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MP219

‘Accessing Consumption Data on behalf of SEC Parties’

Modification Report

Version 2.1

29 May 2024

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Plain English Campaign
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communication

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About this document

This document is a Modification Report. It sets out the background, issue, solution, impacts, costs, implementation approach and progression timetable for this modification, along with any relevant discussions, views and conclusions.

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This document also has four annexes:

- **Annex A** contains the redlined changes to the Smart Energy Code (SEC) required to deliver the Proposed Solution.
- **Annex B** contains the responses to the Refinement Consultation.
- **Annex C** contains the send back direction from Ofgem.
- **Annex D** contains the full changes to the Privacy Controls Framework (PCF) (**GREEN**).

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1. Summary

This proposal has been raised by Matt Roderick of n3rgy.

Occasionally, Suppliers and Network Parties may employ a Third Party (Other User) to collect Consumption Data on their behalf. Currently, the SEC does not allow Other Users to collect Smart Metering Consumption Data on behalf of SEC Parties without the Supplier or Other User first obtaining Unambiguous Consent from each Energy Consumer from which the data will be collected.

Supporting data shows that many consumers disengage when being asked to verify consent through the methods described in SEC Section I and the PCF, which the Other User must abide by. The Proposer believes this process increases the time and complexity for the consumer journey, whilst also making it more difficult for Other Users to offer their specialist services to SEC Parties. An example of this is the Demand Flexibility Service (DFS). Suppliers have told the Smart Energy Code Administrator and Secretariat (SECAS) that they would like to be able to outsource the administration of the DFS to a Third Party (an Other User).

The Proposed Solution to this modification is for Other Users to obtain Consumption Data by using the Supplier or Network Party's (employing Party's) Appropriate Permission, under the Conditions in the employing Party's Energy Licence. This would mean that Other Users would communicate with the Data Communications Company (DCC) Systems using their own credentials, without first specifically obtaining Unambiguous Consent from each Energy Consumer. Additional safeguards have been placed in the Privacy Controls Framework (PCF) to ensure that consumers privacy protection is not weakened.

This modification impacts Suppliers, Network Parties and Other SEC Parties. Costs to implement are limited to SECAS time and effort. This is an Authority-Determined Modification and if approved will be implemented as an ad-hoc SEC Release.

2. Issue

What are the current arrangements?

What permissions do Suppliers/Network Parties have?

When a consumer signs a contract with a Supplier to be their energy provider, the Supplier gains 'Appropriate Permission' from that consumer to collect their Consumption Data for billing and settlement purposes in accordance with their Energy Licence, as well as any other purposes set out in the Supplier's Terms and Conditions. The Supplier can outsource various functions, such as meter installations, to Third Parties. However, in respect of collecting Consumption Data there are more onerous requirements within the SEC when a Supplier chooses to outsource data collection to a Third Party. These additional controls were put in place at the inception of the SEC to ensure consumer privacy, and confidence in the Smart metering roll out.

How can Other Users currently collect consumption data?

To communicate with Smart Metering Devices to obtain Consumption Data, a SEC Party must first complete the User Entry Process and become a DCC User. To demonstrate compliance with SEC

Section I 'Data Privacy', Other Users must complete a User Privacy Assessment. They must also obtain Panel approval of their Privacy processes before they can communicate with the DCC.

Currently, if a Supplier or Network Party wishes for an Other User to collect Consumption Data on their behalf, it is likely to follow the steps set out below:

1. The Supplier or Network Party contracts the Other User to access Consumption Data on its behalf. The employing Party will remain as a Data Controller, whilst the Other User may act as the Data Processor.
 - Whether the Other User will act as a Data Processor depends on (a) whether the Other User relies on the employing Party's legal basis – where the Other User will be the Data Processor or (b) uses its own.
2. Depending on the contractual relationship between the employing Party and the Other User, either the employing Party or Other User may contact the customer to fulfil the obligations to collect their Unambiguous Consent. As an Other User is being employed to collect the Consumption Data, the employing Party or Other User must fulfil the obligations of SEC Section I1.2(b), as required for the Other User, and collect the Unambiguous Consent from each Energy Consumer before the Other User can obtain their Consumption Data using its own DCC credentials.
3. Once the consumer has provided their consent, the Other User will be permitted to collect that consumers Consumption Data. The Other User will then pass the information back to the employing Party.

What is Unambiguous consent?

SEC Section I1.5 states;

“Each User shall put in place and maintain arrangements designed in accordance with Good Industry Practice to ensure that each person from whom it has obtained consent pursuant to Section I1.2 to I1.4 is the Energy Consumer”.

To obtain Unambiguous Consent the Supplier or the Other User must confirm that the person giving consent is the Energy Consumer.

The PCF further states:

‘...it is expected and anticipated that different Users will adopt different approaches to compliance with this obligation’

Two principles are cited:

- verification of the link between the person from whom consent is being sought and the relevant consumer premises; and
- verifying the link between the relevant consumer premises and the MPxN

The PCF goes on to offer several examples of how these two principles can be met including providing proof of address (such as a Utility Bill), a face to face survey, technical validation such as information from the IHD, a trusted third party such as a credit reference agency or a report on headed paper from the Supplier.

To ensure compliance with data privacy regulation, which is checked by the Independent Privacy Auditor (IPA), the Supplier or Third Party needs to fulfil SEC Section I1.5 and ensure that each person from whom it has obtained consent is the Energy Consumer.

Collecting Unambiguous Consent

One way in which Energy Consumers can consent to an Other User collecting their data is through their In-Home Display (IHD) or Prepayment Interface Device (PPMID). This can be undertaken by either the consumers Supplier or by the Other User. In this scenario, the consumer will be presented with a consent page on the IHD which includes the terms and conditions of the Other User collecting their data. When the consumer is presented with this page, they need to insert the last four digits of the IHD Global Unique Identifier (GUID) into an input box. The digits which the consumer submits are then checked against the last four digits of the IHD/PPMID which is registered as having been installed at their property. This is discovered by the Party using the DCC Service Request 8.2 (Read Inventory). This route is considered appropriate for collecting consent as the IHD is within the property and therefore only the occupant of the property can access it. This is in comparison to the meters of the property which could be located outside and therefore people other than the occupant could access. Other methods of consent are detailed in Section 9 of this report.

What is the issue?

Appropriate Permission

SEC Section I1.2 prevents all Users from obtaining Consumption Data without Appropriate Permission. The current definition of Appropriate Permission in SEC Section A only allows for two scenarios:

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."*

The way SEC Section I1.2 is drafted means that if an employing Party would like an Other User to collect information on their behalf, the employing Party or Other User must collect Unambiguous Consent from every consumer. Due to the amount of time and effort this takes, it is difficult for Other Users to commercially act on behalf of the employing Party. In addition, SECAS has received feedback that many consumers will not complete the existing consent methods needed to provide Unambiguous Consent and allow an Other User to collect their data.

