

## UNC Workgroup 0676R Minutes

Friday 08 February 2019

at Radcliffe House, Blenheim Court, Warwick Road, Solihull B91 2AA

### Attendees

Chris Shanley (Chair)	(CS)	Joint Office
Mike Berrisford (Secretary)	(MiB)	Joint Office
Alex Travell*	(AT)	BUUK
Clare Cantle-Jones*	(CCJ)	SSE
Dan Fittock*	(DF)	Corona
David Mitchell	(DM)	SGN
Gareth Evans*	(GE)	Waters Wye Associates
Kate Mulvany*	(KM)	Centrica
Kirsty Dudley*	(KD)	E.ON UK
Linda Whitcroft	(LW)	Xoserve
Martin Baker	(MB)	Xoserve
Penny Garner	(PG)	Joint Office
Richard Pomroy	(RP)	Wales & West Utilities
Roberta Fernie*	(RF)	Ofgem
Sasha Pearce*	(SP)	npower
Shiv Singh*	(SS)	Cadent
Steve Mulliganie	(SM)	Gazprom
Teresa Thompson	(TT)	National Grid
Tracey Saunders	(TS)	NGN

\*via teleconference

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0676/080219>

### 1. Outline of Request

Introducing the modification, SM explained that it is seeking to examine the existing Joint Office (JO) provisions with a view to adopting a similar Xoserve FGO style of arrangements for the JO going forwards – in short, some parties believe that the only way forward is to undertake an external stakeholder review, as seeking to address industry issues via an internal gas industry review would ultimately fail to deliver a suitable level of improvement.

PG provided a high-level resume on the (current) role of the Joint Office as the Uniform Network Code Administrator, the main discussion/consideration points are summarised as follows:

- Initially established at the inception of the Uniform Network Code in 2005 when National Grid sold off its various Distribution Networks (DNs);
- Fully funded by Transporters;
- Joint Governance Arrangements Committee (JGAC comprising representatives from all the DN's) administer (and approve) the budget requirements;

- Whilst a clear view on what costs are ultimately passed on to Shippers is not available at this time, PG in her role as Chief Office for the JO invoices the Transporters every six (6) months for actual costs incurred;
- All JO resources are seconded into post (comprising 1x National Grid and 8x Cadent);
- Resource training is tailored (from both an historical and forward planning perspective) to strive to drive continual improvements (including succession planning and skills set sharing, etc.);
- Resource Performance Objectives are set and monitored inline with core employer requirements;
- Resource increases are via JGAC approval only;
- HR related aspects are administered at a 'core' employer level;
  - Resource procurement can be frustrating at times;
- A holistic review is welcomed (by the JO) so long as care is undertaken around the current resource pool (skill sets and suitability for current and future roles);
  - It was noted that a set of attributes that reflect the various JO resource roles would prove beneficial in order to assist the industry to better understand how and what the JO do (i.e. agility to undertake change);
- Care is needed in industry understanding what the JO undertake in discharging its role as Code Administrator, and what the current Transporter Licence and Code (UNC) provisions allow (i.e. in respect of the Modification Rules, Transporter Licence obligations – Special Standard Condition A12 (SSCA12), etc.);

When asked for a view on what items of the JO could be potentially improved going forwards, it was suggested that the JO role could change from being the Code Administrator to becoming the Code Manager (which could competitively procure commercial services such as a centralised legal text provision etc.). PG responded by advising that she has no issue with the current level of Transporter support, but does acknowledge that the processes involved can be constrained (from a timeline perspective) at times – an ability to expedite legal resource requirements in a more timely manner would be beneficial.

Focusing on a question around the current JO funding arrangements, RP pointed out that the Transporters have both a Price Control and Funding (allowed revenue) mechanism that enables (JO associated) charges to be passed to Shippers – in instances where the JO funding requirements exceed a pre-agreed budget allowance, the additional costs would be borne by the Transporter's shareholders (i.e. not passed on to the Shipper community).

At this point SM reiterated his view that potential improvements would be available should the JO role change to being a Code Manager, especially around transparency of costs and industry involvement in the day-to-day management and oversight – it was noted that the Request proposal already highlights some fundamental industry led concerns around the current positioning of the JO.

