ELEXON

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

P303 'Amendments to the Provisions for BSCCo Directors'

This Modification Proposal seeks to amend the current BSCCo Board Director provisions with the aim of increasing the pool of potential candidates that may fill a BSCCo Board Director position.

Assessment Procedure Consultation closes **5pm** on **19 August 2014**

The P303 Workgroup initially recommends **approval** of the P303 Alternative Modification

This Modification is expected to impact:

- BSCCo (ELEXON)
- BSC Parties

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About This Document

The purpose of this P303 Assessment Procedure Consultation is to invite BSC Parties and other interested parties to provide their views on the merits of P303. The P303 Workgroup will then discuss the consultation responses, before making a recommendation to the BSC Panel at its meeting on 11 September 2014 on whether or not to approve P303.

There are four parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach. It also summarises the Workgroup's key views on the areas set by the Panel in its Terms of Reference, and contains details of the Workgroup's membership and full Terms of Reference.
- Attachment A contains the draft redlined changes to the BSC for P303 Proposed solution.
- Attachment B contains the draft redlined changes to the BSC for P303 Alternative solution.
- Attachment C contains the specific questions on which the Workgroup seeks your views. Please use this form to provide your response to these questions, and to record any further views or comments you wish the Workgroup to consider.

Any questions?

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1 Summary

Why Change?

BSC Section C 'BSSCo and its Subsidiaries' sets out the current BSCCo Board Director provisions.

To be considered a non-industry independent Director an individual must be completely independent of the industry for five years meaning that they must not have been a Panel Member or an employee, Director or representative of a Party in this time. There is also the restriction that if the individual is involved in the industry, then they shall not be remunerated in their role as a Director.

It is suggested that these provisions restrict the pool of potential candidates who may apply for the BSCCo Board Director positions and should therefore be amended.

Proposed solution

Under the P303 Proposed Modification, the requirement of a five year gap will be removed and instead be replaced with an obligation on the Nomination Committee to have the flexibility to consider independence as part of the appointment process.

The proposed solution will also remove the current restriction that only industry independent Directors can be remunerated and instead give the Remuneration Committee the option to remunerate industry Directors.

Alternative solution

Under the P303 Alternative solution, the requirement of a five year gap will be removed, however the restriction that only industry independent directors can be remunerated will be retained.

Impacts & Costs

P303 will impact all **BSC Parties** as it amends the process for applying to the BSCCo Board.

Implementation

1 March 2015 to align with the next round of BSCCo Board Director appointments.

Recommendation

The Workgroup initially recommends that the:

- P303 Alternative solution should be approved; and
- P303 Proposed solution should be rejected.

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2 Why Change?

What is the BSCCo?

BSC Section C sets out the powers, functions, responsibilities and constitution of BSCCo, whose principle role is to give proper, effective and efficient implementation of the BSC.

What is the function of the BSCCo Board?

Under the BSC, the Board is responsible for:

- Appointing the BSCCo Chief Executive after consultation with the Panel (BSC Section C4.6); and
- Approving BSCCo's Annual Budget following consultation with BSC Parties and other interested parties (BSC Section C6.4).

In addition to its specific BSC requirements, the Board has the wider role of directing BSCCo. This role includes responsibility for monitoring BSCCo's performance, scrutiny of BSCCo's finances and ensuring that BSCCo operations are subject to effective cost-control. The manner in which the Board fulfils its role is not prescribed in the BSC. However, requirements (e.g. regarding quorum at meetings) are included in BSCCo's Articles of Association.

BSCCo Board structure

The size and composition of the BSC Board is determined by a Nomination Committee as defined in BSC Annex X-1. The Nomination Committee consists of the Chairman of the Board, an industry Director and a Director appointed under Section C4.1.3(c) of the BSC. The Terms of Reference of the Nomination Committee are approved by the BSC Panel. The BSC states that the Terms of Reference must:

- set out that the majority of the Board directors (excluding the Chairman) must have relevant electricity industry experience; and
- that at least two directors should be 'industry independent' members; meaning that in the last five years they must not have been a Panel Member or an employee, director or representative of a Party.