What is the impact this is having?

When SEC Parties seek to outsource the collection of Consumption Data, the Proposer believes the requirements of SEC Section I1.2 make it difficult for Other Users to collect the data on their behalf. In particular, the Proposer has worked on behalf of SEC Parties who would like the Other User to collect Consumption Data to take part in the National Grid's DFS, but this has been severely limited due to the current arrangements.

Impact on consumers

If Other Users are permitted to act on behalf of a SEC Party, consumers must provide their Unambiguous Consent when they have already provided permission to the Supplier or Network Party. Several Suppliers informed SECAS that having to complete additional consent methods does not provide a good customer experience, with one Other User reporting they experienced a 78% drop off in engagement when these extra consent steps were needed. Due to the fact that many Suppliers are reliant on Other Users to collect Consumption Data required for the DFS, where consumers do not engage with the consent methods, they are unable to take part in the scheme and receive any financial benefits.

3. Solution

The solution for this modification is to allow a contracted Other User to communicate with DCC Systems using its own credentials, without first obtaining Unambiguous Consent from the Energy

Consumer, to retrieve their Consumption Data on behalf of an employing SEC Party which holds the Appropriate Permission.

Changes are needed to both the definition of 'Appropriate Permission' and SEC Section I1.2 'Data Privacy' to enable Other Users to collect Consumption Data without first gaining the Unambiguous Consent of Energy Consumers.

If this modification is approved and a Supplier or Network Party wishes for an Other User to collect Consumption Data, this is the new process they will follow:

1. The Supplier or Network Party contracts the Other User to collect Consumption Data on their behalf as they already have the Appropriate Permission of the Energy Consumer. The employing Party will remain as the Data Controller, whilst the Other User will act as the Data Processor. This step is the similar to the existing current first step, other than the Other User would be able to collect data if the employing Party has any other legal basis permitted by their Energy Licence.
2. The Other User collects the Consumption Data on behalf of the employing Party using the employing Party's Appropriate Permission. This information is passed back to the employing Party, with the Other User only keeping a record of this for their SEC audit purposes.

The legal text changes needed for this modification are available in Annex A.

If this modification is approved changes to the PCF will also be needed. These have been drafted and can be seen in Annex D. These new requirements will be introduced as arrangements and evidence which the IPA will look for during privacy assessments. The assessments will also determine if the exception to allow the Other User to collect Consumption Data without collecting Unambiguous Consent applies.

This is to ensure the Other User is not using consumers' data for other purposes with the purported Appropriate Permission of the employing Party.

The full changes can be found in Annex D which is classified as a Green document under SEC Panel policy.

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

Suppliers and Network Parties are directly impacted as they will be able to outsource the collection of Consumption Data, for a specific purpose, to Other Users more easily. Similarly, Other SEC Parties will be able to act more widely on behalf of contracting Suppliers and Network Parties.

Flexibility Providers are impacted indirectly by this modification. This is through allowing Other Users to act on behalf of SEC Parties to enable consumers to take part in the Demand Flexibility Service (DFS).

DCC System

There are no direct impacts on the DCC Total System from the Proposed Solution. However, there may be some consequential impacts:

It is likely that DCC System traffic will increase as a result of this modification. SECAS has provided some estimates within Section 9, based upon the uptake of the DFS scheme in 2022 and the Proposer's/interested Supplier's estimates of consumer uptake should this modification be approved.

There will be no other impacts to the DCC System from this modification.

SEC and subsidiary documents

The following parts of the SEC will be impacted:

- Section A 'Definitions and Interpretations'
- Section I 'Security'

There will also be changes to the Privacy Controls Framework (PCF)

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

Consumers

In terms of participation in the DFS, consumers will be able to provide consent through a one-step consent process to the employing Party, rather than fulfilling the consent verification methods that Other Users currently have to employ to collect Unambiguous Consent.

Alternatively, consent may not be required at all if the employing Party does not require this under its Energy Licence, as determined by the definition for Appropriate Permission in SEC Section A. One example of this is where the Supplier or Network Party uses the Consumption Data for calculating and sending a bill or statement of account as permitted by its Energy Licence.

SEC Parties would no longer need to contact each Energy Consumer and receive the Unambiguous Consent before Other Users retrieve their Consumption Data. This means that Other Users will be able to access Energy Consumers' data as they can currently, but without the explicit or implicit Unambiguous Consent, and only for the purposes for which the employing party has agreed to.

Other industry Codes

There are no impacts on other industry Codes because of this modification.

Greenhouse gas emissions

There are no impacts on greenhouse gas emissions associated with this modification.

5. Costs

DCC costs

The DCC has identified no costs associated with this modification as this is a text-only change to the SEC.

SECAS costs

The estimated SECAS implementation cost to implement this as a standalone 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

Only one Party that replied to the Refinement Consultation stated that this modification could cost their organisation between £50,000 to £100,000 to implement. The respondent noted that if they were to use an Other User to collect Consumption Data on their behalf, this would require updates to their privacy notices. In turn, they would then need to inform their customers that there was a new data processor accessing their data.

SECAS notes that this modification will not have any direct costs to SEC Parties unless they choose to employ an Other User to collect Consumption Data on their behalf. If SEC Parties do employ an Other User, they would need to update their privacy notices to update their customers of this change of data privacy arrangements.

6. Implementation approach

Recommended implementation approach

SECAS is recommending an implementation date of:

- **Ad-hoc SEC Release** one Working Day following Ofgem's decision.

This modification will require text-only changes to the SEC, therefore no system testing or lead time is required before implementation.

7. Assessment of the proposal

Observations on the issue

Citizens Advice comments

Due to the nature of this modification altering existing data privacy arrangements, SECAS engaged with Citizens Advice representatives throughout the modification process. Citizens Advice have provided the following statement:

'The Data Access and Privacy Framework, which underpins the access by Parties to Smart Meter data, was developed following wide public consultation including input from Suppliers, Smart Energy GB, Citizens Advice, and many other stakeholders. This Framework gave assurance to consumers, consumer groups, ministers, government departments, Ofgem, and others as to how data would be accessed and used. The BEIS Review of the Data Access and Privacy Framework November 2018¹ (pages 10-11) points to the current arrangements where explicit consent was the basis for third parties (termed Other Users) to access such data.

