

Annex A to the SSES Enduring Governance Consultation - Balancing and Settlement Code Proposed Modification & Explanatory Notes

Context

As set out in the Smart Secure Electricity Systems (SSES) Enduring Governance Consultation, in order for Elexon (as the Balancing and Settlement Code Company (BSCCo))¹ to deliver the SSES Enduring Governance role, the Balancing and Settlement Code (BSC) would need to be modified. This would be necessary for extending Elexon's remit to deliver the SSES Technical and Security Governance Groups and to deliver the required functions as set out in the main body of the consultation. Modifications to the BSC would be implemented by the Secretary of State using modification powers under Section 245 of the Energy Act 2023.

This document sets out the proposed modifications to the BSC for statutory consultation. It also includes a table with a description of each provision of the proposed modification.

These modifications should be read in the context of the [SSES Enduring Governance Consultation](#) and Section C of the BSC linked here: [BSC Section C: BSCCo and its Subsidiaries - Elexon Digital BSC](#).

Please note, any parts of the modification set out in square brackets are existing parts of the BSC included for context and are not a proposed new addition to the code.

Proposed Balancing and Settlement Modifications for Consultation

1. General

1.2 Role and powers, functions and responsibilities of BSCCo

1.2.1F Without prejudice to paragraph 1.2.1, BSCCo may perform the functions, role and responsibilities in respect of the SSES Arrangements in accordance with paragraph 18.

3. Powers and Functions of BSCCo

¹ BSCCo means Elexon Limited (or any successor to that company acting in the capacity as BSCCo)

[3.1.1. Without prejudice to paragraph 1.2.2, BSCCo shall have the following powers, functions and responsibilities:]

(ab) to perform its functions and responsibilities in respect of the SSES Arrangements in accordance with paragraph 18.

18. Smart Secure Electricity Systems

18.1 For the purposes of the Code:

(a) **"SSES Arrangements"** means the arrangements relating to the technical and security regulatory frameworks for enabling consumer-led flexibility including the SSES Governance Framework and any specifications, guidance, standards and other documentation which are to be established and/or maintained by SSES Governance Groups;

(b) **"SSES Governance Framework"** means the document(s) setting out the detailed governance requirements relating to the SSES Arrangements;

(c) **"SSES Governance Groups"** means, in respect of the SSES Arrangements, a technical governance group and a security governance group, and such other committees or groups as may be specified by the Panel from time to time, the governance for which shall be specified in the SSES Governance Framework.

18.2 BSCCo shall deliver the SSES Arrangements including:

(a) providing such support, facilitation, resources and services (including procuring the delivery of services from third party providers) as may be required to:

(i) enable any SSES Governance Groups to discharge their functions and responsibilities specified in the SSES Governance Framework;

(ii) enable the Panel to discharge its functions and responsibilities in respect of the SSES Governance Groups;

(b) performing any other functions or activities related to the SSES Arrangements which BSCCo is required or enabled to perform under the SSES Governance Framework;

(c) engaging with participants in the SSES Arrangements (including participants that are not Parties and other interested persons).

18.3 The Panel shall establish Panel Committees which shall act as, and shall perform the functions of, the SSES Governance Groups provided that in the event of

any conflict or inconsistency between the SSES Governance Framework and Section B then the former shall prevail.

18.4 The SSES Governance Framework and SSES Arrangements shall be comprised in documents, to which the Secretary of State has given prior written consent, which may include Code Subsidiary Documents and/or documents which are otherwise established under the Code and:

- (a) in the case of documents which are otherwise established under the Code, the Code creates obligations in respect of such documents and they shall therefore have binding effect;
- (b) the SSES Arrangements comprised in Code Subsidiary Documents shall be deemed to be documents referred to in Section H1.2.4;
- (c) the SSES Governance Framework may provide for:
 - (i) persons that are not Parties to accede to the SSES Governance Framework;
 - (ii) the proceedings of the security governance group to be conducted on a confidential basis (including for the purposes of Section H4);
- (d) where, in respect of changes to the SSES Governance Framework and/or the SSES Arrangements, the SSES Governance Framework specifies that such changes must be subject to approval by the Secretary of State or the Authority then such requirement shall take effect as a requirement of Section F3 and/or documents otherwise established under the Code;
- (e) without prejudice to the foregoing, the SSES Governance Framework may include a change control process for modifying any documents which are otherwise established under the Code and which form part of the SSES Governance Framework and/or the SSES Arrangements.

