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Privacy Sub-Committee

Terms of Reference (ToR) Version 1.0

The Privacy Sub-Committee (PSC) shall be established pursuant to Section C6 of the Smart Energy Code (SEC).

Unless otherwise stated, defined terms have the same meaning as that which is attributed to them in the [SEC](#).

1. Specific Duties of the Privacy Sub-Committee

The prescribed duties and of the PSC are drawn from SEC Section I and set out in the [Delegations Register](#).

The PSC will:

Document Development and Maintenance:

- maintain the Privacy Controls Frameworks (PCF);
- 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 in the SEC and/or PCF;
- develop and maintain an Unambiguous Consent strategy setting out requirements for collecting, maintaining and processing consent and withdrawal of consent, in support of SEC Section I1.4;
- maintain the definition of Good Industry Practice, in support of SEC Section I1.5;
- maintain the definition of materiality in respect of User's processes in support of SEC Section I2.26;
- provide such guidance on Data Protection Legislation as it determines may be necessary from time to time, in support of SEC Section I1.12;
- maintain a Privacy Statement of Objectives aligned to the SEC Statement of Objectives for use when assessing the continued effectiveness of the Privacy Controls Framework and Privacy Assessment Process; and
- maintain and implement the Memorandum of Understanding with the Information Commissioner.

Privacy Assurance:

- the PSC will periodically, and in any event at least once each year, review the Privacy Obligations and Assurance Arrangements in order to identify whether in the opinion of the Privacy Sub-Committee they continue to be fit for purpose;
- the PSC will periodically, and in any event at least once each year, carry out reviews of the privacy assessment scope. The assessment types include:
 - a) Full Privacy Assessment, to ensure it continues to meet the objectives set out in SEC Section I2.12;
 - b) Privacy Self-Assessment, to ensure it continues to meet the objectives set out in SEC Section I2.14; and
 - c) Random Sample Privacy Assessment, to ensure it continues to meet the objectives set out in SEC Section I2.13.
- following the receipt by it of the Privacy Assessment Report and Privacy Assessment Response produced after the initial Full Privacy Assessment, the PSC 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.
- 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 the PCF;
- 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;
- 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;
- provide advice to the Panel on the scope and output of the DCC assurance arrangements of the DCC Total System;
- provide advice to the Panel in relation to the appointment of the User Independent Privacy Assurance Service Provider, 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;
- provide advice and information to the Information Commissioner and the Authority via the SEC 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
- liaise with the Information Commissioner at such meetings and in such manners as may be scheduled under the terms of the Memorandum of Understanding.

Monitoring and Advice

- 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;
- 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 the Privacy Assurance Arrangements;
- 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;
- respond to any consultations on matters which may affect the data privacy or the effective implementation of the privacy controls that are identified in the Privacy Requirements;
- 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;
- provide guidance to the SEC Panel on data ethics and publish such guidance on data ethics as it may determine appropriate from time to time;
- considering and responding to privacy implications of emerging and novel technologies such as AI; and
- provide such further support and advice to the Panel as it may request.

Modifications

- 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:
 - are likely to affect the Privacy Assurance Arrangements; or
 - are likely to relate to other parts of the Code but may have a material effect on data privacy,
- be entitled to submit Draft Proposals in respect of the Privacy Assurance Arrangements where the Privacy Sub-Committee considers it appropriate to do so;
- 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; and
- for the purposes of Section D7.1 (Modification Report) written representations in relation to the purpose and effect of a Modification Proposal may be made by the Privacy Sub-Committee and/or any Privacy Sub-Committee member.

2. Out of Scope

The role of the PSC does not include the following:

- a) Any activity outside of those above unless otherwise directed by the Panel or transferred by a Transitional Group;

- b) Activities that do not contribute to achievement of SEC objectives; and
- c) Setting policies that fall under the remit of the Panel or another Sub-Committee.

3. Proceedings of the PSC

3.1 Meeting Frequency

The PSC shall hold meetings with such frequency as it may determine or the PSC Chair may direct, but in practice, the PSC will meet once a month.

3.2 Quorum

No business shall be transacted at any meeting of the PSC unless a quorum is present at that meeting. The quorum for each PSC meeting shall be one half of all PSC Members appointed at the relevant time, at least one of whom must be the PSC Chair or the PSC Chair's nominated alternate.

3.3 Meeting Notice and Papers

Each meeting shall be convened by the Secretariat. A minimum of five Working Days' notice shall be provided (or such shorter notice as directed by the Panel, or the PSC Chair).

Notice of each meeting shall be accompanied by:

- a) Time, date and location of the meeting;
- b) Arrangements for those wishing to attend the meeting by means other than in person; and
- c) Agenda and supporting papers.

