

Consultation

Implementation Arrangements for Market-Wide Half-Hourly Settlement

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We are consulting on implementation and governance arrangements for the introduction of Market-Wide Half-Hourly Settlement. We particularly welcome responses from all those involved in implementation of these changes. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. We are considering the best way to engage with stakeholders during the consultation period. If you have any questions on the consultation please contact us at halfhourlysettlement@ofgem.gov.uk.

Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at

[Ofgem.gov.uk/consultations](#). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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Executive summary

Context

On 20 April 2021, we published our decision to implement Market-Wide Half-Hourly Settlement (MHHS).¹ In our Decision Document, we stated that Elexon will be the Senior Responsible Owner (SRO) for MHHS implementation, and that we would shortly be consulting on the governance and implementation proposals to further support the industry-led delivery of MHHS. This document now provides further detail and clarity on top of what we said in the FBC, and takes into account the responses from the January consultation where we set out our plan to place responsibility for delivery on industry, and in particular on Elexon, as Senior Responsible Owner (SRO).²

Feedback and themes from the January Consultation and the Independent Assurance Assessment

We have published the non-confidential responses to the January consultation. The independent assurance report, which was carried out by Complete Strategy to look at Elexon's plans for leading the programme implementation, is published alongside this document. Both the consultation responses, and the findings of the independent assurance assessment have been instrumental in shaping the proposals that we are setting out in this consultation document.

Obligations on Parties

We have set out the obligations that we propose to place on parties (including Elexon, the Data Communications Company (DCC), electricity suppliers, electricity distributors, supplier agents, Code bodies and other third parties), through code and licence changes, in order to support the implementation of MHHS. We are proposing that a set of detailed obligations be included in the BSC, and an addition made to the other affected codes. These obligations would apply to all programme participants and relevant code bodies and will require them to comply with the MHHS implementation. A draft set of the changes proposed are published alongside this document. We invite views about whether these obligations are well defined and appropriate for each party type and sufficient to secure the timely and effective implementation of MHHS.

¹ [MHHS Decision Document](#), April 2021.

² [MHHS consultation on Programme Implementation Principles](#), January 2021.

Governance Structure

We set out our proposals for governance of the implementation phase. This includes a governance framework, including an explanation of the decision-making structure. Subject to responses to this consultation, we expect to designate a version of this framework (as amended in the light of consultation responses) as the Governance Framework, anticipated by the Proposed Code Changes (published alongside this document). This will then form part of the obligations and processes to be operated and followed by Elexon and BSC parties.

Independent Programme Assurance

We have outlined a set of assurance principles which we consider must be met by the independent assurance provider for the programme. We believe these principles should give confidence to Ofgem, the SRO, the Programme Steering Group and programme parties that the programme is set up for success and is being well managed. Ofgem will procure the assurance function, in accordance with the assurance principles. We are asking for views on the assurance principles we have set out.

Ofgem role

We have set out a description of Ofgem's role as Programme Sponsor, including the circumstances in which decisions arising through MHHS implementation would be required to be brought to Ofgem. We are proposing that Ofgem should only intervene to take decisions or direct action when certain thresholds are met, or where the Independent Assurance Provider (IPA) recommends that an issue should be escalated to Ofgem. We are also proposing that Ofgem should be able to direct that another body should take over provision of the central programme functions if it is necessary do so in order to keep MHHS implementation on track. We are seeking views on the criteria for Ofgem action, including the thresholds for action.

Next steps

We will carefully consider all the responses that we receive to this consultation. We will publish a document with our decisions on the issues covered by this consultation – the code and licence obligations to be placed on parties to ensure compliance, the governance and assurance arrangements for implementation and the circumstances in which Ofgem may play a further role in implementation. We expect to publish these decisions in summer 2021 with the changes coming into effect in autumn 2021.

All of the proposals in this document seek to build a robust and successful implementation structure for MHHS. We have drawn on feedback from previous consultations, and learned lessons from other energy market change programmes, to develop a robust set of

obligations, governance proposals and assurance principles with the aim of ensuring effective and timely implementation of MHHS, bringing benefits to consumers.

1. Introduction

What are we consulting on?

- 1.1. The purpose of this document is to seek views on our detailed proposals for implementing Market-Wide Half-Hourly Settlement (MHHS) and the governance processes for that implementation. Accompanying this document are the new draft provisions we are proposing should be inserted into the BSC and other impacted codes, to enable industry-led implementation of MHHS. In sections 3-6 of this document there are specific questions on which we would like stakeholders' views.

Section 3: Obligations on Parties

- 1.2. We are consulting on the obligations to be placed on programme parties to ensure effective and timely implementation of MHHS. This primarily consists of draft new provisions to be inserted into the BSC as MHHS implementation-specific obligations, and some changes to other affected codes. We will shortly be consulting on changes to the Smart Meter Communications Licence to bring the Data Communications Company (DCC) within the scope of these MHHS implementation obligations.

Question 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?

Question 2: Do you agree that the proposed obligations on all programme parties in respect of 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 is clear? If not, how could the proposed obligations be changed to allow this to happen?

Question 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.

Section 4: Governance Structure

- 1.3. We are consulting on the governance structure under which MHHS implementation will work. This sets out where decision making will sit within the programme, how

decisions are taken, consultation requirements, representation requirements, how issues are escalated, and escalation thresholds.

Question 4: Do you support the governance structure as described in the 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.

Question 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 with which Elexon and all programme parties will have to comply? 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?

Section 5: Independent Assurance

1.4. The role of independent assurance in MHHS implementation will be anchored in a set of assurance principles which we believe should give confidence to Ofgem, the SRO, the Programme Steering Group and programme parties, that the programme is set up for success and is being well managed. The independent assurance function will also be able to provide confidence on the accuracy of reporting, and make recommendations to address risks and issues. Importantly, the independent assurance function will be able to bring independent evidence to any disagreements or disputes, and to identify when thresholds for Ofgem intervention are reached.

Question 6: Do you have any comments on the proposed assurance principles?

Section 6: Ofgem's role

1.5. We are consulting on Ofgem's role as Programme Sponsor and in particular the thresholds for Ofgem's intervention or further involvement in MHHS implementation.

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

Question 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?

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

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

Related documents

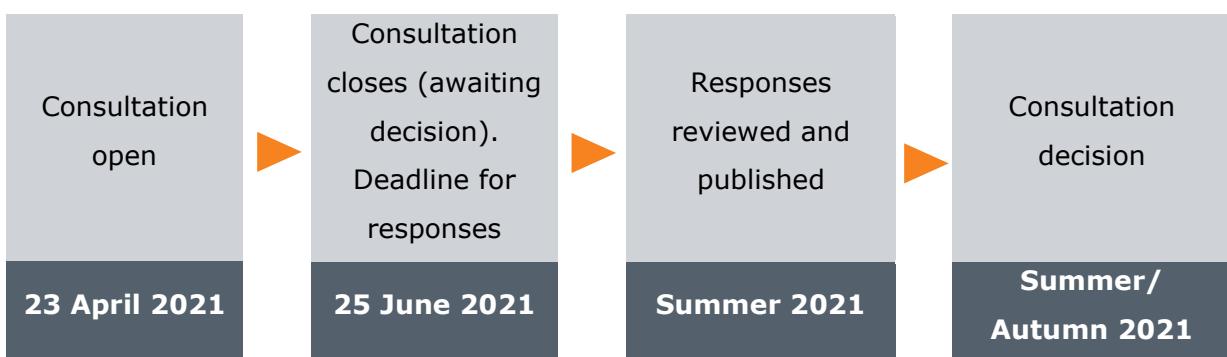
Publications related to this document are as follows:

- Ofgem, [Market Wide Half Hourly Settlement – Consultation on Programme Implementation Principles](#) (January 2021)
- Ofgem, [Market-Wide Half-Hourly Settlement Full Business Case](#) (April 2021)
- Ofgem, [Market-Wide Half-Hourly Settlement Final Impact Assessment](#) (April 2021)
- Ofgem, [Market-Wide Half-Hourly Settlement Decision Document](#) (April 2021)

Consultation stages

We are now consulting on our detailed proposals on the implementation of MHHS and the governance processes for that implementation. We will consider all responses carefully and, in due course, publish non-confidential responses on our website. The responses will inform the final drafting of the proposals and our decision on the implementation proposals.

Figure 1: Consultation stages



How to respond

We want to hear from anyone who has a view on any of the questions set out in this consultation. Please send your response to halfhourlysettlement@ofgem.gov.uk by **5pm on Friday 25 June 2021**. We've asked for your feedback on each of the questions throughout. Please respond to each one as fully as you can. You will find a consultation feedback form on our website.

We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation 2016/379 (GDPR) and domestic legislation on data protection, the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 2.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website.

[Ofgem.gov.uk/consultations.](https://www.ofgem.gov.uk/consultations)

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2. Feedback and themes from the January consultation and the Independent Assurance Assessment

Section Summary

In this section, we set out the key themes from the January consultation responses and the key findings of the independent assurance assessment commissioned to look at Elexon's plans for leading the programme implementation. We then set out how we have addressed these key themes and findings.

Introduction

- 2.1. Responses to our June 2020 consultation highlighted that some stakeholders had concerns with Elexon's capabilities, capacity, ability to manage conflicts of interest, and incentives on Elexon for MHHS programme implementation success. In our January 2021 consultation, we subsequently sought views on the risks and challenges of an industry-led implementation with Elexon as SRO, and the associated mitigations, including around governance of the programme.
- 2.2. In order to address some of the concerns previously raised by stakeholders, and as a means to build industry and programme participants' confidence in Elexon's delivery capability, we stated in the January 2021 consultation our intention to commission an independent assurance assessment to look at Elexon's plans for leading the programme implementation.
- 2.3. Both the responses to our January 2021 consultation, and the findings of the independent assurance assessment have been instrumental in shaping the governance model that we are setting out in this consultation document. There is considerable overlap between the report findings and messages which came through in the consultation responses.

Independent assurance assessment

- 2.4. In our January 2021 consultation, we highlighted that we planned to commission an independent assurance review to look at Elexon's plans for leading the programme implementation. Following a competitive process, and with Ofgem's agreement

following a review of the bids, Complete Strategy were contracted to carry out that assurance review.

- 2.5. The scope of the assurance assessment was to look at the effectiveness of Elexon's preparations for establishing and undertaking the role of MHHS Programme SRO, and to make recommendations for change or strengthening capacity or capability, if appropriate. It also considered how Elexon will avoid any conflict of interest within the Programme Manager roles and between being the Programme Manager and delivering central system changes. The assessment also looked at how Elexon is incentivised to ensure that the programme is successfully delivered.

- 2.6. By way of maintaining transparency and impartiality, once the detailed assessment was completed, the assessment report was sent simultaneously to both Ofgem and Elexon. Complete Strategy then undertook a review of progress against the recommendations from their initial assessment. The full report from Complete Strategy is published alongside this document, but a table from the report has been replicated below. This table summarises the recommendations from Complete Strategy's initial assessment, and the progress that has been made since they made those initial recommendations. Ofgem and Elexon have accepted all these recommendations. Where possible they have already been implemented and Complete Strategy's review of progress sets out where that has happened. Where the recommendations have not yet been fully implemented they will be taken forward and implemented as the preparations for implementation progress.

Table extracted from the Complete Strategy report:

#	Recommendation from initial assessment	Summary of progress against recommendation
1	Procure core programme management services, including the Programme Manager, from a lead delivery partner with experience of having successfully undertaken similar roles.	Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO services. We therefore expect the Mobilisation Partner role to be similar to the first role that would have been undertaken by the programme management partner that we recommended was appointed in our initial assessment, so we support this approach.

2	Involve industry representatives actively in the procurement of programme management services, and, to the extent possible, achieve this as a key early role for the Programme Steering Group (PSG).	Elexon had recognised the need for this before our initial assessment and aims to achieve industry participation in procurement of the Mobilisation Partner by inviting the BSC Panel to propose two members of the tender committee, because this procurement is expected to take place before the PSG is established.
3	Simplify the way in which governance arrangements are presented to participants so that they are more intuitive, and focus on key functions and how industry parties will be involved in decision-making.	Elexon has adopted a much simpler representation of the programme management and governance arrangements in more recent documents, delineating more clearly the responsibilities for programme oversight and senior decision-making, programme management and execution, and consultation and engagement with industry parties. Ofgem has also proposed programme governance arrangements as part of its April 2021 consultation.
4	Define and agree the responsibilities and accountabilities of the Programme Sponsor and SRO roles, and how they will work together in practice.	The programme governance arrangements developed by Ofgem provide a summary of the Programme Sponsor and SRO responsibilities. This provides a basis for Ofgem and the SRO to work together to facilitate effective decision-making, but will need further work and agreement between the involved parties to agree in detail how the governance arrangements should operate, and how the programme management and governance structures will work effectively together.
5	Review and test the proposed programme management and governance arrangements to ensure they represent the best approach to involving industry parties, enabling streamlined decision-making and minimising conflicts of interest.	The programme governance arrangements proposed by Ofgem have been specifically designed to facilitate industry involvement and streamlined decision-making. The proposals provide a basis to achieve this and, if necessary, responses to the April 2021 consultation can be used to strengthen the arrangements further. It will then be a key responsibility of the individuals and parties involved, including Ofgem, the SRO and the PSG, to work through how the governance arrangements should be applied in practice to enable rapid and effective decision-making.
6	Prepare urgently a high-level plan that covers all of the programme mobilisation work in a form that makes it a useful and essential tool in planning and managing progress.	Elexon had recognised the need for such a high-level plan before our initial assessment, and has subsequently developed a draft 'plan on a page' for the mobilisation stage of the programme. Elexon will develop this further as the basis for a full 'mobilisation stage plan'.
7	Involve industry staff in development and agreement of the mobilisation plan to improve commitment and support for the programme and Elexon's role.	Elexon had already recognised the need to do this and will seek industry views when the 'mobilisation stage plan' has been developed further.
8	Develop of a more detailed description of how the Systems Integrator (SI) will operate, as has been done for the Independent Assurance Provider (IAP) role.	Elexon plans to define how the SI will operate as part of the mobilisation stage of the programme, as input to defining the scope and plan for the SI's work, and to provide a basis for procurement of SI services.

