. Other Workgroup Members questioned why an Agent would accept appointments when no contract was in place, however, some organisations carried

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out a different range of checks as to whether to accept an appointment. The Workgroup felt that appointments should be rejected by Agents if no contract was in place.

The side letter had been amended after Workgroup discussion to require Agents to confirm to the Registrant if they don't have all of the "necessary rights and obligations". This paragraph was added to mitigate potential issues, identified by the Workgroup, with Agents not having access to a site (for example needing Licensed Distribution System Operator (LDSO) or Customer to grant access) or not able to work on certain equipment for reasons beyond their control.

However, it was not clear what would happen if the Agent informed the Registrant that they did not have the "necessary rights and obligations", would the Agent be de-appointed? The Workgroup discussed if the Supplier would look to resolve the issue or would the Supplier instead de-appoint the Agent. A Workgroup Member noted that if it was an issue with equipment that a MOA couldn't work with, then it would be appropriate for the MOA to be de-appointed. However, another Workgroup Member presented a scenario where there was a faulty Meter, but the Customer would not allow the MOA access. In this situation the MOA would need to ask the Supplier to facilitate access. Therefore the Workgroup felt that "necessary rights and obligations" should not be too prescriptive as there could be a wide range of scenarios.

There had been concern during Elexon's internal review of the side letter that the direct contract taking precedence over the side letter could undermine how the PAB and Elexon deliver assurance against Agents because although it recognises the commercial contract it might enable an Agent to use the side letter to avoid being held accountable by the PAB for a specific non-performance. The Workgroup disagreed with the concern raised that the current wording could weaken the PAB's assurance and were happy for the paragraph to remain as it is.

The side letter includes a line "In the event of a conflict between the terms of this Letter Agreement and the terms of any direct contract between us and the Registrant, the terms of the direct contract shall prevail". The Workgroup agreed that a paragraph referencing the direct contract should remain but that it should be made clearer that it refers to a direct contract between the Agent and the Registrant and so asked for it to be made clearer that in this instance, "us" is the Agent as the side letter will be signed by the Agent and it will between the Agent and Elexon.

What limitations should be included in the side letter?

Elexon explained that the purpose of the side letter is to allow Suppliers to enforce, against SVA Meter Operator Agents and Data Collectors, all applicable obligations of SVA Meter Operator Agents and/or Data Collector specified in the BSC and the BSCPs. A failure by an Agent to comply with these obligations would constitute a breach of contract. As a result, the relevant Supplier will have the right to seek legal remedies for this breach. If the Supplier seeks damages as a legal remedy, the Courts will apply various tests to determine whether, and how much, damages should be payable. It is normal practice in contracts to exclude certain categories of loss (e.g. indirect and consequential losses, loss of profits, etc.). The side letter as initially drafted did not include any limitations or exclusions, but could mirror what is already held in the BSC in respect of indirect losses and loss of profits. Some Workgroup Members expressed concerns over the absence of limited liabilities.

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The Proposer was happy for limitations and a cap on liability to be included. An example was discussed where a Supplier sought damages for an entire contract of [1000] MPANs, but it was only the underperformance of one MPAN that triggered the claim. This example illustrated the difference between direct and indirect losses.

Elexon had been asked to consider what legal recourse a Party Agent would have if it performed services for which it had not received compensation. The legal recourse available would be a claim in 'Quantum Meruit' i.e. a claim to be paid a reasonable amount for the services performed. The side letter was therefore made more amenable to a Quantum Meruit claim by an explicit statement that the letter does not exclude any right of the Agent or Supplier to bring a claim.

Change to solution due to SVA Metering activities moving to the REC

The Workgroup had agreed that the solution would apply to all SVA HH & NHH MOAs and DCs. The Assessment Consultation had been drafted and was ready to be issued in April 2021.

However, following engagement with the Proposer and Workgroup Members, it was agreed it would be more efficient to wait for the outcome of Ofgem's decision on Metering activities moving to the REC, which was expected around the time that the P332 Assessment Consultation was due to be issued.

Ofgem published an open letter and its Decision on REC v2.0 and Retail Code Consolidation on 30 April 2021.

SVA MOAs (or Metering Equipment Managers (MEMs) as they will be known in the REC) are to be Qualified under the REC instead of the BSC and will be parties to the REC.

The Workgroup subsequently met on 25 May 2021 to discuss the Proposer's current thinking that now given the certainty of the Ofgem decision, the P332 solution should apply to SVA HH & NHH DCs only.

The Proposer observed that the proposals to make MOAs parties to the REC appears to recognise the benefits of direct accountability, or at least that the Supplier hub alone may not be sufficient to enforce MOA obligations. This formed a key part of his argument for change under P332, although he remained of the view that this could equally apply to DCs, he was content that the side letter solution would address the defect under the BSC.

The Proposer's view is that issues he is encountering with MOAs will be managed within the REC, and therefore as DCs remain in the BSC, the P332 solution should apply to DCs only.

A Workgroup Member asked if there would be consideration to make DCs parties to the BSC given the decision on MOAs being parties to the REC. The original P332 proposed solution was to make Agents signatories to the BSC, however, this was a significant change with high cost and impact, so the Proposer and the Workgroup had worked to develop a more pragmatic solution, the side letter. The Workgroup consensus was that the status of DCs under the BSC could be revisited at a future point as part of the Market Wide Half Hourly Settlement Programme.

A Workgroup Member noted that in future, a Supplier would need to identify who is responsible for any issues and if it's a MOA issue, it would need to be handled in the REC and if it's a DC issue it will be managed in the BSC. It was noted that the REC PAB and BSC PAB will be working together.

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A Workgroup Member asked if the DC issues had been quantified sufficiently. Elexon explained that the defect for the Modification can't change at this stage. The Proposer reiterated that the need for the solution shouldn't exist if everyone is doing what they should be doing and he is not asking for a 'gold-plated' service from Agents, just asking them to perform the minimum provision required under the BSC.

A Workgroup Member reiterated that if any Qualified party was not performing their obligations under the BSC there was already a route for them to be resolved under the BSC Performance Assurance Framework, as noted there have been no issues identified by Elexon or the BSC Audit attributed to the existence of CPAs.

BSC Settlement Risks

Elexon had presented a Verbal Update to the Performance Assurance Board (PAB) at its meeting on 26 November 2020. Elexon's initial assessment was that the P332 solution at the time (side letter applying to SVA HH & NHH MOAs and DCs) would impact Settlement Event 001 – Agents. The event is "Lack of (strong) commercial contract between Supplier and SMRS registered Agent, e.g. where the customer has directly appointed agents Customer Preferred Agents". If a variety of Settlement Risks are impacted, this is classified as a Risk Event. The consequences/risk management impact listed in this Risk Event include:

- Could prove harder to resolve issues
- Suppliers report it may be harder to influence Settlement performance
- Some HHDCs may not undertake manual reads where the meter is unable to remotely dial
- Some HHMOAs do not install alternative comms on sites where the cost of doing so is prohibitive
- Some HHDCs are not completing HHDC Annual Site visits

With the amendment to the P332 solution, removing MOAs due to metering activities moving to the REC and therefore applying to DCs only, Elexon initially considered that Risk Event 001 would still be impacted by P332 due to the prevalence of Customer Preferred Agents.

The Workgroup were keen to understand specific Settlement Risks that would be impacted rather than a Risk Event, so that they could consider the impact that P332 would have against specific Settlement Risks. The Workgroup noted that it had been difficult to quantify the impact of P332 and therefore would be difficult quantify the impact on the Settlement Risks.

There were mixed views amongst Workgroup Members on the impacts P332 could have on the Risk Event.

Some Workgroup Members were of the view that it would reduce the Settlement Risk likelihood, but not the impact, as DCs may be more incentivised to enter into contract with Suppliers or meet Supplier requests.

The Workgroup asked Elexon to review the impact on BSC Settlement Risks and this has been included in the Impacts & Costs Section of this document.

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7 Workgroup's Conclusions

The majority of the Workgroup believes that P332 will be **neutral** against Applicable BSC Objective (c) (competition) and **neutral or detrimental** against Applicable BSC Objective (d) (efficient operation and implementation of the BSC arrangements) and should therefore be **rejected** (as the solution is not better than the current baseline).

The Proposer's views and other Workgroup Members' views against each of the Applicable BSC Objectives are summarised below. A neutral vote is a vote for no change, as it reflects the fact that the change will not better facilitate the Applicable BSC Objective and is therefore not better than the current baseline.

Does P332 better facilitate the Applicable BSC Objectives?		
Obj	Proposer's Views	Other Workgroup Members' Views[4]
(a)	• Neutral	• Neutral
(b)	• Neutral	• Neutral
(c)	• **Positive**	• **Neutral (majority)** • **Positive (minority)**
(d)	• **Positive**	• **Neutral/detrimental - Not better than the baseline (majority)** • **Positive (minority)**
(e)	• Neutral	• Neutral
(f)	• Neutral	• Neutral
(g)	• Neutral	• Neutral

Applicable BSC Objective (c)

The Proposer believes that P332 better facilitates Applicable BSC Objective (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'.

The Proposer contends that this Objective would be better facilitated because the proposed solution for P332 will ensure Customers receive comparable levels of service regardless of whether their Agent is Customer preferred or Supplier preferred. In addition, the Proposer contends that P332 would mean that Suppliers are not disadvantaged commercially by Customers contracting directly with Agents.

The majority of Workgroup Members believe that the proposed solution for P332 will be neutral against this Objective. Workgroup Members felt that the proposed solution was not adding anything to the obligations and provisions that already exist in the BSC.

