

Capacity Market Advisory Group Final Minutes

Meeting number **16**

Venue **Elexon Offices/MS Teams**

Date of meeting **16 January 2024 10:00-16:00**

Classification **Public**

Attendance and apologies

Attendee	Initials	Type
Shahena Begum	SB	Alternate Member
Brian Lake	BL	Member
Claire Sedgwick	CS	Member
Eleanor Haynes	EHay	Member
Libby Glazebrook	LG	Member
Mark Duffield	MD	Member
Paul Jones	PJ	Member
Raoul Thulin	RaT	Member
Richard Thwaites	RiT	Member
Ross Haigh	RH	Representative (CM Settlement Body)
Ceri Kenyon	CK	Representative (CM Settlement Body)
Gurpreet Panesar	GP	Representative (CM Settlement Body)
Rebecca Rhodes-Spencer	RR	Representative (DESNZ) (part-meeting)
William Farquhar	WF	Representative (DESNZ) (part-meeting)
Vishnu Nair	VN	Representative (DESNZ)
Rebecca Yang	RY	Representative (EMR Delivery Body)
Stuart Wells	SW	Representative (EMR Delivery Body)
Andrew Macdonell	AM	Representative (Ofgem)
Olga Okulova	OO	Representative (Ofgem)
Lisa Waters	LW	Guest (Waters Wye Associates)
Lawrence Jones	LJ	CMAG Facilitator (Elexon)
Oli Meggitt	OM	CMAG Facilitator (Elexon)
Amy Stackhouse	AS	CMAG Secretariat (Elexon)
Chris Arnold	CAr	CMAG Secretariat (Elexon)
Phillip Paul	PP	CMAG Secretariat (Elexon)

Attendance and apologies

Apologies

Claire Addison	CA	Member
Sophie Lethier	SL	Member

1. Welcome and Apologies

- 1.1 The CMAG Facilitator welcomed Members and Representatives and noted apologies from Claire Addison, with Shahena Begum attending as Alternate; and Sophie Lethier, with Eleanor Haynes attending as Alternate.

2. CM Representative Updates

CM Settlement Body (CMSB)

- 2.1 CMSB noted they are continuing solution development work for CP373 'Process Transfer from CMSB to EMR DB', CMSB and EMR DB are coordinating next steps following the closure of [Ofgem's Statutory Consultation](#).

Ofgem

- 2.2 Ofgem noted their Statutory Consultation for CM Rules Change Proposals closed on 6 January 2024, and they are currently in the process of reviewing responses.
- 2.3 Ofgem further noted they have published their 10 Year Review of the CM consultation, which closes on 19 February 2024. The consultation is seeking views on the appropriateness of the CM Rules Change Objectives and feedback on any CM Rules they identify as burdensome or inefficient. Ofgem highlighted they will be looking to create a heat map of areas within the Rules identified in responses and use this to feed in to future CMAG work.

EMR Delivery Body (EMR DB)

- 2.4 EMR DB noted a query had been raised with Members before the meeting, regarding Prequalification and how many CMUs entered the Tier 1 disputes, and how this compares to data from previous years. EMR DB noted they have identified themes of failure and these tend to be focused on missing signatures or documentation, and a number of misunderstandings relating to the new CM Rules following the publication by DESNZ in July 2023.
- 2.5 EMR DB stated that a majority of Prequalification Tier 1 disputes were later resolved, with 95% of Applicants Qualifying following Tier 1 disputes. EMR DB highlighted that they are continuing to work with Ofgem on FSO license conditions, which they hope will allow more reporting on Prequalification Tier 1 and Tier 2 disputes in the future.
- 2.6 EMR DB noted CMAG is not the correct forum to provide updates on the Portal v2.0. EMR DB hold webinars and share regular emails providing updates for the Portal and welcomes industry to provide feedback via these routes as well as the User Group. EMR DB highlighted their next Portal webinar will be held on Thursday 18 January 2024, and will discuss the administration arrangements including main admin and deputy admin users.
- 2.7 LW raised a query regarding the EMR Portal v2.0, noting a CM Participant has identified a contact as its main admin that did not have this access rights in the previous Portal, and queried how this has happened. EMR DB agreed to review this query further offline.
- 2.8 A Member noted they have also experienced issues with updating and changing the main admin user within the Portal, but were fortunate to still have access to the previous main admin's details to help workaround this. EMR DB noted this feedback.
- 2.9 EMR DB highlighted they will be publishing a formal consultation on Relevant Balancing Services (RBS) in January 2024, which proposes two new RBS (quick reserve and balancing reserve) subject to Ofgem approval.
- 2.10 **New Action 0124/01 – EMR DB to share information on its Relevant Balancing Services consultation with CMAG Secretariat when available.**

