

# WP133 – EMR Metering Disputes Resolution Procedure

EMRS Working Practice

Public

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## Change Amendment Record

Version	Date	Description
1.0	20 October 2015	Go-Live Version
2.0	16 May 2018	Transfer to new template and minor amendments
3.0	14 June 2019	Updates for references and error correction in sections 1.1, 2.2, 2.3 and 3.2 to 3.8
4.0	27 August 2020	Annual Review
5.0	2 November 2021	Minor errors in sections 2, 3, 4 and 5 corrected.
6.0	21 December 2022	Housekeeping updates

# 1. Introduction

The generator in Contracts for Difference (CfD) and the Capacity Provider in the Capacity Market (CM) have the right of appeal against any determination of non-compliance against them. The rules governing the resolution and Dispute process are contained within the CfD Agreement and the Capacity Market Rules, as applicable. The CfD Counterparty (Low Carbon Contracts Company) manages CfD and the CM Settlement Body (Electricity Settlements Company) manages CM.

The Low Carbon Contracts Company (LCCC) and Electricity Settlements Company (ESC) have outsourced the metering assurance process to a Management Services Provider (MSP). The MSP will appoint a suitably qualified agent to check compliance to the technical specifications and perform onsite testing; the Metering Agent (MA). Non-compliances can arise from testing and analysis by the MA.

LCCC and ESC have appointed EMR Settlement Ltd (EMRS) to perform the role of the CfD Settlement Services Provider (SSP) and the CM SSP. EMRS must receive Metered Volumes from Capacity Providers in CM and from CfD Generators in CfD.

The Dispute process will be managed by the LCCC / ESC<sup>1</sup>, as applicable. This document is only applicable to Metering related Disputes arising from MA / MSP decisions involving Metering, and where this includes Metered data.

## 1.1 Scope and Purpose

This document has been written by EMRS on behalf of the LCCC for CfD and the ESC for the CM. It covers procedures for the MSP and MA roles. The MSP role is being fulfilled by EMRS. If you have any questions on the MSP and MA roles please contact LCCC or ESC.

This working practice primarily relates to Metering activities where the MSP / MA have made a determination that the CfD Generator or Capacity Provider Metering System is not compliant; and where this also relates to issues with Metered Data, that under the regulations are to be dealt with under the Balancing and Settlement Code (BSC), the process will simply refer to the applicable BSC process.

Any Supplier related Disputes are not considered within this working practice.

Table 1 lists the working practices and guidance documents related to the MSP / MA that can lead to a metering related Dispute process.

The Balancing and Settlement Code Company (BSCCo) is listed as it can be the initial trigger that may result in a targeted audit being requested by LCCC / ESC and carried out by the MA.

Table 1: Party that is the source of the Trigger.

Trigger: Party	Working Practice and Guidance
MSP / MA	G21 – Operational Conditions Precedent (Metering and Settlement) & Electrical Schematic Obligation <sup>2</sup>
MSP / MA	WP134 – CfD Metering Technical Assurance <sup>3</sup>
MSP / MA	WP197 – CM Metering Test <sup>3</sup>
MSP / MA	WP196 – CM Metering Technical Assurance <sup>3</sup>
BSCCo	WP3 – BSCCo Trading Disputes & Non-Compliances in EMR <sup>3</sup>

<sup>1</sup> <https://www.lowcarboncontracts.uk/publications/capacity-market-dispute-resolution-0>

<sup>2</sup> <https://www.emrsettlement.co.uk/publications/guidance/>

<sup>3</sup> <https://www.emrsettlement.co.uk/publications/working-practices/>

The references to other working practices and guidance documents that are linked to this document are specified in Table 2; this includes point of origin and where to return to from this Working Practice.

Table 2: Links to other Working Practices

Working Practice	From Section Step Reference	Return to Section Step Reference
<a href="#">G21</a> – Operational Conditions Precedent (Metering and Settlement) & Electrical Schematic Obligation	Section 9	Section 9
<a href="#">WP134</a> – CfD Metering Technical Assurance	4.3.13	4.3.14
<a href="#">WP197</a> – CM Metering Test	4.3.3	4.3.3
<a href="#">WP196</a> – CM Metering Technical Assurance	4.3.1	4.3.1

Any metering related Dispute will be between the LCCC and the CfD Generator; or the ESC and the Capacity Provider. Notifications related to a Dispute will be issued by LCCC / ESC, as applicable.

The MSP / MA are responsible for validation, testing and reporting findings to the LCCC / ESC. This includes reporting any non-compliances on the CfD Generator’s or Capacity Provider’s Metering System.

EMRS will provide any relevant information to the LCCC / ESC as requested. LCCC / ESC will make the final decision as to whether any non-compliance or Dispute process should commence.

There are a number of ways that a Metering Related Dispute can begin. The most common instance is where a CfD Generator or a Capacity Provider does not accept that they have any non-compliance and are seeking to resolve the difference in opinion through mediation or by a determination by an independent Expert.

The trigger for metering related Disputes can be:

From MSP / MA:

- Operational Conditions Precedent (Metering related)
- CM Metering Test
- CM & CfD Metering Technical Assurance (i.e. a Site Audit)

From other sources:

- BSCCo Audit<sup>4</sup>
- LCCC
- ESC
- EMRS (acting as the CM or CfD Settlement Services Provider)

For any billing statement Dispute or part of a Dispute that relates to the calculation of the Loss Adjusted Metered Output (LAMO) in respect of a Settlement Unit (a “Metering Dispute”) such Metering Dispute shall be treated as a Trading Dispute pursuant to the BSC and shall be resolved in accordance with the provisions set out therein (to the exclusion of the Dispute Resolution Procedure).

