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TABLE OF CONTENTS

1 Introduction	4
1.1 What is a Framework approach	5
1.2 Drivers for Framework Adoption.....	5
2 Steps required for evolution	6
2.1 Technical Capabilities	6
2.2 Regulatory & Legal	6
2.3 Resourcing	7
3 Timelines.....	7
4 Points for industry & regulatory consideration	8
5 Summary & Next Steps.....	8

1 Introduction

This paper is an output of the ENA Open Networks Workstream 1A – Product 4: DSO Services Commercial arrangements

Since 2019 the ENA Open Networks WS1A Product 4 has been tasked with the formation and adoption of a common agreement for use within Flexibility Services. To date this process has focussed purely on DNO contract alignment, however in 2021 the Product team will develop a new version of the common agreement which will include some ESO services. The paper has been constructed to explore a key challenge which has been identified in achieving full alignment, namely that the procurement/contract processes for Flexibility Services are misaligned across the ESO and DNOs, making full alignment impossible at this time.

The ESO currently utilises a ‘Framework’ based contractual process, whereas the DNO’s utilise a tender specific Bi-lateral approach to secure Flexibility Services which while fit for purpose considering the emerging nature of the DNO services market, is less scalable than the ESO equivalent. While both processes rely upon contracts, the ESO approach has benefitted from a longer period of implementation, enabling greater evolution and catering towards the more mature ESO service provision. As DNO services are still relatively new and the markets responding are emerging, contracting processes, the supporting skills and systems have not had an equivalent period in which to be refined, improved and adapted to respond to increased market participation.

The aim of the paper is to lay out a timeline and developmental steps for DNO’s and the ESO to adopt a common framework approach to Flexibility services procurement, to reflect that DNOs and the ESO are trying to bring together common practices and contract terms to establish a standard contract for flexibility services which will start with the formation and release of version 2 of the Standard Agreement later in 2021. Beyond this release, to support the growing DNO flexibility service market, to continue delivering alignment in flexibility services across the UK and finally to produce a fully standard, encompassing industry Standard Agreement, these steps are essential.

The paper will provide detail on the steps required to deliver the evolution and a high-level timeline. The timeline will be indicative only at this point as the required steps are complex, interdependent and will be undertaken by DNO’s individually resulting in some variation across the DNO’s in general and may vary in terms of delivery.

We must also acknowledge the speed in which these steps are undertaken must also take into account engagement with DNO and ESO stakeholders, the changes will impact the process of securing flexibility services as well as potentially impacting legacy contracts, so stakeholder feedback may also drive some variation on the priority and timelines for delivery. It’s also critical to note that services will still be secured competitively, network scenarios, geography and market maturity will still influence service prices so while the structure, procurement process and Agreements will have alignment this product is not tasked with alignment of service pricing.

Lastly, as alignment with ESO contractual routes are progressed it is likely the DNO’s will need to engage and request support, insight and experience from the ESO, who benefit from far greater experience in delivering services through the framework style approach. Further to this engagement with the ESO will be critical to ensure the evolution of the contractual environment delivers true alignment, leading to common contracts and procurement processes which can be implemented to the benefit of responding providers.

1.1 What is a Framework approach

DNO's utilise a bi-lateral contract approach for flexibility service delivery, this means contracts are implemented per service to each successful provider and remain explicit to that service or services detailed within the contract. For each new service being procured a new contract complete with service specific schedules and agreed prices is required to be agreed between the DNO and the provider through a full procurement process.

The framework approach still relies upon a contract between the DNO and a provider, however the contract covers the key expectations, obligations between the two parties, with separate services being independently procured under the 'framework' agreement. This means a provider can respond to multiple tenders across a defined period without needing to sign specific contracts each time, the new services are added as schedules or sub-agreements under the core contract with the agreed price for that service being stipulated.

It is important to stress that different product or service 'types', for example Fast Frequency Response (FFR) and Dynamic services may need separate overarching contracts, but the individual 'auctions' or requirements within those types will be awarded underneath that parent contract, even though the parent contract will remain 'common' once the P4 Standard Agreement has been updated for use across the ESO and DNO services.