The minority of Workgroup Members believe that the proposed solution for P332 would better facilitate this Objective for the reasons provided by the Proposer. One Workgroup Member noted that he believed that P332 would help to reduce barriers to entry for existing small Suppliers and those entering the market.

[4] Shows the different views expressed by the other Workgroup members – not all members necessarily agree with all of these views.

What are the Applicable BSC Objectives?

(a) The efficient discharge by the NETSO 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 administrating 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

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Applicable BSC Objective (d)

The Proposer's view is that the proposed solution for P332 better facilitates Applicable BSC Objective (d) 'Promoting efficiency in the implementation of the balancing and settlement arrangements'.

The Proposer contends that this Objective would be better facilitated because the proposed side letter would lead to a more consistent level of performance by Agents.

The majority of Workgroup Members' believe that the proposed solution for P332 would be either detrimental against this Objective or neutral. Those who believed it was detrimental were of the view that it was adding further bureaucracy and complexity to the arrangements. Those who believed it was neutral believed it would not have any effect on the arrangements. One Workgroup Member noted that it would add an extra burden on Market Participants without providing any benefits. Another Member highlighted that the removal of SVA MOAs from the solution, had tipped the balance for him from positive to neutral, as the main area of benefit was from MOAs.

The minority of Workgroup Members' believe that the proposed solution for P332 would better facilitate this Objective for the reasons provided by the Proposer. One Member noted that it is another tool for Suppliers to use to ensure that provisions and obligations within the BSC are adhered to.

Previous views against the Applicable BSC Objectives

Eligible Voting Members provided their initial views against the Applicable BSC Objectives at Workgroup Meetings 9, 10 & 11 and then their final views at Workgroup Meeting 12. At each meeting, Voting Members had the opportunity to review their initial view, given that the solution changed with SVA Metering activities moving to the REC from 1 September 2021. Voting Members provided their views prior to Assessment Procedure Consultation and also once they had the opportunity to consider Assessment Procedure Consultation responses.

The first initial view against the Applicable BSC Objectives was an overall Workgroup recommendation to approve P332, however, given the change to the solution (noting that SVA MOA governance will no longer be in the BSC) and also the change of Workgroup membership, the final view against the Applicable BSC Objectives leads to an overall Workgroup recommendation to reject P332.

The Workgroup agreed that eligible Voting Members who had previously provided their view against the Applicable BSC Objectives but were not present at the Workgroup meeting to review Assessment Procedure Consultation Responses should be able to provide their views for the Assessment Report. Those Voting Members were provided with an overview of the Workgroup's discussions by Elexon and those who replied (3 out of 4) confirmed that their views had not changed since they had previously provided their initial views.

Proposed Implementation Date

The Workgroup voted on whether they agreed with the proposed Implementation Date, which is +5 WDs after Ofgem approval. The Workgroup unanimously agreed.

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Proposed Legal Text

The Workgroup voted on whether they agreed with the proposed Legal Text. The Workgroup unanimously agreed.

EBGL impact

The Workgroup voted on whether they agreed that P332 impacts the EBGL provisions held within the BSC. The Workgroup unanimously agreed.

Self-Governance

The Workgroup voted on whether they agreed that P332 cannot be Self-Governance (as it impacts EBGL provisions within the BSC). The Workgroup unanimously agreed.

Workgroup consideration of Assessment Procedure Consultation responses

The P332 Assessment Procedure Consultation was issued on 16 July 2021 for 15 WDs, with responses invited by 5pm on 6 August 2021.

The consultation responses can be found in Attachment E of this document.

Nine consultation responses were received (in order of receipt):

Respondent	Role(s) Represented
Drax Group BSC Parties (including Opus Energy and Haven Power)	Generator, Supplier, ECVNA, MVRNA
Centrica	Supplier
Callisto	HHDA, NHHDA, HHDC, NHHDC, HHMOA, NHHMOA
SSE	Supplier
Stark	HHDC, NHHDC, HHDA, NHHDA
IMServ Europe Ltd	HH and NHH DC, DA and MOP
Power Data Associates Ltd	PDAL MA
ScottishPower	Supplier, DC/DA
Western Power Distribution	Distributor

The Workgroup considered the Assessment Procedure Consultation responses at its meeting on 24 August 2021.

What is the Self-Governance Criteria?

A Modification that, if implemented:
(a) does not involve any amendments whether in whole or in part to the EBGL Article 18 terms and conditions; except to the extent required to correct an error in the EBGL Article 18 terms and conditions or as a result of a factual change, including but not limited to:
(i) correcting minor typographical errors;
(ii) correcting formatting and consistency errors, such as paragraph numbering; or
(iii) updating out of date references to other documents or paragraphs;
(b) is unlikely to have a material effect on:
(i) existing or future electricity consumers; and
(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and
(iii) the operation of the national electricity transmission system; and
(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
(v) the Code's governance procedures or modification procedures; and

(b) is unlikely to discriminate between different classes of Parties.

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Response rate

Workgroup Members raised concerns that only nine consultation responses had been received and that the majority (seven) were from organisations currently actively involved in the P332 Workgroup. It was noted that there was a lot of industry change currently taking place and that with the change to solution (SVA DCs only as the governance of SVA MOAs will move to the REC from 1 September 2021) and the Workgroup's initial recommendation to reject may have led to less consultation responses.

Elexon explained that the level of response was not significantly below that for similar Modifications and they were not overly concerned with the number of responses.

Q1: Do you agree with the Workgroup's initial majority view that P332 does not better facilitate the Applicable BSC Objectives than the current baseline?			
Yes	**No**	**Neutral/No Comment**	**Other**
6	3	0	0

The majority of respondents agreed with the Workgroup's initial majority view does not better facilitate the Applicable BSC Objectives than the current baseline. Respondents felt that sufficient mechanisms already exist within the BSC to deal with Agent non-compliance. Also, as MOA obligations are moving to the REC from 1 September 2021 and therefore the solution will only apply to DCs, it was felt that the solution does not add anything to the obligations and provisions that already exist in the BSC.

However, respondents who disagreed with the Workgroup's initial majority view that P332 does not better facilitate the Applicable BSC Objectives than the current baseline were in agreement with the Proposer, that the customer should receive the same level of service regardless of whether the Agent is Supplier or Customer appointed and that the solution would help Suppliers to better manage the performance of Agents where it does not have a direct contract.

Q2: Do you agree with the Workgroup that the draft legal text in Attachment A delivers the intention of P332?			
Yes	**No**	**Neutral/No Comment**	**Other**
7	2	0	0

The majority of respondents agreed with the Workgroup that the draft legal text delivers the intention of P332. Respondents who disagreed with the Workgroup that the draft legal text delivers the intention of P332 stated that there are already BSC requirements for SVA Agents. A respondent also expressed the view that, as the intention of P332 has always been unclear, it was not possible to agree that the draft legal text delivers the intention of P332.

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Q3: Do you agree with the Workgroup's recommended Implementation Date?			
Yes	**No**	**Neutral/No Comment**	**Other**
9	0	0	0

Respondents unanimously agreed with the Workgroup's recommended Implementation Date. Some respondents noted that although they do not support the Modification, they agreed with the Workgroup's recommended Implementation Date.

Q4: Do you agree with the Workgroup that there are no other potential Alternative Modifications within the scope of P332 which would better facilitate the Applicable BSC Objectives?			
Yes	**No**	**Neutral/No Comment**	**Other**
8	0	1	0

The majority of respondents agreed with the Workgroup that there are no other potential Alternative Modifications within the scope of P332 which would better facilitate the Applicable BSC Objectives. One respondent was neutral and stated that they did not have an alternative but that they may be other alternatives not considered.

Q5: Do you agree with the Workgroup's assessment of the impact on the BSC Settlement Risks?			
Yes	**No**	**Neutral/No Comment**	**Other**
4	4	0	1

The respondents were split on whether or not they agreed with the Workgroup's assessment of the impact on the BSC Settlement Risks. Some respondents did agree with the Workgroup, while other respondents felt that the assessment of risks was hypothetical, based on a worst-case scenario. Another respondent felt that P332 would not change the behaviour of DCs and that Suppliers would not enforce any breaches to the side letter as the cost and effort of going to court would be too high.

Q6: Do you agree with the Workgroup's assessment that P332 does impact the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC?			
Yes	**No**	**Neutral/No Comment**	**Other**
6	0	3	0

The majority of respondents agreed with the Workgroup's assessment that P332 does impact the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC, as BSC Section J 3.3 is impacted and therefore the EBGL process will need to be followed. However, the other respondents did not have any comment to make or were neutral in answer to this question.

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Q7: Do you have any comments on the impact of P332 on the EBGL objectives?			
Yes	**No**	**Neutral/No Comment**	**Other**
0	6	3	0

The majority of respondents did not have any comments on the impact of P332 on the EBGL objectives. The respondents to the previous question who did not have any comment to make or were neutral gave the same response to this question.

Q8: Will P332 impact your organisation?			
Yes	**No**	**Neutral/No Comment**	**Other**
4	5	0	0

There was a split between respondents as to whether P332 would impact their organisations. Those who believe that P332 will impact their organisation stated that they may need to amend contractual arrangements and processes. Another respondent stated that P332 would only have a minimal impact on their organisation, as they would be required to sign the side letter but there would be no changes to their current BSC obligations. Those respondents who stated that P332 would not impact their organisation responded that they would not need to amend any systems, documents or processes as a result of P332; or that due to their role type they would not be directly impacted by the implementation of P332.

