

## Decision to establish a Capacity Market Advisory Group

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This document outlines our decision to establish the Capacity Market Advisory Group (“CMAG”) following careful consideration of responses to our Call for Input, published on 14 January 2022. We also provide further information on CMAG’s anticipated operations and membership, including an invite for expressions of interest to become a member of CMAG. If you have any questions about our decision, or wish to discuss further, please contact us using the details above.

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## Executive summary

This document notifies stakeholders of our intention to establish the Capacity Market Advisory Group (“CMAG”). We expect CMAG to enable the Capacity Market Rules (“CM Rules”) change process to become more dynamic and adaptive to changing market conditions, whilst also increasing transparency and promoting collaboration between parties impacted by the CM Rules.

This decision follows our earlier Call for Input<sup>1</sup> seeking stakeholder views on our intention to establish CMAG. We received 18 responses to the Call for Input. Following careful consideration of these responses, we have decided to establish CMAG with the following associated decisions:

- Elexon should fulfil the CMAG secretariat role based on its expertise and is a strong fit with Elexon’s existing objectives under its code administrator role.
- CMAG Secretariat costs should be included in Elexon’s total operational budget and will be recovered using existing funding arrangements.
- We are publishing an amended guidance document on our Rules change process (found in Appendix C of this decision) and the initial CMAG Terms of Reference (found in Appendix B of this decision). CMAG members and the Secretariat should use these documents when further developing the detailed CMAG processes.
- We are inviting industry and interested parties to express interest in CMAG membership. Expressions of interest must be submitted to [EMR\\_CMRules@Ofgem.gov.uk](mailto:EMR_CMRules@Ofgem.gov.uk) no later than **Monday 13 June**.

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<sup>1</sup> <https://www.ofgem.gov.uk/publications/establishing-capacity-market-advisory-group>

## 1. Introduction

### Working together with industry on CM Rules changes

1.1. Regulation 77 of the Electricity Capacity Regulations 2014 (the 'Regulations') provides the Authority<sup>2</sup> with the power to make CM Rules having regard to our principal objectives and general duties, as well as the objectives set out in Regulation 78. In particular, we should make CM Rules changes that promote investment to ensure security of supply, and ensure that the Capacity Market is administered efficiently.

1.2. Our approach to making CM Rules is set out in our Guidance which sets out the process we will follow to amend, add to, revoke or substitute any provision of the CM Rules. This includes the operational framework for the change process and the legal framework that underpins it, and the objectives we will have regard to when making decisions to change the CM Rules.

1.3. The CM Rules and the annual change process have continued to increase in duration, complexity, and difficulty of implementation. Our view is that the current timescales for assessing a change proposal thoroughly, providing a subsequent decision, and developing IT system changes to reflect the changes places significant burden and risk on Capacity Market participants, Delivery Partners, and Ofgem. Removing the annual requirement and giving industry a greater role in CM Rules change development will reduce this burden.

1.4. We first proposed CMAG in our Five-Year Review of the CM Rules<sup>3</sup> on 16 April 2019. On 21 October 2019 we held a workshop with industry to develop the key design features of the process and in January this year we issued a Call for Input<sup>4</sup> on our proposal to establish CMAG. Industry has been supportive of the formation of CMAG throughout this process and as such we consider there is merit in now updating our approach to ensure a stronger role for industry in the CM Rules change process.

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<sup>2</sup> References to the "Authority", "Ofgem", "us", "we", "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

<sup>3</sup> <https://www.ofgem.gov.uk/publications/five-year-review-capacity-market-rules-first-policy-consultation>

<sup>4</sup> <https://www.ofgem.gov.uk/publications/establishing-capacity-market-advisory-group>

1.5. We anticipate that CMAG will enable the CM Rules change process to become more dynamic and adaptive to changing market conditions, whilst also increasing transparency and promoting collaboration between experts and stakeholders.

1.6. Our intention by establishing CMAG is to ensure that there is a forum for industry to develop, scrutinise and prioritise proposals to improve the CM Rules. We expect CMAG to be a route to establish industry’s priorities for CM Rules changes and to facilitate industry participants to collaborate effectively to identify the most beneficial changes. We hope to work collaboratively with CMAG and industry going forward in order to establish these priorities and to effectively deliver CM Rules changes that have a positive effect on the operation of the Capacity Market and are beneficial to consumers and security of supply.

1.7. For the avoidance of doubt, the Authority will maintain full decision-making responsibility for any CM Rules changes considered by CMAG. Ofgem shall duly consider all CM Rules change proposals put forward by CMAG but notes that it does not have an obligation to take forward all CM Rules changes recommended by CMAG, or to take forward existing CM Rules changes submitted to us prior to establishing CMAG. When exercising our powers under the Regulations, good regulatory practice requires our decision-making to consider our own principal objectives, general duties, and strategic change priorities, whilst also taking into consideration industry views.

## 2. Establishment of CMAG

### Decision to establish CMAG

2.1. As set out in the Call for Input, our view is that the establishment of CMAG will enable the CM Rules change process to become more dynamic and adaptive to changing market conditions, as well as promoting greater transparency. All stakeholders who responded to the Call for Input supported our intention to establish CMAG. Following careful consideration of all stakeholder feedback, we intend to establish CMAG.

