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MP286 ‘Establishment of Privacy Sub-Committee into the SEC’

Annex A

Legal text – version 1.0

About this document

This document contains the redlined changes to the SEC that would be required to deliver this Modification Proposal.

Section A - Definitions and Interpretation

These changes have been redlined against Section A version 45.0.

Add the following definitions to Section A.1 as follows:

<u>Privacy Sub-Committee or PSC</u>	<u>means the Sub-Committee established pursuant to Section I3 (Privacy Sub Committee).</u>
<u>Privacy Sub-Committee (Network) Member</u>	<u>has the meaning given to that expression in Section I3.3 (Membership of the Privacy Sub-Committee).</u>
<u>Privacy Sub-Committee (Other User) Member</u>	<u>has the meaning given to that expression in Section I3.3 (Membership of the Privacy Sub-Committee).</u>
<u>Privacy Sub-Committee (Supplier) Member</u>	<u>has the meaning given to that expression in Section I3.3 (Membership of the Privacy Sub-Committee).</u>
<u>Privacy Sub-Committee Chair</u>	<u>has the meaning given to that expression in Section I3.3 (Membership of the Privacy Sub-Committee).</u>
<u>Privacy Sub-Committee Member</u>	<u>has the meaning given to that expression in Section I3.3 (Membership of the Privacy Sub-Committee).</u>

Section D – Modification Process

These changes have been drafted against Section D version 11.0.

Amend Section D6.8 (Purpose of Refinement Process) as follows:

D3.1 The purpose of the Refinement Process is to:

- (a) consider and (to the extent necessary) clarify the likely effects of the Modification Proposal, including to identify the Parties, Party Categories, Energy Consumers and other persons likely to be affected by the Modification Proposal;
- (b) evaluate and (to the extent necessary) develop and refine the content of the Modification Proposal;
- (c) evaluate and (to the extent necessary) amend the proposed implementation timetable of the Modification Proposal including (where relevant) so as to ensure consistency with the SEC Release Management Policy (provided that the proposed implementation timetable of an Authority-initiated Modification cannot be so amended);
- (d) consider (to the extent the Working Group considers necessary) the impact which the Modification Proposal would have, if approved, on the matters referred to in Section D6.9;
- (e) consider whether the DCC should, as part of the proposal's implementation (if the Modification Proposal is approved), be required to undertake testing of the DCC Total System and/or provide testing services; and (if so) ensure that the Modification Proposal includes amendments to this Code which provide a robust testing solution (or, if it is not yet reasonably practicable to document the testing solution, which provide a process for developing the testing solution);
- (f) seek (to the extent the Working Group considers necessary) the Technical Architecture and Business Architecture Sub-Committee's views of the impact which the Modification Proposal would have, if approved, on the DCC Systems and Smart Metering Systems; provided that the Working Group shall always seek such views:
 - (i) in respect of proposals to modify the Technical Code Specifications; and/or
 - (ii) where the Technical Architecture and Business Architecture Sub- Committee has notified the Working Group that the Technical Architecture and Business Architecture Sub-Committee wishes to express a view;
- (g) seek (to the extent the Working Group considers necessary) the Security Sub-Committee's views on the Modification Proposal; provided that the Working Group shall always seek such views:
 - (i) in respect of proposals to modify the Security Obligations and Assurance Arrangements; and/or

