

BSI Flex 0 v1.0:2021-11



BSI Standards Publication

Principles of BSI Flex standardization

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Summary of pages

This document comprises a front cover, an inside front cover, pages i to iv, pages 1 to 17, and a back cover.

Foreword

Publishing information

The development of this BSI Flex was facilitated by BSI Standards Limited and it was released under licence from The British Standards Institution. It came into effect on 30 November 2021.

The advisory group was composed of BSI employees.

The British Standards Institution retains ownership and copyright of this BSI Flex. BSI Standards Limited as the publisher of the BSI Flex reserves the right to withdraw or amend this BSI Flex on receipt of authoritative advice that it is appropriate to do so.

This BSI Flex is not to be regarded as a British Standard or PAS.

The agile BSI Flex development process enables a standard to be rapidly developed, and on an iterative basis, in order to fulfil an immediate need in industry. A BSI Flex can be considered for further development as a PAS or British Standard or constitute part of the UK input into the development of a European or International Standard. BSI Flex 0 is unique in that it is the governance document for the development of BSI Flex standards, and it will therefore not be developed as a PAS, British Standard, or European or international standard.

Because the content in this version is part of an iterative process, it is likely to change from time to time with subsequent iterations.

Information about this document

This release is Version 1 of BSI Flex 0, which has been released to enable industry to engage with the initial content and feedback comments for further version of the standard to be developed. This is the first public consultation of this BSI Flex and so the content should not be considered as having received wider feedback. Users are therefore encouraged to comment on this version.

This publication can be withdrawn, revised, partially superseded or superseded. Information regarding the status of this publication can be found in the Standards Catalogue on the BSI website at bsigroup.com/standards, or by contacting the Customer Services team.

Where websites and webpages have been cited, they are provided for ease of reference and are correct at the time of publication. The location of a webpage or website, or its contents, cannot be guaranteed.

Presentational conventions

The provisions of this BSI Flex are presented in roman (i.e. upright) type. Its principles are expressed as statements, or in sentences in which the principal auxiliary verb is “should”.

Commentary, explanation and general informative material is presented in smaller italic type, and does not constitute a normative element.

Where words have alternative spellings, the preferred spelling of the Shorter Oxford English Dictionary is used (e.g. “organization” rather than “organisation”).

Contractual and legal considerations

This publication has been prepared in good faith, however no representation, warranty, assurance or undertaking (express or implied) is or will be made, and no responsibility or liability is or will be accepted by BSI in relation to the adequacy, accuracy, completeness or reasonableness of this publication. All and any such responsibility and liability is expressly disclaimed to the full extent permitted by the law.

This publication is provided as is and is to be used at the recipient's own risk.

The recipient is advised to consider seeking professional guidance with respect to its use of this publication.

This BSI Flex is not intended to constitute a contract. Users are responsible for its correct application.

Compliance with a BSI Flex cannot confer immunity from legal obligations.

1 Scope

BSI Flex 0 sets out the principles for the development of a BSI Flex and the principal features of the process by which it is developed. It does not discuss procedural detail and, reflecting the flexible nature of the product and process, is generally indicative rather than definitive in nature.

2 Normative references

There are no normative references in this document.¹⁾

3 Terms and definitions

For the purposes of this BSI Flex, the following terms and definitions apply.

3.1 consensus

general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments

NOTE Consensus need not imply unanimity.

[ISO/IEC Guide 2:2004, definition 1.7]

3.2 intellectual property rights (IPR)

patents, rights to inventions, copyright, trade marks, domain names, designs, database rights, confidential information and similar rights anywhere in the world whether registered or unregistered along with the right to apply for protection of such rights

3.3 sponsor

party, or parties acting together, who provide funding to BSI on a commercial basis to enable the development of a BSI Flex

NOTE The sponsor is not necessarily the proposer of the project.

