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MP219

‘Accessing Consumption Data on behalf of SEC Parties’

Modification Report

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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 two 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.

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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 Other User (or a third Party acting on its behalf) first obtaining Unambiguous Consent from each Energy Consumer. The Proposer finds this process very time consuming and believes this is limiting Other Users in their ability offer their services to SEC Parties.

The Proposed Solution to this modification is for Other Users to obtain Consumption Data by using the 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 obtaining Unambiguous Consent from the Energy Consumer.

This modification impacts Suppliers, Network Parties and Other SEC Parties. Costs to implement are limited to SECAS time and effort. This modification is targeted for the November 2023 SEC Release and is an Authority-Determined Modification.

2. Issue

What are the current arrangements?

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.

If a Supplier or Network Party wishes for an Other User to collect Consumption Data on their behalf, this is the current process it is likely to follow:

1. The Supplier or Network Party contracts the Other User to access Consumption Data on its behalf as it will have already collected the Unambiguous Consent of the Energy Consumer. 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. As an Other User is being employed to collect the Consumption Data, the employing Party 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 Other User credentials. The employing Party is best placed to do this as they have the existing relationship with the Energy Consumer. Once the consumer has provided their consent, the employing Party can inform the Other User of this,

and the consumers data can be collected. The Other User will then pass the information back to the employing Party.

To ensure compliance with data privacy regulation, which is checked by the Independent Privacy Auditor (IPA), there are several different options available to Other Users to fulfil the requirements of SEC Section I1.2. Often, this means the employing Party collecting consent from the consumer, and informing the Other User when this has been provided.

One way in which Energy Consumers can consent to an Other User collecting their data is through their In-Home Display (IHD). 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 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.

What is the issue?

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 would potentially need to contact many Energy Consumers to gain their consent. Due to the amount of time and effort this would incur, this makes it difficult for Other Users to commercially act on behalf of the employing Party.

What is the impact this is having?

When SEC Parties would like 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 Demand-Flexibility Service, 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 have to take time and effort to provide their consent to which they have already given to the Supplier or Network Party.

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 data on their behalf as they already have the Unambiguous Consent of the Energy Consumer. The employing Party will remain as the Data Controller, whilst the Other User will act as the Data Processor.

2. The Other User collects the Consumption Data on behalf of the employing Party using the employing Party's Appropriate Permission.

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

The Smart Energy Code Administrator and Secretariat (SECAS) will also make changes to the Privacy Controls Framework (PCF) if this modification is approved. These requirements will be introduced as arrangements and evidence which the IPA will look for to determine if the exception to allow Other Users to collect Consumption Data without collecting Unambiguous Consent applies. The reason for 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 changes listed below are not the final drafting but cover the three additional areas which will be amended or added to the PCF:

- The Other User should still be required to determine and evidence, in accessing Consumption Data of relevant consumers, that they're acting on behalf of, and limited to the purposes specified by, a Supplier or Network Party which has the Appropriate Permission for those purposes. This could be evidenced through a contract or agreement between the employing Party and the Other User.
- The Other User should still be required to maintain evidence of the Energy Consumers or the Devices for which access is required on behalf of the employing Party should be assessed as part of an Other User's SEC Section I assessments, in order to demonstrate that the Energy Consumers are customers of the relevant employing Party.
- The Other User will be required to determine that the employing Party has provided notification to Energy Consumers that the Other User will be accessing Consumption Data on the employing Party's behalf, at the point, or prior to, the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter.

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 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. By allowing Other Users to act on behalf of SEC Parties, especially in circumstances when the employing Party has not been able to receive Consumption Data from that Smart Metering System, this means the data can be collected and then passed from Suppliers and Network Operators onto Flexibility Providers.

DCC System

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

There is no way to determine the impact of this modification on traffic across the DCC System. As such, SECAS is unable to confirm any impacts associated with this modification.

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'

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

Consumers

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 always for the purposes for which the employing party has agreed to.

In instances where Suppliers or Network Parties are unable to retrieve Consumption Data, they may employ an Other User contractually to collect this on their behalf. If that Other User can collect the Consumption Data, this means that Suppliers and Network Operators may be able to highlight customers who may need energy-saving advice as well as being able to retrieve important Time of Use (TOU) data for customers on Economy 7, 8 or 10 tariffs.

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

Agreed implementation approach

The Change Sub-Committee (CSC) agreed an implementation date of:

- **2 November 2023** (November 2023 SEC Release) if a decision to approve is received on or before 19 October 2023.
- **Ad-hoc SEC Release** if a decision to approve is received after 19 October 2023.

This modification will require text-only changes to the SEC; therefore no system testing or lead time is required before implementation. The earliest SEC Release this modification can be implemented in is the November 2023 SEC Release. As this is an Authority-Determined modification if OFGEM communicates its determination after 19 October 2023 this modification will not be implemented in the November 2023 SEC Release but will be implemented as an ad-hoc release one day following decision.

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 2018 (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 important¹. 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 Meter Implementation Programme as a whole which is a necessary part of meeting net zero government timeframes.'

¹ <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/>

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. They have noted that they raised this modification as they believe it will help prevent the possibility of energy outages occurring in Great Britain. This is because Other Users will be able to collect data on behalf of SEC Parties, send the data to them and then the employing Party can engage with the National Grid's Demand-Flexibility scheme. In turn, this would help Network Operators prepare for periods of high demand energy usage. With management of energy usage, this reduces the possibility of blackouts in the UK.

