

**UNC Workgroup 0674 Minutes
Performance Assurance Techniques and Controls
Wednesday 24 March 2021
via Teleconference**

Attendees		
Alan Raper (Chair)	(AR)	Joint Office
Helen Bennett (Secretary)	(HB)	Joint Office
Andy Clasper	(AC)	Cadent
Anne Jackson	(AJ)	IGT UNC
Carl Whitehouse	(CW)	Shell Energy
Claire Louise Roberts	(CLR)	ScottishPower
Ellie Rogers	(ER)	Xoserve
Gareth Evans	(GE)	Waters Wye Associates
Guv Dosanjh	(GD)	Cadent
Kirsty Dudley	(KD)	E.ON
Mark Bellman	(MB)	ScottishPower
Sally Hardman	(SH)	SGN
Shelley Rouse	(SR)	PAFA (Gemserv)
Tracey Saunders	(TS)	Northern Gas Networks

Copies of all papers are available at: <https://www.gasgovernance.co.uk/0674/240321>

The Workgroup Report is due to be presented at the UNC Modification Panel by 20 May 2021.

1.0 Introduction and Status

1.1. Approval of minutes (07 January 2021)

The minutes from the previous meeting were approved.

1.2. Review of Outstanding Actions

Action 0808: ScottishPower (MB) to discuss with Dentons Section V16.2.4 the wording of 'without prejudice' regarding the appeal process.

Update: MB confirmed this has been completed. **Closed**

Action 0903: Cadent (AC) to update the wording regarding who is responsible for raising the reports, in line with the Funding, Governance Ownership (FGO) process.

Update: AR explained this has been resolved and is included in the latest version of the legal text. **Closed**

New Action 0904: Cadent (AC) to update the Legal Text in-line with the amended Modification v15.0.

Update: AC confirmed this is complete. **Closed**

Action 0906: All to provide any comments and feedback in relation to the Workgroup Report by Tuesday 19 January directly to Alan Raper alan.raper@gasgovernance.co.uk

Update: AR advised the Workgroup Report is being reviewed for final comments at this meeting. **Closed**

Action 0101: ScottishPower (MB) to update the PARR section of the PAFD to encompass the newly updated reports as directed by Xoserve.

Update: AR explained that because the PARR is now incorporated into PAFD, the PAFD needs to be inline with the latest version of the PARR. There will need to be some kind of track in place for if the PARR changes so that the PAFD can be updated. **Closed**

Action 0102: Joint Office (AR) to investigate if additional questions are now required within the Customer Impacts section of the Workgroup Report and to address accordingly, if applicable.

Update: AR advised he has looked at the CACoP output and taken the essence of the questions being asked, he will cover this in the customer impact section of the Workgroup Report. **Closed**

2.0 Review of Legal Text v9.0

AR clarified the last version reviewed by Workgroup was v9.0 of which there have been several intermediate iterations in between meetings.

MB provided a detailed walkthrough of the change marked Legal Text (v12.0 dated 02 March 2021) and explained the Legal Text has been amended to represent the latest version of the modification (v15.0 29 December 2020). The key changes were to the following sections of the Transportation Principal Document, (some of which have already been reviewed):

Section 12 General Provisions relating to UNC Related Documents

This is being amended to show that paragraphs (g) and (h) are being removed.

Section 16 Performance Assurance

16.1 Performance Assurance Objective

16.1.1 MB asked Workgroup for comments on the definition of the Performance Assurance Objective. Workgroup had no comments.

16.1.2 outlines each party's obligations.

16.4.2 MB explained this paragraph ensures there is an explicit reference in Code for an annual cycle to review the Performance Assurance Framework which will be published ahead of the year setting out in Code a list of things that is expected of the Performance Assurance Committee (PAC). This will cover the Annual PAC Review, the effectiveness of the Performance Assurance Framework; the activities of the PAFA and the achievement of the Performance Assurance Objective.

AR added this has always existed in the Performance Assurance Document (PAFD), there is now the added structure in Code.

16.4.3 is obliging PAC to undertake the review of the Annual Performance Assurance Framework report and delivery plan and stipulates when it will be published.

16.4.4 advises that PAC can delegate all or any part of the PAC functions to the PAFA.

16.4.5 there is no direct charge or cost on the Industry, PAC does have a budget from which there may be some costs consumed by this activity.