3.4 stakeholder

individual, company or other collective body, having a direct interest in the outcome of a standardization project

3.5 standardization product

product published by BSI having broadly the character of a standard or part of a standard, or service provided by BSI to others to assist in the development of such products

¹⁾ Documents that are referred to solely in an informative manner are listed in the Bibliography.

4 Principles of standardization

4.1 Context

Standardization can be undertaken by any group of people who share a common objective. It can be undertaken informally amongst groups of colleagues in a workplace, and in a more structured environment, by means of:

- a) codified practices within a company;
- b) company standards for use in procurement;
- c) industry standards;
- d) national standards developed and adopted by formally acknowledged national standards bodies;
- e) regional (e.g. European) standards; and
- f) international standards.

4.2 Purpose of standardization

Standardization is the activity of establishing agreed criteria that provide a reliable basis on which common expectations can be shared regarding specific characteristics of a product (including a service) or a process.

It provides a framework for achieving economies, efficiencies and interoperability that facilitate trade and enhance consumer protection and confidence. Increasingly it is also used to support public policy objectives by offering effective alternatives to regulation.

4.3 BSI

BSI is the UK National Standards Body (NSB). Its role is established under its Royal Charter and codified in the *Memorandum of Understanding between the United Kingdom Government and the British Standards Institution* (the MoU)²⁾. The role includes:

- a) coordinating and facilitating the development of British Standards of UK origin;
- b) participating in international standardization through the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC); and
- c) participating in regional (i.e. European) standardization through the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC).

BSI is permitted under its MoU to produce other standardization products such as BSI PAS and BSI Flex.

4.4 Application of BSI Flex standards

4.4.1 Principles of application

Responsibility for selecting and applying a BSI Flex lies with its user. In general, BSI is not able to assist in this, nor take any responsibility for it, other than to provide an indication of the scope and contents of a BSI Flex.

²⁾ Available at www.bsigroup.com.

Available at <https://www.bsigroup.com/globalassets/documents/about-bsi/bsi-uk-nsb-memorandum-of-understanding-uk-en.pdf>

BSI Flex standards are drafted in the expectation that those who use them will be appropriately experienced, qualified and equipped to do so, that they will apply them conscientiously and, where necessary, take sound advice by others qualified to provide it.

4.4.2 Interpretation

Responsibility for interpreting a BSI Flex rests with its user, informed where necessary by appropriate expert advice. Ultimately, the only body with the power to give a definitive interpretation is a court of law.

To avoid undermining the basis for common expectations, BSI does not provide individual interpretations of BSI Flex standards. Individuals who are approached in their capacity as present or former advisory group members or technical authors with questions of interpretation or analysis should refer to the relevant BSI project manager.

However, any ambiguities, inconsistencies or possible errors notified to BSI will be referred for consideration to the advisory group responsible for the BSI Flex in question, as will any proposals for changes or improvements. These notifications are actively encouraged as a contribution to the maintenance of a BSI Flex.

4.4.3 Transparency and confidentiality

The BSI Flex development process balances BSI's commitment to transparency, accountability and independence against the need to respect and protect commercial confidentiality. It also reflects the need to protect individuals from lobbying or undue media attention. Every aspect of the process is managed by BSI.

The identities of the organizations represented in the advisory group are freely available and are usually included in the foreword to the BSI Flex for which they are responsible.

The identities of individuals contributing to the process are not made public other than with their explicit consent. Typically this might be sought if the project sponsor requests that particular contributions are credited in the released BSI Flex.

Most BSI documentation associated with a BSI Flex project and the sponsor (e.g. proposals, contracts, working drafts, research reports) is confidential to the advisory group or sponsor, as appropriate. However, individuals serving on an advisory group are permitted to undertake wider consultation within the organizations that they represent. The principal exception is that comments received as part of the public consultation, together with the responses of the advisory group, can be made available on a non-attributable basis.

