



North Sea  
Transition  
Authority

# Dispute resolution guidance

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# Scope and purpose of this guidance

## What does this guidance cover?

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1. The North Sea Transition Authority ('**NSTA**') is the business name of the Oil and Gas Authority ('**OGA**'). The OGA remains the legal name of the company and references to the NSTA in this document should be taken as referring to the OGA and vice versa.
2. The NSTA powers include the ability to consider formally a range of disputes that occur within the upstream oil & gas industry and try to bring about a collaborative solution by making a recommendation to the parties that will assist in resolving such disputes.
3. Sections 19 to 26 of the Energy Act 2016 (the '**2016 Act**') set out the OGA's duties and powers in considering qualifying disputes. This guidance sets out how the NSTA will likely handle such disputes referred to it in accordance with those sections. In particular:
  - 3.1 Section 20 of the 2016 Act provides that a party to a dispute may refer the dispute to the NSTA, with the reference to be made in such manner as the NSTA may require.
  - 3.2 Section 21 of the 2016 Act provides that the NSTA must decide whether such a reference is to be rejected, adjourned (to enable further negotiation between the parties to the dispute), or accepted and to issue guidance about the matters it will have regard to when so deciding. It also provides the grounds on which a reference can be rejected, what steps it must take if a reference is adjourned and that some requirements under this section are sanctionable.
  - 3.3 Section 22 of the 2016 Act provides that the NSTA may decide, on its own initiative, to consider a dispute.
  - 3.4 Section 23 of the 2016 Act provides that, where the NSTA accepts a reference or decides to consider a dispute on its own initiative, it must consider the dispute and make a recommendation for resolving it. It further provides that the NSTA must set a timetable for considering the dispute and making a recommendation for resolving it. Considering the dispute and making a recommendation must be that which the NSTA considers most appropriate and may publish a recommendation or any part of it.

The NSTA is required to issue guidance about the matters to which it will have regard when performing its duties under this section.

4. The NSTA's recommendation must be one which it considers will enable the dispute to be resolved in a way which best contributes to the fulfilment of the principal objective<sup>1</sup> (being maximising the economic recovery of UK petroleum) whilst having regard to the need to achieve an economically viable position for the parties to the dispute.

## Status and purpose of this guidance

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5. This guidance sets out the form and manner in which references should be made and the approach the NSTA is likely to take in considering such disputes, taking into account that each reference will be assessed on its facts. As such, the guidance is intended to be of most relevance to the parties to a dispute.
6. This guidance is not a substitute for any regulation or law and is not legal advice.
7. This guidance will be kept under review and be amended as appropriate in the light of further experience and developing law and practice, and any change to the NSTA's powers and responsibilities.
8. This guidance sets out the NSTA's general approach to dispute resolution in the areas covered by the guidance and the process that it will normally follow (the '**disputes process**'). It does not have binding legal effect. Where the NSTA departs from the approach set out in this guidance, the NSTA will explain why to the parties involved in the dispute.

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<sup>1</sup> Section 9A(1) of the Petroleum Act 1998, as inserted by section 41 of the Infrastructure Act 2015.

## Qualifying Subject-matter and Parties

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9. This guidance applies to the consideration of a reference made to the NSTA where that reference is relevant to the fulfilment of the principal objective or relates to activities carried out under an offshore licence. At least one party to the dispute must be a relevant party, which comprises the list of persons defined in section 9A(1)(b) of the Petroleum Act 1998 copied below:
  - 9.9 holders of petroleum licences;
  - 9.10 operators under petroleum licences;
  - 9.11 owners of upstream petroleum infrastructure;
  - 9.12 persons planning and carrying out the commissioning of upstream petroleum infrastructure;
  - 9.13 owners of relevant offshore installations;
10. Where a reference is made that is the subject of an application already made under section 82 of the Energy Act 2011 (**'section 82 application'**) in connection with third party access to upstream oil and gas infrastructure, the NSTA will continue handling the section 82 application and will not take the dispute further in line with this guidance. Separate NSTA guidance is published for the third party access powers.

## General Principles

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11. In this guidance, the NSTA has set minimum requirements that all references must meet – see Annex 1.
12. The NSTA will normally not accept a dispute without evidence of the failure of meaningful dialogue or commercial negotiations to resolve the dispute. The NSTA should only be asked to consider a dispute between parties when reasonable efforts have already been made by the parties to resolve the matter.
13. When receiving a reference, the NSTA will expect an officer of a company making that reference to verify that the company has taken due care in checking that the evidence submitted is correct and complete and that reasonable efforts have been made to resolve the dispute.
14. The NSTA expects companies to make references that allow the NSTA to fully understand the issues in respect of the dispute. The NSTA may reject references where they do not contain the information defined in this guidance – see Annex 1. However, the NSTA will assist individuals, small businesses and companies that require advice on the use of this guidance, noting that such assistance cannot give any indication or assurance as to the merits of the reference or its outcome.
15. If the NSTA is unable to make a recommendation that best contributes to the fulfilment of the principal objective as required by section 23 of the 2016 Act, the NSTA may consider that alternative mechanisms for dispute resolution would be more appropriate and may decline to consider a dispute on that basis.
16. The NSTA will likely not accept a reference until the scope of the dispute is clear. Once the scope of the dispute has been established, the NSTA does not expect to change that scope save for exceptional circumstances.
17. If evidence of anti-competitive behaviour is found during the consideration of a reference, the NSTA may refer this matter to the Competition and Markets Authority.
18. The NSTA will only consult on the outcome of a dispute with stakeholders other than the parties when the issue is of wider interest to industry. In all other cases, consultation will likely be restricted to the parties involved in the dispute.