Department for Energy Security and Net Zero (DESNZ)

2.11 DESNZ noted there were no updates for this month.

3. CMAG Secretariat Update

3.1 The CMAG Facilitator introduced Oli Meggitt to the CMAG, noting he would be taking over as CMAG Facilitator from March 2024.

4. CP376 'Clarifying the restrictions on the role Agent' - Ofgem

4.1 The CMAG Secretariat presented a summary of the issue and proposed solution for CP376, and the proposed legal text.

4.2 The CMAG Secretariat noted they are seeking CMAG views on the Standard Change Proposal Questions, as no specific change proposal questions were identified by CMAG in advance.

Are there any related changes to the CM Rules in the pipeline?

4.3 CMAG did not identify any related changes.

Does the CP impact on the Regulations?

4.4 At Meeting 15, CMAG determined there is no known impact on the Regulations.

Are there any impacts on any other central industry frameworks or obligations?

4.5 CMAG did not identify any impacts on other central industry frameworks.

Does CMAG agree with the Proposer's solution?

4.6 A Member noted the legal text should be explicit and refer to both 'subsidiary within an Agent's group' and any holding companies within the Agent's group. The Proposer agreed with this change.

4.7 A Member queried if "Applicant Group" is a defined term. The Proposer noted the legal text would be updated to reflect this is not a defined term.

4.8 EMRS queried if the legal text should include reference to Applicant, Bidder and Capacity Provider within Rule 3.3.5(c) rather than just Applicant. The CMAG Secretariat noted Rule 3.3 is specifically about the Applicant, but the legal text will be subject to further review by Elexon Legal who can confirm if any further clarity is required. The Proposer noted the legal text assumes the Applicant will later become the Bidder or Capacity Provider, so it may not be necessary to be explicit.

4.9 EMR DB noted the term Applicant may not cover Secondary Trading Entrants and this should be considered when reviewing the legal text. EMR DB further noted the Proposer may wish to review Exhibit E – Agent Nomination Form and confirm if any further consequential changes are required to ensure the intent of the solution is applied.

4.10 With the above amendments, CMAG agreed with the Proposer's solution.

4.11 **New Action 0124/02 – The CMAG Secretariat to update the legal text for CP376, following CMAG feedback at Meeting 16, to be reviewed by Elexon Legal Team.**

Are there any suitable alternative solutions to address the defect?

4.12 CMAG did not identify any alternative solutions.

Does the draft legal text deliver the intention of the solution?

4.13 A majority of CMAG Members agreed the draft legal text delivers the intention of the solution. One Member voted neutral, noting they do not believe the solution addresses all concerns raised within the issue effectively. The CMAG Secretariat noted the issues highlighted by CMAG, that are out of scope of CP376, will be addressed as potential future CMAG Surgery items.

What are the expected impacts and implementation/enduring costs for Delivery Partners?

4.14 CMSB confirmed they expect CP376 to be low impact with minimal cost. EMR DB agreed to complete an impact assessment to confirm the impacts.