9	Review the approach to procurement of the SI in the light of the programme management function being procured from a lead delivery partner, to ensure a coherent overall approach to procurement.	Elexon will develop its approach to procurement of the services needed by the programme, including for the SI role, as part of the mobilisation stage.
10	Ensure that where industry staff are included in the wider programme management function, they are provided by a range of industry parties to provide a fuller breadth of experience and knowledge, and to demonstrate explicitly that MHHS is an industry-wide programme.	Elexon was initially and understandably concerned that seeking industry support for the programme would place a burden on market participants. However, having tested this idea with some industry parties, Elexon has received some industry support for this approach. Elexon plans to progress this, with an initial focus on industry staff working as part of the design authority team within the central programme for pre-agreed time-bounded periods.
11	Define the required approach to communication and interactions between the programme and participants, driven primarily by the nature and frequency of interactions that will be needed with participants at different stages of the programme.	Elexon plans to define how the PPC will operate as part of the mobilisation stage of the programme, as input to defining the scope and plan for the PPC's work, and to provide a basis for procurement of PPC services.
12	Define how the Programme Party Coordinator (PPC) will operate in practice (in the form of a set of principles as has been done for the IAP	
13	Involve appropriate industry representatives directly in the design of the principles for the PPC, to ensure it is established in a way that will actively support and help industry parties.	Elexon recognises that industry parties must be actively involved in the definition and design of how the PPC will operate, so that it will provide added value through support and guidance to participants, in addition to providing progress monitoring information for the central programme.
14	Make it very clear to the industry that Ofgem and the PSG will have the key roles in selecting the IAP, with Elexon's role limited to contract administration.	Ofgem has revised the assurance principles since our initial assessment to make it clear that (Ofgem) will specify the assurance requirements, carry out the procurement process, and sign the contract with the assurance provider, with Elexon's role limited to contract management and administration.
15	Ensure that bidders for the IAP role use the assurance principles as a guide in developing their proposals, but also use their experience to make the IAP role as effective as possible.	Ofgem has accepted this recommendation and will seek to embed this philosophy in the procurement approach for the IAP.

16	Develop the assurance principles document further to consider explicitly how independent assurance will help mitigate potential conflicts of interest within Elexon's roles.	Ofgem has revised the assurance principles to stress explicitly the need for the assurance provider to periodically assess and report on whether processes in place for managing potential conflicts of interest in Elexon are appropriate and operating effectively.
17	Ensure that Ofgem has the authority to require changes to manage any conflict of interest within Elexon, through its step-in powers or other measures.	Ofgem proposes amendments to the BSC to give it a power of direction in relation to MHHS implementation, which will allow it to direct Elexon, as SRO, in a number of areas, including related to conflicts of interest.
18	Ensure explicit and visible physical, organisational and cultural separation of the programme management function from other parts of Elexon's work.	Elexon has initiated work to identify office accommodation for the MHHS Programme team that is physically separate from other accommodation used by other Elexon staff, and to establish a separate MHHS Programme website and email addresses.
19	Prepare further for the required degree of separation between the programme management role and other Elexon activities.	

January Consultation response themes

- 2.7. We have published the non-confidential responses to our January 2021 consultation.³ A high level summary of the key themes running through the responses is shown below, and a detailed summary of responses is included in Appendix 1.
- 2.8. The January 2021 consultation asked two questions: one around challenges and risks, and the other around solutions and mitigations. The responses to both of these questions fell under five broad categories: conflict of interest, programme management expertise, transparency, communications, and complexity.

³ [Non-confidential Responses to Consultation on Programme Implementation Principles.](#)

Conflict of interest

- 2.9. There was strong agreement from respondents on the existence of a potential risk to implementation through a possible conflict of interest in Elexon being appointed as Senior Responsible Owner (SRO) for the programme. In particular, carrying out the Programme Management Office (PMO) and design authority functions, as well as having a central role in building the systems needed to deliver MHHS.
- 2.10. Additional to the risk of conflict of interest in carrying out the SRO role, a few respondents suggested a further potential risk in this area arises through Elexon appointing and contracting with the independent assurance function which will provide assurance on the governance processes and programme decision making.
- 2.11. A further concern was raised over the potential for Elexon bias towards BSC parties given that the existing BSC governance does not equally represent all facets of the industry. These respondents felt that Elexon's default position will be to favour the interests of BSC parties, whom they essentially view as their customers. This view was echoed in the independent assessment report by Complete Strategy.
- 2.12. Finally, there were strong views amongst stakeholders that there should be a visible and tangible separation of Elexon's programme management function from other parts of Elexon's work. One of the recommendations in the independent assurance assessment report was to ensure explicit and visible physical, organisational and cultural separation of the programme management function from other parts of Elexon's work.

Ofgem response

- 2.13. We have listened carefully to stakeholders' concerns around conflicts of interest, the potential for Elexon bias towards BSC parties and the risk around Elexon appointing and contracting with the independence assurance function.
- 2.14. In order to address these concerns, Ofgem will remain firmly in the role of Programme Sponsor. We confirm that Ofgem will also run the procurement for the Independent Assurance Provider, as recommended by several stakeholders and by Complete Strategy. Through this consultation we are testing the proposed programme management, governance and assurance arrangements to ensure the approach

represents the best way to involve all parties in a way that streamlines decision making, and reduces conflicts of interest.

- 2.15. The governance structure we propose is centred around a representative industry Programme Steering Group, and includes a Cross Code Advisory Group. This robust structure will ensure both that all parties have a voice at all stages of the programme and that Elexon, in its role as central systems provider, will be treated in the same way as any other programme participant. The views of wider industry can be fed in throughout the governance structure, and will be taken into account as part of the consultative decision-making process.
- 2.16. Lessons learned from other large change programmes including Project Nexus, P272 and Faster Switching have been factored in to the design of the governance model. To address specific concerns over Elexon being both SRO and PMO, we agreed that Elexon should procure some or all elements of the PMO. As noted above in the update on progress against the Complete Strategy recommendations, Elexon have confirmed that they will be competitively procuring the SI and PPC roles. Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO services. We believe that this addresses the concerns that these roles should be competitively procured.
- 2.17. With regards to the views there should be a visible and tangible separation of Elexon's programme management function from other parts of Elexon's work, the draft Governance Framework published alongside this document sets out separation requirements, including requirements for separate office spaces, website and email addresses as well as a requirement that the people who are taking operational and management decisions in relation to the MHHS Implementation Manager roles must not be the same people who take decisions in relation to the MHHS Participant role. As noted above in the update on progress against the Complete Strategy recommendations, Elexon has initiated work to identify office accommodation for the MHHS programme team that is physically separate from other accommodation used by other Elexon staff, and to establish a separate MHHS programme website and email addresses.
- 2.18. Finally, we recognise that our ability to intervene is key. Complete Strategy have recommended that, through our Programme Sponsor role, we should be able to

intervene to take decisions or direct action as necessary where certain thresholds are breached, or where the Independent Assurance function recommends that an issue should be escalated to Ofgem. This is something we have built into the governance model and are consulting on. More information on our role in the programme, and the proposals around our ability to intervene, can be found in section 6.

Programme management expertise

2.19. While many respondents recognised that project management will be key to the success of MHHS, some stakeholders considered that there is risk that Elexon does not have the requisite project management expertise to undertake the PMO role. Although there was acknowledgement of Elexon's role in previous change programmes, some respondents were concerned that these were not of the same scale and complexity as MHHS.

Ofgem response

2.20. Elexon's project management expertise and their capability and capacity to undertake the PMO role was assessed as part of the independent assurance assessment conducted by Complete Strategy. Complete Strategy shared the view put forward by some stakeholders that Elexon does not have programme management experience on projects comparable in scope and complexity to MHHS. In response to Complete Strategy's initial recommendation, Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO services. We believe that this addresses the concerns that these roles should be competitively procured.

Transparency

2.21. A number of respondents felt that there was a lack of transparency around the process of confirming Elexon as SRO, and that the programme management roles would be better determined by a competitive procurement process.

Ofgem response

2.22. Our reasons for confirming Elexon as SRO were set out in the January 2021 consultation, and reflect Elexon's existing role in relation to settlement as BSC code manager. We strongly believe that there are advantages to putting day-to-day decision making in the hands of experts who understand, in more depth than we can, the systems and processes that are being changed. Delivery of industry change programmes is something that can and should be led by the relevant experts. This places Elexon in a unique position to undertake the role of SRO for MHHS. We note the views of respondents that it would be best for delivery roles to be procured competitively. Elexon have confirmed that they will be competitively procuring the SI and PPC roles. Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO services. We believe that this addresses the concerns that these roles should be competitively procured.

Communications

2.23. From a communications perspective, some stakeholders noted that communication with consumers is an integral part of MHHS implementation, and, as such, voiced concerns that Elexon, in their view, does not have sufficient experience in consumer-facing issues.

Ofgem response

2.24. We note the view put forward that Elexon does not have extensive experience of performing a relevant consumer-facing role. We do not envisage that Elexon's role as SRO for implementation of MHHS will have a significant role communicating directly with consumers. Ofgem is currently considering the consumer communications to support the data access aspects of MHHS, but this will be developed with industry alongside the implementation programme and will not necessitate Ofgem having a formal role within the governance structure or programme management structure to do this. In relation to ToU tariffs and other offers linked to MHHS, we would expect consumer communications to be the responsibility of the individual supplier.

Complexity

2.25. There was a consistent view amongst respondents that the management of cross-code and other interdependencies would be extremely challenging in a complex programme like MHHS. A number of respondents highlighted that failure to work effectively across different codes would risk delays to implementation. The importance of code modifications, including cross-code work, being undertaken in a timely manner to allow for adequate system development and testing was also noted. Another stakeholder pointed out that cross-code working needs to be embedded in the programme in order to eliminate any risks, issues or impacts to the MHHS programme or existing codes and processes. Concerns were also raised around the setting up of a complex governance structure in a relatively short space of time.

Ofgem response

2.26. We agree with respondents that cross-code coordination will be key to the timely delivery of MHHS, and that cross-code working needs to be embedded into the programme. We are therefore proposing that a Cross Code Advisory Group will be incorporated into the governance structure, to ensure that management of the cross-code interdependencies is built into the programme implementation framework. In relation to concerns raised around setting up the complex governance structure in a short timeframe, we are working closely with Elexon to ensure the necessary governance structures are in place and expect them to start work on this as soon as possible. Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage.

Outcomes following the consultation and report findings

2.27. Both the responses to our consultation, and the findings of the independent assurance assessment have been instrumental in shaping the proposals that we are setting out in this consultation document. We are listening to the concerns raised by stakeholders and Complete Strategy, and as set out above, have amended our proposals and strengthened the governance model, which we are now consulting on.

2.28. All of the proposals in this document seek to build a robust and successful implementation structure for MHHS. We have endeavoured to develop a robust set of obligations, governance proposals and assurance principles, with the aim of ensuring the best overall outcome for swift, efficient and cost-effective implementation of MHHS, bringing benefits to consumers. The programme will also be supported by expert independent assurance, procured by Ofgem, that will ensure that all programme parties have a voice in the management of the programme and visibility of planning and progress. We are consulting on the proposals set out in the remainder of this document and will be taking the responses to this consultation into consideration with an aim to further strengthen the industry-led implementation to MHHS as required.

3. Obligations on Parties

Section Summary

In this section, we discuss a number of proposed obligations we intend to place on various parties who will participate in MHHS implementation. A draft of these obligations is published alongside this document. We set out the reasons why we intend to place these obligations on these parties. We invite views about whether these obligations are sufficiently well defined for each party type and sufficient to secure the timely and effective implementation of MHHS, as well as any suggestions stakeholders may have about how we have framed these obligations.

Questions

Question 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?

Question 2: Do you agree that the proposed obligations on all programme parties in respect of 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 is clear? If not, how could the proposed obligations be changed to allow this to happen?

Question 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.

Obligations on market participants in MHHS implementation

- 3.1. The existing electricity settlement processes are mainly set out in the Balancing and Settlement Code (BSC) with supporting processes/information set out in other codes, such as the Smart Energy Code (SEC), the Distribution Connection and Use of System Agreement (DCUSA), Retail Energy Code (REC) and the Connection and Use of System Code (CUSC). The arrangements are relatively complex. Moving to MHHS will require significant changes to these processes which are being developed, consulted on and

drafted through a process involving an industry working group (the Code Change and Development Group (CCDG)), which is chaired by Elexon.

- 3.2. As the programme moves into implementation, a framework is needed to ensure these changes are developed and delivered by industry in an effective and co-ordinated way. This framework is described below, and has been developed taking into account the consultation responses and the key findings from the independent assessment report carried out by Complete Strategy.⁴ In order to put the framework in place, we are using this document to set out and consult on obligations to be placed on the various programme participants that will be involved in implementation.