- (ii) where the Security Sub-Committee has notified the Working Group that the Security Sub-Committee wishes to express a view;
- (h) seek (to the extent the Working Group considers necessary) the SMKI PMA's views on the Modification Proposal; provided that the Working Group shall always seek such views:
 - (i) in respect of proposals to modify the SMKI SEC Documents; and/or
 - (ii) where the SMKI PMA has notified the Working Group that the SMKI PMA wishes to express a view;
- (i) seek (to the extent the Working Group considers necessary) the Alt HAN Forum's views on the Modification Proposal; provided that the Working Group shall always seek such views:
 - (i) in respect of proposals to modify Section Z (The Alt HAN Arrangements);
 - (ii) in respect of proposals to modify any SEC Subsidiary Document which relates to Section Z (The Alt HAN Arrangements);
 - (iii) in respect of proposals to modify Section K (Charging Methodology) which are likely to affect the Alt HAN Charges; and/or
 - (iv) where the Alt HAN Forum (or a Forum Sub-Group acting on its behalf) has notified the Working Group that it wishes to express a view;
- (j) consider whether, if the Modification Proposal is approved, this Code would better facilitate the achievement of the SEC Objectives than if the Modification Proposal was rejected;
- (k) consider whether it is likely that there would be a material impact on Greenhouse Gas Emissions as a result of the Modification Proposal being approved, and (if so) assessing such impact (which assessment shall be conducted in accordance with any guidance on the evaluation of Greenhouse Gas Emissions issued by the Authority from time to time).: and
- (l) consider whether, if the Modification Proposal is approved, changes are likely to be required to other Energy Codes as a result: and
- (m) seek (to the extent the Working Group considers necessary) the Privacy Sub-Committee's views on the Modification Proposal: provided that the Working Group shall always seek such views:
 - (i) in respect of proposals to modify Section I (Data Privacy);
 - (ii) in respect of proposals to modify the Privacy Controls Framework; and /or
 - (iii) where the Privacy Sub-Committee has notified the Working Group that the Privacy Sub-Committee wishes to express a view.

Section I - Data Privacy

These changes have been drafted against Section I version 12.0.

Amend Section I2.15-I2.17 (Privacy Controls Framework) as follows:

The Privacy Controls Framework

- I2.15 The ~~Privacy Sub-Committee~~~~Panel~~ shall develop and maintain a document to be known as the "Privacy Controls Framework", which shall:
- (a) set out arrangements designed to ensure that Privacy Assessments are carried out appropriately for the purpose of providing reasonable assurance that Other Users are complying with (or, for the purposes of Section H1.10(d) (User Entry Process Requirements), are capable of complying with) their obligations under Sections I1.2 to I1.5; ~~and~~
 - (b) for that purpose, in particular, specify the principles and criteria to be applied in the carrying out of any Privacy Assessment, including principles designed to ensure that Privacy Assessments take place on a consistent basis across all Other Users; and
 - (c) make provision for determining the timing, frequency and selection of Other Users for the purposes of Random Sample Privacy Assessments.
- I2.16 In developing the Privacy Controls Framework, and prior to making any subsequent change to it, the ~~Privacy Sub-Committee~~~~Panel~~ shall consult with and have regard to the views of all Parties, Citizens Advice and Citizens Advice Scotland, and the Authority.
- I2.17 The ~~Privacy Sub-Committee~~~~Panel~~ shall ensure that an up to date copy of the Privacy Controls Framework is made available to all Parties and is published on the Website.

Amend Section I2.19 (Privacy Assessment Report) to I2.38 (Privacy Assessments: Post-User Entry Process) as follows:

The Privacy Assessment Report

- I2.19 Following the completion of a Full Privacy Assessment or Random Sample Privacy Assessment, the Independent Privacy Auditor shall, in discussion with the Other User to which the assessment relates, produce a written report (a "**Privacy Assessment Report**") which shall:
- (a) set out the findings of the Independent Privacy Auditor on all the matters within the scope of the Privacy Assessment;

- (b) specify any instances of actual or potential non-compliance of the Other User with its obligations under Sections I1.2 to I1.5 which have been identified by the Independent Privacy Auditor;
- (c) set out the evidence which, in the opinion of the Independent Privacy Auditor, establishes each of the instances of actual or potential non-compliance which it has identified.

I2.20 The Independent Privacy Auditor shall submit a copy of each Privacy Assessment Report to the Privacy Sub-CommitteePanel and to the Other User to which that report relates.