Both cases still require specific procurement runs for new services to ensure these are awarded fairly and transparently, however the framework approach is more efficient within mature markets where new services or changing requirements are more frequently needed from a population of engaged market participants.

1.2 Drivers for Framework Adoption

As DNO markets evolve, more providers will seek to engage in those markets, more services will become available and as both DNO's and the ESO move towards day ahead procurement, greater ease in the contract process will be required. In addition, the risks associated with managing Flexibility Services become better understood, mitigated and alleviated by increased market fluidity, automation and data, a framework approach moves from being a desired (but not essential) solution to be a critical development for the increased growth of the DSO and ESO markets.

The ESO currently utilises a Framework approach to securing flexibility services and a key requirement of the Open Networks WS1A P4 product is to align contracts, and by default contractual environments for the DSO transition. It's essential to note that the ESO has been securing 'flexibility services' through network stability and balancing products for a number of years and their approach has evolved to enable greater accessibility and uptake as more providers have become available to the system.

DNO markets are still within the early stages of development, with the first BAU flexibility services placed in 2018 and as such the markets have not reached the same level of fluidity as those open to ESO driven services although this is expected to occur in a more rapid fashion as the UK moves towards a zero-carbon future. The bilateral approach utilised to date works well for the lower frequency of procurements required, smaller service values and a smaller base of engaged providers as well as the relative infancy of the approach, where risk aversion is understandably a core concern and the assurance of more defined, specific contracts is required.

Geographical variations could remain to this evolution, so DNO's will face different pressures on developing this functionality at different times, cost effectiveness and stakeholder requirements have to be key points of consideration to avoid too-early adoption of change or excessive delay to new functionality, both of which could stifle the DSO markets in that area.

2 Steps required for evolution

Within this section we will outline some of the elements required to support the uptake of a framework approach to flexibility service management. It is critical to note that within the Open Networks Project WS3 a more defined, descript approach to DSO transition requirements is being produced within the DSO workplan. It is expected that this evolution paper reflects and supports this workplan, and that the workplan itself is the correct place to plan, implement, review and monitor delivery of these developmental steps. It is also noteworthy that the ENA will release multiple products across WS1A and the wider programme, using the Smart Systems and Flexibility Plan (SSFP) that may formalise, support or obligate steps within this document further.

2.1 Technical Capabilities

Currently there is a variation in how DNO's manage the contractual processes relating to flexibility service procurement. All DNO's are utilising Dynamic Purchasing Systems (DPS) which can support a more framework-oriented approach while retaining the bilateral contract requirement traditionally utilised. As experience in DPS utilisation grows across DNO's and these systems become embedded in BAU use, procurement within a framework environment is further enabled.

Beyond this initial procurement requirement there is also contract/service management systems which will need to be developed/procured which can reduce the resource impact of managing multiple contractual relationships across a wider range of providers, with providers also having multiple contracts within the 'framework'.

Again, there is already variance on the current implementation and availability of this style of management system across DNOs. Different DNOs have developed systems to facilitate visualisation of constraints, procurement processes and dispatch of flexibility services. Such systems include the 'Flexible Power' system and other DER Management Systems (DERMS) which both offer slightly different functionalities as well as other potential developing systems. While this paper acknowledges different systems and how they are operated by the host DNO's are to be expected, to ensure overarching alignment remains deliverable, steps must be taken to ensure alignment in the contract management elements of any development and utilisation of these systems. Given the recent adoption of these contractual and service management systems, it must also be acknowledged that DNO experience in these systems and the wider systems required to support 'closer to real-time' tendering, or 'trading' of services (month ahead, week ahead etc) are still marginal.

Behind these two key requirements the project recognises the complexity in delivering new systems and the impacts each DNO may face in completing these works. Reliance on both internal and external support from a Cyber Security, IT and Real time systems perspective will be required as well as significant support from organisations Commercial, Legal and Procurement teams.