We are aware from our own research of the concerns of consumers as to the access and usage of their data. They want to know who is using their data and for what purposes, and how to refuse or withdraw access. 89% of consumers said the current opt-out abilities are either important or very important². A consumer data consent dashboard has been discussed in the past, and agreed by relevant stakeholders to be an important and necessary data portal, so that consumers can see who is using their data, be able to understand why it is being used, and allow for ready withdrawal of consent. That dashboard has yet to come into being and should be a precondition to allowing any further access to consumer data without explicit opt-in consent.

We have strong concerns regarding MP219 and believe that a change to the current explicit consent requirements should not be amended by the use of a SEC modification process which is not subject to the much wider consultation process as was used to develop the Data Access and Privacy Framework. We also believe that the absence of a consumer data dashboard weakens consumer protections in consumers being able to understand access to and usage of consumers' data. Without such a dashboard being in place, we believe it is premature to allow for Other Users to access consumer smart meter data without explicit consent.

More broadly we see a consistent flow of contacts from consumers with concerns about how their smart meter data is used, and recently a notable increase in direct contacts from consumers who do not want a smart meter. At the heart of consumer concerns around smart is control. This can take various forms: control over payment mode, control over new tariffs and dynamic pricing and control over the data that smart meters make available. Granting consumers the ability to opt-out affords them leverage in a market where they have little. Effectively allowing them to say "what is the benefit to me of sharing my detailed personal data with you?" and incentivising product and service providers to give a compelling answer to that question in order to persuade the consumer to give consent. Eliminating or reducing consent rights not only weakens consumer trust, it also weakens market incentives to deliver consumer benefits in exchange for their data.

Confidence in the processes for accessing data and how it is used is essential to ensure the wider rollout of smart meters. A weakening of consumer protections in this regard may undermine the Smart

¹ https://assets.publishing.service.gov.uk/media/5bf582ed40f0b6078acc6f98/Smart_Metering_Implementation_Programme_Review_of_the_Data_Access_and_Privacy_Framework.pdf

² <https://www.citizensadvice.org.uk/about-us/our-work/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/clear-and-in-control/>

Meter Implementation Programme as a whole which is a necessary part of meeting net zero government timeframes.'

Proposer's view

Throughout the modification process the Proposer has highlighted that they are currently able to collect Consumption Data from Energy Consumers once they receive confirmation that the Unambiguous Consent has been provided by the Supplier or Network Party. However, they would like to be able to offer a service to Suppliers and Network Parties to reduce their administrative burden and management of initiatives such as the DFS. The Proposer, various Suppliers and an Other User that have provided feedback to SECAS have also noted that these changes will provide an improved customer journey and expect it to increase uptake of the DFS which will have consumer benefits and environmental benefits.

The Proposer believes it will even help prevent the possibility of energy outages occurring in Great Britain because a higher number of consumers will be able to participate in DFS.

The Proposer has highlighted the importance of implementing this modification as soon as possible, noting that the Demand-Flexibility service begins in late October 2023, so if this modification is not implemented before then they would not be able to offer services to SEC Parties.

The Proposer also notes that because this modification requires a text-only change to the SEC, this modification should be implemented due to the high benefits that could be realised. They also believe that although existing data privacy arrangements will be altered, strict controls on Other Users still exist both in the modification and through the changes to the PCF. As such, the Other User will remain as the Data Processor and is only able to collect the data and pass it back to the employing Party. The Proposer notes the difficulty they experience when having to collect Unambiguous Consent, noting that the consent methods have issues associated with them. For example, many consumers may not have a working IHD or may have difficulty reading the numbers on the Device. Due to the issues with the consent methods, the Proposer believes having to collect the Unambiguous Consent again from the consumer causes unnecessary issues which prevent consumers from engaging.

The Proposer has provided SECAS with a response to the statement provided by Citizens Advice which is below:

'The proposed change does not change the model agreed previously but allows Suppliers and Networks to utilise their existing legal mechanisms (called Appropriate Permission in the SEC) with their contracted third party. MP219 does not allow free access, without consent, to data but specifically allows Suppliers and Networks to direct a third-party Other User to access and process the data on their behalf using the standard GDPR rules for a Data Processor. It does not change anything from a consumer perspective as Suppliers already have the ability to contract third parties for processing consumer data the Supplier already has, MP219 simply allows the Supplier to direct the third party to perform collection as well as process.'

'The mechanism that already exist for consumers to opt out of data sharing will remain unchanged, however I agree that a consent dashboard will improve visibility of who has access to the consumers data. N3rgy has offered this dashboard since launch 4 years ago where it provides full details of who has consent to access their data and the ability to remove that consent. We have previously also offered this dashboard (without license cost) to both SEC, DCC and Ofgem for wider implementation'.

Engagement with relevant bodies

SECAS sought input about the impacts of this modification in line with the General Data Protection Regulation (GDPR), Data Privacy and Security. The Security Sub-Committee (SSC) have also reviewed this modification and are happy for it to proceed.

The Sub-Committee Chairs noted that various public bodies such as Citizens Advice, Ofgem and the Information Commissioners Office (ICO) would be interested in these changes. SECAS has engaged with these bodies throughout the development of this modification and has answered the questions raised by these bodies in the 'Discussion Points' section of this modification.

Discussion points

Throughout the modification, SECAS has engaged with various sub-committees and relevant groups. All debates which have taken place throughout the modification process have been summarised below, with reference to the forum in which they were discussed.

Licence Conditions

During the Working Group, members highlighted that SEC Parties have different Licence Conditions, which enable them to collect different types of data. They noted that it is imperative that the Other User is limited to collecting Consumption Data within the parameters of the employing party's Energy Licence. Following the Working Group meeting, the legal text was edited to ensure the Other User can only act in accordance with the employing Party's Energy Licence, and this is reflected in the attached legal text (Annex A).

What checks are in place?

One Working Group member noted that this modification would allow Other Users to collect Consumption Data on behalf of Suppliers and questioned how the DCC would be able to validate the Other User is acting on behalf of the employing Party. A number of other Working Group members queried what checks and controls are currently in place to prevent Other Users from requesting information from the DCC when they are not instructed by another SEC Party to do so. SECAS explained that Other Users can already send the relevant Service Requests to the DCC, but there are random IPA checks which take place on Other Users to ensure they are not collecting data which they should not be. Other Users are required to keep records of the consumers which have they collected data from for the IPA to check.

In addition, if SEC Parties are found to be breaching GDPR rules then this would break the law and be managed by the ICO. SECAS confirmed that as part of this modification Other Users will need to have evidence in the form of a contract with the employing Party confirming that they can access the Consumption Data of those Energy Consumers. Other Users will also have to evidence that the consumers they have collected data from belong to the employing party.

What actions can Other Users complete with the data they have collected?

Other Users must return the Consumption Data they have been instructed to collect back to the employing Party. They must adhere to the instructions given to them to act in accordance with the rights and duties of the employing Party. Other Users cannot use the Consumption Data for any other

purposes than they have been instructed to do so by the employing Party. The Other User will remain in the role of Data Processor, with the employing Party retaining the role of Data Controller.

Is Export Data included in the scope?

The term 'Consumption Data' as defined in the SEC only refers to the supply of energy to a premises, rather than energy exported from it. As such, the collection of Export Data is not included in the scope of this modification.

SECAS engaged with the SEC Lawyer who confirmed that Export Data is currently not covered under the current drafting of Appropriate Permission and SEC Section I1.2. SECAS engaged with the SSC Chair and the Department of Energy Security and Net Zero (DESNZ), who were aware of the current arrangements and did not see any need to change the definitions in the SEC.

Would Energy Consumers be aware?

Working Group members noted it was not clear whether Energy Consumers would be aware that an Other User (that they have not specifically provided Unambiguous Consent to) was collecting their data, rather than the employing Party they had already given consent to.

The details around when and how the employing Party should make consumers aware that an Other User is collecting data on their behalf will be included in the PCF as agreed by Panel.

During the Refinement Consultation, one Party noted that a major concern for consumers is who has access to their data. They believed this modification weakens consumer protections as the Other User will have access to their data without the consumer's knowledge. In addition, they believed this change will negatively impact the consumers' view of the SMIP.

If this modification is approved, SECAS will make seven amendments to the PCF, one of which is listed below. This is not the final drafting of the changes but covers what will be added to the PCF to ensure that Energy Consumers would be made aware of the Other User collecting their data.

Notwithstanding the exception for the Other User's need to collect Appropriate Permission, the Other User will still be required to determine that the employing Party has provided notification to Energy Consumers of the Other User accessing Consumption Data on the energy supplier/DSO/GT's behalf, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter.

A summary of the other draft changes to the PCF are available in Section 3 as part of the 'Solution' part of this report.

Can Energy Consumers opt-out of an Other User collecting their data?

Where an employing Party uses consent (including Unambiguous Consent) for accessing Consumption Data, then the Energy Consumer will be able to opt-out to the data sharing with an Other User, and existing PCF obligations on the Other User will require it to facilitate these opt-outs with the employing Party.

In summary, should the Energy Consumer choose to opt-out of an Other User collecting their Consumption Data, the employing Party must inform the Other User or the employing Party to not collect their Consumption Data.

Can Energy Consumers access the data that has been obtained?

Under proposed amendments to the PCF, the Consumption Data collected by the Other User must be made available to the consumer upon request.

How does the Other User know when to stop collecting data from the Energy Consumer?

A CSC member asked whether the Other User will continue to collect data from the Energy Consumer upon a Change of Supplier (CoS). SECAS notes that this is the same as the current process whereby the employing Party is responsible for updating the Other User if there is a CoS to ensure that there are no GDPR breaches. SECAS has also added in a section to the proposed legal text detailing that the Supplier will be responsible for the actions of the Other User, therefore the employing SEC Party will have to keep the Other User informed, and they will be liable for the action of the Other User if they do not. Furthermore, SECAS has also drafted an addition to the PCF to ensure that employing Parties inform the Other User when a consumer has switched Supplier:

“Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence, evidence of arrangements or a procedure for the employing Party to notify the User of any Energy Consumers who have switched Energy Supplier and whose Consumption Data can no longer be accessed by the User with Appropriate Permission”.

GDPR Principles

During the Refinement Consultation one Party noted they believed that this modification does not comply with GDPR in respect of the Right to be Informed. SECAS has confirmed this modification does not breach the GDPR. This is because this modification has been designed so that an Other User is likely to be acting as a Data Processor on behalf of the employing Party, who will remain as the Data Controller and will be obliged to inform the Data Subject of any processing activities. Evidence of this is available in Articles 13 – 14 of GDPR³. Additionally, controls have been introduced to ensure that contractual arrangements are in place between the Other User and employing Party to ensure compliance with GDPR.

There are two relevant articles of GDPR in respect to MP219. Article 13 of GDPR requires Data Controllers to provide certain information at the time when personal data is obtained directly from the Data Subject. Article 14 requires Data Controllers to provide certain information where personal data is not obtained directly from a Data Subject. As detailed above, these obligations sit and will remain with the employing Party as a Data Controller, rather than the Data Processor. The GDPR requirements are therefore different to the operation of the SEC.

Changes to Supplier processes

A CSC member noted that if this modification is approved, SEC Parties may incur costs even if they do not intend to employ an Other User to collect Consumption Data on their behalf. They noted that consumers may contact their Energy Supplier with queries about who is collecting their data and what they can do with it. SECAS notes that SEC Parties will only have to update their privacy notices and

³ [General Data Protection Regulation \(GDPR\) – Official Legal Text \(gdpr-info.eu\)](https://gdpr-info.eu/)

customers about an Other User collecting their data if they intend to use an Other User's services. If SEC Parties do not employ an Other User, no changes are needed to their privacy notice.

Data Processor and Data Controller

A CSC member noted that they would like further explanation of the roles and liabilities of both the employing Party and the Other User. As part of this modification, the employing Party will remain as the Data Controller, with the Other User acting as a Data Processor.

This means the employing SEC Party will control the procedures and purposes of data collection. They are responsible for protecting the privacy and rights of the Data Subject. They will dictate how and why the Consumption Data will be used.

The Other User will act as the Data Processor, processing any data they are instructed to by the employing Party. They do not own the data or control it. In GDPR terms, they are bound by the instructions given to them by the Data Controller.

Scale of the issue

During a CSC meeting, SECAS explained the issue facing Other Users when they are contracted to collect Consumption Data on behalf of SEC Parties. SECAS noted there are a variety of ways in which consumers can provide consent for their data to be collected. One such example is the employing Party sending instructions to the consumers IHD, which the consumer then engages with and agrees to (this is described in Section 2 of this Report). SECAS presented an example provided by the Proposer where the consumer did not own an IHD. The Supplier had to ask the consumer for their energy bill in the course of seeking consent. A CSC member noted this but questioned the number of consumers without an IHD. The Proposer replied that they work on behalf of a business Supplier, with many businesses unable to have an IHD. They noted they believed that there are around five million non-domestic consumers which could be impacted by this issue.

SECAS has engaged with Parties who noted that assuming the customer is at home, with the IHD ready to complete the process, the entire process can take between three and five minutes. SECAS notes the comments from Suppliers that many consumers who do not have an IHD are unable to participate, as well as other existing consent methods putting consumers off completing the entire Unambiguous Consent process.

Selling services

Throughout the modification process, Parties have expressed concern that this modification has been raised to assist the Proposer in selling services, rather than offering benefits to consumers and SEC Parties. During a CSC meeting, one member noted the discussion about Suppliers having to approach their customers to collect consent before an Other User can collect Consumption Data on their behalf. They added that had this modification been raised by a Supplier, they would have been convinced that this is an issue for Suppliers and Other Users. SECAS has subsequently spoken to several Suppliers who have expressed an interest in using this service.

Breaking privacy rules

During the Refinement Process several Parties queried what would occur if an Other User was to break the existing rules for collecting consent as defined in SEC Section I1.2. SECAS notes that if an Other User was found to have collected Consumption Data without first collecting the Unambiguous Consent of each Energy Consumer, they could have their rights suspended under the SEC.

In the scenario where MP219 is approved, if the Other User was found to have collected Consumption Data without the relevant Appropriate Permission of each Energy Consumer, they would have their rights suspended under the SEC.

This means they may be limited in their ability to vote in elections, ability to submit modification proposals, to be represented on sub-committees or access to the DCC Systems and data. It could also result in the SEC Party being expelled from the SEC.

8. Case for change

Business case

In favour of approval of MP219

During the Refinement Consultation, SECAS received seven responses which supported the approval of MP219. The supportive Parties were made up of two Large Suppliers, two Network Parties and three Other SEC Parties.

Of the seven supportive Parties, SECAS notes that two respondents belong to the same organisation, however, are listed as two different SEC Parties.

Supportive Parties noted that the solution for the modification is a text-only change, therefore costs for implementation are relatively low when considering the potential benefits. If Other Users can work on behalf of SEC Parties, Suppliers and Network Parties can pass the retrieved Consumption Data over to Flexibility Providers, which has the potential to help prevent blackouts across the UK.

In addition, this modification would benefit Suppliers and Network Parties who could retrieve data more easily and offer more advantageous tariffs and energy efficiency advice to consumers. It also means the Other Users who are offering data collection services can more easily offer their products and services to other SEC Parties.

Against approval of MP219

During the Refinement Consultation, SECAS received five responses which were against approval of MP219. The unsupportive Parties were made up of three Large Suppliers and two Other SEC Parties.

Feedback gained from SEC Parties during the Refinement Process focused on potential impacts to traffic across the DCC System which may have cost consequences. SECAS has produced some assumptions based on an increase in participation to the DFS that the Proposer believes is possible if this modification was approved. It is expected there would be a 1-2% increase in traffic on the DCC's System.

These Parties also added that they did not see a strong business case, as they believed that this modification has been raised for the Proposer to sell services rather than to benefit SEC Parties. In

addition, they noted that any alteration to existing data privacy arrangements may negatively impact the SMIP and cause reputational damage.

Views against the General SEC Objectives

Proposer's views

The Proposer believes that this modification will better facilitate SEC Objective (a)⁴ and (c)⁵ by enabling Other Users to access consumer data, which will be passed back to the employing Party and enable more consumers to engage in the DFS.

Industry views

At the Working Group members highlighted concerns about when the Energy Consumer would be aware that an Other User has collected their data. They also raised concerns about the business case for this modification, with members questioning how this benefits Other Users as a whole, rather than just the Proposer. Members also highlighted that this modification could lead to an increase in traffic across the DCC System as they foresaw Suppliers and Network Parties continuing to collect Consumption Data alongside the contracted Other User.

Those Parties in support believed this modification better facilitates SEC Objectives (a), (c) and (f)⁶. They noted that this modification would allow Other Users access to Consumption Data which will be passed to the employing Party. Furthermore, they believe that this will help Network Parties to use existing routes to Smart Meter data more effectively to support their network planning and management activities.

Those against the modification stated they believe this modification weakens SEC Objective (f) because existing data privacy controls are being altered. They believe that the current arrangements work well for consumers and that this modification seeks to alter this for the benefit of Other Users to sell services.

Views against the consumer areas

Improved safety and reliability

This modification will have a neutral impact on safety and reliability.

Lower bills than would otherwise be the case

This modification will have a positive impact on lowering consumer bills. Other Users acting on behalf of Suppliers and Network Parties will be able to collect Consumption Data for Energy Consumers ensuring they have accurate information rather than relying on estimated readings. This will also allow consumers to have a better understanding of their usage and take advantage of tariffs which are

⁴ The first General SEC Objective is to facilitate the efficient provision, installation, and operation, as well as interoperability, of Smart Metering Systems at Energy Consumers' premises within Great Britain.

⁵ The third General SEC Objective is to facilitate Energy Consumers' management of their use of electricity and gas through the provision to them of appropriate information by means of Smart Metering Systems.

⁶ The sixth General SEC Objective is to ensure the protection of Data and the security of Data and Systems in the operation of this Code.

better suited to their energy consumption needs. In addition, Third Parties could offer Suppliers services to allow consumers to access the DFS, thereby saving consumers money.

Reduced environmental damage

This modification will have a neutral impact on environmental damage.

Improved quality of service

This modification would allow employing Parties to offer better services to their consumers by ensuring they can retrieve their Consumption Data.

Benefits for society as a whole

This modification will have a positive impact on benefits for society as a whole by allowing more consumers to access the DFS, thereby promoting a more efficient use of power.

9. Ofgem send back direction

On 6 October 2023 the Authority sent MP219 back to SECAS as they decided they were unable to form an opinion based on the evidence in version 1.0 of the Modification Report. Ofgem directed SECAS to complete further work on the Modification Report and resubmit it once completed. The full send back letter from Ofgem is available in Annex C. SECAS has undertaken the additional work and further information has been added to the Report, with specific answers set out below.

Ofgem noted four key areas which they considered they had not been provided with. These were:

- A sufficient level of evidence regarding the issues that the modification is trying to resolve;
- The impacts on DCC network traffic;
- An understanding of how the current processes are insufficient, and
- How the safeguards for consumers provided by the current process will be protected if this modification is implemented.

SECAS notes the four key areas which Ofgem would like further information on and split these into sections and questions which are detailed below.

Ofgem Direction

“We note that page 3 of the FMR outlines the current arrangements and on page 5 of the FMR, the impact of the issue is discussed which states that it is ‘difficult’ for Other Users to collect data on behalf of a SEC Party.

It is also noted within the FMR that there are a ‘variety of ways in which consumers can provide consent for their data to be collected’, this Proposal suggests that these arrangements are insufficient.

However, the FMR does not provide any detail on why these arrangements are being labelled as 'difficult' or explain why the usual timeline for obtaining Unambiguous Consent is unreasonable, but rather states that it takes 'time and effort'.

We would require further information on all these points to fully understand the drivers behind this modification and how this modification will better facilitate the SEC Objectives identified within the FMR. The FMR does not clearly articulate why the current process is insufficient and the challenges that would arise as a result of these”.

What do Other Users need to fulfil when collecting Unambiguous Consent?

As detailed in this report, there are a number of consent methods which Parties can use to collect the Unambiguous Consent of the Energy Consumer. The PCF contains methods and guidance on what Other Users need to include to fulfil their obligations, however it is the responsibility of the Other User on which method they use. The PCF provides guidance on what the IPA might expect to see when the Other User submits their information as part of an assessment, with the IPA and SECAS validating the method the Other User has chosen to use against the principles in the PCF.

What issues do Other Users, Suppliers and Network Parties experience with the current arrangements?

SECAS has engaged with a number of Parties to gain feedback on the issues with the current SEC arrangements. These have been split into SEC Party type to summarise the differing issues they experience.

Response 1 – Large non-domestic Supplier: One of the main methods of providing consent is through the IHD. Customers of non-domestic Suppliers do not routinely possess IHDs and therefore cannot consent this way. Another option is to use a bank card check, however this is perceived an inappropriate method for a business customer. These are the two most common consent methods used by domestic Suppliers which are not available to non-domestic Suppliers. In absence of these options, non-domestic Suppliers frequently use copies of a customer's energy bill from the previous three months to determine the consumer has provided Unambiguous Consent. However, this means there is a need for bills to be downloaded from the Suppliers database, sent to the consumer and then provided to the Other User. In this scenario, the consumer's perception is that they are having to resubmit their bill to the Party which distributed it to them. This creates an additional step in the process and can disrupt a smooth customer journey. Estimates provided to SECAS state that this method takes an average of three days after the customer signs up, as the energy bill has to be identified by the employing Party, distributed to the consumer and then emailed back to the Other User. One Large Supplier noted that after signing up to allow an Other User to collect their Consumption Data, around 50% of consumers did not complete the process because of the issues relating to providing consent.

Response 2 - Large Supplier with domestic consumers: The two commonly used consent methods for domestic consumers to prove they are authorised to provide consent are an IHD Check (where the GUID needs to be provided and the MPAN confirmed) and a bank card check. For the IHD check, many consumers do not always have an IHD and on occasions when they do this is frequently not to hand. Should the customers have an IHD they are required to enter the GUID and confirm the

MPAN, which is likely to put many elderly or disabled consumers off if they have difficulty reading numbers. If the consumer has access to the IHD, they need to be at the property to complete the process, which lengthens the timeline for providing Unambiguous Consent. SECAS notes that in March 2023 the National Audit Office reported that 9% of Smart Metering Systems had technical issues, many of which related to the IHD not working correctly⁷. As such, this means these consumers cannot engage in this consent process. In addition, where consumers have had multiple Smart Meters installed (e.g., SMETS1 to SMETS2 or issues with Devices), the asset register with the DCC is not always updated to display only the existing Devices. Consequently, this means that consumers may provide details which do not match the DCC and therefore the consent cannot be collected. Overall, respondents to SECAS noted that the dependency on using IHD's increases risk and reduces registration rates.

A number of Parties provided estimates to SECAS about how long it would take a consumer to consent using an IHD. Under the current arrangements, assuming the customer is close to the IHD after they have agreed to sign up to the DFS scheme, estimates range from between three to five minutes. Whilst this is not a long time for the consumer it does still put some consumers off. This also means that if a Supplier has to get consent from 100,000 consumers this would be between 300,000 and 500,000 minutes which equates to approximately 5000-8300 hours.

The second commonly used confirmation is that of checking a bank card. SECAS has spoken with multiple Suppliers who note that although no money is being exchanged, consumers are hesitant to provide their name, address and financial details. Using this method also requires a payment gateway facility, with consumers being very hesitant to provide any financial or personal information. Suppliers noted that this hesitancy is not limited to participating in the DFS scheme, but frequently occurs when taking any sort of payment via phone. Suppliers noted that this consent process takes around three minutes to complete.

One Large Supplier noted that more than a quarter of the calls from their customers wishing to participate in DFS during 2022 were queries regarding the means of giving Unambiguous Consent as their offering relied upon an Other User service. The Supplier noted that 10% of customers failed to register after completing the sign-up process and being eligible to participate in DFS. The Supplier then contacted consumers to gather feedback on the service, which highlighted that many consumers were dissuaded from even commencing the sign-up journey because of the requirement to evidence Unambiguous Consent. One Supplier noted that 48% of consumers who had already signed up to allow the Supplier to access their half-hourly Consumption Data did not engage with the process for providing consent for an Other User to collect their data.

SECAS acknowledges there are other consent methods which Parties can use to fulfil their obligations. Parties must follow and fulfil obligations set out in the Privacy Controls Framework to complete compliance with SEC obligations, namely ensuring that the person providing consent is the person responsible for the energy supply. SECAS has engaged with numerous Parties who have stated that they use these methods to collect Unambiguous Consent, with no other examples provided.

Response 3 – Other Users: SECAS engaged with a number of Other Users who noted that the current consent methods cause disruption, with one Other User noting that they experienced a 78% drop off in customers engaging with them when the additional Unambiguous Consent methods were needed. One Other User noted that when trying to collect Unambiguous Consent using the bill from

⁷ [Update on the rollout of smart meters \(nao.org.uk\)](https://nao.org.uk)

the customer, that there are issues with the Smart Meter being incorrectly registered to the wrong address or to no property at all. In this situation, the Other User is unable to correct this information and the customer is unable to provide consent.

If MP219 was implemented how would the consent process change?

If MP219 is implemented this would allow Suppliers and Network Parties to contract an Other User to collect Consumption Data on their behalf. The Supplier or Network Party will need to contact the consumer to register their interest in a scheme, such as the DFS with the Supplier or Network Party noting their details. The employing Party will then issue a notice in plain English to the consumer regarding why their data is being collected and by whom (details set out in the PCF) and how to opt out. If the consumer does not opt out, then the Other User would collect their Consumption Data and pass this back onto the employing Party.

If the consumer wanted to alter or remove the consent at any point, they will have already had communication from the employing Party in plain English of how to remove their consent.

Ofgem Direction

The FMR should highlight example scenarios where a 'Supplier or Network Party' would be unable to retrieve this data, what the cause of this would be, and how this modification would impact that process or bring about an additional benefit.

Why would a Supplier or Network Party be unable to collect Consumption Data?

