

## Request to raise a Modification 'Align Section B with the intent of P324'

This Modification proposes to make consequential changes to the approved legal text for P324 'Review of BSCCo's governance: introducing improved accountability to BSC Parties' to insert redlining missed in Section B 3.1.2 (h)



ELEXON recommends that the Panel raises this Modification and approves it as a Fast Track Self-Governance Modification.

This Modification is not expected to impact any participants.



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## About This Document

This document is a request to raise a Modification and Initial Written Assessment (IWA), which ELEXON will present to the Panel on 8 December 2016. The Panel will consider the recommendations and agree whether to raise it and how to progress this Modification.

There are three parts to this document:

- This is the main document. It provides details of the Modification Proposal, an assessment of the potential impacts and a recommendation of how the Modification should progress.
- Attachment A contains the draft Modification Proposal Form.
- Attachment B contains the draft legal text to deliver this Modification.

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# 1 Why Change?

## Background

The [Knight Report 2013](#) identified a number of weaknesses in the current governance arrangements for the Balancing and Settlement Code Company (BSCCo), in particular, the relationship between BSCCo, the BSCCo Board and the Balancing and Settlement Code (BSC) Panel. Changes were therefore required to the current provisions to align them with the UK Corporate Governance Code and bring them into line with best practice.

The Authority approved the P324 Alternative Modification which was implemented on 11 November 2016.

The [P324](#) Alternative Modification amended the BSCCo governance arrangements to:

- make the BSCCo Board accountable to Voting Parties by allowing them to vote to approve the appointment of Directors and to remove Directors;
- allow Voting Parties to vote on non-binding resolutions on other matters;
- allow for up to two members of the BSCCo executive team to be appointed as Directors;
- allow the Board to remunerate any of its non-executive Directors;
- allow the Board to set BSCCo's Business Strategy;
- allow the Board Chairman and the Panel Chairman to be separate people; and
- remove the need for the Authority to approve the remuneration given to the Panel Chairman.

## What is the issue?

Following the approval of P324 an error in the implemented Legal Text was identified. Some of the approved redlined changes in Section B 3.1.2 (h) were missed off and therefore not implemented.

A Modification is therefore required to ensure the full set of approved legal text changes for P324 are implemented.

## 2 Proposed solution

This Modification proposes to make the following changes to the approved P324 legal text, which will be inserted into Section B 3.1.2 (h) :

- approving the Business Strategy prepared by BSCCo for each BSC Year, and revisions to that plan; (This sentence is no longer applicable and needs to be removed)

The full changes proposed under this Modification can be found in Attachment B.

### Applicable BSC Objectives

We consider that this Modification will better facilitate Applicable BSC **Objective (d)** as:

- it addresses the conflicts and unintended consequences of the approved legal text for P324 not being implemented in its entirety; and
- ensures that the BSC is delivered in the most effective and efficient manner.

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#### 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]

(f) Implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation

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### 3 Proposed Progression



#### What is the Fast Track Self-Governance Criteria?

A Modification Proposal which:

- (i) if implemented would satisfy the Self-Governance Criteria; and
- (ii) falls within the scope of Section F2.1.1(d)(iv) (without limiting the right of any person specified in paragraph 2.1.1 to propose a Fast Track Self-Governance Modification Proposal) and which is required to correct an error in the Code or as a result of a factual change, including but not limited to:
  - (a) updating names or addresses listed in the Code;
  - (b) correcting minor typographical errors;
  - (c) correcting formatting and consistency errors, such as paragraph numbering; or
  - (d) updating out of date references to other documents or paragraphs.

If the Panel agrees to raise the Modification Proposal in Attachment A, it will need to determine how it should be progressed. We believe that this Modification should be progressed as a Fast Track Self-Governance Modification as it falls within the Self-Governance criteria and Section F2.1.1(d)(iv).

The Panel must be unanimous in a decision to progress a Modification as a Fast Track Self-Governance Modification. If any Panel Member disagrees with this approach, then the Modification will need to progress as a standard Modification.

