

UNC Modification	At what stage is this document in the process?
<h1 data-bbox="134 324 655 414">UNC 0839:</h1> <h2 data-bbox="134 452 1098 589">Revision of the Modification Panel Membership Cessation Provisions</h2>	<div data-bbox="1209 309 1469 629"> <div style="border: 1px solid #008000; padding: 5px; margin-bottom: 5px; display: inline-block;">01 Modification</div> <div style="border: 1px solid #0000FF; padding: 5px; margin-bottom: 5px; display: inline-block;">02 Workgroup Report</div> <div style="border: 1px solid #800080; padding: 5px; margin-bottom: 5px; display: inline-block;">03 Draft Modification Report</div> <div style="border: 1px solid #FFA500; padding: 5px; display: inline-block;">04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>To revise the Modification Rules to mandate that where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination, that Member will cease to be a Member of the UNC Modification Panel</p>	
<p>Next Steps:</p> <p>The Proposer recommends that this Modification should be:</p> <ul style="list-style-type: none"> • subject to Self-Governance • assessed by a Workgroup <p>This Modification will be presented by the Proposer to the Panel on 16 March 2023. The Panel will consider the Proposer’s recommendation and determine the appropriate route.</p>	
<p>Impacted Parties:</p> <p>High: Current and prospective Members of the Modification Panel and the entity, or constituency, which that Member represents, or will represent.</p> <p>Low: None</p> <p>None: All parties other than those identified above</p>	
<p>Impacted Codes:</p> <p>None</p>	

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Timetable		
Modification timetable:		
Pre-Modification Discussed	N/A	
Date Modification Raised	03 March 2023	
New Modification to be considered by Panel	16 March 2023	
First Workgroup Meeting (Governance Workgroup)	20 March 2023	
Workgroup Report to be presented to Panel	15 June 2023	
Draft Modification Report issued for consultation	15 June 2023	
Consultation Close-out for representations	06 July 2023	
Final Modification Report available for Panel	10 July 2023	
Modification Panel decision	20 July 2023	
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1 Summary

What

The UNC Modification Panel comprises up to fourteen Voting Members and four non-voting Members. All but one of these eighteen Members (i.e. fourteen Voting Members and three non-voting Members) are required to represent an entity (or entity type as part of a constituency).

These entities/constituencies are:

- Transporters
- Users (Relevant Shipper or Trader User)
- Ofgem
- Terminal Operators
- Consumers
- Independent Suppliers
- Independent Gas Transporters.

Why

Whilst the Modification Rules set out the entity or constituency that each Member is required to represent (Modification Rules Paragraph 3.2.1), *within a period of appointment* there are no explicit rules setting out the consequence for an existing Member who, due to a change in circumstances, is no longer employed or engaged by the same specified entity as at the time of nomination.

How

It is proposed that, within a period of appointment, where a Member of the Modification Panel no longer represents the same specified entity as at the time of nomination, the Member is required (as soon as is practicable) to inform the Secretary of such change in circumstances and the date from which this change took, or will take, effect.

It is proposed that as a consequence of this (or where the Secretary is otherwise made aware of such change in circumstances), that Member shall cease to be a Member of the Modification Panel with effect from the latter of:

- (a) the date from which that Member will no longer be employed or engaged by the relevant entity; and
- (b) the day following the date the Secretary is informed, or made aware, of such change in circumstances.

2 Governance

Justification for Self-Governance, Authority Direction or Urgency

Application of Self-Governance procedures is sought because the changes proposed are unlikely to have a material effect on the Uniform Network Code governance procedures (nor any of the other aspects described in the Self-Governance criteria).

This is because the nature of the proposed change is to provide for the resolution of a scenario that is not currently explicitly addressed in the Modification Rules. The proposed resolution is entirely consistent with the existing 'representative' requirement for relevant individual Members and therefore represents a non-material impact on the governance procedures.