5 BSI Flex

5.1 Purpose of BSI Flex standards

BSI Flex enables rapid and flexible standardization in situations where ideas are developing, approaches are untested, and agreed good practice is likely to change substantially. The purpose of a BSI Flex is to develop, agree and release this content to the marketplace whilst remaining available for further development at pace when required.

A BSI Flex is a standardization product that can closely resemble a British Standard in structure and format, but which has a different development model. As part of the BSI product portfolio, it is important that each BSI Flex presents an authoritative, robust and practical standardization solution, both to its sponsor and to all other parties who might choose to use it. The development of a BSI Flex is based on a rigorous methodology that assures its reliability and overall suitability for its intended use (see Clause 6).

A BSI Flex is developed in response to an identified market need; very often at the request of a sponsor for a standardization product that serves the needs of an emergent market, technology, service or public policy interest. The development model supports rapid review and updating of content as industry thinking matures, and is particularly relevant where uncertainty still exists around good practice, approaches need to be piloted, or where understanding is likely to develop rapidly. The content of the BSI Flex can be rapidly reworked and released as consensus develops. Each release of the BSI Flex provides a current view of good practice, and users can make suggestions for further changes as they pilot new approaches. Versions of the BSI Flex will be timed to be released based on market needs rather than default pre-set milestones. The format of each version is dependent on the requirements of the sponsor and could be, although is not limited to, a PDF document.

A BSI Flex can also serve as the basis for subsequent development towards a PAS or other formal standardization at UK, European or international level. A BSI Flex is generally intended for unrestricted use within any market for which it appears to be relevant and useful. It is not restricted to application within the UK, nor is its development model restricted to UK stakeholders.

5.2 Distinctive features

A BSI Flex typically has the following distinctive features that distinguish it from a British Standard.

- a) Financial sponsorship is provided by one or more parties that have a particular interest in standardization of the subject in question.
- b) The relationship with the sponsor is publicly acknowledged in the foreword, and often by other means such as the use of logos.
- c) There is a flexible approach to the development, design and delivery of each version (see Clause 6). This often demands compressed timescales (to the extent consistent with due consultation and effective consensus building) and an intensive commitment of resource.
- d) The content is developed through multiple iterations.
- e) There is a short lifespan before the next version is generated, typically not longer than six months before a new version is released, withdrawn or developed further as another type of standardization product (see Clause 6).
- f) The advisory group is likely to change in composition or increase in number over time as new insight emerges.

- g) The iterative nature of a BSI Flex enables proposed content to be excluded from the current version if consensus cannot be reached. The content would be included in the next or future versions, when knowledge and experience of the subject area has increased to the extent that consensus can be achieved (see 6.4.7).

NOTE These characteristics are indicative and are not to be regarded as being definitive.

As part of the BSI product portfolio, it is important that each BSI Flex presents an authoritative, robust and practical standardization solution, both to its sponsor and to all other parties who might choose to use it. The development of a BSI Flex is based on a rigorous methodology that assures its reliability and overall suitability for its intended use (see Clause 6).

The authority of a BSI Flex is dependent on BSI's reputation as an authoritative and independent standards body. BSI safeguards this reputation assiduously and will not enter into any business relationship or permit any procedure or outcome that could jeopardize it.

5.3 Legal status

A BSI Flex is voluntary in that there is no obligation to apply it or comply with it, unless, exceptionally, its application is directly demanded by regulatory instruments. Reasonable care is required with its use, as a key feature of a BSI Flex is the release of new versions from time to time. It is not to be regarded as a PAS or a British Standard. It is a tool devised for the convenience of those who wish to use it.

In itself, a BSI Flex has no particular legal status although it might be used as a component of, or the basis of, an agreement that does (e.g. a contract). In certain circumstances the actions of third parties might have the effect of making the application of a BSI Flex a commercial necessity, but BSI has no control over these actions and is not a party to them.