The BSC Trading Disputes process (BSCP11 Trading Disputes<sup>5</sup>) takes precedence and is not discussed in this working practice other than the CfD Generator requirements to notify LCCC. Refer to section 3.1.

<sup>4</sup> A BSCCo Audit non-compliance will be notified to EMRS who will inform the LCCC if it relates to EMR. LCCC can then issue a Metering Compliance Breach Notice to the CfD Generator.

<sup>5</sup> <https://www.elexon.co.uk/csd/bscp11-trading-disputes/>

The BSC Technical Assurance Audit process (BSCP27 Technical Assurance of Half Hourly Metering Systems for Settlement Purposes<sup>6</sup>) is only relevant to this document if the LCCC or ESC request the MA to conduct a targeted audit to investigate the non-compliance and they confirm the non-compliance and the CfD Generator or Capacity Provider disputes that non-compliance.

## 1.2 Main Users of this Document and Responsibilities

Table 3: Main Users and Responsibilities

Role	Responsibilities
Capacity Provider	To resolve a non-compliance and / or participate in Disputes process
CfD Generator	To resolve a non-compliance and / or participate in Disputes process
Electricity Settlements Company (ESC)	To arrange a Service Provider to manage the metering assurance process and participate in the Disputes process.
EMR Settlements Ltd (EMRS)	To check Metered Volumes if requested to do so by an EMR Party and to provide requested information as part of the Disputes process.
Low Carbon Contracts Company (LCCC)	To arrange a Service Provider to manage the metering assurance process and participate in the Disputes process.
Management Services Provider (MSP)	Service Provider who will perform the management of the Metering Assurance Process on behalf of the LCCC and ESC. To participate in resolution of a non-compliance and / or metering related Disputes process.
Metering Agent (MA)	Service Provider who will perform the onsite testing and analysis of technical specifications and test results on behalf of the Management Services Provider. To participate in resolution of a non-compliance and / or metering related Disputes process.

## 1.3 Associated Documents

This working practice should be read in conjunction with the following documents:

Document
Electricity Capacity Regulations 2014 <sup>7</sup> and all subsequent amendments
Capacity Market Rules 2014 <sup>8</sup> and all subsequent amendments
CfD Standard Terms and Conditions and all subsequent amendments <sup>9</sup>
CfD Agreement and all subsequent amendments <sup>9</sup>
Private Network CfD Agreement and all subsequent amendments <sup>9</sup>
BSCP11 – Trading Disputes <sup>5</sup>
BSCP27 – Technical Assurance of Half Hourly Metering Systems for Settlement Purposes <sup>6</sup>
<a href="#">WP197</a> – Capacity Market Metering Test

<sup>6</sup> <https://www.elexon.co.uk/csd/bscp27-technical-assurance-of-half-hourly-metering-systems-for-settlement-purposes/>

<sup>7</sup> <http://www.legislation.gov.uk/ukxi/2014/2043/contents/made>

<sup>8</sup> <https://www.gov.uk/government/publications/capacity-market-rules>

<sup>9</sup> <https://www.gov.uk/government/publications/contracts-for-difference-standard-terms-and-conditions>

Document
<a href="#">LCCC CM Dispute Resolution Document</a>
<a href="#">WP196</a> – Capacity Market Metering Technical Assurance
<a href="#">WP3</a> – BSCCo Trading Disputes & Non-Compliances in EMR
<a href="#">G21</a> – Operational Conditions Precedent
<a href="#">WP134</a> – Contracts for Difference Metering Technical Assurance

## 2. Required Supplier Information

### 2.1 Non-Compliance and Dispute Resolution – Process

The CfD Agreement or CM Rules will specify how the non-compliance and Dispute process will be managed. In some instances, the first stage will be mediation between the parties before an independent determination will be sought. The relevant Agreement or Rules will specify whether the Dispute goes through mediation or straight to the Expert Determination Process.

### 2.2 CfD Metering Related Disputes

#### Operational Conditions Precedent Rejection or Private Network LAMO Dispute

In CfD, the process in Figure 1 will be followed if the trigger of the metering related Dispute is a Generator not accepting that an Operational Conditions Precedent has not been met (3.11 (B)<sup>10</sup>) or a Private Network Metering Dispute (23.5) (specifically issues with the calculation of LAMO for a Private Network CfD Generator).<sup>11</sup>