4.15 **New Action 0124/03 – EMR DB to complete an impact assessment for CP376.**

What are the expected impacts and implementation/enduring costs for CM Participants?

- 4.16 A Member noted that requiring an individual Agent for each Capacity Provider may increase costs within the CM by requiring additional resource for Capacity Providers to procure and therefore the end consumer. The Proposer noted that it is only activity related to the Agent's ability to bid for the Applicant, and this is not considered to be a high cost for a Capacity Provider to procure. Furthermore, there is only one Agent that would be impacted if this CP was approved, so the impact and associated cost would be low across all CM Participants.
- 4.17 A Member queried if there is a process for Agents to demonstrate suitability for their role. The Proposer noted the Agent can be any named individual. The form could be clearer if it was asking for a named individual or a company name.
- 4.18 A Member noted the cost of procuring a new Agent is likely low and will outweigh the benefits of reducing the possibility of gaming bids in the Auctions.

Does the CP further the CM Rules Change Objectives and/or Ofgem's Principal Objectives?

- 4.19 Members unanimously agreed CP376 furthers Ofgem's Principal Objective.
- 4.20 Members unanimously agreed CP376 is neutral for CM Rules Change Objective (a).
- 4.21 Members majority agreed CP376 furthers CM Rules Change Objective (b).
- 4.22 Members unanimously agreed CP376 is neutral for CM Rules Change Objective (c).

5. CMAG Surgery – CMAG Change Process Review

- 5.1 The CMAG Secretariat presented an overview of the CMAG change process as-is, based on the CMAG Operating Procedure v2.0, and they are seeking views from CMAG on pertinent pain points within the change process and areas for improvement.
- 5.2 CMSB queried if reports should still be drafted for changes that are no longer being developed or progressed by CMAG. CMSB noted this takes resource from CMAG and the Secretariat, and the process may be better streamlined by only producing reports for changes that have a recommendation to Ofgem. CMSB further noted that over time, intent and thought behind CM Rules can change, so previous discussion had by CMAG may no longer be relevant and would require re-assessment regardless.
- 5.3 Ofgem noted they review all previous discussion on issues that are raised to inform how policy and thinking in this area has developed over time. Ofgem highlighted that whilst there is a resource cost to CMAG producing these reports, there is resource saved from not repeating discussions later on and helping to inform future thinking in certain areas. Ofgem further noted that reports produced by CMAG are used to create a formal rejection, as required by Ofgem for all change proposals, where CMAG has agreed to not continue development.
- 5.4 A Member noted that they find the change proposal reports useful in communicating updates on changes with wider industry groups, as it is a helpful summary of all discussion.
- 5.5 LW noted guidance on policy intent behind CM Rules would be helpful for Proposers, so that they can better understand how to work within the scope of CMAG. Ofgem noted this is something under consideration by Ofgem.
- 5.6 Ofgem noted in a scenario where CMAG recommends a change is implemented, and Ofgem reaches a decision to reject a change, the decision will be presented to CMAG to discuss and understand how the change may be reworked in order to be submitted again. Ofgem further noted they intend to highlight possible areas of concerns before a change is submitted to them to avoid this scenario.
- 5.7 LW noted that holding working groups for changes could be useful to get a wider industry view on issues as there might not be enough of a varied view within CMAG, and CMAG may benefit from hearing from those directly impacted by issues that the change seeks to address. The CMAG Secretariat noted they have held subgroups for CP364 and will continue to identify with CMAG where a subgroup is appropriate or required and consider engagement as part of the process review.
- 5.8 **New Action 0124/04 – CMAG to review the CMAG Change Process diagram and provide feedback to the CMAG Secretariat by 2 February 2024.**