2.2. The new amended Guidance on our Change Process for CM Rules (the “Guidance”) is published alongside this decision letter as Appendix C. This finalised version of the Guidance includes the changes proposed in our Call for Input<sup>5</sup>. We have also made some amendments to the text based on feedback received to our Call for Input. Specific points of feedback and our responses to these – including where we have amended the Guidance as a result – are outlined in Appendix A.

2.5. The initial CMAG Terms of Reference is published alongside this decision letter as Appendix B. This was created to provide the Secretariat, CMAG members and wider industry with an indicative view of how CMAG is likely to run. It will be the responsibility of the Secretariat with support from CMAG members and approval by Ofgem to amend, shape and expand the Terms of Reference as necessary to ensure CMAG meets its objectives.

### CMAG Secretariat

2.3. We consider that Elexon is best placed to fulfil the role of the Secretariat of CMAG. We remain of the view that Elexon’s expertise makes it well suited to this role and consider that this role is a strong fit with Elexon’s existing role as code administrators for the Balancing & Settlement Code (“BSC”)<sup>6</sup>, of which one of the objectives is “(f) implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation”.

2.4. Fourteen Stakeholders supported our preference to appoint Elexon as the Secretariat of CMAG and four stakeholders did not comment on our decision. Specific feedback from

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<sup>5</sup> <https://www.ofgem.gov.uk/publications/establishing-capacity-market-advisory-group>

<sup>6</sup> <https://www.elexon.co.uk/bsc-and-codes/balancing-settlement-code/>

stakeholders is set out in Appendix A. As explained below, we expect that a BSC modification will be raised to give effect to Elexon's appointment.

2.5. Once appointed as the CMAG Secretariat, we will keep Elexon's performance under review and seek to amend the arrangements if we consider that CMAG is not functioning effectively. Further details of this review are provided in Chapter 3. Based on the feedback provided by industry, we have updated the guidance to reflect that the Secretariat should act impartially.

## **CMAG cost recovery**

2.6. We remain of the view that CMAG cost recovery should be in line with current Elexon funding arrangements, whereby all BSC Parties contribute to the costs. CMAG Secretariat costs should therefore be included in Elexon's total operational budget. Our view is that this is the most appropriate and proportionate option as CMAG will facilitate objective (f) of the BSC, which all BSC signatories accede to. Moreover, we anticipate the costs of CMAG to be relatively small.

2.7. Seven stakeholders showed support for levying the cost onto BSC Users.

## **Modification to the BSC**

2.8. We understand that a modification to the BSC is required to permit Elexon to take on the role of CMAG secretariat and to ensure Secretariat costs are appropriately recovered. We understand that a BSC party will raise a modification on behalf of Elexon to this end.

2.9. Nothing in this document shall prejudice the outcome of our decision on the forthcoming BSC modification; however, we do expect the modification proposal to take into account the content of this decision regarding the choice of CMAG Secretariat and the cost recovery route. We anticipate that the modification process should take around 1-2 months to complete.

2.10. CMAG's first meetings will be held once the modification to the BSC is made. We expect this to be by September/October 2022.



## 3. CMAG Operations

### CMAG objectives

3.1. In our proposed guidance document,<sup>7</sup> we identified three core objectives to ensure that CMAG will be effective and add value to the overall CM Rules change process. These objectives will be used by the Secretariat with support from CMAG members when designing the CMAG processes, and developing, scrutinising, and prioritising CM Rule change proposals, and when submitting recommendations to Ofgem.

3.2. After carefully considering feedback from stakeholders, we remain of the view that the CMAG objectives as identified in our proposed Guidance will promote the effective functioning of CMAG. Therefore, the proposed objectives shall remain unchanged in the final guidance. The three CMAG objectives are as follows:

- I. Ensure CM Rule changes submitted to Ofgem via CMAG further Ofgem’s principal objective as detailed in of the guidance document.<sup>8</sup>
- II. Present recommendations in a clear, robust and well evidenced manner.
- III. CMAG operates and is administered in an efficient, impartial, and transparent manner.

3.3. Appendix A contains the feedback in relation to these objectives and our response. Please note that the CMAG objectives are separate to the CM Rules Change Objectives which are unchanged and set out in the Regulations.

### Designing the detailed CMAG operating procedure

3.4. The initial CMAG Terms of Reference (found in Appendix B of this decision) should be considered as a starting point for the Secretariat, in conjunction with CMAG members, for designing the detailed operating procedure for CMAG to follow. In advance of the final Authority decision on the modification to the BSC, we expect Elexon to begin considerations

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<sup>7</sup> <https://www.ofgem.gov.uk/sites/default/files/2022-01/Draft%20Guidance%20Change%20Process%20for%20CM%20Rules%20%2C%20CMAG%20Final.pdf>

<sup>8</sup> paragraph 1.11 of the guidance document and the CM Rules Change objectives, as detailed in paragraph 1.12

for designing the operating procedure for CMAG as an expansion of the initial Terms of Reference. CMAG members will have the opportunity to make representations on CMAG procedure at the inaugural CMAG meetings. The CMAG operating procedure will then be agreed and approved by Ofgem.