Q9: Will your organisation incur any costs in implementing P332?			
Yes	**No**	**Neutral/No Comment**	**Other**
1	7	0	1

The majority of respondents stated that they would not incur any costs in implementing P332 or that it was not an applicable question as their organisation will not be impacted by P332. The respondent who will incur costs in implementing P332 stated that they may need to make some amendments to contractual, appointment and billing processes.

Q10: How long (from the point of approval) would you need to implement P332?			
0-6 months	**6-12 months**	**>12 months**	**Other**
4	0	0	5

The majority of respondents stated that they would need to 0-6 months from the point of approval to implement P332, or that there would no impact on their organisation as a result of P332.

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Q11: Do you agree with the Workgroup that the solution should apply to all SVA HH & NHH DCs?			
Yes	**No**	**Neutral/No Comment**	**Other**
5	4	0	0

There was a split view between respondents as to whether they agreed with the Workgroup that the solution should apply to all SVA HH & NHH DCs. Those who agreed with the Workgroup believed that there should be a consistent approach and it would make it easier to manage the requirement to sign the side letter. Those respondents who disagreed with the Workgroup supported the Workgroup's initial recommendation that P332 be rejected and therefore did not agree that the solution should apply to all SVA HH & NHH DCs.

A respondent also stated that they would like to see the solution apply to DAs too. The question of which Agents should be in scope has already been discussed by the Workgroup. During the discussion at the time, the Proposer stated that Customer Preferred Agents were usually operating in the role of MOA and/or DC. Elexon had previously stated that the nature of DAs meant it was unlikely there would be selective or MPAN-level non-compliance and any significant issues impacting Settlement would likely be picked up by Elexon or the Performance Assurance Framework (PAF).

Q12: Do you agree with the obligations that the Workgroup are placing on SVA HH & NHH DCs in the side letter?			
Yes	**No**	**Neutral/No Comment**	**Other**
4	5	0	0

There was a split view between respondents as to whether they agreed with the obligations that the Workgroup are placing on SVA HH & NHH DCs. Those respondents who agreed with the obligations being placed on SVA HH & NHH DCs in the side letter felt that it would ensure that Customers receive comparable levels of service regardless of whether the Agent is Customer preferred or Supplier preferred. However, those respondents who disagreed with the Workgroup felt that these obligations are already defined in the BSC and that there is already a formal BSC process for dealing with any non-compliance.

Proposed amendments to the side letter

The Workgroup considered proposed amendments to the side letter, which had been suggested by a respondent. They provided a marked up version of the side letter which proposed adding "loss of business" to this clause:

No Relevant Party Agent or Supplier shall in any circumstances be liable in respect of any breach of this Letter Agreement to the other for:

(a) any loss of profit, loss of contract, loss of business, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working; or

b) any indirect or consequential loss.

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Elexon expressed an initial legal view that the addition of "loss of business" would be acceptable.

The respondent also proposed the addition of the following paragraph:

Notwithstanding any other provision of this Letter Agreement, you agree (for yourself and on behalf of Suppliers) that:

(a) where we do not have a contract with an end user customer and we do not have a contract with a Supplier in respect of any Metering System, the Supplier shall de-appoint us promptly (and in any event within [3] Working Days) of notification from us; and

b) the Supplier shall reimburse us at our normal rates for any services we perform until such time as we are de-appointed

This proposed addition to the side letter was discussed by the Workgroup. Elexon's view was that, as the side letter is to be signed by the Agent and is between the Agent and Elexon, it would not be possible to place an obligation on Suppliers through the side letter as they are not a party to the side letter. It may be possible to place an obligation on Suppliers through the BSC or BSCPs, but this would require additional work to develop.

In terms of paragraph b), the proposed insertion goes into commercial arrangements between Suppliers and Agents and it was always the intention of the side letter that it would not include Elexon in bilateral commercial arrangements.

However, the Workgroup were keen to ensure that there was an amendment to the side letter so that if the Agent no longer had a contract with an end user and had notified the Supplier that they wish to be de-appointed, and the Supplier had failed to do so, then the side letter would not apply.

Q13: Do you agree with the Workgroup that the draft side letter in Attachment B delivers the intention of P332?

Yes	No	Neutral/No Comment	Other
5	4	0	0

There was a mixed view on whether respondents agreed that the draft side letter delivers the intention of P332. The majority of respondents did agree, even though they did not necessarily support the Modification itself. Another respondent stated that they did not know what the intention of P332 was (as in the respondent's view it had always been unclear) and therefore it was not possible for the respondent to determine whether the side letter delivers the intention of P332.

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The Workgroup noted that a number of changes have occurred outside of P332 during its life that have either happened as a result of the P332 work or affect the original issue. For example:

- MOPs acceding to the REC (as MEMs) - the original intent of this Mod was that Supplier Agents would accede to the BSC
- engagement between Elexon and PAB to look at non-compliances with Supplier Agents
- inclusion of Direct Customer Contract flags in registration data in the MHHS TOM model - improved visibility of issues in the future

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8 Panel's Initial Discussions

The Panel considered the P332 Assessment Report at its meeting on 9 September 2021. The Panel provided their initial views against the Applicable BSC Objectives, the Proposed Implementation Date, Proposed Legal Text, EBGL impacts and whether P332 should be Self-Governance.

The Panel disagreed with the Workgroup's recommendation (that P332 would not be better than the baseline and should be rejected) and voted by majority that P332 **would better facilitate** Applicable BSC Objective (c) (competition) and (d) (efficient operation and implementation of the BSC arrangements) and should therefore be **approved**.

Panel's Initial Discussions

Does P332 add anything to the current BSC arrangements?

A Panel Member disagreed with the view of the majority of Workgroup Members that "the proposed solution was not adding anything to the obligations and provisions that already exist under the BSC". Elexon clarified that Agents on the Workgroup believed it was already a condition of their Qualification, however, as they are not a BSC Party they do not have direct obligations. Agents on the Workgroup had already indicated that they are already complying with their obligations.

A Panel Member noted it was hard to see how the proposed solution was more of a threat than Removal of Qualification, as going to Court would take longer than the issue being dealt with at the Performance Assurance Board. Another Panel Member commented that the side letter would avoid Suppliers having to go to Elexon and the Performance Assurance Board to resolve any issues. Removal of Qualification has never been used since the BSC was introduced and would only be used if there were significant performance issues across the whole portfolio. The P332 solution would allow Suppliers to target problem relationships and areas.

The side letter

A Panel Member believed that the side letter could potentially spoil a potential relationship between the Supplier and Agent as the potential remedy would be that it would be resolved in Court. However, it was noted that the side letter is intended to be a last resort and a route for Suppliers and Agents to engage, and ultimately all contractual disputes can end up in Court.

However, another Panel Member believed that the side letter would be an effective backstop that sets the framework between a Supplier and Agent, where a direct contract does not already exist. The Panel Member therefore believed that the side letter and P332 would help to reduce barriers to entry for small Suppliers entering the market as they would not need to put contracts in place with all Agents.

Mixed views between Suppliers and Agents

The Panel noted the mixed views between Suppliers and Agents, within the Workgroup and the Assessment Procedure Consultation responses.

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A Panel Member commented that Suppliers they had spoken to were in favour of the proposed Modification, although those Suppliers did not necessarily believe it would end up with Agents being taken to Court.

Panel voting

Views against the Applicable BSC Objectives

The Panel initially voted by majority that P332 would better facilitate Applicable BSC Objective (c) (competition) and (d) (efficient operation and implementation of the BSC arrangements), for the reasons put forward by the Workgroup, and should therefore be approved.

They agreed with the Proposer that the proposed solution for P332 will ensure Customers receive comparable levels of service regardless of whether their Agent is Customer preferred or Supplier preferred and that Suppliers are not disadvantaged commercially by Customers contracting directly with Agents.

The Panel agreed with the Proposed Implementation Date, Proposed Legal Text, EBGL impacts and that P332 does not meet the Self-Governance criteria.

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9 Report Phase Consultation Responses

This Section summarises the responses to the Panel's Report Phase Consultation on its initial recommendations. No new arguments or solution options were put forward. You can find the full responses in Attachment F.

The Report Phase Consultation was issued on 15 September 2021, for a one month period due to EBGL impacts, with responses invited by 5pm on 15 October 2021. Responses were received from participants operating in the Role of Suppliers and Agents (DA, DC, MA, MOA).

Summary of P332 Report Phase Consultation Responses

Question	Yes	No	Neutral/ No Comment	Other
Do you agree with the Panel's initial majority recommendation that P332 should be approved?	2	6	0	0
Do you agree with the Panel that the redlined changes to the BSC deliver the intention of P332?	4	3	0	1
Do you agree with the Panel's recommended Implementation Date?	3	4	0	1
Do you agree with the Panel's initial view that P332 should not be treated as a Self-Governance Modification?	8	0	0	0
Do you agree with the Panel's initial recommendation that P332 does impact the EBGL Article 18 terms and conditions related to balancing held within the BSC?	6	0	1	1
Do you have any comments on the impact of P332 on the EBGL objectives?	0	7	1	0
Do you have any further comments on P332?	5	3	N/A	N/A

Do you agree with the Panel's recommendation that P332 should be approved?

The majority of respondents to the consultation disagreed with the Panel's initial majority recommendation that P332 should be approved. Those respondents believe that P332 will not make any difference to the current arrangements as there are already provisions and processes within the BSC to address Supplier Agent performance and that the solution would add unnecessary burden and administration on Data Collectors. Those respondents noted that the Workgroup had tried through the Assessment Procedure to quantify the issues but the majority of evidence gathered was anecdotal.