The Privacy Assessment Response

I2.21 Following the receipt by any Other User of a Privacy Assessment Report which relates to it, the Other User shall as soon as reasonably practicable, and in any event by no later than such date as the Privacy Sub-CommitteePanel may specify:

- (a) produce a written response to that report (a "**Privacy Assessment Response**") which addresses the findings set out in the report; and
- (b) submit a copy of that response to the Privacy Sub-CommitteePanel and the Independent Privacy Auditor.

I2.22 Where a Privacy Assessment Report specifies any instance of actual or potential non-compliance of an Other User with its obligations under Sections I1.2 to I1.5, the Other User shall ensure that its Privacy Assessment Response includes the matters referred to in Section I2.23.

I2.23 The matters referred to in this Section are that the Privacy Assessment Response:

- (a) indicates whether the Other User accepts the relevant findings of the Independent Privacy Auditor and provides an explanation of the actual or potential non-compliance that has been identified; and
- (b) sets out any steps that the Other User proposes to take in order to remedy and/or mitigate the actual or potential non-compliance, and identifies a timetable within which the Other User proposes to take those steps.

I2.24 Where a Privacy Assessment Response sets out any steps that an Other User proposes to take in accordance with Section I2.23(b), the Privacy Sub-CommitteePanel (having considered the advice of the Independent Privacy Auditor) shall review that response and either:

- (a) notify the Other User that it accepts that the steps that the Other User proposes to take, and the timetable within which it proposes to take them, are appropriate to remedy and/or mitigate the actual or potential non-compliance specified in the Privacy Assessment Report; or
- (b) seek to agree with the Other User such alternative steps and/or timetable as would, in the opinion of the Privacy Sub-CommitteePanel, be more appropriate for that purpose.

I2.25 Where a Privacy Assessment Response sets out any steps that an Other User proposes to take in accordance with Section I2.23(b), and where those steps and the timetable within which it proposes to take them are accepted by the Privacy Sub-CommitteePanel, or alternative steps

and/or an alternative timetable are agreed between it and the Other User in accordance with Section I2.24, the Other User shall:

- (a) take the steps that have been accepted or agreed (as the case may be) within the timetable that has been accepted or agreed (as the case may be); and
- (b) report to the Privacy Sub-Committee~~Panel~~:
 - (i) on its progress in taking those steps, at any such intervals or by any such dates as the Privacy Sub-Committee~~Panel~~ may specify;
 - (ii) on the completion of those steps in accordance with the timetable; and
 - (iii) on any failure to complete any of those steps in accordance with the timetable, specifying the reasons for that failure.

The Privacy Self-Assessment Report

I2.26 Following the completion of a Privacy Self-Assessment, the Other User which carried out that self-assessment shall as soon as reasonably practicable produce a written report (a "**Privacy Self-Assessment Report**") which shall set out the findings of the Other User, and describe the nature of any material change, since the last occasion on which a Privacy Assessment was carried out in respect of the Other User by the Independent Privacy Auditor, in respect of:

- (a) the arrangements that the Other User has in place to comply with its obligations under Sections I1.2 to I1.5; or
- (b) the quantity of Consumption Data being obtained by the Other User.

I2.27 An Other User which produced a Privacy Self-Assessment Report shall:

- (a) ensure that the report is accurate, complete and not misleading; and
- (b) submit a copy of the report to the Privacy Sub-Committee~~Panel~~ and the Independent Privacy Auditor.

I2.28 Within the period of time specified in the Privacy Controls Framework following the receipt by it of a Privacy Self-Assessment Report, the Independent Privacy Auditor shall either:

- (a) notify the Other User that it accepts that report; or
- (b) inform the Other User that it will be subject to an additional Privacy Assessment of such nature by such date as the Privacy Sub-Committee~~Panel~~ may specify.

Initial Full Privacy Assessment: User Entry Process

I2.29 Sections I2.31 to I2.36 set out the applicable privacy requirements referred to in Section H1.10(d) (User Entry Process Requirements).