3.5. The feedback from our Call for Input (summarised in Appendix A) provided many helpful suggestions for CMAG's operating procedure. We have highlighted some key issues we want make clear.

- We expect development of CM Rules changes to be carried out by CMAG as much as possible. We will still carry out our statutory consultation as part of our obligations under Regulation 78, however if necessary for policy development, CMAG may carry out its own informal consultations.
- We reiterate our position that we no longer think it is appropriate for consultations to be timed with Prequalification deadlines as this increases burden on market participants. We have removed the provisions for annual deadlines for CM Rules change submission from Section 1.13 of the Guidance.
- Principles such as change ownership, grouping of changes, the provision for alternate proposals and rejection or withdrawal of proposals should be included in the operating procedures if considered by CMAG and the Secretariat as necessary to facilitate the CMAG objectives. CMAG meetings should not be closed and non-CMAG members should be able to observe and make representations in respect to proposals.
- We expect the lower-level arrangements designed by the Secretariat to ensure that proposers retain their proposer status throughout the process between making a proposal and recommendation to Ofgem.

3.6. The Secretariat should use Appendix A as a starting point for designing the CMAG operating procedures. In future, and on an enduring basis, we expect the Secretariat to update the operating procedure, as necessary, to facilitate or improve compliance with the CMAG objectives, with the approval of Ofgem.

## **Review of the CMAG process**

3.7. To ensure CMAG provides value to industry and consumers we will conduct an annual review of the group's performance against the CMAG objectives. If we consider that CMAG is not functioning effectively we will seek to amend the arrangements. The review will also consider the role of the Secretariat and we will consider reappointing the Secretariat in the event that we consider the CMAG objectives are not being facilitated.

3.8. Given the qualitative nature of the group's objectives we are not defining specific key performance indicators, however we will request feedback from CMAG and any meeting observers regarding the performance of the group ahead of the review. We will inform stakeholders of the outcome of the review and, if necessary, provide advice or directions on improvements to be made.

## 4. CMAG Membership

4.1. Many of the respondents to our call for input expressed an interest in CMAG membership. We welcome this and have set out a role specification for CMAG members, further details of the tasks we anticipate the role will entail and invite expressions of interest for becoming a CMAG member.

4.2. CMAG shall be comprised of a diverse representation of the GB energy industry. Depending on the level of interest we receive, we expect industry members to account for approximately 10 places. This membership size should balance the need to ensure a sufficient breadth of expertise and the need to ensure meetings consist of a manageable number of participants. Delivery Partners, the Secretariat and Ofgem will sit on the panel to support the process.

### CMAG role specification

4.3. Members of CMAG are required to:

- be completely impartial in service to the relevant CMAG objectives and in carrying out tasks for CMAG, and disclose the nature of any interest in a specific rule change considered by CMAG to the Secretariat and the Authority;
- provide expertise from, but not be unduly representative of, a specific sector of the Capacity Market;
- have a proven and demonstrable working knowledge of the GB energy sector and Capacity Market and/or a track record in protecting the interests of consumers or security of supply;
- have sufficient time available to attend CMAG meetings and, if applicable, have support from their employer for doing this,
- reasonably expect to have the capacity to remain in post for 24 months following the appointment,
- notify the Secretariat and the Authority should there be a change in circumstances impacting their ability to act as an impartial member of CMAG, including if there has been a change in employment. Individuals may have the option of retaining their position on CMAG after a change of employment providing that we do not consider there to be a material change in their suitability.

## Tasks of CMAG members

4.4. CMAG members should operate in a manner to facilitate compliance with the CM Rule Change Objectives and the CMAG objectives. This must include:

- agreeing and developing the Terms of Reference/operating procedure for the group;
- developing a process for parties to submit CM Rules change proposals to CMAG and for CMAG to consider these;
- maintaining a continuously updated priority list of CM Rules change proposals submitted to CMAG. Prioritisation should be done in accordance with three main criteria: adherence to CMAG objectives; estimated implementation cost to delivery partners and market participants ; and estimated benefits;
- submitting well-considered CM Rules change recommendations to Ofgem for consideration.

## Selection of CMAG members and expressions of interest

4.5. As part of this decision, we are inviting expressions of interest for joining the inaugural CMAG. We will select members based on expertise, competency, suitability, and diversity of industry representation.

4.6. CMAG members will not be remunerated for time spent working on CMAG, however reasonable expenses can be reimbursed by Elexon through its Secretariat funding.

4.7. If you are interested in being a CMAG member, please send a suitability statement of no more than 600 words outlining your suitability in terms of:

- Your experience, expertise and working knowledge of the GB energy sector, the capacity market and/or a track record in protecting the interests of consumers or security of supply.
- Your experience of collaborating with other industry participants to deliver change through cross-industry groups or boards.
- Your key skills and competencies that would make you an effective CMAG member.
- A confirmation that you reasonably expect to have sufficient capacity to fill the role for 24 months, with the agreement of, and confirmation by your employer if applicable.

