

## Panel Chair Appointment Process - JGAC Response

This document summarises the six (6) replies received to the consultation on the proposed Appointment Process for the Independent Panel Chairperson (Chair) of the UNC Modification Panel (Panel), which closed on 24 February 2017. The Joint Governance Arrangements Committee (JGAC) thanks respondents for their comments and, after due consideration, have agreed some amendments to the process. A final Appointment Process document has been published alongside this response.

The Advisory Panel will now be asked to proceed with the process in order to nominate a recommended candidate to JGAC by mid-July 2017.

Five questions were asked in the consultation:

1. Do you agree that it is appropriate to follow the same broad appointment process as used last time?
2. Do you have any views on the JGAC's assessment of the preferred attributes for candidates?
3. Do you have any views on the Role Description?
4. Do you agree with the timeline?
5. Do you have any other comments about this appointment process?

The tables below show all six responses received and JGAC's views.

### Q1 Do you agree that it is appropriate to follow the same broad appointment process as used last time?

Consultation Response	From	JGAC Response
We feel the third member of the Advisory Panel should be the incumbent Chair and not the Joint Office. Whilst this approach may have made sense during the appointment of the first chair we do not feel that the Joint Office should be represented on the Advisory Panel for the new Chair as we now have in post an Independent Chair who should take on this task. The incumbent Chair is best placed to provide independent input into the selection for the new Chair.	Steve Mulinganie, Gazprom	We disagree that there is a need for further independent input on the Advisory Panel than is proposed. It would be unusual for an outgoing chair to be involved in the engagement of a successor – please consider the situation in the event a chair was underperforming.
<b>Terms:</b> National Grid Gas Distribution will appoint the successful candidate. Is this unaffected by National Grid Distribution's Sale?	Colette Baldwin, EON	
Yes, NGGD supports following the same process that was used previously. We have not identified any obvious flaws in that process.	Chris Warner, NGGDL	There are Shipper and Transporter interests represented and we believe there is a need to recognise that the primary working relationship lies between the JO CEO and the Panel Chair.
Yes and we are content that a shipper representative has been selected from the shipper panel members.	Julie Cox, Energy UK	
Yes, we agree.	Hilary Chapman, SGN	
Yes, we agree that the appointment process that has been used is appropriate for the appointment of the JGAC Panel Chair.	Maitrayee Bhowmick-Jewkes, npower	The appointment process is unaffected by the sale of NGGDL.

**Q2 Do you have any views on the JGAC's assessment of the preferred attributes for candidates?**

Response	From	Suggested Position for JGAC
<p><b>Seniority:</b> the candidate attributes require a candidate who comes from a Non-Executive Director or senior line management role in a <b>large company</b>.</p> <p>With the growth in challenger supplier organisations, there are people with good experience of operating within the gas market who have relevant experience of the gas industry, however, does your requirement exclude someone from that background? How is "large company" defined?</p>	Colette Baldwin, EON	<p>We agree that candidates should not be restricted to large companies. This will be amended to remove the reference to 'large company'.</p> <p>We agree that candidates need not be UK-based, however we are putting a cap on expenses to ensure that this remains efficient.</p>
<p><b>Private Sector:</b> consideration as to potential conflicts of interest. It is clearly important that we avoid conflicts of interest, however it is equally important that experience and understanding of the issues facing gas shippers and transporters are understood, we need to avoid taking steps to avoid perceived conflicts of interests and ending up with people who are considered too remote from the current concerns of parties operating in the market today. How will potential candidates be asked to address this? Will candidates with recent experience of working in a UNC signatory company be excluded, if so will there be a minimum period of non-related employment required?</p>	Colette Baldwin, EON	<p>We agree that gas industry experience could be an advantage and, providing that independence can be assured, the Advisory Panel should consider any such candidates in line with the principles set out in the Appointment Process document.</p>
<p><b>Based in UK:</b> The mandatory requirement for the potential candidates to be based in the UK is reasonable, however given the European Third Package and upcoming Brexit considerations we need to ensure that the person appointed has sufficient understanding of these issues. How do we balance the need for an understanding of the European issues against the requirement for a UK based appointment?</p>	Colette Baldwin, EON	<p>The successful candidate has to assure Ofgem that they will not act on behalf of any party with a vested interest in the UNC and this is therefore the ultimate test.</p>
<p><b>Has relevant technical or commercial experience:</b> The person appointed will need to get up to speed on the technical nature of the issues of the network code, but also will have to understand the wider considerations of how the market and governance arrangements are evolving. The Panel chair should have sufficient understanding of the operation of the gas market, the regulatory regime and the direction of the market so as to be able to form their own opinions independent of the advice from others, however well intentioned.</p>	Colette Baldwin, EON	
<p>In our opinion due consideration has been given to each of the attributes listed. We agree with the preference for a senior level candidate (non-academic) which is UK based. We have no view on whether the candidate should be employed or otherwise.</p>	Chris Warner, NGGDL	
<p>Energy UK considers that the preferred attributes remain appropriate although we feel it is wrong to exclude individuals that have been recently employed by a gas industry party. We feel that some experience of the gas industry would be helpful in understanding the issues being discussed at Panel and may facilitate the first key responsibility, such that he/she can undertake the role more effectively in a shorter timescale.</p>	Julie Cox, Energy UK	
<p>Yes, we agree.</p>	Hilary Chapman, SGN	
<p>We agree that the majority of the preferred attributes for candidates should be considered on an individual basis. We also agree that the candidate should be a senior level industry expert who is based in the UK.</p>	Maitrayee Bhowmick-Jewkes, npower	