A BSI Flex is provided as is, and is to be used at the recipient's own risk. A BSI Flex is prepared in good faith, however no representation, warranty, assurance or undertaking (express or implied) is or will be made, and no responsibility or liability is or will be accepted by BSI in relation to the adequacy, accuracy, completeness or reasonableness of a BSI Flex. All and any such responsibility and liability is expressly disclaimed to the full extent permitted by the law.

5.4 Relationship with other BSI standardization activities

5.4.1 Relationship with BSI technical committees

If a BSI Flex project appears to fall within the scope of an existing BSI technical committee, the committee is consulted for its views as to the market relevance of the project, the feasibility of achieving consensus and insights into other relevant factors. The committee are further consulted once a new version is released onto a public commenting platform. The views of the committee are not binding on BSI.

5.4.2 Relationship with British Standards and PASs

A BSI Flex project is not usually accepted onto the BSI work programme in cases where a British Standard or PAS, published or in active development (see note), substantially covers the same scope and field of application. Exceptions to this principle may be permitted if it can be demonstrated that the potential benefits of such a BSI Flex outweigh the risk of causing confusion in the market.

NOTE "Active development" includes European standardization projects that have been accepted onto the CEN or CENELEC work programme and which are therefore likely to become British Standards in due course.

5.4.3 Development as another type of standardization document

At the end of the initial lifespan for each version of a BSI Flex, it is open to the sponsor and/or BSI Flex advisory group, to discuss with BSI the options for further development as a PAS, British Standard, or as the basis of a European or international standard (see Clause 6).

5.5 Authorship and content

In contrast to standards developed by BSI technical committees, the first draft of a BSI Flex is rarely a collective effort. It is usually entrusted to a technical author, either supplied by the sponsor or contracted on a commercial basis by BSI. The terms of the contract with the sponsor reflects the method adopted.

In common with British Standards, the first draft is subject to validation stages that result in the evolution of the content. Editing and final preparation of each version is undertaken by a dedicated team of BSI employees (see also Clause 9).

5.6 Consensus

Consensus is the model used for establishing agreement in many types of standardization, including British Standards. The principle of consensus has its origins in the desire to achieve the general acceptance and application of a standard within its intended sphere of influence. This entails trying to ensure that the interests of all those likely to be affected by it are taken into account, and that individual concerns are carefully and fairly balanced against the wider public interest.

The principle of consensus is fundamental to the BSI Flex development model, and it is the objective of an advisory group to resolve conflicting views, both amongst its own members and in the case of any that arise from public consultation (see 6.4.8). However, consensus does not imply unanimity, and in order to arrive at a solution that best serves the wider public interest, it might not be possible to accommodate all positions that emerge (see 6.4.7).

6 BSI Flex development process

6.1 Overview

The BSI Flex development process is characterized by the following features:

- a) a contract for financial sponsorship;
- b) an accelerated process, closely managed by a dedicated BSI project manager with the intention of eliminating all avoidable delays to progress;
- c) domain research by BSI to establish other potentially conflicting or complementary standardization projects in the UK and beyond;
- d) oversight by an advisory group constituted specifically for the purpose, and chaired by the BSI project manager or any other delegated BSI employee, independent of any external interest;
- e) public consultation, usually of shorter duration than for a British Standard, in which the identified broader stakeholders identified at 6.4.5 are actively engaged. The first version is released prior to public consultation. Subsequent versions are subject to public consultation;
- f) a flexible and customized approach to the design and delivery of the final product, allowing also for visible sponsor association;
- g) latest version made available publicly for users to test and give feedback on and made available to advisory group members to make further suggested changes; and
- h) if consensus cannot be achieved on a particular element of the content, that element can be omitted with a view to it being included in a future version (see 6.4.7).

6.2 Project inception

A proposal for a BSI Flex can come from any source, most usually from a prospective sponsor. Once a market need has been ascertained, the principles of developing a BSI Flex are based on BSI Flex 0. A detailed formal project proposal is prepared by BSI, setting out a draft scope for the BSI Flex and identifying the range of services and options that are appropriate, the proposed author of the first draft, and the fee and payment schedule for undertaking the work.