4.8. Please submit expressions of interest to [EMR\\_CMRules@Ofgem.gov.uk](mailto:EMR_CMRules@Ofgem.gov.uk) no later than **Monday 13 June**. We will notify all successful and unsuccessful members as soon as

practicable, and we expect to publicly announce the inaugural CMAG membership later in 2022 ahead of the first meeting.

## **Ongoing reselection of members**

4.9. CMAG members shall sit for an initial period of 24 months. Shortly before this point we will review CMAG membership to learn any lessons from the first CMAG term and ensure that we continue to have an effective overall CMAG membership (for example, in terms of CMAG size and skills/expertise). Where there is mutual interest in extending the appointment, CMAG membership may then be extended further.

4.10. In future we expect the Secretariat to lead on inviting expressions of interests to join future terms of CMAG, with the authority being responsible for the selection decision on successful members.

## 5. Roadmap for CMAG to go live

5.1. The figure below provides an indicative summary of the next steps and timings for establishing CMAG. Please note that CMAG’s first meetings may only be held after the modification is implemented. We expect this to be in September/October 2022.

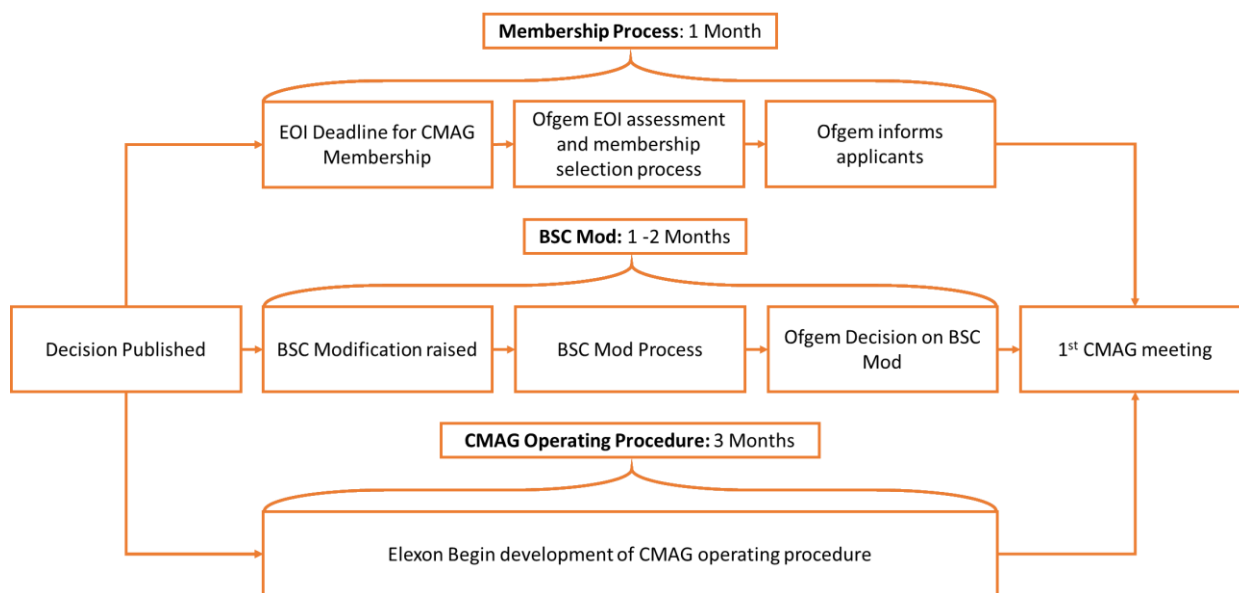


Figure 1: Roadmap for CMAG to go live

## Appendix A: Detailed stakeholder feedback and responses

This appendix contains the detailed stakeholder feedback we received to our Call for Input<sup>9</sup> and our responses to the points raised by stakeholders. All stakeholder responses to our Call for Input have been published alongside this decision document.

### Feedback in relation to the proposed secretariat

Stakeholder Feedback	Clarification
<p>One stakeholder noted that although they have no problems with the appointment of Elexon, they considered EMRS to be better suited to the role.</p>	<p>We consider Elexon an appropriate appointment as it has the right operational expertise given its current role as administrator of the BSC.</p>
<p>One stakeholder noted that they would like the Secretariat to be impartial.</p>	<p>We agree that the Secretariat should behave impartially. We have clarified this in section 2.9 of the Guidance.</p>
<p>Two stakeholders raised concerns over the timeline for the BSC modification to enable Elexon to take on the Secretariat role. Both stakeholders asked if the modification could be raised promptly to ensure that CMAG convenes by its target of Q3 2022.</p>	<p>We agree with this sentiment. We understand that Elexon are prepared to act immediately upon publication of this Decision.</p>
<p>One stakeholder wanted to know what steps will be made to prevent a conflict of interest as EMRS are a subsidiary of Elexon and are also the settlement service provider for the ESC. They also asked if the initiative on the Future Systems Operator and possible change of ownership of Elexon would impact our decision to select Elexon as the Secretariat.</p>	<p>We do not think Elexon’s relationship with EMRS is a conflict-of-interest issue. We consider the scope for conflict is relatively limited and the third CMAG objective we have identified in our Guidance requires the Secretariat to ensure CMAG operates in an impartial and transparent manner.</p>

