
Meeting name	BSC Panel
Date of meeting	10 July 2008
Paper title	Report on Issue 33 'Fuel Security Code (FSC) Guidance'
Purpose of paper	For Information
Synopsis	The Issue 33 Group considered various aspects of the Fuel Security Code and the FSC Guidance Note, as well as the procedures for processing claims relating to Fuel Security and Black Start Periods. The Group concluded that further detail should be provided within the BSC in relation to the FSC procedures and claims processes associated with FSC and Black Start events. The Issue Group recommends that a single Modification should be raised to progress the recommendations of both Issue 33 and Issue 32 (Black Start).

1 Introduction

- 1.1 Issue 33 'Fuel Security Code (FSC) Guidance' was raised by the BSC Panel on 17 January 2008 in order to consider the FSC Guidance and associated correspondence from BERR to ELEXON. Further to publication of a revised FSC, Approved Modification P221 aligned the Balancing and Settlement Code (BSC) with the FSC.
- 1.2 Feedback to the P221 consultation suggested that a Standing Modification Group Issue should be raised to consider the FSC guidance (published with the revised FSC) and a letter from BERR to ELEXON regarding queries relating to the revised FSC. Consultation respondents suggested that clarification may be needed regarding a number of issues. It was envisaged that clarification could be provided within the BSC or in the form of guidance from ELEXON and/or the Authority.
- 1.3 Issue 33 was considered in conjunction with Issue 32 'Black Start'. An FSC Period and a Black Start Period share some similarities, for instance that National Grid (NG) would issue instructions to market participants. Of particular relevance for Issue 33 is that both FSC and Black Start Periods have a claims process for costs incurred by Lead Parties of BM Units. The Group developed processes for a 'Claims Committee' to administer the claims.
- 1.4 Appendix 1 to this report contains further detail on the Group discussions and the Claims Committee process, Appendix 2 is a diagrammatic overview of the Claims Process. This report contains one Attachment outlining the Funding Shares Methodology.

2 Areas Considered

- 2.1 The considerations of the Issue 33 Group ('the Group') focussed on a number of specific areas, as follows:
- (a) Cost Recovery Processes;
 - (b) Interim Claims Processes;
 - (c) Communication of Fuel Security Period;
 - (d) Presentation of Claims (including breakdowns of costs)
 - (e) Role of BSC Panel (and/or FSC Claims committee); and

(f) Market stability.

2.2 'Market stability' was added to the discussions by the Group to address the provision in the FSC Guidance that the BSC Panel (or other market participants) may wish to inform the Fuel Security Period Joint Response Team (JRT), via the Authority, if they believe that the market has become, or could become, unstable. No specific guidance on how this should be done was included in the FSC itself.

3 Group Discussion

3.1 Cost Recovery Processes

3.1.1 The mechanism employed for the recovery of costs incurred by the payment of validated Fuel Security Period claims will be determined by the Authority. This is specified in section 19 of the FSC Guidance Note, which states that:

- All claims from Generators should be paid as quickly as is practicable after the claims have been validated by the BSC Panel and that the proportion of the exceptional costs allowed by the Panel shall be settled by Supplier Trading Parties as determined by Ofgem.
- Wherever possible Ofgem will confirm the cost recovery processes prior to Generators submitting claims. It is expected that these payments will be funded by National Grid and recovered from Suppliers.
- If appropriate, National Grid may seek approval from Ofgem to raise funds from Suppliers in anticipation of the requirement to make ultimate payment to Generators.

3.1.2 Though the cost recovery mechanism is at the discretion of the Authority, the Group and Ofgem agreed that consideration as part of Issue 33 would be a useful way to obtain input from the industry regarding the approach to cost recovery. The view of Ofgem was that three options were available:

- 1) Issue nothing further in relation to cost recovery (i.e. deal with cost recovery in relation to an FSC or Black Start Period at such time as it becomes necessary);
- 2) Issue guidance on the possible method that may be used to recover costs; or
- 3) Commit to a documented process for cost recovery.

3.1.3 The Group agreed with this assessment. The Group believed that options 2) and 3) were preferable. The rationale for this view was that Authority advice in this area *prior* to cost recovery becoming necessary would provide Parties, both during and in the aftermath of a Fuel Security or Black Start Period (i.e. times of potential confusion), with clarity around the likely/intended approach.

3.1.4 During drafting of the FSC and FSC Guidance Note, BERR was particularly concerned with regard to the potential impact on smaller Supplier Parties. It was anticipated that levying a single ad-hoc charge could be avoided. Instead it was envisaged that a Transmission Network Use of System (TNUoS) or Balancing Services Use of System (BSUoS) type charge might be applied. This could mean adopting a pence/kWh charge, perhaps determined using the BSC funding share methodology, applied over a period of time.

3.1.5 It was noted that the view of BERR when developing the FSC was that Fuel Security Period actions are taken by the Secretary of State on behalf of and for the benefit of customers; it is

therefore appropriate that customers (not Generators or Suppliers) fund such actions by paying any exceptional costs. The intent of the FSC and Black Start provisions was that validated costs incurred by Parties would ultimately be charged to customers. A TNUoS or BSUoS type pence/kWh charge could assign costs to customers in this manner via associated Suppliers.

- 3.1.6 NG clarified that payment of costs through BSUoS or TNUoS charges would require workarounds and a change to the Transmission Licence. The payment mechanism could conceivably be handled by the Funds Administration Agent (FAA). Workarounds would be required, but the FAA procedures involve some manual processes, which could facilitate workarounds.
- 3.1.7 The Group was concerned about the potential impact on customers in respect of NG recovering costs from Suppliers and Suppliers in turn looking for recover those costs (or at least a portion of) from its customers. The Group considered a number of aspects of cost recovery and claim payment, and the interaction between the two processes, including:
- How charging proportional to Metered Volumes could be achieved;
 - Timing of charging Suppliers to recover costs;
 - Whether a payment schedule (developed by the Claims Committee or NG) could be affected by the method of cost recovery employed (e.g. staggered payment to Generators to allow recovery of costs from Suppliers/customers over an extended period), and the impact of the FSC Guidance (Section 19) that it is appropriate that Generators receive payment of their valid claims as expeditiously as is practicable;
 - The impact of immediate payment (to Generators) and non-immediate cost recovery (from Suppliers/customers), and whether the amount to be recovered would affect the period over which the necessary charges would be levied on Suppliers; and
 - The impact of cost recovery over an extended period on Suppliers charging of customers (e.g. a Supplier's market share (number of customers) could decrease or increase over the cost recovery period).
- 3.1.8 The Group noted that the priority under the FSC was the expeditious payment of Generators' validated claims. In the context of the FSC, the recovery of funds used to pay these costs was a secondary consideration. The Group considered that a significant amount (e.g. £100M) could be recoverable in a single year, since it would be spread over approximately 24M electricity customers. Simplistically speaking this is equivalent to £1 per customer per quarter.
- 3.1.9 The Group considered that the time period for recovery of funds from customers should be balanced against any impact on the total amount to be recovered due to NG costs associated with financing immediate payment of Generators' claims. The Group suggested that the Authority might consider different guideline categories for recovery of NG costs incurred through the payment of claims and, to some extent, the timeframe for NG's payment of claims. The categories would be determined by the total amount recoverable by NG from customers. Possible categories, and associated approaches for claim payment and cost recovery, are as follows:
- 'Low level' payments (e.g. £3M or less) – immediate payment, recovery within 1 year;
 - 'Mid-level' payments (e.g. £3M to £10M) – payment manageable by NG, recovery within 1 year; and
 - 'Significant' payments (e.g. greater than £10M) – limit on payment prior to recovery, recovery over an extended period.