MHHS Implementation Framework

- 3.3. Ofgem has decided to move forward with an industry-led implementation of MHHS. In practice this means that Elexon will play the lead role in delivery of the programme, including acting as Senior Responsible Owner (SRO) with decision-making authority and being accountable for both system integration and programme management functions. In addition, Elexon will have to ensure that there is a programme party coordinator role that will monitor and support programme party delivery. Ofgem will retain a Programme Sponsor role, and will procure an Independent Assurance Provider (IPA) that will provide independent assurance over all aspects of the programme implementation and programme parties' progress. Ofgem will be able to intervene to take decisions or direct action as necessary where certain thresholds are met, or where the IPA recommends that an issue should be escalated to Ofgem.
- 3.4. It has been noted that Elexon, as the operator of the central settlement system, has an operational (and quasi-commercial) interest in the design of the new settlement arrangements. They will similarly have an operational and quasi-commercial interest in the management of the programme, in relation to design decisions or changes and implementation decisions or changes. An important part of the implementation framework will be putting processes to ensure that these potential conflicts of interest

⁴ The main themes of the consultation responses and the key findings from the independent assessment report are set out in Section 2.

are transparently and effectively managed so as not to cause sub-optimal decision making or concern among other programme parties.

3.5. The proposed implementation framework comprises 5 elements:

- 1 **Ofgem as Programme Sponsor:** Ofgem will set the initial framework and have the responsibility for any decisions that meet the thresholds (these are set out in Section 6). Ofgem will also act as adjudicator in significant issues of perceived conflict of interest where this is recommended by the IPA.
- 2 **Elexon as SRO and accountable for all central aspects of programme delivery:** Elexon will be accountable for all centralised programme functions. They will be required to have functional separation in place between centralised programme functions and the operation of central settlement systems to address any risk or perception of conflict of interest. Elexon will be required to operate Programme Governance in accordance with a model established by Ofgem, following this consultation, in order to ensure programme party confidence in the governance process. Elexon will be required to manage the IPA, procured by Ofgem. The Assurance Provider will have a wide scope and a duty to report directly to the Programme Steering Group and Ofgem.
- 3 **Programme Participants obliged to operate in accordance with programme governance, planning and documentation:** all parties who are required to make changes to their IT systems and/or their business processes in order to secure the proper functioning of the new settlement arrangements will be obliged to co-operate with programme governance and assurance, to plan and deliver in accordance with programme plans (including timing and quality requirements), to cleanse and provide data in accordance with programme data documents, to participate in testing in accordance with programme test plans, to undertake qualification in accordance with programme specifications and timelines and to migrate all meter points to the new process in accordance with programme requirements and timelines.
- 4 **A robust representative governance model:** Ofgem is consulting in Section 4 of this document on a governance model that sets out where decision-making authority across the programme will sit, together with SRO authority thresholds and decision escalation routes. Elexon, as SRO, will make decisions in respect of anything below the Ofgem intervention thresholds, but they will have to ensure

those decisions are made using a consultative model that takes appropriate account of the interests of each programme party and of consumers. A representative Programme Steering Group will enable programme participants to hold Elexon to account for its management of the programme. Where the Programme Steering Group and the SRO cannot agree on an issue, the Independent Assurance Provider will be able to recommend that the matter be escalated to Ofgem if that is necessary to protect progress with programme delivery, or if any of the Ofgem thresholds are met.

- 5 **Independent Assurance** – Ofgem will appoint an independent assurance provider with a wide remit, including looking at Elexon’s performance as the central system operator and at all the MHHS implementation manager functions, to scrutinise operation of the programme. The IPA will be able to assure the quality of reporting to ensure that programme parties have accurate and transparent information. The IPA will also have responsibility for making recommendations to remedy any issues or failures that it identifies. Where there are conflicts between programme parties and the SRO, the IPA will be required to provide an independent assessment of the issue and recommendation for action. Where it is appropriate to do so, that recommendation could include escalation to Ofgem.

- 3.6. The obligations set out in the Proposed Code Changes (published alongside this document) directly or indirectly establish parts 2-5 of the above framework. Specifically, they:

- provide powers to, and obligations on, Elexon to discharge its central programme functions;
- Provide obligations on electricity suppliers and electricity distributors as BSC parties to act in accordance with programme governance, planning and documentation;
- Provide obligations on other relevant code bodies to act in accordance with programme governance, planning and documentation.

- 3.7. We will shortly be consulting on changes to the Smart Meter Communications Licence that will oblige the Data and Communications Company (DCC) to comply with these MHHS implementation obligations.

The parties, or categories of parties to be covered by obligations

- 3.8. The Proposed Code Changes published alongside this document contains proposed additions and changes to the BSC and other impacted codes to support the implementation of MHHS. These are described at a high level here, together with a brief explanation of how the obligations will be introduced. Stakeholders are encouraged to look at the detailed drafting in the Proposed Code Changes document⁵ and provide comments on any areas that are unclear or that appear not to meet the objectives that we have set out here. We are also seeking comments on the approach and intent of those obligations in this section of the document. Following this consultation, and taking into account responses received, we expect the next step to be finalisation of these obligations. This would involve the presentation of the changes to the relevant code Panels. The code Panels would then provide a recommendation on the relevant changes prior to us making our decision.
- 3.9. We note that all licensed parties, in particular Electricity Suppliers, Electricity Distributors and DCC, are subject within their licences to an obligation of a 'duty to co-operate' with the implementation of an SCR. This provides a high-level obligation on licensed parties to act in accordance with the implementation programme. However, those obligations are relatively generic, and we consider that it is helpful and necessary to have more detailed obligations to ensure that parties are required to comply with all the different aspects of MHHS implementation. We are therefore proposing a set of more detailed obligations that would be included in the BSC, and which would apply to all programme participants and other code bodies. These obligations will be largely familiar to licensed parties, as they are similar in scope and effect to those contained in the Retail Energy Code Transition Schedule, but take account of the differences between the Switching Programme and MHHS implementation. In addition to the obligations we are now consulting on for inclusion in the BSC and other impacted codes, we will shortly be consulting on changes to the Smart Meter Communications Licence.

⁵ See the [Proposed Code Changes](#), April 2021.

Elexon

- 3.10. Elexon is the BSC code manager and will have multiple roles in the implementation of MHHS. Specifically, they will be the SRO and Programme Management Office (PMO), with accountability for running the programme, and they will also be a participant in the programme, developing and implementing central system changes. They will need to be subject to the same obligations to operate in accordance with the programme in relation to the development and implementation of the central settlement system as other programme parties that have to make changes to systems and/or business processes. They will also need to have a clear framework within which to run the central programme management functions, in accordance with the governance and assurance processes to be set out for the programme.
- 3.11. We propose that these obligations should be introduced as changes to the BSC, establishing specific requirements on Elexon relating to both the accountability for MHHS implementation and the manner in which that accountability is to be exercised. In particular, we are proposing specific provisions for how Elexon will:
- act as SRO for the programme,
 - procure or otherwise provide the necessary functions to provide all the central programme management functions and provide an explanation of its decision as to whether or not to appoint an external service provider for each role,⁶
 - put in place separation of functions as required to address conflicts of interest,
 - operate the programme governance as designated by Ofgem, and
 - manage an independent Assurance Provider procured by Ofgem.
- 3.12. We have published our decision on P413 which confirms the arrangements under which Elexon is moving forward, including with preparations for procuring relevant programme functions.⁷ Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO
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⁶ Elexon have confirmed that they will be competitively procuring the SI and PPC roles. The Proposed Code Changes would also allow Ofgem to require that any or all these roles should be provided by an external service provider if we felt that was necessary. We have confirmed that we expect the SI and PPC to be competitively procured.

⁷ Our [decision on BSC modification P413](#) is on our website.

services. We note that the governance arrangements set out in this document would require a number of additions and some changes to the P413 text. We have also included mark up against the P413 alternative modification text to show those changes (see the Proposed Code Changes⁸). While we have approved P413 as it will further the objectives of the BSC, we believe that the implementation and governance arrangements that we are consulting on here will provide an even more robust, transparent and effective structure over the full course of implementation which will result in more efficient operation overall.

- 3.13. The Proposed Code Changes also includes obligations on Elexon that, as the central settlement system operator, and the provider of the SI, they will be explicitly subject to the general implementation obligations that will apply to other programme participants.
- 3.14. Where Elexon relies on agents or other 3rd parties to enable them to deliver MHHS implementation they will have an explicit responsibility for ensuring that their agents or 3rd parties also act in accordance with the general implementation obligations that will apply to other programme participants.

Data Communications Company (DCC)

- 3.15. DCC is the provider of the smart meter communications system and will be required to make changes to their systems and business processes to deliver MHHS implementation. We propose that DCC should be subject to the same obligations to operate in accordance with the programme in relation to the development of the central DCC systems as other programme parties that have to make changes to systems and/or business processes. We propose that these obligations are introduced via an addition to the Smart Meter Communications Licence, requiring DCC to comply with the MHHS implementation provisions in the BSC. We will shortly be consulting on these changes.
- 3.16. Where DCC relies on agents or other 3rd parties to enable them to deliver the outcomes required by the TOM, DCC should have an explicit responsibility for ensuring

⁸ See the [Proposed Code Changes](#), April 2021.

that their agents or 3rd parties also act in accordance with the general implementation obligations that will apply to other programme participants.

Electricity Suppliers

- 3.17. Electricity suppliers will need to make changes to their IT systems and their business processes to deliver MHHS implementation.
- 3.18. The Proposed Code Changes also sets out the changes to be made to the BSC to require electricity suppliers to be explicitly subject to the general implementation obligations that will apply to all programme participants. Where electricity suppliers rely on agents or other 3rd parties to enable them to deliver MHHS implementation, suppliers will have an explicit responsibility for ensuring that their agents or 3rd parties also act in accordance with the general implementation obligations that will apply to other programme participants.
- 3.19. Given the considerable benefit to consumers, which we have identified that the implementation of MHHS will bring, and from the experience of other large industry change programmes, we think it is necessary that all programme parties, but in particular electricity suppliers, have a strong incentive to work with the MHHS implementation programme and make the necessary changes on time. In order to build those strong incentives, we are proposing a number of measures that should provide an appropriate incentive, and which we believe to be reasonable and proportionate in all the circumstances. These are set out in the Proposed Code Changes, and summarised below:
 - Suppliers may be required to provide statements from their Board on readiness for key milestones. This should ensure Board level engagement with MHHS implementation and ensure it is given appropriate priority within each organisation.
 - Programme progress reporting will, where appropriate, be transparent in reporting to programme participants the readiness position of individual organisations. This will encourage suppliers to want to be seen to be progressing according to programme timelines.
 - Where additional organisation-specific assurance is required, that organisation will be required to procure that assurance at their own cost.
 - We propose that any supplier that is not ready to start migration from the qualification end date (noted as the one-way gate in the implementation timetable) would be disallowed from taking on new customers until they have all the systems and

processes in place in order to accept MPANs that have already migrated. This will provide a strong commercial incentive to suppliers to ensure that they progress on the agreed programme timelines. Introducing a one way gate will also enable a more efficient migration as, once an MPAN has been migrated, it cannot go back. It will also provide protection to consumers, who will be able to be confident that having once switched to HHS under MHHS, any supplier that they switch to will be able to support that position. There will also be practical benefits (by reducing potentially burdensome processes to un-migrate an MPAN) and cost benefits (as MPANs will only be migrated once). Introducing a one-way gate should also reduce the length of time overall migration will take, which will bring forward the benefits we expect to come from the implementation of MHHS.

- At the end of the migration period any un-migrated MPANs will automatically default onto the new TOM and the qualification for non-TOM agents will no longer be valid. Where this happens we expect that suppliers will face higher charges in respect of un-migrated meter points to reflect the additional costs of settling on default profiles.

Electricity Distributors

- 3.20. Electricity distributors will need to make changes to their IT systems and their business processes to deliver MHHS implementation. The general implementation obligations set out in the Proposed Code Changes drafting will also apply to Electricity distributors.
- 3.21. Where electricity distributors rely on agents or other 3rd parties to enable them to deliver MHHS implementation they will have an explicit responsibility for ensuring that their agents or 3rd parties also act in accordance with the general implementation obligations that will apply to other programme participants.
- 3.22. We are keen to ensure that all electricity distributors also have a strong incentive to work with the MHHS implementation programme and make the necessary changes on time. In order to build those strong incentives, we are proposing a number of measures that should have an appropriate incentivising effect. These are set out in the Proposed Code Changes, and are summarised below:

- Distributors may be required to provide statements from their Board on readiness for key milestones. This should ensure Board level engagement with MHHS implementation and ensure it is given appropriate priority within each organisation.
- Programme progress reporting will, where appropriate, be transparent to programme participants in reporting the readiness position of individual organisations. This will

encourage distributors to want to be seen to be progressing according to programme timelines.

- Where additional organisation-specific assurance is required, that organisation will be required to procure that assurance at their own cost.

Supplier's agents responsible for meter operation, data collection and data aggregation

3.23. Data collectors, data aggregators and meter operators (collectively known as supplier agents) will need to make changes to their IT systems and their business processes to deliver MHHS implementation. The Proposed Code Changes drafting makes clear that supplier agents must also comply with the MHHS implementation provisions and will have to complete amended qualification processes in order to participate in the future half-hourly settlement. In addition, we believe that the obligations to be placed on electricity suppliers as set out above should be sufficient to ensure that these supplier agents are required to comply with the general implementation obligations that will apply to other programme participants. Failure to do so would leave the relevant supplier(s) in breach of their BSC obligations.