<sup>9</sup> <https://www.ofgem.gov.uk/publications/establishing-capacity-market-advisory-group>



	<p>We have also clarified in the Guidance that the Secretariat must act impartially.</p> <p>We will review Elexon’s performance as Secretariat regularly and seek to change the Secretariat should we consider Elexon is not acting impartial.</p>
<p>One stakeholder suggested that Elexon should have a critical friend role and could also provide a note to CMAG if the issue is not self-explanatory.</p>	<p>We agree that the Secretariat should be as supportive as possible to proposers in order to achieve the CMAG and CM Rules change objectives, whilst acting impartially. We think this is sufficiently covered in 2.10 of the Guidance in terms of technical and administrative advice.</p>
<p>One stakeholder noted that although they agree with our intention to appoint Elexon as the Secretariat of CMAG, they did not feel that Elexon has the right technical expertise to provide advice in the early stage of a CM Rules change and should only assist with the arranging of technical inputs from relevant stakeholders.</p>	<p>We do agree that the Secretariat may require time to build up knowledge specific to the Capacity Market, however it is our view that gaining this expertise will improve the Secretariat’s ability to positively influence the CMAG objectives.</p>

**Feedback in relation to funding the Secretariat**

Stakeholder Feedback	Clarification
<p>Six stakeholders raised that not all CMUs are BMUs and that it might be unfair for the cost of Elexon’s administrative duties to be levied onto all BSC users.</p> <p>Two of these stakeholders noted that the proposal from BEIS to register all CMUs as BMUs would solve this issue.</p>	<p>We recognise that BSC parties that do not operate in the Capacity Market will be subject to the costs through current Elexon funding.</p> <p>We have considered other funding options and mechanisms but on balance we consider a levy through current Elexon funding to be the most proportionate and</p>

<p>One stakeholder noted that if all CMUs are not registered as BMUs another funding option should be considered.</p>	<p>appropriate route for the reasons set out in our Call for Input; namely that the costs will be relatively small and CMAG will facilitate objective (f) which all BSC parties accede to.</p> <p>We also consider that other funding options would add time and system costs that may be disproportionate to the costs being levied.</p> <p>Our decision has not been influenced by BEIS’s 2021 Consultation on improvements to the Capacity Market.<sup>10</sup></p>
<p>One stakeholder suggested an alternative funding mechanism to charge Elexon’s cost to all applicants across all delivery years where they have contracts.</p>	
<p>Two stakeholders suggested that costs could be recovered through a supplier levy.</p>	
<p>Two supplier stakeholders suggested an alternative method to recover the cost through the EMRS funding mechanism. One of the stakeholders suggested this method on the condition that EMRS is appointed as the Secretariat of CMAG.</p>	
<p>One stakeholder raised that they are unsure of the correlation between the members of the BSC and the expected members of CMAG or how this would be charged. They also raised a question as to whether costs can be recovered by Delivery Partners when they have provided impact assessments.</p>	
<p>One stakeholder noted that the funding method seems to be the most appropriate but would like careful management of this to make sure that the cost of administering CMAG through the BSC is not higher than the costs associated with CMAG itself.</p> <p>Another stakeholder noted that the CMAG Secretariat providing support in the early stage of</p>	<p>We agree with this sentiment and will include cost considerations as part of our regular review of CMAG (as detailed in Section 3).</p>

<sup>10</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/966729/capacity-market-2021-consultation-improvements.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966729/capacity-market-2021-consultation-improvements.pdf)

<p>the process would be useful but raised that this could increase administrative costs and should be kept under review to ensure it stays at an appropriate level.</p>	
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**Feedback in relation to CMAG objectives**

Stakeholder Feedback	Clarification
<p>One stakeholder suggested an additional objective to increase the efficiency of the mechanism, by identifying and suggesting corrections for unclear or contradictory areas within the Rules.</p>	<p>We agree that CMAG should seek to increase the efficiency of the mechanism itself where appropriate, however we consider this has been adequately covered in the CM Rules Change Objectives in Section 1.12 of the Guidance.</p>
<p>One stakeholder considered that the CMAG objectives should include a requirement for CMAG to consider the impacts of CM Rule changes on industry codes and Regulations, and alert relevant code administrators and BEIS. A further stakeholder noted this should also be carried out for the Regulations.</p>	<p>Section 3.26 of the Guidance sets out our expectations on industry when modification proposals have an effect on the CM Rules and vice versa.</p>
<p>Five stakeholders raised concerns regarding CMAG adding a further layer of complexity to the existing CM Rules with one suggesting that an objective of CMAG should be to implement changes whilst ensuring minimal complexity of CM Rules.</p>	<p>We do not think that adding complexity is wrong, if necessary to meet the relevant objectives. Changes should not add undue complication which is covered already under the CM Rules Change objectives in 1.12 of the new Guidance. Any complexity added should be a trade off against the benefit it brings in terms of the Rules Change objectives.</p> <p>Note CMAG’s role in the Rule change process is to develop, prioritise and</p>