At the time of reporting, it's fair to expect that all DNO's will have the required system functionality to support framework contracts and service management by the beginning of RIIO-ED2, April 2023.

2.2 Regulatory & Legal

Some DNO's consider Flexibility Services as subject to Utilities Contracts Regulations (UCR) compliance, however others feel they're exempt as Flexibility Services are seen as trading/buying energy. This understanding was agreed with WS1A P2 in 2020, however the procurement and legal teams of different DNO's still display

variance in the interpretation of regulatory compliance. Given these variances, it must be considered that in some cases any change to the procurement process could result in a breach of licence if the new process deviates from those regulations. DNO's need to release OJUE notices on individual service requirements or PIN notices covering a group/yearly requirement across services, again with variations driven by the host DNOs appreciation of the regulations.

Separately, Distribution Licence condition LC31E, similar to condition C16 for Transmission both look to formalise the advanced notice of the procurement of Flexibility Services by network operators. There are similar but currently reflect the different processes undertaken by the DNO's and the ESO, this type of regulatory reporting will require a uniform approach to application and compliance to regulations, which in turn will enable alignment in the procurement approach applied.

From this point and from a contractual adaptation point, we must also reference that DNO's and the ESO also display variances in legal, procurement and regulatory alignment. This does create some variance in how legal definitions are interpreted, the length of time it can take to shift contractual processes and can accentuate the risk appetite of the host organisation in terms of mitigating the contractual risk of undertaking new processes.

2.3 Resourcing

As mentioned above, the WS3 DSO workplan and more specifically, DNO's ED2 workplans will already be outlining incremental steps in how resources and skill sets will need to develop to support wider, more frequent uptake of flexibility in general. This paper should be seen as supporting those plans in providing an overview of the specific challenges around evolving the current procurement and contract approach utilised towards an aligned, industry accepted process.

Currently and across most DNO's the focus is on developing services, market approaches and scaling up implementation of flexibility across an increasing range of network scenarios. As these services mature alongside markets which will become more populated and confident, there will be a shift from contractual support to an increasing need for commercial aptitude, technical proficiency and automation in how services are implemented, contracts managed and a whole system approach to the coordination of markets.

