

<b>Modification Proposal – BSCP40/03</b>	<b>MP No: P324</b> <i>(mandatory by BSCCo)</i>
<b>Title of Modification Proposal</b> <i>(mandatory by originator):</i>	
<b>Review of BSCCo’s governance: introducing improved accountability to BSC Parties</b>	
<b>Submission Date</b> <i>(mandatory by originator):</i>	
<b>24 July 2015</b>	
<b>Description of Proposed Modification</b> <i>(mandatory by originator)</i>	
<p>This Modification seeks to implement revisions to BSCCo’s governance arrangements in order to address issues identified in the <a href="#">Knight Review</a> (an independent review of ELEXON’s governance arrangements, jointly commissioned by the BSCCo Board and BSC Panel).</p> <p>The revisions will clarify the relationship between the BSCCo, the BSCCo Board and the BSC Panel, bring the governance arrangements in line with the UK Corporate Governance Code (where appropriate) and increase the accountability of the BSCCo Board and Executive to funding parties.</p> <p>The Modification introduces amendments in three key areas:</p>	
<b>1. Accountability</b>	
<ul style="list-style-type: none"> <li>• Introduce the ability for funding BSC Parties to remove directors of BSCCo.</li> </ul> <p>BSCCo will be held accountable to the funding parties, through a voting mechanism that would give BSC Parties the right to vote on the removal of directors. Funding parties would also have the right to raise issues through special resolution which could include, but not be limited to, strategy. These resolutions are non-binding, but may lead to further resolutions on non-executive director removals. The Workgroup would need to consider the process and practicalities of how the removal of non-executive directors would work in practice.</p> <p>This chimes with the conclusion of the P281 Workgroup that ‘the ultimate means of delivering Board accountability was through the ability of stakeholders to remove Board members in whom they did not have confidence’. While the P281 Workgroup did not believe that any changes in this area should be progressed under P281, it notes that consideration might be given to whether improvements could be made outside P281.</p>	
<ul style="list-style-type: none"> <li>• To improve the accountability of the Executive to BSC Parties, the restriction on members of the Executive team (specifically the CEO and CFO) being appointed to the board (as executive directors) should be removed.</li> <li>• The number of non-executive directors with electricity industry experience should exceed the number of non-industry directors.</li> </ul>	

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- Non-executive directors would be appointed by the Board upon the recommendation of a nomination committee in line with normal board operating practices, consistent with the UK Corporate Governance Code and for a 3 year term. The Panel's involvement in director appointments (e.g. via approval of the Nomination Committee's terms of reference, appointment of a Panel advisor to the Nomination Committee) and the obligation to consult with the Panel (which has no right of veto or approval) should be removed.
- The Workgroup should consider the advantages and disadvantages of separating the roles of Board and Panel Chair. Provided there is strong interaction between the Board and Panel, then it could be viewed that there is no requirement for the Panel Chair and Board Chair to be the same person. Under this approach, the Panel Chair would automatically sit on the Board and would be eligible but not be required, to be the Board Chair. The Panel Chair appointment process would be unchanged and in line with the current provisions (i.e. nominated, in consultation with the Board, by the Panel and approved by the Authority), but the link in the BSC between the Board Chair and Panel Chair would be removed and the Board would be free to appoint its own chair. The Board Chairman would be a non-executive director. Appointment of the Board Chairman would be on the recommendation of the Nomination Committee, following the same process as for the appointment of non-executive directors.
- Remuneration of board members should also be considered. The Knight Report recommended that all Board members should be properly remunerated. Modification Proposal P303 recommended that all BSCCo Board members should be entitled to receive remuneration. While the Authority rejected P303 and stated that a defect had not been clearly identified, the P303 Authority decision letter did suggest that any future modification in this area could more closely examine the costs and benefits of industry director remuneration and the principles/process for remuneration levels being determined.

**3. Setting BSCCo strategy**

- The responsibility for the BSCCo strategy will sit with the BSCCo Board. The Panel will not be required to approve the Business Strategy.
- The Board will ensure that it consults with and informs the Panel. In particular, it should use input from the Panel when forming its strategy and the Panel should be able to comment on it as it is developed.
- The Workgroup should consider whether additional mechanisms over and above those already included in the BSC are required to ensure that the views of BSC Parties are reflected in the formulation of the BSCCo Business Strategy.

