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Rachel Clark  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

By Email [HalfHourlySettlement@ofgem.gov.uk](mailto:HalfHourlySettlement@ofgem.gov.uk)

## **Elexon Response - Implementation and Governance Arrangements for Market-Wide Half-Hourly Settlement Consultation**

Dear Rachel,

Elexon welcomes the opportunity to feedback comments on the MHHS Implementation and Governance Arrangements Consultation. This is a response from Elexon in the capacity of the MHHS Programme Implementation Manager only. This response does not represent views of Elexon as the central settlement system provider or Elexon as the BSC Code Manager. This response covers the ten questions in the response form.

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### **Obligations on Parties**

1. Do you agree that the balance of the duty to cooperate in licences and the more detailed obligations set out here will be sufficient to ensure that all parties are subject to the right obligations to secure timely and effective implementation of MHHS?

We agree that, in general, the right obligations are placed on the right parties to secure timely and effective implementation of MHHS. These include an obligation on BSCCo to manage and deliver the MHHS Programme and on BSC Programme participants to cooperate with the Programme and on non-BSC Programme participants, via their BSC Parties contractual relationships, to cooperate with the Programme. We also note there are licence changes for the DCC to cooperate with the Programme, plus general licence conditions for licence parties to cooperate with a Significant Code Review (SCR). In addition to Code obligations, we would welcome additional and specific licence changes on Programme participants to strengthen further the proposed obligation to cooperate and comply with the MHHS Programme.

2. Do you agree that the proposed obligations on all programme parties regarding MHHS implementation, and the proposed obligations on Elexon in its roles as the BSC code administrator, are sufficiently well defined to ensure that ownership and accountability for implementation of MHHS are clear? If not, how could the proposed obligations be changed to allow this to happen?

In general, we believe the obligations on Elexon via BSCCo as MHHS Implementation Manager are appropriate. However, some clauses should be clarified and could be modified. Our proposed changes are documented in greater detail in the next section.

3. Do you have any comments on the scope or drafting of the draft obligations themselves? We would appreciate all comments, but suggestions for changes in wording where you think what is proposed does not work would be particularly helpful.

The following sections set out comments which relate to specific obligation clauses.

12.4.1(g) - Requirement for BSCCo to act in accordance with IPA's recommendations. Our reading of this clause is that the SRO must follow all IPA recommendations without discretion and the IPA can overrule a SRO decision. We believe that it is the intent of the arrangements that it is the role of the SRO to make decisions, not the IPA's, however we believe there should be a general obligation for the IPA to recommend, and an obligation on the BSCCo to explain (to the PSG) why BSCCo has not followed an IPA recommendation.

12.4.1(h) - States BSCCo shall (either itself or through external service provider(s)) perform its MHHS Implementation Manager roles to act according to The Authority direction. We accept the general obligation for BSCCo to follow an Authority decision, although there should be an exception for BSCCo if non-compliance to the BSC obligation is caused by an Ofgem decision/direction.

12.5.2(a) - Elexon is required to identify 'any and all' necessary changes to energy licences. We believe that as the MHHS Programme Implementation Manager, we would be responsible for monitoring and identifying licence changes and raising this with Ofgem, but we note it would be Ofgem's role to direct the licence changes. Therefore, we agree that the Programme would monitor and identify and the obligation could reflect Ofgem's role to direct Licence changes.

12.5.2(b) - The responsibilities of the MHHS SRO shall be to ensure modifications to the BSC needed for MHHS are developed and provided to the Authority. We note that under the BSC, neither the SRO nor Elexon can ensure that modifications are raised (as Elexon is itself unable to raise modifications). Under the programme the SRO and

MHHS Implementation Manager will assist development and progression of modifications where they can.

12.5.2c - Is an obligation to coordinate changes to other Industry Codes. To ensure this is efficient and delivers in accordance with the Programme, we would have expected the proposals to include an obligation on MHHS Code Bodies affected to ensure they comply with this obligation. This obligation would ideally be in the form of a change to the relevant Code or at least a letter to the Code Body and relevant Panel seeking confirmation that they will cooperate with Elexon.

12.6.2(d) - States the responsibilities of the MHHS PMO include, ensuring that decisions that require Code modifications are developed and consulted upon. Whilst the MHHS Implementation Manager should have a role to monitor when modifications are raised and how they are progressing under other Codes, it will be for the relevant Code Bodies and their Panels to ensure the relevant modification processes are followed. Therefore the obligation for the progression of non-BSC modifications should sit with each relevant Code Body.

12.9 – States the role of the PPC. We believe the clause should include an obligation to assess, monitor and validate programme participant readiness. We would welcome the additional wording.

12.10.2 - The IAP shall owe a duty of care to the Authority. We are concerned there is an obligation to The Authority, but not to BSCCo or the Programme. Therefore we believe the IPA duty of care to the Authority should be extended to the BSCCo or removed.