3.4 PSC Chair

The SEC Panel shall approve the appointment of the PSC Chair and shall review the appointment in three years from the date of appointment.

- a) Selection of the PSC Chair shall be determined by the SEC Panel, providing the selection ensures that: 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);
- 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.

The PSC Chair shall not be entitled to vote unless there is a deadlock, in which case the PSC Chair shall have the casting vote.

3.5 Powers and Voting

In accordance with C6.9 of the SEC:

- each PSC Member shall be entitled to attend, and to speak and vote at, every meeting of the PSC;

- all decisions of the PSC shall be by resolution. In order for a resolution of the PSC to be passed at a meeting, a simple majority of those PSC Members voting at that meeting must vote in favour of that resolution. In the event of a voting deadlock, the PSC Chair shall have the casting vote; and
- a resolution in writing signed by or on behalf of all the PSC Members shall be as valid and effective as if it had been passed at a meeting of the PSC duly convened and held. Such a resolution may be signed in any number of counterparts.

3.6 Membership

The Panel shall invite applications from individuals to serve on the PSC. Those individuals shall have experience with Privacy matters to fulfil the duties of the PSC. Suitable qualifications such as CIPP/E or equivalent, would also be preferable.

Members shall act independently, not as a delegate, and without undue regard to the interests, of any Related Person and will act in a manner designed to facilitate the performance by the Panel of its duties under the SEC.

Members may propose another natural person to act as their Alternate by completing the necessary paperwork and notifying SECAS. The Alternate, once approved, may attend the PSC and must act in the capacity as Alternate to discharge the member's duties. The Alternate must complete the declaration as described in SEC C3.8 (a) and (c) prior to voting.

The table below sets out the composition of the PSC. Members and their Alternates must have sufficient experience, qualification, and hold privacy expertise:

Member Group	Numbers
Large Suppliers	6
Small Suppliers	2
Gas Networks	1
Electricity Networks	1
Other User	3
DCC Representative	1
Consumer Representative	1

Representatives of the Secretary of State and the Authority shall be invited to attend each and every PSC meeting. The PSC Chair is able to invite any persons that the PSC determines is appropriate.

3.7 Term of Office

The PSC Chair will review membership of the Sub-Committee on a two-yearly basis, inviting applications from individuals in accordance with SEC Section C6.7. The normal term of office for each member is 24 months. For the first term of office half the membership will serve a 12-month term to preserve knowledge within the Sub-Committee. An annual Election will be scheduled for the Members whose end of term is approaching.

3.8 Other Interested Parties

In addition to the core PSC members, the PSC Chair is entitled to invite any persons the PSC determines it appropriate to do so. Such persons may include representatives of a SEC Party who are invited to discuss their User Privacy Assessment Report and response, and any such persons who will be able to provide the PSC with expert advice on privacy matters.

Representatives of the Secretary of State and the Authority are entitled to attend and speak at the PSC meetings and will be provided with copies of all agendas and supporting papers.

3.9 Member Confirmation

Before a person may serve on the PSC, that person shall provide written confirmation to SECCo that:

- they agree to serve on the PSC in accordance with the SEC Section C 3.8;
- they will be available as reasonably required by the Sub-Committee to attend at least 50% of meetings and miss no more than 3 meetings in a row. Members should also be prepared to undertake some work outside of meetings;
- they shall act independently, not as a delegate, and act at all times in a manner designed to assist the performance by the PSC of its duties under the SEC as delegated by the Panel; and
- they shall be prepared to promptly give their expert view and contribute to discussions on matters within the scope of these Terms of Reference and seek views from their Party Category where appropriate and possible in accordance with the Panel Information Policy.

3.10 Conflict of Interest

Given that members have a duty to act independently, conflicts of interest should not regularly arise, but members may act in accordance with that of C5.24 – C5.26. In such cases the member shall absent themselves from the meeting for the purposes of that decision. It is the responsibility of each Member to declare to the PSC Chair any actual or perceived conflict of interest with their duties as an PSC Member. In such circumstances the Member may choose to absent themselves from proceedings or from voting, the PSC Chair may also request that a Member absents themselves. Any decision of the PSC Chair in this regard shall be final and binding.

Conflict of Interest Scenario	Outcome
Scenario 1 – The User Privacy Assessment for the employer of a PSC Member is being reviewed by the PSC. This could relate to a PSC member whose employer is an Other User	Outcome 1 – PSC Members to declare a conflict of interest and to leave the meeting if requested to do so where the PSC is considering an assurance status or compliance status for their employing organisation.
Scenario 2 – The User Privacy Assessment for an Other User is being reviewed by the PSC and the employers of other PSC Members have a contract with that Other User.	Outcome 2 – PSC Members to declare a conflict of interest and to leave the meeting if requested to do so by the PSC Chair where the PSC is considering an assurance status or compliance status for an Other User and the employer of an PSC Member has a contract with that Other User.