After approval by the sponsor, the proposal is submitted to the BSI project acceptance procedure. The procedure is designed to identify any impediment to proceeding with the project, particularly in terms of conflict with other standardization activity or any risk of reputational damage to BSI.

6.3 Contract

A formal contract is signed between the sponsor and BSI which sets out the terms and conditions under which the project is to proceed, and the resulting BSI Flex is to be released.

BSI might choose exceptionally to develop and publish a BSI Flex without a sponsor.

Unless exceptionally agreed, the copyright of the BSI Flex and associated rights of exploitation reside wholly with BSI (see 5.5).

6.4 Project development

NOTE It is envisaged that a BSI Flex will have several published versions during its development process. This subclause describes the process of releasing the first and subsequent versions.

6.4.1 Project initiation meeting

Once a BSI Flex contract has been signed with a sponsor, or BSI has decided to proceed without a sponsor, BSI organizes a project initiation meeting (typically including the BSI project manager, the representative of the sponsor and the technical author) at which the BSI Flex process and the duties and roles of both the sponsor and BSI within it are clearly explained and a schedule is agreed.

The draft scope of the BSI Flex as developed during the inception of the project is further discussed, refined and confirmed at the project initiation meeting and consideration is given to the composition of the advisory group and broader stakeholder list.

6.4.2 Domain research

As a minimum, BSI undertakes research to identify:

- a) formal and informal BSI standardization documents and projects that might relate to the proposed scope of the BSI Flex project; and
- b) stakeholders who might have an interest in it.

A report of the findings is sent to the sponsor and technical author to inform the preparation of the first draft and the composition of the advisory group and broader stakeholder list.

6.4.3 Project announcement

A public announcement is made of the commencement of the project and further details are sent directly to all BSI technical committees identified by the domain research as having a potential interest in the subject matter. The announcement includes basic details of the project and invites committees to engage with the BSI Flex process by taking part in the public consultation (see 6.4.8) and to consider nominating appropriate experts as members of the advisory group or as members of the broader stakeholder list.

6.4.4 Advisory group

BSI aims to ensure that advisory groups:

- a) contain the appropriate technical expertise;
- b) fairly represent the range of interests affected by the BSI Flex, including users of the BSI Flex; and
- c) reflect BSI's commitment to diversity and inclusion.

An advisory group is typically formed of the sponsor, the technical author and individuals or representatives of organizations identified as being important stakeholders in the project. These might include:

- 1) industry;
- 2) existing standards committees, including BSI technical committees and working groups;
- 3) central and local government departments, agencies and other regulatory bodies;
- 4) trade associations;
- 5) professional bodies;
- 6) consumer interests;
- 7) testing, certification and accreditation bodies; and
- 8) academia.

Organizations are encouraged to consider diversity when selecting individuals to put forward as their nominated representative on an advisory group.

The sponsor is asked in advance of, and at, the project initiation meeting to identify important stakeholders and provide named contact details if available. The BSI domain research and BSI Flex announcement to BSI technical committees are also designed to identify organizations or candidates. To ensure a fair and transparent representation of relevant interests and manageable size it is necessary to set certain criteria for membership and the ultimate responsibility for the composition of the advisory group resides with BSI. Advisory group meetings are chaired by the BSI project manager or another BSI employee.

The roles and responsibilities of the advisory group are discussed in 7.5.

6.4.5 Identified broader stakeholders

The identified broader stakeholders are a wider representation of interested parties that are likely to benefit from or be affected by the implementation of the BSI Flex. Members are drawn from those stakeholders identified by the advisory group, informed by the domain research and other types of market engagement.

Their focus is to apply the BSI Flex in real-life situations to enable practical comments to be made.

6.4.6 Drafting process

The base document for the BSI Flex is usually supplied either by the sponsor or by the technical author. It is usually subject to a gap analysis by the BSI project manager to reveal any areas defined by the draft scope that might be missing. After editing and any further necessary reworking, the document is submitted to the advisory group for consultation.