16.6.5 is the addition of an invitation of all Performance Assurance parties to an open meeting of the PAC.

16.7.2 sets out that the PAC may modify the PAFD and that PAC will update; maintain and/or modify the PAFD. MB explained that anyone can submit a modification to PAC suggesting a change and PAC may hold an open meeting of the PAC to discuss the proposed modification, Paragraph (d) highlights that any changes to the PAFD will be at the discretion of the PAC and will be effective no earlier than 3 months following notice to Performance Assurance parties of the modification.

16.7.3 highlights that PAC retains accountability for the techniques it uses.

16.7.5 covers costs and expenses incurred with the implementation of Performance Assurance Techniques.

ER sought clarification that if any of the techniques found in the PAFD are applied then costs incurred by CDSP would rest with Xoserve.

16.8.2 sets out the appeal process and the grounds upon which an appeal can be made.

When GE asked how a referral to the Authority would be done, MB advised the PAC would outline the nature of the compliance issue, outline the actions taken to resolve, and it would then be for Ofgem to consider how they want to proceed.

GE said that they could become powers that are never used which is not great practice in a contract but he appreciates this is standard in other Codes.

16.8.7 covers an appeal to PAC where PAC has not changed its decision so that where the appellants party feels it is still incorrect so they appeal to UNCC.

Anne Jackson (AJ) advised that the IGT UNC will point to the appeal process, if a decision is appealed, that will go to UNCC too; the IGT UNC covers the basis that all parties in IGT UNC are also party to UNCC. She added that the legal drafting in UNC will be applicable to the IGT UNC, PAC have access to IGT UNC data, reports are blended IGT and UNC. All aspects of the regime are applicable to the IGT UNC.

AJ advised of the impact on Settlement if IGT are not reporting correctly, and there could be implications upstream.

AR confirmed he would amend the Workgroup Report and note that an appeal, related to an issue limited to an IGT, would still go to UNCC. It was noted that there is an IGT rep on the UNCC. KD requested for the settlement element to be noted as that is key aspect as to why such an event should follow the UNCC path.

Shelley Rouse (SR) also confirmed there is IGT representation on the PAC.

16.11.3 is ensuring parties have an appropriate contact point available for PAC issues.

16.13.2 places the obligation on CDSP to make data available.

Modification Rules

An amendment to paragraph 6.1.1 which highlights that PAC can sponsor modifications in its own right.

No further comments

3.0 Review of PAFD v4.5

AR provided a walkthrough of the Performance Assurance Framework Document (PAFD) v4.5, which was updated following its previous review on 07 January 2021, the following areas were discussed:

MB explained that each section of the of the PAFD starts with an italicised introduction to that section.

17.0 Annual PAF Delivery Plan, Review and Consultation

New text has been inserted relating to the Delivery Plan, to clarify that the delivery plan looks back, in terms of performance and what aspects of PAC worked well, and forward, in terms of future activities should be undertaken.

This section also clarifies the Annual Performance Assurance review and the Annual Performance Assurance Delivery Plan.

17.1 Annual PAF Delivery Plan

Clarification that the Annual PAF Delivery Plan will be published before the gas year commences in order for the Industry to see what they can expect.

KD advised she found the template which is shown on page 21 really useful.

20.12 Transitional Arrangements

KD asked for clarification of the Transitional rules as they are not mentioned in the modification or the Legal Text and asked if there should be.

AR clarified that the Workgroup Report will be updated to show in the implementation section that explains any transitional activity it is as per the PAFD.

KD asked for clarity for when the PAFA notifies each Shipper in writing mentioned on page 39, will the letter be issued before; after or on the implementation date.

MB confirmed that the letter would not re-establish what needs to be done, it would be making clear that current plans will remain in place.

KD asked if there is a way to ensure that notifications are prior to implementation. AR suggested he can put in a potential aspiration date into section 20.12 which could be 01 October 2021; 01 November 2021 or another date with sufficient lead-time. It was agreed that a more structured approach for the timeline would be an advantage in the Workgroup Report. GE agreed that would be a good way forward.

AJ advised that this would be mirrored in the IGT/UNC modification and asked if Ofgem approve the modification, what would happen in the interim between the approval and implementation.

MB clarified the provisions of the Code would not become effective until the implementation date, and hence, PAC would continue in the manner they have been until the implementation date.