# Background and approach

## Section 2

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19. The NSTA was, amongst other reasons, set up to be more deeply involved with the offshore oil and gas industry and to be more proactive in developing the basin, ensuring collaboration and successful development of these opportunities.
20. The Wood Review (**'the Review'**) which led to the creation of the NSTA, identified that licence holders were not collaborating either at all or to their full potential on potentially economically viable projects. The Review recommended that those who hold petroleum licences or whose activities are capable of affecting the principle objective should have access to a dispute resolution process whereby the NSTA can give non-binding recommendations on the appropriate way to resolve disputes. It is this dispute resolution process that was provided for within the 2016 Act.

## Approach

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21. The approach set out in this guidance is intended to ensure that the process for considering disputes is fair, transparent, effective, expeditious and avoids unnecessary expense. The aim is that the process should be light touch and relatively swift, setting the direction for the parties in dispute to quickly maximise economic recovery.
22. Timescales that are given in this guidance in connection with the various stages of considering a dispute are indicative only and will vary case by case.

## Expectations on the Parties

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23. It is expected that the reference of disputes to the NSTA should be the exception rather than the rule. It is also expected that parties considering making a reference will inform other parties to the dispute and the NSTA in good time.
24. Engagement between the parties prior to referral of the dispute should identify clearly what negotiations (or issues with negotiations) are in dispute and will allow the other parties to prepare their arguments and seek the agreement of their co-licensees or other partners of the positions being adopted.
25. The engagement will also ensure that the dispute has been escalated sufficiently amongst the parties to gain senior management attention and will give a final opportunity to find a satisfactory solution. From the NSTA perspective, this advanced warning will give time to consider whether other methods of dispute resolution (including informal facilitation) may be helpful and will also aid resource planning. In some cases, the NSTA may advise the potential referring party of possible issues with the reference if it is subsequently made.
26. The NSTA encourages the parties to try to agree the facts of the case and identify the matters still in dispute prior to a reference being made. Where this is done it should enable the more rapid consideration of the dispute by the NSTA and a more efficient process for all.  
  
To facilitate the approach described above, it is expected that all parties engaged in the process described in this guidance respond promptly to requests for information and/or meeting requests and make every effort to avoid barriers to timely and effective communications.

## Section 3

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### Overview of disputes process

27. The disputes process can be initiated either by one of the parties making a reference or by the NSTA acting on its own initiative.

### NSTA monitoring of negotiations prior to disputes

28. The NSTA will normally be made aware of issues or negotiations that have a bearing on the principal objective, during normal regulatory activity. The NSTA may make parties aware of the possibility of using the disputes process to seek resolution.

### Making a reference

29. Where a party decides to refer a dispute, they must formally make a reference to the NSTA in accordance with Annex 1. Guidance about the process that the NSTA will likely follow when receiving a reference is given in section 4.

### NSTA acting on own initiative

30. The NSTA can invoke the disputes process on its own initiative, for example when it considers that a negotiation has reached an impasse. Detailed guidance about how the NSTA will likely act on its own initiative is given in section 5.

### Considering the dispute

31. Where the NSTA receives a reference, the NSTA will determine whether to reject, adjourn or accept that reference. If the NSTA acts on its own initiative (see section 5 of this guidance), it will move to consider the dispute in a similar manner as if it received a reference and decided to accept it.
32. Further guidance about how the NSTA will consider the dispute is given in section 6.
33. The NSTA may publish brief details of the scope of the dispute, which may include the name of the relevant parties to the dispute, if the NSTA considers that such disclosure would be in the public interest.