Managed by

4. Secretariat

SECAS will provide the secretariat and code management for the PSC. This includes but is not limited to:

- Prepare and maintain the PSC Member Pack (code of conduct and expenses policy);
- Timetable and organise the PSC meetings, including meeting rooms and/or video conferencing facilities;
- Act as quality gatekeeper with the PSC Chair for accepting papers;
- Circulate agendas and papers for consideration at PSC meetings, 5 Working Days in advance of that meeting date;
- Monitor the quorum prior to meetings to ensure that decision matters are not frustrated or deferred;
- Circulate minutes of the meeting five working days after the meeting for the PSC's approval;
- Administer the circulation list for PSC papers and minutes;
- Manage the PSC decisions, actions and risks log;
- Manage the PSC section of the SEC website;
- Manage the appropriate tools utilised by DCC, Users and Manufacturers for data privacy incidents and the management of notifications;
- Manage the PSC Egress Workspace; and
- Support the operation of the PSC and the fulfilment of its duties through:
 - co-ordination, and where directed by the PSC undertaking, all inputs, analyses, assessments and consultations required to support the PSC business;
 - preparation of the draft PSC input to the Panel's annual report (July) SEC 2.3(h) for the PSC's approval; and
 - the co-ordination of the PSC's role in the SEC Modifications Process through the relevant SECAS Modification lead(s) to ensure a holistic and efficient process exists between the PSC and the Change Board.

5. Review

The Terms of Reference, membership and operation of the PSC may be reviewed by the Chair at any time to ensure that they remain appropriate to reflect the duties and requirements of the SEC.

Amendments to these Terms of Reference will be reviewed by the PSC and approved by the Panel.

6. Confidentiality and Disclosure

In accordance with the [Panel Information Policy \(PIP\)](#), agenda items, papers and discussions will be assigned an information sharing level of either CLEAR, GREEN, AMBER, AMBER-STRICT or RED.

As a PSC Member, each participant will be asked to undertake in writing to abide by the confidentiality and disclosure provisions in relation to each information sharing level as described above, by signing the Confidentiality and Disclosure Agreement at Appendix A to these Terms of Reference.

PSC Members who breach the rules of the confidentiality and disclosure provisions under any information sharing level may have their PSC membership ceased.

7. Definitions

Term	Definition
DCC Total System	The Systems used by the DCC and/or the DCC Service Providers in relation to the Services and/or this Code, including the DCC User Interface, the SMETS1 SM Wide Area Network (WAN), the SMETS2+ SM WAN and Communications Hubs (CHs) except for those CHs which are: (a) SMETS1 CHs; (b) neither installed nor in the possession of the DCC; and/or (c) installed, but not Commissioned
End to End Smart Metering System	The DCC Total System, all Enrolled Smart Metering Systems and all Registration Data Provider (RDP) Systems.
Enrolment	In respect of a Smart Metering System, the act of enrolling that Smart Metering System in accordance with the Enrolment Service (and the words “ Enrol ” and “ Enrolled ” will be interpreted accordingly).
Enrolled Smart Metering System	A Smart Metering System that has been Enrolled.
Party Category	means, as the context requires, one of the following categories; (a) the Large Supplier Parties collectively; (b) the Small Supplier Parties collectively; (c) the Electricity Network Parties collectively; (d) the Gas Network Parties collectively; (e) the Other User Parties collectively; (f) the Shared Resource Providers collectively; and (g) the Other SEC Parties collectively.
Voting Group	In respect of each Party Category, each Party that falls into that Party Category collectively with that Party’s Affiliates (if any) who also fall into that Party Category.

Appendix A – NDA Form

Confidentiality and Non-Disclosure Agreement (NDA)

I, the undersigned, have read and understood the Privacy Sub-Committee (PSC) Terms of Reference (ToR).

I confirm that I have sufficient privacy expertise.

I understand that I am required to comply with the confidentiality and disclosure obligations in respect of each of the five information sharing levels Clear, Green, Amber, Amber-Strict and Red), as set out in the Panel's Information Policy.

I understand that I must declare any conflict of interest that I have to the PSC Chair whether it exists now or during my continued membership of the group, as soon as I become aware that such a conflict exists.

I understand that should I fail to abide by the information sharing levels confidentiality and disclosure obligations or conflict arrangements (as set out in the PSC's ToR) I may be excluded from the PSC.

Having understood and accepted the above statements, I therefore agree to abide by these ToR in my engagement with this Sub-Committee.

Name:

SEC Party Category (If Appropriate):

Primary/Alternative Participant (delete as appropriate)

Signature:

Date: