

What stage is this document in the process?

- 01 Initial Written Assessment
- 02 Definition Procedure
- 03 Assessment Procedure
- 04 Report Phase


Stage 01: Initial Written Assessment


P247: Proposer 'ownership' of Modification Proposals

P247 would allow the Proposer of a BSC Modification Proposal to keep ownership of their change (i.e. to continue to shape and control the evolution of their original proposal) during its assessment.

Consistent with this principle, the Proposer would be able to withdraw their change at any time before it is submitted to the Authority.

 ELEXON recommends:
A 3-month Assessment Procedure

 Medium Impact:
All participants who are able to raise Modification Proposals and/or who are involved in the Modification Process

 Low Impact:
ELEXON as administrator of the Modification Process

Contents

1	Why Change?	3
2	Solution	4
3	Proposed Progression	5
4	Likely Impacts	9
5	Recommendations	9
6	Further Information	9

Attachment A: P247 Modification Proposal form

About This Document:

This document is an Initial Written Assessment (IWA), which ELEXON will present to the Panel on 10 December 2009. The Panel will consider the recommendations and will agree how to progress P247.

Further information is available in the P247 Modification Proposal, which is Attachment A to this document.



Any questions?

Contact:

Adam Lattimore



adam.lattimore@elexon.co.uk



020 7380 4363

163/12

P247

Initial Written Assessment

4 December 2009

Version 1.0

Page 2 of 9

© ELEXON Limited 2009



What's wrong with the current process?

Under the existing Modification Process, the Proposer is only able to withdraw their change up to the point that it is first presented to the Panel. The lack of an ability to withdraw a change after this point can result in time and effort being wasted in processing a proposal which has no support.

Discussion of a wider withdrawal process sits naturally with consideration of who should 'own' a change. Currently, 'ownership' of a Modification Proposal passes from the Proposer to the Modification Group when it enters the Definition or Assessment Procedures – hence why the Proposer cannot withdraw it after that point.¹

Currently, any refinement or development of the original change (whether as part of the Proposed Modification or any Alternative Modification) is undertaken by the Group, with decisions being made on the basis of the majority view where there is no unanimity. Making solution decisions by majority places importance on the original wording of the Modification Proposal (sometimes involving ELEXON's legal advice on what is 'in' or 'out' of scope), since this is the only means by which the Proposer can formally control the evolution of the proposal. P247 argues that this means that, when drafting proposals, Proposers therefore have to tread a fine balance between the risk that a Group can develop the change differently to the Proposer's intention (if the original proposal is too loosely worded), or can act to constrain refinements (if the proposal is worded too tightly).

The P247 Modification Proposal form (Attachment A) contains the Proposer's full description of these issues.

What do other codes do?

P247 notes that other codes such as the Connection and Use of System Code (CUSC) and the Uniform Network Code (UNC) allow the Proposer to maintain ownership of their original change during its assessment, and to withdraw it at any point before it is submitted to the Authority.

Ofgem's Code Administrator Working Group (CAWG) has concluded that 'Proposer ownership' is an example of best practice in code administration, and this principle is therefore included in the draft Code Administrator Code of Practice developed by ELEXON, National Grid and the Joint Office for the BSC, CUSC and UNC.

Proposer's Quote:

"Current BSC Modification procedures can frustrate the development and efficient prosecution of otherwise viable Modification Proposals."

¹ No changes can be made to a proposal's solution during the Report Phase (since by that point the Panel has made an initial recommendation on whether it should be approved), although minor amendments can be made to its legal text up to the point at which it is submitted to the Authority.



What new principles does P247 suggest?

P247 would allow the Proposer of a BSC Modification Proposal to:

- **Keep ownership of the solution for the Proposed Modification up to the point at which the Modification Group makes its final recommendation to the Panel.**

The Modification Group would offer advice and assistance, and would be able to develop an Alternative Modification, but only the Proposer would be able to refine the Proposed Modification. ELEXON as code administrator would continue to act as a 'critical friend'. If the Proposer makes any refinements to the Proposed Modification, they would be expected to provide justification for how the refinement better meets the Applicable BSC Objectives.