The Nomination Committee's Terms of Reference requires them to give due consideration to the UK Corporate Governance Code which sets out standards of good practice in relation to board leadership and effectiveness, remuneration, accountability and relations with shareholders. The UK Corporate Governance Code states that a Non-Executive Director (NED) is no longer considered independent if they have served on the Board for more than nine years from the date of their first election. An individual is therefore unable to go through the election process more than four times.

Section C4.2.1 provides that a Director shall hold office for a term of two years, but shall be eligible for reappointment on the expiry of this term. The BSC does not limit the number of times that a Director can be reappointed, however the normal expected term for a NED is six years. Taking the standards of best practice into account, after this time, the reasons for appointing a particular candidate would have to be clearly set out by the Nomination Committee in the Annual Report.

Where can I find more information about the Nomination Committee?

You can find further information on the duties and responsibilities of the Nomination Committee in its Terms of Reference here.

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Board Member expenses and remuneration

All Directors are entitled to recover reasonable costs and expenses including travel and accommodation costs. However, only industry independent Directors are remunerated for their time and effort as Directors on the Board. As set out in BSC Section C4.4.2, industry independent Directors' remuneration and benefits are decided by the Panel Chairman following consultation with the Panel.

Currently, the two industry independent Board Directors David Rigney and Gillian Wilmot are paid a flat rate fee and remunerated £26,000 per annum and £25,000 per annum respectively, with an expected workload of two days' worth of effort per month.

Where can I find more information on the current remuneration payable to all BSCCo Directors?

The remuneration and benefits payable to all BSCCo Directors can be found in the 'ELEXON Ltd Report and Financial statements' report at the following link.

What is the issue?

The Proposer of P303 believes that the current BSCCo Board Director provisions restrict the pool of candidates who may apply, with the absence of remuneration for industry directors and the requirement of a five year gap in the definition of an industry independent director.

There are two elements that the Proposer is seeking to address with the aim of increasing the pool of potential candidates:

Firstly, the Proposer argues that the timescale in the current definition of an industry independent director of a five year gap since a Board member has been a Panel Member or an employee, director or representative of a Party is not necessary. It is not clear why there needs to be this gap rather than simply the requirement that a director is not currently a Panel Member or an employee, director or representative of a Party. Having this requirement again restricts the potential pool of candidates who may apply to fill a director position.

Secondly, the Proposer argues that the current lack of remuneration for industry members does not reflect the considerable time and effort that an industry member will need to commit in their capacity as a Board member. This lack of remuneration for time and effort may put off potential candidates to the role.

The Proposer also notes that it is possible that industry directors may not be employed, and whilst they may have the experience to be an industry Board member, they may not be encouraged to apply while there is an absence of remuneration, which again restricts the pool of suitable candidates to fill the positions.

Furthermore, the Proposer also believes that there is an inequality with the current situation, as the existence of remuneration for other industry independent directors reflects their value to the Board and the time and effort they commit. The role of a BSCCo Board director is a responsible and substantive one and the Proposer therefore argues that this effort should be reflected for all directors, as it may pose as a barrier for potential candidates who may wish to apply to fill a position.

Although considered during the discussions of P281 'Change of BSCCo Board of Directors and Chairman', the restriction in BSC Section C4.4 that only the industry independent directors shall be entitled to receive remuneration and benefits was not amended. Some P281 Workgroup members had expressed the view that under the P281 arrangements, industry Board members should be remunerated, with the Nomination Committee Terms of Reference allowing some direction around pay, to ensure that Board members of the right calibre can be found (i.e. without the framework of Panel elections). However, the

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Group agreed that changes to Board remuneration arrangements were outside the scope of P281 and should be considered separately.

