**Openreach Portfolio Products Contracts Group(s)**

**Best Practice Guide**

**Background**

This document sets out “best practice guide” to be used during discussions within the “contracts group(s)” for each of the Openreach portfolio products. In the absence of any agreement by the relevant CPs and Openreach to the contrary, this document sets out the default approach of the parties in relation to any contracts group(s) discussions, but these can be amended by the CPs and Openreach where the situation reasonably requires, or to address a particular concern or issue of a CP or Openreach.

This document was first implemented[[1]](#footnote-1) in response to discussions between various parties (including the OTA, Openreach and CPs) to implement a framework agreed by CPs and Openreach for the efficient and transparent conduct of discussions between Openreach and CPs as part of a “contracts group” which is, as far as possible, consistent across Openreach’s product terms and conditions (GEA, WLR3, Connectivity Services, LLU, PIA and Access Locate). It was used as part of the GEA and Connectivity Services contract review discussions (May – September 2014) and reviewed after conclusion of those discussions (October 2014).

**The process**

The process to be followed by the parties is set out below:

1. Openreach issues a briefing to industry inviting CPs to register their interest in participating in the relevant contracts group. The briefing should include:
2. Commencement date;
3. Anticipated duration;
4. Provisional date(s) for first meeting (“**Kick Off**”); and
5. Template issues list for provision of CP issues;

Openreach will also raise its intention to convene a contracts group at the relevant commercial forum(s)[[2]](#footnote-2);

1. CPs register interest with Openreach;
2. CPs who have registered their interest to participate will be invited to join the Kick Off meeting which will be scheduled no later than 4 weeks after the original briefing being issued. The purpose of the Kick Off meeting is to agree:
3. Timetable for future meetings;
4. Early exchange of issues to form part of the review including issues proposed by CPs and Openreach;
5. Time and date of first full review meeting and follow up meetings; and
6. Nominate a chair and deputy. Where no chair has been nominated then Openreach will chair the meetings;

Where the situation reasonably requires or to address a particular concern or issue of a CP or Openreach, the parties may also agree to any specific variation to the best practice guide which will apply to that specific contracts group.

Unless the relevant Openreach product terms and conditions include a specific provision for the duration of any discussions, the anticipated duration of the discussions as part of the contracts group will be agreed by all the parties and any project plan will be adapted to suit the anticipated duration of the discussions[[3]](#footnote-3);

1. Openreach will issue an invitation for the first full review meeting and any follow up meetings. Meetings will normally take place every fortnight unless the parties agree to an alternative date/time;
2. CPs and Openreach will each provide its list of issues (using the agreed template – see appendix 1) to the chair and Openreach will collate all issues into a consolidated issues list. All issues will, where applicable, be ranked by the originator in order of “priority” for that party;
3. Openreach will circulate the consolidated issues list with the contracts group before the first full review meeting. Each issue on the consolidated issues list will be allocated with a unique reference number;
4. At the first full review meeting, the participants will agree:
5. the consolidated issues list and discuss the prioritisation of issues; and
6. an indicative project plan (for template see appendix 2).

Issues which are appropriate to other forums (including but not limited to the CFPCG or EPCG) or the industry Statement of Requirements (SOR) process will be “parked” by the contracts group and referred to the appropriate forum/group for consideration in the first instance;

1. It is the responsibility of each party to ensure that it is appropriately represented at each review meeting and in particular where items raised by that particular CP are scheduled for discussion. The chair or deputy chair will contact any CP who does not attend for more than 3 consecutive meetings (i.e. does not actively participate) to notify them that its items will be closed;
2. A mid-review meeting will be scheduled no later than 12 weeks, or such other date as the parties may agree, after commencement of a contracts group discussions. The purpose of the mid-review meeting will be to consider progress to date, re-prioritise (if appropriate) the key issues and agree any next steps;
3. The parties will agree, either at the mid-review meeting or at a later date agreed by the parties, at which point the issues list will be closed for new issues. This does not include “parked” issues which are referred back to the contracts group following discussion at the relevant forum(s)/group(s) under paragraph 7 above. The purpose of closing the issues list to “new” issues is to ensure successful completion of the review process;
4. At the end of the discussions as part of the contracts group, the parties will agree:
5. The final consolidated issues list;
6. The proposed contract amendments to be notified; and
7. Any next steps;
8. Openreach will notify the agree contract amendments, subject to any applicable notice period, via a product briefing and a tracked version of each contract document on www.openreach.co.uk;
9. On expiry of the relevant notification period, the contract amendments will come into effect[[4]](#footnote-4); and
10. At the end of the discussions as part of any contracts group, the parties will review the outcome of the contracts group including, if applicable, the effectiveness of the best practice guide and any proposed changes to this document.

