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MP234

'Addition of Public Task and Legitimate Interests into the SEC'

Modification Report

Version 0.3

03 December 2025

Corporate member of Plain English Campaign

Committed to clearer communication

592

About this document

This document is a draft Modification Report. It currently sets out the background, issue, and progression timetable for this modification, along with any relevant discussions, views and conclusions. This document will be updated as this modification progresses.

Contents

This document also has one annex:

- **Annex A** contains the redlined changes to the Smart Energy Code (SEC) required to deliver the Proposed Solution.

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1. Summary

This proposal has been raised by Matt Roderick of n3rgy.

This modification seeks to add the principles of Public Task and Legitimate Interests into the SEC as additional bases for collecting Consumption Data.

The Proposer believes this would help public authorities to fulfil their regulatory obligations to tackle fuel poverty, protect vulnerable households and uphold minimum standards of housing by identifying at-risk Energy Consumers through their Smart Metering Systems (SMS). The Proposer outlines that this would also enable SEC Parties to offer their services to a wider range of customers.

The Proposed Solution is to change SEC Section I 'Data Privacy' to introduce new arrangements that will allow for organisations to access Consumer's Consumption Data via the lawful bases of Legitimate Interest (LI) or Public Task (PT), as delivered by the General Data Protection Regulation (GDPR). Consequential changes are also proposed for the Privacy Controls Framework (PCF) to underpin the proposed Section I changes.

This Modification will impact Other SEC Parties, there are no DCC System impacts or costs. This is an Authority Determined Modification and is targeted for implementation in June 2026.

2. Issue

What are the current arrangements?

Collecting Consumption Data

At present the SEC allows Consumption Data to be collected in three scenarios. Historically, SEC Section I 'Data Privacy' allowed Consumption Data to be collected only where a Party held the Appropriate Permission for that consumer or had collected the Unambiguous Consent from the consumer to collect Consumption Data.

A Party must either have the Appropriate Permission for that consumer, have collected the Unambiguous Consent of the consumer, or be collecting Consumption Data on behalf of a Party which has the Appropriate Permission and has directed another Party to collect that Consumption Data on their behalf.

The current definition of Appropriate Permission in SEC Section A 'Definitions and Interpretations' only allows for two scenarios as follows:

"In respect of a Communication Service or Local Command Service to be provided to a User in respect of a Smart Metering System at a premises that will result in the User obtaining Consumption Data, either:

> (a) *(Where that User is the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) that the User does not need consent to access that Consumption Data in accordance with its Energy Licence, or that the User has consent (whether explicit or implicit) in accordance with the requirements of its Energy Licence*.

(b) *(Where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System) that the Energy Consumer has given the User Unambiguous Consent to obtain that Consumption Data and such consent has not been withdrawn."*

SEC Section I1.2 states:

"Each User undertakes that it will not request, in respect of a Smart Metering System, a Communication Service or Local Command Service that will result in it obtaining Consumption Data, unless:

(a) *the User has the Appropriate Permission in respect of that Smart Metering System; and*

(b) *where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System the User has, at the point of obtaining Appropriate Permission and at such intervals as are reasonably determined appropriate by the User for the purposes of ensuring that the Energy Consumer is regularly updated of such matters, notified the Energy Consumer in writing of:*

  (i) *the time periods (by reference to length) in respect of which the User obtains or may obtain Consumption Data.*

  (ii) *the purposes for which that Consumption Data is, or may be, used by the User.*

  (iii) *the Energy Consumer's right to object or withdraw consent (as the case may be) to the User obtaining or using that Consumption Data, and the process by which the Energy Consumer may object or withdraw consent".*

What are the GDPR Principles of Public Task and Legitimate Interests?

The definitions of 'Public Task', 'Legitimate Interests' and information about them have been taken from the GDPR (implemented in the United Kingdom as the 'UK GDPR') from the Information Commissioner's Office (ICO) website, which can be viewed here.

Public Task

Article 6(1)(e) of the GDPR gives a lawful basis for processing where:

> *"Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller."*

This legal basis can only apply if an organisation is:

- Carrying out a specific task in the public interest which is laid down by law; or
- Exercising official authority (for example, a public body's tasks, functions, duties or powers) which is laid down by law.

Legitimate Interests

Article 6(1)(f) of the GDPR gives a lawful basis for processing where:

> *“Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interest or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.”*

Legitimate Interests is unlike other lawful bases for collecting information as it is not centred around a particular purpose and it is not for processing that the individual has specifically agreed to. Legitimate Interests is more flexible and could in principle apply to any type of processing for any reasonable purpose, provided that this is justified by the relevant organisation. Because of this, the onus is placed on the organisation seeking to collect the data to assess and balance their legitimate interests and the necessity of processing the personal data, against the interests, rights and freedoms of the individual considering the particular circumstances.