The minority of respondents to the consultation agreed with the Panel's recommendation and believe that P332 would better facilitate Applicable BSC Objectives (c) and (d) as it will ensure that customers receive a comparable level of service regardless of whether the Agent is "appointed" by the Customer or Supplier and will help Suppliers to better manage

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the performance of Agents with whom it does not have a direct contract. A respondent stated that P332 would provide a direct legal avenue to resolve issues between Suppliers and Agents without needing to involve Elexon and the PAB and that the mere existence of the side letter would help resolve issues quicker. The respondent believes it will remove a barrier to entry for small Suppliers by effectively having a default contract in place, rather than needing to contract with all DCs in the market in case one of their Customers engages a Customer Preferred Agent.

Which Supplier Agents should be required to sign the side letter?

In their rationale for disagreeing with the Panel's view, a consultation respondent suggested that the solution should only be signed by Customer Preferred Agents rather than all SVA Data Collectors. The question of who the side letter should apply to had previously been considered. The Workgroup agreed that a consistent approach should be taken by requiring all new and existing SVA Data Collectors to sign the side letter. However, it would only apply where a direct contract does not exist between the Supplier and Agent.

The Workgroup were invited to review the consultation responses, and they agreed that the solution should therefore stay as is, for the reasons previously given. Namely, the status of who is a CPA and who is not, may change over time and ensuring the side letter is signed and complied with would become more burdensome than requiring all DCs to sign the side letter. Further, in practice, the letter targets the relevant meters, as the letter will only apply where a direct contract does not exist between the Supplier and DC, it will not impact those DCs who do not provide CPA services.

Legal Text

The majority of respondents agreed that the redlined changes to the BSC deliver the intention of P332, however, three respondents disagreed. One respondent's rationale was that the Modification has veered from its original intention (Supplier Agents becoming signatories to the BSC) and that there have been a number of significant changes since P332 was raised, for example, MOAs moving to the REC and the inclusion of Direct Customer Contract flags in registration data under MHHS. Another respondent believed that the intention of P332 had always been unclear and that P332 should have been raised as an Issue rather than a Modification, and that there had been a lack of tangible evidence identified by the Workgroup. Another respondent felt that there were already existing obligations and responsibilities on Supplier Agents within the BSC. Two respondents did not agree with P332, but did respond that the redlined changes delivered the intention of P332.

Implementation Date

The majority of respondents disagreed with the Panel's recommended Implementation Date, but this was wholly because the respondents disagree with the Modification itself.

There was one respondent who agreed with the Implementation Date, even though they do not agree with the Modification itself.

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Self-Governance

The consultation respondents were unanimous in agreement with the Panel's initial view that P332 should not be treated as a Self-Governance Modification, due to the material impacts identified.

EBGL

The majority of respondents agreed with the Panel that P332 does impact the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC, and did not have any comments on the impact of P332 on the EBGL objectives. A minority provided no opinion or comment.

Further comments on P332

Five consultation respondents had further comments on P332.

Two respondents raised concerns over the time, cost and effort spent on the Modification, as they believe that P332 will have questionable benefit, when compared to the current baseline.

A respondent noted the original P332 proposed solution was that Agents should become signatories to the BSC and that as under MHHS, Data Services will have different obligations than under the current BSC arrangements, there could be an opportunity to consider that Data Services become signatories to the BSC, as Metering Equipment Managers (MEMs) are signatories to the REC.

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10 Panel's Discussions on the first Modification Report

The Panel considered the P332 Draft Modification Report at its meeting on 11 November 2021. The Panel provided their final views against the Applicable BSC Objectives, the Proposed Implementation Date, Proposed Legal Text, EBGL impacts and whether P332 should be Self-Governance.

The Panel's views remained unchanged from their initial views. The Panel voted by majority that P332 **would better facilitate** Applicable BSC Objective (c) (competition) and (d) (efficient operation and implementation of the BSC arrangements) and should therefore be **approved**.

Panel voting

Views against the Applicable BSC Objectives

The Panel voted by majority (9 for, 1 against) that P332 would better facilitate Applicable BSC Objective (c) (competition) and (d) (efficient operation and implementation of the BSC arrangements), and should therefore be approved.

The Panel Member who voted against did so for the reasons expressed by the Workgroup. Specifically, they did not believe it was better than the current baseline as it does not add anything to the current arrangements and the solution is not actionable. They did not believe it was worse than the current baseline and were therefore neutral against both Applicable BSC Objective (c) and (d). Consequently they did not believe P332 should be approved. This was consistent with their initial view expressed when the P332 Assessment Report was presented to the Panel on 9 September 2021. A neutral vote is a vote for no change, as it reflects the fact that the change will not better facilitate the Applicable BSC Objective and is therefore not better than the current baseline.

The Panel unanimously agreed with the Proposed Implementation Date, Proposed Legal Text, EBGL impacts and that P332 does not meet the Self-Governance criteria.

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11 Send Back Process

Send Back Direction

Ofgem issued a Send Back Direction per Section F 2.7A on 14 December 2021, stating that it was unable to form a decision on whether to approve or reject P332 based on the evidence provided.

The Send Back Direction can be found in Attachment G.

What further information have Ofgem asked for?

Ofgem directed that additional steps be undertaken to address their concerns, and a revised Final Modification Report should include:

- Quantitative evidence or further analysis which fully explains and demonstrates the scale of the issue that BSC Modification P332 is attempting to resolve, the impacts upon industry of remaining with the status quo, and what positive differences the implementation of this modification would have on the applicable BSC Objectives.
- A clear, succinct summary of the BSC Panel's rationale for making their recommendation in the Final Modification Report. Additionally, Ofgem would welcome BSC Panel views on the P332 Workgroup recommendation that BSC Modification P332 be rejected.
- A clear, succinct summary of how P332 has been amended in order to reflect Ofgem's considerations from our 2019 letter outlining provisional thinking on BSC Modification P332.

Ofgem had written to the Panel in October 2019 stating its view that that based on the documentation in the P332 Interim Report there was a lack of quantitative evidence to demonstrate that the issues identified by the Proposer could not be addressed under the current arrangements. The Send Back Direction states that these concerns have not been fully addressed or evidenced within the P332 Final Modification Report.

Addressing Ofgem's concerns

In the paragraphs below we will set out to address each of Ofgem's concerns.

Quantitative evidence or further analysis

Page 10 of the Final Modification Report explains that "The Workgroup have not been able to provide quantified evidence of the impact of CPAs on Suppliers. This is because either they do not believe it is possible to do so, or it would be prohibitively costly to do so, given the complexities involved. However, qualitative evidence has been collected..." The following pages up to and including page 15 of the Final Modification Report summarise the qualitative and anecdotal evidence provided by industry. The evidence provided in the Final Modification Report and the attachments is a complete set of the evidence provided by the Workgroup and collected via Case Studies and Requests For Information. We do not currently have any additional evidence. Some Workgroup members and consultation respondents raised concern about the lack of evidence. However, the conclusion was that

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it is not feasible to gather quantitative evidence for this issue for the reasons detailed above.

Further, the Proposer amended the P332 solution, in part, as he acknowledged the difficulties in providing the quantitative evidence. In amending his solution from a high impact, high effort change (all Party Agents to become BSC signatories) to a low impact and low effort change (side letter), alongside qualitative evidence he believed this would provide the evidence needed to justify the change.

Panel views vs. Workgroup views

Section 7 of the Final Modification Report, 'Workgroup's Conclusions', summarises the Workgroup's views and their recommendation to reject. In Section 8, 'Panel's Initial Discussions', the Panel's initial views at the September 2021 meeting have been captured, noting that their views reflect those of the Workgroup (more specifically, the views of those Panel Members in favour of P332 reflected those members of the Workgroup that were in favour, whilst those Panel members against reflected Workgroup members views who were against P332). This information is consistent with the minutes of the September 2021 Panel meeting (see page 3-4 of the minutes).

The majority of the Workgroup believes that P332 will be **neutral** against Applicable BSC Objective (c) (competition) and **neutral or detrimental** against Applicable BSC Objective (d) (efficient operation and implementation of the BSC arrangements) and should therefore be **rejected** (as the solution is not better than the current baseline).

A neutral vote is a vote for no change, as it reflects the fact that the change will not better facilitate the Applicable BSC Objective and is therefore not better than the current baseline.

The majority of Workgroup Members believe that P332 is not adding anything to the obligations and provisions that already exist in the BSC. Their view is that it was adding further bureaucracy and complexity to the arrangements without providing any benefits.

The Panel disagreed with the Workgroup's recommendation (that P332 would not be better than the baseline and should be rejected) and voted by majority that P332 **would better facilitate** Applicable BSC Objective (c) (competition) and (d) (efficient operation and implementation of the BSC arrangements) and should therefore be **approved**.

A Panel Member disagreed with the view of the majority of Workgroup Members that "the proposed solution was not adding anything to the obligations and provisions that already exist under the BSC" and commented that the side letter would avoid Suppliers having to go to Elexon and the Performance Assurance Board to resolve any issues and believed that the side letter and P332 would help to reduce barriers to entry for small Suppliers entering the market as they would not need to put contracts in place with all Agents.

The Panel agreed with the Proposer that the proposed solution for P332 will ensure Customers receive comparable levels of service regardless of whether their Agent is Customer preferred or Supplier preferred and that Suppliers are not disadvantaged commercially by Customers contracting directly with Agents.

The Report Phase Consultation introduced no new arguments or evidence. In Section 10, 'Panel's Discussions on the first Modification Report', the Panel's final views at the November 2021 meeting captured in the Final Modification Report state that the Panel's views remain unchanged from their initial views, and therefore there was no discussion by

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the Panel at this stage. This information is consistent with the minutes of the November 2021 Panel meeting (see page 4 of the minutes).

