

# Balancing & Settlement Code Panel

07 January 2026

Dear Ofgem

## STATUTORY CONSULTATION ON MODIFICATIONS TO INDUSTRY CODES TO IMPLEMENT THE HARMONISED CODE MODIFICATION PRIORITISATION PROCESS

As Deputy Chair of the BSC Panel I'm submitting the Panel's response to this consultation to avoid any potential conflict, or perception of a conflict, with Sara Vaughan's role of Elexon Chair.

Several Panel Members are quite concerned that the unintended consequences of prioritisation in this formalised way will outweigh its benefits. This view is held despite believing that it might be helpful for Code Managers to have some ability to manage their Modifications pipeline. In particular

- Many Panel members thought the guidance should make clear the intent that High Priority assignment should be an exception to the general rule. This will help counter the inevitable pressure on Panels (and in due course Code Managers) to assign Modifications as High Priority;
- Many Panel members are concerned about the absence of appeal rights on priority assignment both at a practical level and an optical one;
- Panel members did not support having any different governance processes under different Codes. Although allowing exceptions might be argued as pragmatic, Ofgem's underlying rationale for having the harmonisation was that current and future Parties needed to see the same process in all the Codes. Allowing exceptions runs directly contrary to that principle and undermines one of the key rationales for Energy Code Reform.
- Notwithstanding the above comments, we hope and expect that the process is evaluated in the light of actual experience in the first-moving Codes (i.e. REC/BSC) so that it can be improved for the later ones. The evaluation must include Ofgem's part of the process (i.e. participation and decision making) in order to get a full end-to-end view.

We attach more specific comments to each of the seven questions in the Consultation.

The views in this response represent the great majority of Panel Members unless noted otherwise. We would be very happy to discuss any of the points made in this response or answer further questions if appropriate.

This response can be made public.

Yours sincerely



Dr. Phil Hare

BSC Panel Deputy Chair

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### Q1 Do you agree with the policy and associated code modifications proposed in Section 1.

#### Mixed views

The Panel has been quite supportive of these proposals in the past, although we want to reiterate that, in the BSC, mods all get treated with the same high priority.

However, we remain very concerned that an unintended consequence of prioritisation will be that some Code Managers may put certain mods on the back burner to reduce their costs. Panel members wanted to have reassurance that Code Managers, and Ofgem, carry sufficient resources to process all modifications in a timely fashion.

Several Panel members believed that there will be industry confusion between 'urgency' and 'high priority' and that this will lead to industry pressure on Code Managers to reduce timescales at the expense of robustness.

We are quite strongly opposed on principle to allow the SEC and REC to not conform when the value of "harmonisation" was to make all the Codes the same to reduce the complexity for Parties and new market entrants. Allowing exceptions runs directly contrary to that principle and undermines one of the key rationales for Energy Code Reform and seems to defeat that objective.

### Q2 Do you agree with the policy and associated code modifications proposed in Section 2. Prioritisation criteria and governance?

#### Mixed opinions

The policy and associated code modifications proposed in Section 2 seem reasonable, but the Panel was concerned that expectations placed on being a High priority status will lead to shortcuts in developing suitable solutions, and that pressure on Panels/Code Managers to deliver them quickly will act against ensuring robustness.

Several Panel Members were concerned around the possibility that industry proposed modifications, which are innovative but do not directly support the SDS, could be systemically de-prioritised under these proposals. They also believed that small parties and market new entrants, especially those with innovative/niche proposals would be less likely to make Modification Proposals under this new regime because of the likely perception of extra bureaucracy involved and the SDS pre-excluding their ideas. Panel Members' experience is that companies like these are less likely to engage in the SDS in any case. It is unclear to how a small party with a niche issue is going to argue with a Panel/SAF about where their mod should sit in the list – will a Genco know anything about MHHS? In general there is a sentiment that prioritisation may make it harder for small companies and new entrants to engage in the market – quite the opposite of the ambition of Code Reform.

Panel Members were of the opinion that while the SDS is now comprehensive it has also become somewhat unwieldy. Others felt that, while it might help prioritisation, it would not be at all helpful in dealing with industry-led modifications, and while many of these are dealt with under urgency, other important ones would not.

There are concerns, as expressed in previous consultation responses, around the potential for political interference/pressure on Code Managers to make a High Priority assignment, given their many other roles in the industry. To some degree, the independence of Panels would have militated against this, but not completely and, given the relatively weaker position of SAFs, they are unlikely to be an adequate counterweight.

We support cross-cutting modifications having the same priority across all applicable Codes – P441 was cited as a particular relevant example where the entire scheme needs to hang together across all the Codes involved. A mod which is low priority in one Code could hold up the same mod which is high priority for another.

Panel members continue to be concerned that the guidelines do not explicitly say that High Priority should be seen as an exception. Although the criteria are well laid out, they are complicated enough to allow many different interpretations and opinions on the overall judgement. It would be much better if Ofgem's guidance were to explicitly say that the standard status should be the norm, if that is Ofgem's intention.

Some Panel members pointed out that it is not obvious that "complexity" deserves the same weighting as "importance".

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### Q3 Do you agree with the policy and associated code modifications proposed in Section 3. Prioritisation reporting and governance?

#### Mixed opinions

A quarterly review process would give better transparency, and we don't believe this would be onerous. As it is highly probable that CMs will rarely make ad hoc reviews, in practice the consultation is advocating six monthly reviews, which seems far too infrequent for the normal flow of mods in many Codes.

Many Panel members are uncomfortable that there is no appeal process for the priority assignment and think this would, to some extent, undermine Parties' confidence in the Codes. Effective appeals processes are important in equitable governance – both in practical terms and optically.

Especially given the ambition of the “harmonisation” of the Codes, surely the processes and governance should be exactly the same in each Code. We believe that there shouldn't be exceptions – otherwise one of the underlying rationales for the Code Reform will be seen to be undermined.

### Q4 Do you agree with the policy and associated code modifications proposed in Section 4. Policy implementation?

#### Agree

This seems sensible, and we would expect all Panels to be working in “shadow” mode already.

### Q5 Do you agree with our proposed implementation date of 28 days from the publication of the related prioritisation policy decision notice?

#### Mixed opinions

In general this seems reasonable given the extended consultation process, although it might be sensible to allow Panels a grace period to assess the priority of all their Modifications. The intention of the BSC Panel is to have carried out the assessment on the basis of the currently proposed process so that it can be implemented rapidly.

However some Panel members thought that 28 days was too short and inevitably transfer pressure back to the Proposer.

There will also need to be changes to subsidiary documents, in this case BSCP40 on Change Management. The implementation of the decision after 28 days only works if Ofgem also designate the changes to subsidiary documents as well, otherwise we will need to raise a CP to align the BSCP(s) with the code.

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**Q6 Do you agree with the proposed code text drafting published in Annex A (specific to BSC)?**

**Agree**

No comments, subject to the comments made elsewhere in this response.

**Q7 Do you agree with the proposed code text drafting published in annexes B-L?**

**Agree**

This seems to be helpful generally, although it must be recognised that Panels may have to produce very nuanced reports balancing several conflicting criteria (although if their decisions can't be appealed, then perhaps it doesn't make any difference).

The Panel has some concerns about including "Capacity Management" in the assessment because it is the CM's responsibility to manage workload, not the Panel – furthermore this is likely to fluctuate. Nevertheless, the Panel appreciates the sentiment and believes that Elexon has generally worked in this pragmatic way on new releases of the Code.