- 3.1.10 The Group also suggested that the Authority should consider setting a limit (or guideline) on the maximum cost recoverable per month, per customer (£/month/customer). This would determine, or at least inform, the cost recovery period relating to a payment of validated claims by NG. As part of a Modification following Issue 33 a mechanism for passing a validated claim to NG for payment might be developed.
- 3.1.11 The Group considered the best method to employ would be to recover costs via a £/MWh surcharge. ELEXON recommended that the BSC funding shares methodology would be the most accurate means of establishing charges. Other methods, such as TNUoS charges, would cause under-recovery, and therefore require correction in subsequent years. ELEXON maintained that there would be no over/under-recovery using funding shares, and undertook to provide the Group with an explanation of the operation of the funding shares methodology (Attachment A – Funding Shares Methodology).
- 3.1.12 The Group agreed that use of the funding shares methodology would be more efficient than TNUoS charging because the funding share methodology continuously reconciles itself. The Group therefore recommends to the Authority that the cost recovery mechanism should be based on the funding shares methodology.
- 3.1.13 The Group noted that NG believes that if it is to pay validated claims as soon as possible, limits must be placed on its liability. NG recommended that thresholds for cost recovery prior to payment should be introduced (e.g. 6 months available for recovery – £200M may be paid).
- 3.1.14 The Group agreed that costs should be recovered over a period of time determined by the Authority, such time period to be reflective of the magnitude of the amount to be recovered.

3.2 Interim Claims Processes

- 3.2.1 The FSC exceptional cost claims process, and the Claims Committee processes developed under Issue 33, accommodate submission of interim claims. The issue is how determination and payment of interim claims can be expedited where necessary.
- 3.2.2 The intent of the FSC is that Generators are able to receive payment for exceptional costs incurred in a Fuel Security Period sufficiently quickly that they are not at risk as a result of carrying out an FSC Direction. The process as set out in the FSC and FSC Guidance and the proposed refinements by the Issue 33 Group permits interim FSC exceptional cost claims to be made; the important aspect is ensuring that interim payments of validated claims to Generators can be expedited where necessary.
- 3.2.3 The Group's view was that interim payments would only be appropriate when claims were 'self-evident' claims (or parts of claims). If claims were not self-evident it did not appear possible to expedite their determination while ensuring the appropriate level of scrutiny is maintained. To facilitate timely determination of interim claims the Claims Committee should be set up as soon as reasonably practicable after a Fuel Security or Black Start Period has commenced.
- 3.2.4 The Claim Committee's validation process envisaged by the Group would facilitate interim claims by allowing prioritisation of the determination of some claims, or elements of claims. Elements of a claim could be prioritised for determination before/separate to the rest of the claim. Claimants would indicate as part of submission of a claim whether they wished for the claim itself or any element of the claim to be prioritised, though prioritisation would be at the discretion of the Claims Committee.

- 3.2.5 It was the Groups view that claims for which prioritisation is requested must be submitted in accordance with the procedure for normal claims. This means that the claim shall cover all costs relating to the BM Unit in the period being claimed for, and the total claim amount must be supported by evidence and certified at the time of submission.

3.3 Communication of Fuel Security Period

- 3.3.1 The provisions of the FSC supersede those of the BSC as stated in Section E of Part 2 of the FSC. This would include provisions within the FSC relating to Parties' Credit Cover. The Groups' view was that a Party should not be put in Credit Default due to complying with an FSC Direction. ELEXON must therefore be advised by NG of Generators in receipt of FSC Directions, in order to enable ELEXON to ensure those Generators are not at risk of entering Credit Default as a direct result of adhering to a FSC Direction. The Groups view was that ELEXON should treat as confidential notifications received from NG relating to confidential FSC Directions.
- 3.3.2 As part of a Modification which progresses the recommendations of Issue 33, it must be made clear that FSC Directions override any BSC requirements, including Credit Cover arrangements.
- 3.3.3 The Group did not regard general communication of a non-confidential Fuel Security Period as a significant issue. The BMRS could be used to communicate a Fuel Security Period; the suggestion was that there should be an obligation on NG to use all means available to communicate a non-confidential FSC period. As a minimum this would mean publishing notice of the Fuel Security Period on the BMRA.
- 3.3.4 The Group was also of the view that as part of any Modification which progresses Issue 33, a requirement should be included in the BSC that NG will inform ELEXON of a non-confidential Fuel Security Period and that, at a minimum notice will be published on the BMRS.

3.4 Presentation of Claims

- 3.4.1 The FSC dictates that only a single claim may be made per Lead Party, per BM Unit in receipt of a FSC Direction for a given period of time (which may or may not be the duration of the Fuel Security Period). The Group suggest that the submission of a claim should be via a BSCP-type form.
- 3.4.2 The FSC does not allow claimants to revise their claim amount after submission, and permits Claims to be submitted up to 60 days after the end of a Fuel Security Period. The Group agreed that this 60 day period does not allow much time to gather all evidence, and that there may be mitigating circumstances for later submission of further evidence.
- 3.4.3 It was noted that the Income Adjusting Events (IAE) claims process for NG cost claims requires NG to submit all evidence with the claim and permits 90 days for claim submission. NG believed the IAE process probably demands less detailed claims than those that may be required by the FSC.
- 3.4.4 There is provision within the FSC and FSC Guidance for the Panel/Claims Committee to request further evidence after initial claim submission, if they wish to do so. The Group agreed that if this right is utilised, then a Generator should have additional time to gather and submit such information to the Claims Committee. The Group suggested this additional period should be a further 60 days after the submission deadline. This would amount to a standing request from the Claims Committee for additional information in relation to all claims, though acceptance of evidence submitted after this further 60 days would still ultimately be at the discretion of the Claims Committee. Generators should be able to indicate when submitting a claim whether all

the relevant evidence they expect to obtain has been included. This would assist the Claims Committee in managing the claims process.