6. CMAG Surgery – ITE Report Requirements Review

- 6.1 The CMAG Secretariat noted that a frequent topic of discussion in previous CMAG meetings has been the CM Rules Independent Technical Expert (ITE) requirements; CMAG has previously noted it may seek to look further into the perceived issues with ITE reports in the future, and consider how the ITE Report framework can be strengthened.
- 6.2 The CMAG Secretariat presented three areas for consideration:
- a) Review existing ITE reporting areas in the CM Rules and identify any key areas of consideration
 - b) Review the definition of ITE
 - c) Review the requirements of ITE reports
- 6.3 A Member noted that in their opinion, the quality and standard for reports is not suitably high for some assurance areas, notably 15 Year Agreements for refurbishing CMUs. The Member further noted there is a vast range in the quality of ITE Reports that are submitted, and guidance on the standard and requirements for an ITE Report may be more beneficial to ensure consistency i.e. the rules may not actually need changing.
- 6.4 CMSB highlighted that guidance is not mandatory and so the issues highlighted may persist unless there is a Rules change. A Member noted any Rules change would need to be in agreement with EMR DB who review ITE Reports, to ensure there is sufficient resource and understanding to do so.
- 6.5 A Member noted guidance for CM Rules provided by delivery partners is well established and can provide additional detail where further clarity is required within the Rules; guidance can ensure that Capacity Providers are clear on their requirements and if following guidance they are unlikely to fall foul of the Rules.
- 6.6 EMR DB noted they have limited powers within the Rules for what their role is with reviewing ITE Reports. A Rules change may be required to provide EMR DB with additional ability to be able to reject an ITE Report where it sees fit to do so.
- 6.7 LW noted the CM Rules could follow the approach of the Environment Agency, and conduct spot check audits on Capacity Providers in place of an ITE Report. A Member noted this would be a drastic change in policy and out of scope of CMAG.
- 6.8 CMSB noted that if a poor quality ITE Report is rejected, this could incentivise the Capacity Provider to be more selective in the ITE provider it chooses to avoid having to redo an ITE Report.
- 6.9 A Member noted having a checklist that includes an element of the quality of the report and the requirements based on the purpose the report is conducted for could be useful for both Capacity Providers, ITE providers and the EMR DB.
- 6.10 EMR DB noted they would review their current guidance on ITE Reports and update this where necessary.
- 6.11 A Member queried if CMAG should think more fundamentally about the purpose of ITE Reports and where they are required within the CM Rules, or if there are suitable alternative measures of assurance. Another Member agreed with this and highlighted it would be beneficial to understand the policy intent behind ITE Report requirements and any future thinking DESNZ may have on this area.
- 6.12 **New Action 0123/05 – DESNZ to confirm the policy intent behind ITE Report requirements within the Rules.**
- 6.13 Overall, the CMAG strongly supported a review of the ITE Report rules. The CMAG Secretariat queried if there were any high priority areas for ITE Report requirements that CMAG wish to consider first.
- 6.14 A Member noted Extended Years Criteria and Total Project Spend are a priority as they set out whether a Capacity Provider can qualify for a 15 Year Agreement. The Member further highlighted that remedial plans may be a quick win, as they are not aware of a Capacity Provider providing one before, and the process for remedial plans is complicated by the Rules and needs to be reviewed.
- 6.15 A Member noted Financial Commitment Milestone as a priority area, as the ITE Report is required to show evidence of spend which could be demonstrated by other means and simplified for both Capacity Providers and EMR DB.
- 6.16 A Member highlighted that depending on what the ITE Report is required for, it will need different levels of expertise for each; ITE Reports that require significant expertise provide a higher value but in some areas they do not appear to add any value and this should be considered as part of the review.