How the solution has changed post Ofgem's letter in October 2019

As explained on page 10 and in more detail in Appendix 1: Progression of P332, the Panel wrote to Ofgem in September 2019 to seek their views as to whether P332 was in line with their current strategic direction and whether P332 is or would be in scope of any of Ofgem's programmes of work.

Ofgem replied to the Panel reiterating that they continue to believe that there are benefits to customers choosing their own Agents, without impacting on Settlement performance. Ofgem indicated that if P332 were to restart they would welcome evidence of the benefits and costs. The Panel decided work should re-start in P332, to allow for more evidence to be gathered by the Workgroup.

Section 3, 'Solution', explains that the current proposed solution is very different to the solution proposed prior to October 2019. The original proposal was to make Agents signatories to the BSC. However, given the potential high cost and impact, Ofgem's provisional thinking, including the challenges of providing quantitative evidence, the Proposer and the Workgroup developed a more pragmatic solution, a side letter to the BSC, which would maintain the Supplier hub principle whilst seeking to address the P332 defect. At this stage, the side letter was required to be signed by SVA MOAs and SVA DCs only.

This was viewed by the Workgroup as a more proportionate, low impact and cost solution, as reflected in the Assessment Procedure consultation response (as detailed in Section 4 of the Final Modification Report). As SVA MOAs moved to the REC from 1 September 2021, the solution has been amended to apply to SVA DCs only.

Recommendations

We invite the Panel to provide its views on the points raised by Ofgem and Elexon's proposed response. In particular, the reasons why the Panel has formed a different recommendation to the Workgroup.

Elexon recommends that a revised P332 Final Modification Report is submitted to Ofgem to include this Send Back Process section which seeks to address the points raised by Ofgem in its Send Back Direction.

We are not proposing that any further Workgroup meetings are held as we believe the Workgroup have already considered the points raised by Ofgem.

We are not aware of any changes or additional evidence that could be collected that would warrant further Workgroup activity. Following the receipt of the Send Back Direction, we wrote to the Workgroup and the Proposer on 15 December 2021 to seek views on this approach. At the time of writing only one Workgroup Member has responded. He is of the view that the Proposer should withdraw the Modification, as he does not believe it should be approved, for the reasons given by the Workgroup. We note that Modifications Proposals can only be withdrawn during the Assessment Procedure.

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12 Recommendations

We invite the Panel to:

- **AGREE** that P332:
    - **DOES** better facilitate Applicable BSC Objective (c);
    - **DOES** better facilitate Applicable BSC Objective (d);
- **AGREE** that P332 does impact the EBGL Article 18 terms and conditions held within the BSC;
- **AGREE** P332 is consistent with the EBGL objectives;
- **AGREE** that P332 is not a Self-Governance Modification Proposal;
- **AGREE** a recommendation that P332 should be **approved**;
- **APPROVE** an Implementation Date of:
    - **5 WDs** after Authority decision; and
- **APPROVE** the draft legal text and side letter for P332; and
- **APPROVE** the P332 Modification Report.

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Appendix 1: Progression of P332

This Appendix contains information on each step of P332 in more detail. This was summarised in Section 2.

The development of P332

The development of P332 is a story of two halves. Before P332 was paused and after P332 was re-started.

Before P332 was paused

During this phase, the Workgroup explored many alternative solutions which are detailed in the P332 interim report (pages 43 to 52) which can be found in Attachment C of this document. The Proposer believed most of these would treat the symptoms of CPAs but not address the root causes.

At the Workgroup meeting on 27 April 2017, the Proposer indicated that he still favoured a solution that would have Party Agents become signatories to the BSC, as he believed this would be the best way to ensure Agents performance is held accountable. Given this solution would require significant time and effort from the industry to develop a solution, the Workgroup believed it prudent to seek Panel guidance (in accordance with BSC Section F 'Modification Procedures' 2.6.8).

At the Panel meeting on 11 May 2017, Elexon recommended that the Panel requested an interim report on P332. It was noted by a Panel Member that this would be a sensible step before undertaking such a large project. The Proposer recognised the complexities involved with the proposed solution and envisaged an Implementation Date sometime post-Market wide Half Hourly Settlement i.e. post 2020.

The P332 interim report was presented to the Panel at its meeting on 13 July 2017 (in accordance with BSC Section F 'Modification Procedures' 2.6.10). The P332 interim report set out the Workgroup's provisional findings. The Panel were invited to consider the Workgroup's provisional findings and to decide whether to seek Ofgem's views on whether the findings of the report are consistent with Ofgem's provisional thinking in relation to P332.

Given the likely assessment duration and effort, the Panel sought Ofgem's views as to whether the findings of the P332 interim report are consistent with their provisional thinking and strategic direction. The Panel considered Ofgem's response at its meeting on 14 September 2017.

August 2017: Ofgem provisional thinking on P332

In their response, Ofgem noted that there are benefits to Customers having choice over their Agents, but also that in exercising this choice, Supplier's Settlement performance should not be unduly affected. They noted that, based on the information presented in the P332 interim report, that there was a lack of clear evidence that this cannot be achieved under the current arrangements. Ofgem raised concerns about the significant cost of both the P332 Modification process itself and of implementing the changes proposed by P332, if it were to be approved. They were also concerned about the demand on industry

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resources required to revise the Supplier hub principle and also the potential for P332 to cut across the scope of the Electricity Settlement Reform Significant Code Review (SCR).

The Panel had sought Ofgem's views on four questions:

1. Whether the BSC was the best vehicle to address the issue (e.g. licensing may be an alternative)?

2. Whether Supplier Agents becoming signatories to the BSC was appropriate (i.e. making a new class of industry participants directly subject to the regulatory framework)?

3. Whether Ofgem has plans for similar work in the short to medium term that may impact, interact and/or influence the development of the proposal?

4. Any specific changes to the rights and responsibilities of Supplier Agents that Ofgem foresees post 2020, both as part of the imminent Significant Code Review on Mandatory Half Hourly Settlement and also more generally across the non-Data Communications company market.

In Ofgem's response, they said they would want to see a more robust evidence base that the BSC is the best vehicle to address any issues arising from Customer Preferred Agents and noted that there was no clear view from the Workgroup as to whether the issue is a BSC issue or a commercial issue. They felt there was little evidence that the proposed solutions will have the appropriate effect, and that the proposed solution of making Supplier Agents signatories to the BSC would require a robust evidence base to underpin the changes.

Ofgem explained that while the Electricity Settlement Reform SCR was ongoing, it was possible that P332 could be subsumed into an Ofgem-led piece of work on settlement reform or the Supplier hub more generally.

Ofgem highlighted a few other observations on P332, the potential significant cost and impacts on BSC Parties as a result of P332, and also the cost and industry resource required to input into the development and implementation, particularly given the number of other significant reforms to the electricity market (Faster Switching, Smart Meter rollout and mandatory half-hourly settlement).

Proposer and Workgroup views on Ofgem's provisional thinking

The Proposer's observations on Ofgem's response was that the P332 defect was built on a point of principle, that a Supplier's choice to appoint it's preferred Supplier Agent is undermined by Customer's contracting directly with Supplier Agents. The Proposer wanted Elexon and the Workgroup to work to provide evidence as requested by Ofgem.

The Workgroup unanimously agreed that the progression timetable in the P332 interim report should not commence until the end of the SCR Phase and that the Proposer and the Workgroup would then need to form a view as to what the appropriate next steps would be, and seek Panel approval.

September 2017: The Panel's view on Ofgem's provisional thinking

The Panel considered Ofgem's response and Elexon's P332 Update at its meeting on 14 September 2017 and directed the P332 Workgroup to pause its work whilst the Significant

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Code Review (SCR) on Market Wide Half Hourly Settlement (MHHS) was on-going as this could change the baseline against which P332 was developed and assessed.

May 2018: Review of P332 progression

An update on P332 was provided to the Panel on 10 May 2018. It was noted that the Target Operating Model (TOM) work for the SCR was ongoing. A working paper had been published by Ofgem on Supplier Agent functions under market-wide half-hourly settlement. This paper showed Ofgem's initial thinking in this area and considered the case for centralising data collection and data aggregation functions, however, no change to meter operation, which was particularly relevant to P332, as analysis had identified that approximately two thirds of Half Hourly Metering Systems were serviced by a Customer Preferred Agent. The TOMs will recognise Customer contracted services.

Elexon's recommendation, endorsed by the Proposer, was to extend the P332 period until December 2018 by which time the outcome of Ofgem's policy would be known and the TOM services will have been developed in more detail. At that point, the Proposer would be able to consider whether the TOMs have sufficiently accounted for the issues noted when the Modification was first raised.

The Panel agreed to continue to 'pause' P332 until December 2018, pending Ofgem's policy decision on Supplier Agent functions and the further development of the TOMs as part of the SCR.

