
Conflict Management Audit Terms of Reference

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The purpose of this document is to establish the Terms of Reference (TOR) for the external audit in Special Condition (SpC) 9.21 Conflict Mitigation Arrangements for Onshore Transmission Tender Exercise.

This document is aimed at Transmission Owners (TOs) who intend to enter an Onshore Transmission Tender Exercise.

This document includes the following:

- Conflict mitigation requirements
- Intentions of the External Audit
- External Auditor Appointment Requirements
- Audit Terms of Reference table

This document is to be read in conjunction with SpC 9.21 Conflict Mitigation Arrangements for Onshore Transmission Tender Exercise in each of the TOs' electricity transmission licences.

Capitalised terms in this document have the meanings given to them in the TO electricity transmission licences or as defined in the Electricity (Early-Model Competitive Tenders for Onshore Transmission Licences) Regulations 2025.

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Contents

Conflict Management Audit Terms of Reference	1
1. Introduction	4
Conflict Mitigation Requirements	4
Intention of the External Audit	4
External Auditor Appointment Requirements	6
2. Scope of Work	7

1. Introduction

Conflict Mitigation Requirements

- 1.1 Transmission Owner's (TOs) can fulfil a dual role in an Onshore Transmission Tender Exercise, both supporting the National Energy System Operator (NESO) in its role as the onshore competition Delivery Body, and by participating as a Bidder through a Bidding Unit in the tender process.
- 1.2 Where TOs participate in an Onshore Transmission Tender Exercise, conflict mitigation arrangements are required to ensure that, as a Bidder, TOs receive no unfair advantage through undertaking Tender Support Activities or network planning activities. Any TO that decides to participate in an Onshore Transmission Tender Exercise will have to adhere to Ofgem's Conflict Mitigation Methodology.
- 1.3 As part of this requirement, each TO will have to agree a Conflict Mitigation Statement (CMS) with Ofgem ahead of the PQ stage, and then actively manage any potential conflict in line with that CMS. To assess the level of compliance with the approved CMS there is a requirement for TOs to provide two external audit reports: an initial audit report with their Pre-Qualification (PQ) submission; and a final audit report submitted their tender during the Invitation To Tender (ITT) stage. This document sets out the terms of reference for these audits.

Intention of the External Audit

- 1.4 An external auditor will carry out an audit in line with this document and assessed against the CMS provided by the TO and approved by Ofgem. The audit will assess the level of compliance with the CMS and provide an independent opinion on the degree of compliance with the CMS. The audit report will include:
 - Scope, audit objectives, and audit methodology
 - Findings, evidence to support findings, and impact of findings.
 - Conclusions, recommendations, and actionable suggestions
- 1.5 The auditor will rank conclusions in terms of a RAG classification reflecting the degree of compliance as follows:

- **RED:** The TO has not complied with its CMS in one or more of the key areas of the CMS in a manner that is likely to have provided an unfair advantage in preparing its tender.
- **AMBER:** The TO has not complied with its CMS in one or more of the key areas of the CMS but in a manner that is unlikely to have provided an unfair advantage in preparing its tenders.
- **GREEN:** The TO has complied with its CMS in all material respects.

1.6 Should the external audit identify any Red or Amber classifications, the TO will be given an opportunity to rectify any issues. If, following efforts to rectify any issues, the RAG rating is still Red or Amber, and Ofgem agrees with this rating, then Ofgem will consider whether the non-compliance gives rise to any unfair advantage to the TO and what further actions are available, including the TO's continued participation as a Bidder in a tender exercise.¹

1.7 The audit will address key areas of the CMS, including sub-sets defined in the audit framework outlined in the next section:

1. Separation of the licensee and the Bidding Unit
2. Employee Transfer Restrictions
3. Managerial Separation
4. Information Sharing Restrictions
5. Financial Separation
6. Monitoring & Reporting Compliance

¹ For example, the Electricity (Early-Model Competitive Tenders for Onshore Transmission Licences) Regulations 2025 establish a process and grounds for disqualification of a bidder from a tender exercise. One of those grounds addresses circumstances where a bidder is deriving an unfair advantage from a conflict of interest and that advantage cannot be avoided or Ofgem considers the bidder will not take the necessary steps to ensure it does not derive an unfair advantage (see regulation 23 and paragraph 1(o) of Schedule 9).