When are these GDPR Principles used?

Public Authorities, such as Social Landlords and Local Councils, have a duty to protect Energy Consumers and must prevent them from falling into fuel poverty. In doing so, it is argued that they must collect Consumption Data to identify whether the Consumer is at-risk. On some occasions, the Energy Consumer may not respond to the Local Authorities’ attempts to collect their Consumption Data. When this occurs, the Local Authority can use the GDPR Principles of Public Task and Legitimate Interest to collect the Consumption Data without the Consumers Unambiguous Consent to fulfil their regulatory obligations.

What is the issue?

The GDPR Principles of Public Task and Legitimate Interests are not included in the SEC, due to the granular and potentially sensitive nature of Consumption Data and in line with similar limitations in Supplier and Network Party obligations. In addition, these GDPR principles are not included as they are not considered as best practice by the Information Commissioner Office (ICO) and European Commission.

What is the impact this is having?

Without the introduction of the concepts of Public Task and Legitimate Interest into the SEC, it is argued that public authorities (e.g. Registered Social Landlords or Local Authorities) may be at risk of failing to fulfil their regulatory obligations to tackle fuel poverty, identify and protect vulnerable households as well as maintaining their property portfolio in compliance with the minimum standard on housing.

This also means that SEC Parties are unable to offer their services to Local Authorities who are using these GDPR principles to collect Consumption Data from these selected Energy Consumers, without relying on Appropriate Permission/Unambiguous Consent as required by Section I of the SEC.

Impact on consumers

If the public authorities mentioned above fail to fulfil their regulatory obligations this could impact consumers’ standard of housing, health and economic security.

Smart Energy Code

3. Solution

Proposed Solution

The Proposed Solution is to change SEC Section I 'Data Privacy' to introduce new arrangements that will allow for organisations to access Consumer's Consumption Data via the lawful bases of Legitimate Interest (LI) or Public Task (PT), as delivered by the General Data Protection Regulation (GDPR). Consequential changes are also proposed for the Privacy Controls Framework (PCF) to underpin the proposed Section I changes.

The proposed changes to SEC Section I will establish the overarching requirements for access to data via the lawful bases of PT and/or LI. It sets out requirements relating to permission, the role of the Privacy Sub-Committee (PSC) as a 'gatekeeper' of access to the Consumption Data, and details arrangements for the assurance of Parties who access Consumption Data outside the proposed arrangements.

The proposed changes to the Privacy Controls Framework (PCF) detail the granular evidentiary requirements needed by a SEC Party to access Consumption Data via the lawful bases of PT and LI. These more granular requirements relate to the proposed use of the Consumption Data and will support the PSC in their determination of access to the aforementioned data. Arrangements here relate to such things as details of the premises to which the proposed Consumption Data relates, the time period for which Consumption Data is requested, the assessment for necessity, and so on.

The changes to the SEC required to deliver the Proposed Solution can be found in Annex A.

4. Impacts

This section summarises the impacts that would arise from the implementation of this modification.

SEC Parties

SEC Party Categories impacted			
	Large Suppliers		Small Suppliers
	Electricity Network Operators		Gas Network Operators
✓	Other SEC Parties		DCC

Breakdown of Other SEC Party types impacted			
	Shared Resource Providers		Meter Installers
	Device Manufacturers		Flexibility Providers
✓	DCC Other Users		MAPs/ MAMs

DCC Systems

DCC System changes

No DCC System changes are anticipated as a result of the Proposed Solution.

DCC System traffic

It is possible that there may be an impact on DCC System traffic as a result of the Proposed Solution; SECAS will confirm whether this is the case prior to this Modification next being discussed at Working Group.

SEC and subsidiary documents

The following parts of the SEC will be impacted:

- Section I 'Data Security'
- Privacy Controls Framework (PCF)

The changes to the SEC required to deliver the Proposed Solution can be found in Annex A.

Technical specification versions

No changes to Technical Specifications are anticipated as a result of the Proposed Solution.

Devices

No Device impact has been identified as a result of the Proposed Solution.

Consumers

The Proposed Solution will allow for organisations to access Consumer's Consumption Data, and such Consumers will experience an indirect impact as arrangements relating to access to their data change.

Other industry Codes

No other industry Codes are impacted by the Proposed Solution for this Modification.