	<p>recommend Rule changes. It is for Ofgem and the delivery partners to work together to implement CM Rules changes.</p>
<p>One stakeholder also wanted clarity on how changes to the CM Rules and Regulations can be streamlined with the help of the CMAG process.</p>	<p>We consider the motivation to do this is already built into the objectives. For CMAG members it is about ensuring that a given rule change meets the second CM Rules Change objective, and for the Secretariat to ensure the group operates in a way that facilitates the third CMAG objective.</p>
<p>One stakeholder commented that the objectives should include a specific reference to how the CMAG prioritisation process will work the strategic goal of net zero, while delivering security of supply.</p>	<p>The Capacity Market is technology neutral, meaning it does not seek to procure specific volumes of capacity from particular types of technology.</p> <p>In July 2021, the Department for Business, Energy &amp; Industrial Strategy issued a Call for Evidence seeking views on what early actions could be taken to align the Capacity Market with net zero whilst continuing to maintain security of electricity supply at least cost to consumers. We would expect CMAG members in order to facilitate CM Rule Change Objectives<sup>11</sup>, to consider what changes may be needed as a result of any outcome to this Call for Evidence or similar policy changes.</p>

**Feedback in relation to effective functioning of the CMAG**

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<sup>11</sup> Namely, promoting investment in capacity to ensure security of electricity supply and facilitating the efficient operation and administration of the Capacity Market.

Stakeholder Feedback	Clarification
One stakeholder noted that CMAG members should disclose any change proposals that they have interest in.	We agree with this comment and have included this in the role specification of CMAG members.
One stakeholder noted that any impacts that cross into the Regulations should be identified and alerted to BEIS.	Regulations are beyond the scope of our powers under Regulation 77 and any decision we make to amend the CM Rules must comply with the Regulations as written. That is, we do not think it is appropriate to make CM Rules changes that impact the Regulations. However, we do agree that if there are any impacts on security of supply or the ability to deliver on obligations set by the Regulations, this should be alerted to BEIS.
Four stakeholder raised concerns over CMAG adding another layer to the CM Rules change process that may result in significant delays.	We acknowledge this concern and to ensure this does not happen, we will carry out a performance review of the group, the Secretariat and the process. We have set this out in Section 3.
One stakeholder also wanted more clarity on how changes to the CM Rules and Regulations can be streamlined with the help of the CMAG process.	We consider this to be a task for CMAG and the Secretariat to address in order to facilitate objective 2 of the Rules Change objectives <sup>12</sup> and objective 3 of the CMAG objectives. <sup>13</sup>
One stakeholder was of the view that Ofgem should develop some of the operating procedures for CMAG and set this out in the guidance itself.	We have set out the process in Section 3. We envisage that the Secretariat should use the initial Terms of Reference to develop an operating procedure with support from CMAG members and approval by Ofgem.

<sup>12</sup> Objective 2 of the Rules Change objectives is: facilitating the efficient operation and administration of the Capacity Market

<sup>13</sup> Objective 3 of the CMAG objectives is: CMAG operates and is administered in an efficient, impartial, and transparent manner.

<p>One stakeholder suggested that CM Rules should be published sufficiently in advance of impacted operational process windows to minimise the risk of a change failing in advance of Prequalification<sup>14</sup> and allow stakeholders sufficient time to familiarise themselves with the changes. They also noted that there should be consideration for participants who have already prequalified as to when would be the best time to make the change.</p>	<p>We agree with this comment and reiterate our intention that statutory consultations should not be scheduled to amend arrangements ahead of each Prequalification period. We hope to achieve a diverse membership for CMAG to ensure discussions include different perspectives, including those that have already prequalified.</p>
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**Feedback in relation to CMAG process**

Stakeholder Feedback	Clarification
<p>Four stakeholders noted that CMAG should put forward CM Rules change proposals as solutions to known problems in addition to its role in assessing changes brought to them.</p>	<p>Regulation 79(2) sets out the procedure that applies to proposers of CM Rules changes. CMAG raising proposals remains in line with Regulation 79(2) and as such, we do not see an issue with this. Additionally, as CMAG will be comprised of experts on matters to do with the CM, collaboration between these experts to find solutions to known problems will be beneficial to the effective functioning of the Capacity Market.</p>

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<sup>14</sup> Prequalification is the written confirmation by the Delivery Body that a CMU has prequalified for a Capacity Auction.