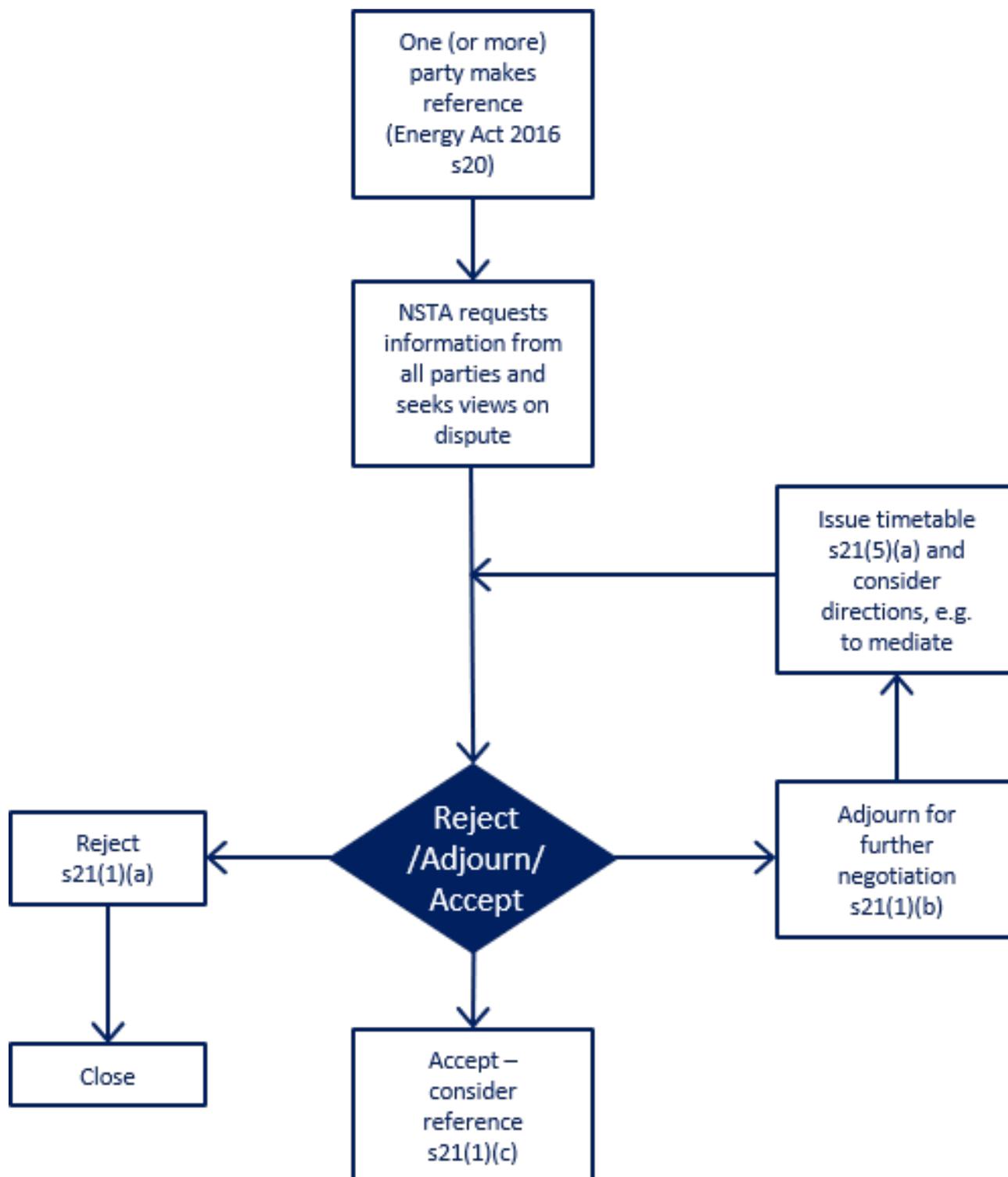
## Section 4

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### Making a reference

34. A summary of the process for referring a dispute to the NSTA is shown in Figure 1. The main elements of the process are described in the subsequent sections.