A review of the comments received from the advisory group consultation leads to the development of a first version of the BSI Flex that is released.

Public consultations are then sought on the released version. Drafts of subsequent versions of the BSI Flex are prepared following a review of comments received from public and advisory group consultations.

6.4.7 Consensus and release of a version

Comments arising from advisory group and public consultations are discussed by the advisory group, with the aim of achieving a version underpinned by consensus (see 5.6) that can be released for use and further consultation.

In instances where consensus cannot be achieved on a particular element of the content, that element can be omitted from the version in development and discussed further with a view to including the content in a future version. However, only content agreed by consensus for inclusion is released.

Prior to release, the sponsor is invited to endorse the version and to give assent to being publicly associated with the BSI Flex in whatever manner was envisaged in the contract.

In common with all BSI standardization documents, release is subject to approval by the Director of Standards.

6.4.8 Public consultation

Public consultation follows the release of each version. The version is made available for comment on an online platform and is open to anyone who chooses to register an interest (<https://standardsdevelopment.bsigroup.com>). BSI technical committees identified at the public announcement stage are automatically notified of the consultation, as are the members of the broader stakeholder list. The consultation is seen as a vital stage in further developing subsequent versions of the BSI Flex as new insight emerges.

6.4.9 Production

Each version of a BSI Flex is released in the format agreed in the contract between BSI and the sponsor.

6.4.10 Post-release

The lifespan of each version of a BSI Flex is driven by the pace at which insight is emerging within an individual sector, but is typically no longer than six months after it is released before a further version is released.

The timing of initiating a new version can be based around the results of pilots or test beds, or may be driven by the volume of comments received as a result of advisory group or public consultation.

Before work on a new version is initiated, the original sponsor is invited to participate in a review of the document. This can result in the development of a new version or consideration for further development as a BSI PAS, British Standard or as the basis of a European or international standard, subject to the approval criteria of the relevant bodies (see PAS 0 and BS 0 for further details).

If the original sponsor is no longer interested in sponsoring the standard, BSI will undertake further consultation, including identifying other potential sponsors, before taking a decision on the future of the document. BSI reserves all rights as to the future of each BSI Flex version at the end of its lifespan.

The final version of the BSI Flex may continue to be available with periodic review by BSI. BSI reserves the rights to withdraw the BSI Flex during this time if it is not considered relevant to current market needs.

7 Roles and responsibilities

7.1 BSI

BSI acts as the publisher of a BSI Flex and as the principal facilitator of the development process. Unless otherwise contractually agreed, BSI holds the copyright on all content and retains exclusive rights of commercial exploitation of a BSI Flex.

As the project facilitator, BSI provides a dedicated project manager to manage the development of the content, together with access to facilities for face-to-face and virtual meetings and tools for collaboration and content development. In cases where the sponsor does not nominate a technical author, BSI takes responsibility for identifying, contracting and supervising an appropriate person.

BSI retains the ultimate authority over the composition of the advisory group and over the decision to release each BSI Flex version. It reserves the right to decline to release a BSI Flex version if it has serious concerns about the content of the document, the degree of consensus underpinning it (see 5.6), or about its potential impact on the organization's reputation.

As the publisher, BSI arranges for the production, sales and marketing of each version of the BSI Flex.

7.2 BSI employees

No employee of BSI or its group involved in BSI's NSB activity may be a decision-making member of a standards-making committee or panel, unless express prior written consent from the Director of Standards is obtained.

NOTE For clarity, employees involved in BSI's Notified Body activity or its certification business are not deemed to be NSB employees for the purposes of the above paragraph.

BSI employees are permitted to offer relevant guidance and advice at any point in an advisory group's deliberations. BSI employees are also empowered and expected to intervene in such deliberations if it becomes apparent that they are likely to lead to decisions that are unlawful, illegal or potentially injurious to BSI's reputation.