I2.30 For the purposes of Sections I2.31 to I2.36, any reference in Sections I1.2 to I1.5 or the preceding provisions of this Section I2 to a 'User' or 'Other User' (or to any related expression which applies to Users), shall be read as including a reference (or otherwise applying) to any

Party seeking to become a User by completing the User Entry Process for the User Role of Other User.

Initial Full Privacy Assessment

12.31 For the purpose of completing the User Entry Process for the User Role of Other User, a Party wishing to act in that User Role shall be subject to a Full Privacy Assessment.

Privacy Sub-CommitteePanel: Setting the Assurance Status

12.32 Following the receipt by it of the Privacy Assessment Report and Privacy Assessment Response produced after the initial Full Privacy Assessment, the Privacy Sub-CommitteePanel shall promptly consider both documents and set the assurance status of the Party, in relation to its compliance with each of its obligations under Sections I1.2 to I1.5, in accordance with Section I2.33.

12.33 The Privacy Sub-CommitteePanel shall set the assurance status of the Party as one of the following:

- (a) approved;
- (b) approved, subject to the Party: (i) taking such steps as it proposes to take in its Privacy Assessment Response in accordance with Section I2.23(b); or (ii) both taking such steps and being subject to a further Privacy Assessment of such nature and by such date as the Privacy Sub-CommitteePanel may specify;
- (c) deferred and: (i) the Party having first taken such steps as it proposes to take in its Privacy Assessment Response in accordance with Section I2.23(b) and been subject to a further Privacy Assessment; and (ii) the Privacy Sub-CommitteePanel having determined that it is satisfied, on the evidence of the further Privacy Assessment, that such steps have been taken; or
- (d) rejected and: (i) the Party shall have a second Full Privacy Assessment to address any issues identified by the Privacy Sub-CommitteePanel as being, in the opinion of the Privacy Sub-CommitteePanel, not adequately addressed in that response as submitted to Privacy Sub-CommitteePanel; and (ii) upon completion of the second Full Privacy Assessment the Privacy Sub-CommitteePanel will reconsider the assurance status in accordance with Section I2.32

Approval

12.34 For the purposes of Sections H1.10(d) and H1.11 (User Entry Process Requirements):

- (a) a Party shall be considered to have successfully demonstrated that it meets the applicable privacy requirements of this Section I2 when:
 - (i) the Privacy Sub-CommitteePanel has set its assurance status to 'approved' in accordance with either Section I2.33(a) or (b); or
 - (ii) the Privacy Sub-CommitteePanel has set its assurance status to 'deferred' in accordance with Section I2.33(c) and the requirements specified in that Section have been met; and

- (b) the ~~Privacy Sub-Committee~~Panel shall notify the Code Administrator as soon as reasonably practicable after the completion of either event described in paragraph (a)(i) or (ii).

Obligations on an Approved Party

- 12.35 Where the ~~Privacy Sub-Committee~~Panel has set the assurance status of a Party to 'approved subject to' specified in Section 12.33(b), the Party shall take the steps to which that approval is subject in accordance with that section.

Disagreement with ~~Privacy Sub-Committee~~Panel Decisions

- 12.36 Where a Party disagrees with any decision made by the Privacy Sub-Committee in relation to it under Section 12.33, it may appeal that decision to the Authority and the determination of the Authority shall be final and binding for the purposes of the Code.