Greenhouse gas emissions

No impact on greenhouse gas emissions is anticipated as a result of the Proposed Solution for this Modification.

5. Costs

DCC costs

No DCC costs have been identified as a result of the Proposed Solution.

SECAS costs

The estimated SECAS implementation cost to implement this as a stand-alone modification is one day of effort, amounting to approximately £600. This cost will be reassessed when combining this modification in a scheduled SEC Release. The activities needed to be undertaken for this are:

- Updating the SEC and releasing the new version to the industry.

SEC Party costs

This information will be gathered during the Refinement Consultation.

6. Implementation approach

Recommended implementation approach

SECAS is recommending an implementation date of:

- **25 June 2026** (June 2026 SEC Release) if a decision by the Authority to approve is received on or before 24 June 2026; or
- **Ad-Hoc Release** (10 Working Days following the Authority Decision) if a decision by the Authority to approve is received after 24 June 2026.

SECAS proposes to present this Modification to the Change Board for a decision on referral to the Authority on 25 March 2026. Anticipating a twelve-week turnaround period for a response from the Authority will place the expected decision date in mid-June 2026. Therefore, whilst the June 2026 release may be possible, a contingency for an ad-hoc release has been proposed as well.

7. Assessment of the proposal

Areas for assessment

The Smart Energy Code Administrator and Secretariat (SECAS) believes further clarity is needed regarding how the GDPR principles will be applied by SEC Parties. In particular, when a SEC Party is acting on behalf of a non-SEC Party to collect Consumption Data, it will need to be determined whether using a GDPR principle which applies to the activities of this third party, rather than a SEC-Party, is compliant with SEC processes.

Additionally, it will need to be determined how additional GDPR Principles and legal bases which the SEC Party (or its third party) wish to rely on will be verified. This will include a need to determine the appropriateness of these additional GDPR Principles, including, where legal bases such as Legitimate Interests are used, how the SEC Party or third party demonstrably assesses and balances their legitimate interests and the necessity of processing the personal data, against the interests, rights and freedoms of the individual. In addition, SECAS will examine how Local Authorities currently collect

Consumption Data from the Consumers they need to protect. SECAS will work with Local Authorities to determine the scale of the identified issue, as well as building a process of how this modification could work in practice if implemented.

The Working Group will also need to assess and investigate whether there could be any unintended consequences arising from this change, and the SECAS Privacy Experts and the SEC Lawyer will be engaged to support with this assessment. If the assessment confirms that other GDPR principles can be used, the SEC Lawyer will also provide an assessment of precisely which language must be used when adding the selected two GDPR principles into the SEC.

Sub-Committee input

At the time of publication of V0.2 of the Modification Report, The SEC Panel maintained responsibility for Section I 'Privacy' and as such was to be engaged for advice and considerations with regards the issue and any potential solutions that are identified. Since that point, however, the SEC Privacy Sub-Committee (PSC) was instated, and it's advice has been sought on four occasions to date as part of the development of this Modification.

SECAS will engage with the Chairs from the Operations Group (OPSG), the Technical Architecture and Business Architecture Sub-Committee (TABASC), the Security Sub-Committee (SSC) and the Smart Metering Key Infrastructure Policy Management Authority (SMKI PMA) to confirm what input is required from these forums. SECAS believes the following Sub-Committees will need to provide the following input to this modification:

Sub-Committee input	
Sub-Committee	**Input sought**
OPSG	What impacts will this Modification have on the collection of customer data?
PSC	What impact will this Modification have on the privacy arrangements in respect of customer data?
SMKI PMA	No input sought.
SSC	Will this Modification impact the current security arrangements?
TABASC	No input sought.

Observations on the issue

The Change Sub-Committee (CSC) recommended this modification be presented to the OPSG, as well as the SSC in order to discuss historic concerns about the collection of consumer data by Other Users. SECAS will engage with the Chairs of the sub-committees to determine precisely which groups this modification will be presented to.

Members also highlighted the need for clarity regarding when the consumer knows their data is being accessed by an Other User and where this information is stored. Other members noted the importance of this point as they believed consumers main concern about smart metering relates to who has access to their data.

DP218 'Review of the SEC Charging Methodology' was also discussed, with one member noting that the solution to DP218 be in place before DP234 reaches decision at Change Board.

Privacy Sub-Committee

April 2025:

At its meeting on 17 April 2025, the Privacy Sub-Committee received an update on MP234 and reviewed proposals for the assurance approach to support the use of Public Task (PT) and Legitimate Interests (LI) as lawful bases under the SEC. SECAS confirmed that the modification would impact Section A (Definitions) and Section I (Data Privacy).