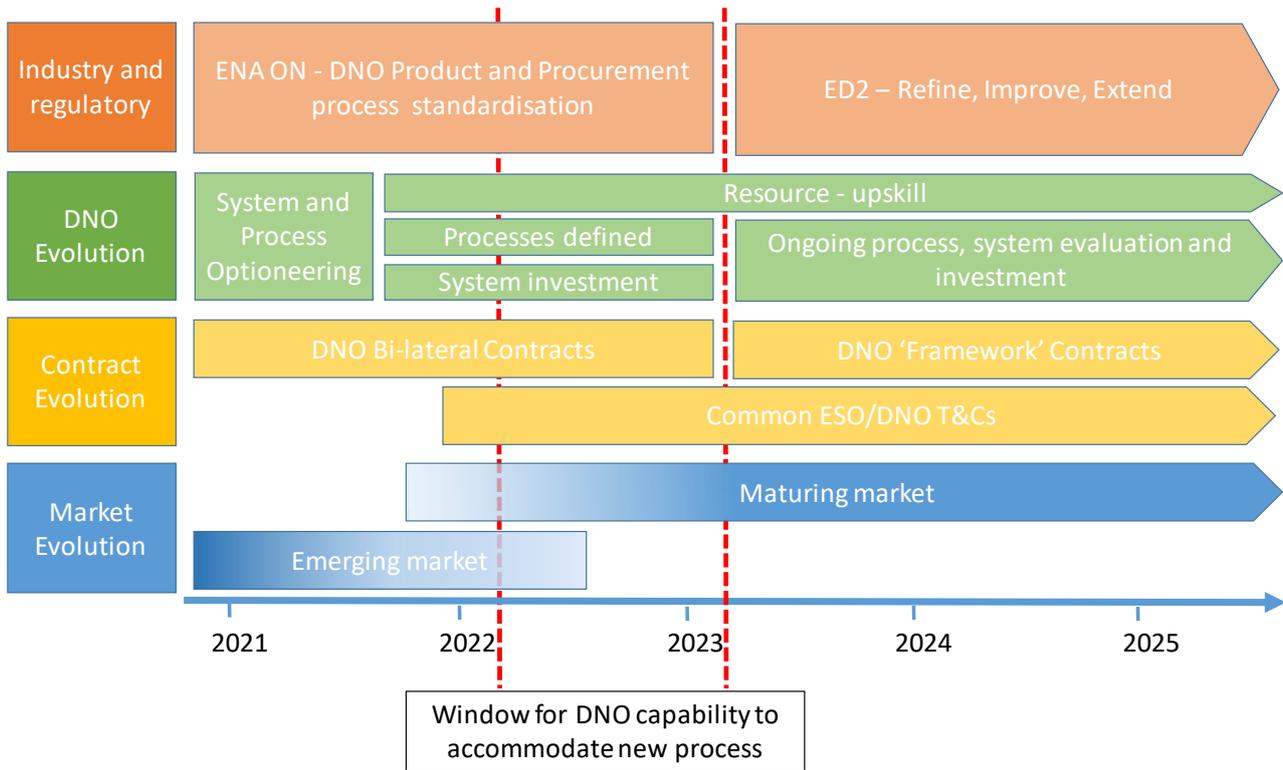
Across the ENA supported T.E.F (Transition, EFF and Fusion) projects and individual innovation projects such as SSEs Local energy Oxford (LEO) project, many of these impacts and requirements expect to be defined in more detail, in turn informing what new resources, skill sets and systems will be required.

For the immediate future however, it must be acknowledged that DNO's are still within an early stage of development and with different levels of technical capability, experience and levels of supporting resource. When considering the significant shift expected from DNOs, initially in enabling new approaches to procuring and contracting with services, then to the resultant increase in contracted services and service implementations as a result, it is reasonable to expect that the existing teams and individuals currently supporting Flexibility services will need further support and an expansion of skills.

3 Timelines

Acknowledging that there are existing variances in both the level of Flexible Service implementation, supporting systems, resource and support across DNO's the P4 team have discussed and agreed a shared 'window' of readiness for the new common framework of procuring and contracting Flexibility Services. Key elements outlined in this paper will be critical in enabling this industry approach, notwithstanding that the P4 team will

also need to produce a further version of the Standard Agreement, beyond Version 2 expected in December 2021.



Based on the timelines submitted by each DNO the P4 team should prepare a 'framework' version of the common contract and achieve ESO/DNO alignment by April 2023

4 Points for industry & regulatory consideration

Delivery of contracting evolution will then provide ability to release a new version of the P4 Standard Agreement and procurement timelines, which could be developed alongside the evolution as key stages reach delivery. It's essential to note that even when alignment is achieved, ESO and DNO services will still remain inherently different and there may be exceptions, such as Blackstart and Balancing Mechanism services which remain inherently complex to align with the wider suite of services, and their contractual structures.

5 Summary & Next Steps

This paper outlines the steps required to be undertaken to deliver a more framework-based flexibility service contracting environment for DNO and ESO services. Some development, such as the implementation of enabling elements e.g. DPS across DNO's is already underway, as are exploratory innovations projects such as

the TEF group of projects and the ENA WS3 DSO planning works. Despite this, it would be wrong to understate the level of complexity facing the DNOs and ESO in achieving the individual steps required for full alignment leading to an industry wide Standard Agreement.

There are also key regulatory and commercial challenges which need further exploration such as the interpretation of procurement regulations, how the framework can be fully adopted across the emerging DSO Markets when considering the varying experience of the providers wishing to interact, and, finally a reflection in the wider DSO and ED2 planning process of the required resourcing which will result from such an adoption.



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