3.24. We are keen to ensure that all supplier agents also have a strong incentive to work with MHHS implementation programme and make the necessary changes on time. In order to build those strong incentives, we are proposing a number of measures that should have an appropriate incentivising effect. These are set out in the Proposed Code Changes, and are summarised below:

- Supplier agents may be required to provide statements from their Board on readiness for key milestones. This should ensure Board level engagement with MHHS implementation and ensure it is given appropriate priority within each organisation.
- Programme progress reporting will, where appropriate, be transparent in reporting the readiness position of individual organisations. This will encourage supplier agents to want to be seen to be progressing according to programme timelines.
- Where additional organisation-specific assurance is required, that organisation will be required to procure that assurance at their own cost.

3.25. We note that any supplier agent that is not qualified to provide services under the TOM will not be able to provide settlement services upon the completion of full transition to MHHS. We consider that this should be a sufficiently strong commercial incentive on supplier agents to ensure that they cooperate with the MHHS implementation

programme (even though, as they are not licensed parties, they are not subject to the duty to co-operate licence conditions which apply to other parties) and aim to act in accordance with programme requirements.

Code Administrators for SEC, DCUSA, REC and CUSC

- 3.26. Changes will be required to a number of codes in addition to the BSC in order to facilitate the implementation of MHHS. Specifically, a new user role is required in the SEC, together with any additional changes required to support the new processes of MHHS. Changes will need to be made to DCUSA in relation to unmetered supplies. Changes will be required to the REC to amend some data items and processes, and there may be changes required to CUSC to introduce new registrations identifiers, changes to data flows, changes to the timing of data flows and changes to the provision of data. Not all the changes to other codes are yet fully identified, although consultation on the high level changes has been undertaken.
- 3.27. The Proposed Code Changes sets out a proposed addition to each of these codes to require the code administrators to comply with the MHHS implementation provisions in the BSC insofar as they apply to them. This will ensure that code bodies work collaboratively with Elexon and each other to deliver the changes to codes, systems and processes necessary for MHHS implementation. The obligation will ensure that code administrators are obliged to identify, plan and deliver all necessary changes on a timescale that is consistent with the baselined MHHS implementation plan.

Any other 3rd party on which a party above is reliant in order to comply with the obligations described here

- 3.28. Any of the parties or categories of party mentioned above may rely on 3rd parties, whether contracted or otherwise, in order to make the necessary changes to their IT systems and their business processes for MHHS implementation. We consider that any party subject to the general implementation obligations under the BSC would be required to secure the cooperation of those 3rd parties in discharging their obligations. This is made explicit in the general implementation obligations placed on programme parties.

4. Governance Structure

Section Summary

We are consulting on the governance structure for MHHS implementation. This sets out where decision making will sit within the programme, how decisions are taken, consultation requirements, representation requirements, how issues are escalated and escalation thresholds.

Questions

Question 4: Do you support the governance structure as described in the 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.

Question 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?

Approach to Governance

- 4.1. Market-Wide Half-Hourly Settlement (MHHS) implementation will only be a success if there is an appropriate governance structure in place that ensures that key decisions are made at the right time, on the basis of all appropriate evidence and taking all appropriate considerations into account. It is essential that the governance structure should provide all programme parties with visibility of progress and decisions, an appropriate opportunity to inform and shape all decisions and confidence that the decision-making process is working effectively.

- 4.2. The Governance Framework published alongside this document in draft form, sets out our proposals for the governance of the programme at a fairly detailed level. Our proposal is that the Governance Framework, appropriately amended in the light of responses to this consultation, will become the binding MHHS Governance Framework

anticipated in the proposed new Clause C12 of the Balancing and Settlement Code (BSC). This will then form part of the obligations and processes to be operated and followed by Elexon and programme parties. Specifically, this will require Elexon to establish and operate governance processes in accordance with that document. Operation of the governance in accordance with the governance document will be subject to independent assurance.

- 4.3. This should give programme parties, and Ofgem, confidence that the governance processes and structures are being operated properly, and provide a route for programme parties to raise any concerns to be followed up if necessary. Where the independent assurance provider feels that concerns about governance are significant, and have not been addressed, they will be able to escalate those concerns to Ofgem, and we will be able to take steps to ensure that the situation is remedied. There is more detail about how this would work in Section 6 on Ofgem's role.

Key features of the proposed decision-making Governance

- 4.4. MHHS implementation is an industry-wide change programme, and as such it is important that all relevant programme parties should have an appropriate voice in the governance structures and processes. An industry-led model requires that the power between the Senior Responsible Owner (SRO) and the programme parties is appropriately balanced, in order to ensure that the SRO is empowered to make decisions on behalf of industry, yet remains accountable to it. The SRO must fully engage and consult with industry so that all programme parties feel engaged and able to positively influence the programme. The goal is for all parties to have access to all relevant programme information, and to have an opportunity to participate in and influence the programme decision-making process, without unnecessarily delaying the programme.
- 4.5. Ofgem will remain Programme Sponsor, and any decisions that would impact on the design baseline or implementation timetable baseline as published in our April Decision would need to be taken by Ofgem. There is more detail on the thresholds at which decisions would need to be escalated to Ofgem in Section 6 below on the Ofgem role. Decisions relating to MHHS implementation⁹ that sit below those thresholds will lie with

⁹ A definition of MHHS Implementation can be found in section 12.2.9 of the Proposed Code Changes. It

Elexon as SRO for the programme. This section sets out the framework within which the SRO will be able to make decisions, including requirements around industry consultation, impact assessment and independent assurance as appropriate checks and balances. For simplicity, in this document we will refer to the decisions that the SRO can make as 'SRO scope'. We note that Elexon will have to put in place appropriate separation measures to ensure that the SRO and programme team responsible for MHHS are kept functionally separate from Elexon as the operator of the BSC systems. For the purposes of clarity, when we refer in this section of the document to the Elexon Programme team we will say Elexon Programme, and when we refer to the Elexon System team we will say Elexon System.

- 4.6. Elexon Programme is the SRO for the MHHS Implementation and all decisions within SRO Scope are taken by, or under delegated authority from, the SRO. In all circumstances the SRO, or anyone taking decisions under authority delegated from the SRO, should aim for consensus wherever possible and to try to find ways to address the legitimate concerns of any party who is not comfortable with a decision that is being taken. Appropriate consultation of impacted parties must happen at all levels of programme governance from the technical working groups, run by the SI, through to the Programme Steering Group. All programme documents, design, processes, plans and other artefacts will be approved through the governance structure. It is vital that sufficient consultation occurs throughout the process to be sure that decisions are fully informed and are being taken transparently with understanding across the programme parties and with consideration of the impact on consumers. Where decisions are taken by, or under delegated authority from, the SRO, those decisions must be made through a consultative model that takes appropriate account of the interests of each programme party and of consumers.
- 4.7. The key governance body for MHHS will be the Programme Steering Group (PSG) which will have a constituency representation model. Our proposal for the representative membership of the PSG is set out in the draft Governance Framework in the description of the PSG role. We are seeking views on the proposed membership. It is important that the PSG is at the same time sufficiently representative to ensure that

includes the mobilisation, designing, building, testing, integration and go-live of IT systems and business processes required for implementation of MHHS, as well as establishing readiness for go-live, qualification and migration. The role of the SRO is specified in more detail in the draft Governance Framework.

all relevant information and experience is brought to bear on key decisions, and not too large to allow for high quality discussions and effective decision taking. The PSG will be chaired by the Programme SRO.

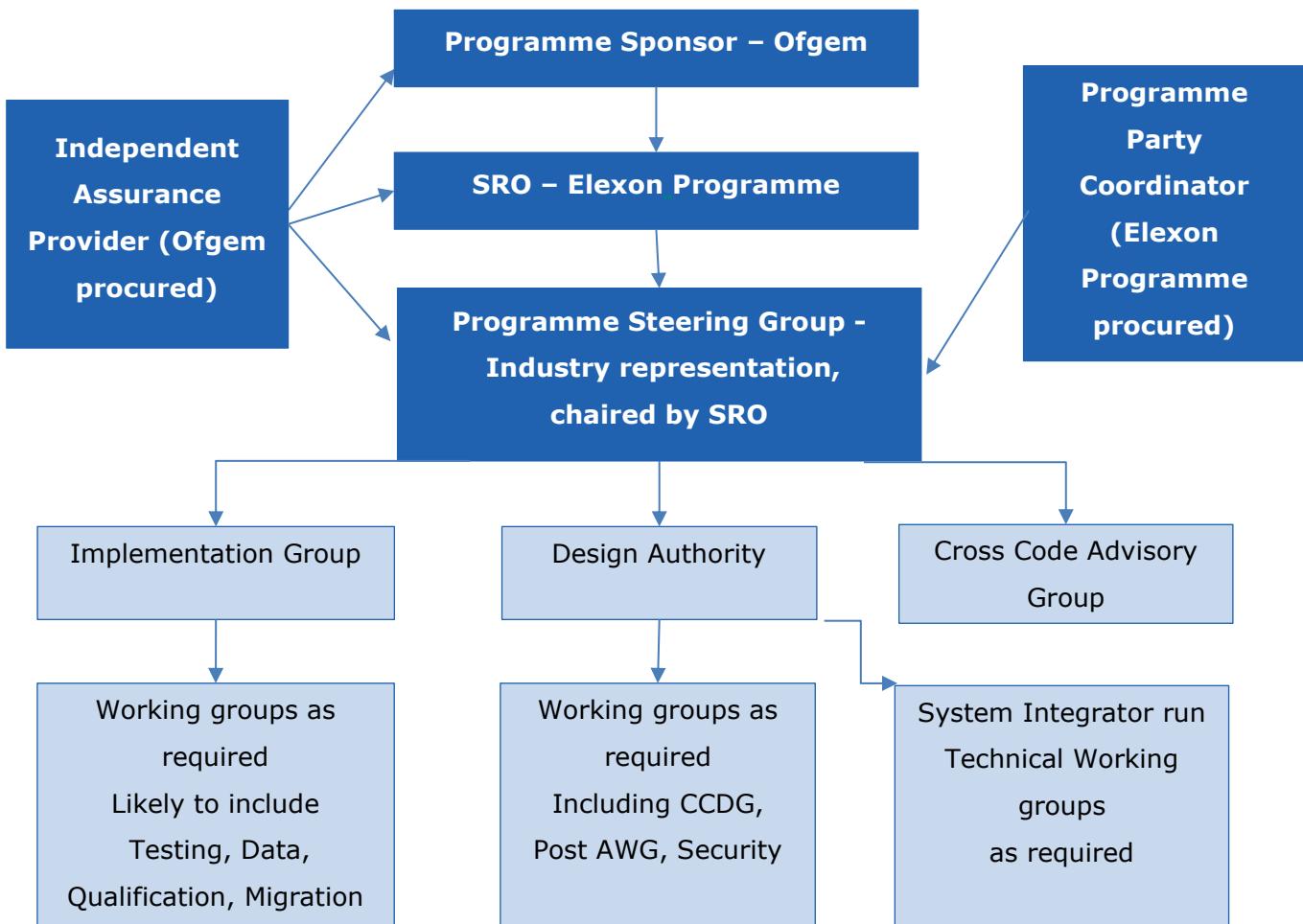
- 4.8. Decisions of the PSG will be taken by the SRO, informed by discussion among the members. We are not proposing a voting structure because we think it is important that decisions should be able to be taken in the best interests of the programme, and taking account of all programme factors. However, we do expect the SRO as Chair of the PSG to aim for consensus wherever possible and to try to find ways to address the legitimate concerns of any party which is not comfortable with a decision that is being taken.
- 4.9. Where a decision would lead to one of the thresholds for Ofgem intervention (see Section 6 'Ofgem's role') being reached, the SRO, as chair of the PSG, will make a recommendation to Ofgem. If the SRO, as Chair of the PSG, cannot reach a consensus, and the matter is within the SRO's scope, then the SRO will make the best decision available to them. If the independent assurance provider considers that the nature or scale of the disagreement between PSG members and the SRO meets the threshold for Ofgem intervention then they can refer the matter to Ofgem, who will be able to direct the outcome. Our expectation is that, where decisions are within the SRO scope, there should be little need for Ofgem intervention to assist with decisions. Clearly we expect Ofgem to be active in all matters that are outside of the SRO scope.
- 4.10. Beneath the Programme Steering Group there is the Design Authority, chaired by Elexon Programme, to which the PSG can delegate decisions that impact on design, and the Implementation Group, chaired by the Programme Management Office (PMO), to which it can delegate decisions that impact on implementation. We are not seeking in this document to define the structure or mode of operation of either of these groups. Our preference would be for both to have a representative structure similar to that of the PSG, but we propose to leave this to be agreed by programme participants in the best interests of MHHS Implementation. Whatever the structure and operation of the groups, they will be required to take decisions following adequate consultation with impacted parties and to ensure that all stakeholder comments and concerns have been appropriately addressed. Any issues exceeding the delegated authority of these groups should be escalated as appropriate, with recommendations from the Chair of the group, reflecting discussions of the group.