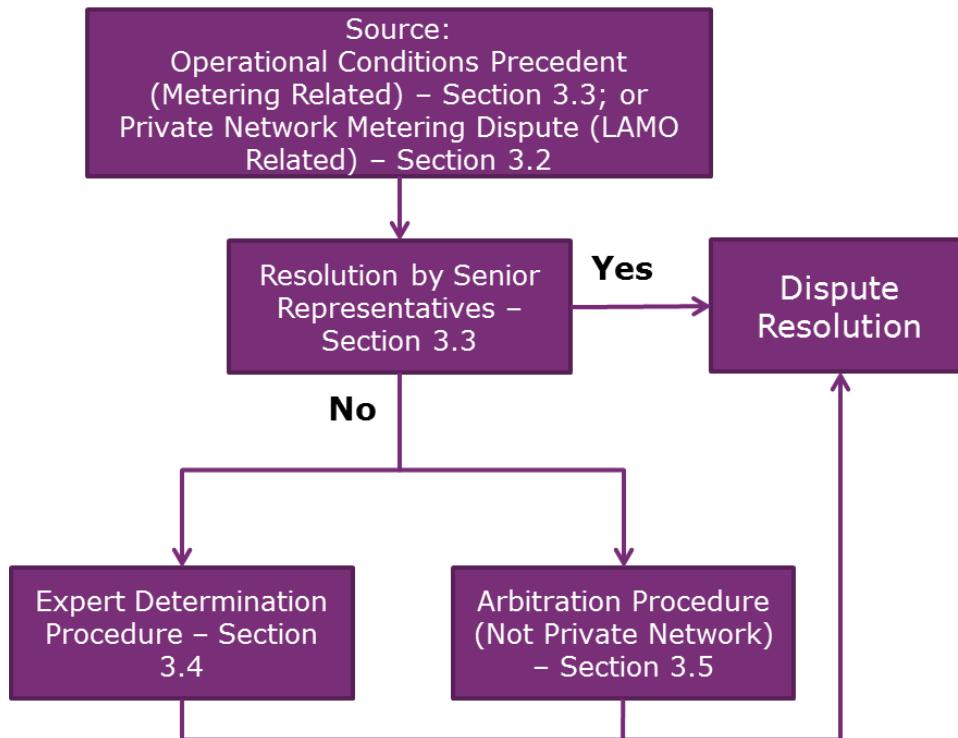


Figure 1: Dispute Resolution Process 1.

The Arbitration Process is not available to CfD Generators operating on a Private Network; the Agreement only specifies the Expert Determination Procedure route.

A Private Network Metering Dispute will begin in Section 3.2 and continue to Section 3.3 to account for the added requirements in the Private Network Agreement on LAMO related Disputes prior to the commencement of the Resolution by Senior Representatives.

#### Metering Breach

In CfD the process in Figure 2 will be followed if the trigger of the Metering related Dispute is a CfD Generator not accepting that a Metering Breach Notice (31.3 (B)<sup>10</sup>) should have been issued for a Metering non-compliance. This is applicable for CfD Generators using BSC Settlement Meters and Private Network Meters.

<sup>10</sup> Contract for Difference Standard Terms and Conditions

<sup>11</sup> Private Network CfD Agreement



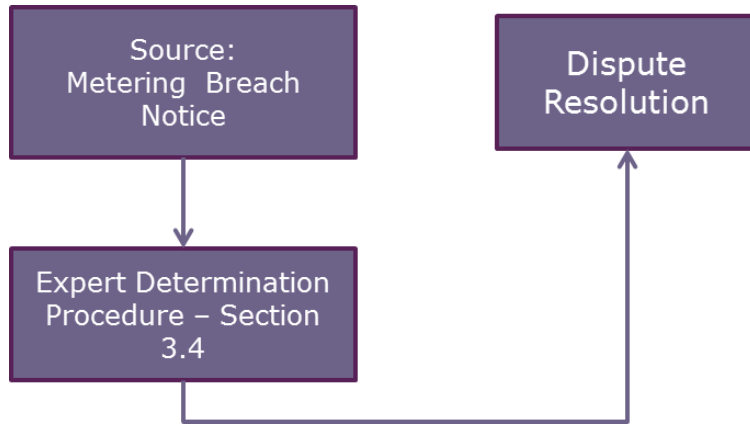


Figure 2: Dispute Resolution Process 2.

### 2.3 Capacity Market Metering Related Disputes

#### Metering Test Failure Rejection

In CM, the process in Figure 3 will be followed if the trigger of the Metering related Dispute is a Capacity Provider not accepting that a Metering Test Certificate was not issued (13.3.9<sup>12</sup>) after a Metering Test or a Metering non-compliance notice was issued (13.5.12<sup>12</sup>) after a site audit. This is applicable for Capacity Providers using BSC Settlement Meters, Bespoke Meters and Balancing Services Meters.

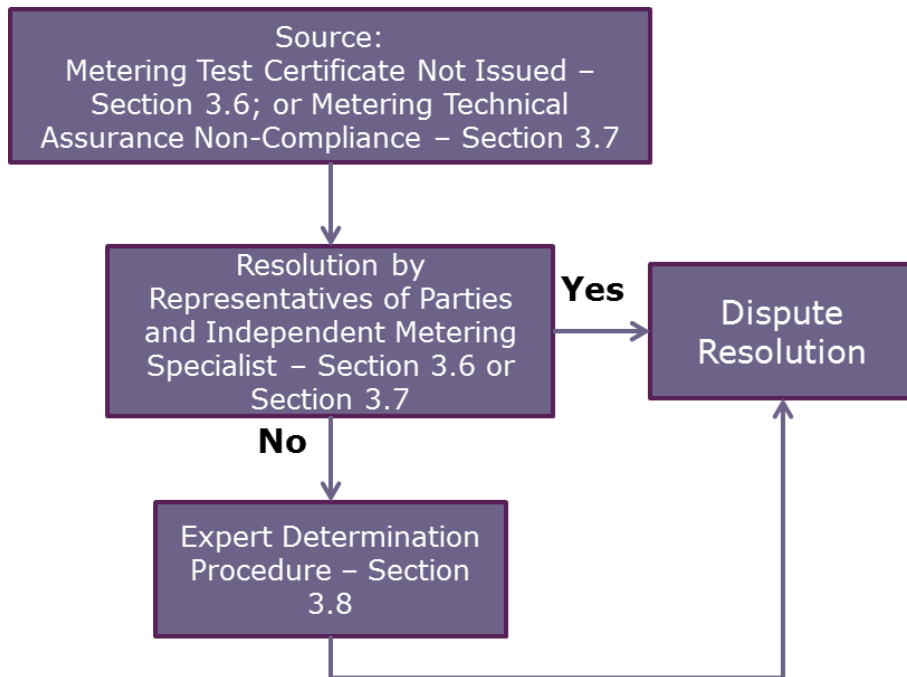


Figure 3: Dispute Resolution Process 3.