## 2. Initial Discussion

### 2.1. Issues and Questions from Panel

In noting the concerns voiced and questions posed by the 17 January 2019 Panel members,<sup>1</sup> CS introduced a draft scope document, which has been created to provide an initial starting point for development of a suitable scope for the Request.

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<sup>1</sup> A copy of the 17 January 2019 Panel meeting minutes can be viewed and/or downloaded from the Joint Office web site at: <https://www.gasgovernance.co.uk/panel/170119>

During an onscreen review of the document, CS undertook changes in line with the feedback provided and the general discussions undertaken. A brief summary of the key discussion points for each heading is provided, as follows:

## 1. Scope

### **Evaluation of Transporter Licence requirements with regards to UNC Code Administration**

Renamed as *'The History behind the creation of the JO and understanding of Transporter Licence requirements with regards to UNC Code Administration'* and further refined following Workgroup discussions during which PG provided the background behind how the Transporters discharge their licence obligations (SSCA12) through the Joint Office.

It was noted that Gazprom had raised the Request in response to receiving industry feedback and not just simply off their own initiative.

### **Joint Office Governance Arrangements**

Repositioned to later in the document and statement(s) expanded including a new action assigned to PG to formally enquire whether the Joint Governance Arrangements Committee (JGAC) would be willing or able to share information (including consideration around any confidentiality issues, etc.).

**New Action 0201: Reference Joint Office Funding Arrangements - Joint Office (PG) to enquire whether the Joint Governance Arrangements Committee (JGAC) would be willing or able to share information (including consideration around any confidentiality issues, etc.).**

### **Other funding/governance models (and their pros and cons)**

Reposition to later in the document after item 2 above.

### **Other UNC Governance Matters**

Renamed as *'UNC Governance Matters (Modification Rules)'* and *'UNC Governance Matters (services)'* which were both further refined following Workgroup discussions during which CS confirmed that the aim is to try to identify and define what the perceived problem might be. It was noted that this seems to be a balance between what the JO are obliged to do, and what they are operationally able to do.

In referring to the challenges of dealing with numerous Alternative Modifications (in short timescales) in relation to UNC Modifications 0621 and 0678, the Workgroup were informed of how the JO approaches satisfying the issues of workload, administration and management. It was also highlighted that the issues around Panel Alternates had lessened following the introduction of Modification 0656.

In line with discussions, CS then went on to add new elements to cover:

- *'Use of Panel Alternates'* and *'UNC Voting arrangements'*- reference was made to the Proposer views around the option of having Panel constituency voting arrangements.

Discussions centred around what the root cause of the perceived problems might be during which CS expanded the statement(s) accordingly.

It was noted that whilst some UNCC sub-committees adopt a restricted voting approach, this is not the case for the UNC Panel whereby each and every modification placed before it is voted upon by all members.

Some concerns were voiced around industry parties potentially influencing (distorting) industry views prior to a modification going to Ofgem for a decision – this was not a universally supported view by those present.

When reference was made to adopting a 'constituency' check point for voting parties it was suggested that the DCUSA / SPAA / DSC (which is a contract between parties and therefore subtly different in nature) models might be worth investigating further, although it was recognised that care would be needed in understanding how this would relate back to satisfying UNC Panel requirements.

PG suggested that the Workgroup could ask CACoP to consider voting arrangements across all Codes (i.e. pick the preferred 'best practice' option(s)).

When PG pointed out how Ofgem relies on (and utilises) Panel views and voting aspects when making their decisions on a modification, SM suggested that he sees merit in the Panel retaining confidence to 'push back' to Ofgem, where appropriate.

When PG pointed out that in many instances the JO has no recourse to seek legal advice on governance related aspects, especially where the Modification Rules are also 'silent' on certain matters, SM suggested that this presents an ideal opportunity to address current process related constraints.

CS advised he would look to further tease out the key elements for inclusion within an updated version of the document after the meeting.

- *'Legal Text production (inc. critical friend role)'*- this area was the subject of an extensive debate around potential alternative options during which reference was made to the old Transco Network Code Legal Team providing a centralised legal text provision, and whether a return to a similar provision might be feasible.

It was noted that whilst Cadent often employs the services of Dentons legal services, especially for complex UNC related legal text changes, it also undertakes an 'in house' provision where appropriate.