One Large Supplier noted that they are currently undergoing internal customer system changes and as such additional system changes are not desirable. Therefore, they would seek to use an Other User in order that their customers can engage with the DFS programme whilst not causing disruption to their internal business processes. The Party also noted that they outsource various other activities to relieve pressure on them internally.

Two Large Suppliers informed SECAS that collection of half hourly data for the purposes of the DFS is not something they can complete at scale. One Large Supplier noted they did not have the capacity to determine the scheduling needed for collecting half hourly data. The other Large Supplier noted that to collect half-hourly data this would require significant investment in integration between their 3rd party DCC Adapter and DFS provider which they could not fulfil. In addition, they commented that bringing this service in-house would require substantial changes operationally and to their systems.

A number of small Suppliers told SECAS that they do not currently have the capability to collect half-hourly Consumption Data due to the size of their business or the lack of financial and personnel capacity to do so. These Suppliers noted that without being able to outsource the collection of Consumption Data for the purposes of the DFS then they are unable to offer the service to their customers who will lose out on the opportunity to participate.

What benefits would SEC Parties receive if MP219 is approved?

Suppliers and Network Parties would be able to offer an improved customer service as they would not need to complete the steps outlined for providing Unambiguous Consent. This would enable a larger pool of consumers to take part in the DFS. Some smaller Suppliers currently use an Other User to

collect Consumption Data (consumers have already given Unambiguous Consent). If the Supplier also wanted to offer the DFS to these consumers using a service offered by a different Other User, the consumer would currently have to provide Unambiguous consent again to either the Supplier or the second Other User. If this modification is approved the Supplier could simply ask the consumer if they wanted to opt in to the DFS (using the new requirements added to the PCF where the Supplier would have to state who is collecting the data, for what purpose and for what period of time the data will be collected as well as how to opt out) and the second Other User could collect the data and provide it to the Supplier.

One Party noted that they are too small (lack of the necessary resource) to offer the DFS to their customers, unless they are able to outsource the process. They believe that approval of this modification will allow them to offer a better customer experience, otherwise their customers will lose out on any savings that may be made through taking part in the DFS.

Parties would also be able to take advantage of the services offered by the Other User, who has the specialist skills to collect the data for the purposes of the DFS and can quickly allow Suppliers and Network Parties to offer the service to their consumers. Parties commented that they have other internal priorities which would mean they will not have the capability to process half-hourly data in such a way as needed for the DFS.

Several Parties noted the issues with providing consent, namely through the method of reading the GUID from the IHD. With the approval of MP219, an increased number of consumers who do not have IHDs, have issues with the registration of their IHDs or do not want to provide the bank card validation could partake in schemes such as the DFS.

Ofgem Direction

“We would require some sort of estimation of the impact of this type of modification on the DCC system’s network traffic.

Without some type of view on the potential impact of this modification, we are unsure how SEC Parties or Ofgem will be able to make an informed decision. If there are expected impacts, we would also have expected to see evidenced mitigations included within the report.

Traffic across the DCC System

The Proposer estimates that traffic will increase by less than 1% if MP219 is approved.

In 2022/2023 over 1.6 million households participated in the DFS, with the DFS test events usually running for one hour but live events running for up to four hours each. ⁸

SECAS has estimates from Parties that expressed an interest in this modification that approval of MP219 could lead to an increase in consumer engagement between 50% to 70%.

The DCC’s website states that in October 2023, there were 1,729,889,372 messages sent across the DCC System. ⁹ This equates to 55,802,883 messages per day.

This table assumes that once a Supplier or Network Party has contracted an Other User to collect Consumption Data on their behalf that only the Other User will collect the Consumption Data from those consumers. Noting the 2022/2023 DFS scheme had 1.6 million consumers participating,

⁸ [Demand Flexibility Service \(DFS\) | ESO \(nationalgrideso.com\)](#)

⁹ [Smart meter statistics and network coverage | Smart DCC](#)

SECAS has calculated the potential increased numbers of consumers future programmes and the potential of increased volumes of traffic across the DCC System.

% Increase in participation	Increase in reads per day*	Increase in traffic across DCC System
50%	800,000	1.4%
60%	960,000	1.7%
70%	1,120,000	2%

*The Proposer has stated that they will be issuing one SRV per day to collect 48 HH reads.

Ofgem Direction

“We require further information about how the Proposal intends to consider the issues raised by Citizens Advice regarding the collection of consumption data without gathering Unambiguous Consent, and it’s impacts on consumers”.

What protections are in place to ensure a consumer’s data is not being collected incorrectly once they have switched Supplier?

SECAS acknowledges the concern from Citizens Advice that consumers may have their data collected by an Other User who is unaware they have switched Supplier. As such it is possible that the Other User may collect the data incorrectly. SECAS has drafted this addition to the Privacy Controls Framework to specify controls and evidence required from Other Users so that there is a procedure in place to ensure the Other User is made aware when the Energy Consumer has switched Supplier and their data must no longer be collected:

“Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence, evidence of arrangements or a procedure for the employing Party to notify the User of any Energy Consumers who have switched Energy Supplier and whose Consumption Data can no longer be accessed by the User with Appropriate Permission”.

What changes have been made to address the issues raised by Citizens Advice?

SECAS has engaged with Citizens Advice throughout the modification process to gain feedback on the modification. Following Ofgem’s send back and request for further information SECAS facilitated a meeting specifically between the Proposer and Citizens Advice. Citizens Advice had two main concerns. Firstly, that consumers could easily opt out of any data collection (this has been included in the PCF changes) and secondly that a consumer can easily see who is accessing their data, how often and when it began. In addition, Citizens Advice believe the consumer should be able to easily query and change access to their data. The Proposer highlighted during the meeting that they offer an information dashboard where consumers can access this information. Citizens Advice were keen to see this kind of information offered more widely so in response to these concerns, SECAS drafted this addition to the PCF:

"Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ('Employing Party') who already has the Appropriate Permission through their Energy Licence, the Other User would need to provide evidence of arrangements, or the technical ability, to provide the Energy Consumer with the ability to access information related to Consumption Data obtained by the User, which should be accessible by the Energy Consumer at any point in time during the processing. This information shall include in particular:

- *the contact details of the User's Data Protection Officer (DPO) where relevant;*
- *the purposes for which that Consumption Data is to be processed by the User;*
- *the time periods (by reference to length) in respect of which the User and/or Employing Party has Appropriate Permission to obtain Consumption Data from the Smart Metering System;*
- *the time periods (by reference to length) in respect of which the User will process the Consumption Data obtained from the Smart Metering System;*
- *that the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System who already has the Appropriate Permission through their Energy Licence".*

SECAS and the Proposer also acknowledge that Citizens Advice have been clear that communications to the consumer need to be written in plain English. As such, SECAS drafted this addition to the PCF:

"Where the User is acting on behalf of an Import Supplier, Export Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System ('Employing Party') who already has the Appropriate Permission through their Energy Licence, the Other User will be required to determine that the employing Party has provided notification, in plain English, to Energy Consumers, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter, that:

- *The Other User will be accessing Consumption Data on the employing Party's behalf*
- *The purposes, in plain English, for which the Other User will be accessing Consumption Data on the employing Party's behalf*
- *A clear description of how the Energy Consumer can withdraw consent (as the case may be) before and during processing".*

These changes were presented to the Privacy Sub-Committee (PSC) in May 2024 who decided on the level of assurance. These can be viewed in full in Annex D.