- 3.4.5 Under the FSC claims process evidence should be submitted in support of claims, and the Claims Committee may request further evidence. The burden of evidence lies with the claimant, i.e. it is not intended that the Claims Committee (or a Sub-Group) would actively investigate a claim, though they may need to take action to substantiate aspects of claims such as site visits to verify plant costs. However, a 'hearing' process could be used as part of the assessment process for some claims, to allow the Claims Committee to receive representations from claimants and to ask questions.
- 3.4.6 The Group considered the type of information that should be submitted by Generators to facilitate the validation of claims for exceptional costs. The Group agreed the information that should be submitted as part of claim; this information is detailed in section 2 of Appendix 1.
- 3.4.7 The Group concluded that a Generator should be able to withdraw a claim if it wished. The FSC and FSC Guidance make no provision for the withdrawal of claims, but if a Generator wished to withdraw a claim, they could indicate this to the Claims Committee who could determine a 'nil' validated amount in relation to the claim.
- 3.4.8 The Group considered the possibility of requiring an up-front deposit or refundable fee as part of a claim submission. The purpose of this would be to discourage spurious claims and fund the claims process in the short-term. However, the FSC does not provide for a claim fee. The Group concluded that while there is nothing in the FSC which specifically prohibits charging a fee or requiring a deposit, it would arguably be inconsistent with the general approach to charging and would be against the spirit of the FSC, which gives every Generator the right to claim for exceptional costs.

3.5 Role of BSC Panel

- 3.5.1 The FSC Guidance Note suggests a FSC Claims Committee (FSCCC) might be established by the Panel to assist in the validation of Generator claims for exceptional costs. The Group agreed it would be sensible to create a single Claims Committee which could function as either the FSCCC or a Black Start Claims Committee as required. The two functions would have similar Terms of Reference and procedures with minor clarifications and differences as required.
- 3.5.2 The Group obtained legal clarification from ELEXON in respect of the Panel's ability to delegate any of its functions. The legal advice clarified that the Panel is able to delegate its functions under the FSC to a Committee where the Panel considers the delegation of its functions is required for the effective performance of its functions under the FSC. Therefore the Panel could delegate to a Claims Committee its powers with regard to FSC Exceptional Cost and Black Start Avoidable Costs determinations.
- 3.5.3 This ability of delegation is derived from the fact that the FSC defines 'Panel' as meaning either the Panel itself or a Panel Committee. This is clear under the FSC Guidance and it would be appropriate to apply these principles equally to the claims process under the Black Start provisions under Section G (further clarification could be provided through the legal text of any Modification arising from this issue).

3.6 Role of the Claims Committee, Sub-Committees and Sub-Groups

- 3.6.1 Section 18 of the FSC Guidance Note concerns establishment by the Panel of a FSCCC and any other specialist/expert sub-committees (which would operate under the FSCCC/Claims Committee). Such establishment is subject to approval by the Authority.
- 3.6.2 The Group considered that this did not signify that the Authority was seeking to approve membership of sub-committees, but rather to ensure oversight of sub-committee establishment; to align with the FSC Guidance. The Group's view is that any Modification drafting should include a clause specifying that sub-committees are subject to approval by the Authority.
- 3.6.3 It was also the Group's view that it is not necessary for the Panel to have final sight of determinations made by the Claims Committee. The Claims Committee would be acting as the Panel (under the Panel's power of delegation), and in any case could consist partly or wholly of Panel members.
- 3.6.4 The Group agreed that sub-committees and sub-groups may carry out most of the actual claims validation work, particularly if the amount of work was significant (for instance due to a lengthy FSC period affecting all/many Parties). The Group considered the potential roles of both sub-committees and expert sub-groups or individuals. Sub-groups or individuals acting as expert advisors to the Claims Committee were considered as potentially more useful. Expert sub-groups could be used to validate evidence submitted and provide a recommendation to the Claims Committee. The Group considered that it should be made clear that it is envisaged that the Claims Committee will utilise experts in some capacity.
- 3.6.5 The Group considered that while disclosure of information and transparency of the process is important, confidentiality of commercially sensitive claim information must be maintained. The Group agreed that the Authority should publish the total validated claim amount relating to a Fuel Security Period, but the validated amount for individual Generators should not be made public. The Group considered that claims processes would usually be conducted in closed session to maintain confidentiality. Any experts commissioned to facilitate claims validation must be bound by confidentiality. The Group sought legal advice from ELEXON and concluded that the confidentiality of the Claims Committee processes would not be at risk due to disclosure requirements under the Freedom of Information Act and Energy Act.
- 3.6.6 The Group noted that it was possible in relation to a Black Start Period for the determination of a claim to be that the claimant has to pay an amount (though pragmatically such a claim would not be submitted). The Group agreed that a Modification progressing the recommendations of Issue 33 should address this issue as part of the Terms of Reference of the Claims Committee as applied to Black Start claims.

3.7 'De Minimis' Claims

- 3.7.1 The burden of proof for exceptional cost claims, and the associated effort required on the part of claimants to submit and pursue claims, could be substantial. Claimants are not excluded from asking to be paid for the cost of claiming. However, for a small financial claim it may not be worthwhile entering the claims process. The Group agreed that there should be a minimum claim amount, a 'de minimis' claim, below which the cost of the claim may be greater than the value of the claim itself. The Group concluded that the particular approach was necessary to ensure that such de minimis claims could be considered without disproportionate effort by the claimant or Claims Committee and without compromising the scrutiny of claims.

- 3.7.2 The Group agreed that there should be a de minimis claims process which would apply to both claims below the de minimis threshold and to any claim that is self-evident.
- 3.7.3 The Group agreed that the Claims Committee should set the de minimis threshold for claims relating to any particular Fuel Security or Black Start Period. However, there was a strong view within the Group that the wider industry community would have a view on the de minimis amount and would want to have input in the process of setting it. There was an argument that because the de minimis threshold should be defined by the amount of effort required by claimants to participate in the claims process, it was proper that the industry should have input.
- 3.7.4 The Group discussed two potential means of obtaining industry input into the process of setting the de minimis threshold. There was a view that letting the Panel set the de minimis amount would in fact allow the industry view to be considered because the Panel, though independent, is representative of the industry as a whole. An alternative method would be an industry consultation on the de minimis threshold with the final decision being made by the Claims Committee.
- 3.7.5 The Group agreed that proportionality should be a basic and integral requirement of the claims process, which should be considered if the Claims Committee was solely responsible for setting the de minimis threshold. This would minimise the risk that the de minimis level could be set too low to ensure that each claim receives appropriate scrutiny, or too high with the result the claims process is unduly onerous for claimants.
- 3.7.6 The Group agreed that the proposal of incorporating an industry consultation into the process of setting a de minimis threshold should be considered further as part of a Modification Proposal progressing the conclusions and recommendations of the Issue 33 Group.