Figure 1



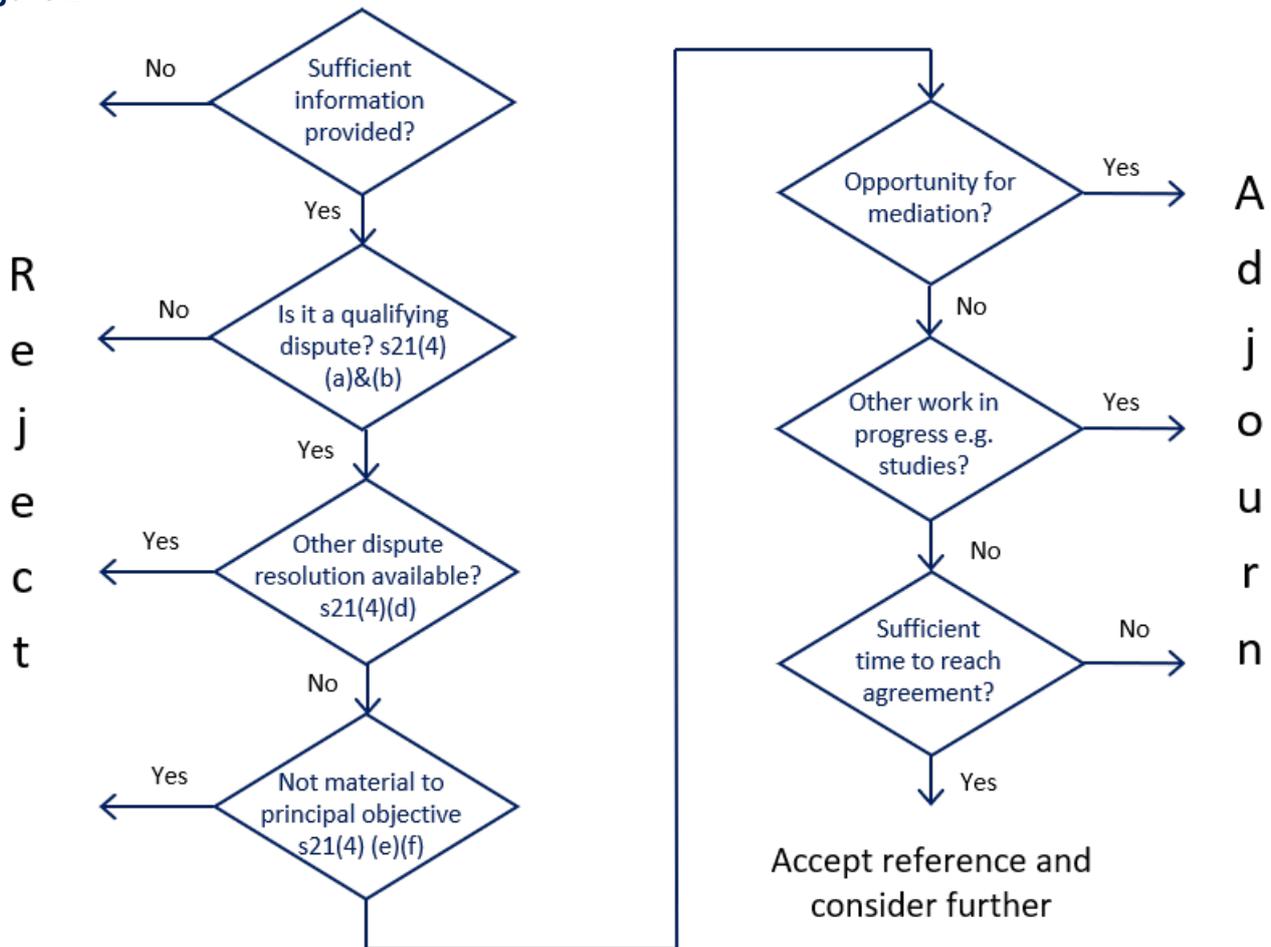
## **Making the reference**

35. The referring party should submit at least the information described in Annex 1 of this guidance to the NSTA to the person/ address specified, and simultaneously inform all other parties to the dispute. This should include the facts of the case where these facts are agreed by the parties.

## **Initial action by NSTA on receipt of a reference**

36. The NSTA will nominate a case officer to manage the reference on its behalf; the case officer is likely to be in a separate part of the NSTA from that which may have been trying to facilitate a solution previously. The case officer will normally write to the other parties identified in the information submitted by the referring party, using the power in section 24(1)(a) of the 2016 Act to request that they provide the information described in items a) to c) in Annex 1 of this guidance. This information should normally be provided within 15 working days; the requested timescale may be shorter if it is considered that the parties already have much of the information to hand. The information may be provided by an operator on behalf of a group of licensees if agreed by those parties.
37. Further information (items d) to h)) described in Annex 1 of this guidance may be provided if available within the specified timescale and will be requested later if not (see Section 6). Where the parties have agreed the facts of the dispute and identified the matters still in dispute, this information should be submitted in accordance with the requirements in Annex 1 of this guidance as far as possible. In such cases the NSTA would accept a reference prepared jointly by the parties that meets the requirements of Annex 1.

**Figure 2**



**Reject/Adjourn/Consider decision**

*This section forms the guidance required by section 21(2) of the Energy Act 2016*

38. Figure 2 above sets out the process by which the NSTA will decide whether to reject, adjourn or consider a dispute. The process provides for the NSTA to review whether there are grounds to reject or adjourn the reference. If there are no grounds to reject or adjourn the reference, the NSTA will accept the reference and go on to consider the dispute.

- 39. There are various circumstances in which the NSTA will reject the reference, with some common examples set out below. The NSTA may also publish a case closure summary at this time.
- 40. Each box on Figure 2 is described below in more detail.

### **Reject: Sufficient information not provided**

41. The information required in Annex 1 of this guidance should be provided in the reference. This includes information demonstrating that all reasonable efforts have been made to resolve the dispute (including appropriate escalation) by the parties. The reference is therefore likely to be rejected if it does not demonstrate that adequate dialogue has taken place in good time to inform the other parties of the intent to refer the dispute. This is intended to prevent references being made prematurely, possibly before some of the parties being aware that negotiation has come to a halt.

### **Reject: Not a qualifying dispute or a relevant party**

42. Section 21(4)(a) of the 2016 Act allows the NSTA to reject a reference if it is not a 'qualifying dispute', i.e. if it does not relate to the fulfilment of the principal objective to maximise economic recovery of UK petroleum or activities under an offshore licence, or is already being considered further under section 82 of the Energy Act 2011. Further, the parties to the dispute must include at least one relevant party.
43. The dispute should be referred to the NSTA by a relevant party – see paragraph 9.

### **Reject: Other dispute resolution available**

44. Section 21(4)(d) of the 2016 Act provides that the NSTA may reject a reference if there are more appropriate means available for resolving the dispute. Rejection is likely if a formal or informal dispute resolution process is already in progress (e.g. court action, arbitration, mediation), as it is not likely to be effective or appropriate for the NSTA to intervene in such a situation.
45. There are two other situations where the NSTA is likely to reject a reference in connection with section 21(4)(d). The first involves a dispute solely involving the terms of an existing contract or agreement where the contractual provisions (e.g. for arbitration, expert referral) or a formal legal process are likely to provide the most effective resolution. The second situation is a dispute where the provisions of section 82 of the Energy Act 2011 (Acquisition of Rights to Use Upstream Petroleum Infrastructure) could provide a solution to the dispute where this legislation should be used instead.

## **Reject: Not significant to principal objective**

46. The requirement above for the dispute to be a qualifying dispute means that it must be related to the principal objective or to activities under an offshore licence. Section 21(4)(e) indicates that the dispute should be “sufficiently material” to the fulfilment of the principal objective to warrant consideration by the NSTA. The term “sufficiently material” implies that an increasing measure of value or quantity will make consideration of the dispute more likely. However, the materiality of the dispute could be affected by the significance of the signal that a recommendation will send to industry, and so value or quantity alone is not considered to be the only factor here.
47. Section 21(4)(f) states that the dispute should not be considered if the NSTA considers that it is unlikely that a satisfactory decision could be made. This could cover situations where a party that is significant to the solution of the dispute is not a “relevant party” – see paragraph 9. It may also be relevant if the NSTA is not likely to be able to make a decision in a reasonable period of time due to other priority work, and this will be influenced by the test whether the dispute is sufficiently material to the fulfilment of the principal objective as described above.
48. Section 21(4)(c) of the 2016 Act allows the NSTA to reject a reference if it is frivolous or vexatious. This will be considered in the light of the particular circumstances of the dispute.