<p>One stakeholder raised a concern that the proposer could lose ownership of the change they put forward.</p>	<p>We expect the arrangements designed by the Secretariat to ensure that proposers retain their proposer status throughout the process between making a proposal and recommendation to Ofgem.</p>
<p>One stakeholder suggested that CMAG should invite alternate solutions to changes that have not reached consensus on a limited time basis</p>	<p>The Secretariat and CMAG members should consider this when developing operating procedures. Proposals may be submitted to us alongside alternates if they are fully reasoned.</p>
<p>One stakeholder suggested that related changes should be grouped together where appropriate.</p>	<p>We do not have an issue with changes being grouped together, however we do not think it is necessary to include this as a provision in either the Guidance or the initial Terms of Reference. The Secretariat and CMAG members should consider this in the operating procedures.</p>
<p>One stakeholder wanted clarity on whether non-members of CMAG would be allowed to attend meetings if not invited. Another stakeholder noted that the proposer should be invited to present their change to CMAG if they want to answer any questions on it.</p>	<p>We do not see an issue with non-members being invited to answer questions on their proposal. Observer status at meetings may be possible for non-members depending on meeting practicalities. The Secretariat should consider this in the operating procedures.</p>
<p>Two stakeholders wanted clarity on whether a proposal can be withdrawn and whether the same process still applies for the CMAG process.</p>	<p>The process for withdrawing a proposal from Ofgem will remain the same and is defined in paragraphs 3.13 and 3.14 in the new Guidance. The CMAG process for withdrawing a proposal will be defined by the secretariat and CMAG members as part of setting up the group.</p>

<p>Two stakeholders wanted more clarity on whether CMAG can reject proposals directly</p>	<p>We do not think it is necessary for CMAG to reject a proposal outright. CMAG will contain provisions for prioritisation, and it will be for a proposer to amend or withdraw a proposal if necessary to ensure it is given future consideration.</p>
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**Feedback in relation to submitting a proposal**

Stakeholder Feedback	Clarification
<p>Five stakeholders wanted more clarity on the dual routes for submitting proposals. One stakeholder was unclear whether Ofgem could review certain proposals without referring them to CMAG, specifically for urgent and commercially sensitive proposals and asked whether the criteria for determining whether a change will be processed by us or CMAG will be published.</p>	<p>We note that in paragraph 3.2 of the Guidance, we have stated that we may be able to review certain proposals without referring them to CMAG. We do not think it is appropriate to provide industry with the criteria for determining whether a change is passed onto CMAG or assessed by us as each proposal will be assessed on a case-by-case basis.</p>
<p>Three stakeholders noted that changes not passed onto CMAG should be by exception only and another two stakeholders suggested that all proposals should be assessed by CMAG as CM Rules changes will impact the entire market and will eventually be subject to a public consultation. These stakeholders noted that proposals can be anonymised before being passed onto CMAG.</p>	<p>We agree that most proposals should be passed onto CMAG. Before passing proposals onto CMAG, we will work with the proposer to anonymise and remove any commercially sensitive information.</p>
<p>Three stakeholders suggested that Ofgem should first get permission from the proposer before passing on a proposal submitted to them to CMAG so that they can consider if their proposal has any commercially sensitive information.</p>	<p>We will engage with the proposer before referring on any proposals to CMAG. We have updated the Guidance at Section 3.6 to reflect this.</p>



<p>Three stakeholders suggested both submission routes should have an identical standardised form. These stakeholders also wanted clarity on where submitted proposals will be published and one stakeholder suggested that if they are published on the Ofgem website then the associated CMAG documents should be published alongside it.</p>	<p>We note that the forms should be identical for both routes to ensure continuity. Additionally, we consider that a proposal only needs to be published when it is agreed what route it shall follow. If we take forward a proposal, we will publish it on our website. Proposals taken forward by CMAG will be published as per the processes designed by the Secretariat. We note that Elexon, as Secretariat, has offered to host CMAG documentation on its website.</p>
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**Feedback in relation to timeframes**

Stakeholder Feedback	Clarification
<p>Four stakeholders wanted more clarity on the timelines for each stage of the process.</p>	<p>The Secretariat needs to ensure that CMAG meets its objectives, and we therefore expect timelines to be defined as a function of priority and urgency.</p>
<p>One of these stakeholders suggested that there should be maximum timeframes for each stage of the process.</p>	
<p>One stakeholder noted that CMAG consultations should have a minimum consultation period.</p>	<p>With regards to Statutory Consultations run by us, we already have an internal guideline for timings that will continue to apply. For CMAG-run consultations, this up to the CMAG and Secretariat.</p>
<p>Two stakeholders raised concerns over the removal of annual consultations from the new Guidance. While another stakeholder stated that the added flexibility should be considered carefully to ensure that stakeholders and Delivery Partners have adequate time to plan and implement the changes.</p>	<p>We reiterate our position that we no longer think it is appropriate for consultations to be timed with Prequalification deadlines as this increases burden on market participants.</p>