### 2.4 Dispute Notifications Requirements

Any Dispute notification is sent by the LCCC to the CfD Generator or by the ESC to the Capacity Provider.

CfD Dispute notice templates are contained in Annex 8 of the CfD Standard Terms and Conditions. The templates identify the items that must be included in these notices.

In CM the format and content of the notifications will be agreed with ESC.

<sup>12</sup> The Capacity Market Rules

### 3. Interface and Timetable Information

#### 3.1 Metering Disputes in CfD – Balancing and Settlement Code (BSC)

A Metering Dispute in CfD that relates only to a Dispute with the calculation of the Loss Adjusted Metered Output (LAMO) in respect of a Settlement Unit. If the Metering System that is used by the BSC for Settlement is used in CfD the Dispute will be dealt with using BSC processes. In this instance the Dispute will be resolved as a Trading Dispute under the BSC and not by the Dispute Resolution Procedure in the CfD Agreement.

The Registrant of the Metering System should raise a BSC Trading Dispute where an error needs to be corrected. BSCCo will also raise a Trading Dispute where it is notified of any matters which would or might reasonably be expected to give rise to a BSC Trading Dispute (see BSC Section W 1.5.1).

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.1.1	Condition 23.5, 23.6, 23.7 and 63	As required	A Metering Dispute shall be resolved as a Trading Dispute in accordance with the BSC. Follow BSCP11	Raising Party (Any BSC Party)	Disputes Secretary	Completed Form BSCP11/01 containing all the information required in accordance with paragraph 1.4 in BSCP11.	Email, fax
3.1.2	Condition 23.7	As soon as reasonably practicable and no later than 5 WD after Generator becomes aware of Trading Dispute	Notify LCCC that a Trading Dispute has commenced; <b>or</b> a matter or circumstance which will or is reasonably likely to give rise to a Trading Dispute  <b>END PROCESS</b>	CfD Generator	LCCC	Notification	Email

### 3.2 Metering Disputes in CfD – Private Networks

In the case of a Generator operating on a Private Network, a Metering Dispute in CfD relates only to a Dispute with the calculation of the LAMO will be dealt with by the Private Network Dispute Resolution Procedure as specified in the CfD Agreement. This is the same as the Dispute Resolution Procedure in the CfD Agreement standard terms and conditions with the only difference being there is no provision for the Dispute being taken to an Arbitration Tribunal.

As the Metering System is not registered under the BSC the BSC Trading Dispute process does not apply.

This process only deals with identification and notification of the Metering Dispute. The process continues to Resolution by Senior Representatives (Section 3.3 and potentially the Expert Determination Procedure (Section 3.4)).

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.2.1		As required	Identify an issue with LAMO	Raising Party (Any EMR Party)	Impacted Party (LCCC, Generator)	CfD ID; Supporting Information as evidence of issue	Email
3.2.2	Condition 23.7	As soon as reasonably practicable after Generator becomes aware of Metering Dispute	Notify LCCC that a Metering Dispute has commenced; <b>or</b> a matter or circumstance which will or is reasonably likely to give rise to a Metering	CfD Generator	LCCC	Notification	Email
3.2.3	Condition 23.5, 23.6, 23.7 and 62	Following 3.2.1	A Private Network Metering Dispute shall be resolved using the Dispute Resolution by Senior Representatives Procedure.  Continue to 3.3 <b>END PROCESS</b>				

### 3.3 CfD Resolution by Senior Representatives

The Contracts for Difference Resolution by Senior Representatives Procedure can be initiated as a result of the Generator not agreeing with the non-compliance for an Operational Conditions Precedent (OCP) or a Private Network Metering Dispute (LAMO related), see Section 3.2. Either party may initiate the Dispute Resolution procedure but it is logical that the Generator shall raise it, as they are the recipient of the CP Response Notice (or Further CP Response Notice) in the case where the MSP / MA have decided that a Metering OCP has not been met.