## **Adjourn: Opportunity for mediation**

49. If the Parties have not already attempted some form of mediation, encouraging them to do so is likely to be considered with the reference being adjourned to allow this mediation to take place. Whether this is considered the appropriate option will be determined by the information submitted by the parties. Factors likely to encourage the NSTA to propose or direct mediation include:
- there being sufficient time to carry out mediation in addition to the disputes process conducted by the NSTA (noting that mediation may avoid the need to complete the process in some cases);
  - the indication that one or more of the parties has not followed relevant industry codes of practice during negotiation; and
  - where the parties appear to have a different view of the most important issues in dispute, suggesting that they have not fully understood the position of their counterparties.
50. It is likely that the NSTA would encourage the parties to engage a trained mediator. The period of mediation would normally be limited to up to one month, and the reference would be withdrawn if the parties are able to reach agreement in that time.

### **Adjourn: Other work in progress**

51. It is likely that the NSTA will adjourn consideration of a reference if work is still in progress that could have a significant effect on the recommendation to resolve the dispute. This work might take the form of technical studies, economic evaluations or inspection activity.
52. This test necessarily involves a degree of judgement; there will always be some uncertainties that are either small or are inherently very difficult to quantify no matter how much further work is performed, and these should not hold up the disputes process.

### **Adjourn: Not sufficient time in which to reach agreement**

53. The NSTA will come to a view on whether the parties have had sufficient time in which to reach agreement. This will normally be guided by the information provided by the parties as set out in Annex 1 of this guidance, particularly the overall timescale of the negotiation and the main interactions between the parties that have taken place.

### **Accept reference, move to consider dispute**

54. The decision by the NSTA to accept the reference will take account of the factors described above that may suggest grounds for rejection or adjournment, noting that some of these factors may require judgement regarding their significance to the decision.

### **Action following the decision to reject, adjourn or consider a reference**

55. Section 21(3) of the 2016 Act requires that the NSTA gives notice in writing stating the decision, the reasons for the decision and the date of the decision. This should be given to relevant parties and any other persons who have contributed during the process. It is envisaged that this notice will be issued around 20 working days after the reference has been submitted to the NSTA
56. Where the NSTA decides to adjourn the reference, section 21(5) of the 2016 Act requires that it sets a timetable for the parties to negotiate further and then revert to the NSTA. The section also allows the NSTA to give directions to some or all of the parties to carry out during the adjournment; this could take the form of completing work, conducting further negotiation or proposing mediation as indicated above. A further decision on whether to reject, adjourn or consider the reference must be made by the NSTA at the end of the adjournment.
57. Where the NSTA decides to consider the reference, section 6 of this guidance will then apply.