- 4.11. Beneath the Design Authority and the Implementation Group, the PMO will establish any industry working groups that are required. These should be open to all programme parties to take part in. These groups will be used to develop the programme documents, design, processes, plans and other artefacts that are to go to the Design Authority for decision. The SI may also establish technical working groups to facilitate effective MHHS Implementation. Any such groups will require delegated authority from the Design Authority or Implementation Group and may not exceed that authority.
- 4.12. The governance structure that we are setting out here, amended as appropriate subject to consultation responses, will need to be established by the SRO. We also need to arrange a transition from the current governance structure to the structure proposed here. Currently, work on MHHS Implementation is done in either the Code Change and Development Group (CCDG) or the Architecture Working Group (AWG), both of which are established under the Settlement Significant Code Review (SCR) and chaired by Elexon. We expect the new governance structure to be in place by September 2021.
- 4.13. The CCDG will be making its final set of recommendations in April 2022. We propose that, once the new governance structure is established, the CCDG should become a working group of the Design Authority and its work should continue in accordance with the new governance provisions. The AWG is due to consult on its recommendations in April 2021, with the recommendation being provided to Ofgem in June 2021. Until these new governance arrangements are in place, Ofgem will continue to make decisions (including on the AWG's recommendation in June 2021) under the current SCR governance framework. Once the new governance structure is in place, expected to be by September 2021, decisions should then be taken under the new governance structure, unless otherwise stated by Ofgem. It is expected that work required following the delivery of the AWG recommendation will be carried out by a working group reporting to the Design Authority.
- 4.14. We are also proposing the establishment of a Cross Code Advisory Group. This group will bring together representatives from the BSC, SEC, REC, DCUSA and CUSC to ensure that there is confidence in the end-to-end approach and design, and that all code change activity is planned and executed in a coordinated and complementary way. This group should operate by consensus, following input from industry. Where consensus cannot be reached, the group can seek guidance from the Design Authority and PSG. If agreement still cannot be reached, the group can seek guidance from Ofgem. The Cross Code Advisory Group will report on progress, and any issues, to the

PSG to ensure programme participants have full visibility of the progression of co-ordinated code work.

- 4.15. In addition to the decision-making structure set out above, there are two further elements to the proposed Governance structure. The first is the Programme Party Coordinator (PPC). This service will be procured by the Elexon programme and will be responsible for working with programme parties to ensure that they are on track with what they have to do for MHHS Implementation. The PPC will look at programme party plans, run readiness assessments and report on individual and market readiness.
- 4.16. Finally, there is the Independent Assurance Provider (IPA). This role will be procured by Ofgem and contract managed by the Elexon programme, but will report jointly to the PSG, Ofgem and the SRO. The IPA will be able to be tasked by the PSG, Ofgem or the SRO and will have a wide-ranging scope and requirement to look at all aspects of the programme. This role is central to ensuring confidence with Ofgem and programme parties in MHHS Implementation. Section 5 below covers the role of the IPA in more detail.
- 4.17. The diagram below shows the proposed decision-making governance structure, and the draft Governance Framework sets out these governance arrangements in more detail. We welcome views on any aspects of these governance arrangements and how they could be made more effective.

Figure 1: Decision-making Governance Structure



- 4.18. The decision-making governance structure set out above is not the programme management structure. Elexon will be consulting shortly on its proposed programme structure which will support and operate the governance structure that is set out above.

Governance change process

- 4.19. Elexon, as PMO, will be responsible for establishing and administering a robust change control process to apply to this MHHS Governance Framework and the relevant programme documents.
- 4.20. A different change process may be established for different programme documents to reflect their relative significance. However, wherever a programme party participant, or decision-making authority as delegated by the SRO, proposes to make a change to the design or implementation of MHHS, then the change request must be impact assessed.

That impact assessment will be required to include the costs and benefits of the change, taking account of costs across the industry and across the investment period for the programme, the reasons why the change is required and the impacts it would have on the delivery timescale. It must also include an evidenced assessment of whether the proposed change would sit within the SRO scope or whether it would meet any of criteria for Ofgem intervention (See Section 6). In particular this means that it must consider any impact on the design baseline as approved by Ofgem and any impact on consumers. Where the change request sits within the SRO scope, the decision on whether to accept or reject the change can be made under the decision-making governance, as set out above. Where the proposed change would meet any of the criteria for Ofgem intervention then the SRO would be obliged to inform Ofgem and the change would require Ofgem approval to be accepted. The Governance Framework can be changed via the governance change process.

5. Independent Programme Assurance

Section Summary

This section sets out the role of independent assurance in MHHS implementation. We are proposing a set of assurance principles which we believe should give confidence to Ofgem, the SRO, the Steering Group and programme parties that the programme is set up for success and is being well managed. The independent assurance will also be able to provide confidence on accuracy of reporting and make recommendations to address risks and issues. Importantly, the independent assurance will be able to bring independent evidence to any disagreements or disputes and to identify when thresholds for Ofgem intervention are reached.

Question

Question 6: Do you have any comments on the proposed assurance principles?

Independent Programme Assurance approach

- 5.1. We set out in the January consultation our expectation that robust independent expert assurance will be essential to building confidence among programme participants in MHHS implementation. Following a review of the responses to the January consultation and when taking into account the key findings from the Complete Strategy Report, we have decided that Ofgem will procure and hold the contract for the Independent Assurance Provider (IPA), with Elexon handling the day-to-day management of the IPA. Having taken account of the consultation responses and the key findings from the independent assessment report, we think this approach will mitigate the risk of bias and should give programme parties, and ourselves, the confidence that the IPA will be acting independently of Elexon, and in the interests of all programme parties, and Ofgem.

- 5.2. This document sets out our views on the principles of what assurance should cover, and how it should report. This is not a document against which the assurance service can be procured. Rather, it aims to provide the background and context for Ofgem to develop the requirements against which the service can be procured.

- 5.3. In a programme of this scope, and involving so many participants, all parties will be to some extent dependent on all the others delivering in accordance with agreed plans and to agreed standards. Experience of other industry change programmes suggests it is essential to build the trust of programme participants in each other and in the reliability of programme reporting and forecasting. The assurance proposed here will provide the Programme Steering Group, the SRO, and ultimately Ofgem, with the means to independently assure the activities of Elexon, DCC, DNOs, Code bodies, suppliers and their agents, the System Integrator (SI) provider, the Programme Party Coordinator (PPC), the PMO and any other party deemed necessary to the delivery of the MHHS Programme. The assurance provider will be able to report on whether requirements are being fulfilled on time, to any agreed quality and cost targets, and to provide recommendations to keep the programme on track. It will also provide a means of ensuring that conflicts of interest between Elexon's roles are managed effectively.
- 5.4. We expect all parties to have appropriate processes in place to assure their own activities, and the Independent Assurance Provider (IPA) is not intended to replace or duplicate those. The IPA should look at each organisation in sufficient depth to be able to provide insight into the delivery of parties' obligations in respect of the programme, but may regard an individual organisation's assurance reports, or reports from the SI or PPC, as relevant evidence. Specifically, the IPA will not be individually assuring the activities of each programme party. We expect a self-assessment approach similar to that in place in the Switching Programme to be used, with the IPA providing assurance that the self-assessment reporting is robust and reliable. Where the IPA identifies any risks or concerns, we would expect it to work with the relevant organisation to identify recommendations to address those risks and concerns.
- 5.5. We expect the IPA to work closely with each of the central programme parties, including Elexon as the BSC system provider and DCC, as well as the PMO, SI and PPC to ensure that all central programme documentation and plans are developed in accordance with programme principles around timeliness, transparency and consultation, and meeting quality requirements.
- 5.6. The IPA will work with all programme parties to ensure that the programme is operating in a way that will lead to successful implementation on the baselined timescales. We expect the IPA to be able to provide early identification of any risks to delivery, together with recommendations to address those risks before they become issues. We expect the IPA to engage actively with programme parties and through

programme governance to ensure that they are fully informed about progress and are able to provide real-time advice at all times, but particularly in the run-up to key milestones and decisions.

- 5.7. The focus of the assurance provider will be to provide evidence throughout the implementation of MHHS to the SRO, Programme Steering Group, and ultimately to Ofgem, to support key decision points, milestones and quality gates in the programme and to assure that the information the programme is being provided by the relevant organisations is accurate, timely and complete. It may also be called on from time to time, to provide independent advice on matters arising which could impact on the delivery of the Programme. Ofgem will contract with the assurance provider, but the contract will be managed on a day-to-day basis by Elexon, who will instruct the assurance provider in accordance with reasonable requests for assurance reports from the Programme Steering Group and Ofgem, as Programme Sponsor.
- 5.8. Crucially, the IPA will have a role in ensuring that Elexon is at all times managing its actual, potential or perceived conflicts of interest in accordance with arrangements set out in the BSC and the Governance Framework. Where issues develop around perceived or actual conflict of interest, the IPA may make a recommendation on how the issue should be resolved. If the issue is sufficiently significant, or if the IPA recommendation is not accepted by Elexon, then the IPA can refer the matter to Ofgem for action.

Assurance Principles

- 5.9. Below is a set of draft assurance principles (covering the objectives, scope, approach and independence of the IPA) which should serve as a minimum set of requirements that the IPA contract should deliver. The appointed IPA should also be able to recommend additional actions or areas of scope, drawing on its experience of programmes of this nature.
- 5.10. We welcome any comments on the assurance principles as a set of basic requirements that the IPA contract must deliver.

Assurance Objectives

5.11. The assurance objectives are to:

- Provide confidence to the Programme Participants that the Programme is set up for success to deliver against the programme objectives;
- deliver independent assurance reporting to support key programme milestones and quality gates;
- provide advice to the SRO, the Programme Steering Group or any other group established under the approved governance structure, or to Ofgem, on any required improvement to quality and performance to ensure delivery on time and to cost;
- report to the SRO, the Programme Steering Group and to Ofgem, on key milestones. In particular, review evidence from the MHHS Implementation Manager and programme participants and provide expert opinion on whether these parties and providers are meeting their obligations to the programme;
- ensure that potential conflicts of interest between the Elexon roles are managed appropriately;
- at the request of the SRO, Programme Steering Group or Ofgem, provide information on an ad hoc basis on assurance related matters; and
- Provide transparent reporting to Programme Participants (subject to the normal confidentiality protections) to provide a third party expert independent perspective of the delivery of the Programme.

Assurance Scope

5.12. The assurance of the programme should be based on a 'three line defence' approach, where the first line of defence is parties' own assurance processes, the second line of defence is the reporting and challenge from the programme SI and the PPC, and the third line of defence is the independent assurance. This recognises the front line assurance that parties are responsible for undertaking over their own internal programmes, while acknowledging that governance and independent assurance have a role to play in providing confidence in the outcomes of the programme.

5.13. The independent assurance should cover all aspects of the programme implementation. Specifically, the following areas, at a minimum, should be within the scope of the assurance service:

- *End to End assurance of the programme* – the assurance provider should have the scope to look across the programme and determine if there are aspects of the programme which are not working in a way that will make the programme as a whole successful. This component is critical to giving confidence that the whole programme, including participant parts of it, is fundamentally set up for success to deliver the programme's objectives. This is an ongoing role throughout the programme.
- *The implementation timetable* – the assurance provider should consider the implementation timetable with regard to completeness, robustness, the extent to which programme parties are realistically able to comply, the risks associated with the timetable, and the approach with contingency. The assurance provider should make recommendations relating to any aspects of the timetable and should, at all times, aim to make recommendations that will secure the earliest possible implementation of the new settlement arrangements.
- *The design artefacts* – the assurance provider should consider whether design artefacts (design documents, interface specifications, etc) produced by programme parties are produced at the appropriate time and are sufficiently clear and comprehensive to support all participants in timely implementation of the programme. The assurance provider should also consider whether there has been appropriate consultation with programme participants about design artefacts and whether participant comments have been appropriately addressed. The provider should make recommendations as appropriate in respect of the process for developing design artefacts and escalation through governance of any issues not adequately resolved during the development process.
- *The governance processes* – the assurance provider should periodically consider whether the governance processes continue to be fit for purpose and whether they are being operated effectively. The provider should make recommendations as appropriate for changes, or for operational improvements, in order to ensure that informed decisions can be made to deliver the outcomes and benefits articulated by Ofgem and secure timely implementation of the programme, taking appropriate account of the interests of all programme participants.

- *Conflicts of interest* – the assurance provider should periodically consider whether the processes in place for managing Elexon conflicts of interest are appropriate and are operating effectively. The assurer should consider any specific concerns relating to conflict of interest that are raised by programme parties or by Ofgem. The provider should make recommendations for changes as appropriate, and report on any concerns to the PSG and Ofgem.
- *Central testing plans and preparation and operation of test phases* – the assurance provider should consider whether central preparation for testing by the SI (and PPC where relevant) is appropriate and whether test planning is proceeding at an appropriate pace to support the implementation timetable, and whether test plans are sufficiently clear and comprehensive to support all participants in playing their part in test phases. The provider should make recommendations as appropriate in respect of the process for developing test plans and escalation through governance of any issues not adequately resolved during the development process.
- *Risks, Assumptions, Issues and Dependencies (RAID)* - The assurance provider should consider the programmatic and technical risks, assumptions and dependencies (noting these can all be treated as risks) relevant to the MHHS implementation. This should consider Risk, Assumptions, Issues and Dependencies (RAID) identified by the overall programme, Elexon and other programme participants, as well as the assurance provider's own assessment. The provider should draw on this risk assessment to focus assurance on key areas of risk, as well as addressing the other areas specifically identified in this document.
- *Key milestones, including go-live* – the assurance provider should consider the criteria established for key milestones and whether they are appropriate and provide sufficient clarity to support informed decisions about moving through milestones. In particular, but not exclusively, this should cover specific go/no-go decisions at major milestones/phase transition to ensure that reviews are carried out in a way that is fit for purpose so that the SRO is able to make informed decisions. The provider should report on whether the criteria are met and make recommendations in respect of any criteria not met.
- *Readiness to achieve key milestones* – the assurance provider should consider whether programme participants are on track for achieving key milestones and make recommendations for any remedial action. The assurance provider would be expected to consider each of the central programme parties individually, and to provide reports

with sufficient coverage of programme participants to give confidence in the overall reporting.