3.8 Market stability

- 3.8.1 The FSC Guidance contains a provision stating that the BSC Panel (or other market participants) may wish to inform the Fuel Security Period Joint Response Team (JRT), via the Authority, if they believe that the market has become, or could become, unstable. No specific guidance was included further to this.
- 3.8.2 NG, the Authority and BERR are the core members of the JRT. The Authority is the natural channel for Parties and the Panel reporting to the JRT any concerns regarding market stability. The Group believed that any concerns due to wider market issues should be reported to the JRT by Parties and the Panel via the Authority; NG should notify the JRT of any concerns resulting from its operational information; and NG, BERR and the Authority should report any concerns that arise from other areas.
- 3.8.3 Though this structure would be effective for major concerns, however the Group was of the view that it would be useful for Parties to be able to feed through their individual concerns to ELEXON as, cumulatively, 'minor' individual Party concerns could amount to a 'major' concern. This could be achieved by Parties notifying ELEXON of any such concerns; ELEXON would then report these concerns to the Panel. This would enable the Panel to monitor any individual and cumulative concerns of market participants, advised by ELEXON, and notify the Authority (and thereby the JRT) if it believes that any individual or cumulative concern it is aware of amounts to a significant threat to market stability.
- 3.8.4 It was the Groups view that any information submitted to ELEXON and the Panel to be passed to the Authority should be treated as confidential. ELEXON noted that guidance could be issued

around this matter, and if ELEXON received particularly urgent information it could notify the Authority immediately, while also informing the Panel.

- 3.8.5 The Group suggested it may be useful for ELEXON, where it is possible to do so, to produce a report similar to the Trading Operations Report (albeit pared down) on a daily basis during a FSC Period, to assist in monitoring the operation of the market.

4 Conclusions

- 4.1 Guidance should be provided in the BSC and associated documents through the BSC Modification process. The guidance should be in line with and informed by the discussions, agreements and conclusions of the Issue 33 Group as set out in this Report.
- 4.2 The agreements reached by the Issue 33 Group are set out in Appendix 1. The Group concluded that these agreements should be progressed as part of a single Modification Proposal raised to address the recommendations of both Issue 32 and Issue 33.
- 4.3 National Grid has indicated that they would be happy to work with ELEXON in drafting and then NG would submit any necessary Modification(s). The Issue Group volunteered to review any draft Modification. It was noted that the industry is committed to working on a number of changes related to Transmission Access and therefore work on progressing Issue 32 and 33 ideally would commence after the summer.
- 4.4 The Group also concluded that such a Modification should take into account the discussions summarised in this report and the points on which the Issue 33 Group did not reach agreement but recommended for further consideration by the Modification Group.
- 4.5 Any FSC or Black Start operational issues identified that are not included in the Modification Proposal should be progressed for resolution by ELEXON.
- 4.6 The Authority should provide further information on the method of cost recovery that will be employed as soon as is reasonably possible and not await an actual FSC or Black Start event. This could take the form of guidance or a defined procedure. The Group recommends to the Authority that cost recovery is achieved via the funding shares methodology, and is carried out in each case over a period of time determined by the Authority and depending on the amount to be recovered.

5 Recommendations

- 5.1 The Issue 33 Group invites the Panel to:
- a) **NOTE** the discussions, conclusions and agreements of the Issue 33 Group;
 - b) **NOTE** that the Issue 33 Group recommends that a single Modification Proposal should be raised to progress the recommendations of both Issue 32 and Issue 33; and
 - c) **NOTE** that ELEXON will assist in drafting a Modification with National Grid which can be submitted in the autumn.

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List of attachments

Attachment A – Funding Shares Methodology

APPENDIX 1 – GROUP DISCUSSION AND CLAIMS COMMITTEE DETAIL.

Agreements of the Issue 33 Group

Claims Committee

Applicability to FSC Claims and Black Start Claims

The Claims Committee would be used for validation of Black Start (BS) claims for 'Avoidable Costs' as well as for Fuel Security Code (FSC) Exceptional Costs. Appropriate clarification of terms and process timescales would be required, e.g. the deadlines for submission of claims are different for Black Start (20WDs) and FSC (60WDs).

Constitution of Claims Committee

The Claims Committee would be appointed by the Panel and may contain members of the Panel but does not have to (i.e. the Claims Committee could be the Panel, a subset of Panel members, or could have no direct operational Panel involvement).

Role of the Claims Committee

The Claims Committee would discharge the responsibilities ascribed to the BSC Panel in section G of the Code, the FSC and FSC guidance.

The Claims Committee may employ expert/technical/specialist sub-committees to delegate consideration claims to or advisory groups/individuals to assist it in determining the validity of claims. Specifically in relation to FSC claims only, establishment of sub-committees is subject to Ofgem not disapproving (i.e. the group will be established unless Ofgem notifies the Claims Committee of its specific disapproval); note this applies to establishment only, sub-committee (or indeed the Claims Committee) membership is not subject to Ofgem approval.

For avoidance of doubt, note that an expert or number of experts may be co-opted directly onto the Claims Committee. In such a case they would become a Claim Committee member rather than an advisory expert.

Submitting Claims

Claims must be submitted within:

- a) 60 days after the end of the FSC period for an FSC claim;
- b) 20 days after the end of the Black Start period for a Black Start claim (or such further time as agreed by the Claims Committee).

Claims must include:

- Claim amount for validation;
- Evidence in support of this claim amount;
- Director's certification of the claim;
- The actual Direction or Directions received (requested from National Grid if necessary); and
- Notice whether the generator expects to submit any further evidence (and any details i.e. type, when it may be obtained, why it is not currently available).

Generators would submit claims via a BSCP-type form. Claimants could advise whether they expect to submit further evidence within the timescale agreed by the Claims Committee, and the expected timeframes around the availability of further evidence. For avoidance of doubt, the claim amount for validation must be the actual amount for validation at the time of submission, i.e. the amount supported by evidence and certified (notwithstanding that the Claims Committee may choose to validate a greater or lesser amount in view of further evidence).

The claim amount for validation in the claim submission should be that supported by the evidence submitted with the claim; the Claims Committee may then adjust the validated claim amount as appropriate (Generators may suggest the revision that should result from further evidence submitted voluntarily, which aligns with the Claims Committee's role to validate claims). For avoidance of doubt, the claim amount for validation cannot be amended after the original submission, and adjustment of the validated claim amount from that submitted (i.e. either partial validation or amount adjusted up or down) is at the discretion of the Claims Committee (which will take into account any guidance from Ofgem and expert advice from sub-groups).

Submission of any further evidence after any claim deadline or deadline extension would have to be at the request of the Claims Committee, and the Claims Committee is under no obligation to accept further evidence after the main or extended period.

FSC specific variation: The FSC permits the Panel/Claims Committee to request further evidence at any time; in practice the Claims Committee would use this power to give a standard additional 60 days after the submission deadline to allow further evidence to be submitted by Generators.

De Minimis Claims Processing

The Claims Committee will determine a 'de minimis threshold' for claim amounts too small to warrant the normal claims process but which meet specific criteria for validation via a more simple/mechanistic process (e.g. fuel purchase invoice).

The 'de minimis' claims process validation process would apply if either or both of the following criteria apply:

- The claim amount is below the de minimis threshold level; or
- The claim is self-evident.

The Claims Committee will determine all aspects of a 'de minimis' claims validation process (including the de minimis claim threshold amount).