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.3.1	57.3	Following receipt of CP Response Notice or Further CP Response Notice or following notification of Private Network Metering Dispute, as applicable	Initiate Dispute Resolution Procedure (“Dispute Notice”)	LCCC  Generator	Generator  LCCC	Items in Dispute Notice <sup>13</sup> template	Email
3.3.2		Same WD as 3.3.1	Notify MSP of Dispute	LCCC	MSP	Dispute Notice	Email
3.3.3	57.4 (A)	Within 10WD of 3.3.1	Arrange and hold meeting with nominated Senior Representatives	Both Parties (LCCC & Generator)	Both Parties (LCCC & Generator)	Nominated Senior Representatives contact details; Location of meeting;	Email
3.3.4	58.1	Following 3.3.3 and within 30 WD receipt of Dispute Notice in 3.3.1	If resolution is agreed both parties will sign a written document detailing the Resolution, continue to 3.3.5; <b>or</b>	Both Parties (LCCC & Generator)	Both Parties (LCCC & Generator)	Written confirmation of decision; including terms of the agreement, settlement,	Email

<sup>13</sup> Template in Contract for Difference Standard Terms and Conditions

Ref	Condition	When	Action	From	To	Input Information Required	Method
		("Resolution Period")	<p>If no Resolution is agreed, and after the expiry of the Resolution Period (unless agreement from both parties to proceed prior to the expiry), the dispute shall be submitted to either: an Expert for determination in accordance with the Expert Determination Procedure <b>or</b></p> <p>Arbitration by LCIA in accordance with Arbitration Procedure.</p> <p>Continue to 3.3.5.</p>			<p>compromise or Resolution reached between the Senior Representatives in respect of the Dispute</p>	
3.3.5		Same WD as 3.3.4	<p>Notify MSP of the decision.</p> <p>If Resolution is agreed continue to working practice or guidance document that triggered Disputes Resolution Procedure (see Table 2 Section 2.1); <b>or</b></p> <p>If no Resolution is agreed: if the dispute is to be submitted to an Expert for</p>	LCCC	MSP	Decision of Senior Representatives	Email

Ref	Condition	When	Action	From	To	Input Information Required	Method
			determination continue to 3.4; <b>or</b>  If the dispute is to be resolved by arbitration by LCIA continue to 3.5.  <b>END PROCESS</b>				

### 3.4 CfD Expert Determination Procedure

The Contracts for Difference Expert Determination Procedure can be initiated where the Generator does not agree with the Metering Breach Notice and a resolution cannot be agreed with the LCCC/MSP.

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.4.1	59.1	Following 3.3.5 or CfD Metering Technical Assurance Working Practice 4.3.13	Submit the dispute to expert determination	Claimant (LCCC or Generator)	Respondent (Generator or LCCC)	Items in Expert Determination Notice <sup>1413</sup> template	Email or Post
3.4.2		Within 1WD of 3.4.1	Notify MSP of Expert Determination Procedure	LCCC	MSP	Expert Determination Notice	Email
3.4.3	59.3 (A)	Within 10 WD after receipt of notification of 3.4.2	<p>Give notice as to whether it agrees to the appointment of the proposed Expert and the terms of reference:</p> <p>If the Expert and terms of reference proposed are agreed continue to 3.4.7; <b>or</b></p> <p>If the Expert proposed is not agreed but the terms of reference are; continue to 3.4.4; <b>or</b></p>	Respondent (Generator or LCCC)	Claimant (LCCC or Generator)	<p>Items in Expert Determination Response Notice<sup>14</sup> template</p> <p>If the Respondent disagrees, it must propose an alternative Expert or alternative terms of reference, as applicable.</p>	

<sup>14</sup> Template in Contract for Difference Standard Terms and Conditions

Ref	Condition	When	Action	From	To	Input Information Required	Method
			If the Expert proposed is agreed but the terms of reference are not; continue to 3.4.7				
3.4.4	59.3 (A)	Within 20 WD after receipt of notification of 3.4.1 and after receipt of notification in 3.4.3	If the Parties agree to the proposed appointment of the alternative Expert continue to 3.4.7; <b>or</b>  If the Parties do not agree to the proposed appointment of the alternative Expert continue to 3.4.5;	Claimant (LCCC or Generator)	Respondent (Generator or LCCC)	Expert Determination Response Notice  Notify as to whether the Claimant agrees or disagrees with the proposed appointment of the alternative Expert in 3.4.3	Email
3.4.5	59.4	Within 20 WD after receipt of notification of 3.4.1 and after receipt of notification in 3.4.4	Either party can request that the Expert be nominated by the London Court of International Arbitration (LCIA)	Either Party (LCCC or Generator)	LCIA	Request that the Expert in the Determination Procedure be nominated by the London Court of International Arbitration (LCIA).	Email or Post
3.4.6		Following 3.4.5	Inform the Parties the identity of the Expert.	LCIA	LCCC; and Generator	Identity of the Expert	Email or Post
3.4.7	59.5 (A) (i)	Within 10 WD of agreeing the identity of the Expert (3.4.3, 3.4.4 or 3.4.6 as applicable)	The appointed Expert must confirm in writing that they accept the role and have no conflict of interest.	Expert	LCCC; and Generator	Written confirmation	Email or Post



Ref	Condition	When	Action	From	To	Input Information Required	Method
3.4.8	59.5 (A) (ii)	Within 10 WD of agreeing the identity of the Expert (3.4.3, 3.4.4 or 3.4.6 as applicable)	The terms of the appointment and the terms of reference for the Expert are agreed.  This is the "Expert Appointment Date"	LCCC; Generator; and Expert	Expert	Issue an Appointment Letter to the Expert  The terms should include non-disclosure of information and exemption from liability to satisfy Conditions (Condition 59.5 (A) (ii) (a) & (b))	Email or Post
3.4.9	59.5 (B)	Same WD as 3.4.8	The Parties shall instruct the Expert to:  Act fairly and impartially; Take the initiative in ascertaining the facts and the law; and If requested in writing to provide reasons for the decision	LCCC; and Generator	Expert	Issue instructions to the Expert	Email or Post
3.4.10	59.6 (A)	Within 10 WD of appointment letter being sent to Expert (Expert Appointment Date) in 3.4.8	Send a copy of the Expert Determination Notice  The date the Expert receives this Notice is the "Expert Referral Date"	Claimant (LCCC or Generator)	Expert	Expert Determination Notice	Email or Post

