

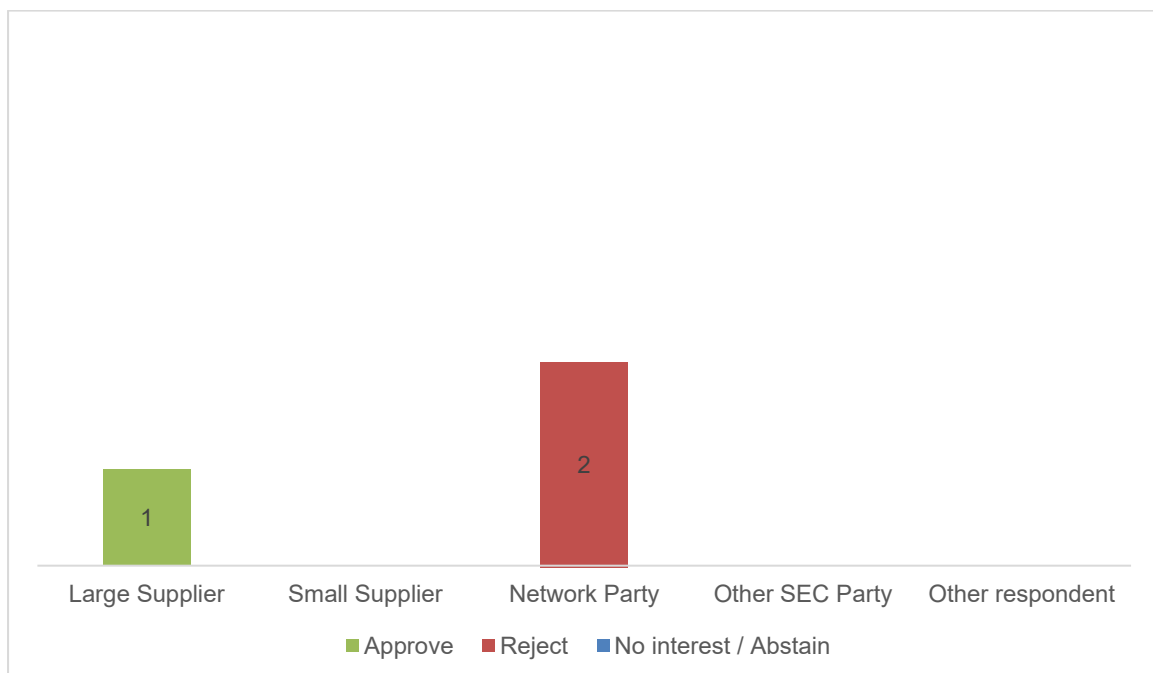
This document is classified as **Clear** in accordance with the Panel Information Policy. Recipients can distribute this information to the world, there is no limit on disclosure. Information may be shared without restriction subject to copyright.

MP298 ‘Enhancements to SEC Appendix AW – Performance Assurance’ Modification Report Consultation responses

About this document

This document contains the full collated responses received to the MP298 Modification Report Consultation.

Summary of responses



Question 1: Do you believe that MP298 should be approved or rejected?

Question 1				
Respondent	Category	Response	General SEC Objective(s)	Rationale
British Gas	Large Supplier	Approve	(a) ¹ , (g) ²	N/A
National Grid Electricity Distribution	Network Party	Reject	N/A	Whilst we agree with the principle the legal text requires further work, industry consultation (beyond SEC PAB members) and refinement to be fit for purpose.
Scottish Power Electricity Northwest	Network Party	Reject	N/A	Whilst we agree with the principle the legal text requires further work, industry consultation (beyond SEC PAB members) and refinement to be fit for purpose.

¹ facilitate the efficient provision, installation, and operation, as well as interoperability, of Smart Metering Systems at Energy Consumers' premises within Great Britain

² facilitate the efficient and transparent administration and implementation of this Code

Question 2: Please provide any further comments you may have.