The '[UNC – Self Governance Modifications: Guidance for Proposers](#)' sets out that proposed changes to the UNC modification procedures will only be sufficiently material (such as to require Authority Direction) where the change:

- affects the rights of the industry to be engaged in proposed changes to the UNC; or
- changes the User or Transporter representation obligations; or
- changes any Authority decision-making capacity.

We believe that as the Proposal seeks to effectively ***maintain*** the existing User and Transporter representation obligations and the existing rights of the industry to be engaged in proposed changes to the UNC, the application of self-governance procedures is appropriate.

Requested Next Steps

This Modification should:

- be considered a non-material change and subject to Self-Governance.
- be assessed by a Workgroup.

It is recommended that, if required to be discussed at Workgroup, the Proposal is issued to the Governance Workgroup for consideration for a period of one month.

3 Why Change?

As set out in section 3.2 of the Modification Rules, the Modification Panel comprises up to fourteen Voting Members and four non-voting Members as follows:

Voting Members

Representative	Quantity	Appointed by
Transporters	5	Transporters
Users	If appointed, up to 6	Designated Person
Consumers	If appointed, up to 2	Citizens Advice or Citizens Advice Scotland (the appointee being an employee, representative, officer or contractor of the Citizens Advice or Citizens Advice Scotland) (1); and the Authority (the appointee being an individual, or an employee, representative or officer of a corporate entity or other organisation, other than the Authority) (1)
Independent Gas Transporters	If appointed, 1	Independent Networks Association

Non-voting Members

The Panel Chairperson, and the following Representatives:

Representative	Quantity	Appointed by
Ofgem	if appointed, 1	The Authority
Terminal Operators	if appointed, 1	Terminal Operators
Independent Suppliers	if appointed, 1	Designated Person

Therefore, all Members (aside from the Chairperson) are required to be a Represent a specific entity (or entity type, as part of a constituency).

Whilst the Modification Rules set out the entity, or entity type, that each Member is required to represent, within a period of appointment there are no explicit rules setting out the consequence for an existing Member who, due to a change in circumstances, is no longer employed or engaged by the same specified entity as at the time of nomination.

A Voting Member is any Transporters' Representative, any Users' Representative, the Independent Gas Transporters' Representative and any Consumers' Representative and are therefore expected to represent the views of either Transporters, Users (relevant Shipper or Trader User), Independent Transporter or Consumer. If a Voting Member is no longer employed or engaged by any of the entities listed above, they are no longer in a position to represent them.

The Modification Rules provide for '*Retirement*' (section 4.2) which is principally concerned with arrangements at the conclusion of Appointment Periods. Section 4.4 deals with '*Ceasing to be a Member*' and currently provides for cessation in the following circumstances:

- voluntary cessation by the Member; or
- where a Voting Member does not comply with certain meeting attendance requirements; or
- where a Voting Member holds a Conflicting Appointment

Accordingly, as the latter deals with 'mid-appointment term' issues, the Proposer is of the opinion that for Members other than the Chairperson the '*Ceasing to be a Member*' provisions should be modified to explicitly deal with instances where due to a change in circumstances, a Member is no longer employed or engaged by the same specified entity as at the time of nomination.

Arguably, the arrangements *implicitly* deal with this in that all such Members must represent an entity or a constituency and therefore where such a Member ceases to be employed or engaged by the same specified entity as at the time of nomination (and therefore is no longer able to effectively represent the relevant entity or constituency), their Membership of the Modification Panel is 'outwith' the existing rules (even if this is only for a brief interim period pending employment / engagement with an alternative entity). However, as a requirement for consequential cessation of Membership is only implicit, we believe that there is a defect in the arrangements which would benefit from explicit additional rules to address this uncertainty.

It is worthy of note that arrangements for the Data Services Contract (DSC) Committees do provide an explicit outcome for such change of circumstances in the case of Shipper Users. In this case, General Terms D, Annex D-2 (Committee Representatives) Section 5.2 provides that "*In the event a Shipper User Representative who when nominated was employed or engaged by a Shipper User ceases to be so employed or engaged by the Shipper User, the Shipper User Representative shall be deemed to retire, and it shall be the responsibility of the relevant Shipper User to notify the Committee Secretary of the Shipper User Representative's effective date of retirement*".

