

Possible options to incorporate Amendments Panel Members Recommendations in CUSC Amendment Reports - short and longer term.

Introduction

1. NGC understand that the Appeals mechanism in relation to Authority CUSC Amendment decisions is likely to be in effect relatively soon, and that Authority CUSC Amendment decisions will not be capable of being appealed, where the Authority decision is in accordance with the CUSC Panel Recommendation. Unlike other Code arrangements, the CUSC arrangements are not currently such as to ensure that the Amendments Panel gets to discuss an Amendment Report and make a recommendation, immediately prior to it going to the Authority.
2. This paper proposes two possible options in relation to working practices, which would ensure that a Panel Recommendation is included within CUSC Amendment Reports, and that such a Recommendation is of the same quality as Panel Recommendations on other Panels. NGC believe that a short term work around is necessary, given that the Appeals mechanism is likely to be “live” in the next month or so, and would invite the Amendments Panel to consider which approach they believe should be adopted.
3. Whilst NGC believes that a working practice could be adopted in this area, longer term a CUSC Amendment could be necessary. NGC propose that the CUSC Governance Standing Group is invited to look at this area further, and to bring their recommendations back to the Amendments Panel.

Short term proposals

4. We believe that there are two possible options for ensuring that Panel Member Recommendations are included in CUSC Amendment Reports. The first focuses on ensuring that the Amendments Panel reaches a collective view at the Draft Amendment Report phase. The second focuses on Panel Members providing an independent recommendation at the Consultation phase.

(1) Collective Decision at the Draft Report Stage

5. At each “normal” Amendments Panel Meeting, NGC will highlight those Amendments where it is envisaged that an Amendment Report is scheduled to be submitted to the Authority in the coming month, and will highlight that a Panel Member Recommendation will be needed. NGC will seek views at this stage as to whether the Amendments Panel wishes to reach a collective decision as to a Panel Recommendation by Conference Call, or face to face meeting. The expectation being that in most cases Conference calling will be used, but with the option always provided for anyone to come to NGC if they wish to participate in the call from here. (If the Panel believe an

Amendment proposal is significantly non-contentious, e-mail could perhaps be used.)

6. When NGC circulate the draft Amendment Report for its factual accuracy check, 5 days before submitting it to the Authority, NGC will formally suggest a time and a date for the Panel to discuss its Recommendation. (Generally 3 days into the 5 day period.) The Panel Recommendation will record whether the majority of the Panel supported/ did not support implementation of the Original proposal, or any of the Alternatives.
7. NGC will then circulate the Report including the Panel Recommendation to Panel Members, at least 24 hours before submitting the Report to the Authority.
8. Where a number of Amendment Reports are likely to need a Panel Recommendation within a given month, NGC will endeavour to ensure that the Panel get to discuss their recommendation on the same Conference Call etc.

Option 2 - Independent Panel Members Recommendations

9. Alternatively, CUSC Consultation Documents could be amended to specifically ask Panel Members in their capacity as Panel Members as to whether or not they believe an Amendment proposal (or any Alternative) better facilitates the Applicable CUSC Objectives. (And hence should be implemented.) The question would be asked again in relation to any Consultation Alternative Amendment that was raised at the Consultation phase. Panel Members views could then be recorded, and a break down given as to how many Panel Members did/ did not support the Amendment proposal, and their reasons for so doing.
10. Such an approach would have the advantage of not needing any additional meetings. However, it could only work effectively if Panel Members were comfortable to provide their views during the Consultation process in this way, and the Amendments Panel were comfortable creating their recommendation via a series of individual recommendations, rather than Collective discussion.

Next Steps

- The Amendments Panel is invited to consider whether Options 1 or 2 would be a pragmatic short term approach to this issue.
- The Amendments Panel is invited to consider whether the Governance Standing Group should be asked to assess whether or not a more formal Amendment is needed, as a long term solution in this area.