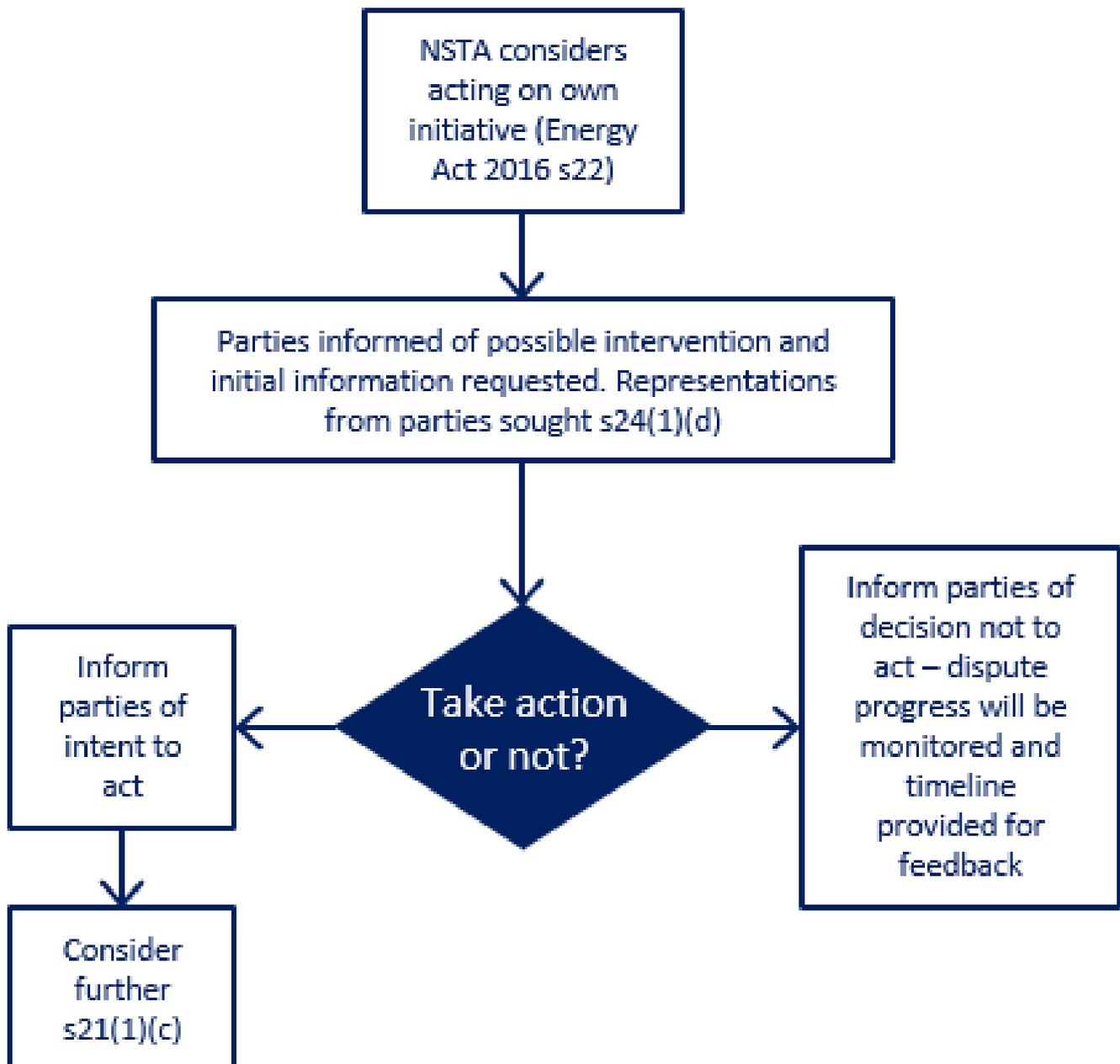
## Section 5

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### NSTA acting on own initiative

58. A summary of the process by which the NSTA will decide to act on its own initiative is shown in Figure 3 below. The main elements of the process are described in the subsequent sections.

Figure 3



## **Initial information gathering**

59. The NSTA will gather information about various ongoing negotiations as part of its normal regulatory duties, and this may indicate that progress with a particular dispute needs to be investigated by a separate group within the NSTA (see section 8 of this guidance). If the NSTA considers that it may need to act on its own initiative to consider a dispute, it will inform the parties and request that they provide initial information within 20 working days under section 24(1) of the 2016 Act in order to help it make a

decision. The information should consist of items a) to c) of Annex 1 of this guidance as a minimum; the requested timescale may be shorter if it is believed that the parties already have much of the information to hand. They may also make a representation regarding their views of the progress of the negotiation and the need (or not) for the dispute to be considered by the NSTA. The parties are free to try to agree facts of the case and identify the matters still in dispute during that timescale if they wish.

## **Deciding whether to consider**

60. The decision whether to consider a dispute will follow the steps shown in Figure 3 as appropriate, taking due account of the information gathered.

### **Action on decision to consider dispute**

61. The 2016 Act requires that all the parties to the dispute must be notified if the NSTA decides to consider a dispute. Section 6 of this guidance will then apply.

### **Action on decision not to consider dispute**

62. The parties will be advised that the NSTA does not intend to consider a dispute at that time. This notification may include an indication of the timescale in which the NSTA will be minded to consider a dispute if it is not resolved by then.

## Section 6

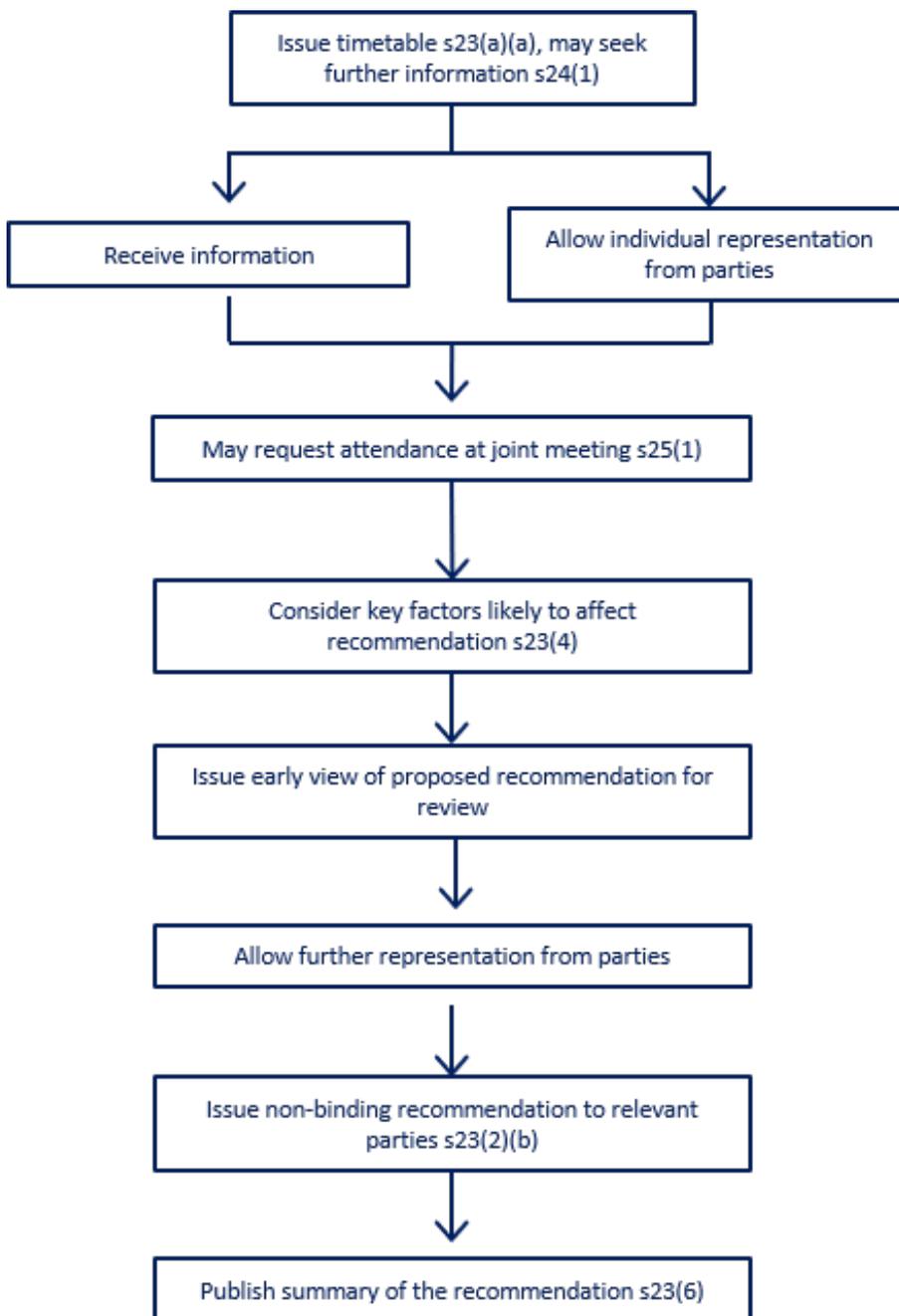
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### Considering a dispute