Accordingly our proposed approach is to provide for an equivalent outcome for all Members of the Modification Panel who are required to represent an entity (or entity type as part of a constituency).

Re-Engagement / Re-Employment Within the Same Constituency

In the case of Membership to represent a constituency, whilst it is entirely plausible that a former Member may be subsequently engaged by an alternative entity within the same constituency (with no time gap between employments/engagements), it is nevertheless the case that each constituency has a specified person or entity responsible for the appointment of specified Members of the Modification Panel.

Accordingly, as opposed to making assumptions regarding the relevant persons ongoing suitability to remain a Member in these circumstances, in this event we believe the optimal approach is to enforce cessation of membership and allow the person or entity responsible for appointment to identify a replacement (which may indeed be the same person, in this case employed or engaged by a different entity).

4 Code Specific Matters

Reference Documents

[UNC Modification Rules](#)

Knowledge/Skills

Knowledge of the exiting UNC governance arrangements would be beneficial.

5 Solution

It is proposed that the existing 'Ceasing to be a Member' provisions of the UNC Modification Rules (as set out in Section 4.4 of the Modification Rules) are revised to reflect the following:

- within a period of appointment, where (due to a change in circumstances) a Member of the Modification Panel (other than the Chairperson) is no longer employed or engaged by the same entity as at the time of nomination, the Member is required to inform the Secretary of such change in circumstances (and the date from which this change took, or will take, effect) as soon as practicable; and
- as a consequence of the above, (or where the Secretary is otherwise made aware of such change in circumstances), that Member shall cease to be a Member of the Modification Panel with effect from the latter of:
 - (a) the date from which that Member will no longer be employed or engaged by the specified entity; and
 - (b) the day following the date the Secretary is informed, or made aware, of such change in circumstances.

6 Impacts & Other Considerations

Does this Modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No

Consumer Impacts

Implementation of the change will ensure that Consumer Representatives will continue to comply with the requirements set out section 3.8 of the Modification Rules i.e. that the two Representatives are (and continue to be):

- an employee, representative, officer or contractor of the Citizens Advice or Citizens Advice Scotland (as appointed by Citizens Advice or Citizens Advice Scotland); and
- an individual, or an employee, representative or officer of a corporate entity or other organisation, other than the Authority (as appointed by the Authority).

What is the current consumer experience and what would the new consumer experience be?

Whilst no specific benefits are detailed below, the change is expected to ensure maintenance of the Consumers current experience in terms of ensuring appropriate consumer representation on the Modification Panel.

Impact of the change on Consumer Benefit Areas:	
Area	Identified impact
Improved safety and reliability No impact expected	None
Lower bills than would otherwise be the case No impact expected	None
Reduced environmental damage No impact expected	None
Improved quality of service No impact expected	None
Benefits for society as a whole No impact expected	None

Cross-Code Impacts

In addition to alignment with the arrangements for membership of DSC Committees, the approach advocated by this Proposal also reflects that adopted for the iGT UNC Modification Panel. The iGT Uniform Network Code, Part L – Modification Rules states:

5.9 A Member shall cease to be a Member if:

- (c) the Member ceases to be in the employment of the IGT UNC Operator or Pipeline User, or an affiliate of the IGT UNC Operator or Pipeline User, that they were employed by when appointed...

EU Code Impacts

None.

Central Systems Impacts

None.

7 Relevant Objectives

Impact of the Modification on the Transporters' Relevant Objectives:

Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Clarification of the arrangements where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination better facilitates the objective of the promotion of efficiency in the implementation and administration of the Code by adding the clarity which is absent under the current rules.

8 Implementation

As Self-Governance procedures are proposed, implementation could be sixteen business days after a Modification Panel decision to implement, subject to no Appeal being raised.

9 Legal Text

Text Commentary

TBC

Text

TBC.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Agree that Self-Governance procedures should apply.
- Refer this proposal to a Workgroup for assessment.