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.4.11	59.5 (C) (i)	Within 10 WD of the Expert Appointment Date (3.4.8)	The Expert shall produce a procedure (including the timetable) for the determination of the dispute.	Expert	LCCC; and Generator	Procedure to determine the resolution of the dispute.	Email or Post
3.4.12	59.5 (C) (iii)	Within 10 WD of Expert Appointment Date (3.4.8)	Request the Expert to determine the dispute within the earlier of:  30 WD following the date on which a Response Submission has been provided by each Party; and  80 WD after the Expert Referral Date (3.4.10).	LCCC; and Generator	Expert	Send determination resolution request	Email or Post
3.4.13	59.6 (B)	Within 20 WD of the Expert Referral Date (3.4.10)	Parties may submit a written statement of its case together with any Supporting Information ("First Submission")  ("First Submission Deadline" is 20 WD after "Expert Referral Date")	LCCC; and Generator	Expert; LCCC; and Generator	Send First Submission documentation.  A copy must be provided to the other party.	Email or Post

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.4.14	59.6 (C)	Within 30 WD of receipt of the First Submission (3.4.13)	Parties may submit a reply to 3.4.13	LCCC; and Generator	Expert; LCCC; and Generator	Send Response Submission and any Supporting Information.  A copy must be provided to the other party.	Email or Post
3.4.15	59.9 and 59.11	Following 3.4.14 and within timescales in 3.4.12	Inform the Parties:  Of the decision; and The allocation of fees, expenses and costs.	Expert	LCCC; and Generator	Expert determination and costing information (fees and expenses)	Email or Post
3.4.16		Same WD as 3.4.15	Notify MSP of the decision.  Continue to working practice or guidance document process that triggered Expert Determination Procedure (see Table 2 Section 2.1)  <b>END PROCESS</b>	LCCC	MSP	Expert determination	Email

### 3.5 CfD Arbitration Procedure

The Contracts for Difference Arbitration Procedure can be initiated as a result of the Senior Representatives of both parties being unable to resolve an Operational Conditions Precedent non-compliance. Either party can initiate the Arbitration Procedure but it is logical that as the generator is the party that does not consider the non-compliance to be valid it will initiate the process.

Ref	Condition	When	Action	From	To	Input Information Required	Method
3.5.1	58.1 (B) or 58.2 (A) and 60.1	Following 3.3.5 and after Resolution Period; or after agreement from Senior Representatives to submit dispute to arbitration	Submit the dispute to determination by an Arbitration Tribunal	Either Party (Generator or LCCC)	LCIA	Written request for arbitration to the Registrar of the LCIA Court  Refer to LCIA Arbitration Rules for the process:  LCIA Dispute Resolution Services Arbitration Rules 2014 <sup>15</sup>	Email or Post
3.5.2	60.2	Following 3.5.1 and within timescales in the LCIA Rules	Inform the Parties of the decision of the Arbitral Tribunal	LCIA	LCCC; and Generator	Decision of Arbitration Tribunal  Arbitral Award	Email or Post
3.5.3		Following 3.5.2 and within 1 WD	Notify MSP of the decision.  Continue to working practice or guidance document that triggered Disputes Resolution Procedure (see Table 2 Section 2.1)  <b>END PROCESS</b>	LCCC	MSP	Decision of Arbitration Tribunal  Arbitral Award	Email

<sup>15</sup> LCIA Dispute Resolution Services Arbitration Rules 2014: [http://www.lcia.org/Dispute\\_Resolution\\_Services/lcia-arbitration-rules-2014.aspx%23Article%201](http://www.lcia.org/Dispute_Resolution_Services/lcia-arbitration-rules-2014.aspx%23Article%201)

### 3.6 CM Resolution by Representatives of Parties – Metering Test

The Capacity Market Resolution by Representatives of Parties Procedure can be initiated as a result of a Metering Test where the Capacity Provider does not agree with a Metering Test Certificate not being issued and a resolution can't be agreed with the ESC/MSP.

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
3.6.1	13.3.9 (a)	Within 15 WD of receipt of the Failed Metering Test notification in CM Metering Test Working Practice section 3.3.3	Capacity Provider to provide written representations setting out the reasons why it believes that a Metering Test Certificate should have been issued together with supporting information from an independent metering specialist	Capacity Provider	MSP	Written representations <sup>16</sup> ;  Supporting evidence.	Email
3.6.2		Same WD as 3.6.1	Notify that Capacity Provider does not accept the decision that the Metering Test has been failed	MSP	ESC	CMU ID  Written representations <sup>16</sup> ;  Supporting evidence.	Email
3.6.3	13.3.9 (b)	Within 5 WD of receipt of the information in 3.6.1	MSP to convene a meeting between MSP, MA, ESC, Capacity Provider and independent metering specialist	MSP	MA, ESC, Capacity Provider, Independent Metering Specialist	Date, time and location of meeting.	Email
3.6.4	13.3.9 (c) and (d)	Following meeting	If no resolution has been agreed the Expert			Resolution Outcome	