Question 2			
Respondent	Category	Comments	SECAS Response
British Gas	Large Supplier	We note that Performance Assurance is likely to become more critical as the new Smart GSOP obligations are introduced on Suppliers, especially regarding the resolution of non-communicating meters. We are keen for there to be transparency around the PAB operations and therefore are particularly welcoming of clauses such as 4.6 The PAB shall publish the approved Performance Assurance Risk register (and any revisions of it) on the Website. We presume this would be CLEAR or GREEN rated? We agree with the principle in the new Section 7 that the publication of SEC Risk Data is an additional compliance tool but would only be utilised when other remediations and steps had been tried first. Again, is it possible to clarify the expected rating of such data – we presume it would be GREEN? We similarly agree with the principle in the new Section 12 of having the ability to escalate from SEC PAB to SEC Panel in situations of significant break of a Party's SEC Obligations. However, there isn't anything in this section explaining the steps that would be taken first.	The following performance assurance documents will be CLEAR: • Risk Evaluation Methodology • Performance Assurance Risk Register • Performance Assurance Operating Plan • Performance Assurance Annual Report The publication of SEC Risk Data will be GREEN and would only be utilised when other remediations and steps had been tried first. The escalation from the PAB to SEC Panel is intended as a case by case process, where the PAF has utilised other remediations and steps first or in exceptional circumstances where for example an Event of Default had been identified (that is not dealt with under the PAB and is in fact a SEC Panel process) or a material non-compliance that the SEC Panel need to be made aware of.
National Grid Electricity Distribution	Network Party	While we agree with the principle, the legal text requires further development, wider industry consultation (beyond SEC PAB members), and refinement before it is fit for purpose. This is the first occasion on which draft legal text has been shared with industry through consultation. We are concerned that these significant changes, which affect all SEC parties, are	MP224 'SEC Performance Assurance Framework' provided the first legal text draft of Appendix AW. MP298 is an uplifted version of this original text and expands on and improves what was introduced with MP224. It does not provide a material change to the original text or the intention

Question 2			
Respondent	Category	Comments	SECAS Response
		being accelerated (with a Change Board vote proposed for September and implementation in November) without sufficient time for SEC parties to be consulted more than once, or for any resulting proposals to be reflected in revised legal text. A single round of consultation is inadequate for changes of this scale to a core section of the SEC. We have the following concerns and request revisions to the legal text as follows: a) 6.1 – disagree for inclusion of text ‘to present a comprehensive overview of assurance’. What is the business rationale for its inclusion and what added value would it bring? Implied onus on a SEC party to provide such Data to achieve this aim and this would be disproportionate and unachievable It is too obscure and unqualified statement. Request this is removed as follows: <i>6.1 In relation to detective techniques, The PAB may require Parties to provide Data to the PAB (or the Code Administrator) to present a comprehensive overview of assurance. When considering or making Data requests, the PAB shall:</i>	of the original modification. The red lining in the legal text document that was provided with the modification shows mostly the reordering of paragraphs to make the overall text read more coherently. <u>Regarding 6.1</u> The addition of “to present a comprehensive overview of assurance” was to make it clear the purposed of the data request and be additional to data that the Performance Assurance Framework already has. However, this can be removed if it is deemed clear enough without it.

Question 2			
Respondent	Category	Comments	SECAS Response
		b) Paragraph 7 needs a thorough review and further refinement through further consultation and Working Group. Examples being: i. 7.2 - We disagree the Panel or PAB should be able to publish SEC Risk Data on its website on the grounds of the PAB has not received a satisfactory response from a Party or multi parties to an RFI. This is not evidence based. There is recent evidence from the BSC and REC PAB whereby the Code Managers have inappropriately published data on their websites and which has subsequently been withdrawn. The lack of a SEC party not responding to a RFI should not be grounds. There are other steps which can be taken by the Code Manager which would determine a non-compliance as per c) which is through risk management determination. We request these inappropriate grounds are removed: 7.2 The PAB may make a recommendation to the Panel that SEC Risk Data should be published where: a) in circumstances where the non-compliance leading or contributing to a SEC Risk is a cross-industry non-compliance, it has issued a request for information to all Parties in relation	<u>Regarding 7.2</u> The SEC is not in a position to comment on any actions that the BSC and REC have or have not taken, or any of the code drafting that relates to publishing data for these code bodies. Note: SEC Risk Data means “Data or information relating to a Party’s contribution to a non-compliance with a SEC requirement which has led or contributed to a SEC Risk”. This section is not relating to just graphs and numbers, or an RFI. It means any information relating to a contribution to a SEC Risk. Therefore, the SEC section is for any response to a risk management determination that hasn’t been taken or provided a satisfactory resolution. This escalation action is required in order for the framework to apply a form of escalation step that isn’t a penalty or financial charge. This SEC section does also place two steps of approval before publishing any SEC Risk Data to ensure that data is not incorrectly or unjustly published:

Question 2			
Respondent	Category	Comments	SECAS Response
		to the non-compliance and has determined that it has not received a satisfactory response from every Party; or b) in circumstances where the non-compliance leading or contributing to a SEC Risk is by one or more (but not all) Parties, it has issued a request for information to each such Party in relation to that Party's non-compliance and has determined that it has not received a satisfactory response from that Party; and	1. The PAB will need to agree to the publication and recommend it to the SEC Panel before it is published. 2. The SEC Panel will need to agree to the publication. The criteria or provisions for this is outlined in this section 7 as one of the following: • (7.2a) Multiple SEC Parties and categories (cross-industry) are contributing to a SEC Risk and have not responded to an investigation (request for information) or resolution (satisfactory response) to that Risk; • (7.2b) A smaller group or a single SEC Party is contributing to a SEC Risk and has not responded to an investigation (request for information) or resolution (satisfactory response) to that Risk; • (7.2ci) A risk management determination has been issued (which is a notification of deployment of the performance assurance techniques to that SEC Party)

Question 2			
Respondent	Category	Comments	SECAS Response
		ii. 7.3 The grounds on which the PAB would determine if the SEC Risk Data shall be published should be further detailed. 'Where relevant ...' is insufficient safeguarding and too vague. We request these undefined grounds are tightened up and made more robust as follows: <i>7.3 The Panel may only determine that SEC Risk Data shall be published, where it considers that the publication of the data is a relevant and proportionate response to a the Party's non-compliance and is in relation to a significant SEC Risk as set out in Performance Assurance Operating Plan arising from the Party's non-compliance.</i>	(7.2cii) A notification asking a Party to stop something it is doing has not been responded to. All of these are where a SEC Party is contributing to a SEC Risk and is not improving the impact on the risk because it is not responding to the PABs requests. <u>Regarding 7.3</u> Note: A SEC Risk is a "risk that a failure to adhere to, or errors in delivering an obligation or mandated process under the SEC (including a risk which has materialised as an actual failure or error) could significantly and measurably affect the achievement of General SEC Objectives." The suggested amended wording adds restriction and reduced flexibility for the prompt management of any SEC Risk that may become an issue but was previously not included on the most current Performance Assurance Operating Plan. Or if a severe non-compliance was identified through another process that needed addressing with immediate effect. In addition, the current text states the Panel may <u>only</u> publish data if it considers that publishing the data is relevant and proportionate to the non-

Question 2			
Respondent	Category	Comments	SECAS Response
		c) Paragraph 12 needs clarity of the exclusion of certain Sections of the SEC from the remit of the SEC PAB (such as Privacy, Security and Alt Han) and if it is not more appropriate that the relevant sub committees would escalation any breach to the Panel not the SEC PAB. To avoid confusion and double counting or unnecessary steps being added in escalation we request the following amendments: <i>12.1 If a Party is in breach of any of its SEC obligations or is the cause of a material impact on a SEC Risk(s), (excluding Sections G, I and [insert relevant section relating to Alt Han] the PAB shall have the right to escalate the Party to the Panel.</i> We also recommend including a new statement at the start of the PAF Appendix to clarify which sections of the SEC fall outside the remit of the SEC PAB and PAF, in order to avoid double jeopardy. Paragraph 12 should reference this clarification.	compliance and the Risk arising, this does ensure that it is specific to the SEC Risk. <u>Regarding Paragraph 12</u> This is already included in another SEC Section so does not need to be added to Section AW. Section C9 Performance Assurance Board C9.8 The PAB's functions, powers and duties shall not extend to (or permit the PAB to interfere with): (a) any functions, powers or duties of the Security Sub-Committee, and/or the operation of Section G (Security); or (b) any functions, powers or duties of the Alt HAN Forum, and/or the operation of Section Z (Alt HAN Arrangements). This exclusion has also been added to the PAB's terms of reference to reflect Section C, therefore there will not be any double assurance on matters related to Section G or Z.

Question 2			
Respondent	Category	Comments	SECAS Response
			Privacy was not included in the exclusions of the original modification to introduce a Performance Assurance Framework. However, the specific exclusion of Privacy will not be updated with this modification as suggested. It is a much more material change than the enhancements included in this modification MP298. It will however be noted for discussion at a future PAB and subject to discussion regarding a further update to the Performance Assurance Framework governance.
Scottish Power Electricity Northwest	Network Party	This is the first time draft legal text has been shared via a consultation with industry. We are concerned these material changes which impact all SEC parties are being rushed through (with a proposed Change Board vote in September and implementation date of November) without sufficient time for SEC parties to be consulted more than once and any resulting proposals to be included with any revised legal text. One round of consultation is insufficient for this type of material change to a main section of the SEC.	This response mirrors another respondent. This is how the response was submitted to SECAS, and as such the duplication is not the result of error. MP224 'SEC Performance Assurance Framework' provided the first legal text draft of Appendix AW. MP298 is an uplifted version of this original text and expands on and improves what was introduced with MP224. It does not provide a material change to the original text or the intention of the original modification. The red lining in the legal text document that was provided with the modification shows mostly the reordering of paragraphs to make the overall text read more coherently.

Question 2			
Respondent	Category	Comments	SECAS Response
		We have the following concerns and request revisions to the legal text as follows: a) 6.1 – disagree for inclusion of text ‘to present a comprehensive overview of assurance’. What is the business rationale for its inclusion and what added value would it bring. Implied onus on a SEC party to provide such Data to achieve this aim and this would be disproportionate and unachievable It is too obscure and unqualified statement. Request this is removed as follows: <i>6.1 In relation to detective techniques, The PAB may require Parties to provide Data to the PAB (or the Code Administrator) to present a comprehensive overview of assurance. When considering or making Data requests, the PAB shall:</i> b) Paragraph 7 needs a through review and further refinement through further consultation and Working Group. Examples being: i. 7.2 - We disagree the Panel or PAB should be able to publish SEC Risk Data on its website on the grounds of the PAB has not received a satisfactory response from a Party or multi parties to an RFI. This is not evidence based. There is recent evidence from the BSC and	<u>Regarding 6.1</u> The addition of “to present a comprehensive overview of assurance” was to make it clear the purposed of the data request and be additional to data that the Performance Assurance Framework already has. However, this can be removed if it is deemed clear enough without it. <u>Regarding 7.2</u> The SEC is not in a position to comment on any actions that the BSC and REC have or have not

Question 2			
Respondent	Category	Comments	SECAS Response
		REC PAB whereby the Code Managers have inappropriately published data on their websites and which has subsequently been withdrawn. The lack of a SEC party not responding to a RFI should not be grounds. There are other steps which can be taken by the Code Manager which would determine a non compliance as per c) which is through risk management determination. We request these inappropriate grounds are removed: 7.2 The PAB may make a recommendation to the Panel that SEC Risk Data should be published where: a) in circumstances where the non-compliance leading or contributing to a SEC Risk is a cross-industry non-compliance, it has issued a request for information to all Parties in relation to the non-compliance and has determined that it has not received a satisfactory response from every Party; or b) in circumstances where the non-compliance leading or contributing to a SEC Risk is by one or more (but not all) Parties, it has issued a request for information to each such Party in relation to that Party's non-compliance and has	taken, or any of the code drafting that relates to publishing data for these code bodies. Note: SEC Risk Data means “Data or information relating to a Party’s contribution to a non-compliance with a SEC requirement which has led or contributed to a SEC Risk”. This section is not relating to just graphs and numbers, or an RFI. It means any information relating to a contribution to a SEC Risk. Therefore, the SEC section is for any response to a risk management determination that hasn’t been taken or provided a satisfactory resolution. This escalation action is required in order for the framework to apply a form of escalation step that isn’t a penalty or financial charge. This SEC section does also place two steps of approval before publishing any SEC Risk Data to ensure that data is not incorrectly or unjustly published: The PAB will need to agree to the publication and recommend it to the SEC Panel before it is published.