Overall, the P281 Workgroup agreed that no changes around Board remuneration arrangements should be made. However, the Panel and Workgroup highlighted that a separate change in this area could be progressed in the future. Similarly, the Authority decision letter on P281, whilst not explicitly commenting on remuneration, did not place any restrictions on a further modification being raised if it was considered that changes to other elements of the BSCCo Board arrangements would further contribute to the achievement of efficiency in the BSC.

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3 Proposed Solution

P303 seeks to amend the current BSCCo Board Director provisions in BSC Section C with the aim of increasing the pool of potential candidates that may apply to fill a BSCCo Board Director position. To achieve this, P303 proposes the following two changes:

1) Five year industry independent gap requirement

The requirement of a five year gap since a Board member has been a Panel Member or an employee, director or representative of a Party for industry independent Directors should be removed and replaced with an obligation on the Nomination Committee to consider independence as part of the appointment process.

To help decide whether a potential candidate is suitably independent, the Nomination Committee should assess applicants' 'independence of mind' which goes further than the five year limitation. To do so, they should take into account three qualitative measures to ensure that an individual has suitably detached themselves from any previous allegiances:

- a candidate's current and past employment;
- any affiliations or interests; and
- any additional involvement such as consultancy.

Potential candidates should also submit a 'declaration of interest' to the Nomination Committee which should include any interests they hold outside of their current position, including memberships of organisations that might affect their position on the Board or shares and stock in industry organisations. This enables the Nomination Committee to be able to use its discretion and helps make a decision on whether somebody should be considered as either industry or industry independent.

2) Remuneration restriction

The current restriction that only industry independent directors can be remunerated should be removed. Instead, the existing arrangements that industry independent Directors are remunerated will remain but the Remuneration Committee will have the option to remunerate industry Directors.

Further details of the Workgroup's discussions on the proposed solution are outlined in section 6.

Where can I find more information about the Remuneration Committee?

You can find further information on the duties and responsibilities of the Remuneration Committee in its Terms of Reference here.

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4 Potential Alternative solution

During its discussions, the P303 Workgroup came up with a potential alternative solution. The potential alternative solution is identical to the proposed solution in respect of removing the requirement of a five year gap since a Board member has been a Panel Member or an employee, director or representative of a Party for industry independent Directors and replacing this with an obligation on the Nomination Committee to have the flexibility to consider independence as part of the appointment process.

However, the Workgroup agreed that the existing arrangements that only industry independent Directors are remunerated should remain. Further details of the Workgroup's discussions on the alternative solution are outlined in section 6.

Assessment Consultation Questions
Are there any other alternative solutions which would better facilitate the Applicable BSC Objectives? *Please provide your rationale and, if 'Yes', please provide full details of your Alternative Modification(s) and your rationale as to why it/they better facilitate the Applicable BSC Objectives.*
The Workgroup invites you to give your views using the response form in Attachment C.

BSC Legal text

The proposed redlined changes to the BSC to deliver the P303 Proposed and Alternative solutions can be found in Attachments A and B respectively.

Assessment Consultation Question
Do you agree that the draft legal text delivers the intention of the Proposed and Alternative solutions for P303? *Please provide your rationale*.
The Workgroup invites you to give your views using the response form in Attachment C.

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5 Impacts & Costs

Estimated central implementation costs of P303

The central implementation costs to implement P303 will be approximately £240 (1 man day) in ELEXON effort.

P303 impacts

Impact on BSC Parties and Party Agents	
Party/Party Agent	Impact
BSC Parties	The proposed changes may impact who can sit on the BSCCo Board.

Impact on Transmission Company
There is no direct impact however the Transmission Company may have an interest in the governance of BSCCo.

Impact on BSCCo	
Area of ELEXON	Impact
BSC Governance	The governance of ELEXON (as BSCCo) would be amended by P303.

Impact on BSC Systems and process
No impact.

Impact on Code	
Code Section	Impact
Section C	Changes will be required to implement the solution.