- **Address the Panel at the meetings where it makes its recommendation to the Authority.**

Currently, the BSC only requires the Panel to invite the Proposer to present their change at the Initial Written Assessment stage of its progression (after which the Proposer loses ownership).

- **Withdraw their change for any reason, at any time before it is submitted to the Authority (or at least up to the point at which the Panel makes its final recommendation).**

There would be an opportunity for another Party to take over as Proposer and become the new 'owner' of the change. This provides a safeguard that a change would not be withdrawn if there was still some appetite from the industry to explore it further.

You can find the Proposer's full explanation of these principles in their Modification Proposal form (Attachment A).

Why will these principles be better?

P247 argues that introducing these principles to the BSC will better facilitate the achievement of **Applicable BSC Objectives (c) and (d)**.

Table 1 summarises the benefits identified by P247 against each of these Objectives. The Modification Proposal form (Attachment A) contains the Proposer's full reasoning.

Table 1 – Summary of Proposer's views against Applicable Objectives

Applicable BSC Objective	Benefit identified by P247
Objective (a)	None.
Objective (b)	None.
Objective (c)	The current arrangements may deter Parties from proposing changes to the BSC, particularly where they have limited resources to participate in Modification Groups. Innovative and creative ideas may be lost or distorted, hindering code evolution and competition. P247 will also enhance competition by aligning BSC processes with the UNC and CUSC, making it easier for participants to work across codes.

Proposer's Quote:

"This proposal essentially ensures a Proposer's undistorted Modification Proposal will always be presented to Ofgem for a decision if that is their wish...

Ultimately ensuring that Proposers retain 'ownership' of their proposal provides greater confidence to both existing and potential Proposers that the Modification process is fair".

Applicable BSC Objective	Benefit identified by P247
Objective (d)	Allowing the Proposer to correct minor errors or oversights in the original wording of their proposal removes the need to raise further (separate) modifications, results in more thorough proposals and therefore in more effective consultations. This will promote efficiency. P247 will also enhance efficiency by aligning BSC processes with other codes, making cross-code working easier for participants.

3 Proposed Progression

What is the recommended way forward?

The principles raised by P247 have already been discussed at a high level by the CAWG. We recommend that P247 progresses to the Assessment Procedure, so that:

- These principles can be more widely considered and consulted on in the context of the BSC; and
- The lower-level process to support these principles can be developed.

We recommend that P247 is considered by the BSC's Governance Standing Modification Group (GSMG). However, as it is some years since this group has met, we propose taking the opportunity to refresh and/or supplement its membership with individuals who have expertise in the BSC Modification Process and (if possible) in the CUSC or UNC change processes. Ideally, we will be looking for individuals who have experience of acting both as Proposers of change and as Modification Group members under these codes.

Terms of Reference

In addition to the standard Assessment Procedure activities,² ELEXON recommends that the Modification Group considers whether changes may be needed to other parts of the Modification Process to support the P247 principles.

Table 2 gives our initial thoughts on which areas of the process may also have some relationship to the principles around who owns a change, and how these could support P247. We have already given some thought to this during the CAWG's discussions, and therefore include our initial ideas here in case the Group finds these helpful.

Table 2 also lists some areas where the Group will need to consider how to achieve the P247 principles in practice, when developing the lower-level process to support these principles. We suggest that the Group may wish to keep in mind the aims of Ofgem's Governance Review. These are that code administrators and code modification processes should:

- Promote inclusive, accessible and effective consultation;
- Be governed by processes that are transparent and easily understood;
- Be administrated in an impartial and objective manner;
- Provide rigorous high quality analysis of any case for change;
- Be cost effective;

² Industry consultation, assessment against the Applicable BSC Objectives, consideration of any Alternative Modification, development of an Implementation Date and legal text, and production of an Assessment Report to the Panel.



Modification Group Terms of Reference

You can download the GSMG's standard Terms of Reference [here](#).

ELEXON recommends that the P247 Terms of Reference should also include the specific areas identified in this IWA.

163/12

P247
Initial Written Assessment

4 December 2009

Version 1.0

Page 5 of 9

© ELEXON Limited 2009

- Contain rules and processes that are sufficiently flexible to allow for efficient change management; and
- Be delivered in a manner that results in a proportionate regulatory burden.