- *Readiness to enter and exit testing phases* – the assurance provider should consider whether entry and exit criteria are clearly and adequately defined by the SI and whether programme participants are on track to enter and exit each testing phase and make recommendations for any remedial action. The assurance provider would be expected to consider each of the central programme parties individually, and to provide reports with sufficient coverage of programme participants to give confidence in the overall reporting.
- *Data Cleansing and Data Migration* – the assurance provider should consider whether the planning and preparation for data cleansing and data migration are comprehensive and appropriate. The provider should make recommendations as appropriate. The provider should consider whether programme participants are operating in accordance with data cleanse and data migration plans and make recommendations for any remedial action.
- *Qualification* – the assurance provider should consider whether the planning and preparation for the qualification process is comprehensive and appropriate and make recommendations as appropriate. The provider should consider whether programme participants are operating in accordance with qualification plans and make recommendations for any remedial action.
- *Migration* – the assurance provider should consider whether the planning and preparation for the migration process is comprehensive and appropriate. This should include whether clear and adequate criteria have been established and whether they have been met. The provider should make recommendations as appropriate. The provider should consider whether programme participants are operating in accordance with migration plans and make recommendations for any remedial action.
- *Programme Participant Business Readiness Progress* – the assurance provider should consider whether programme participants have taken appropriate steps to ensure their business readiness for the introduction of the new settlement arrangements and make recommendations for any remedial action. The assurance provider would be expected to consider each of the central programme parties individually, and to provide reports with sufficient coverage of programme participants to give confidence in the overall reporting.

- 5.14. In undertaking the roles set out above the assurance provider will at all times be acting as the third line of defence, and will be validating the products produced by programme parties, including the PMO, SI, PPC and, where relevant, programme participants.
- 5.15. The assurance provider may also provide assurance where Ofgem, the SRO or the Programme Steering Group consider that additional attention is needed (e.g. where concerns or risks have emerged), or where recommended by the assurance provider, and agreed by the SRO, based on evidence provided and recommendations it makes to the SRO.

Assurance approach

- 5.16. The assurance provider will not, of itself, carry out or directly support any of the activities required of the responsible organisations and service providers to rectify and remedy any issues that it finds, or to enact recommendations it makes as this would undermine its role as an independent assurance provider, but it may make recommendations as to who might be best placed to undertake those actions. Decisions on what action to take in respect of the findings of the assurance provider will be the SRO's responsibility through the established programme governance. The assurance provider will work closely with programme parties to check that processes, people, tools and techniques are in place and being used in a way that has the likelihood that obligations and requirements will be met, leading to successful and timely MHHS implementation.
- 5.17. Complex programmes, such as the MHHS implementation, typically need a suite of assurance techniques, methods, tools, etc., collectively termed 'approaches'. In line with good practice, assurance approaches should generally be 'preventative' in nature and seek to identify progress and performance issues early so they can be remedied by the responsible organisation before they impact significantly on programme time, cost and quality. Assurance can also be 'corrective' or 'reactive' in nature, where issues are identified at a point of acceptance or decision making (e.g. an exit gate from a test phase), and these would normally require remedy or an agreed remedial plan prior to proceeding to the next stage depending on their significance.
- 5.18. The assurance provider should employ a variety of assurance techniques to assure progress through the implementation phase and will provide reporting to the Programme Steering Group and SRO for key programme milestones, review points and

quality gates. The assurance provider should also undertake assurance of selected activities and organisations on an ad hoc basis. The assurance reports and any associated remedial recommendations will provide the Programme Steering Group, and ultimately Ofgem, with the confidence that satisfactory progress is being made, and that milestone and quality gate criteria have been met, or suggest areas where remedial action may be required.

- 5.19. The assurance provider should consider when each of the issues covered within the assurance should be looked at. An assurance plan should be developed that sets out the timing and approach to key areas of assurance scope. All areas of scope should be considered at each relevant key point, or on an ongoing basis as appropriate.

Independence

- 5.20. The assurance provider will be procured by Ofgem, but will be contract managed on a day-to-day basis by Elexon. Ofgem will specify the requirements, and carry out the procurement process, selecting the best provider for the role to ensure that the procurement is wholly independent of any party in the programme. The rationale for placing the contract management with Elexon is that the SRO and Programme Manager role will sit with Elexon, and as such Elexon is best placed to manage the assurance across the whole scope of the programme, including interactions with the System Integrator and Programme Party Coordinator. However, the assurance provider must act independently of Elexon (as SRO or as BSC system provider) at all times.
- 5.21. Arrangements will be put in place to ensure that it will act independently of Elexon and that its findings and recommendations are not unduly influenced or altered by Elexon. Specifically, the assurance provider can be tasked independently by the Programme Steering Group and by Ofgem, and will report directly to the Programme Steering Group. All assurance reports will be provided to Ofgem, and other interested parties will also receive copies of any Assurance Reports relevant to their own service and system provision. It is vital that the assurance provider maintains transparency and independence from Elexon.
- 5.22. As a further means to ensure that the services and outputs from the assurance provider are independent and not influenced by Elexon's interest in other roles and responsibilities in respect of MHHS, for example Elexon's MHHS central delivery and BSCCo role, the contractual management and reporting of the assurance provider should be separated from that of the other MHHS Programme management and

reporting arrangements within Elexon. This would ensure independence from all programme activities Elexon is undertaking.

- 5.23. In respect of the assurance services being carried out, Elexon, in its MHHS Programme role under the BSC, will be subject to the same assurance approaches irrespective of the fact that Elexon is the contract manager for the assurance provider. In providing its assurance of Elexon activities, the assurance provider should also seek regular assurance on an on-going basis that Elexon itself, in its roles of SRO, Design Authority and PMO is not giving any preference to Elexon in its role as BSC system provider, for example, testing, defect triage, the resolution of defects and issues, change impact assessments, the provision of Integration services and environments, etc.
- 5.24. The assurance provider should be independent of all programme parties, including those parties procured to provide programme management, programme party coordinator and SI services.

6. Ofgem's Role

Section Summary

This section sets out the role of Ofgem as Programme Sponsor in MHHS implementation. We are proposing that Ofgem should only intervene to take decisions or direct action when certain thresholds are met, or where the Independent Assurance Provider (IPA) recommends that an issue should be escalated to Ofgem. In this section we have set out our proposals for what the five criteria for Ofgem intervention should be.

Questions

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

Question 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?

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

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

Ofgem as Programme Sponsor

- 6.1. Ofgem will remain Programme Sponsor with overall accountability for ensuring achievement of the objectives of Market-Wide Half-Hourly Settlement (MHHS), while ensuring that accountability for delivery sits with Elexon and industry. We recognise that our ability to intervene is key, and, following the key findings from the Complete Strategy report, we agree that, through our Programme Sponsor role, we should be able to intervene to take decisions or direct action as necessary where certain thresholds are met, or where the Independent Assurance Provider (IPA) recommends

that an issue should be escalated to Ofgem. In practice we believe that this means that any decisions that would change the baseline set out in our April Decision Document, that would materially alter the costs or benefits of MHHS as set out in the impact assessment, or that could have a significant impact on consumers, competition or market stability, should require Ofgem approval. We also consider that any material change to the timeline as set out in our April Decision should require Ofgem approval. We also propose that any significant dispute relating to a real or perceived Elexon conflict of interest could be escalated to Ofgem.

- 6.2. It is not our intention to get involved in the day-to-day running of the programme, and ideally we would expect to be actively involved in only limited circumstances as a decision maker at any point between now and full MHHS implementation. Our expectation is that our further involvement will primarily be related to taking decisions on recommendations put forward by the Senior Responsible Owner (SRO) or IPA where the thresholds for intervention are met. In exceptional circumstances we could go further and direct the SRO or programme parties to take a particular course of action to bring the programme back on track. If necessary, we also propose that Ofgem should have the power to direct that another body should take over provision of the central programme functions.
- 6.3. We set out below proposals for specific thresholds for decisions arising through MHHS implementation to be brought to Ofgem for approval. We also set out our expectations on how such decisions would be brought to Ofgem. We propose that issues will only be able to be referred to Ofgem if they pass a significance threshold, and we further propose that the IPA should validate whether that threshold has been passed before the need for any Ofgem intervention. Given our overall responsibility and the scale and complexity of this programme, it is not possible to absolutely identify all the circumstances in which we may consider it appropriate to intervene. However, our expectation is that we would usually only intervene in specific circumstances, and we have set these circumstances out in the section below. We are seeking views on the criteria for Ofgem intervention, the thresholds for intervention and the circumstances under which intervention might occur.

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

Criteria and thresholds for Ofgem intervention

6.4. The scope of Ofgem's power to intervene with the programme is set out in the governance structure. Given our overall responsibility and the scale and complexity of this programme, it is not possible to absolutely identify all the circumstances in which we may consider it appropriate to intervene, and therefore the governance structure enables our intervention at any point. However, our expectation is that we would usually only intervene in specific circumstances. We propose these to be:

Design Baseline (the Target Operating Model (TOM))

6.5. *If there is a proposed change to the TOM design baseline, as set out in our April Decision:* In our Decision letter and Full Business Case, we confirmed our decision to introduce MHHS on the basis of the Design Working Group's Target Operating Model as explained and described in the DWG Final Report (August 2019) and the DWG Preferred TOM (February 2019). We recognise that, as the detailed design and associated code changes progress, there may need to be some changes to the DWG TOM. We consider that the majority of these changes can be made through the proposed governance arrangements we have set out. However, there may be times when Ofgem involvement is required. We consider that we would only need to be involved if there was a material or fundamental change being proposed. Below we have set out what we consider this would be.

6.6. A material or fundamental change would include:

- A change that materially changes the TOM services (for example a change for what they are responsible for, or who can carry them out).
- A change to any of the policy decisions made on access to data or agent functions.
- A creation of business process Service Level Agreements (SLAs) that would impact the reduced settlement timetable.
- A change which means the TOM would no longer meet the [TOM Design](#) or [TOM Development](#) Principles.
- A change to the settlement timetable.

- 6.7. We have noted in the governance section above that any change request within the programme must be impact assessed. That impact assessment will be required to include an evidenced assessment of whether the proposed change would meet any of the above points. Where a proposed change impact assessment calls out a change in line with any of the above points, the SRO would be obliged to inform Ofgem and the change would require Ofgem approval to be accepted. When Ofgem has approved a change to the design baseline, then this would become the new baseline for which the above thresholds would then apply.

Costs and benefits

- 6.8. *If there is a significant proposed or forecast shift in either costs (materially higher) or benefits (materially lower) than our Impact Assessment suggests:* Ofgem will retain the power to reject a decision that would have the impact of increasing costs or reducing benefits. We have noted in the governance section above that all programme change will have to be impact assessed for the benefit and the cross-industry cost involved. Where costs of £5m for an individual decision – which is 5% of the central programme cost, or £20m cumulatively – which is around 20% of the central programme cost - are identified, we propose that the decision will have to come to us for approval. We would use programme reporting to identify any potential for breaches of materiality and the most suitable point for intervention.

Transition Timetable

- 6.9. *Where significant delays to planned implementation are experienced or forecast:* In our Decision Letter and Full Business Case, we set out a transition timetable, including the main milestones, activities and critical path. We said this would be the baseline from which industry should start working against, and that any changes to this plan would have to be approved through the programme governance. If any recommended changes meet the threshold for Ofgem involvement then they would be subject to Ofgem approval. The transition timeline identifies a number of 'level 1' programme milestones which we consider to be the key dates for ensuring timely implementation. We propose that any proposal to move one or more of those level 1 milestones by 3 months or more should require Ofgem approval.
- 6.10. We expect that where programme reporting is indicating a likely delay of 3 months or more against level 1 programme milestones, the SRO would require a re-plan in order to ensure that all parties have clarity around plans and expectations. The IPA will be

validating the plan regularly, so Ofgem should get early warning of any forecast or planned slippage of programme milestones, allowing us to intervene early where a delay is forecast, and take prompt action to keep the programme on track. When Ofgem has approved a change to the baseline of the transition plan (the Level 1 programme milestones and/or the overall end date of transition), then this would become the new baseline for which the above thresholds would then apply.

- 6.11. Changes to the plan which do not impact a Level 1 programme milestone by 3 months or more do not need to come to Ofgem for approval and such changes should be made through the programme governance.

Impact on competition or market stability and conflict of interest

- 6.12. *Where a situation arises in which a party or parties argue that their interests are being treated less favourably, without good reason, than those of other parties:* This would include where there are issues relating to Elexon's own conflicts of interest. The IPA will be responsible for identifying and reporting on these issues. Where the IPA considers the issues are material, it should be able to bring them to Ofgem for consideration.

Consumer Impact

- 6.13. *Where a situation arises in which a stakeholder argues that the design process is not taking proper account of the interests of end consumers, or a change would have a material impact on consumers:* We have noted in the governance section above that all programme change will have to be impact assessed and that this should include the impact on consumers. Independent assurance will be responsible for identifying and reporting on these issues. Where the IPA considers the issues are material, it would be able to bring them to Ofgem for consideration.

Significant governance changes

- 6.14. Where a governance change is proposed, the IPA should consider whether it is significant, and if so, bring it to Ofgem for consideration. We would expect significant governance changes to include, but not be limited to, changes to the scope of the IPA remit, or changes to the criteria or thresholds for Ofgem intervention. Where a party or parties consider a proposed governance change to be significant, they should be able to bring it to the IPA for consideration.