Privacy Assessments: Post-User Entry Process

- 12.37 Following its initial Full Privacy Assessment for the purposes of the User Entry Process, an Other User shall be subject to annual Privacy Assessments as follows:
- (a) in the first year after the year of its initial Full Privacy Assessment, to a Privacy Self-Assessment;
 - (b) in the immediately following year, to a Privacy Self-Assessment;
 - (c) in the next following year, to a Full Privacy Assessment; and
 - (d) in each year thereafter, to a category of Privacy Assessment which repeats the same annual sequence as that of paragraphs (a) to (c), but these requirements shall be subject to the provisions of Section 12.38.
- 12.38 An Other User:
- (a) may, on the instruction of the ~~Privacy Sub-Committee~~Panel, or otherwise in accordance with the provisions of the Privacy Controls Framework, be subject to a Full Privacy Assessment or Random Sample Privacy Assessment at any time; and
 - (b) where it is subject to such a Privacy Assessment in a year in which it would otherwise have been required to carry out a Privacy Self-Assessment in accordance with Section 12.37, shall not be required to carry out that self-assessment in that year.

Add a new Section I3 (Privacy Sub-Committee) as follows:

Establishment of the Privacy Sub-Committee

I3.1 The Panel shall establish a Sub-Committee in accordance with the requirements of this Section I3, to be known as the “Privacy Sub-Committee”.

I3.2 Save as expressly set out in this Section I3, the Privacy Sub-Committee shall be subject to the provisions concerning Sub-Committees set out in Section C6 (Sub-Committees).

Membership of the Privacy Sub-Committee

I3.3 The Privacy Sub-Committee shall be composed of the following persons (each a “Privacy Sub-Committee Member”):

- (a) the Privacy Sub-Committee Chair (as further described in Section I3.5);
- (b) eight Privacy Sub-Committee (Supplier) Members (as further described in Section I3.6);
- (c) two Privacy Sub-Committee (Network) Members (as further described in Section I3.8);
- (d) three Privacy Sub-Committee (Other User) Members (as further described in Section I3.10);
- (e) one person acting as Consumer Representative (nominated jointly by Citizens Advice and Citizens Advice Scotland;) (as further described in Section I3.13; and
- (f) one representative of the DCC (as further described in Section I3.14).

I3.4 Each Privacy Sub-Committee Member must be an individual (and cannot be a body corporate, association or partnership). No one person can hold more than one office as a Privacy Sub-Committee Member at the same time.

I3.5 The “Privacy Sub-Committee Chair” shall be such person as is (from time to time) appointed to that role by the Panel in accordance with a process designed to ensure that:

- (a) the candidate selected is sufficiently independent of any particular Party or class of Parties;
- (b) the Privacy Sub-Committee Chair is appointed for a three-year term (following which he or she can apply to be re-appointed);
- (c) the Privacy Sub-Committee Chair is remunerated at a reasonable rate;
- (d) the Privacy Sub-Committee Chair’s appointment is subject to Section C6.9 (Member Confirmation), and to terms equivalent to Section C4.6 (Removal of Elected Members); and
- (e) provision is made for the Privacy Sub-Committee Chair to continue in office for a reasonable period following the end of his or her term of office in the event of any delay in appointing his or her successor.

I3.6 Each of the eight “Privacy Sub-Committee (Supplier) Members” shall:

- (a) be appointed in accordance with Section I3.7 subject to compliance by the appointed person with Section C6.9 (Member Confirmation);
- (b) retire two years after his or her appointment (without prejudice to his or her ability to be nominated for a further term of office); and
- (c) be capable of being removed from office in accordance with Sections C4.5 and C4.6 (Removal of Elected Members), for which purpose those Sections shall be read as if references to “Elected Member” were to “Privacy Sub-Committee (Supplier) Member”, references to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, and references to “Panel Members” were to “Panel Sub-Committee Members”.

I3.7 Each of the eight Privacy Sub-Committee (Supplier) Members shall (subject to Section I3.12) be appointed in accordance with a process:

- (a) by which six Privacy Sub-Committee (Supplier) Members will be elected by Large Supplier Parties, and two Privacy Sub-Committee (Supplier) Members will be elected by Small Supplier Parties; and
- (b) that is otherwise the same as that by which Elected Members are elected under Sections C4.2 and C4.3 (as if references therein to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, references to “Panel Members” were to “Privacy Sub-Committee Members”, and references to provisions of Section C or D were to the corresponding provisions set out in or applied pursuant to this Section I3).