SM suggested that for him, the key is empowering the JO to have the responsibility to procure and provide a (centralised) legal text provision. Responding, PG outlined the current Transporter legal text rotational provision based approach and warned that care would be needed around the funding aspects associated with a move to a centralised (JO) service for legal text provision – in order to undertake an assessment of any potential benefits associated with such a move, a better understanding of the historical expenditure behind the current Transporter provisions would be needed.

Furthermore, care is needed in assessing the potential (cost related) differences in providing legal text for (simple) Fast Track and Self Governance Modifications compared to Urgent and normal Modifications, especially where multiple alternatives are involved which becomes an extremely complicated consideration from a legal text perspective.

It was pointed out that NGN had recently incurred significant 'hidden' costs associated with procuring 3<sup>rd</sup> party legal text services. Responding, SM remained convinced that it would be beneficial to the industry to seek a more commercialised solution – in short, the aim is to achieve a better legal text service, not necessarily a cheaper one.

It was noted that any change in the current legal text provision approach would potentially place a larger obligation on the Proposer(s) of any new UNC Modifications to undertake more thought and consideration of potential legal text requirements in the first instance, which might result in protracted initial development. Countering this concern, it was noted that undertaking an earlier view of the legal text requirements during a modification lifecycle could be beneficial in obtaining the best outcome for modifications.

PG explained how the JO currently provides a 'critical friend' service to assist Proposers in raising new modifications – however, it was noted that the Proposers are not obliged to (fully) take into account the JO feedback provided.

In noting how the Elexon legal team provides an early engagement role for the equivalent electricity market, some wondered whether provision of a quick legal view (scaling assessment for legal text requirements) for gas market related modification going forwards might prove beneficial. Responding, PG suggested that whilst the JO might not need a lawyer to undertake such an exercise, care would be needed in considering where any potential liabilities thereafter would reside.

In recognising the industry drive towards what a future JO role might be, PG once again pointed out that care would be needed in considering new funding and ownership aspects with special care being placed on the balance between short, medium and longer terms aims and any associated process costs.

Discussions briefly focused on the UIG Taskforce approach during which consideration was given as to how the proposed earlier legal text assessment approach might have helped with the associated UNC Modifications, at which point GE explained how both he and SM had considered six (6) potential models before actually raising the Request with a view to minimising the potential legal text burden – it was suggested that this potentially reinforces the value behind the JO becoming a Code Manager rather than remaining as a Code Administrator.

Some parties suggested that the example of UNC 0621 Modifications coming back to the table in the form of UNC 0678 Modifications would be a much better example than the UIG Taskforce one. When KD explained that she is sometimes frustrated with legal text related considerations when trying to raise a new modification, PG explained that for the JO, it is about providing the correct type and level of assistance to the Proposer in order to help them to better understand the potential legal text related aspects.

In recognising the (0621 and 0678) points being put forward, SM noted (and others in attendance supported) that as far as the 0621 process was concerned, it would have been far better (for the industry as a whole) had Ofgem undertaken a Significant Code Review (SCR) instead.

It was suggested that perhaps the best way forward would be to complete the scoping exercise for the Request before considering how best to amend the Modification Rules going forwards.

PG requested that parties respect the potential impacts of these proposals on the current JO resource pool – in future any references to proposed JO role changes would refer to a 'strategic review'.

When questions were asked as to whether what is being proposed is a review of the Modification Rules or the Code Delivery Model (i.e. a mix of granular information and strategic provisions), it was noted that care would be needed in order to ensure the industry focuses on what can be changed and how best to avoid any potential overlaps with the BEIS/Ofgem initiatives. SM pointed out that BEIS had already indicated that in their view the industry should continue progressing this Request proposal, on the grounds that it could contribute to the BEIS/Ofgem review.

When asked, PG confirmed that under the current Modification Rules provisions, the JO has three (3) business days within which to perform the 'critical friend' role and that the crucial question in respect of these new proposals lies around what the industry wants the JO to undertake in the 'critical friend' role going forwards. CS reminded everyone present that this service also dovetails nicely with the powerful pre-modification discussion process – often the JO challenge the Proposer(s) to consider wider industry aspects (i.e. enter into discussions with the Proposer of an 'original' modification where an alternative is being proposed or even engaging on historic modification assessments). SM believed that further consideration of such matters around how the industry would expect the JO in the role of Code Manager, to undertake engagement and assessment of future UNC Modifications – he strongly supports an independent, Executive Board based approach similar to the Xoserve FGO model.