<sup>16</sup> Format and content to be determined by ESC

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
		arranged in 3.6.3	<p>Determination Process shall be initiated. Continue to 3.6.5; or</p> <p>If resolution has been agreed either:</p> <p>Request a Rectification plan, continue to working practice that triggered the Dispute (see Table 2 Section 2.1) or</p> <p>Issue a Metering Test Certificate, continue to 3.6.6</p> <p><b>END PROCESS</b></p>	MSP	Capacity Provider	Rectification Plan Request <sup>16</sup>	Email
				MSP	Capacity Provider	Metering Test Certificate	Email
3.6.5	13.3.9 (d)	Following 3.6.4	<p>Initiate the Expert Determination Procedure</p> <p>Continue to Expert Determination Procedure 3.8</p>				
3.6.6	13.3.10	Same WD as 3.6.4	Notify ESC & Delivery Body that the non-compliance is invalid and a Metering Test Certificate will be issued	MSP	ESC  Delivery Body	Metering Test Certificate	Email

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
			<p>Continue to working practice that triggered the Dispute (see Table 2 Section 2.1) to issue Metering Test Certificate</p> <p><b>END PROCESS</b></p>				

### 3.7 CM Resolution by Representatives of Parties – Metering Technical Assurance Audit

The Capacity Market Resolution by Representatives of Parties Procedure can be initiated as a result of a Delivery Year Audit or Targeted Audit where the Capacity Provider does not agree with the non-compliance and a resolution can't be agreed with the ESC/MSP.

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
3.7.1	13.5.12 (a)	Within 5 WD of receipt of the non-compliance notification in CM Metering Technical Assurance working practice section 4.3.1	Capacity Provider to provide written representations setting out the reasons why the Capacity Provider believes that a non-compliance notice should not have been issued together with supporting information from an independent metering specialist	Capacity Provider	MSP	Written representations <sup>17</sup> ;  Supporting evidence.	Email
3.7.2		Same WD as 3.7.1	Notify ESC Capacity Provider does not accept non-compliance	MSP	ESC	CMU ID Written representations <sup>17</sup> ; Supporting evidence.	Email
3.7.3	13.5.12 (b)	Within 5 WD of receipt of the information in 3.7.1	MSP to convene a meeting between ESC, MSP, MA, Capacity Provider and independent metering specialist.	MSP	MA, ESC, Capacity Provider, Independent Metering Specialist	Date, time and location of meeting.	Email
3.7.4	13.5.12 (c) and (d)	Following meeting arranged in 3.7.3	If no resolution has been agreed the CM Expert Determination Process shall be			Resolution Outcome	

<sup>17</sup> Format and content to be determined by ESC.



Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
			<p>initiated. Continue to 3.7.5; <b>or</b></p> <p>If resolution has been agreed either:</p> <p>Continue to working Practice that triggered the Dispute (see Table 2 Section 2.1); <b>or</b></p> <p>Issue a compliance notice, continue to 3.7.6</p> <p><b>END PROCESS</b></p>	MSP	Capacity Provider	Compliance Notice <sup>17</sup>	<p>Internal Process</p> <p>Email</p>
3.7.5	13.5.12 (d) and 13.5.13	Following 3.7.4	<p>Initiate the CM Expert Determination Procedure</p> <p>Continue to CM Expert Determination Procedure 3.8</p>				
3.7.6	13.5.14	Same WD as 3.7.4	<p>Notify ESC &amp; Delivery Body that non-compliance invalid</p> <p>Continue to working practice that triggered the Dispute (see Table</p>	MSP	<p>ESC</p> <p>Delivery Body</p>	Compliance Notice	Email

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
			2 Section 2.1) to issue Compliance Notice  <b>END PROCESS</b>				

### 3.8 CM Expert Determination Procedure

The Capacity Market Expert Determination Procedure can be initiated as a result of a Metering Test, Delivery Year Audit or Targeted Audit where the Capacity Provider does not agree with the Metering Test Certificate not being issued or with a non-compliance and a resolution can't be agreed with the ESC/MSP.

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
3.8.1	Schedule 5 part 2.1	Following the meeting arranged with the independent metering specialist and within 10 WD of it (3.6.3 or 3.7.3, as applicable)	Capacity Provider submits the dispute to expert determination.  ("Expert Determination Notice")	Capacity Provider	ESC	Expert Determination Notice <sup>18</sup>	Email
3.8.2		Within 1 WD of 3.8.1	Notify MSP of Expert Determination Procedure	ESC	MSP	Expert Determination Notice <sup>18</sup>	Email
3.8.3	Schedule 5 part 2.3.1	Within 10 WD after receipt of notification in 3.8.1	ESC gives notice as to whether it agrees to the appointment of the proposed Expert and the terms of reference:  If the Expert and terms of reference proposed are agreed continue to 3.8.7; or	ESC	Capacity Provider	Expert Determination Response Notice <sup>18</sup>  If the ESC disagrees it must propose an alternative Expert or alternative terms of reference, as applicable.	Email

<sup>18</sup> Format and content to be determined by ESC.