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 expected timeline for this modification indicates that a decision by Ofgem will be returned in late October 2023.

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 note that although existing data privacy arrangements will be altered, there are strict controls on Other Users 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 they are already to complete this action, however they must currently return to the Energy Consumer to ask for consent again after they have already provided it to the employing Party. The Proposer believes this is unnecessary given the Other User will be acting on behalf of the Supplier and will not be performing any other actions than acting in the role of Data Processor.

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 'Solution Development' 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 send the relevant Service Requests to the DCC, but there are random IPA checks which take place on Other Users after they have collected the data. 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?

An issue was identified related to the term 'Consumption Data' as defined in the SEC. This is because this 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 Business, Energy and Industrial Strategy (BEIS), 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.

SECAS has confirmed that at the exact point of the data being collected, there would be no notification to the Energy Consumer that an Other User has accessed that data. However, the Other User would be named in the employing Party's Privacy Notice, which would be presented to Energy Consumers in various ways such as in marketing emails or Terms and Conditions. The notification to the Energy Consumer must be conducted prior to the employing Party engaging an Other User to access DCC Systems.

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 three 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.

The three draft changes to the PCF are available on page 6 in the 'Solution' section of this report.

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

The requirement on the employing Supplier/Network Party to collect consent and facilitate Energy Consumer opt-outs only applies where it uses consent as a legal basis. If the employing Party does not need consent to access that Consumption Data in accordance with its Energy Licence, then it will not be required to facilitate Energy Consumer opt-outs to consent.

Where an employing Party uses the legal basis that it collects consent either under its licence obligations or separately from the Energy Consumer prior to accessing Consumption Data, then the Energy Consumer will be able to opt-out to the data sharing with an Other User. An opt-out is only possible if consent was collected in the first place.

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

Can Energy Consumers access the data that has been obtained?

The Consumption Data collected by the Other User must be made available to the consumer upon request.

Traffic across the DCC System

During the Refinement Consultation, several Parties who are against approval of the modification noted their belief that this modification could lead to an increase in traffic across the DCC Network. This is because Other Users would collect Data on behalf of SEC Parties, but the employing Party could continue to retrieve Consumption Data from the same customers. They believed this could lead to an increase in traffic, which could have a detrimental impact to DCC core services. In turn, this may require a DCC upgrade which would lead to costs for Suppliers and Network Parties.

In response to the claim that DCC traffic will increase, the Proposer noted that Suppliers and Network Parties choose to employ Other Users to collect this information on their behalf. Therefore, they believed that Suppliers and Network Parties would not try and collect data which they have paid an Other User to collect on their behalf.

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 GDPR². 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

² [General Data Protection Regulation \(GDPR\) – Official Legal Text \(gdpr-info.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R0679)

is not obtained directly from a Data Subject. These obligations sit with the Data Controller, rather than the Data Processor. The GDPR requirements are therefore different to the operation of the SEC.

Changes to Supplier processes

A Change Sub-Committee 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 customers about an Other User collecting their data if they intend to use an Other Users services. If SEC Parties do not employ an Other User, no changes are needed to their privacy notice.

Determining a domestic Energy Consumer

One Change Sub-Committee member questioned how Other Users determine whether a consumer is domestic or non-domestic. SECAS has approached the Proposer for an update however this has not been provided before this report was distributed to Change Sub-Committee members. If SECAS has received information from the Proposer prior to the meeting, this will be presented in the slide pack.

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

During the Change Sub-Committee, one member asked how whether the Other User will continue to collect data from the Energy Consumer upon a Change of Supplier (CoS). SECAS notes that 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 of the proposed legal text 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.

Data Processor and Data Controller

A Change Sub-Committee 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. 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. SECAS presented an example provided by the Proposer that because the consumer did not own an IHD, the Supplier had to ask the consumer for their energy bill as a form of 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.

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.

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. 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 the 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 cannot advise if or how this modification will impact traffic across the DCC System. This is because there is no information to confirm whether this modification would increase or decrease the traffic across the DCC 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 Draft Proposal will better facilitate SEC Objective (a)³ and (c)⁴ by enabling Other Users to access consumer data and make this available to the consumers through their services to help them make informed decisions about their usage.

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)⁵. They noted that this modification would allow Other Users access to data which could then be made available to consumers directly or Suppliers to help make informed decisions about their energy usage. 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

³ 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.

⁴ 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.

⁵ 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.

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 better suited to their energy consumption needs. No assumptions have been made about any changes to traffic across the DCC System.

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 neutral impact on benefits for society as a whole.

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

Managed by

Timetable	
Event/Action	Date
Modification Report approved by CSC	18 Jul 2023
Modification Report Consultation	19 Jul 2023 – 9 Aug 2023
Change Board Vote	23 Aug 2023
<i>Authority decision (anticipated date expected by)</i>	<i>4 Oct 2023</i>
<i>Implementation Date</i>	<i>2 November 2023</i>

Italics denote planned events that could be subject to change

Appendix 2: Glossary

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

Glossary	
Acronym	Full term
BEIS	Department for Business, Energy, Industrial and Strategy
COS	Change of Supplier
CSC	Change Sub-Committee
DCC	Data Communications Company
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
SEC	Smart Energy Code
SECAS	Smart Energy Code Administrator and Secretariat
SMIP	Smart Metering Implementation Programme
SSC	Security Sub-Committee
TOU	Time of Use