Ofgem Direction

We note that changes will be made to the SEC Privacy Controls Framework (PCF) which will require the employing SEC Party to notify the consumer, potentially through marketing emails or Terms and Conditions, that the Other User is accessing the consumer's consumption data on the Party's behalf. Given the significance to the consumer protections these changes are affecting, we would expect to see them in a more developed manner in an updated FMR to ensure that there is a specific obligation

on employing Parties to notify energy consumers prior to the Other User accessing their consumption data”.

What are the full changes to the Privacy Controls Framework?

The proposed changes to the PCF can be seen in Annex D. These changes were presented to the Privacy Sub-Committee PSC in May 2024 where the level of assurance was agreed upon by members.

Ofgem Direction

We would also like to see detailed explanations of how any type of unauthorised access to this data is handled and how ultimately this will be reported on. An example would be where an energy consumer has switched suppliers and is no longer covered under the agreement. We would like to fully understand how this type of scenario would be handled and when it would be reported to the energy consumer, Information Commissioner’s Officer (ICO), SEC Panel and the Authority”.

How is unauthorised access to Consumption Data handled and reported to the Energy Consumer, ICO, SEC Panel and Authority?

There are no proposed changes to the current process. Identifying unauthorised handling would come through existing SECAS procedures, including assessments conducted by the IPA on how Other Users are complying with the updated PCF requirements. Other Users are assessed when joining the SEC, in addition to the annual self-assessment and random sample assessments at timescales required by the PCF. For SECAS or the IPA to be able to identify unauthorised access as part of this modification, Other Users will maintain a list of the Energy Consumers whose MPANs they can access Consumption Data for. Suppliers would need to ensure that any Energy Consumers who have switched Supplier must not have their Consumption Data collected.

Through the initial, annual self-assessment and random sample assessments, the IPA would identify any non-compliances with the SEC based on an assessment of the Other User’s processes and sample evidence of the relevant MPxNs of Energy Consumers whose data the Other User has accessed. The assessment report would then be validated by SECAS and presented to the SEC Panel – during which any unauthorised access to Consumption Data would be identified to the SEC Panel for action. This could occur, for example, where the Other User does not have Appropriate Permission to access the relevant Energy Consumers’ consumption data, or other controls within Section I or the PCF are not satisfied.

Alternatively, SEC Parties (including Other Users), SECAS and the IPA retain the ability to voluntarily report any non-compliances with the SEC identified with their or Other Users’ practices to the SEC Panel for its consideration at any time.

Where any unauthorised access to Energy Consumers’ data in breach of the SEC or PCF is reported to the SEC Panel, the Panel would take such action with respect to the Other User to the extent it is a breach of the SEC. There would then be ramifications for the Other User which could mean suspension or expulsion by the Panel.

To the extent this is a breach of Data Privacy law, SECAS/SEC Panel would then inform the ICO under the existing Memorandum of Understanding with the ICO.

Ofgem Direction

“We need to fully understand how the consumer is protected in this modification from start to finish”.

How is the consumer protected?

Primarily, only the Supplier or Network Party for the Energy Consumer can access their Consumption Data through their Appropriate Permission. If any other Party other than the Energy Consumer's Supplier or Network Party sought to directly access Consumption Data from the Energy Consumer, they would still need to collect the Unambiguous Consent or Appropriate Permission for that consumer. The consumer will still have to opt in to any scheme (such as DFS) and will be given clear instructions on how to opt out if they change their mind.

In the scenario proposed in this modification, the employing Party will provide notification to the Energy Consumer that the Other User will be collecting their data and the purposes for doing so. In this scenario, the Other User is being employed as a Data Processor, using the employing Parties Appropriate Permission to collect Consumption Data from the consumer. Once the data has been retrieved, the Other User would pass the Consumption Data back to the employing Party, the Data Controller, and would not be permitted to use the Consumption Data for any other purpose or provide it to another Party for any purpose. In order to fulfil reporting obligations set on them by SEC Panel, the Other User would be required to keep a record of the Energy Consumers whose data they have collected in order to ensure that they are customers of the employing Party. This information would then be used as part of the assessment of the Other User by the IPA.

As detailed above, SECAS has also drafted additions to the PCF to ensure that consumers are protected. Notably that the Energy Consumer will be informed in plain English before the Other User collects their data, there must be arrangements for the employing Party to inform the Other User if any consumer has switched Supplier and there must be arrangements for the Energy Consumer to have the ability to access information related to the Consumption Data obtained by the Other User during the processing.

10. Appendix 1: Progression timetable

Timetable	
Event/Action	Date
Draft Proposal raised	10 Oct 2022
Presented to CSC for initial comment	18 Oct 2022
Draft Proposal discussed with Working Group	7 Dec 2022
Presented to CSC to convert to Modification Proposal	20 Dec 2022
Modification discussed with Working Group	1 Mar 2023
Refinement Consultation	6 Mar 2023 – 27 Mar 2023
Refinement Consultation responses discussed with Working Group	5 Apr 2023
Modification Report approved by CSC	21 Nov 2023
PSC approves PCF changes	16 May 2024

Managed by

Timetable	
Event/Action	Date
Modification Report Consultation	29 May 2024 – 19 Jun 2024
Change Board Vote	26 Jun 2024
<i>Authority decision (anticipated date expected by)</i>	<i>7 Aug 2024</i>
<i>Implementation Date</i>	<i>Ad-hoc SEC Release</i>

Italics denote planned events that could be subject to change

11. 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
COS	Change of Supplier
CSC	Change Sub-Committee
DCC	Data Communications Company
DESNZ	Department for Energy Security and Net Zero
DFS	Demand-Flexibility Service
GDPR	General Data Protection Regulation
ICO	Information Commissioners Office
IHD	In-Home Display
IPA	Independent Privacy Auditor
PCF	Privacy Control Framework
PSC	Privacy Sub-Committee
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SMIP	Smart Metering Implementation Programme
SSC	Security Sub-Committee
TOU	Time of Use