Claim Prioritisation, Interim Claims and Interim Payments

The validation process and the Claim Committee's assessment of claims may prioritise the determination of cost validation of claims. Elements of a single claim may be prioritised and validated before and separate to the remainder of the claim.

FSC specific variation: This would facilitate processing interim claims, which would be submitted in the same way as normal claims. The claimant would indicate whether it was requested that the whole claim or part of the claim should be prioritised.

To facilitate the validation of interim claims the Claims Committee should be set up as soon as reasonably practicable when an FSC Period is initiated.

Experts and Sub-Groups

Role of experts/sub-groups – Sub-groups could potentially perform the bulk of claim validation work, particularly if the volume and complexity of claims was significant (e.g. due to a lengthy FSC period affecting all/many Parties).

The role of sub-groups would be to validate aspects of claims that fall under their specialist area and advise the Claims Committee. The onus would remain on the claimant to supply evidence; the role of the Claims Committee (and any sub-groups supporting it) would be to verify (and adjust as necessary) claims. For avoidance of doubt, in accordance with this sub-groups would not actively gather evidence but would engage only in verification of evidence submitted.

The Claims Committee will make a judgement of the need to employ expert sub-groups based on the need for specialist expertise in relation to particular claim(s) and the need to delegate due to the volume of claims. The Claims Committee will be mindful of the need to maintain the efficiency of the process by minimising the number of sub-groups involved).

Possible areas constituting FSC Exceptional Costs

This is a suggested list of areas which might be considered reasonably to comprise 'exceptional costs' required for Generator operation in accordance with an FSC period, and therefore appropriate for inclusion in a FSC exceptional cost claim.

These areas could be used to facilitate the handling of claims by the Claims Committee, and might also be the areas for which specialist sub-groups may be formed and employed to advise the Claims Committee in validating claims.

This list is not intended to be exhaustive. There is no ability for a claimant to 'double recover' any of these costs; if they are able to trade commercially and do so, any income received should be used to offset the claimant's costs prior to making any claim under the provisions of the FSC. It is suggested that claim items may include:

- Fuel costs (including purchase, freight/transportation, storage, handling and use e.g. any changes to fuel efficiency arising from operating in accordance with the FSC, etc.);
- Insurance costs (including proportion of current insurance costs applied to the period in question as well as any increase in those costs arising due to the FSC period being invoked and/or resultant claim submissions, as appropriate);
- Financing costs (costs associated with funding the power station(s), via banking loan and/or via shareholder funds, using a reasonable rate of return/risk assessment);
- Overhead costs (cost of running the power station(s), including those associated with staffing e.g. overtime payments, and ancillary supplies, rent, etc.);
- Maintenance costs (costs associated with day-to-day operation, ongoing maintenance and wear & tear of plant/specific apparatus etc.);
- Damages (losses in respect of damage to property e.g. plant/apparatus or death/injury to persons);
- Emissions costs (cost of purchasing various emissions allowances, e.g. CO₂, NO_x and SO_x, needed to operate the power station(s), etc.);
- Industry charges (including proportion of current TNUoS and BSUoS charges applied to the claim period, and any additional charges arising from the FSC period being invoked and/or resultant claim submissions, as appropriate); and
- Other costs (any additional costs necessarily and properly incurred in good faith and on a basis consistent with commercial practices and procedures that were normal and prudent, after all reasonable efforts had been made to establish that no practicable alternative action (or inaction) was available at lower cost).

Possible areas constituting Black Start Avoidable Costs

The Authority determines at the start of the Black Start claims process items that cannot constitute Black Start costs and which cannot therefore be claimed for.

Withdrawal of Claims

Claimants may withdraw their claim at any time.

In the event of withdrawal of a claim the Claims Committee may still determine a validated claim amount.

In the case of a withdrawn claim, the determined validated amount would be zero.

The Modification Group progressing a Modification Proposal following Issue 33 should ensure as part of its assessment that no anomalous effects would be possible as a result of Black Start claim amounts being determined as zero in the case of withdrawn.

Role of ELEXON

ELEXON will provide to the Claims Committee:

- Any administrative and secretarial support necessary to assist the Claims Committee; and
- Any supporting information it requests which is available to ELEXON (e.g. Metered Volume data).

Role of Ofgem

Ofgem will be notified of any sub-groups or sub-committees that the Claims Committee wishes to set up. Unless Ofgem specifically communicates its disapproval, these will be established as the Claims Committee wishes.

FSC specific variation: FSC Guidance section 18 mandates that Ofgem must have the opportunity to give guidance in relation to the claims validation process. Ofgem would be invited to provide guidance:

- Prior to final determination of the validated claim amount – the intention is that guidance received would be general, and would therefore be published;
- As requested by the Claims Committee (which may make such a request at any time), for instance by email or by verbal request at a Claims Committee meeting – guidance received in response to such a request would be published unless considered confidential.

Assessment Phase

The Claims Committee will be responsible for establishing the detailed processes for assessing the validity of claims.

Final Determination

The Claims Committee will be responsible for establishing the detailed processes for final determination of the validity of claims. At this stage the Authority would be asked to provide any guidance it wished, prior to final determination by the Claims Committee.

Confidentiality

Meetings of the Claims Committee would be held in closed session to ensure confidentiality. As well as the Claims Committee and any sub-group members or experts, Ofgem and BERR would be free to attend meetings in an observational capacity. Relevant persons (e.g. representatives of claimants) would be invited to attend only for the consideration of particular claims, as deemed necessary by the Claims Committee. Information submitted by Generators as part of a claim (and in response to a request from the Claims Committee) would be treated as confidential by the Claims Committee.

Following the claims validation process, information held by the Claims Committee shall be destroyed after a period of time previously determined by the Claims Committee (and that date would be published to industry). For example, this time period may align with a time period permitted for appeal of the Credit Committee's determination.

Process Transparency and Disclosure of Information

The validation of final claim amounts is a matter of public interest; as such the Claims Committee and Ofgem would seek to maximise the transparency of the process and disclose all information possible whilst maintaining confidentiality of all commercially sensitive information.

The details of the validated amount relating to each individual claim would be provided to Ofgem. Only the total amount of the validated claims relating to a FSC or Black Start period (i.e. the sum of all validated generator claims) would be published. However if there are no conflicts with commercially confidential information lower level information should be published.

Cost Recovery

The mechanism employed to recover costs incurred by payment of validated claims is at the discretion of the Authority. However, this issue was considered under Issue 33 and the recommendation is that the cost recovery mechanism should be based on the funding shares methodology (i.e. unless the Authority determines otherwise). Cost recovery would be via a £/MWh surcharge or equivalent.

Costs recovered over a period of time determined by Ofgem. The Group considered that this could depend on the amount to be recovered, and believed that Ofgem should be mindful of the number of customers that costs would be spread across. For instance, even a sizeable sum spread over around 24 million customers could reasonably be recovered in a relatively short period of time.

Payment of Claims

It is anticipated that payment for claims for FSC periods would be made by National Grid as ELEXON Ltd does not have access to the same financial services or funds. Payment dates are not proscribed by Section G or the FSC. It is expected that payments would be made as soon as is reasonably possible but allowing for the payee to access funds and make payment. It is possible that payments may need to be staggered.