December 2018: Ofgem's preferred TOM

Elexon updated the Panel at its meeting on 13 December 2018 that a preferred TOM had now been identified and this would be presented in the Elexon-led Design Working Group (DWG) final report to Ofgem in January 2019. The preferred TOM for Market Wide Half Hourly Settlement represented a material change from the current baseline against which P332 would be assessed. It was also noted that Ofgem was considering two areas of policy which would have an impact on P332:

- Consultation on supplier agent functions under market-wide settlement reform – Ofgem's preferred position was that the SCR should not include the centralisation of Agent functions, but that there may be a case for future models where data is not aggregated for submission into Settlement. This was reflected in the preferred TOM. Ofgem were currently consulting on this position and would issue a decision in Winter 2018/19
- Future of supply market arrangements – call for evidence (includes Supplier hub) – Following a call for evidence, Ofgem considered that there was a strong case for fundamental reforms to be explored. This has the potential to significantly change the baseline against which P332 would be assessed

The Proposer and Elexon requested a further nine-month extension to the P332 Assessment Procedure. There would be a further checkpoint (at the standard scheduled September 2019 Panel meeting) to assess whether P332 should be progressed or withdrawn. This aligned with the planned submission date (end of August 2019) for the delivery of the DWG's stage two report. The purpose of this stage was to do the detailed work related to the preferred TOM.

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September 2019: Revised Ofgem provisional thinking on P332

An update on P332 was provided to the Panel at its meeting on 12 September 2019. P332 had been 'paused' since September 2017 on the basis that SCR on Half Hourly Settlement (HHS) could change the baseline against which P332 was being developed and assessed. The Proposer believed that the P332 issue had not been addressed in any of the wider Ofgem initiatives and it remained unclear whether these initiatives will address the issues created by 'Customer Preferred Agents'.

The preferred TOM for Market Wide Half Hourly Settlement (MHHS) will remove the role of Data Aggregators as they exist today, which will effectively reduce the scope of P332 to Data Collectors and Meter Operator Agents only. CPAs are expected to be concentrated in the Advanced Market Segment, which will contain the majority of today's HH non-domestic customers.

The Proposer believed that a prudent next step would be to seek views from Ofgem as to whether the issue identified under P332 is recognised by Ofgem and to what extent, and whether any of Ofgem's initiatives will likely address it.

In September 2019, the Panel wrote to Ofgem to seek their views as to whether P332 was in line with their current strategic direction and the extent to which Ofgem believed the issues which it raises will not be addressed. The Panel particularly wanted to understand whether P332 is or will be within the scope of any of Ofgem's programmes of work.

The Panel had sought Ofgem's views on three questions:

1. Is it still Ofgem's view that there is a lack of evidence to suggest the Supplier hub model needs to be re-considered for the Advanced Meter segment?

2. Do Ofgem believe that upcoming developments such as P379 'Enabling consumers to buy and sell electricity from/to multiple providers through Meter Splitting' and the Flexible and responsive energy retail markets initiative mean that the Supplier hub principle will require some adjustment sooner or later anyway?

3. Is modification P332 within scope of any of Ofgem's programmes of work?

Ofgem's response to the Panel's letter provided Ofgem's view on the above questions.

Ofgem reiterated that they continue to believe that there are still benefits to Customers having choice over their Agents, but that in exercising this choice, Supplier's Settlement performance should not be unduly affected.

Ofgem also reiterated that they continue to believe there is a lack of evidence to show that the issues identified by the Proposer could not be addressed under the current arrangements. They acknowledged that the scope of the issue has been narrowed to the Advanced Meter segment only, and that this reassessed scope would reduce the impact on industry which was previously one of their concerns. Ofgem indicated that, if it was the Panel's view that work on P332 should restart, they would welcome evidence of the benefits and costs in light of the narrowed scope as part of the Workgroup process.

Ofgem's preferred TOM for Market Wide Half Hourly Settlement reduced the scope of P332 to the AMR sector (predominantly non-domestic Customers who are settled HH) and Half Hourly Data Collectors and Meter Operator Agents only.

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Proposer and Workgroup views on revised Ofgem provisional thinking

The Proposer contended that this was always the sector of the market impacted by the P332 issue, and the TOM removed any theoretical need to apply it to the (primarily domestic) Smart Market Segment. This segment is generally less reliant on Data Collection Agents, and domestic Customers are therefore less likely to employ the services of a CPA. Elexon believed that this narrower scope reduces the impact on industry, specifically the retail arrangements for domestic Customers, but would still be a significant Modification to assess and a significant impact on the Advanced Metered sector.

The Workgroup consensus was that it made sense to focus P332 on the non-Data Communications Company (DCC) Metering Systems (Measurement Class C, E and G).

The Proposer considered that a complete re-write of the BSC, which would be required if the solution was to require all Agents to become signatories to the code, was probably not the right solution. It would be at a significant cost with a potentially long implementation timescale.

The **Proposer considered the one possible solution would be to use a side letter** linked to accreditation to obliging Agents to comply with the requirements in the BSC.

The Proposer suggested concentrating the solution on Meter Operator Agents, which would reduce the scope and focus on those Agents with the most CPAs and where the Proposer is seeing most CPA related issues (e.g. the provision of Meter Technical Details, fault resolution, comms line issues and problems associated with the commissioning of meters). Various Suppliers on the Workgroup felt that the problem should not be limited to MOAs.

November 2019: Case Studies

Elexon asked Workgroup Members to provide examples of where CPAs have been the cause or a significant contributing factor in issues resulting in BSC underperformance and therefore potentially affecting Settlement, in Measurement Class C, E or G.

Responses were received from five Suppliers, providing anecdotal evidence of issues with Data Collectors and Meter Operator Agents, where these roles were appointed as Customer Preferred Agents rather than commercial agreements between Supplier and Agent. Agents also provided responses.

The non-confidential responses can be found in Attachment D. All responses will be provided to Ofgem when the Final Modification Report is submitted.

The Workgroup summarised that the Case Study examples provided were not specific to CPAs and could be attributed to any Supplier to Agent relationship across all types of commercial relationship.

The Workgroup also recognised that a Supplier can, and many do, enter into a direct commercial relationship to supplement the Customer/CPA relationship.

The Workgroup also were advised by Elexon that there were no PAB EFR or BSC Audit issues identified due to CPAs. There were also no performance metrics which demonstrated a pattern of failure.

The consensus from Supplier representatives on the Workgroup was that the amount of time and effort needed to fix issues where the Agent is a Customer Preferred Agent and not a Supplier preferred Agent is significantly higher. The consensus from Agent

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representatives on the Workgroup was that there was no difference in the service they deliver due to the commercial arrangement.

The Proposer summarised that although there was difficulty in obtaining Quantitative analysis due to the time and expense this would incur (also arguably not possible) there was sufficient Qualitative, Anecdotal and Intuitive evidence to conclude there is an issue present and to proceed with the Modification solution development.

April 2021: Ofgem's decision on Retail Energy Code v2.0 and Retail Code Consolidation (RCC) Consultation

Ofgem issued a consultation on Retail Energy Code v2.0 and Retail Code Consolidation on 15 December 2020 with responses invited by 23 February 2021. The consultation was on the proposed merging of content from the Master Registration Agreement (MRA), the Supply Point Administration Agreement (SPAA), and the Balancing and Settlement Code (BSC) content regarding Meter Operator Agents into the REC.

This consultation contained details of Ofgem's 'minded to' position to transfer SVA metering activities from the BSC to REC.

In the consultation, Ofgem proposed three options for transferring existing metering provisions from the BSC to the REC:

- Option 1: Functional split – with operational processes associated with meter asset data updates and agent appointment transferring to the REC and meter technical CoP and associated controls retained in the BSC
- Option 2: Meter type split – with provisions associated with advanced, complex and CVA metering retained in the BSC, and provisions associated with smart / traditional metering transferred to the REC
- Option 3 Market split – with all provisions associated with metering systems registered in MPAS/SMRS (i.e. SVA) transferred to the REC and provisions associated with metering systems registered in CMRS (i.e. CVA) retained in the BSC

Ofgem's Decision was published on 30 April 2021 which confirmed Option 3, which will transfer SVA metering from the BSC to the REC, whilst CVA metering would remain in the BSC. CVA Meter Operator Agents were not in scope of P332.

REC v2.0 impacts

In order to give effect to its REC Consolidation SCR decision, Ofgem raised a number of cross code Modifications. P420 'Retail Code Consolidation Significant Code Review' was raised by Ofgem on 10 May 2021 to make the necessary changes to the BSC. P420 and REC V2.0 (and therefore the movement of the SVA MOA activities) is due to go-live on 1 September 2021.

P420 was raised to ensure the BSC aligns with Ofgem's Retail Code Consolidation Significant Code Review, which consolidates a number of existing codes into the REC.

Specifically, P420 will make the following change to the BSC:

1. Ensure the BSC reflects the close down of the MRA.

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2. Transfer operational procedures relating to Metering Point Lifecycle from the MRA to the BSC.

3. Make the necessary changes to transfer SVA Metering arrangements to the REC, and facilitate a transition period for metering assurance.

4. Insert the required drafting to give effect to the Cross Code Steering Group (CCSG), which will be established under the REC to better facilitate cross-code change.

The key point with regards to P332 is that SVA Metering arrangements are transferring to the REC and therefore this impacts on the P332 solution. The Proposer wishes to proceed with P332, but with the solution applying only to SVA HH & NHH Data Collectors.

The P332 proposed solution had required all existing and new SVA HH & NHH MOAs and DCs to sign the side letter. However, as SVA MOAs (or Metering Equipment Managers (MEMs) as they are referred to in the REC) are moving to the REC, they will be Parties to the REC and also be Qualified under the REC, and not the BSC. Therefore, the proposed obligations in the side letter for SVA MOAs will not be relevant as SVA MOAs will no longer be Qualified under the BSC.

Therefore, a significant change to the P332 solution was required, and the legal text and side letter was amended so that it applies only to SVA HH & NHH Data Collectors.

The change to the scope of the P332 solution was agreed by the Proposer and discussed by the Workgroup on 25 May 2021.