External Auditor Appointment Requirements

- 1.8 Paragraph 9.21.25 of SpC 9.21 mandates that the external audit is to be conducted by an independent person who is not affiliated with the Bidding Unit or the licensee. This means that an external auditor must not in relation to a TO and a Bidding Unit, be a holding company of the TO or the Bidding Unit, subsidiary of the TO or the Bidding Unit, or any subsidiary of a holding company of the TO or Bidding Unit.
- 1.9 Along with this, given the significance of the role of the external auditor in the process set out above and the reliance that will be placed on the opinion of the auditor, Ofgem may specify requirements on the TOs participating as a Bidder in relation to the credentials, selection process and terms of engagement of the external auditor.
- 1.10 This includes, but is not limited to, specifying minimum requirements for the credentials and qualifications of the external auditor to ensure the party selected has demonstrable independence and the required level of expertise. Ofgem require any external auditor to be accredited by the Royal Institution of Chartered Surveyors (RICS).
- 1.11 Whilst it is the TO's responsibility to appoint the external auditor, Ofgem may require a simple right of veto over the name put forward by the TO to a more active role including input into the evaluation criteria for a competitive procurement process.
- 1.12 Ofgem must give written approval of the external auditor to the TO before undertaking the external audit, and any additional reports from the external auditor relating to the audit, must be provided to both the TO and to Ofgem.

2. Scope of Work

Area	Sub-area	Audit objectives	Audit criteria	Evidence gathering methods	Expected findings	Audit Rating	Potential messages/conclusions
Business Separation	Organisational structure	Ensure there is clear organisational separation between the Bidding Unit and the element of the TOs organisation that is supporting the CSNP / network planning and tender process	<ul style="list-style-type: none"> • Explanation of organisation structure • Signed declaration of interests that identify potential conflicts. • Identification of when the business unit was separated. • Responsible board member identified. • Board member has clear understanding of their responsibility in relation to potential conflicts. 	<ul style="list-style-type: none"> • 1 to 1 interview • Conflicts management register • Declaration of potential conflicts • Organisational diagram that shows clear separation • Business communication showing business separation and when it went live. 	<ul style="list-style-type: none"> • Conflicts management register is up to date and aligned to declarations. • Clear separation of business units 		
Business Separation	Ongoing compliance	Ensure there is a robust communication of any changes	<ul style="list-style-type: none"> • Ensure robust change process is in place. • Confirm Ofgem have been informed of any changes. 	<ul style="list-style-type: none"> • 1 to 1 interviews (Ofgem and TO) • Updates to organisation structure 	<ul style="list-style-type: none"> • Changes to the organisation have been formalised. • Any changes to the key decision have 		

Guidance – Conflict Management Audit Terms of Reference

Area	Sub-area	Audit objectives	Audit criteria	Evidence gathering methods	Expected findings	Audit Rating	Potential messages/conclusions
			<ul style="list-style-type: none"> Changes have been ratified by key decision maker 	<ul style="list-style-type: none"> Formal communication of change 	<ul style="list-style-type: none"> been communicated. Demobilisation stakeholder management plan in place 		
Employee Transfer Restrictions	Process	Confirm that the Bidding Unit has processes and procedures in place that will not utilise the services of any employees of the TO who are involved in a project's initial design or undertaking Tender Support Activities	<ul style="list-style-type: none"> Understand the process that defines the timing and nature of employee separation. Organisation charts showing which employees are in each business unit. Change control process is in place for the transfer of employees. Defined approval process in place to govern employee transferred clearly linked to CMS 	<ul style="list-style-type: none"> Conflicts management register is up to date. Records of employee transfer and approvals 1 to 1 process walk throughs that demonstrate all involved in process understand it 	<ul style="list-style-type: none"> Robust processes in place to control employee transfers 		
Management separation	Set up	To ensure the management of bidding unit ensures effective	<ul style="list-style-type: none"> Management separation exists up to but not including 	<ul style="list-style-type: none"> Presentation and organisational diagrams 1 to 1 interview 	<ul style="list-style-type: none"> A clear diagrammatic representation and explanatory 		