20.8 Publication

KD asked where the publication of the comparison metrics will be published and updated. MB advised it will be published on the Joint Office website and confirmed the information will not be anonymised.

When KD asked if the report covers individual Shipper entities, where a shipper is part of a group, will it be rolled up or individual entities, SR confirmed the report will remain as individual entities. AR clarified this will be captured in the Workgroup Report.

4.0 Finalise Workgroup Report v3.0

The Workgroup Report has now progressed to v3.1. AR provided an on-screen overview of the additions and alterations within the PAFD v4.5 and drew attention to areas that were of interest.

AR advised an extension to May 2021 was granted at UNC Panel on 18 March 2021, however, the aspiration is that documentation could be presented to UNC Panel in April 2021.

Timetable

This now shows the Workgroup submission will be to April 2021 UNC Panel.

Governance

A number of documents affected by this modification are listed.

GE advised the Letter of Confirmation will need to be redrafted by the PAC in due course; AR advised, in accordance with certain sections of the Code, PAC members are not to disclose any discussions at PAC relating to confidential matters. The Letter of Confirmation is a letter that is signed by each PAC member and refers to sections of the Code and the references would need to be amended post implementation. In any event, the letter is only required when new members in PAC or the UNC Elections process where there is a change of membership.

MB explained that PAC were asked to review the documentation in August 2020, MB asked PAC approval and an informal vote was taken at the end of that discussion.

GE advised, in terms of endorsement, it is important that the level of support is documented and it needs to be clear it was not a unanimous vote. MB clarified that unanimous support was given for the statement of intent from those present and able to vote and there were no concerns expressed. AR advised he will amend the Workgroup Report to reflect the PAC minutes. It was commented that, of the PAC members, one member was not present and one member chose not to vote because they had not had sufficient time to review the material, but under the PAC terms of reference, this qualified as an affirming vote. AR added a statement to the Workgroup Report relating to the version that was voted on by PAC (4.3) and listed the changes in between versions.

Workgroup agreed, because the PAFD v4.3 was voted on by PAC in September 2020, it is appropriate to hold an ex-Committee vote to get PAFD v4.5 approved.

New Action 0301: Joint Office to decide the most appropriate route for PAFD v4.5 to be approved by PAC.

Why Change

MB clarified there are examples of material non-compliant performance where a more formal structure might have helped.

GE advised he is not comfortable on how governance changes are going to be raised, if you take away the oversight of PAC and then put in restrictions, the oversight is lost. He said it seemed to him that there would be no clear process in terms of managing this activity, and it could result in more modifications being raised.

KD raised a related point, giving PAC the opportunity to raise the modifications will mean they no longer need to have a sponsor. If PAC raise a modification under current process, they would require a sponsor, and noted that the modification would still go to UNC Panel, which introduce the same level of scrutiny for a PAC modification as any other modification.

SR clarified that the ability for PAC to raise modifications is purely that: any modification raised by PAC is subject to the entire modification process.

KD sought clarification into how it is envisaged how PAC will actually do the sponsorship, will it be one person, or shared between committee members?

MB clarified it would be anyone with interest in the modification, who wants it progressed in a reasonable manner; there could be several members who progress the modification or one person.

GE said that this is not about the progression of the modification, it is the fact that PAC can just raise change, there is a practical incentive on suppliers and shippers to raise change whereas this does not feel like it has the same oversight, and ultimately it would be shippers that would bear the cost.

GE pointed to the AUG process where similar concerns have resulted in a modification being raised to air and resolve concerns.

TS shared similar concerns to GE with there being no oversight; the removal of the link to UNCC and advised it needs to be clear in the Workgroup Report that these concerns are being raised. She added the intent of the modification is good but wonders if the change is too big to put in all at once. TS noted that PAC does not have its own governance yet and that when this is implemented PAC will have a lot of powers but no real oversight.

SR mentioned that the PAC is made of 12 industry elected representatives split into two constituencies. All modifications will need to be voted on formerly by PAC before they are raised which provides quite a lot of control.

CW asked if this warrants a specific consultation question and if the Proposer is consulted on whether an additional question is supported? MB advised his initial reaction is that having additional consultation questions could leave it open for Ofgem to request Workgroup to review the proposed arrangements.

Impacts & Other Considerations

It is recognised there is a consumer impact, indirect consequence.