- 6.17 EMR DB noted they prefer having an independent third party evaluate milestones and provide assurance confirmation to eliminate any subjectivity. A Member noted that if CMAG consider suggesting removing ITE Reports and replacing with a different measure, they must consider the expertise and resource EMR DB would require instead so that they can review these reports instead of an ITE.
- 6.18 A Member noted Independent Emissions Verifiers have a very different role to ITEs and require significant technical monitoring experience. This has led to a limited number of qualified IEVs in the industry which creates a bottleneck for those who require an IEV report.
- 6.19 A Member noted that this area of review is not a priority for the next Ofgem Statutory Consultation, and will need significant consideration by CMAG and Delivery Partners to ensure an effective change is delivered.
- 6.20 CMSB noted having a list of approved ITE providers could be useful to industry, with ITE providers who are producing poor quality reports being removed from the list as a consequence.

7. Subsidy Control Framework Update – DESNZ

- 7.1 Rebecca Rhodes-Spencer (RR), Policy Advisor at DESNZ, joined the meeting to provide an update to CMAG on the Subsidy Control Framework.
- 7.2 RR noted the Subsidy Control Framework is designed to ensure that subsidies are designed in compliance with the subsidy principles. The CM is designated as a legacy subsidy scheme, and a Scheme of Particular Interest (SoPI) due to higher potential risk of distortion.
- 7.3 RR noted the Subsidy Advice Unit (SAU) is an independent unit that is part of the Competition and Markets Authority; it seeks to provide independent advice on subsidies and report on public authorities assessment of compliance against the Subsidy Control Principles. The SAU is not a decision-making body and can only provide non-binding advice.
- 7.4 A Member queried how CMAG can assess whether a change would provide for an increase in CM budget of more than 25%, as this would be considered a non-permitted change. RR noted this is more challenging for the CM as it can differ depending on the Auction, but this would be for the SAU to evaluate and consider, the permitted modifications have been designed to cover a range of subsidy schemes and are therefore broader than the CM.
- 7.5 A Member asked how long the process of evaluation by the SAU would take. RR noted it can vary case by case, but submitting a change to SAU for assessment will trigger a 40-day statutory response period followed by a 5-day cooling off period.

8. Industry Feedback

- 8.1 A Member noted they had a query regarding the accuracy of the CM Registers, as their Market Analysis team had discovered a number of inconsistencies. The Member noted there are certain CMUs listed within the CM Registers that are impossible to be formed e.g. DSR and Generating mix, so should not have been displayed on the CM Register. The Member noted as these are not their assets, they are unable to get this rectified. The Member further queried what checks the EMR DB completes before it publishes the CM Register, to ensure these inconsistencies don't continue to arise. EMR DB requested information regarding these inconsistencies be shared so they can investigate this further offline.
- 8.2 LW noted in their experience, the process for resolving inconsistencies within the CM Register is overly burdensome and difficult, with minimal communication from EMR DB. EMR DB noted this feedback and requested LW share details on past issues with them so that they can look to prevent this from happening in the future.
- 8.3 A Member noted following the Mock Stress Event held during October 2023, they had noticed an issue when reviewing their delivery data and were unable to reconcile this data internally. The Member highlighted this issue was specific to storage and Relevant Balancing Services data. A Member queried if there were any published outputs from the Mock Stress Event that could highlight whether this is a wider issue that would need to be communicated further than CMAG. The CMAG Facilitator agreed to review this offline with CMSB.

9. CMAG Forward Work Plan

- 9.1 The CMAG Secretariat presented the CMAG Forward Work Plan, and noted there are a number of items due to be presented back to CMAG in February (CP364 'Secondary Trading before T-4'; CP376 'Clarifying the role of Agent', Housekeeping Changes and ITE Report Requirements Review).
- 9.2 The CMAG Secretariat agreed to circulate a draft agenda for the February 2024 Meeting for CMAG to review and consider if any items should be brought forward or postponed.
- 9.3 There were no further comments on the Forward Work Plan.

10. Action Log

- 10.1 All 'Complete' actions will be marked as closed. Discussion on actions 'In Progress' can be found in the CMAG Action Log v16.1 – 23.01.24, published on the [website](#).

11. AOB

- 11.1 There was no further business and the meeting was closed. The next CMAG meeting date is Thursday 22 February 2024.