18.5 Notwithstanding Section F2 and subject to Section F1.1.10, paragraphs 1.2.1F, 3.1.1(ab) and this paragraph 18 may not be amended without the prior written consent of the Secretary of State.

18.6 All costs incurred by BSCCo in connection with delivering the SSES Governance Arrangements shall be BSC Costs (pursuant to Section D2.1.1 and D2.1.2) but BSCCo shall keep account of such costs separately from all other BSC Costs.

Explainer Notes

The below table sets out the description of each provision of the proposed modification.

Provision	Explainer Note
1.2.1F and 3.1.1(ab)	This adds SSES Arrangements in the context of the roles, powers, functions and responsibilities of Elexon (synonymous with BSCCo in this context) into 1.2 and 3.1.1 of Section C.
18.1(a)	This is a definition of the SSES Arrangements: this sets out the entirety of the scope of SSES in the context of the BSC for the purposes of Enduring Governance. It includes not only the role of Elexon but also of the SSES Technical and Security Governance Groups and the documents created and maintained by the SSES Governance Groups.
18.1(b)	This is a definition of the SSES Governance Framework: this refers to the documents which will set out the detailed governance arrangements including (but not limited to) membership arrangements, roles and responsibilities for the groups.
18.1(c)	This is a definition of the SSES Governance Groups: this refers specifically to the Technical Governance Group and Security Governance Group established under the BSC Panel. It provides scope for the BSC Panel to set up other SSES groups over time if required.
18.2	The introductory wording of 18.2 sets out the requirement for Elexon to deliver the SSES Arrangements. This is required as Elexon can only perform functions that are set out in the BSC.
18.2(a)	This captures Elexon's role in providing the requisite support and resources to the Governance Groups e.g. secretariat function, as well as to the BSC Panel noting these groups will be established as BSC Panel sub-committees.
18.2(b)	This will enable Elexon to carry out any required functions and activities needed to deliver SSES Arrangements on an ongoing basis, to be set out in the SSES Governance Framework including any future changes to this Framework.
18.2(c)	<p>This will place an explicit obligation on Elexon to engage with relevant SSES participants (those involved in or impacted by SSES Governance Arrangements) including those who are not BSC Parties, such as ESA Manufacturers.</p> <p>This could result in SSES participants being able to participate in the SSES Governance Arrangements e.g. voting in the nomination processes, taking part in group deliberations and recommendations or becoming nominees for group membership.</p>
18.3	This will place an obligation on the BSC Panel to establish the SSES Governance Groups as Panel Committees. It also ensures that any elements of Section B of the BSC which set out the responsibilities of the BSC Panel that conflict with the requirements for the SSES Arrangements would not apply.
18.4	The introductory wording of 18.4 sets out at a high level that the details of the SSES Governance Framework and SSES arrangements may be set out in Code Subsidiary Documents (CSDs), or other bespoke documents established under the BSC.

	It also ensures that any documents that make up the SSES Governance Framework will only come into effect once they have been consented to by the Secretary of State.
18.4(a)	This will give binding effect to the BSC documents that are created as part of the SSES Governance Framework that are not CSDs and will make them binding on BSC Parties.
18.4(b)	This specifically refers to those parts of the SSES Arrangements that will be set out in CSDs. The BSC specifies what documents are considered CSDs in Section H1.2.4.
18.4(c)	<p>18.4(c)(i) will enable the inclusion of provisions in SSES documents to allow for the inclusion of non-BSC Parties to 'accede' to those documents, should these documents contain rights/obligations on them.</p> <p>18.4(c)(ii) ensures the SSES Governance Framework can provide for security governance group proceedings to be conducted on a confidential basis where needed, as some of these discussions will regarding confidential information e.g. grid stability risks, threat and risk assessments etc.</p>
18.4(d)	This will provide the Secretary of State or the Authority with approval rights, in respect of changes to the aspects of the SSES Arrangements and/or the SSES Governance Framework which are set out in CSDs or other bespoke documents established under the BSC.
18.4(e)	This sub-paragraph only relates to where the SSES Arrangements and the SSES Governance Framework are set out in 'documents which are otherwise established under the Code' (i.e. bespoke documents) and allows the Governance Framework to establish change control procedures in relation to the same.
18.5	This will ensure that the provisions in Section C of the BSC setting out the SSES Arrangements cannot be modified without obtaining prior consent from the Secretary of State.
18.6	This enables Elexon to recover the costs it incurs in performing its SSES functions as BSC Costs, but notes that Elexon must keep account of costs relating to the SSES arrangements separate to all other BSC Costs.