Operational Issues in a FSC Period

The intended model for operation of the market in a FSC period is that the market would function as normal for as long as possible, in contrast with a Black Start, in which the market is likely to be suspended from an early stage (e.g. if a couple of Generators fail, necessitating a Black Start, the market would be suspended). Consequently Settlement processes would continue to operate; costs accrued due to the FSC period may be subsequently recovered by Generators issued with a FSC Direction, assuming that such costs have not been excluded by the Committee after receipt of guidance from the Authority.

Credit Cover in a FSC Period

For the avoidance of doubt, FSC Directions override any BSC requirements on a Party who has received such a direction, including any relating to Credit Cover.

Notification

ELEXON should be notified of any instances of generators receiving FSC Directions (especially where these are given in confidence), in order to ensure that they are not placed in Credit Default as a result of a

Direction. Failure to do so could contribute to the market becoming unstable. ELEXON would treat such information as confidential.

In general National Grid will inform the industry where a non confidential FSC period is in effect. This information will be posted on the BMRS. If appropriate, ELEXON may also issue a circular.

Market instability

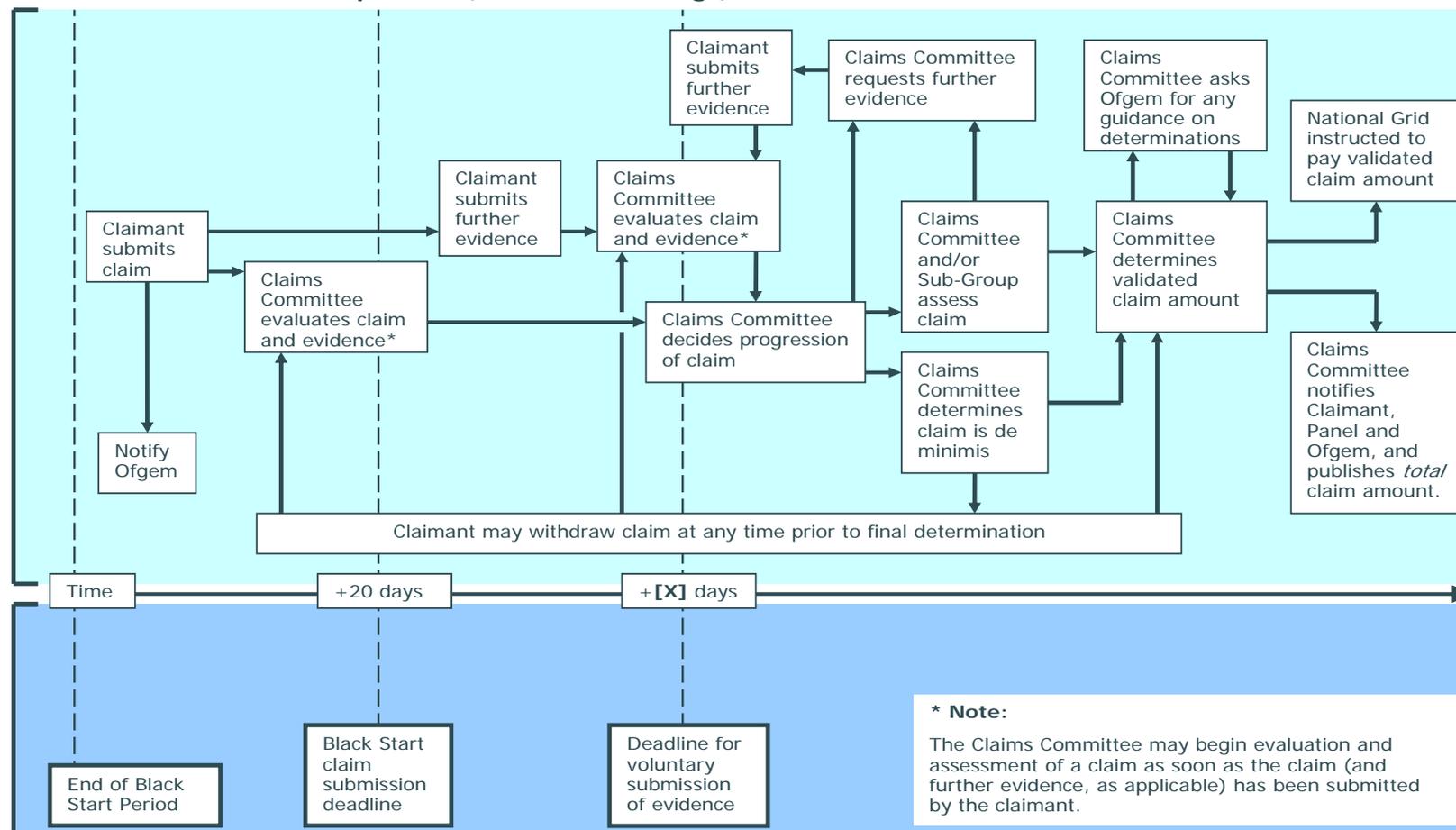
The BSC Panel has a role under an FSC period to advise the Joint Response Team of whether the market is becoming unstable. ELEXON would monitor the Imbalance Settlement processes and advise the Panel of unusual market behaviour or prices. The BSC Panel would advise Ofgem or National Grid of any concerns raised by ELEXON or the industry in relation to the stability of the market. In extreme circumstances ELEXON may directly advise National Grid and the Authority in parallel with the BSC Panel to ensure there is no unnecessary delay.