It is likely that Ofgem's consultation on its initial Governance Review proposals will be published while the Group is considering P247. The Group may wish to be mindful of any recommendations made in this consultation.

Table 2 – ELEXON's suggested areas for the P247 Terms of Reference

Area	Reason for inclusion in Terms of Reference
Extent of refinements allowed	<p>The aim of P247 is that the Proposer should be able to amend the Proposed Modification solution in any way they wish to support the original intention of their change.</p> <p>The Group may wish to consider whether the Assessment Procedure reports would be the record of any amendments made (as in the CUSC), or if the Proposer should also update the Modification Proposal form to reflect these.</p>
Role of Modification Group, ELEXON and Panel	<p>We suggest that the Proposer's 'ownership' of their intended solution could remain distinct from 'ownership' of the process itself and its outputs. This would be consistent with how the 'Proposer ownership' principle operates under other codes like the CUSC, but the P247 Group should discuss what is best practice in this area.</p> <p>For example, P247 does not affect the Modification Group's right to develop an Alternative Modification. We assume that the Group would also continue to 'own' the other outputs of its discussions (e.g. it would collectively sign off reports, and agree Implementation Dates). Although the Proposer would own the Proposed Modification solution, the Group could review the legal text for the clarity and robustness in which it delivers the Proposer's solution (similar to the way that legal text is currently owned by Modification Groups and the Panel, but is consulted on). We also assume that ELEXON (in its role as 'critical friend') would continue to facilitate Group discussion as Chair and Lead Analyst, would still produce the legal text, and would still write and present reports on behalf of the Group. The Panel would still set the Terms of Reference and progression timetable at the IWA stage. The Panel would continue to be able to make minor adjustments to legal text in the Report Phase (e.g. to correct any typos), providing these did not alter the solution.</p>
Role of Definition Procedure	<p>Could introducing the 'Proposer ownership' principle remove the need for the existing Definition Procedure?</p> <p>This was originally intended to help a Group (as the collective 'owner' of a proposal) define what the proposal is seeking to do where this is unclear from its original wording.</p> <p>If the Proposer keeps ownership and can define/refine/ develop their change throughout the process, a formal Definition Procedure could be viewed as unnecessary?</p>

Area	Reason for inclusion in Terms of Reference
Appropriateness of Amalgamation	<p>If the Proposer owns the change, is the Panel's existing ability to amalgamate substantially-similar Modification Proposals still appropriate?</p> <p>One option could be to allow the Panel to amalgamate changes only where the Proposers of these changes agree (potentially requiring them to nominate a single Proposer for the amalgamated change). Another could be to remove this ability altogether as Proposers will always have the option to withdraw their change.</p>
Proposer resource	<p>The P247 Group may wish to consider whether introducing the 'Proposer owns' principle could make it more important that the Proposer (or their nominated representative) attends Modification Group meetings and, if so, how this could be achieved.</p>
Panel as Proposer	<p>We assume that, where the Panel is Proposer of a change³, they will 'own' that change in the same way as any other Proposer.</p> <p>Currently, ELEXON acts as the Proposer's Representative for Panel-raised changes (as these are raised following an ELEXON recommendation to the Panel – either on its own behalf, or on behalf of the Trading Disputes Committee or Performance Assurance Board).</p> <p>We suggest that this practice could continue under P247, with ELEXON providing regular updates to the Panel on the progress of its change.</p>
Replacement Proposers	<p>What would happen if more than one Party comes forward as a potential replacement Proposer?</p> <p>One option could be for the Parties to agree a single Proposer among themselves. Another could be to use the first nomination received (as happens under the CUSC).</p>
Role of urgency recommendations	<p>Currently, ELEXON and the Transmission Company (as well as the Proposer) can recommend that a change is progressed as an Urgent Modification Proposal. It is assumed that this ability would remain, as it relates to process and timetable (which are Panel decisions) rather than the solution (which the Proposer would own).</p>
P247 implementation approach	<p>The Group may wish to consider how the implementation of P247 would affect changes which are already in the process.</p> <p>One option could be for these to continue through their lifecycle under the old process, with P247 applying to all new changes raised after the Implementation Date.</p>

163/12

P247
Initial Written Assessment

4 December 2009

Version 1.0

Page 7 of 9

© ELEXON Limited 2009

³ The Panel can raise Modification Proposals in limited circumstances. It can raise 'efficiency' or 'housekeeping' changes on ELEXON's recommendation. It can also raise changes following a recommendation from the Trading Disputes Committee (where the change relates to a Trading Dispute), or the Performance Assurance Board (where the change relates to the PAB's functions or a Performance Assurance Technique).