Guidance – Conflict Management Audit Terms of Reference

Area	Sub-area	Audit objectives	Audit criteria	Evidence gathering methods	Expected findings	Audit Rating	Potential messages/conclusions
		separation of the bidding unit from the rest of the TO	the TO Parent Board.	<ul style="list-style-type: none"> Review of confidentiality agreements Change control procedure for management movements and changes 	<p>text showing how the management structures of the TO and the bidding unit are effectively separate up to but not including the TO Parent Board</p> <ul style="list-style-type: none"> Confidentiality agreements in place between different management structures Control of management movement between different structures 		
Management separation	Ongoing compliance	To assess whether there is ongoing management of conflicts and potential conflicts	<ul style="list-style-type: none"> Check the robustness of the overall and ongoing arrangements for management of conflicts 	<ul style="list-style-type: none"> Frequency of regular reviews of the conflicts register Communication protocols in place for informing Ofgem of any changes and examples presented 	<ul style="list-style-type: none"> Monthly review of conflicts as a minimum Evidence that TO has informed Ofgem if changes have occurred notification of any potential conflict as 		

Guidance – Conflict Management Audit Terms of Reference

Area	Sub-area	Audit objectives	Audit criteria	Evidence gathering methods	Expected findings	Audit Rating	Potential messages/conclusions
					soon as it is known.		
Information sharing restrictions	Set up	To assess whether TOs are treating information related to Tender Support Activities confidentially	<ul style="list-style-type: none"> Assess the appropriateness of confidentiality agreements between TOs, Delivery Body and Bidders. 	<ul style="list-style-type: none"> Confidentiality or Non-Disclosure Agreements in place and signed by impacted staff 	<ul style="list-style-type: none"> Confidentiality is understood and necessary processes and procedures are in place to support this 		
Information sharing restrictions	Set up and ongoing compliance	To confirm that digital barriers and the controls around such are robust	<ul style="list-style-type: none"> Assess the digital barriers and ethical wall to ensure that they provide real separation of digital data and information is managed effectively within this environment 	<ul style="list-style-type: none"> A description of the digital environment and how the digital environment is separated A document showing who is the data and access controller The process for requesting, accepting and approving access to different environments A check list to ensure that the data access controller understands when a person cannot have access due to 	<ul style="list-style-type: none"> Well defined and well separated digital data environment. A well established and well-known data access and control process is in place supported by training Confidence that any data breaches will be notified and managed effectively 		

Guidance – Conflict Management Audit Terms of Reference

Area	Sub-area	Audit objectives	Audit criteria	Evidence gathering methods	Expected findings	Audit Rating	Potential messages/conclusions
				their role or a potential conflict <ul style="list-style-type: none"> • Training material and a training matrix showing people involved in the competition have understood the new data environments and access control requirements 			
Financial separation	Set up and ongoing compliance	To confirm that the TO and its Bidding Unit are financially separated	<ul style="list-style-type: none"> • Find that the business units are financially separated and in line with current license agreements 	<ul style="list-style-type: none"> • Records of profit and loss accounts is applicable • Examination of financial payment applications • List of people within each business units • Monthly business reports 	<ul style="list-style-type: none"> • No cross billing or no recovery of costs of the bidding unit by other areas of the business 		
Monitoring, reporting and ongoing management of Conflicts	Set up	To assess whether the TO is reporting compliance against its CMS fully and fairly.	<ul style="list-style-type: none"> • To examine and decide how effectively the TO is reporting compliance 	<ul style="list-style-type: none"> • Overall CMS process • Communication of the appointment of the Conflicts Management Officer (CMO) 	<ul style="list-style-type: none"> • High degree of compliance with all parts of the CMS • Strong management processes in place to 		

Guidance – Conflict Management Audit Terms of Reference

Area	Sub-area	Audit objectives	Audit criteria	Evidence gathering methods	Expected findings	Audit Rating	Potential messages/conclusions
				<ul style="list-style-type: none">• Terms of reference for the CMO showing the independence of the CMO• Acceptance and understanding the CMO role• Conflicts Register• Declarations of Interest	<ul style="list-style-type: none">• support the CMS• High degree of reporting is readily available• There is an ongoing process in place for the management of conflicts		