12.10.4 - States the SRO has a responsibility for the IPA role. If the IPA does not perform, even though the SRO will manage the contract day to day, it won't be party to the contract, so the SRO can't enforce it. Therefore, we believe that we cannot be responsible for the IPA performance and suggest this clauses requires further consideration.

12.10.5 – States where there are disagreements between the MHHS Implementation Manager and MHHS Participants in relation to the MHHS Implementation, then the SRO should be making the Programme decisions, unless the decision is above Ofgem's threshold criteria, which will mean The Authority will make the decision. Therefore we believe the obligations text should be changed to reflect the SRO and The Authority's role and if decision making is above the threshold.

12.12.1(f) - States the provision of information. We would support a similar obligation on Programme participants for providing programme information, including information such as programme plans.

12.17 - Sets out the IPA activities. We note the description could be interpreted as duplicating many of the PMO, SI and PPC activities. We understand from the IPA Principle, the IPA should be providing third-line, rather than second-line support (which is provided by the Implementation Manager). To avoid duplication of roles, we believe the obligation should be more explicit about the third-line assurance role, and the supporting and sample checking of second-line assurance activity, conducted by the Implementation Manager.

12.17.2 - Dis-applies a useful role of PAB (Performance Assurance Board) and Panel. We believe the role and authority of the PAB and Panel should not be curtailed, in monitoring settlement performance, if this relates to or supports the implementation of MHHS. It should be for the PAB and Panel as to how they exercise their responsibilities.

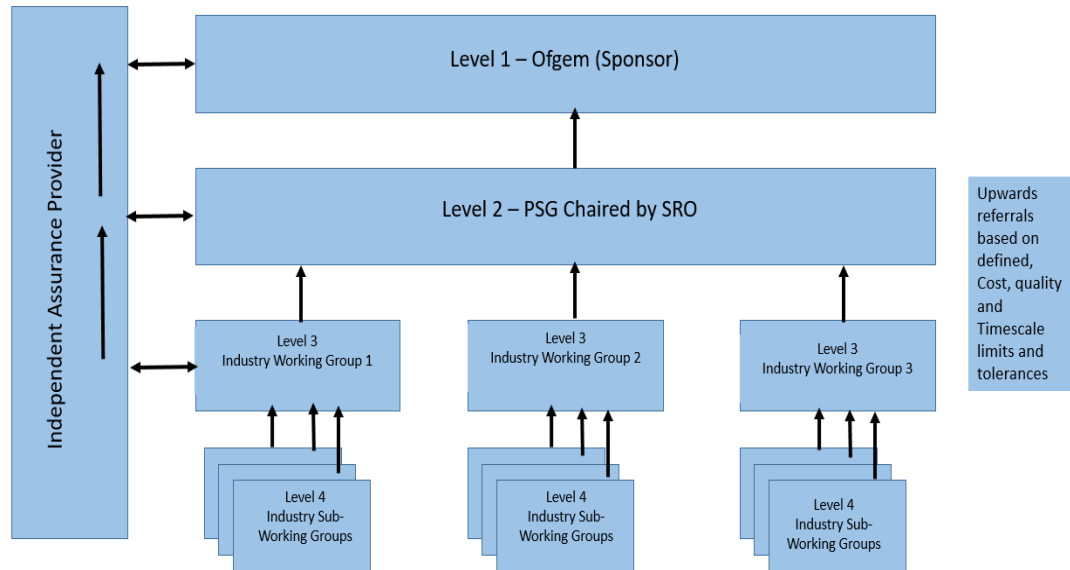
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#### **Governance Structure**

4. Do you support the governance structure as described in the Market-Wide Half-Hourly Settlement Governance Framework? We welcome all comments, but if you have proposals for changes to the governance structure, it would be particularly helpful if you could clearly set out your preferred alternative in any specific area of the governance structure.

Ofgem's proposed governance framework shows the decision-making structure, which is a mixture of functional and decision making groups. We believe it is clearer if the structure contains the decision making groups only. A Programme governance structure should be established before Ofgem directs its final autumn 2021 governance decision. In establishing a governance framework earlier, we will seek to work with industry and Ofgem. We have provided an early indication of our view of the governance structure below.

# MHHS Governance Proposal



Note: Need to differentiate between Governing Bodies and operational roles, hence why PPI, SI, PMO etc are not mentioned above.

Our view is that Level 1 of the governance model will be Ofgem, as Programme Sponsor and Level 2 will be the Programme Steering Group (PSG) chaired by the SRO. For the PSG, we support the concept of constituency members proposed by Ofgem. However, we note the Supplier constituency groups may need to increase from two to four members to cover specific smaller Supplier and I&C Supplier constituency groups. For this specific consultation question, in case the Programme needs to implement the Programme governance structure ahead of Ofgem autumn direction, we would welcome early sight of the consultation responses to understand if there are any other suggested changes to the proposed governance structure. Level 3 groups are likely to comprise other constituency based decision groups. Level 4 groups will be more detailed and/or technical workgroups. We propose that decisions are reached through consensus and decision making is set at the appropriate level with delegation by the group above.