Assessment Consultation Question
Please indicate the impacts of the Proposed and Alternative solutions for P303 on your organisation, in particular any perceived lead time and costs. *Please provide your rationale.*
The Workgroup invites you to give your views using the response form in Attachment C

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6 Implementation

Recommended Implementation Date

The Workgroup initially recommends an Implementation Date for P303 of **1 March 2015**.

Workgroup's consideration of the Implementation Date

This date is in line with the date of the next BSCCo Board appointment as the term of two industry Directors are due to expire on this date.

The Workgroup unanimously agreed that the proposed changes would only apply to future applicants of a Board member position. This would include existing Board members who re-apply for their positions as part of an open appointment process when their current term ends. The new arrangements would therefore be included in the new contract which would apply from the new date of appointment.

However, the Workgroup unanimously agreed that the proposed changes would not apply to the existing Board members, including Board members whose terms are continued as reappointments. They noted that as the current Board members applied for their roles under the terms and conditions set out at the time; it would therefore not be appropriate to amend these. The Workgroup agreed that this would be the fairest way of managing the process, taking into account that their positions would not have been openly advertised. Further details of the Workgroup's discussions on the recommended Implementation Date are outlined in section 6.

Assessment Consultation Question
Do you agree with the Workgroup's recommended Implementation Date? *Please provide your rationale.*
The Workgroup invites you to give your views using the response form in Attachment C.

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7 Workgroup's Discussions

The following section provides details on the P303 Workgroup discussions that led to the proposed and alternative solutions.

As background information, ELEXON informed the Group that in the previous BSCCo Board elections, there had been over 400 applications for the role of the non-industry NED but less than 15 applications for the industry Directors position. It was noted by the Workgroup members that more than 15 people approached the head-hunters for details on the industry Director position. ELEXON advised that the Workgroup should consider these statistics as part of its discussions.

Removal of the requirement of a five year gap

The Workgroup considered whether removing the requirement of a five year gap since a Board member has been a Panel member or an employee, director or representative of a Party would increase the pool of potential candidates applying and filling a BSCCo Board Director position.

Why have the current arrangements?

The Workgroup discussed the logic behind having industry independent Board members and why five years was deemed appropriate. A member noted that the aim of the Board NED structure was to bring independent expertise and view to the Board on specific matters, such as I.T procurement etc., whilst maintaining a distance from any specific industry Parties.

The Workgroup emphasised that the BSCCo Board structure is a unique model which largely differs from a 'normal' Board structure because of the nature of the company and its ownership. Workgroup members noted that the BSCCo Board is not responsible for doing things that 'normal' Boards would do such as finding ways of expanding the business.

The Workgroup noted that the requirement for the Nomination Committee to appoint Board members had been created under P281 in order to place more transparency around Board appointments. It was the expectation that the Nomination Committee would appoint industry independent Directors that have the required skills and knowledge that the Board may be missing at that particular time. Similarly, the Nomination Committee should also be responsible for appointing relevant experts who have the required experience and expertise within the electricity industry.

The Group also noted that P281 introduced the requirement of a five year gap before an individual could be considered independent. The Group discussed the P281 Workgroup's view that the five year gap was a sufficient amount of time for an individual to no longer have a perceived bias towards a party and that any built up allegiances in the past would be irrelevant after a five year gap. Therefore the individual concerned would be considered independent of industry at this point.

Establishing independence

Role of Nomination Committee

The Workgroup noted the P281 Workgroup's logic for a five year requirement but overall agreed that this is an arbitrary number. The Group therefore considered whether the Nomination Committee should have more flexibility around distinguishing whether a

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candidate is suitably independent rather than relying on the five year requirement introduced by P281.

Members of the Workgroup suggested that an obligation is placed on the Nomination Committee to assess potential applicants' 'independence of mind'. It was believed that this allowed discretion where a suitable candidate may have been out of the industry for four years but may be more suitable for the role than someone who has been out of the industry for six years.