Single Imbalance Price

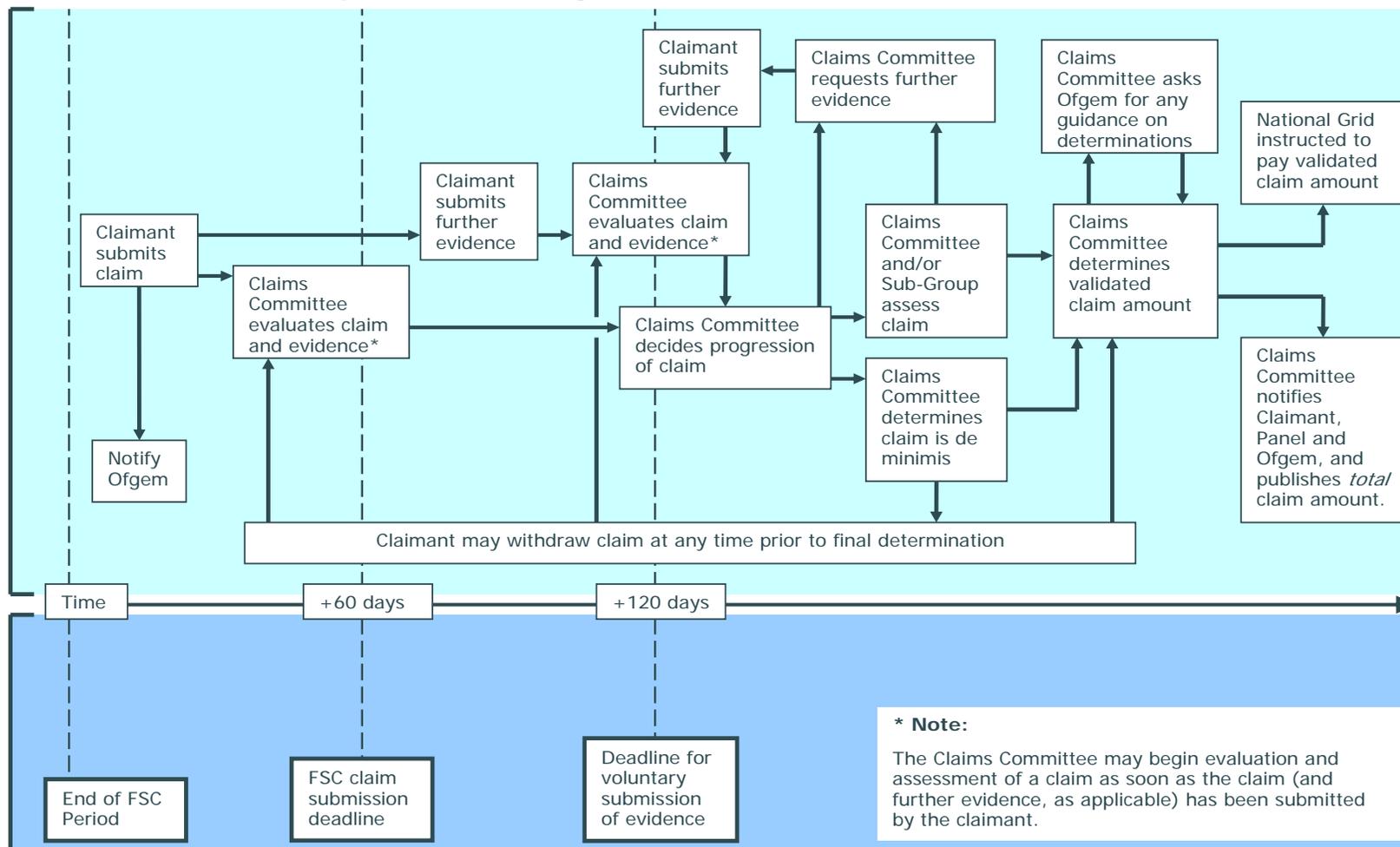
Where the Secretary of State has determined a Single Imbalance Price will be set. It is expected this Single Imbalance Price would be set in accordance with the processes established under the Issue 32 discussions.

APPENDIX 2 – DIAGRAM OF CLAIMS PROCESS

Claims Committee process (Black Start timings)



Claims Committee process (FSC timings)



Funding Shares Methodology

1.1 Introduction

This document seeks to explain the Weighted Average Charging methodology used by ELEXON.

The charging methodology is designed to ensure that each BSC Party pays the correct shares of ELEXON's costs. ELEXON charges in advance using Funding Shares. The Funding Shares are based on the relative metered energy of each Party. As ELEXON is not for profit, the cumulative amount charged to all Parties matches exactly ELEXON's costs for each financial year.

A worked example is set out in Appendix A.

1.2 Charging Methodology

When charging a Party in advance ELEXON faces two key problems:

- The trading data (e.g. metered energy) upon which the Funding Shares are calculated is not available; and
- The costs for the year have not been finalised.

These problems are resolved by using estimates of trading data and costs, using a cumulative approach to billing, replacing estimates with actual data when available, and performing a "true up" after the end of the financial year when actual trading data and costs are known.

1.3 Weighted Average Charging

The cumulative approach to billing involves first calculating each Party's estimated liability year to date.

For example if ELEXON is billing for month 6 of 12, each Party's estimated liability is calculated by taking that Party's estimated Average Funding Share for the total six months (using a combination of actual known trading data and estimated data), then multiplying the Average Funding share by half (i.e. 6/12) of the total estimated costs for the year.

The bill for month six is then calculated by taking a Party's estimated 6 month cumulative liability and simply subtracting the previous five months invoices charged.

This automatically ensures that previous estimates are replaced by the latest available information.

The true up after the end of the financial year takes the final average funding shares for each party using actual trading data, the final known costs for the financial year, calculates the final "true" liability for the financial year for each Party, and subtracts all previously invoiced amounts.

This methodology automatically accounts for Parties joining and leaving as the average funding share for the year will include months with no metered energy. It also automatically accounts for changes to market shares during the financial year.

The methodology can be used on a quarterly basis (e.g. to recharge the costs of the BETTA Programme) as well as on a monthly basis.

The end result after the true up is effectively to charge a £/MWh to each Party using the final costs and trading data for the year.

1.4 £/MWh Approach

The Weighted Average Charging methodology is designed to overcome the problems associated with simply charging a £/MWh.

Under a £/MWh approach, costs and trading data are estimated prior to the start of the period for which costs are being charged. Thus if £100,000 was being charged and the market was estimated to trade 100MWh over a period, each party would be charged £1,000 per MWh.

One problem with this approach is that the size of the market will change. For example if the market grows in excess of expectations to 110MWh, the total amount recovered will be £110,000. The additional £10,000 needs to be given back to Parties. This adjustment is usually included as part of the calculation to determine the next years £/MWh charge. If this is calculated before the start of a year then it needs to be estimated, introducing further inaccuracies.

The following example demonstrates the issue:

Aim – to recover £200,000 over two years.

Assume 100MWh energy traded per year. Set £/MWh at £1,000.

Part way through year 1 set charge for year 2. Assume 110MWh year 1 and 120MWh year 2. Set year 2 £/MWh as $\frac{£100,000}{120\text{MWh}}$ (£833/MWh) less estimated over recovery for year 1 $10\text{MWh} * \frac{£1,000}{120\text{MWh}}$ (£83/MWh) – equals £750/MWh

End of year 2. Actual MWh year 1 is 107MWh. Actual MWh year 2 is 125MWh. Amount recovered:

Year 1 $£1000 * 107\text{MWh} = £107,000$

Year 2 $£750 * 125\text{MWh} = £93,750$

Total recovered £200,750

Further give back required £750

Further complications arise if the £200,000 is an estimate and the final charge is a revised amount.

This example also demonstrates that the use of a straight £/MWh may not fairly accommodate changing market shares, as in this example if a Party's market share falls then that Party would pick up a higher proportion of the year 1 £1,000 MWh charge.

1.5 Conclusion

The Weighted Average Charging methodology is best placed to recover costs based on market shares.

APPENDIX A WEIGHTED AVERAGE CHARGING METHODOLOGY

This appendix provides a worked example of the weighted average charging methodology. This worked example was used as a drafting guideline for Section D of the BSC.