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<p><b>Description of Issue or Defect that Modification Proposal Seeks to Address</b> <i>(mandatory by originator)</i></p> <p>Following the publication of the Knight review’s findings, Ofgem issued an open letter urging the BSC Panel and BSCCo Board to work with industry to develop options to address the issues raised. This Modification seeks to address the shortcomings of the current arrangements, which were initially identified and set out in the Knight report.</p> <p>Given the role and funding arrangements of BSCCo and the increasing public focus on good corporate governance, this proposal seeks to address both the Ofgem open letter and the Knight report by refreshing the BSCCo’s governance to bring it in line with best practice.</p> <p>This broadly falls into 2 categories:</p> <p><b><u>Clear Accountability</u></b></p> <ul style="list-style-type: none"> <li>• Directors are not subject to re-election and cannot be removed</li> <li>• Lack of significant Executive accountability to BSC Parties due to lack of executive representation on the Board (apart from the part time executive Chairman)</li> <li>• The Chairman of the board is not appointed by the board and cannot be removed</li> </ul> <p><b><u>Clear lines of responsibility between the BSCCo Board and the Panel</u></b></p> <p>The Panel and Board are inextricably linked through a shared Chairman and through their joint responsibility in approving the annual BSCCo Business Plan. However, the Board and Panel have two distinct roles. Like the board of any company, the BSCCo Board is responsible for running the company in the best interests of that company, being responsible to its funding parties. The BSC Panel is custodian of the contract that BSCCo delivers (rather than being responsible for the company that delivers that contract). The occasionally blurred roles of the BSCCo Board and Panel result in a relationship between the two that is neither clear nor straightforward.</p> <p>This feature of the governance arrangements and its associated unclear responsibilities leads to other problems:</p> <p><b><u>Inefficient decision making</u></b></p> <p>The approval process for the BSCCo Business Plan currently requires dual decision making between the Panel and the Board. Although the involvement of two bodies provides additional checks and balances, it results in an inefficient, time consuming process with cross referral between the two bodies and doubling up of work for little tangible benefit.</p> <p><b><u>Lack of accountability</u></b></p> <p>The Knight Report identified that the lack of clarity in the relationship between the Board and Panel manifests itself in a lack of accountability: it is difficult to know to whom the BSCCo Board is accountable, given the constraints imposed on National Grid as shareholder under the</p>	

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<p>BSC. It is often unclear where final decisions lie, generating a feeling that the Board is not entirely responsible for the strategy and direction of the business.</p> <p>The Knight Report also suggested that all board members should be remunerated, so this is something that should also be considered under this Modification Proposal.</p>	
<b>Impact on Code</b> <i>(optional by originator)</i>	
The proposed changes will mainly impact sections B (The Panel) and C (BSCCo Subsidiaries) of the BSC.	
<b>Impact on Core Industry Documents or System Operator-Transmission Owner Code</b> <i>(optional by originator)</i>	
No impact is envisaged on core industry documents or the STC.	
<b>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties</b> <i>(optional by originator)</i>	
No impact is envisaged on BSC Systems or other relevant systems and processes.	
<b>Impact on other Configurable Items</b> <i>(optional by originator)</i>	
No impact is envisaged on Configurable Items.	
<b>Justification for Proposed Modification with Reference to Applicable BSC Objectives</b> <i>(mandatory by originator)</i>	
<p>The proposal will enhance the corporate governance arrangements for BSCCo, introducing greater Board accountability to funding parties and allowing parties to have a more active say in the management of the BSCCo by providing them with a means of removing Board members where appropriate.</p> <p>Efficiency in the implementation of the BSC arrangements will be promoted through clarity of the roles of the BSC Panel and BSCCo Board, particularly in relation to the approval of the annual BSCCo Strategy and the appointment of directors.</p>	
<b>Is there a likely material environmental impact?</b> <i>(optional by originator)</i>	
No	
<b>Urgency Recommended: Yes / No</b> <i>(delete as appropriate) (optional by originator)</i>	
No	

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<b>Justification for Urgency Recommendation</b> <i>(mandatory by originator if recommending progression as an Urgent Modification Proposal)</i>	
N/A	
<b>Self-Governance Recommended: Yes / No</b> <i>(delete as appropriate) (optional by originator)</i>	
No	
<b>Justification for Self-Governance Recommendation</b> <i>(mandatory by originator if recommending progression as Self-Governance Modification Proposal)</i>	
N/A	
<b>Fast Track Self-Governance Recommended: Yes / No</b> <i>(delete as appropriate) (optional by originator)</i>	
No	
<b>Justification for Fast Track Self-Governance Recommendation</b> <i>(mandatory by originator if recommending progression as Fast Track Self-Governance Modification Proposal)</i>	
N/A	
<b>Should this Modification Proposal be considered exempt from any ongoing Significant Code Reviews?</b> <i>(optional by originator in order to assist the Panel decide whether a Modification Proposal should undergo a SCR Suitability Assessment)</i>	
N/A	
<b>Details of Proposer:</b>	
<i>Name: Alex Thomason</i>	
<i>Organisation: National Grid Electricity Transmission plc</i>	
<i>Telephone Number: 01926 656379</i>	
<i>Email Address: <a href="mailto:alex.thomason@nationalgrid.com">alex.thomason@nationalgrid.com</a></i>	

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<b>Details of Proposer's Representative:</b>  <i>Name: Alex Thomason</i>  <i>Organisation: National Grid Electricity Transmission plc</i>  <i>Telephone Number: 01926 656379</i>  <i>Email Address: <a href="mailto:alex.thomason@nationalgrid.com">alex.thomason@nationalgrid.com</a></i>	
<b>Details of Representative's Alternate:</b>  <b>Name: Ian Pashley</b>  <b>Organisation: National Grid Electricity Transmission plc</b>  <b>Telephone Number: 01926 653446</b>  <b>Email address: <a href="mailto:ian.pashley@nationalgrid.com">ian.pashley@nationalgrid.com</a></b>	
<b>Attachments:</b> <i>(delete as appropriate) (mandatory by originator)</i>  No	