I3.8 Each of the two “Privacy Sub-Committee (Network) Members” shall:

- (a) be appointed in accordance with Section I3.9, subject to compliance by the appointed person with Section C6.9 (Member Confirmation);
- (b) retire two years after his or her appointment (without prejudice to his or her ability to be nominated for a further term of office); and
- (c) be capable of being removed from office in accordance with Sections C4.5 and C4.6 (Removal of Elected Members), for which purpose those Sections shall be read as if references to “Elected Member” were to “Privacy Sub-Committee (Network) Member”, references to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, and references to “Panel Members” were to “Privacy Sub-Committee Members”.

I3.9 Each of the two Privacy Sub-Committee (Network) Members shall (subject to Section I3.12) be appointed in accordance with a process:

- (a) by which one Privacy Sub-Committee (Network) Member will be elected by the Electricity Network Parties and one Privacy Sub-Committee (Network) Member will be elected by the Gas Network Parties; and
- (b) that is otherwise the same as that by which Elected Members are elected under Sections C4.2 and C4.3 (as if references therein to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, references to “Panel

Members” were to “Privacy Sub-Committee Members”, and references to provisions of Section C or D were to the corresponding provisions set out in or applied pursuant to this Section I3).

I3.10 Each of the three “Privacy Sub-Committee (Other User) Members” shall:

- (a) be appointed in accordance with Section I3.11, subject to compliance by the appointed person with Section C6.9 (Member Confirmation);
- (b) retire two years after his or her appointment (without prejudice to his or her ability to be nominated for a further term of office); and
- be capable of being removed from office in accordance with Sections C4.5 and C4.6 (Removal of Elected Members), for which purpose those Sections shall be read as if references to “Elected Member” were to “Privacy Sub-Committee (Other User) Member”, references to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, and references to “Panel Members” were to “Privacy Sub-Committee Members”.

I3.11 Each of the three Privacy Sub-Committee (Other User) Members shall (subject to Section I3.12) be appointed in accordance with a process:

- (a) by which three Privacy Sub-Committee (Other User) Members will be elected by the Other SEC Parties which are eligible to act in the role of Other User; and
- (b) that is otherwise the same as that by which Elected Members are elected under Sections C4.2 and C4.3 (as if references therein to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, references to “Panel Members” were to “Privacy Sub-Committee Members”, and references to provisions of Section C or D were to the corresponding provisions set out in or applied pursuant to this Section I3).

I3.12 The following shall apply in respect of all candidates nominated or re-nominated for election as a Privacy Sub-Committee (Supplier) Member, Privacy Sub-Committee (Network) Member or Privacy Sub-Committee (Other User) Member.

- (a) the Privacy Sub-Committee may, by no later than 5 Working Days following the expiry of the period of time set out in the request for nominations, reject a candidate (by notifying the candidate of such rejection) where the Privacy Sub-Committee determines that the candidate does not satisfy one or more of the following requirements:
 - (i) the candidate must have been nominated by a company or other organisation, and the individual who submitted the nomination on behalf of the organisation must hold a senior position within the organisation;
 - (ii) the organisation which nominated the candidate must have confirmed that it is satisfied that the candidate has the relevant privacy expertise in relation to the category of membership of the Privacy Sub-Committee for which the candidate has been nominated; and