### Q3 Do you have any views on the Role Description?

Response	From	Suggested Position for JGAC
<p><b>Deputy Chair:</b> The question of who should undertake the role of Deputy-Chair should be reconsidered. The UNC is the only code where any chairmanship activity is envisaged to be undertaken by a code administrator employee.</p> <p>While it's reasonable to have a deputy chair – the question for me is whether that should be a role for the Joint Office CEO to undertake?</p> <ol style="list-style-type: none"> <li>1. The panel meeting is resource intensive for the Joint Office, and it seems that its two most senior people are currently tied up in supporting the meeting, not just on the day itself, but on days related to preparation and conclusion of the meeting business. This has the consequence of making other industry meeting on the days before, including and immediately after the Panel meeting impossible.</li> <li>2. It seems inefficient and uneconomic that the two most senior members of the Joint Office are tied up in delivering the Panel meeting, and it should be sufficient to have a suitably qualified Panel Secretary taking the minutes and recording decisions without the need to have the Joint Office CEO in attendance too. This could reduce the JO costs for the Panel meeting and enable the day to be useful to progress other industry issues.</li> <li>3. I'm sure that while the Joint Office CEO would naturally wish to guide the Panel Chair in managing the meeting, the JO CEO needs to avoid any suggestion of partiality or give the impression that the Panel Chair cannot act without the support of the JO CEO.</li> </ol> <p>So I ask you to consider whether it would be more appropriate to have an alternate Panel member empowered to step in as deputy chair for the rare occasion that it might prove necessary, and limit the JO CEO role to only emergency situations where it is too late to make alternate arrangements.</p> <p>Perhaps the Joint Office can confirm how many times in the period when we've had an independent panel chair we have needed the deputy chair to step in at late notice, and where it would have been impossible to ask a pre-identified alternate to step in?</p>	<p>Colette Baldwin, EON</p>	<p>We consider that it is efficient to have the JO CEO sit as the default deputy Panel Chair for exceptional circumstances. We have provided assurances to Ofgem that, in the event of a prolonged absence of the independent Chair then a suitably independent Chair would be sought for the duration.</p> <p>The JO CEO has provided cover for one meeting and two teleconferences in the last two years.</p> <p>We believe that it is appropriate for two of the senior JO team to attend Panel. The Secretary role is a significant Code responsibility and has been long-established as requiring a senior member of the team. The other JO person is both operating the voting and the presentation material (amending reports in real time as directed by the Chair), and is communicating with the JO team so that the associated administration is done the same day. Whilst admin could be deferred to the following day, this seems counter-intuitive because it extends the duration of Panel-related activities.</p>
<p><b>Key characteristics and experience of the Panel Chair:</b> We agree that it's important that the person selected is demonstrably independent. The requirement for them not to have been recently employed by an industry party (shipper/transporter/supplier) and/or Ofgem, and this needs to be balanced against their gas experience being sufficiently current so that they can quickly get to the heart of issues. There is a lack of clarity on how long is recent or who determines what recent is and whether this conflicts with having relevant experience.</p>	<p>Colette Baldwin, EON</p>	<p>We disagree that this in itself prevents other industry meetings taking place; there are other reasons that Panel effectively sterilizes the time around it; a significant number of workgroup and committee members are equally involved in Panel (including their own preparation time), and there is a significant amount of pre- and post-administration required to support Panel, involving the whole JO team.</p>
<p>We believe that the Role Description provides sufficient detail to satisfy the understanding of potential candidates.</p>	<p>Chris Warner, NGGDL</p>	
<p>We have some observations with respect to the role of Deputy Panel chair, it is clear that the Deputy should stand in for the Chair in case of absence, however we are not certain that it is necessary that the Deputy should be the JO Chief Executive on an enduring basis nor that attendance at every Panel meeting is necessary. This seems to be rather resource heavy for the JO.</p>	<p>Julie Cox. Energy UK</p>	
<p>We support the Role Description as drafted and consider it to accurately reflect the required skills and experience.</p>	<p>Hilary Chapman, SGN</p>	<p>There is hardly a meeting without a clarification of the Modification Rules being</p>