GE noted that he there is no guarantee standards would improve as a result of this modification. The Workgroup Report was updated accordingly.

Workgroup Impact Assessment

AR explained how he has approached the write up of the Workgroup Impact Assessment and that it is split into themes:

The 5 themes are described below:

1. The introduction of a Performance Assurance Objective against which all relevant Party's actions, in relation to settlement, would be assessed.
2. The Codification of the PAC Terms of Reference¹ and other constitutional matters.
3. An overhaul of the authority invested in PAC and of the governance relationship with the UNCC, amended in order to provide the PAC with a greater degree of autonomy.
4. The introduction of the ability to address performance failings of Parties using a number of techniques and remedies, which are set out in the Performance Assurance Framework Document
5. Supporting Provisions.

¹ [Performance Assurance Committee Terms of Reference v5.0 \(14 December 2020\)](#)

GE challenged that updating the Workgroup Report with as much detail as possible could take quite some time and asked if the expectation of spending time going through each of the themes, AJ commented that Ofgem would want to see that discussion took place and a summary of that debate.

KD commented that this section cannot be a light touch and asked for views on how a summary of key aspects could be recorded. MB expressed concern that Ofgem expect to see evidence of workgroup discussion.

AR agreed to retain the analysis but move it to an appendix of the Workgroup Report to provide a granular breakdown of the proposed changes by referencing the legal text and provide a structure for consultation respondents to submit responses.

MB agreed to provide final comments to AR for the Workgroup Report which will then be circulated to the Workgroup for comment.

SR sought confirmation that the modification, the PAFD and legal text are not changing now.

Relevant objectives

Relevant Objective d): GE said the scale of the improvement is hard to quantify, the benefit could be very small.

Relevant Objective f): GE said that governance-related changes would not improve the administration of the Code as there would be a reduction in oversight.

TS agreed with that point.

TS asked MB to summarise proposed changes to the process for appointing the PAFA, MB advised there are no changes to the current process.

SR confirmed that the PAFA contract would still be with Xoserve but would be managed by Correla.

5.0 Discussion regarding revised Panel Submission date

Not discussed.

6.0 Next Steps

AR set out his expectations for the next steps:

- MB will circulate his summary of the Workgroup discussion;
- AR will amend the Workgroup Report based on the discussions held.
- Seek PAC approval for PAFD v4.5 (as only v4.3 previously approved) by either an extraordinary PAC meeting or circulate to members by email.
Post meeting note: circulated by email on 29 March 2021.
- Joint Office will issue the redrafted Workgroup Report for final comment by close of play 29 March 2021; Workgroup to return comments by close of play 01 April 2021.
- Submission of Workgroup Report to April UNC Panel

MB thanked all workgroup participants past and present for their comments and assistance in the development of this modification.

7.0 Any Other Business

None

8.0 Diary Planning

Workgroup meetings will take place as follows:

Time / Date	Venue	Workgroup Programme
No more planned meetings		

Action Table (as of 24 March 2021)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0808	24/08/20	3.0	ScottishPower (MB) to discuss with Dentons Section 16.2.4 the wording of 'without prejudice' regarding the appeal process.	ScottishPower (MB)	Closed
0903	23/09/20	1.0	Cadent (AC) to update the wording regarding who is responsible for raising the reports, in line with the Funding, Governance Ownership (FGO) process.	Cadent (AC)	Closed
0904	23/09/20	3.0	Cadent (AC) to update the Legal Text in-line with the amended Modification v15.0.	Cadent (AC)	Closed
0906	23/09/20	6.0	All to provide any comments and feedback in relation to the Workgroup Report by Tuesday 19 January 2021 directly to Alan Raper alan.raper@gasgovernance.co.uk	ALL	Closed
0101	07/01/21	4.0	ScottishPower (MB) to update the PARR section of the PAFD to encompass the newly updated reports as directed by Xoserve.	Scottish\Power (MB)	Closed
0102	07/01/21	5.0	Joint Office (AR) to investigate if additional questions are now required within the Customer Impacts Section of the Workgroup Report and to address accordingly, if applicable.	Joint Office (AR)	Closed
0301	26/03/21	4.0	Joint Office to decide the most appropriate route for PAFD v4.5 to be approved by PAC.	Joint Office (AR)	Pending