Timetable

The volume of BSC Modification Proposals is currently high. However, we believe it is feasible to complete the necessary P247 assessment activities in 3 months without overburdening the industry.

Timetable and costs

The main activities for the P247 Modification Group will be to walk through the current Modification Process, identify where changes are needed to support the P247 principles, and develop legal drafting to achieve this. We believe that it could be beneficial for Parties if this legal text forms part of the Assessment Procedure consultation. We estimate that it will take 3-4 Modification Group meetings to complete these activities, with a further post-consultation meeting needed to discuss the industry responses and make a final recommendation.

The volume of BSC Modification Proposals is currently high – with four already in the process, two more tabled at this Panel meeting to be raised, and several more expected over the next month (e.g. the changes arising from Issue 38). Some of these changes require a high level of industry work due to their complexity (e.g. P229) or potential urgency/priority (P246 and possibly Issue 38).

However, based on this current and anticipated workload, we believe that it is feasible to complete the necessary P247 assessment activities in 3 months without overburdening the industry. Table 3 contains our suggested plan for the Group's activities. We will continue to monitor industry workload and advise the Panel of any potential resource issues.

Table 4 shows our estimate of the costs to progress P247 up to its submission to the Authority.

Table 3 – Suggested plan of activities

Assessment activity	Date
Modification Group meeting 1	11 January 2010
Modification Group meeting 2	19 January 2010
Modification Group meeting 3	20 January 2010
Modification Group meeting 4	27 January 2010
Draft consultation document	28-29 January 2010
Group review	1-3 February 2010 (3 Working Days)
Assessment Procedure Consultation	5-19 February 2010 (10 Working Days)
Modification Group meeting 5	24 February 2010
Draft Assessment Report	25-26 February 2010
Group review	26 February – 3 March 2010 (4 Working Days)
Submit Assessment Report to Panel	5 March 2010
Present Assessment Report to Panel	11 March 2010

Table 4 – Estimated costs of progressing P247 through the Modification Process

Estimated progression costs based on proposed 4-month timetable	
Meeting costs (including Modification Group member expenses)	£2,500
ELEXON resource	60 man days of effort, equating to £14,500

163/12

P247
Initial Written Assessment

4 December 2009

Version 1.0

Page 8 of 9

© ELEXON Limited 2009

4 Likely Impacts



At this stage, ELEXON believes that P247 will or may impact:

- Section F of the BSC, which sets out the Modification Process and the rights and obligations of all participants in that process;
- Those participants who are able to raise Modification Proposals (BSC Parties, the National Consumer Council, any third-party bodies designated by the Authority, and the Panel in limited circumstances);
- Those participants who are involved in the Modification Process (e.g. Modification Groups and the Panel);
- ELEXON's working practices as the administrator of the Modification Process; and
- ELEXON's guidance documents for Parties on the Modification Process.

Recommendation

ELEXON recommends a 3-month Assessment Procedure for P247.

5 Recommendations

On the basis of this IWA, ELEXON invites the Panel to:

- DETERMINE that Modification Proposal P247 progresses to the Assessment Procedure;
- AGREE an Assessment Procedure timetable of 3 months, such that an Assessment Report will be completed and submitted to the Panel at its meeting on 11 March 2010;
- DETERMINE that the P247 Modification Group will be formed from members of the Governance Standing Modification Group, whose membership will be refreshed and/or supplemented with individuals who have expertise in the BSC Modification Process and (if possible) in the CUSC or UNC change processes; and
- AGREE the Modification Group's Terms of Reference.