5. Do you agree with the approach of Ofgem designating the governance structure as set out in the Governance Framework as a baselined document in the BSC that Elexon and all programme parties will have to comply with? If not, can you suggest an alternative method of embedding the governance structure contained in the Governance Framework in the Programme and providing confidence to all programme parties?

We are comfortable with placing the governance structure into the BSC. Embedding the governance structure into the BSC will ensure Elexon, as MHHS Programme Implementation Manager, and Programme participants who are BSC signatories, will have transparency of the structure and governance arrangements. However, we note

that this approach may risk not being as transparent for non-BSC parties. It may also confuse between Programme and Code governance, which should be kept separate.

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### **Independent Programme Assurance**

6. Do you have any comments on the proposed Assurance Principles?

We support the requirement for independent Programme Assurance. The assurance role should be to independently assure the Programme and provide assurance to the industry (Ofgem, SRO, BSCCo Board, Programme delivery partners, Programme participants and other interested stakeholders) that the Programme is set up for success, that there is adequate resourcing and plans, plus monitoring the Programme and Programme Participants are meeting milestones and obligations. The assurance provider role should independently advise the SRO, industry via the PSG and Ofgem through proactive, supportive and constructive guidance, resulting in the Programme gaining momentum and heading off issues before they arise. We support the IPA role to monitor for potential conflicts of interest in Elexon's decision-making. The assurance provider role must not duplicate the MHHS Implementation Management activities, as this will lead to inefficiencies. The assurance provider should have the skills and expertise necessary to work and operate within the MHHS Programme by adding tangible value and momentum to the Programme.

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### **Ofgem's Role**

7. Do you agree that specific thresholds should be set for Ofgem intervention to avoid the risk of Ofgem being drawn into the day-to-day management of MHHS implementation?

As the Regulator and Programme Sponsor, Ofgem has the power to intervene without specific thresholds, although it is helpful that Ofgem has set out where they would intervene and we believe this is transparent. We believe Ofgem oversight of the Programme activities and Programme participant activities is an important role to ensure all parties including Programme participants are engaged and acting appropriately.

8. Do you agree that Ofgem intervention should be based on the five key criteria of adherence to the TOM, delivery of benefits and costs, timeliness of delivery, impact on competition and consumer impact? Do you agree with the specific TOM, cost and timeliness thresholds? If not, what others would you propose?

We agree that the intervention should be based on the five proposed key criteria, namely adherence to the new Target Operating Model (TOM), delivery of benefits and costs, timelines of delivery, impact on competition and consumer impact.

On the specific thresholds:

- TOM - Ofgem and industry has been instrumental in progressing the TOM work. Therefore, we would expect that any material or fundamental change to the TOM would trigger Ofgem intervention.
- Cost - A key component to Ofgem approving the implementation of MHHS and the TOM are the £1.6BN- £4.6BN benefits as identified in Ofgem's FBC. Therefore, we expect any material departure from this benefit would result in Ofgem intervention. We agree with the levels proposed, which are costs of £5m for an individual decision and £20m cumulatively impacting central programme cost.
- Timeliness - We believe that if there is a significant delay to the Programme, it is reasonable that Ofgem will want evidence to justify any delay. The time delay trigger proposed is a delay of three months or more. We agree with the three month threshold, although we would welcome clarity from Ofgem regarding this measure, how it was determined and how the three month time period will be measured. For example, will the measure be absolute, based on the final delivery date or cumulative? If a milestone is delivered a month early, does the extra month roll over, meaning there is a four month period before Ofgem intervention or does the criteria reset to three months at the next milestone? Likewise if the programme is delayed by four months, does the measure reset and is a new three month measure introduced?

9. Are there any other criteria that you consider may warrant Ofgem intervention?  
Please give reasons why.

We have not identified other criteria which would warrant Ofgem to intervene. However, as set out in the consultation above, we note that should Ofgem wish to intervene for another reason, they can do so if they wish or if requested by the SRO or IPA.

We expect the number of Ofgem interventions to be rare and that it is important that the governance arrangements are kept under review to ensure that the thresholds proposed are fit for a programme of this nature.

10. Do you also agree that Ofgem should have a role in ensuring that conflicts of interest are correctly managed within MHHS implementation?

We understand "conflicts of interest" means the potential conflicts within Elexon being responsible for MHHS Programme delivery (Implementation Manager) and as a

Programme Participant, for the development and delivery of the central settlement system solution. The MHHS Programme must view Elexon's central system delivery as any other Programme participant, who should not receive preferential treatment. The MHHS Programme is developing appropriate measures to separate the MHHS Programme function from Elexon's role as a Programme participant to provide confidence to the industry that any potential for conflict of interest is being mitigated and managed. Therefore, we support Ofgem's role, if this provides industry confidence that conflicts of interest are managed appropriately and will work with Ofgem to ensure that the separation we are putting in place is as they expect.

Please do not hesitate to contact us if you have any further questions.

Yours sincerely,

Andrew Margan (By Email)  
MHHS Programme  
07309 661567