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
			<p>If the Expert proposed is not agreed but the terms of reference are; continue to 3.8.4; <b>or</b></p> <p>If the Expert proposed is agreed but the terms of reference are not; continue to 3.8.7</p>				
3.8.4	Schedule 5 part 2.3.1	Within 20 WD after receipt of notification in 3.8.1 (Expert Determination Notice) and after receipt of notification in 3.8.3	<p>If the Capacity Provider agrees to the proposed appointment of the alternative Expert continue to 3.8.7; <b>or</b></p> <p>If the Capacity Provider does not agree to the proposed appointment of the alternative Expert continue to 3.8.5;</p>	Capacity Provider	ESC	<p>Expert Determination Response Notice<sup>18</sup></p> <p>Notify the ESC that the Capacity Provider agrees or disagrees with the proposed appointment of the alternative Expert in 3.8.3.</p>	Email

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
3.8.5	Schedule 5 part 3.1	After 20 WD after receipt of notification in 3.8.1 (Expert Determination Process)	Either party can request that the Expert be nominated by the London Court of International Arbitration (LCIA)	ESC; or Capacity Provider	LCIA	Request that the Expert in the Determination Procedure be nominated by the London Court of International Arbitration (LCIA).	Email or Post
3.8.6	Schedule 5 part 3.1	Following 3.8.5	Inform the parties of the identity of the Expert.  Continue to 3.8.7	LCIA	ESC; and Capacity Provider	Identity of Expert	Email or Post
3.8.7	Schedule 5 part 3.2.1 (i)	Within 10 WD of agreeing the identity of the Expert in 3.8.3, 3.8.4 or 3.8.6, as applicable	The appointed Expert must confirm in writing that they accept the role and have no conflict of interest.	Expert	ESC; and Capacity Provider	Written confirmation	Email
3.8.8	Schedule 5 part 3.2.1 (ii)	Within 10 WD of agreeing the identity of the Expert in 3.8.3, 3.8.4 or 3.8.6, as applicable	The terms of the appointment and the terms of reference for the Expert are agreed. Issue an Appointment Letter to the Expert.	ESC; Capacity Provider; and Expert	Expert	The terms should include non-disclosure of information and exemption from liability to satisfy Rules (Rule Schedule 5 3.2.1 (ii) (a) & (b))	Email

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
3.8.9	Schedule 5 part 3.2.2	Same WD as 3.8.8	<p>The ESC and Capacity Provider must instruct the Expert to:</p> <p>Act fairly and impartially;</p> <p>Take the initiative in ascertaining the facts and the law; and</p> <p>If requested in writing to provide reasons for the decision.</p>	ESC; and Capacity Provider	Expert		Email
3.8.10	Schedule 5 part 3.3.1	Within 10 WD of appointment letter being sent to Expert in 3.8.8	Send a copy of the Expert Determination Notice.	Capacity Provider	Expert	Expert Determination Notice <sup>18</sup>	Email
3.8.11	Schedule 5 part 3.2.3 (i)	Within 10 WD of appointment letter being sent to Expert in 3.8.8	The Expert shall produce a procedure (including the timetable) for the determination of the dispute.	Expert	ESC; and Capacity Provider	Procedure to determine the resolution of the dispute	Email
3.8.12	Schedule 5 part 3.2.3 (iii)	Within 10 WD of appointment letter being sent to Expert in 3.8.8	<p>Request the Expert to determine the dispute within the earlier of:</p> <p>30 WD following the date on which a reply</p>	ESC; and Capacity Provider	Expert	Send determination Resolution request	Email

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
			to the First Submission has been provided by each of the Capacity Provider or the ESC; and  80 WD after the Expert receiving the Expert Determination Notice				
3.8.13	Schedule 5 part 3.3.2	Within 20 WD of the Expert receiving the Expert Determination Notice (3.8.10)	May submit a written statement of its case together with any supporting information ("First Submission")	ESC; and Capacity Provider	Expert; ESC; and Capacity Provider	First Submission documentation.  A copy must be provided to the other party.	Email
3.8.14	Schedule 5 part 3.3.3	Within 30 WD of receipt of the First Submission (3.8.13)	May submit a reply to 3.8.13  Send response to First Submission documentation received.  A copy must be provided to the other party.	ESC; and Capacity Provider	Expert; ESC; and Capacity Provider	As provided in 3.8.13	Email
3.8.15	Schedule 5 parts 3.6 and 3.7	Following 3.8.14 and within timescales in 3.8.12	Inform the Parties:  Of the decision, the allocation of fees, expenses and costs.	Expert	ESC; and Generator	Expert determination and costing information (fees and expenses)	Email or Post
3.8.16		Same WD as 3.8.15	Notify MSP of the decision.	ESC	MSP	Expert determination and costing	Email

Ref	Rule or Regulation	When	Action	From	To	Input Information Required	Method
			Continue to working practice process that triggered Expert Determination Procedure (see Table 2 Section 2.1)  <b>END PROCESS</b>			information (fees and expenses)	



## 4. Contact Information

For queries please contact:

Contact Organisation	Contact
Settlement Services Provider (EMR Settlement Ltd (EMRS))	Telephone: 020 7380 4333 Email: <a href="mailto:contact@emrsettlement.co.uk">contact@emrsettlement.co.uk</a>
Electricity Settlements Company (ESC)	Telephone: 0208 187 9308 Email: <a href="mailto:info@electricitysettlementscompany.uk">info@electricitysettlementscompany.uk</a>
Low Carbon Contracts Company (LCCC)	Telephone: 0208 187 9308 Email: <a href="mailto:info@lowcarboncontracts.uk">info@lowcarboncontracts.uk</a>

## 5. Acronyms and Definitions

A list of acronyms and definitions is available in the glossary on our website.<sup>19</sup>

<sup>19</sup> <https://www.emrsettlement.co.uk/glossary/>