The Workgroup agreed that in order to be able to assess an individual's independence, applicants should also submit a 'declaration of interest' similar to that of the House of Commons Register of Members' Interests which allows MPs to declare any interests that they hold outside of Parliament. These interests include outside jobs or consultancy work, and gifts or membership of organisations that might affect their position in Parliament. The Workgroup agreed that including this 'declaration of interest' will make the process more flexible so that the Nomination Committee takes this independence and the applicant's affiliation into account, which will include extra factors such as shareholdings. The Workgroup also noted that if an individual had a particular conflict of interest, the Chairman could ask the individual to do something about the conflict before agreeing to take up a position on the Board.

Several members queried whether asking the Nomination Committee to assess 'independence of mind' causes any Human Resources (HR) issues. A Workgroup member noted that as the Chairman of the company set up under the Smart Energy Code (SEC) he understood that when employing an independent Director, there were no HR issues for 'independence of mind' as they were just being asked to take various aspects into account when choosing a suitable candidate.

Members of the Group agreed that it is not ambiguous for the Nomination Committee to assess 'independence of mind' and should instead be considering additional criteria that an individual has to fulfil. They argued that a candidate still has to be of sufficient quality and meet the criteria for the Nomination Committee to be able use its discretion and make a decision on whether somebody is industry or industry independent. The majority of the Workgroup therefore agreed that a similar approach to the SEC should be taken for the BSCCo Board and subsequently, the five year requirement should be removed.

However, two Workgroup members argued that a specific clear timescale, such as two years, is required. They believed that a specific timescale provided a 'black and white' requirement removing any potential confusion.

It was also noted that without a clear date requirement an individual could in theory apply for both industry and industry independent Board Director positions. For example, an individual could have worked in the industry for 30 years, leave their role and the next day be available to be an industry independent director. However, a Workgroup member highlighted that it is about getting the right person for the role rather than being restrictive. They noted that allowing the Nominations Committee flexibility to do the job industry expects of them, will make it more likely that the right person will be appointed into the position. The also noted that the requirements of the Nomination Committee to consider independence will resolve this concern.

One Workgroup member suggested updating the definition 'industry', as they believed that it is currently prescriptive and could therefore restrict potential candidates such as consultants from applying any further. Members of the Workgroup believed that ideally, an industry member would be an expert in their field and have independent judgement. The Workgroup noted that this had previously been discussed under P281 and agreed it would

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be sufficient to allow the Nomination Committee to use their judgment rather than extending this definition even further and causing confusion.

Length of service on the Board

As noted in section 1, Section C4.2.1 provides that a Director shall hold office for a term of two years, but shall be eligible for reappointment on the expiry of this term. The BSC does not limit the number of times that a Director can be reappointed, however the normal expected term for a NED is six years. The terms of reference of the Nomination Committee require them to give due consideration to the provisions of the UK Corporate Governance Code so after this time, the reasons for appointing a particular candidate would have to be clearly set out by the Nomination Committee in the Annual Report.

One member argued that a timescale should be placed in the BSC so that there is a requirement detailing how long a Director can sit on the BSCCo Board. They were concerned that an individual could serve on the Board for two years as an industry Director, leave their position and then become re-appointed as an independent Director a few days later. The majority of the Workgroup agreed that the Nomination Committee would see through this when considering an individual's 'independence of mind' and that taking good corporate governance into account, it would be assumed that the individual had lost their independence after nine years.

The Group agreed that consideration should be taken when reappointing Board members who have served longer than six years and that no Board member should serve longer than nine years.

Overall, the Workgroup agreed that removing the five year requirement eliminates a prescriptive timeline and instead, an obligation should be placed on the Nomination Committee to use its discretion to assess potential candidates on an individual basis. The Workgroup highlighted that if the Nomination Committee has this discretion, then the five year gap will no longer be required as it does not eliminate people from the talent pool.