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Appendix 2: Workgroup Details

Workgroup's Terms of Reference

Specific areas set by the BSC Panel in the P332 Terms of Reference	Conclusion
What issues are caused by Customers choosing Agents?	There is recognition that there were mixed views throughout the Workgroups as to whether issues can be attributed to Customer Preferred Agents, the BSC or commercial arrangements
What is the materiality of the issues?	It had been difficult to establish the materiality of these issues, as the majority of evidence has been anecdotal
What means are presently available to address the issues?	The Agent appointed by the Customer could be changed to be appointed by the Supplier
What is the best way in principle to address the issues?	The Workgroup's view is that the side letter is the best way to address the issues. The original solution was to make Agents signatories to the BSC, however, the solution has been significantly changed following Workgroup discussions

Assessment Procedure timetable

P332 Assessment Timetable	
Event	Date
Panel submits P332 to Assessment Procedure	11 February 2016
Workgroup Meeting 1	30 March 2016
Workgroup Meeting 2	15 August 2016
Workgroup Meeting 3	27 April 2017
Workgroup Meeting 4	31 May 2017
Workgroup Meeting 5	16 August 2017
Workgroup Meeting 6	27 November 2019
Workgroup Meeting 7	6 February 2020
Workgroup Meeting 8	25 September 2020
Workgroup Meeting 9	22 October 2020
Workgroup Meeting 10	7 December 2020
Workgroup Meeting 11	25 May 2021
Assessment Procedure Consultation	16 July 2021 – 6 August 2021

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P332 Assessment Timetable	
Event	Date
Workgroup Meeting 12	24 August 2021
Panel considers Workgroup's Assessment Report	9 September 2021

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Workgroup membership and attendance

P332 Workgroup Attendance													
Name	Organisation	30 Mar 16	15 Aug 16	27 Apr 17	31 May 17	16 Aug 17	27 Nov 19	6 Feb 20	25 Sep 20	22 Oct 20	7 Dec 20	25 May 21	24 Aug 21
Members													
Douglas Alexander	Elexon *(Chair)*	✓	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗
Claire Kerr	Elexon *(Chair)*	✗	✗	✓	✓	✓	✗	✗	✗	✗	✗	✗	✗
Royston Black	Elexon *(Chair)*	✗	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Talia Addy	Elexon *(Lead Analyst)*	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Lawrence Jones	Elexon (*Lead Analyst/Chair*)	✗	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
Elliott Harper	Elexon *(Chair)*	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓
Andrew Grace	Elexon *(Lead Analyst)*	✗	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗
Paul Wheeler	Elexon *(Lead Analyst)*	✗	✗	✗	✗	✗	✗	✗	✓	✓	✓	✓	✓
Colin Prestwich	Smartest Energy *(Proposer)*	✓	✓	✓	✓	✓	✓	✓	✗	✗	✗	✗	✗
Steven Bradford	Smartest Energy *(Proposer)*	✗	✗	✗	✗	✗	✓	✗	✓	✓	✓	✓	✓
Seth Chapman	Callisto	✗	✗	✓	✓	✗	☎	✓	✓	✓	✓	✓	✓
Jonathan Moore	Engie	✓	✓	✓	✓	✓	✗	✗	✓	✓	✓	✓	✗
Richard Vernon	Npower	✓	✓	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗
Colin Frier	Siemens	✓	✗	✗	✓	✓	✓	☎	✗	✗	✗	✗	✗

P332 Workgroup Attendance													
Name	Organisation	30 Mar 16	15 Aug 16	27 Apr 17	31 May 17	16 Aug 17	27 Nov 19	6 Feb 20	25 Sep 20	22 Oct 20	7 Dec 20	25 May 21	24 Aug 21
Carl Whitehouse	First Utility	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Ed Sutton	Stark	✓	✓	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗
Dermot Hearty	Salient Systems	✓	☎	✓	✗	✓	☎	✗	✗	✓	✓	✗	✓
Angela Love	Scottish Power	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Peter Gray	SSE	✗	✓	✓	✓	✓	✓	✓	✗	✗	✗	✗	✗
Gregory MacKenzie	British Gas	✓	✓	✗	✗	☎	✗	✗	✗	✗	✗	✗	✗
Tom Chevalier	Power Data Associates	✓	✗	✗	✗	☎	✓	✓	✓	✓	✓	✓	✓
Tim Newton	E.ON Energy	✓	✓	✗	✓	✗	✗	✗	✗	✗	✗	✗	✗
Gareth Evans	Waters Wye Associates Limited	✗	✗	✗	✗	✗	✓	✓	✓	✗	✗	✗	✗
Richard Hill	IMServ	✓	✗	✓	✗	✗	✓	✗	✗	✗	✗	✗	✗
Ryan Guttridge	Dong Energy	✗	✓	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗
Peter Powell	Gazprom Energy	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Phil Russell	Independent	✓	✓	✗	✗	✗	✓	✗	✓	✗	✓	✗	✗
Gavin Somerville	EDF Energy	✗	✓	✓	✓	✓	✗	☎	✓	✓	✓	✓	✓
David Barratt	Lowribeck	✗	✗	✓	✓	☎	✗	✗	✗	✗	✗	✗	✗
Derek Weaving	Centrica	✗	✗	✗	✗	✗	✓	✗	✓	✓	✓	✗	✗

P332 Workgroup Attendance													
Name	Organisation	30 Mar 16	15 Aug 16	27 Apr 17	31 May 17	16 Aug 17	27 Nov 19	6 Feb 20	25 Sep 20	22 Oct 20	7 Dec 20	25 May 21	24 Aug 21
Oliver Zhe Xing	Orsted	✗	✗	✗	✗	✗	☎	✗	✗	✗	✗	✗	✗
Andrew Hancock	Alabama Energy	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Jacqui Barton	Western Power Distribution	✗	✗	✗	✗	✗	☎	☎	✓	✓	✓	✗	✗
Lee Stone	E.ON	✗	✗	✗	✗	✗	✓	✓	✓	✓	✗	✓	✗
Mark Bellman	Scottish Power	✗	✗	✗	✗	✗	✓	✓	✓	✓	✗	✓	✓
Nik Wills	Stark	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Robert Thomas	Npower	✗	✗	✗	✗	✗	✓	✓	✓	✓	✓	✗	✗
Clare Hannah	IMServ	✗	✗	✗	✗	☎	✗	✗	✓	✓	✓	✓	✓
Attendees													
Matthew McKeon	Elexon *(Design Authority)*	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Toby Godrich	Elexon *(Lead Lawyer)*	✓	✓	✓	✗	✓	✗	✗	✗	✗	✗	✗	✗
Nicholas Brown	Elexon *(Lead Lawyer)*	✗	✗	✗	✗	✗	✗	✗	✓	✓	✓	✓	✓
Kathryn Gay	Elexon *(Technical Support)*	✗	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗
Laura Henshall	Elexon *(OSM Representative)*	✗	✗	✓	✓	✓	✗	✗	✗	✗	✗	✗	✗
Nigel Perdue	Elexon *(PAF Review Representative)*	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗

P332 Workgroup Attendance													
Name	Organisation	30 Mar 16	15 Aug 16	27 Apr 17	31 May 17	16 Aug 17	27 Nov 19	6 Feb 20	25 Sep 20	22 Oct 20	7 Dec 20	25 May 21	24 Aug 21
Nick Groves	Elexon *(PAF Review SME)*	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗
Chris Day	Elexon	✗	✗	✗	✗	✗	✓	✓	✓	✗	✗	✗	✗
Sophie Bentley	Elexon	✗	✗	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗
David Osmon	Ofgem (until 3rd WG)	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Ben Zaczek	Ofgem (from 4th WG)	✗	✗	✗	✓	✓	✗	✗	✗	✗	✗	✗	✗
Saskia Barker	Ofgem (from 6th WG)	✗	✗	✗	✗	✗	✓	☎	✓	✓	✓	✗	✗
Harriet Higgins	Ofgem (from 11th WG)	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✗
Pete Butcher	SSE	✓	✗	✗	✗	✗	✓	✗	✓	✗	✗	✗	✗
Mark McGuire	G4S	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Dan Saxton	Siemens	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Toby Read	Dong Energy	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Matt Keen	Npower	✗	✗	✗	✗	☎	✗	✗	✗	✗	✗	✗	✗
Anna Marzec/Lesniak	Opus Energy	✗	✗	✓	✓	✓	✗	✗	✓	✗	✗	✗	✗
James Murphy	Stark	✗	✗	✓	✓	✗	✗	✗	✗	✗	✗	✗	✗
Richard Dakin	E.ON	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗

P332 Workgroup Attendance													
Name	Organisation	30 Mar 16	15 Aug 16	27 Apr 17	31 May 17	16 Aug 17	27 Nov 19	6 Feb 20	25 Sep 20	22 Oct 20	7 Dec 20	25 May 21	24 Aug 21
Meg Wong	Stark	✗	✗	✗	✗	✗	✓	✓	✓	✓	✓	✓	✓
Paul Courtney	EDF Energy	✗	✗	✗	✗	✗	✗	✓	✓	✓	✗	✓	✗
Karen Govier	EDF Energy	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Paul Farmer	Shell Energy	✗	✗	✗	✗	✗	☎	☎	✓	✓	✓	✗	✗
Joanna Pasnik	Elexon	✗	✗	✗	✗	✗	✗	☎	✗	✗	✗	✗	✗
Mark Gray	EDF Energy	✗	✗	✗	✗	✗	☎	✓	✓	✓	✓	✓	✗
Mark Jones	SSE	✗	✗	✗	✗	✗	✗	✓	✓	✓	✗	✓	✓
Kevin Mitchell	EDF Energy	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Megan Coventry	SSE	✗	✗	✗	✗	✗	☎	✗	✗	✗	✗	✗	✗
Lee Francis	sms plc	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Steph Clements	Scottish Power	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Nathan Flood	Elexon	✗	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗
Roan Chavez	Elexon	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✗	✗
Chris Stock	Elexon	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✗	✗
Ryan Dale	Elexon	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✗	✗
George Player	Elexon	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✗