- (iii) the candidate must have sufficient privacy expertise in relation to the category of membership of the Privacy Sub-Committee for which the candidate has been nominated;
 - (b) a candidate who is rejected under paragraph (a) above shall not (subject to paragraph (c) below) be an eligible candidate for the relevant election;
 - (c) where a candidate disputes a rejection notification under paragraph (a) above, the candidate shall have 3 Working Days following receipt of such notification to refer the matter to the Panel for its final determination of whether the candidate satisfies the requirements set out in paragraph (a) above; and
 - (d) where necessary, the Secretariat shall delay giving notice of the names of eligible candidates pending expiry of the time periods set out in paragraph (a) and/or (c) or determination by the Panel under paragraph (c) (as applicable).
- I3.13 The Consumer Representative (nominated jointly by Citizens Advice and Citizens Advice Scotland) may nominate one person to be a Privacy Sub-Committee Member by notice to the Secretariat from time to time. The Consumer Representative may replace its nominee from time to time by prior notice to the Secretariat. Such nomination or replacement shall be subject to compliance by the relevant person with Section C6.9 (Member Confirmation).
- I3.14 The DCC may nominate one person to be a Privacy Sub-Committee Member by notice to the Secretariat from time to time. The DCC may replace its nominee from time to time by prior notice to the Secretariat. Such nomination or replacement shall be subject to compliance by the relevant person with Section C6.9 (Member Confirmation).

Proceedings of the Privacy-Sub Committee

- I3.15 Subject to Sections I3.16, I3.17, I3.18 and I3.19, the provisions of Section C5 (Proceedings of the Panel) shall apply to the proceedings of the Privacy Sub-Committee, for which purpose that Section shall be read as if references to “Panel” were to “Privacy Sub-Committee”, references to “Panel Chair” were to “Privacy Sub-Committee Chair”, and references to “Panel Members” were to “Privacy Sub-Committee Members”.
- I3.16 Without prejudice to the generality of Section C5.13(c) (Attendance by Other Persons) as it applies pursuant to Section I3.15:
- (a) a representative of the Secretary of State and a representative of the Authority shall be:
 - (i) invited to attend each and every Privacy Sub-Committee meeting;
 - (ii) entitled to speak at such Privacy Sub-Committee meetings without the permission of the Privacy Sub-Committee Chair; and
 - (iii) provided with copies of all the agenda and supporting papers available to Privacy Sub-Committee Members in respect of such meetings; and
 - (b) the Privacy Sub-Committee Chair shall invite to attend Privacy Sub-Committee meetings any persons that the Privacy Sub-Committee determines it appropriate to invite in order to be provided with expert advice on privacy matters.

Duties and Powers of the Privacy Sub-Committee

I3.17 The Privacy Sub-Committee:

- (a) shall perform the duties and may exercise the powers set out in Sections I3.21 to I3.28 (inclusive); and
- (b) shall perform such other duties and may exercise such other powers as may be expressly ascribed to the Privacy Sub-Committee elsewhere in this Code.

Document Development and Maintenance

I3.18 The Privacy Sub-Committee shall:

- (a) maintain the Privacy Controls Framework;
- (b) carry out a review of the Privacy Assessment process at least once each year in order to ensure it continues to provide an appropriate level of assurance that privacy and data protection risks are appropriately mitigated and reflecting any improvements or amendments to this Code and/or the Privacy Controls Framework;
- (c) develop and maintain an Unambiguous Consent strategy setting out requirements for collecting, maintaining and processing consent and withdrawal of consent, in support of Section I1.4 (Access to Records);
- (d) maintain the definition of Good Industry Practice, in support of Section I1.5 (Good Industry Practice);
- (e) maintain the definition of materiality in respect of Users' processes in support of Section I2.26 (Privacy Self-Assessment Report);
- (f) provide such guidance on Data Protection Legislation as it determines may be necessary from time to time, in support of Section I1.12 (General Compliance with Data Protection Legislation);
- (g) maintain a statement of privacy objectives aligned to the SEC Objectives for use when assessing the continued effectiveness of the Privacy Controls Framework and Privacy Assessment process; and
- maintain and implement a memorandum of understanding with the Information Commissioner in relation to privacy and this Code.