Remuneration of industry directors

The Workgroup considered whether removing the restriction that only industry independent directors can be awarded remuneration would increase the pool of potential candidates that may fill a BSCCo Board Director position.

A Group member asked what was the problem that this Modification was trying to address. The Proposer explained that it was seeking to try and attract and retain the best possible Board candidates whilst also removing a discrepancy between the two categories of Board members who both put in equal time and effort.

The Group questioned whether this meant that the current, or previous, Board members were not acceptable candidates; a view they strongly disagreed with.

A Workgroup member queried whether a Director had resigned from the BSCCo Board in the past because of a lack of remuneration. ELEXON advised that this has never been the case, however, the recruitment of industry Directors has only occurred recently so it may become an issue when industry directors come up for reappointment.

Members of the Workgroup commented that irrespective of remuneration, an individual has a fiduciary duty as a co-Director on the Board to properly devote the time and commitment required to discharge their roles effectively. They agreed that if somebody is not prepared to do so then they should not apply for the role. The Group commented that

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including remuneration in the package should not be the only incentive for an individual to devote the necessary time and effort to the role.

A Workgroup member queried whether 'benefits' in the BSC refers to travel expenses, accommodation etc. or whether they refer to benefits such as pension, health insurance, car etc. ELEXON confirmed that benefits in the BSC refer to any benefit other than financial remuneration (e.g. paying for an annual Board dinner, which would not be a reimbursement if the Board members do not fund this individually). ELEXON advised that none of BSCCo's Directors are entitled to employee benefits such as pensions as they are not considered employees of ELEXON. This would also have been highlighted in the advert for the position.

Discrepancy?

The question was put to the Group as to why the perceived discrepancy exists in the Board. It was asked whether it is acceptable to pay a Non-Executive Director if their other employment is, for example, in the banking sector; and yet not right to pay a Non-Executive Director because their other employment is in the electricity industry.

A Group member responded that non industry NEDs were paid in order to attract them to the post. This was particularly relevant where you are trying to attract the best candidate with, for example, procurement experience as this, along with IT experience, is a key part of the BSCCo role. However, it was felt that the industry NEDs did not seek financial reward but the kudos that being a Director of an organisation would bring, and the ability to provide industry representation when helping the organisation move forward. It was felt that the ability to return something to the industry was the reward industry directors sought over remuneration.

A member noted that the decision-making on BSC and industry matters is largely down to the BSC Panel and not BSCCo Board who are there for the more general day to day running of the business.

The Proposer questioned whether or not this meant that NEDs should be equally remunerated for their time and effort in line with the UK Governance Code. A member responded that since ELEXON is not considered a standard corporate model, perhaps the standard UK Governance Code on remuneration should not apply.

A Workgroup member highlighted that the industry representatives may not wish to be remunerated as it may cause more difficulties for their employer. Employers might not allow an individual to participate in a role outside of what they are contracted for if it is a paid position that does not bring direct benefit for the organisation. Similarly, if an individual does choose to be a NED for somewhere else, an employer will often deduct their time away from their salary. This can often be more hassle than it is worth for the individual.

It was noted that small Suppliers may not have the resource to be able to allow their employees to participate in the Board so remunerating may help them; unlike larger companies who could perhaps afford to support this resource without much effort.

Timing of this Modification

One member was concerned with the timing of the Modification and questioned why it is being raised now when the electricity industry is currently at the forefront of media speculation in relation to price sensitive issues such as rising bills. The Workgroup member highlighted that ELEXON suddenly remunerating all its Board Directors may not be

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perceived in a positive light given the current climate and noted that the perception of the industry is important to consider.

The Proposer responded that the Modification had been raised at this time because the Board had recently had a new Chair and new members who had looked at the structure of the Board and could not understand the discrepancy in remuneration when all Board members put in equal time and effort.

The Group asked for clarity around the salaries of the Board members. As noted in section one above, the remuneration to Board members is circa £25K per Director for an average of around 24 days a year.