The discussion focused on how PT and LI should be implemented and governed. The User Independent Privacy Auditor (IPA) advised that acceptable use cases for PT should be generated by the Other User community and then reviewed and approved by the PSC, rather than relying on a predefined list. Members agreed to include this review step in the process. For LI, SECAS proposed using the ICO Legitimate Interest Assessment (LIA) form as the foundation for SEC requirements, with revisions to incorporate SEC-specific obligations and clarity on what data is being accessed. Members supported this approach but stressed the need for guidance to ensure quality and consistency in LIA submissions.

The PSC noted that Public Authorities cannot rely on LI and should instead use PT. Members also confirmed that MP234 applies only to Consumption Data. The Sub-Committee agreed that where a User seeks to process data for new purposes under an existing LI, they must submit a formal change request and repeat the approval process, including a new LIA. Assurance checks will require Users to provide evidence demonstrating compliance with LI requirements. Legal review will only be required where LI cannot be clearly established, to avoid unnecessary cost.

Consumer trust was highlighted as a key consideration. Members expressed concern that introducing LI could create perceptions of reduced privacy protections, which might undermine confidence in smart metering. The PSC agreed that robust assessment processes and an opt-out mechanism would help address these concerns. The Chair summarised the importance of ensuring proportionality, clarity, and strong governance while avoiding duplication of effort. SECAS will update the assurance approach and legal drafting in line with PSC feedback and bring the revised proposals back for further review.

June 2025:

The PSC reviewed the initial legal text drafting for MP234, which proposed to introduce Public Task (PT) and Legitimate Interests (LI) as lawful bases within the SEC. SECAS outlined the proposed impacts on Section A (Definitions and Interpretations) and Section I (Data Privacy).

Members raised several points for clarification and amendment:

- Interaction with Data (Use and Access) Bill: A Member queried whether the Bill introduces changes to LI thresholds, such as pre-approved use cases, which could reduce the need for LI Assessments. EJ flagged this as a potential risk to the modification.
- Wording Adjustments: A Member suggested revising “review and revoke” in paragraphs I1.2(c) and I1.2(d) to “review, suspend or revoke” to allow suspension where non-compliance is suspected. AO proposed clarifying “these lawful bases” to “the relevant lawful basis for accessing Consumption Data.” Members also recommended removing I1.2(c) and correcting duplicated wording in I1.2(e) and (f).
- Authority to Revoke Access: User IPA (CG) questioned whether PSC has authority to revoke access under I1.2(c). SECAS agreed to verify alignment with SEC Section M and breach provisions.

Members agreed that SECAS would incorporate feedback and circulate an updated draft for ex-committee review before progressing to the SECAS legal team.

September 2025:

SECAS provided an overview of the changes made to the legal drafting between V0.3 and V0.5, and requested feedback.

Members discussed the comparative risks of using LI and PT as legal bases versus consent, noting that each carries different risk profiles rather than one being inherently safer. Concerns were raised that the proposal could introduce processing options for personal data not mirrored for commercial data, potentially creating inconsistency. SECAS told PSC Members how it's Legal Counsel advised that duplication of requirements within the SEC is unnecessary if LI and PT are accepted as valid bases, and suggested complementary changes within the Privacy Controls Framework instead.

The need for mandatory LI assessments was debated. While not required under GDPR, members noted ICO guidance expects organisations to demonstrate accountability and risk balancing. Practical concerns were raised around SEC Section I's lack of distinction between consumption and personal data. Members queried whether changes could be achieved through drafting or require a formal modification.

The PSC agreed to explore a partial revert to V0.3 while retaining useful elements of V0.4 to ensure coverage of both personal and commercial data. Members also requested a clear cost-benefitstatement to frame the proposal's scope. SECAS confirmed that tangible and intangible costs and benefits will be considered during Refinement Consultation and that Ofgem will make the final decision. These changes resulted in V0.5 of the legal drafting.

November 2025:

SECAS provided an overview of the changes made to the legal drafting between V0.5 and V0.6. This follows the incorporation of feedback from a PSC Member, the Proposer, and SECAS' legal counsel. SECAS asked PSC Members for feedback, and also invited PSC Members to provide detailed feedback against the Modification during the proposed Refinement Consultation. No comments were provided against the legal drafting, although the PSC Member who provided the initial feedback that was incorporated during the uplift from V0.5 to V0.6 thanked SECAS for responding to their views.