63. A summary of the process by which the NSTA will consider a dispute is shown in Figure 4. The main elements of the process are described in the subsequent sections.

This process applies whether a reference has been made by a party (section 4 of this guidance) or the NSTA has decided to consider a dispute on its own initiative (section 5 of this guidance).

Figure 4



## Setting a timetable

64. The 2016 Act requires that the NSTA draws up a timetable for considering the dispute and making a recommendation. The NSTA may also give directions to the parties to assist with this; for example it is expected that such a direction will normally be given to the parties to provide the information described in items d) to h) of Annex 1 of this guidance within 10 working days, if they have not already done so.
65. It is envisaged that the recommendation will be made within a period of 60 working days from the point that the NSTA decides to consider the dispute, but the actual timetable in each case will take account of the perceived complexity and the number of parties involved.

## Contact with the Parties: Individual representations by the Parties

66. When informing the parties that a dispute is to be considered, the NSTA will remind them that they may make individual representations to provide further information and views if, for example, they believe that this was not adequately drawn out by the requirements of Annex 1.
67. Any representations should be made in good time, taking account of the proposed timetable. Representations should be directed at the facts of the dispute and try to make all necessary points within one meeting, i.e. to avoid repeated requests for discussion.

## Holding a joint meeting

68. It is intended that a joint meeting will be held with all parties around 10-25 working days from the point that the NSTA decides to consider the dispute.
69. The objective of the meeting will be to review the matters still in dispute, to discuss how the principal objective relates to the dispute and to explore what solutions may be possible, in order to inform the eventual recommendation.
70. It may be possible for certain parties to be exempted from the meeting, e.g. if non-operating partners are fully aligned with their operator who can speak on their behalf. However, the NSTA reserves the right to insist that certain parties do attend a meeting, using the powers under section 25(1) of the 2016 Act. This will be particularly relevant where a party is likely to have a significant impact on the resolution of the dispute.

## Requests by the NSTA for further information

71. If the NSTA considers that further information is needed in order to progress the consideration, this will be requested using the powers in section 24(1)(e) of the 2016 Act. The requested timescale for response will take account of the extent and complexity of the information being requested, whilst expecting that the relevant party will make every effort to avoid delays to the disputes process.

## Factors to consider in making a recommendation

*This section forms the guidance required by section 23(8) of the Energy Act 2016.*

72. The published the Strategy<sup>2</sup> sets out a Central Obligation and various Supporting Obligations, subject to defined Safeguards. When considering making a recommendation, the NSTA will normally assess which of the obligations are relevant to the dispute and to what extent.

### Early view of the recommendation

74. The NSTA considers that it is desirable to provide stakeholders with an opportunity to comment on its provisional views and reasoning, before making a final dispute recommendation. An early view of the (draft) recommendation will therefore be given to all parties, in order to give them the opportunity to check that all relevant information has been taken into consideration and that their arguments have been understood by the NSTA.

75. This draft recommendation will be given to the parties around 45 days after the decision has been made to consider the reference, and they will normally be given 10 working days in which to make comments although a shorter timescale may be specified if the circumstances require.

73. The recommendation for each dispute will be supported by an explanation of the significance of relevant obligations and how they have helped to influence the recommendation. The recommendation should also be consistent with industry codes of practice, where relevant.

76. Although the parties are generally invited to indicate whether and, if so, on what grounds they consider specific information in a submission to the NSTA to be confidential, the NSTA will not normally invite further comment from the relevant party once it has expressed its view on the parties' confidentiality markings in disputes.

77. For the avoidance of doubt, the NSTA does not regard submissions on legal or regulatory policy to be confidential and any such submissions will normally be disclosed publicly. Further, the NSTA will sometimes be required to publish/disclose information marked as confidential in order to meet its obligations.