Whilst indicating that she is broadly supportive of a potential move towards JO independence, PG once again reiterated that extreme care would be needed around consideration of the funding arrangements, etc.

When MB referenced the REC Code managers proposals and how they perform an oversight role, PG reminded those present that the quality of the base data would be crucial for any Code Manager performance assurance role going forwards (i.e. the JO not being responsible for the source data provisions and accuracy) – the current expectation is that the Code Manager would need to expedite the role in a responsible manner and that included Q&A of any data being utilised in order to discharge that responsibility and successfully fulfil the role.

Concluding discussions on this area CS made reference to the BEIS/Ofgem workshop presentation provided by S Leedham on the Electralink view on the role Code Managers could apply with regards to performance assurance.

- '*Value added services*' – focusing on this item, it was suggested that perhaps consideration of what the REC Code Manager might look like in the UNC world might be beneficial.

It was also pointed out that how a Code Manager would/could develop commercial service provisions going forward warrants careful consideration, especially baring in mind that a strategic review should examine how best to transpose from a Code Administrator based model to a Code Manager one.

PG highlighted that any matter relating to (JO) costs would require a formal JGAC request which could be facilitated via this Request Workgroup, although she asked parties to note that the difference between obtaining a view on historic and future costs might prove difficult. PG went on to suggest that perhaps an anonymised line items report would prove beneficial.

When SM explained that he sees value in having more clarity around how various parties currently ‘link in’ to the overall processes (i.e. CDSP – JO – UNC Committee – DSC etc.), RP explained that he had undertaken several long discussions with the former Chief Executive of the JO (Les Jenkins) around the JO and DSC roles. MB pointed out that the CDSP has its own accountability model and how the Workgroup could potentially integrate the role of Code Manager and CDSP in future would need careful consideration.

**2. Test applied to confirm if the industry could deliver the changes required**

When CS advised that he would update the table contents to better reflect the discussions, an action was placed against all parties to look to consider the areas identified and provide views on whether they can be assessed via this UNC Request or not.

**New Action 0202: Reference the Test Applied to Confirm if the Industry Could Deliver the Changes Required table – All parties to look to consider the areas identified and provide views on whether they can be assessed via this UNC Request or not.**

In summarising the discussions, CS advised that he would refine the document based on the feedback and points raised, in order that the Workgroup can continue consideration at the 08 March 2019 Workgroup meeting.

**2.2. Initial Representations**

None.

**2.3. Terms of Reference**

(<http://www.gasgovernance.co.uk/0676>)

It was noted that the standard Workgroup Terms of Reference apply in respect of this Request proposal.

**3. Next Steps**

CS briefly summarised the next steps as being:

- To agree the ‘Test Applied to Confirm if the Industry Could Deliver the Changes Required table’ content and supporting statements.
- Sign off the scope document.

**4. Any Other Business**

None.

**5. Diary Planning**

Further details of planned meetings are available at: <https://www.gasgovernance.co.uk/events-calendar/month>

Workgroup meetings will take place as follows:

Time / Date	Venue	Workgroup Programme
10:30 Friday 08 March 2019	Radcliffe House, Blenheim Court, Warwick Road, Solihull B91 2AA	Standard Workgroup Agenda, plus <ul style="list-style-type: none"> <li>• Agree content of the test applied table, and</li> <li>• Sign off the scope document.</li> </ul>

**Action Table (as at 08 February 2019)**

<b>Action Ref</b>	<b>Meeting Date</b>	<b>Minute Ref</b>	<b>Action</b>	<b>Owner</b>	<b>Status Update</b>
0201	08/02/19	2.1	<i>Reference Joint Office Funding Arrangements - Joint Office (PG) to enquire whether the Joint Governance Arrangements Committee (JGAC) would be willing or able to share information (including consideration around any confidentiality issues, etc.).</i>	Joint Office (PG)	<b>Pending</b>
0202	08/02/19	2.1	<i>Reference the Test Applied to Confirm if the Industry Could Deliver the Changes Required table – All parties to look to consider the areas identified and provide views on whether they can be assessed via this UNC Request or not.</i>	All	<b>Pending</b>