8. Case for change

Business case

Approval of the modification

Points raised in support of the Modification include the following:

- By allowing SEC Other Users to access consumer Consumption data via the Lawful Bases of Legitimate Interest and Public Task, they will be able to offer new services. This will encourage innovation and competition amongst SEC Other Users, which will further their offering to consumers.

- Consumers can expect to be offered new services by SEC Other Users by merit of their having access to new data, and also by means of the innovation referred to above. This will have a beneficial effect on consumer agency and choice within the energy market.
- As a legal text-only Modification, there will be no DCC System impacts, and it is also anticipated that there will be no industry cost associated with the delivery of the Proposed Solution. SECAS will determine the validity of this assumption during the Refinement Consultation, however.

Against approval of the modification

Points raised against the Modification include the following:

- As SEC Other Users will be able to access consumer's Consumption Data without their Unambiguous Consent, consumers will be less able to control access to their data than they otherwise would be able to. This may have an impact on data privacy, and may impact consumer confidence in market data security arrangements.
- By creating a means by which a SEC Other User may gain access to Consumption Data without Unambiguous Consent, it is possible that the Proposed Solution represents the start of a "slippery slope" in which the scope of access to data in the future may become broader. This may have an impact on future market data sharing and security arrangements.
- It may be that costs are identified by SEC Parties in respect of the Proposed Solution; this will be confirmed during the Refinement Consultation.

Views against the General SEC Objectives

Proposer's views

Public bodies and organisations with statutory responsibilities and similar obligations —such as local authorities, social landlords and financial institutions — have the need to process smart meter data to fulfil their legal duties and protect customers and tenants, even when explicit consent cannot be obtained. This necessity is underpinned by two key legal bases under data protection law: legitimate interest and public task.

These legal bases are essential because requiring explicit consent in every instance could hinder the ability of public bodies to act swiftly and effectively in the public interest, especially where vulnerable customers or urgent safety concerns are involved.

The enclosed modification is the first step towards supporting these legal bases to access and process smart meter data together with a set of appropriate safeguards. Safeguards to ensure only responsible and eligible use cases are granted access.

Industry views

[To be up updated following the Refinement Consultation published between 26 November 2025 and 17 December 2025].

Views against the consumer areas

Improved safety and reliability

This Modification has a neutral impact on improving safety and reliability.

Lower bills than would otherwise be the case

This Modification has a neutral impact on consumer bills.

Reduced environmental damage

This Modification has a neutral impact in respect of environmental damage.

Improved quality of service

This Modification has a neutral impact on quality of service.

Benefits for society as a whole

This Modification is expected to have a positive impact on consumers as the Proposed Solution will allow SEC Other Users to offer a broader variety of services to them. These services should grant consumers greater agency in how they approach and manage their supply of energy. This will be particularly beneficial to consumers in vulnerable situations or consumers in receipt of housing benefit, as they will have more tools available to manage their energy supply, which the Proposer expects may translate into savings for those consumers. [To be up updated following the Refinement Consultation published between 26 November 2025 and 17 December 2025].

Final conclusions -

[To be up updated prior to the publication of the Final Modification Report].

Appendix 1: Progression timetable

Timetable	
Event/Action	**Date**
Draft Proposal raised	14 Feb 2023
Presented to CSC for initial comment	21 Feb 2023
CSC converts Draft Proposal to Modification Proposal	21 Mar 2023
Modification placed on hold	Mar 2023 – Jan 2025
Modification discussed with Privacy Sub-Committee	Jan 2025 – Nov 2025
Refinement Consultation	Dec 2025 – Jan 2025
Modification discussed with Privacy Sub-Committee	*22 Jan 2026*
Working Group	*4 Feb 2026*
Request to enter Report Phase at Change Sub-Committee	*17 Feb 2026*
Modification Report Consultation	*Feb 2026 – Mar 2026*
Vote at Change Board	*18 Mar 2026*
Review by Authority	*Mar 2026 – June 2026*

Italics denote planned events that could be subject to change.

Appendix 2: Glossary

This table lists all the acronyms used in this document and the full term they are an abbreviation for.

Glossary	
Acronym	**Full term**
CSC	Change Sub-Committee
GDPR	General Data Protection Regulation
ICO	Information Commissioner's Office
IPA	Independent Privacy Auditor
OPSG	Operations Group
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SMKI PMA	Smart Metering Key Infrastructure Policy Management Authority
SSC	Security Sub-Committee
TABASC	Technical Architecture and Business Architecture Sub-Committee