6.15. Our draft amendments to the BSC in the Proposed Code Changes¹⁰ would give us a power of direction in relation to MHHS implementation, which would allow us to direct Elexon, as SRO, in any of the above circumstances. We are also proposing that we have a more general power to direct Elexon and programme participants in respect of MHHS in order to ensure that the necessary action can be taken when any of these thresholds are met. We are also proposing that Ofgem should be able to direct that another body should take over provision of the central programme functions. It is not our intention to use these wider powers of direction other than in exceptional circumstances where we consider that it is necessary do so in order to keep MHHS implementation on track. We would seek views from industry, and from the IPA, before using these powers.

Question 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?

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

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

Process for seeking Ofgem approval or intervention

- 6.16. We do not aim to set out here any detailed or prescriptive route for seeking Ofgem approval or intervention. However, we are setting out, at a high level, the processes that we would expect to be followed.
- 6.17. As noted above, there are different circumstances in which Ofgem might be required to intervene.
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¹⁰ See the [Proposed Code Changes](#), April 2021.

- a) In some circumstances, there will be a recommended programme decision that passes the threshold for Ofgem intervention. In these cases, we would expect the decision to be prepared through programme governance in the normal way, and then brought to Ofgem with the supporting analysis showing what issue is being addressed, what options have been considered, what consultation with impacted parties has been carried out, and what the impact assessment has shown in relation to impact on the design baseline, costs and benefits, transition timetable, and impact on consumers. The analysis should highlight which of the thresholds had been met, and include a recommendation from the SRO for Ofgem's decision. Ofgem would seek a view from the IPA to validate the analysis presented, and would take a decision on the recommendation.
 - b) In other circumstances, an issue would have been escalated to Ofgem by the IPA in response to a concern raised by a programme party. In this case, we would expect the IPA to bring to Ofgem a clear statement of the issue, an analysis setting out the key evidence, and a recommendation for action. If Ofgem is able to make a decision on the basis of that analysis we would do so, but we would also have the ability to request further information from impacted parties in order to ensure that we can arrive at a fully informed decision.
- 6.18. Where a decision has been referred to Ofgem under one of the criteria set out above, we would expect the SRO to implement that decision as an approved decision under programme governance. Where an Ofgem decision amends the design baseline or the transition timetable baseline, that decision will become the new baseline against which the thresholds apply. Where a decision has been referred to Ofgem, Ofgem may decline to determine the matter for whatever reason. In this scenario, or pending any decision by Ofgem in relation to the referral, the decision of the SRO would be implemented (unless Ofgem directed otherwise).

7. SCR process and next steps

Section Summary

This section notes our decision in relation to the type of Significant Code Review (SCR) process which settlement will follow and sets out the next steps following the conclusion of this consultation, which will be to issue a further decision document and move to implement initial code changes, as well as progress licence changes and future code changes to implement Market-Wide Half-Hourly Settlement (MHHS).

SCR Process

7.1. In our consultation on 22 January 2021, we noted that this industry-led approach might mean that this MHHS SCR would be better suited as an Option 1, rather than Option 3, SCR. Having developed these more detailed proposals, we have decided that it should remain an Option 3, Authority-led, SCR. Although we are establishing a framework which is designed to capture the best of industry knowledge and expertise and not be dependent on us making day-to-day decisions, we will continue to oversee the overall programme and are working to ensure that the various modifications which eventually come to us for decision are in consumers' interests. Additionally, the overall timescales and complex interactions in this programme mean that the flexibility in the process for developing code modifications, which an Option 3 SCR brings, may be needed.

Next Steps

7.2. Following the conclusion of this consultation, we will carefully consider all the responses that we receive. We propose to then undertake the following steps:

- **Publication of a decision document** – we will make decisions on the issues we have covered in this consultation. We expect to publish our decisions in summer 2021. In particular, the issues upon which we expect to make decisions will include the code obligations to be placed on parties to ensure compliance, the governance and assurance arrangements for implementation, and the nature of Ofgem's role in implementation.

- **Progressing code changes** – as part of this consultation, we have set out in the Proposed Code Changes the code obligations we propose to place on parties to the various codes. In particular, our proposed code changes will affect the Balancing and Settlement Code (BSC), including in terms of embedding implementation obligations on parties and the governance arrangements for MHHS implementation in the BSC. Once we have reviewed responses to this consultation and produced a final version of the code changes we intend to make, we will progress these through the SCR process. In summary, we will present the code changes to the relevant code panel(s) so that they can provide a recommendation(s). Following the panel(s') recommendation(s), we will make final decisions on the code changes and state when the changes are to come into effect. We expect the changes to come into effect in autumn 2021. This approach is in line with the SCR Option 3 process which we have followed for MHHS. We note that, in addition, all licensed parties, in particular electricity suppliers, electricity distributors and DCC are subject within their licences to an obligation of a 'duty to co-operate'.
- **Progressing licence changes** – we will shortly be consulting on a proposed change to the Smart Meter Communication Licence, requiring DCC to comply with the MHHS implementation provisions in the BSC. That consultation will act as our statutory consultation on the potential proposed licence changes. Once the statutory consultation is complete and we have considered responses, we would expect to issue a final decision on the changes.
- **Progressing future code changes for MHHS implementation** – the proposed code changes we have set out in this consultation will, amongst other things, aim to place code obligations on parties and embed governance arrangements for MHHS implementation. The Code Change Development Group (CCDG) is currently developing the detailed design for the future MHHS arrangements. The CCDG will be consulting further on these proposed changes and expects to set out the final redlined code changes in April 2022. In addition to the SCR, we also have powers provided to us through the Smart Meters Act 2018, which we currently expect to use to make these further code changes.¹¹ We will request BEIS to trigger these powers at an appropriate time (as they are time-limited) in order to ensure that we can make optimal use of them for the effective and timely implementation of MHHS. The powers allow for

¹¹ See sections 11 to 13 of the [Smart Meters Act 2018](#).

appropriate and effective consultation with stakeholders prior to Ofgem making any final code changes.

- 7.3. In the meantime, we expect all stakeholders to engage with and prepare for the ongoing work of the SCR. In particular, as noted above, licensees are also under a duty to co-operate with the implementation of a SCR. Through these specific implementation code changes, we are seeking to create a clear and comprehensive framework for engagement, but see these as additional to the existing general duty to co-operate. That duty to co-operate is already in place and will fill any gaps should they emerge in this more detailed framework. We appreciate the work which many have already undertaken for the settlement programme and understand the scale of the practical changes which these essential reforms are going to require. That is one of the reasons why we are working to provide as much clarity and information as soon as possible and expect everyone to be engaging, making their plans and stepping up the required resources now.

8. Appendices

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Appendix 1 - Summary of January Consultation Responses and Ofgem's Response

Challenges and Risks

Q1. Do you agree with the challenges and risks that we have identified? Are there any other challenges or risks from the implementation approach described in this document that you would like to bring to our attention? If so, can you suggest any appropriate solutions or mitigations?

1.1. On the question of whether the correct challenges and risks posed by an industry-led approach to implementation have been identified, respondents were divided. Some agreed with the risks we identified in the Market-Wide Half-Hourly Settlement (MHHS) Consultation on Programme Implementation Principles,¹² some expanded on those risks, and some suggested the existence of additional risks. A summary of the views received is set out below.

Conflict of Interest

1.2. There was strong agreement from respondents with the MHHS Implementation Principles Consultation on the existence of a potential risk to implementation through a possible conflict of interest in Elexon being appointed as Senior Responsible Owner (SRO) for the programme. In particular, carrying out the Programme Management Office (PMO) and design authority functions and having a central role in building the systems needed to deliver MHHS. Some responses on this issue focussed on whether the risk could be mitigated and how that could be done, and these topics are discussed under Question 2 on mitigations and solutions.

1.3. Of those who considered there to be a conflict of interest, there was an opinion that Elexon's role in facilitating the Design Working Group (DWG) and Code Change Development Group (CCDG) has already given rise to a conflict of interest.¹³ The

¹² [Market Wide Half Hourly Settlement \(MHHS\) – Consultation on Programme Implementation Principles](#)

¹³ Our [governance framework for the design work](#) included protections against potential conflicts of interest. These included reserving decision making to Ofgem, requiring Elexon as Chair to generate and develop proposals in a way which ensures credibility across all the parties involved, and Ofgem attendance at meetings in an observer role. In addition, in respect of the AWG, Ofgem also provided a Technical Consultant to participate in the discussions and to advise the Ofgem team on the AWG's recommendations.

respondent said that Elexon have presented preferred options that benefit them commercially, giving the example of the new central systems roles. They suggested that this could happen again during MHHS implementation.

- 1.4. Similarly, other respondents said that there were lessons to be taken from Project Nexus, in which Xoserve had a dual role to both oversee the industry programme and ensure its own internal IT preparations progressed in line with industry milestones. One respondent said that the delay to Project Nexus was considered to have been attributed to the conflict between fulfilling both of these roles simultaneously. Some stakeholders considered that Ofgem should appoint an independent programme manager.
- 1.5. Additional to the risk of conflict of interest in carrying out the SRO role, a few respondents suggested a further potential risk in this area arises through Elexon appointing and contracting with the independent assurance function in order to provide assurance on the governance processes and programme decision making. It was put forward that Ofgem should appoint the assurance provider, with one stakeholder giving the example that during Project Nexus, Xoserve as SRO and Ofgem appointed separate assurance providers to provide industry assurance on the overall programme coordination and readiness as well. The respondent suggested that MHHS implementation should take the same approach.
- 1.6. A related concern that was raised by several respondents was that the existing BSC governance does not equally represent all facets of the industry and there is no methodology proposed to ensure fairness across all stakeholders. They thought that Elexon's default position will be to favour the interests of BSC parties who they view as their customers, and therefore all information and decisions would be biased by this viewpoint.

Transparency

- 1.7. A number of respondents were also of the opinion that there has been a lack of transparency around Ofgem's selection process that led to the confirmation of Elexon as SRO.
- 1.8. Some respondents had concerns that this could mean that the most cost effective solution has not been chosen because participants have not been able to assess the

strengths and weaknesses of the other options, or because there has not been a formal procurement process. A number asked that Ofgem clarify its rationale for the decision.

- 1.9. A few said that the apparent lack of a detailed specification of the programme management work and role calls into question the evaluation that was made in order to appoint Elexon to this role. Additionally, one respondent said that this appointment could set a precedent for other functions to be awarded in a similar manner, and that, in the interests of fairness and efficiency, they should be competitively procured. Another response, received in relation to Elexon's related consultation on BSC modification P413 'Enable Elexon to be the Programme Manager for the implementation of Market-wide Half-Hourly Settlement', expressed the view that Elexon should not be automatically appointed without a competitive procurement process.¹⁴

Project Management

- 1.10. Many respondents noted that project management will be key to the success of MHHS, but a number also considered that there is risk that Elexon does not have the requisite project management expertise to undertake the role of PMO. While there were some respondents who stated that Elexon did have the experience required to take on the PMO role, a number were of the opinion that it does not.
- 1.11. Some disagreed with our statement in the consultation that Elexon has considerable experience of delivering broadly similar programmes, saying that Elexon's project management of P272 was problematic and that it was delivered late. Some respondents were also of the opinion that the scale of P272 does not compare to that of MHHS.

Complexity

- 1.12. Stakeholders both expanded on and identified a number of new risks and challenges around the complexity of MHHS implementation. These include challenges around the cross-code impact of MHHS and other interdependencies.

¹⁴ See Elexon's [P413 Report Phase Consultation](#).

- 1.13. In terms of code changes, a number of respondents considered that there is a risk around the need for coordination of the cross-code changes required, and how this can be achieved in an industry-led implementation model. A number specified that failure to work effectively across different codes would risk delays to implementation.
- 1.14. One industry party highlighted the importance of code modifications, including cross-code work, being undertaken in a timely manner to allow for adequate system development and testing. They considered it a risk that an industry-led approach may not have sufficient authority, particularly in cross-code matters, to resolve issues and reduce delays should they arise. Another stakeholder agreed that cross-code working needs to be considered through the programme to eliminate any risks, issues or impacts to the MHHS programme or existing codes and processes. They stated that key to success would be Ofgem watching cross-code exposures closely to prevent delays and fragmented developments (as has happened with previous developments such as P272), and that Ofgem should be prepared and ready to instruct a Significant Code Review (SCR) if necessary to coordinate cross-code dependencies.
- 1.15. In addition to learning from issues that arose with P272, a separate response highlighted the need to learn from the experience of the industry-led implementation of Project NEXUS. They believed that unnecessary costs and delays could have been avoided if Ofgem had provided oversight of connected issues and dependencies across the codes and other programmes, giving the example of the dependency of MHHS on the smart meter rollout. In addition, other respondents expressed concerns including that it is unclear how Elexon can make decisions that will affect codes other than those it administers, and the need for Ofgem's continued involvement to ensure the various energy industry codes work closely together. One stakeholder said that it did not have faith in Elexon's cross-code management capabilities, and that this has been evident in the work performed on the MHHS project to date.
- 1.16. Another area raised as a potential risk or challenge for an industry-led implementation that was not identified in the MHHS Implementation Principles Consultation was setting up the new governance structure. One of these potential risks was that Ofgem is seeking to establish a complex programme management structure in a short amount of time. If the Independent Assurance Assessment is conducted purely on plans, rather than established structures, there is the risk that issues are missed that later manifest to delay implementation. The respondent also said that increased complexity also increases the resource required to interact with and understand it. A different stakeholder raised a point that the existing MHHS governance structure is well

established and relies heavily on key industry experts that are already engaged with the programme. They stressed the need for (where appropriate) key industry experts to be retained and to continue to provide views within the forthcoming governance structure.