The following is a simplified worked example of how the Funding Shares methodology operates. In this example there is a total of three BSC Trading Parties with the year consisting of only four periods. The time delay in actual data becoming available is only one period. There are significant variances in the size of invoices and Funding Shares so the effects of revisions can be seen. However, in reality, such large changes do not currently occur. These simplifications have been made to ensure this example is reasonably straightforward and do not undermine the principle being demonstrated.

A.1 STANDARD PERIOD PAYMENTS

A.1.1 Period 1

During the first period the initial estimate is for a total invoice of £300k which is funded on the basis of the forecast Funding Shares for the first period. Note that BSC Trading Party 1 has 0% market share as if it had not yet entered the market.

Latest Shares	YTD Mean	F/Cast Period 1
BSC Trading Party 1	0%	0%
BSC Trading Party 2	60%	60%
BSC Trading Party 3	40%	40%
Funds Required	£300k	£300k
Payment Summary YTD Total Payments in Period 1		
BSC Trading Party 1	£0k	£0k
BSC Trading Party 2	£180k	£180k
BSC Trading Party 3	£120k	£120k
Total	£300k	£300k

A.1.2 Period 2

During the second period the initial estimate of £300k is replaced by the actual value of £90k. Forecast data is introduced as per the table below with forecast shares for period 2 being the latest actual available i.e. period 1. BSC Trading Party 3 paid £120k in period 1 but receives a £70k refund as its year to date liability is now £50k. In this example, BSC Trading Parties would receive a refund of £100k as the initial forecast for period 1 was too high. This refund would be distributed between BSC Trading Party 2 and BSC Trading Party 3.

Shares	YTD Mean	Actual Period 1	F/Cast Period 2
BSC Trading Party 1	0%	0%	0%
BSC Trading Party 2	75%	75%	75%
BSC Trading Party 3	25%	25%	25%
Funds Required	£200k	£90k	£110k
Payment Summary YTD Total		Payments in Period 1	Payments in Period 2
BSC Trading Party 1	£0k	£0k	£0k
BSC Trading Party 2	£150k	£180k	(£30k)
BSC Trading Party 3	£50k	£120k	(£70k)
Total	£200k	£300k	(£100k)

A.1.3 Period 3

Payments during the third period are based on actual data for two periods and forecast data for the third as per the table below. At this point BSC Trading Party 1 makes its first payment of £112k as its initial trading is incorporated in the calculation.

Latest Shares	YTD Mean	Actual Period 1	Actual Period 2	F/Cast Period 3
BSC Trading Party 1	20%	0%	30%	30%
BSC Trading Party 2	55%	75%	45%	45%
BSC Trading Party 3	25%	25%	25%	25%
Funds Required	£560k	£90k	£270k	£200k
Payment Summary YTD Total		Payments in Period 1	Payments in Period 2	Payments in Period 3
BSC Trading Party 1	£112k	£0k	£0k	£112k
BSC Trading Party 2	£308k	£180k	(£30k)	£158k
BSC Trading Party 3	£140k	£120k	(£70k)	£90k
Total	£560k	£300k	(£100k)	£360k

A.1.4 Period 4

During the fourth period BSC Trading Party 1 makes a more significant contribution (compared to BSC Trading Party 3) as its increasing Funding Share is reflected in the calculation. BSC Trading Party 2 receives a refund as its exit from the market is reflected in the calculation.

Latest Shares	YTD Mean	Actual Period 1	Actual Period 2	Actual Period 3	F/Cast Period 4
BSC Trading Party 1	40%	0%	30%	65%	65%
BSC Trading Party 2	30%	75%	45%	0%	0%
BSC Trading Party 3	30%	25%	25%	35%	35%
Funds Required	£960k	£90k	£270k	£310k	£290k
Payment Summary YTD Total		Payments in Period 1	Payments in Period 2	Payments in Period 3	Payments in Period 4
BSC Trading Party 1	£384k	£0k	£0k	£112k	£272k
BSC Trading Party 2	£288k	£180k	(£30k)	£158k	(£20k)
BSC Trading Party 3	£288k	£120k	(£70k)	£90k	£148k
Total	£960k	£300k	(£100k)	£360k	£400k

A.1.5 Period 5

The final adjustment payments are made during the fifth period as per the table below.

Latest Shares	YTD Mean	Actual Period 1	Actual Period 2	Actual Period 3	Actual Period 4	
BSC Trading Party 1	45%	0%	30%	65%	85%	
BSC Trading Party 2	30%	75%	45%	0%	0%	
BSC Trading Party 3	25%	25%	25%	35%	15%	
Funds Required	£1,000k	£90k	£270k	£310k	£330k	
Payment Summary	YTD Total	Payments in Period 1	Payments in Period 2	Payments in Period 3	Payments in Period 4	Payments in Period 5
BSC Trading Party 1	£450k	£0k	£0k	£112k	£272k	£66k
BSC Trading Party 2	£300k	£180k	(£30k)	£158k	(£20k)	£12k
BSC Trading Party 3	£250k	£120k	(£70k)	£90k	£148k	(£38k)
Total	£1,000k	£300k	(£100k)	£360k	£400k	£40k

A.2 SUMMARY

A.2.1 Payments and Liabilities

Below is a summary of the payments made under this example and the actual liabilities that have resulted from the new approach. In-line with the principle of sharing the total annual payments equally across the year each BSC Trading Parties total actual payments equate to these liabilities. The different spread of period payments results from the use of initial data for primary financing purposes. If payments could be made with perfect foresight these would be in line with the liabilities listed below.

Liabilities	Total Liability	Period 1	Period 2	Period 3	Period 4	Full Year Mean
BSC Trading Party 1	£450k	£0.0k	£75.0k	£162.5k	£212.5k	45%
BSC Trading Party 2	£300k	£187.5k	£112.5k	£0.0k	£0.0k	30%
BSC Trading Party 3	£250k	£62.5k	£62.5k	£87.5k	£37.5k	25%
Total	£1,000k	£250k	£250k	£250k	£250k	100%

Payments	Total Payment	Period 1	Period 2	Period 3	Period 4	Period 5
BSC Trading Party 1	£450k	£0k	£0k	£112k	£272k	£66k
BSC Trading Party 2	£300k	£180k	(£30k)	£158k	(£20k)	£12k
BSC Trading Party 3	£250k	£120k	(£70k)	£90k	£148k	(£38k)
Total	£1,000k	£300k	(£100k)	£360k	£400k	£40k

A.2.2 Base Data

The table below contains the share and invoice data used in this example. It is included for information only.

Actual Shares	Annual Mean	Period 0	Period 1	Period 2	Period 3	Period 4
BSC Trading Party 1	45%	0%	0%	30%	65%	85%
BSC Trading Party 2	30%	60%	75%	45%	0%	0%
BSC Trading Party 3	25%	40%	25%	25%	35%	15%
Total	100%	100%	100%	100%	100%	100%

Invoices	Total	Period 1	Period 2	Period 3	Period 4
Initial	£900k	£300k	£110k	£200k	£290k
Revised	£1,000k	£90k	£270k	£310k	£330k