Appendix 3: Glossary & References

Acronyms

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

Acronyms	
Acronym	Definition
AMR	Automatic Meter Read
BSC	Balancing and Settlement Code
BSCCo	Balancing and Settlement Code Company
BSCP	Balancing and Settlement Code Procedure
CCSG	Cross Code Steering Group
CDCA	Central Data Collection Agent
CMRS	Central Meter Registration Service
CoP	Code of Practice
CPA	Customer Preferred Agent
CSD	Code Subsidiary Document
CVA	Central Volume Allocation
DC	Data Collector
DCC	Data Communications Company
DTC	Data Transfer Catalogue
DWG	Design Working Group
EBGL	European Electricity Balancing Guideline
EFR	Error and Failure Resolution
HH	Half Hourly
HHDA	Half Hourly Data Aggregator
HHDC	Half Hourly Data Collector
HHMOA	Half Hourly Meter Operator Agent
IPR	Intellectual Property Rights
LDSO	Licensed Distribution System Operator
LWI	Local Working Instruction
MA	Meter Administrator
MEM	Metering Equipment Manager
MHHS	Market-wide Half Hourly Settlement
MOA	Meter Operator Agent
MPAN	Meter Point Administration Number
MPAS	Meter Point Administration Service
MRA	Master Registration Agreement

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Acronyms	
Acronym	Definition
NETSO	National Electricity Transmission System Operator
NGESO	National Grid Electricity System Operator
NHH	Non Half Hourly
NHHDA	Non Half Hourly Data Aggregator
NHHDC	Non Half Hourly Data Collector
NHHMOA	Non Half Hourly Meter Operator Agent
PAB	Performance Assurance Board
PAF	Performance Assurance Framework
RCC	Retail Code Consolidation
REC	Retail Energy Code
RFI	Request For Information
SCR	Significant Code Review
SMETS	Smart Metering Equipment Technical Specifications
SMRS	Supplier Meter Registration Service
SPAA	Supply Point Administration Agreement
SVA	Supplier Volume Allocation
TOM	Target Operating Model
UMS	Unmetered Supplies

Data flows and data items

Data flows and data items referenced in this document are listed in the table below.

Data Flows and Data Items	
Number	Name
D0011	Agreement of Contractual Terms
D0155	Notification of Meter Operator or Data Collector Appointment and Terms

External links

A summary of all hyperlinks used in this document are listed in the table below.

All external documents and URL links listed are correct as of the date of this document.

External Links		
Page(s)	Description	URL
5, 19, 28	Contracts (Rights of Third Parties) Act 1999	https://www.legislation.gov.uk/ukpga/1999/31/contents

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External Links		
Page(s)	Description	URL
5, 34, 60	Ofgem Decision on Retail Energy Code v2.0 and Retail Code Consolidation Consultation	https://www.ofgem.gov.uk/publications-and-updates/decision-retail-energy-code-v20-and-retail-code-consolidation-consultation
6	SVA Removal of Qualification process	https://www.elexon.co.uk/reference/exceptions/sva-removal-of-qualification/
6, 24, 55	BSC Section F 'Modification Procedures'	https://www.elexon.co.uk/the-bsc/bsc-section-f-modification-procedures/
8, 21, 24, 30	BSC Section J 'Party Agents and Qualification Under the Code'	https://www.elexon.co.uk/the-bsc/bsc-section-j-party-agents-and-qualification-under-the-code/
7	SVA Qualification process	https://www.elexon.co.uk/reference/market-entry/sva-qualification/
8	Performance Assurance Board	https://www.elexon.co.uk/group/performance-assurance-board-pab/
8, 24, 27	BSCP537 'Qualification Process for SVA Parties, SVA Party Agents and CVA Meter Operators'	https://www.elexon.co.uk/csd/bscp537-qualification-process-for-sva-parties-sva-party-agents-and-cva-meter-operators/
9	Error and Failure Resolution (EFR) Process	https://www.elexon.co.uk/guidance-note/efr-efr-escalation-process/
9, 21, 32	BSC Section H 'General'	https://www.elexon.co.uk/the-bsc/bsc-section-h-general/
11, 18, 60	P420 'Retail Code Consolidation Significant Code Review'	https://www.elexon.co.uk/mod-proposal/p420/
18, 30	DTC Data Flow D0011 'Agreement of Contractual Terms'	https://dtc.mrasco.com/DataFlow.aspx?FlowCounter=0011&FlowVers=1&searchMockFlows=False
19, 30	DTC Data Flow D0155 'Notification of Meter Operator or Data Collector Appointment and Terms'	https://dtc.mrasco.com/DataFlow.aspx?FlowCounter=0155&FlowVers=1&searchMockFlows=False
30	BSC Section S 'Supplier Volume Allocation'	https://www.elexon.co.uk/the-bsc/bsc-section-s-supplier-volume-allocation/
31	BSCP514 'SVA Meter Operations for Metering Systems Registered in SMRS'	https://www.elexon.co.uk/csd/bscp514-sva-meter-operations-for-metering-systems-registered-in-smrs/
32	BSC Section C 'BSCCo and its Subsidiaries'	https://www.elexon.co.uk/the-bsc/bsc-section-c-bscco-subsidiaries/
34	Ofgem's open letter regarding the Significant Code Review modifications for Retail Code Consolidation	https://www.ofgem.gov.uk/publications-and-updates/open-letter-regarding-significant-code-review-modifications-retail-code-consolidation

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External Links		
Page(s)	Description	URL
35	Performance Assurance Board – November 2020	https://www.elexon.co.uk/meeting/pab-238/
45	BSC Panel 318 – September 2021	https://www.elexon.co.uk/meeting/bsc-panel-318/
52	Minutes of BSC Panel 318 – September 2021	https://www.elexon.co.uk/documents/groups/panel/2021-meeting/318-september/bsc-panel-318-public-minutes/
53	Minutes of BSC Panel 320 – November 2021	https://www.elexon.co.uk/documents/groups/panel/2021-meeting/320-november/bsc-panel-320-public-minutes-v1-0/
55	BSC Panel 266 – May 2017	https://www.elexon.co.uk/meeting/bsc-panel-265/
55	BSC Panel 268 – July 2017	https://www.elexon.co.uk/meeting/bsc-panel-268-2/
55	Letter from the BSC Panel seeking Ofgem's views on the findings of the P332 interim report	https://www.elexon.co.uk/wp-content/uploads/2017/07/2017.07.17-P332-Letter-seeking-Ofgems-view-v0.5.pdf
55	Ofgem's reply to the BSC Panel with their provisional thinking on P332	https://www.elexon.co.uk/wp-content/uploads/2016/02/ofgem_provisional_thinking_on_bsc_modification_p332.pdf
55, 56	BSC Panel 270 – September 2017	https://www.elexon.co.uk/meeting/bsc-panel-270-2/
56	Electricity Settlement Reform Significant Code Review (SCR)	https://www.ofgem.gov.uk/publications-and-updates/electricity-settlement-reform-significant-code-review-launch-statement-revised-timetable-and-request-applications-membership-target-operating-model-design-working-group
57	BSC Panel 278 – May 2018	https://www.elexon.co.uk/meeting/bsc-panel-meeting-278/
57	Supplier Agent functions under market-wide half-hourly settlement	https://www.ofgem.gov.uk/system/files/docs/2018/03/supplier_agent_functions_working_paper.pdf
57	BSC Panel 285 – 13 December 2018	https://www.elexon.co.uk/meeting/bsc-panel-meeting-285/
57	Design Working Group (DWG)	https://www.elexon.co.uk/group/design-working-group/

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57	Consultation on supplier agent functions under market-wide settlement reform	https://www.ofgem.gov.uk/publications-and-updates/consultation-supplier-agent-functions-under-market-wide-settlement-reform
57	Future of supply market arrangements – call for evidence	https://www.ofgem.gov.uk/publications-and-updates/future-supply-market-arrangements-response-our-call-evidence
58	BSC Panel 294 – September 2019	https://www.elexon.co.uk/meeting/bsc-panel-294/
58	Preferred TOM for Market Wide Half Hourly Settlement	https://www.ofgem.gov.uk/system/files/docs/2019/10/dwg_final_report_stage_2_v1.0.pdf
58	Letter from the BSC Panel seeking Ofgem's latest views on P332	https://www.elexon.co.uk/wp-content/uploads/2016/02/P332-Panel-Letter-to-Ofgem-Sep-2019-v1.0.pdf
58	P379 'Enabling consumers to buy and sell electricity from/to multiple providers through Meter Splitting'	https://www.elexon.co.uk/mod-proposal/p379/
58	Flexible and responsive energy retail markets	https://www.ofgem.gov.uk/publications-and-updates/flexible-and-responsive-energy-retail-markets
58	Ofgem's reply to the BSC Panel with their latest thinking on P332	https://www.elexon.co.uk/wp-content/uploads/2016/02/P332-Ofgem-letter-to-BSC-panel.pdf
60	Retail Energy Code v2.0 and Retail Code Consolidation	https://www.ofgem.gov.uk/publications-and-updates/retail-energy-code-v20-and-retail-code-consolidation

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