Communications

1.17. Some stakeholders responded that one potential risk which was not identified in the consultation concerns the fact that communication with consumers is an integral part of MHHS implementation. They considered that the appointment of Elexon as SRO posed a risk in that Elexon, in their view, does not have sufficient experience in consumer-facing issues. Some said that for that reason, Ofgem should remain in charge of the consumer communication elements of the programme.

Solutions and Mitigations

Question 2. Do you support the solutions and mitigations proposed? Are there additional measures or mitigations that you would propose to make the programme implementation approach more robust and effective?

1.18. We received a broad range of views from respondents concerning the solutions and mitigations proposed, including suggestions for additional mitigations. A number of stakeholders were in support of the mitigations and solutions that we proposed. We note that some of those who expressed support also made suggestions for additional mitigations to be put in place. Arguments put forward in favour of the proposed mitigations included that our proposal to develop Elexon's existing role as the Balancing and Settlement Code (BSC) manager makes sense given their considerable expertise in this area. Also, that Elexon has a good track record of focussing on consumer outcomes in its existing role. However, a greater number said that they did not support the mitigations proposed. Predominantly this was because they considered them to be insufficient to deal with the potential for a conflict of interest to arise in Elexon taking on the role of PMO as well as having a central role in building the systems needed to deliver the change.

1.19. The views we received on the mitigations and solutions to the risks and challenges in the proposed MHHS implementation principles are summarised below.

Conflict of Interest

- 1.20. Some stakeholders expressed support for our proposal for an internal separation at Elexon between the PMO and design authority functions and Elexon's existing BSC central systems delivery function, and for the PMO and design authority functions to treat the BSC central systems delivery function the same as all other programme parties.
- 1.21. One view was that given Elexon's position as a not-for-profit entity, the solutions identified should adequately reduce the risk of conflicting interests. A few stakeholders also said that having Ofgem as project sponsor should provide enough oversight of key decisions and milestone delivery to mitigate the risk of a conflict of interest.
- 1.22. However, there were more respondents who did not think that the mitigations would be effective, believing the suggested internal separation of responsibilities to be insufficient. Several said that without splitting Elexon into two separate legal entities, it is difficult to see how this could be done effectively. One reason given for this was a belief that resources from Elexon's design authority will be required in both areas and that it is hard to imagine that the limited pool of expertise in this area will not be conflicted or diluted on a regular basis. Some respondents also said that avoiding this conflict by procuring additional resource supports the view that Elexon is not best placed to act as programme manager, as it will be effectively 'buying in help' resulting in additional costs and dilution of their industry knowledge.
- 1.23. A number of alternative mitigations were proposed by respondents. One suggestion made by a number of stakeholders was for someone other than Elexon to be appointed as PMO. One of these stakeholders asked that if that is not possible, that Ofgem and Elexon put in place a plan and governance structure that satisfactorily addresses and mitigates stakeholders concerns about Elexon taking on the Programme Management role.
- 1.24. Others said that if the role is going to Elexon, then the independent assurance function proposed to verify that the governance processes are adequate and operated appropriately, including looking at the potential for conflicts of interest, should not be procured by them as we proposed. While there were some stakeholders who agreed that our proposal would aid timely and effective delivery of MHHS, other respondents suggested that the Independent Assurance Expert should be appointed by Ofgem instead of by Elexon to ensure impartiality, or that Ofgem should appoint an additional

assurance expert to provide industry assurance on programme coordination and readiness.

- 1.25. In terms of the concern held by some stakeholders that Elexon's default position will be to favour the interests of BSC parties, it was their suggestion that Ofgem should review the BSC current voting rules. One solution put forward was that a methodology is developed which gives equal weight to the views of Code parties and non-Code parties, or implementing a voting share methodology calculated as the volume of energy under management under each participant. A further suggestion was that the future governance arrangements for MHHS would include an ongoing requirement to continue seeking views of the wider industry prior to any significant decisions and modification to industry codes.

Transparency

- 1.26. As discussed in question 1, a number of respondents were of the view that in order to mitigate what they perceived as a lack of transparency around the decision to confirm Elexon as PMO and the risk that the best option was not chosen, there should a competitive procurement process for the role. Others requested clarification on the rationale for not doing a competitive tender process.

Project Management

- 1.27. Some said that their preferred solution would be the creation of a detailed specification for the programme management work and then for Ofgem to conduct a fair and transparent procurement exercise. However, they said if this is not done then they would strongly advise that the conflict of interest is mitigated by Ofgem procuring independent assurance instead of Elexon.
- 1.28. Another suggested mitigation for the risk that Elexon does not have the sufficient project management expertise, (particularly in light of the competing pressures for resource within Elexon) was for Elexon to act just as the Programme Party Co-ordinator (PCC), given their existing relationships with Parties and Party Agents, and a fully independent organisation act as the PMO.

Communications and Complexity

- 1.29. A number of stakeholders were of the opinion that greater involvement from Ofgem would mitigate some of the potential risks posed by the proposal for Elexon to undertake the PMO role.
- 1.30. Some respondents suggested that Ofgem should remain in charge of the aspects of the programme involving communication with consumers because it will be a significant feature of MHHS and Elexon does not have relevant experience. It was also suggested that Ofgem should remain responsible for any decisions that may result in additional costs to industry parties and consumers, and set clear milestones which will trigger intervention if they are not being met.
- 1.31. Other stakeholders expressed the opinion that cross-code working needs to be considered through the programme to eliminate any risks, issues or impacts to the MHHS programme or existing codes and processes. They considered that Ofgem involvement will be key to success to prevent delays and fragmented developments (giving the example of previous developments such as P272) and that Ofgem should be prepared and ready to instruct an SCR if necessary to coordinate cross-code dependencies.
- 1.32. One code body responded that they should have a role within the governance structure with responsibility for addressing any retail related issues that may arise. Another code body expressed the need for provision to be made for them to have sufficient input on the development and implementation of the code changes required for MHHS.
- 1.33. Other mitigations proposed were that Ofgem and Elexon should put in place a plan and governance structure that can satisfactorily address concerns, including key decision points relating to costs and consumers that will require Ofgem to use its step-in powers, and also financial incentives and disincentives on Elexon to help ensure timely and cost-effective delivery.
- 1.34. One stakeholder suggested a mitigation for the potential risk of unintended consequences from either the removal of data items and supporting data flows - where such data items are not required to support the Target Operating Model (TOM) but may be needed to support other industry processes - or industry parties who are not directly affected by transition to the TOM but may be indirectly affected as a consequence of data or process changes. They suggested an appropriate mitigation

would be to include data experts from other code managers within the governance structure of the programme, for example by bringing in switching expertise from the REC Manager and Data Transfer Network (DTN) expertise from Electralink.

Ofgem Response

1.35. We recognise that there were a number of concerns relating to the proposal to confirm Elexon as SRO, with the majority of respondents considering that this would introduce some risk. We have listened to stakeholders concerns and they have been given careful consideration, including by the independent assurance assessment carried out by Complete Strategy. This independent assessment was conducted at our request to look at Elexon's plans for leading the programme implementation. Through this we have ensured that a comprehensive assessment is made which takes all the relevant considerations into account. Following this, we have sought to address stakeholders concerns and the key findings from the report by amending our proposals and strengthening the governance model, which we are now consulting on. Following this consultation, we will be taking the responses into consideration with an aim to further strengthen the industry-led implementation to MHHS. Below we have set out our response to stakeholders' views and have set out the changes we have made to the model in response to them.

1.36. A primary concern from stakeholders was the potential for a conflict of interest to arise. While we recognise that there is a risk posed by conflicts of interest at Elexon, we think that these can be effectively mitigated, as set out below.

1.37. Regarding the independent assurance function, whose ongoing role in the programme will include verifying that the governance processes are adequate and operated appropriately, we have listened to the view that it should not be procured by Elexon, as this could lead to partiality on the part of the appointed party. We have therefore decided that Ofgem will procure and hold the contract for the Independent Assurance Provider (IPA), with Elexon handling the day to day management of the IPA. We think this approach will mitigate the risk of bias and should give programme parties, and ourselves, the confidence that the IPA will be acting independently of Elexon, and in the interests of all programme parties, and Ofgem. In addition, the objectives of the IPA will include a continuous assessment of whether potential conflicts of interest are being effectively managed. The IPA will report throughout implementation of MHHS to programme governance, programme stakeholders and Ofgem. We anticipate that this will provide transparency around the programme decisions being taken and combined

with the Ofgem procurement of the function, should mitigate the risk of any conflict of interest.

- 1.38. We also confirm that Ofgem will remain firmly in the role of Programme Sponsor. In this role we are proposing we have the authority to require changes to manage any potential conflict of interest within Elexon through our step-in powers. We recognise that our ability to intervene is key, and through our Programme Sponsor role we will be able to intervene to take decisions or direct action as necessary where certain thresholds are breached, or where the IPA recommends that an issue should be escalated to Ofgem.
- 1.39. In relation to the views that an internal separation of Elexon's PMO and design authority functions and their BSC central systems delivery function does not provide certainty that there can be no conflict of interest. We agree with the respondents who said that Ofgem's ongoing role as Programme Sponsor, combined with the separation of responsibilities, will provide oversight to help mitigate the risk posed by potential conflicts of interest. However, to further mitigate this risk, one of the recommendations made in the Complete Strategy report was to ensure explicit and visible physical, organisational and cultural separation of the programme management function from other parts of Elexon's work. We are working closely with Elexon to incorporate this recommendation in setting up the programme management role and governance structure, and the draft Governance Framework¹⁵ sets out the separation requirements. Elexon has already initiated work to identify office accommodation for the MHHS programme team that is physically separate from other accommodation used by other Elexon staff, and to establish a separate MHHS programme website and email addresses.
- 1.40. In regards to the views put forward that lessons need to be learned from Project Nexus, which also employed an industry-led implementation approach, while we do not consider that, when effectively managed, one organisation cannot fulfil both the role of PMO and also carry out some of the central system changes required to implement the programme, we have agreed that Elexon should procure some or all elements of the

¹⁵ See the [draft Governance Framework](#), April 2021.

PMO. Lessons learned from other large change programmes including Nexus, P272 and Faster Switching have also been factored in to the design of the governance model.

- 1.41. In response to the views that suggest there would not be fair representation of all stakeholders affected by the programme, and that Elexon might favour the interests of BSC parties, we think that the robust governance structure proposed, which is centred around a representative Programme Steering Group, should ensure all parties have a voice at all stages of the programme. Additionally, it also ensures that Elexon, in its role as central systems provider, will be treated in the same way as any other programme participant.
- 1.42. In relation to views expressed over Elexon's capacity and capability to undertake the SRO and PMO roles, one of the actions we have taken to ensure that the necessary expertise is present is to have Elexon's capability and capacity to undertake this role evaluated as part of the independent assurance assessment. Complete Strategy shared the view put forward by some stakeholders that Elexon does not have experience of project management on projects with comparable in scope and complexity to MHHS. In response to Complete Strategy's initial recommendation Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO services. We are continuing to work with Elexon to ensure that Complete Strategy's recommendation is incorporated into their proposals for managing the central programme functions and operating the programme governance processes.
- 1.43. On the point raised by respondents that there was a lack of transparency around the process which led to the proposal that Elexon is confirmed as SRO, our reasons for the proposal were set out in the Implementation Principles Consultation document,¹⁶ and reflect Elexon's existing role in relation to settlement as BSC code manager. We strongly believe that there are advantages to putting day-to-day decision making in the hands of experts who understand the systems and processes that are being changed in more depth than we can. Delivery of industry change programmes is

¹⁶ [Market-Wide Half-Hourly Settlement Consultation on Programme Implementation Principles](#), para 2.11-2.13.

something that can and should be led by the relevant experts. This places Elexon in a unique position to undertake the role of SRO for MHHS. We note the views of respondents that it would be best for delivery roles to be procured competitively.

1.44. Elexon have confirmed that they will be competitively procuring the SI and PPC roles.

As noted above, Elexon has appointed an experienced Programme Manager and plans to appoint a Mobilisation Partner to assist in setting up the central programme and supporting Elexon through the mobilisation stage. This will include determining the approach for subsequent procurements, including the programme management/PMO services. We believe that this addresses the concerns that these roles should be competitively procured.

1.45. We agree with respondents about the need for effective cross-code coordination and management of interdependencies and that this will be key for the timely delivery of MHHS. We are therefore proposing that a Cross Code Advisory Group will be incorporated into the governance structure, to ensure that management of the cross-code interdependencies is built into the programme implementation framework. Please see Section 5 for more detail on our proposals for the governance structure, which we are consulting on.

1.46. Finally, there was a suggestion from respondents that greater Ofgem involvement would help to mitigate the potential risks posed by the programme requirements of consumer communications. We note the view put forward that Elexon does not have extensive experience of performing a relevant consumer-facing role. We do not envisage that Elexon's role as SRO for implementation of MHHS will have a significant role communicating directly with consumers. Ofgem is currently considering the details of the consumer communications required to support the data access aspects of MHHS. This will be developed with industry alongside the implementation programme, and will not necessitate Ofgem having a formal role within the governance structure or programme management structure to do this. In relation to ToU tariffs and other offers linked to MHHS, we would expect consumer communications to be the responsibility of the individual supplier.

Appendix 2 - Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the UK General Data Protection Regulation (UK GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem").

The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the UK GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest, such as a consultation.

3. With whom we will be sharing your personal data

We will not share your personal data with any organisation outside Ofgem, unless we are required to do so to fulfil a legal obligation.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will only be held for as long as is necessary for the purposes of the Market-Wide Settlement Reform project.

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

9. More information For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".