Question 2			
Respondent	Category	Comments	SECAS Response
		determined that it has not received a satisfactory response from that Party; and	4. The SEC Panel will need to agree to the publication. The criteria or provisions for this is outlined in this section 7 as one of the following: • (7.2a) Multiple SEC Parties and categories (cross-industry) are contributing to a SEC Risk and have not responded to an investigation (request for information) or resolution (satisfactory response) to that Risk; • (7.2b) A smaller group or a single SEC Party is contributing to a SEC Risk and has not responded to an investigation (request for information) or resolution (satisfactory response) to that Risk; • (7.2ci) A risk management determination has been issued (which is a notification of deployment of the performance assurance techniques to that SEC Party) • (7.2cii) A notification asking a Party to stop something it is doing has not been responded to. All of these are where a SEC Party is contributing to a SEC Risk and is not improving the impact on

Question 2			
Respondent	Category	Comments	SECAS Response
		ii. 7.3 The grounds on which the PAB would determine if the SEC Risk Data shall be published should be further detailed. 'Where relevant ...' is insufficient safeguarding and too vague. We request these undefined grounds are tightened up and made more robust as follows: <i>7.3 The Panel may only determine that SEC Risk Data shall be published, where it considers that the publication of the data is a relevant and proportionate response to a the Party's non-compliance and is in relation to a significant SEC Risk as set out in Performance Assurance Operating Plan arising from the Party's non-compliance.</i>	the risk because it is not responding to the PABs requests. <u>Regarding 7.3</u> Note: A SEC Risk is a “risk that a failure to adhere to, or errors in delivering an obligation or mandated process under the SEC (including a risk which has materialised as an actual failure or error) could significantly and measurably affect the achievement of General SEC Objectives.” The suggested amended wording adds restriction and reduced flexibility for the prompt management of any SEC Risk that may become an issue but was previously not included on the most current Performance Assurance Operating Plan. Or if a severe non-compliance was identified through another process that needed addressing with immediate effect. In addition, the current text states the Panel may <u>only</u> publish data if it considers that publishing the data is relevant and proportionate to the non-compliance and the Risk arising, this does ensure that it is specific to the SEC Risk.

Question 2			
Respondent	Category	Comments	SECAS Response
		c) Paragraph 12 needs clarity of the exclusion of certain Sections of the SEC from the remit of the SEC PAB (such as Privacy, Security and Alt Han) and if it is not more appropriate that the relevant sub committees would escalation any breach to the Panel not the SEC PAB. To avoid confusion and double counting or unnecessary steps being added in escalation we request the following amendments: <i>12.1 If a Party is in breach of any of its SEC obligations or is the cause of a material impact on a SEC Risk(s), (excluding Sections G, I and [insert relevant section relating to Alt Han] the PAB shall have the right to escalate the Party to the Panel.</i> We also recommend a new statement at the start of the PAF Appendix which sets out which sections of the SEC are excluded from the remit of the SEC PAB and PAF to avoid double jeopardy. Paragraph 12 should refer to this.	<u>Regarding Paragraph 12</u> This is already included in another SEC Section so does not need to be added to Section AW. Section C9 Performance Assurance Board C9.8 The PAB's functions, powers and duties shall not extend to (or permit the PAB to interfere with): (a) any functions, powers or duties of the Security Sub-Committee, and/or the operation of Section G (Security); or (b) any functions, powers or duties of the Alt HAN Forum, and/or the operation of Section Z (Alt HAN Arrangements). This exclusion has also been added to the PAB's terms of reference to reflect Section C, therefore there will not be any double assurance on matters related to Section G or Z. Privacy was not included in the exclusions of the original modification to introduce a Performance Assurance Framework.

Question 2			
Respondent	Category	Comments	SECAS Response
			However, the specific exclusion of Privacy will not be updated with this modification as suggested. It is a much more material change than the enhancements included in this modification MP298. It will however be noted for discussion at a future PAB and subject to discussion regarding a further update to the Performance Assurance Framework governance.