Unintended consequences

The Workgroup expressed concerns that remunerating all Board members may have unintended consequences. These were:

- The expansion of remuneration. A Workgroup member expressed concern as to where the line of remuneration would stop if all BSCCo Board Director positions included remuneration. They noted that a potential argument could subsequently be raised for all BSC Panel members and Panel Committee members to also be remunerated. ELEXON noted that this is outside the scope of the P303 Modification and highlighted the difference between a NED performing a recognised employable function on the Board and the Panel who, as noted above, make industry impacting decisions and have industry members who have joined to help shape the market and regulations.
- P303 would be limiting the talent pool. Remuneration may act as a barrier and restrict the number of candidates who apply even further due to issues with employee release and complications over individual pay and contracts.
- The timing of this change could lead to bad publicity as Board members are remunerated at a time when the industry spending is under scrutiny.
- The quality of candidates may go down as "serial NEDs" apply for the posts simply because there is remuneration attached rather than industry members who want to return something to the industry.

Overall, the Workgroup unanimously agreed that the restriction that only industry independent directors can be awarded remuneration should remain. However, the Proposer was still of the opinion that the terms of the appointment should include the option of remuneration so that the applicant has the choice to accept or decline remuneration as part of their contract. This therefore remains included as part of the proposed solution.

As a separate request, the Workgroup asked that after the next appointment process, the number of applicants for the non-industry and industry NED roles should be fed back to the Panel as a key performance measure. This is so the new statistics can be compared to the previous appointment numbers prior to the implementation of P303.

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Workgroup's views against the Applicable BSC Objectives

The Workgroup provided its views on both the P303 proposed and alternative solutions against the Applicable BSC Objectives. The majority of the Workgroup agreed that the P303 alternative solution would overall better facilitate the Applicable BSC Objectives compared with both the existing baseline and the proposed solution. The Proposer recognised that the alternative solution is better than the current baseline but believed that the P303 proposed solution is better than the alternative solution.

The following table contains the Workgroup's views against each of the Applicable BSC Objectives for both the proposed and alternative solutions:

Does P303 better facilitate the Applicable BSC Objectives?		
Obj	Proposed Solution	Potential Alternative Solution
(a)	• **Neutral** – no impact.	• **Neutral** – no impact.
(b)	• **Neutral** – no impact.	• **Neutral** – no impact.
(c)	• **Neutral** – no impact.	• **Neutral** – no impact.
(d)	• **Yes** (Proposer): – Ensures that all members are properly able to devote the time and commitment required to discharge their roles effectively through being appropriately remunerated – Remove the current discrimination between industry and non-industry Directors – Changing the five year requirement around industry independent directors would also expand the number of suitably qualified candidates eligible to become Board members – Would increase the pool of potential candidates for the non-industry post and the number of potential candidates who apply for the positions • **No** (majority): – Detrimental impact to BSC Parties of a cost being introduced - No certainty on improving function of BSCCo – if individuals are prepared to step up and do the job then there should be no reason why remuneration would encourage this	• **Yes** (Proposer) - benefit in removing 5 year (for reasons under proposed) but lack of remuneration detrimental as it restricts the potential pool of candidates who may apply. • **Yes** (majority): – More sophistication and useful flexibility as it gives the Nomination Committee more discretion – Does not allow anyone to be on the BSCCo Board for more than 10 years – Minimal one-off implementation cost to amend the BSC – Allows exceptional candidates to move from one role to another • **No** (minority): – Timing - flexibility does not help but instead causes confusion without a specific timeframe – suggest two years instead of five - No clear benefits overall

What are the Applicable BSC Objectives?