**Feedback in relation to prioritisation, urgency and appeals**

Stakeholder Feedback	Clarification
<p>One stakeholder suggested that changes could be prioritised through a voting system whereby proposals that get unanimous votes go straight through the urgent route.</p>	<p>The Secretariat and CMAG members should consider this in the operating procedures. Prioritisation should be done in accordance with three main criteria: adherence to CMAG objectives; estimated implementation costs to delivery partners and market participants; and estimated benefits</p>
<p>One stakeholder noted that under certain circumstances, CMAG should be able to submit individual proposals if deemed urgent.</p>	<p>We are of the view that the CM rules change process is most efficient when proposals are batched, however if there is a proposal that is deemed as urgent by CMAG, we will accept the submission of individual proposals.</p>
<p>One stakeholder raised concerns over the definition of an urgent change and stated that it should be defined clearly so that it is easily distinguished from a change with a large commercial impact. They also suggested that the proposer should provide a well justified needs case so the benefits can be properly assessed against the cost of delivery.</p>	<p>Urgency is defined in paragraphs 1.14 to 1.17 of the new Guidance. Please note that we are not proposing to introduce any changes to the current definition.</p>
<p>Two stakeholders wanted further clarity on the procedure for reaching and making a recommendation. While another stakeholder wanted more clarity in the guidance on what would be expected of CMAG when considering high priority issues.</p>	<p>We expect the process for providing a recommendation against the Rules change objectives to be established in the CMAG operating procedure. We do not want to be descriptive on how this aspect of the process should work as we think this is a task for the Secretariat and CMAG members.</p>

<p>Three stakeholders wanted to know if there was a process to appeal decisions made by CMAG. Similarly, another two stakeholders wanted more clarity on whether CMAG can reject proposals directly). One of these stakeholders requested further clarity on whether we would publish our decision for not taking a proposal forward and wanted to know how this would apply in the CMAG process.</p>	<p>We do not consider there to be merit for appeals to be carried out given that all changes will be as a result of structured analysis in accordance with the CMAG process. If a proposer or attendant does not feel the objectives are being adhered to, we welcome that feedback which will form part of our ongoing review on the performance of CMAG.</p>
<p>One stakeholder raised that the frequency of meetings and the number, nature and frequency of CM Rules Change proposals will impact Delivery Partners ability to provide impact assessments. They also noted that the provision of impact assessments will be dependent on available resource.</p>	<p>We are not seeking to amend the 12-month expectation contained in the ESO's Roles Guidance<sup>15</sup>. We expect impact assessments to set out timeline and cost of change.</p>
<p>One Stakeholder asked for more clarity in the Terms of Reference or guidance as to why there is a need for prioritisation of CM Rules changes and on how stakeholder views will be accounted for by CMAG.</p>	<p>Prioritisation should be done in accordance with three main criteria: adherence to CMAG objectives; estimated implementation costs to delivery partners and market participants; and estimated benefits.</p> <p>We do not want to be prescriptive on how prioritisation occurs in practice as this is a task for the Secretariat and CMAG members.</p>

**Feedback in relation to other issues**

Stakeholder Feedback	Clarification
<p>One stakeholder wanted clarity as to why Appendix 3 'Complaints about Ofgem' in the new Guidance was removed.</p>	<p>The removal of the 'Complaints about Ofgem' section is only due to bringing the new Guidance template to a newer Ofgem standardised template. Complaints will follow the same standard organisational route for complaints.<sup>16</sup></p>

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<sup>16</sup> <https://www.ofgem.gov.uk/about-us/contact-us/complaining-about-ofgem>

## Appendix B: CMAG initial Terms of Reference

This initial CMAG Terms of Reference is provided to help guide the Secretariat and CMAG members in further developing the detailed CMAG arrangements. The Terms of Reference should be agreed and approved by Ofgem, including any modifications as necessary.

### **Vision**

CMAG has been created to improve the effective functioning of the CM by enabling the CM Rules change process to become more dynamic and adaptive to changing market conditions, whilst also increasing transparency and promoting collaboration between experts and stakeholders.

### **CMAG objectives**

See the [new Guidance](#) document on the change process for the Capacity Market Rules, paragraph 2.2.

### **Role of the Facilitator**

The CMAG Facilitator has the function of coordinating the discussions at the CMAG meetings. In doing so, the Facilitator should promote participation and ensure inclusiveness and diversity of views, experience, and interests in the discussions. It is important that opinions and inputs from all members are listened to and given consideration in the CMAG recommendations. CMAG meetings must be carried out in an impartial way. The Secretariat shall act as Facilitator.

### **Role of the Secretariat**

See the new Guidance document on the change process for the Capacity Market Rules, paragraph 2.9 and 2.10.

### **Role of the Delivery Partners**

See the new Guidance document on the change process for the Capacity Market Rules, paragraphs 2.11 and 2.12.

### **Deliverables**

The following are the key initial deliverables from CMAG:

- Agreed and approved Terms of Reference for the group.
- Develop detailed operating procedures including:

- The process and requirements for parties to submit CM Rules change proposals to CMAG.
- A continuously updated priority list of CM Rules change proposals submitted to CMAG. Prioritisation should be done in accordance with three main criteria: adherence to CMAG objectives; estimated implementation costs to delivery partners and market participants; and benefits (as far as they can be quantified).
- The process and frequency for CM Rules change proposals to considered, developed and submitted to Ofgem for consideration.

### **CMAG meetings**

CMAG members and secretariat should decide on the format, frequency and number of meetings that best enables the group to meet the CMAG objectives.

## **Appendix C: Amended Guidance on our Change Process for CM Rules (the “Guidance”)**

The amended Guidance document can be found as a separate, standalone document published alongside this decision document.