6 Further Information

You can find more information in:

Attachment A: P247 Modification Proposal form

Modification Proposal – BSCP40/03	MP No: P247 <i>(mandatory by BSCCo)</i>
Title of Modification Proposal Proposer ‘ownership’ of Modification Proposals	
Submission Date 01 December 2009	
Description of Proposed Modification It is proposed that the BSC Modification Procedures should allow a Proposer more control in steering their proposal through the process and allow them if they wish to refine ¹ the proposal with the assistance of the Modification Group and code administrator (acting in the role of ‘critical friend’). It is proposed that: <ol style="list-style-type: none"> 1. The Proposer of a Modification Proposal should be able to refine the Proposed Modification with the assistance of the Modification Group and the code administrator, but would not be obliged to change the original proposal in line with a Group or administrator view. It is suggested that adjustments would be allowed up until the Modification Group make their final recommendation to the Panel, so that consultation comments can be taken into account as appropriate. 2. The Proposer should have the right to withdraw a proposal on notice to the Modification Secretary, ideally at any time prior to submission of the proposal to the Authority (as applies in practice under Codes such as the UNC and CUSC)². The Group may wish to consider the appropriate cut-off point for withdrawal of Modifications but the Proposer considers withdrawal rights should at the very least be permitted up until the Panel makes a final recommendation to the Authority on whether the Modification should be implemented. 3. A Modification Proposal could be ‘adopted’ by another Party in the event of the Proposer withdrawing it, leading to the transferral of ‘owner’ rights. 4. The Proposer should have the right to address the Panel at those Panel meetings at which a recommendation to the Authority is to be made. <p>If the Proposer makes changes to the Proposed Modification as originally raised, they would be expected to update the rationale justifying how the revised solution continues to meet the Applicable BSC Objective(s). This proposal would have no impact on the Modification Group’s right to advance an Alternative solution if judged appropriate by the Group in line with Section F 2.6.4(b)).</p>	

¹ For the avoidance of doubt, ‘refinements’ being to the solution proposed, not to the Issue or Defect being addressed.

² BSC Code Section F 2.1.12: currently withdrawal of a proposal is only allowed prior to the first BSC Panel at which it is to be considered.

Modification Proposal – BSCP40/03	MP No: P247 <i>(mandatory by BSCCo)</i>
<p>Description of Issue or Defect that Modification Proposal Seeks to Address</p> <p>Part of Ofgem’s Code Governance review constituted the Code Administrator Working Group (CAWG) to focus on improvements to Code administration with an emphasis on small participant initiatives. The CAWG concluded that Proposer ‘ownership’ of (original) Modification Proposals and managing Modification processes accordingly was one example of best practice.</p> <p>Current BSC Modification procedures can frustrate the development and efficient prosecution of otherwise viable Modification Proposals. Once the BSC Panel refers a proposal to a Modification Group for consideration, the Proposer effectively loses control of their proposal and its subsequent development is largely at the behest of the relevant Modification Group.</p> <p>This provides an inherent procedural advantage to Modification Group members who favour the status quo and where proposal wording is not absolutely precise (intentionally or inadvertently) it is not uncommon for such members to seek to disallow improvements to a proposal that might otherwise improve the chances of that proposal being implemented. Alternatively the development of the proposal can be taken in a direction that was never conceived by the Proposer.</p> <p>Under the current arrangements the ability of the Proposer to exert a degree of control is largely dependent on the proposal description, particularly how the issue or defect is articulated; define this too tightly and Modification Group members may try to limit its scope; define it too loosely and the proposal risks being distorted even though the intent of the proposal may be clear.</p> <p>Under the UNC and CUSC Modification Procedures and practices, ‘ownership’ of the original proposal effectively remains with the Proposer and the Modification Group acts largely in an advisory capacity. Thus the Proposer can refine his or her comments in the light of ideas and suggestions arising from Modification Group discussions or indeed points raised during consultations. In addition if it becomes clear that a proposal is not viable the Proposer can voluntarily withdraw the proposal thus avoiding nugatory work.</p> <p>All BSC Parties, whether large or small, that have sought to progress controversial proposals will have faced these problems. However it is perhaps certain classes of users including small suppliers that are less familiar with BSC Procedures who may face the greatest difficulties.</p> <p>This proposal essentially ensures a Proposer’s undistorted Modification Proposal will always be presented to Ofgem for a decision if that is their wish. The proposal is about ensuring that viable proposals can be developed in an open, supportive but rigorous environment with the Proposer being able to draw on the expertise of the Modification Group and relevant BSCCo. analysts as appropriate. Ultimately ensuring that Proposers retain ‘ownership’ of their proposal provides greater confidence to both existing and potential Proposers that the Modification process is fair. This proposal should remove procedural bias in the BSC Modification Procedures that might otherwise dissuade innovative ideas being brought forward.</p> <p>The option for a proposal to be withdrawn if wished by the Proposer would avoid further time and effort being wasted processing a proposal that might have transpired to be ill-conceived, unviable, etc. If there was still some appetite from others to explore it further, the safeguard of adoption rights (within a certain timeframe)³ ensures that any such proposal could still be taken forward and related work already undertaken utilised, under the ‘ownership’ of another Party.</p>	