(a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence

(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System

(c) Promoting effective competition in the generation and supply of electricity and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity

(d) Promoting efficiency in the implementation of the balancing and settlement arrangements

(e) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency [for the Co-operation of Energy Regulators]

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Does P303 better facilitate the Applicable BSC Objectives?		
Obj	Proposed Solution	Potential Alternative Solution
	- Remuneration may restrict the pool of candidates who apply even further – no certainty that it will increase • **No** (minority): – wording could be taken to be insulting to current Board as it implies that what is happening now is not good enough - Independence of allowing some flexibility but recommend two years	
(e)	• **Neutral** – no impact.	• **Neutral** – no impact.

The majority of the Workgroup therefore initially recommends that the P303 alternative Modification is **approved**.

Assessment Consultation Question
Do you agree with the Workgroup's majority view that the P303 Alternative solution does better facilitate the Applicable BSC Objectives than the current baseline? *Please provide your rationale with reference to the Applicable BSC Objectives.*
The Workgroup invites you to give your views using the response form in Attachment C.

Assessment Consultation Question
Do you agree with the Workgroup's initial majority view that the P303 Alternative solution is better than the P303 Proposed solution? *Please provide your rationale with reference to the Applicable BSC Objectives.*
The Workgroup invites you to give your views using the response form in Attachment C.

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Appendix 1: Workgroup Details

Workgroup's Terms of Reference

Specific areas set by the BSC Panel in the P303 Terms of Reference
When should the proposed changes go live?
What are the impacts on the existing Board make up?
Terminology – should there be a new term for 'independent'?
Are there any Alternatives to stop the restriction of suitable candidates?
Does P303 better facilitate the Applicable BSC Objectives than the current baseline?

Assessment Procedure timetable

P303 Assessment Timetable	
Event	Date
Panel submits P303 to Assessment Procedure	12 Jun 14
Workgroup Meeting 1	8 Jul 14
Assessment Procedure Consultation	28 Jul 14 – 18 Aug 14
Workgroup Meeting 2	27 Aug 14
Panel considers Workgroup's Assessment Report	11 Sep 14

Workgroup membership and attendance

P303 Workgroup Attendance		
Name	Organisation	08 Jul 14
Members		
Adam Lattimore	ELEXON *(Chair)*	✓
Claire Anthony	ELEXON *(Lead Analyst)*	✓
Bill Bullen	Utilita *(Proposer)*	✗
Adam Boorman	Cornwall Energy (*Proposer rep*)	✓
Eric Graham	TMA	✓
Andrew Colley	SSE	✓
Joanna Alexander	SmartestEnergy	✓
Garth Graham	SSE	✓
Esther Sutton	E.ON	☎
Attendees		
Tim Kerr	ELEXON *(Lead Lawyer)*	✓
Lisa Charlesworth	Ofgem	✗

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Appendix 2: Glossary & References

Acronyms

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

Glossary of Defined Terms	
Acronym	Definition
BSC	Balancing and Settlement Code
BSCCo	Balancing and Settlement Code Company
HR	Human Resources
IWA	Initial Written Assessment
NED	Non-Executive Director
SEC	Smart Energy Code

External links

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

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

External Links		
Page(s)	Description	URL
4	Link to UK Corporate Governance Code	https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UK-Corporate-Governance-Code.aspx
4	Link to Nomination Committee Terms of Reference webpage	http://www.elexon.co.uk/wp-content/uploads/2013/06/Nomination-Committee_Terms-Of-Reference_1.0.pdf
5	Link to ELEXON Report and Financial statements	http://www.elexon.co.uk/wp-content/uploads/2011/10/ELXON_Limted_Report_and-Financial_Statements_YE-31-March-2014-VFINAL.pdf
5	Link to P281 webpage	http://www.elexon.co.uk/mod-proposal/p281-change-of-bscco-board-of-directors-chairman/
7	Link to Remuneration Committee Terms of Reference webpage	http://www.elexon.co.uk/wp-content/uploads/2013/06/ELEXON-Limited-Remuneration-Committee_1.0.pdf
12	Link to House of Commons Register of Members' Interests	http://www.publications.parliament.uk/pa/cm/cmregmem.htm

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