**Reporting & Notes**

The parties will maintain a record of all discussions. Unless agreed otherwise, Openreach will provide:

1. an updated version of the consolidated issues list in advance of each meeting;
2. updated versions of the contract documents for consideration by the CPs; and
3. notes for each meeting.

Draft notes, actions and any updates should be issued as soon as reasonably practicable following any meeting or call and will be provided in time to allow each of the parties to review any proposed drafting or comments in advance of the next call. The parties will agree a reasonable period for that contracts group. Notes should clearly identify which party prepared them and there should be an opportunity to review the notes at the following meeting to provide an opportunity for all parties to comment on them.

**Role of the Chair and Deputy Chair**

It is the responsibility of the chair (and, if appropriate, the deputy chair) to:

1. manage the best practice guide with the relevant contracts group;
2. act as the key contact for any issues relating to the relevant contracts group;
3. facilitate the meeting(s);
4. ensure that discussions, decisions and actions from the meetings are recorded in a factual and unbiased manner; and
5. agree the agenda.

**Escalation Path**

If any party wishes to escalate an issue, action or related activity as part of the contracts group, the following will apply:

1. The original escalation will be to a nominated Level 1 contact. The parties will use their reasonable endeavours to reach a suitable conclusion or recommendation to the relevant contracts group within 15 working days of the issue(s) being escalated. The nominated Level 1 contacts will be:
   1. an Openreach Chief Counsel;
   2. the person(s) nominated by the CP representative(s);
2. if the Level 1 contact(s) cannot resolve the issue(s) within 15 working days of original escalation, the issue(s) will be escalated to the nominated Level 2 contact(s) and the parties will use their reasonable endeavours to reach a suitable conclusion or recommendation to the relevant contracts group within 10 working days of receipt of the escalation. The nominated Level 2 contacts are:
   1. an Openreach General Counsel;
   2. the person(s) nominated by the CP representative(s).

The parties agree that no issue(s) will be escalated until properly discussed at the relevant contracts group and, if applicable, the relevant working group.

If a party escalates any issue(s) to either Level 1 and/or Level 2, that party will provide all relevant information, including any evidence of the preceding discussions at the time of such escalation.

This best practice guide does not represent a formal dispute process. Nothing in this best practice guide shall prevent any party from referring a dispute to Ofcom in accordance with any right such party may have to request a determination or from taking any other appropriate steps for its resolution.

**Changes to the Best Practice Guide**

The parties will agree any proposed changes in writing and Openreach will publish an updated version of the best practice guide as soon as reasonably practicable following such agreement.

**Appendix 1 – Template Issues List**

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**Appendix 2 – Template Project Plan**

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**Revision History**

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| **Issue** | **Date** | **Notes** | **Distribution** |
| Draft 0.8 | 6 June 2014 | Agreed drafting applied in relation to GEA and Connectivity Service contract reviews 2014 | GEA & CS Contracts Group |
| Draft 0.9 | 28 October 2014 | Amendments to document title (Best Practice Guide), Background, the Process and introduction of Change Control following CP discussions (23 October) | GEA & CS Contracts Group |
| Draft 0.10 | 30 October 2014 | Amendments to Background, the Process and Reporting & Notes following CP discussions (30 October) | GEA & CS Contracts Group |
| Draft 0.11 | 21 November 2014 | Amendments to the Reporting & Notes following CP feedback | GEA & CS Contracts Group |
| Draft 0.12 | 28 November 2014 | General corrections to drafting, updates to “Changes to the Best Practice Guide”, rearrangement of list in paragraph 3 of “the Process” and new fibre and copper forum title (CFPCG) following CP feedback. | GEA & CS Contracts Group |
| Issue 1.0 | 8 December 2014 | Issued document | All CPs |

1. For purposes of the GEA and Connectivity Services contract reviews, the document version was draft 0.8 dated 6 June 2014 [↑](#footnote-ref-1)
2. CPCG/NWG (for copper and NGA products) and EPCG (for Ethernet products) [↑](#footnote-ref-2)
3. Discussions convened as part of a “general review” of the contract will be subject to the timescales set out in the relevant contract. For example, for GEA and Connectivity Services, a general review is requested in accordance with clause 17.3 of the Conditions. [↑](#footnote-ref-3)
4. At the time of writing, for LLU and SLU only, supplementals will be issued to the relevant contracting party [↑](#footnote-ref-4)