

POLICY

POLICY NAME Administering Trading Disputes

1. Introduction – The purpose of this statement

- 1.1 This Policy Statement explains the philosophy adopted by ELEXON to ensure impartiality and transparency when administering Trading Disputes. This is ELEXON's own Policy Statement and is designed to supplement existing BSC documentation. For the avoidance of doubt, BSCP11 'Trading Disputes' shall remain the relevant process document.

2. Roles and responsibilities

- 2.1 Membership of the Trading Disputes Committee (TDC) is drawn from the industry. TDC Members are impartial and are not representative of any one Party or class of Parties. All determinations made are wholly attributed to the TDC.
- 2.2 All communications regarding TDC determinations shall be issued by ELEXON on behalf of the TDC (whether written or verbal) following approval of the communication by the TDC Chairman. It should be clear that any determinations being communicated are those of the TDC.
- 2.3 ELEXON chairs, attends and provides secretariat support to the TDC. However, ELEXON is not a member of the TDC, either in its capacity as chair or in any other capacity, and it has no vote or external influence in respect of TDC determinations.
- 2.4 ELEXON's reputation is founded on independence, transparency and acting as a 'critical friend' to Parties and the industry. The role of ELEXON is to administer the BSC as the BSC Company (BSCCo) and to facilitate the BSC Panel, the TDC and where appropriate, other Panel Committees. ELEXON has no financial interest in the outcome of any Trading Dispute it investigates on behalf of the TDC.

3. Responsibilities for gathering appropriate evidence

- 3.1 Section 1.4 of BSCP11 'Trading Disputes' states that the Raising Party must provide the nature of the alleged Settlement Error when raising a Trading Dispute. In addition, Section 5.1.1 of BSCP11 states the Raising Party must "Identify alleged Settlement Error and raise a Trading Dispute".
- 3.2 ELEXON will assist Parties in the identification of breaches in the BSC once a Settlement Error has been identified and a Trading Dispute has been raised. However in the event that a breach or breaches is/are not identified on the appropriate BSCP11 form then ELEXON cannot be expected to identify that/those breach or breaches in isolation.
- 3.3 ELEXON will investigate relevant BSC clauses, data, processes and evidence of events in collating the information required to demonstrate that the alleged Settlement Error had occurred. Further, if, in the course of its investigation, ELEXON identifies any other Settlement Error falling within the scope of the initial claim, it should present the evidence in relation to this related error to the TDC at the time of the referral hearing.

4. Trading Disputes where ELEXON is implicated

- 4.1 Where a Trading Dispute includes an allegation from the Raising Party that an act or omission by ELEXON has directly contributed to the alleged Settlement Error, additional processes detailed in sections 4.2 to 4.4 shall be implemented.
- 4.2 **Transparency** – ELEXON shall permit the Raising Party to review the referral documentation in advance of a Trading Dispute being presented to the TDC and inform the Raising Party that, if it so wishes, it may attend the open session of the TDC meeting.
- 4.3 Such measures will include:

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- a) The Raising Party shall receive the referral documentation no later than the external paper deadline for the pursuant meeting;
- b) The referral documentation pursuant to 4.3a) will be subject to any explicit provisions in the BSC relating to confidentiality or prejudicing the interests of other Parties;
- c) Any addendum to the referral documentation subject to 4.3b) shall also be made available to the Raising Party in advance of the meeting; and
- d) The Raising Party shall confirm its attendance to the meeting in accordance with meeting deadlines as defined by the TDC Chairman.

4.4 **Separation and dealing with conflicts** – ELEXON shall put in place internal separation in relation to the administration of the Trading Dispute.

- a) At the referral hearing, when the Disputes Secretariat and Raising Party have completed its representations and the TDC is ready to commence its deliberation, the Disputes Secretariat and representatives of ELEXON, the Raising Party and its representatives will be asked to leave the referral hearing. For the avoidance of doubt, the TDC Chairman and an additional minute-taker shall remain and perform their duties throughout the duration of the referral hearing.
- b) Legal advice procured by the TDC shall remain confidential to the TDC, the TDC Chairman and attendees permitted to participate in the deliberation, and a supporting ELEXON lawyer in accordance with TDC Terms of Reference. Such advice shall not be made available to any other ELEXON employees until such time as the matter is resolved or as the TDC deems otherwise appropriate.