Privacy Assurance

I3.19 The Privacy Sub-Committee shall:

- (a) periodically, and in any event at least once each year, review the privacy-related obligations and assurance arrangements under this Code in order to identify whether in the opinion of the Privacy Sub-Committee they continue to be fit for purpose;
- (b) periodically, and in any event at least once each year, carry out reviews of the Privacy Assessment scope, as follows:

- (i) Full Privacy Assessments, to ensure they continue to meet the objectives set out in Section I2.12;
- (ii) Privacy Self-Assessments, to ensure they continue to meet the objectives set out in Section I2.14; and
- (iii) Random Sample Privacy Assessments, to ensure they continue to meet the objectives set out in Section I2.13.
- (c) provide the Panel with support and advice in respect of issues relating to the actual or potential non-compliance of any Party with the requirements of this Code concerning privacy;
- (d) shall to the extent to which it considers it appropriate, in relation to any User (or, during the first User Entry Process, Party) which has produced a Privacy Assessment Response that sets out any steps that the User proposes to take in accordance with Section I2.33(b); liaise with that User (or Party) as to the nature and timetable of such steps;
- (e) provide advice to the Panel on the scope and output of the independent privacy assurance arrangements of the DCC in relation to the design, building and testing of the DCC Total System;
- (f) provide advice to the Panel in relation to the appointment of the Independent Privacy Auditor, monitor the performance of the person appointed to that role and provide advice to the Panel in respect of its views as to that performance;
- (g) provide advice and information to the Information Commissioner and the Authority via the Panel in relation to any actual or potential non-compliance with Data Protection Legislation in the event of a material concern arising from a privacy assessment; and
- (h) liaise with the Information Commissioner at such meetings and in such manners as may be scheduled under the terms of the memorandum of understanding with the Information Commissioner.

Monitoring and Advice

I3.20 The Privacy Sub-Committee shall:

- (a) provide such reasonable assistance to the DCC and Users as may be requested by them in relation to the causes of data privacy incidents and the management of notifications and regulator liaison;
- (b) provide the Panel with support and advice in respect of Disputes for which the Panel is required to make a determination, insofar as such Disputes relate to Section I (Data Privacy);
- (c) provide the Panel, the Change Sub-Committee, the Change Board and any relevant Working Group with support and advice in relation to any Draft Proposal or Modification Proposal which may affect data privacy;
- (d) respond to any consultations on matters which may affect the data privacy or the effective implementation of the privacy controls under this Code;

- (e) act in cooperation with, and send a representative to any Sub-Committee or Working Group which requests the support or attendance of the Privacy Sub-Committee;
- (f) provide guidance to the Panel on data ethics and publish such guidance on data ethics as it may determine appropriate from time to time;
- (g) considering and responding to privacy implications of emerging and novel technologies such as artificial intelligence; and
- (h) provide such further support and advice to the Panel, the Authority and other Parties as may be requested.

Modifications

I3.21 The Privacy Sub-Committee shall establish a process under which the Code Administrator monitors Draft Proposals and Modification Proposals with a view to identifying (and bringing to the attention of the Privacy Sub-Committee) those proposals that:

- (a) are likely to affect the privacy assurance arrangements under Section I2 (Other User Privacy Audits); or
- (b) are likely to relate to other parts of the Code but may have a material effect on data privacy.

I3.22 Notwithstanding Section D1.3 (Persons Entitled to Submit Draft Proposals), the Privacy Sub-Committee shall be entitled to submit Draft Proposals in respect of Section I (Data Privacy) where the Privacy Sub-Committee considers it appropriate to do so.

I3.23 Notwithstanding and subject to the provisions of the Working Group Terms of Reference, the Privacy Sub-Committee shall be entitled to nominate a representative to be a member of any Working Group.

I3.24 For the purposes of Section D7.1 (Modification Report):

- (a) written representations in relation to the purpose and effect of a Modification Proposal may be made by
 - (i) the Privacy Sub-Committee; and/or
 - (ii) any Privacy Sub-Committee member.
- (b) notwithstanding Section D7.3 (Content of the Modification Report), the Code Administrator shall ensure that all such representations, and a summary of any evidence provided in support of them, are set out in the Modification Report prepared in respect of the relevant Modification Proposal.