

SECAS Guidance Notes: Negotiation, Appeal & Dispute Process

Purpose

This document provides guidance on the Negotiation, Appeal and Dispute Process in the Smart Energy Code (SEC). This includes details of SECAS' **Critical Friend** role in supporting Parties and the [Data Communications Company](#) (DCC) through Negotiations, Appeals and Disputes, the stages of the Dispute Process, and the SEC Panel's role in Disputes.

What is a Dispute?

The SEC defines a Dispute as 'any dispute or difference (of whatever nature) arising under, out of or in connection with this Code (the SEC) and / or any Bilateral Agreement'.

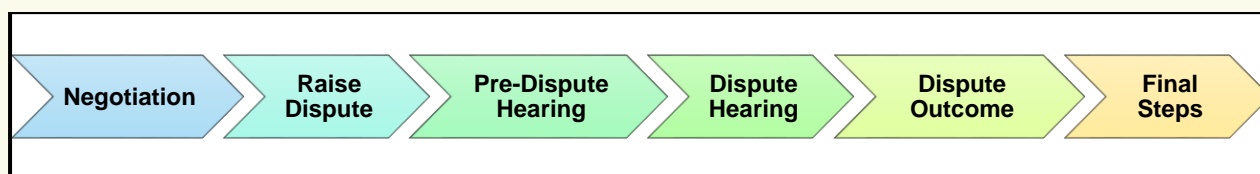
It is the responsibility of each Party involved in a Dispute to seek to resolve it amicably and within a reasonable timescale **through negotiation in good faith**.

There are a range of Dispute and Appeal routes identified in the SEC, due to the varied nature of Disputes and their routes for resolution. The full list of Dispute and Appeal Routes can be found [here](#).

The main Dispute Process is found in [SEC Section M7: Dispute Resolution](#). This Section outlines the general principles for whether a Dispute is subject to a final determination by either the [SEC Panel](#) or [Ofgem](#) (the Authority), and the arbitration process to be followed.

Any matter that relates to an [Energy Licence](#) or the [Smart Meter Communication Licence](#) will be determined by the Authority.

Dispute Process Stages



Negotiation Stage

Parties are expected to use all reasonable attempts to resolve the matter through amicable negotiation, either before or without raising a formal Dispute.

You should first complete the [SEC Party Negotiation Request Form](#) if you wish to initiate the Negotiation stage and send it to the [SECAS Helpdesk](#).

It should be the aim of all negotiations to reach an amicable resolution **without invoking a formal Dispute**.

This may involve bilateral discussions, facilitated by SECAS or one of the Panel Sub-Committees, to help you agree to a solution.

You are encouraged to raise these matters with SECAS for guidance at the early stages of identifying whether there is in fact a Dispute, and if a resolution can be found through negotiation without escalating the matter to the SEC Panel or Authority for final decision.

How to Raise a Dispute

If you have not been able to amicably negotiate a solution, you must complete an [Appeal, Dispute, Referral or Event of Default Notification Form](#) and submit it to SECAS.

All possible supporting evidence should be attached to the form, such as:

- The impacts on SEC Parties;
- Dates / timings of the issue(s) in question;
- Any advice (for example, legal) that you have sought; and
- Evidence of previous attempts to resolve the matter through **amicable negotiation**.

Pre-Dispute Hearing Stage

Once the Dispute has been raised, SECAS will notify the SEC Panel. Depending on its urgency, this may be via the next regularly scheduled SEC Panel meeting or raised at an earlier date ex-committee.

If required, SECAS will request more information from you and / or other key stakeholders.

The Panel will determine if it requires additional evidence or advice to be provided to it prior to making its determinations on the matter. It may request a Sub-Committee or other **independent experts** to provide advice before making a decision.

You will be invited to attend any relevant Sub-Committee meetings where the Dispute is initially discussed. Any recommendations will be provided to the Panel for consideration.

Dispute Hearing Stage

Once all relevant information has been gathered, the Panel will consider the Dispute.

You will be invited to attend the Panel meeting where the Dispute hearing will take place. After discussing the matter, the Panel will determine actions that need to be taken as a result.

Actions will be dependent upon the type of Dispute being considered, but Panel decisions must ensure that:

- The SEC is given full and prompt effect in accordance with its terms and conditions;
- The SEC is given effect in such a manner as to facilitate achievement of the [SEC Objectives](#);
- The SEC is given effect in a fair manner without undue discrimination between Parties or any classes of Party; and
- The Panel conducts its affairs in an open and transparent manner.

Dispute Outcome and Final Steps

SECAS will notify you of the SEC Panel's decision and the remediation plan (if applicable). If a remediation plan applies, and you fail to complete the remediation plan according to the timescales set by the Panel, an **Event of Default**, as described in [SEC Section M8.1](#), will occur.

SECAS will then notify the SEC Panel that an Event of Default has occurred. You'll be required to resolve the Default as soon as possible. Failure to do so will mean that the Panel may take one or more of the disciplinary actions detailed in [SEC Section M8.4 c - g](#).

Managing Conflicts of Interest

Any potential conflicts of interests will be dealt with under the provisions in [SEC Section C5.24](#).

It shall be each Panel (or Sub-Committee) member's responsibility to disclose to the respective Chair any interest a member might have in a respective appeal, Dispute, referral or Event of Default that a member (or members) may perceive as a conflict of interest warranting an absence from voting on the issue.

The Panel Chair (or Sub-Committee Chair) may:

- Decide, after considering the views of the Panel (or Sub-Committee), to ask the member(s) in question to leave the meeting whilst the group discuss specific business; or
- Consider whether the member(s) should be removed as Panel (or Sub-Committee) member(s).

How to request Arbitration

[SEC Section M7.5 - 7.7](#) outlines that formal arbitration may be requested by a Party to a Dispute in circumstances where the Authority or Panel are not expressly identified as the final and binding decision-maker.

Disclaimer

This document is intended to provide a simple overview of the Negotiation, Appeal and Dispute Process and any supporting or related arrangements. It does not replace or supersede the SEC or these related arrangements in any way. The author does not accept any liability for error, omission or inconsistency.

If you have any questions, please contact SECAS by emailing our [SECAS Helpdesk](#) or call 020 7090 7755.