We have no further comments on the role description for the consultation.	Maitrayee Bhowmick-Jewkes, npower	required. It is unreasonable to expect a part-time independent Chair to understand the minutiae of the Rules and the JO CEO is best placed to provide advice as and when required. The Chair always has the control of proceedings however.
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**Q4 Do you agree with the timeline?**

Response	From	Suggested Position for JGAC
Yes, we are supportive of the proposed timeline.	Chris Warner, NGGDL	It is hoped that the successful candidate will be in a position to observe Panel ahead of taking over the role.
Yes	Julie Cox. Energy UK	
It is our understanding that the period between contract placement (October 2017) and first formal meeting (January 2018) will be used to undertake the relevant handovers, and we would expect to see the Chair attend Panel meetings as an observer within this period.	Hilary Chapman, SGN	
Yes, the time line appears to be appropriate for the appointment process.	Maitrayee Bhowmick-Jewkes, npower	

**Q5 Do you have any other comments about this appointment process?**

Response	From	Suggested Position for JGAC
We also would like it made absolutely clear (in terms of time commitment) that the Chair should be directly available to panel members and thus the Estimated Time Commitment Section should reflect this requirement	Steve Mulinganie, Gazprom	We recognise, but disagree with, some parties' views about access to the Chair, however we think it is worthwhile clarifying the arrangements that are in place for communication with the Chair.  Should a party feel the need for a confidential discussion with the Chair, this can be requested via the Joint Office in the first instance. This is to avoid overloading the Chair outside of his/her primary commitments to the role. There is no 'filtering' role for the JO, but this arrangement ensures that the Chair can both meet his/her commitments to full-time employers and control communications to suit.  We do note, however, that it is important that the Chair retains independence and any direct approach on matters before Panel should normally be through open forum and discussion.
It is the opinion of NGGDL that due consideration has been given to all sections of the appointment process and that this is likely lead to the selection of the most suitable candidate.	Chris Warner, NGGDL	
Whilst this issue is not directly about the appointment process itself, we consider that Panel members and wider industry should be able to contact the Panel Chair directly. We understand that currently all correspondence is via the JO, which does not seem right given the principle of independence. We accept there could be concerns about overloading the chair, but feel this is unlikely and could be addressed if this occurred. A trial period would seem appropriate in this regard.	Julie Cox. Energy UK	
We understand that some parties have expressed a desire to have increased access to the Independent Chair, to discuss changes under development or in the pipeline. We consider it to be appropriate that the Joint Office continues to undertake the majority of this engagement in order to protect the Chair's independence, and therefore would not recommend a change to the role description.	Hilary Chapman, SGN	
No, we have no further comments to make.	Maitrayee Bhowmick-Jewkes, npower	