#### Progression as a Fast Track Modification

If the Panel unanimously agrees to progress this Modification as a Fast Track Modification, it will need to approve the draft legal text and implementation approach at the same meeting.

We will then issue the Fast Track Self-Governance Modification Report (including the approved BSC legal text changes) to the Authority, the Transmission Company and BSC Parties. Following this, there will be a 15 Working Day objection period in which BSC Parties can raise an objection to the implementation of the Modification. This period will close on Tuesday 3 January 2017.

If an objection is received, the implementation of the Modification will be suspended and the objection tabled at the Panel meeting on 19 January 2017. The Panel will then need to agree how to progress the Modification as a standard Modification.

If no objections are received, the Panel will be notified and the Modification will be implemented on the agreed Implementation Date (see Section 5).

#### Progression as a standard Modification

If the Panel elects to progress this Modification as a standard Modification, we recommend that it progresses this directly to the Report Phase as a Self-Governance Modification. We believe this will be the most appropriate route to follow as this Modification seeks only to address conflicts and unintended consequences of the incomplete implementation of P324 legal text.

Proposed Progression Timetable if not progressed as Fast Track Self-Governance	
Event	Date
Request to Raise presented to Panel	8 Dec 2016
Report Phase Consultation (15 Working Days)	12 Dec 2016 – 4 Jan 2017
Present Draft Modification Report to Panel	12 Jan 2017
Issue Final Modification Report to Authority (if not Self-Governance)	10 Jun 2016

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## 4 Likely Impacts

### Central impacts and costs

This Modification is a document-only change to update BSC Section B. There are no system impacts and no impact on BSC Agents.

The central Implementation costs will be approximately £240 (one ELEXON working day) to implement the relevant document changes.

Impact on Code	
Code Section	Potential Impact
Section B	Changes will be required to deliver this Modification. <i>The proposed changes can be found in Attachment B</i>

### Participant impacts and costs

This Modification is a Code-only change to ensure the P324 legal text changes are fully implemented. It will not have any impacts on any industry participants.

## 5 Implementation approach

### Recommended Implementation date

We recommend that this Modification is implemented on **6 January 2017** as a Standalone Release to ensure that the legal text that was missed off when P324 was implemented is introduced as soon as possible to mitigate any issues or unintended consequences.



### What is the Self-Governance Criteria?

A Modification that, if implemented:

(a) is unlikely to have a material effect on:  
(i) existing or future electricity consumers; and  
(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and  
(iii) the operation of the national electricity transmission system; and  
(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and  
(v) the Code's governance procedures or modification procedures; and

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

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We invite the Panel to:

- **RAISE** the Modification Proposal in Attachment A.

If the Panel agrees to raise this Modification then we invite the Panel to:

- **AGREE** that this Modification should be progressed as a Fast Track Self-Governance Modification;
- **AGREE** that this Modification **DOES** better facilitate Applicable BSC Objective (d);
- **AGREE** that this Modification should be **approved**;
- **AGREE** an Implementation Date of 6 January 2017;
- **AGREE** the proposed legal text; and
- **NOTE** that ELEXON will issue the Fast Track Modification Report (including the approved BSC legal text), which will then be subject to a 15 Working Day objection period, ending on 3 January 2017.

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### Recommendation

We recommend that the Panel raises this Modification and approved it is as a Fast Track Self-Governance Modification.

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## Appendix 1: Glossary & References

### Acronyms

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

Acronym	
Acronym	Definition
BSC	Balancing and Settlement Code
BSCCo	Balancing and Settlement Code Company
IWA	Initial Written Assessment

### 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
3	Modification P324 webpage	<a href="https://www.elexon.co.uk/mod-proposal/p324/">https://www.elexon.co.uk/mod-proposal/p324/</a>
3	Bill Knight's ELEXON Governance Review Published page on the ELEXON website	<a href="https://www.elexon.co.uk/news/bill-knights-elexon-governance-review-published/">https://www.elexon.co.uk/news/bill-knights-elexon-governance-review-published/</a>