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<sup>2</sup> [The current strategy at the time of publishing this guidance is The Strategy 2021](#)

### **Form of the recommendation**

78. The recommendation will take the form of a statement to all the parties which summarises the process that has been conducted and explains the way in which the information that was submitted and the obligations in the Strategy have been taken into account in proposing a solution.

### **Publishing a summary of the recommendation**

79. The NSTA will normally publish the recommendation, in the interests of openness and in order to provide clarity on how the disputes process has been applied. Section 23(7) of the 2016 Act requires that the NSTA must give an opportunity to each relevant party prior to publishing anything. The above comments regarding confidentiality of information should be noted.

## Section 7

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### Action following the recommendation

80. After the NSTA has issued a recommendation to the parties, they must decide whether to act on it, or set it aside and come up with an alternative solution. There is no fixed timescale for this, but it should be noted that the NSTA will continue to closely monitor the status of the dispute. It is expected that the parties will continue to collaborate in good faith, using the recommendation or some other equally effective approach, to work towards a timely resolution in accordance with the Strategy
81. The disputes process described in this guidance is separate from the other powers of the NSTA. Where inadequate progress is made in finding a solution to the dispute that was referred to the NSTA, use of these powers<sup>3</sup> may be subsequently considered.

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<sup>3</sup> For example: [North Sea Transition Authority \(NSTA\): Disputes and Sanctions - Regulatory framework \(nstauthority.co.uk\)](#)

## Section 8

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### Safeguards

#### Independence of the disputes process

82. The NSTA carries out regular dialogue and intervention with various stakeholders including those who have duties in connection with the principal objective, with the aim of facilitating agreed solutions. Consideration of disputes using the process described in this guidance will normally be carried out by a separate group within the NSTA, currently within the Regulation Directorate.

Where the perceived need to consider a dispute has originated from within the Regulation Directorate, arrangements will be made to ensure that there is sufficient independence between those managing the reference and the originator.

#### Provision of information

83. Information provided to the NSTA will be held in accordance with the 2016 Act.

84. Publishing a summary of the NSTA's recommendation as a result of the disputes process is provided for by section 23(6) of the 2016 Act. In publishing a summary of the recommendation, section 65 of the 2016 Act permits the inclusion of protected material where it is appropriate to do so. However, as the NSTA must give an opportunity to be heard to each relevant Party to the dispute before publication, this will allow for representations to be made for exclusion of sensitive information (note that Chapter 6 of the 2016 Act covers disclosure of protected material more generally).

85. Additionally, the NSTA is bound to comply with other relevant obligations such as the Freedom of Information Act 2000 ('FOI') and the Environmental Information Regulations 2000 ('EIR'). Where an FOI/ EIR request is received, the NSTA will normally circulate a draft of the proposed information to be released to the relevant parties for comment.

### Appeals

86. Any party may challenge the actions of the NSTA when considering disputes; these typically apply to situations where actions or the timescales for those actions are considered to be unreasonable. Reference should be made to section 26 of the 2016 Act for further information.

## Annex 1

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### Information to be provided in a reference

This Annex covers the requirement of section 20(2) of the 2016 Act.

The reference should be sent to the NSTA, addressed to the Head of Disputes & Sanctions at: Sanctuary Buildings, 16-20 Great Smith Street, London SW1P 3BT. An electronic submission may also be made to the Disputes and Sanctions mailbox: [disputesandsanctions@nstauthority.co.uk](mailto:disputesandsanctions@nstauthority.co.uk).

The reference should include at least the following information, with supporting evidence where appropriate:

- a) Details of the parties involved – company names and contact names/addresses.
- b) A description of any negotiations which have taken place between the parties or, in the event that a party has refused to enter into negotiations, evidence to suggest that all reasonable steps have been taken to engage that party in meaningful negotiations including correspondence, notes of meetings and telephone calls, and a chronological summary of the events.

*The NSTA is aware that in negotiations, parties may make without prejudice offers in an attempt to settle disputes. The NSTA does not wish to dissuade parties from actively seeking to resolve disputes in this way, and whilst it may wish to see details of such offers where that offer may be relevant to determining whether meaningful negotiations have taken place, the existence or content of such offers will not normally be treated as relevant information or determine the NSTA's resolution of a dispute.*

- c) A summary of the dispute, including:
  - i. full details of the relevant products or services in dispute;
  - ii. a list of the issues in dispute;
  - iii. a clear and comprehensive explanation of the commercial context to the dispute, including all relevant background and evidence;
  - iv. the timeline and the main interactions that have occurred between the parties; and,
  - v. relevant documentary evidence of commercial negotiations covering the whole period of negotiation.
- d) The identification and applicability of the principal objective and any other of the NSTA's regulatory principles and statutory duties, which the referring party considers is relevant in this case; and a clear explanation of how the subject matter of the dispute may relate to broader regulatory issues or policies.
- e) Constraints affecting the dispute, including existing commercial agreements and an explanation of why commercial agreement could not be reached with reference to relevant industry codes of practice.
- f) Any proposed solution of the dispute and issues preventing its resolution.

- g) Summary of technical and financial analyses that support proposed solution.
- h) Relevant parts of the Strategy and/or licence conditions including in particular:
- if the dispute relates to a request for a new access product or service, business plans of relevant product or service including forecasts, demonstrating how and when it is intended to make use of the products or services requested; or,
  - if the dispute concerns a variation or amendment to existing agreed terms between the parties, a copy of the relevant version of the contract or terms, clearly identifying the clauses that are subject to the dispute.



North Sea Transition Authority

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