³ (e.g. The CUSC 8.15.8 stipulates a window of 5 business days for adoption of a withdrawn Proposal by another Party).

Modification Proposal – BSCP40/03	MP No: P247 <i>(mandatory by BSCCo)</i>
<p>Impact on Code <i>(optional by originator)</i> Section F (Modification Procedures) shall be impacted.</p>	
<p>Impact on Core Industry Documents or System Operator-Transmission Owner Code <i>(optional by originator)</i> None expected.</p>	
<p>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by originator)</i> None expected.</p>	
<p>Impact on other Configurable Items <i>(optional by originator)</i> None expected.</p>	
<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator)</i></p> <p>The proposal will better facilitate Objective C. It is important that the Code Modification procedures are as clear and user-friendly as possible to encourage maximum engagement and participation by Parties, including classes of user who may hold a minority view or may otherwise not be well represented. Parties may be deterred by the current arrangements under which the Proposer has no further control once a proposal is submitted and ‘owned’ by the Group. This could be a particular problem where limited resources make full participation in Groups challenging and development and voting is undertaken by whichever Group members attend the relevant meeting(s). Even when a Proposer fully participates, having no more rights than any other Group member, imprecise drafting of the original proposal may lead to it being advanced in a way the Proposer did not intend. Innovative and creative ideas may thus not be brought to the table in the first place, or distorted by Group development, hindering Code evolution that could better enhance competition.</p> <p>The proposed Modification will also better facilitate Objective D, promoting efficiency in the implementation and administration of the balancing and settlement arrangements. The ability for a Proposer to further develop and refine their initial proposal with the assistance of the Modification Group and BSCCo. gives the possibility to correct any minor errors or oversights in the original wording removing the possibility that another proposal be needed for this. Refinements should result in more thorough proposals being advanced and more effective consultations.</p> <p>Competition and Efficiency would also be enhanced through the BSC processes aligning with those of the UNC and CUSC, making it easier for industry representatives to work across Codes.</p>	

Modification Proposal – BSCP40/03	MP No: P247 <i>(mandatory by BSCCo)</i>
Urgency Recommended: No <i>(optional by originator)</i>	
Justification for Urgency Recommendation <i>(mandatory by originator if recommending progression as an Urgent Modification Proposal)</i> n/a	
Details of Proposer: <i>Name...Peter Bolitho.....</i> <i>Organisation...E.ON UK plc.....</i> <i>Telephone Number...024 7618 3384.....</i> <i>Email Address...peter.bolitho@eon-uk.com.....</i>	
Details of Proposer’s Representative: <i>Name...Esther Sutton.....</i> <i>Organisation...E.ON UK plc.....</i> <i>Telephone Number...024 7618 3440.....</i> <i>Email address...esther.sutton@eon-uk.com.....</i>	
Details of Representative’s Alternate: <i>Name...Peter Bolitho.....</i> <i>Organisation...E.ON UK plc.....</i> <i>Telephone Number...024 7618 3384.....</i> <i>Email address... peter.bolitho@eon-uk.com</i>	
Attachments: No <i>(mandatory by originator)</i>	