7.3 Sponsor

The sponsor enters into a contract with BSI to take a prominent role in the development of multiple BSI Flex versions.

Working in conjunction with BSI, the sponsor usually proposes the nature and scope of the project, which is subject to amendment and confirmation by the advisory group, and which subsequently is reflected in the scope statement (see 8.3.3). It is also usual, but not essential, for the sponsor to nominate a technical author to undertake the initial drafting.

The sponsor is invited to propose members for the advisory group, broader stakeholder list, and to comment on other nominations, but has no power of veto. Likewise, the sponsor has no power of veto over the final content of the BSI Flex, but is free at any time to withdraw from the project or to decline the opportunity to be publicly associated with it.

The sponsor typically designates an individual to undertake a liaison role, which includes providing approvals at various set stages throughout the process (including before releasing each version; see 6.4.7).

7.4 Technical author

The technical author is an individual or small group of individuals, identified and appointed by mutual agreement between BSI and the sponsor, responsible for delivering the base document of a BSI Flex for consideration by the advisory group. The exact terms of engagement vary according to the nature and complexity of each project.

Together with being expert in the subject matter in question, the technical author is expected to be familiar with the principles of standardization and standards drafting or to be prepared to undertake appropriate training with BSI.

7.5 Advisory group

The role of the advisory group is to review drafts of each version of the BSI Flex and to resolve comments arising from within the advisory group and during public consultation in order to achieve the consensual basis on which each version is released (see **6.4.7**).

The advisory group takes responsibility for the scope of a BSI Flex and for its final content, subject to the ultimate rights reserved by BSI (see **7.1**).

7.6 Identified broader stakeholders

The identified broader stakeholders engage with each released version of the BSI Flex through receiving communication from BSI and being aware of when each release is likely to take place. They are expected to review and comment on the contents of the release based on real-life experience and testing of the BSI Flex.

8 Content and drafting of a BSI Flex

8.1 Principles

For a BSI Flex to fulfil the purposes set out in 4.2, it needs to be drafted in such a way that a user can be confident that all others applying the BSI Flex share the same understanding of its provisions.

A BSI Flex has to be:

- a) suitable for its intended aims and purposes;
- b) appropriate in content and language for its intended audience;
- c) clear and unambiguous;
- d) sufficiently accurate and precise for its intended purpose;
- e) capable of supporting legitimate claims of compliance and conformity where appropriate to its stated purpose (e.g. by containing only provisions that are verifiable);
- f) not unduly restrictive (e.g. such as might result in stifling competition or impeding innovation);
- g) as comprehensive as is possible within its intended scope and field of application, and any omissions made due to a lack of consensus should be noted within it; and
- h) consistent with the law in all jurisdictions in which it is envisaged to be applied.

8.2 Legal considerations

A BSI Flex is always subordinate to the law. It is important that it is drafted so as to avoid any confusion between the provisions contained within it and requirements imposed by law.

Other than in exceptional circumstances (e.g. BS 7671), it is not acceptable for a BSI Flex to contain provisions that are already requirements imposed by law, nor to contain any statement recommending or requiring compliance with the law. It is also not advisable to quote legislation, and no attempt should be made to offer any interpretation of the law. Advice should be sought from BSI if circumstances arise where this appears to be necessary.

Reference to particular legislation is permissible where it is relevant and potentially helpful in applying the BSI Flex. Where such legislation has national variants (e.g. in England, Scotland, Wales and Northern Ireland), all of the national variants should be included in the reference. Lengthy lists of legislation should be avoided as there is a risk that the user might believe any such list to be definitive and exhaustive. Any reference to legislation might become out-of-date during the lifespan of the BSI Flex, and no reliance can be placed on it as being a definitive statement of a user's legal responsibilities or potential liabilities.

Particularly for the purpose of preventing anticompetitive effects or impeding innovation [see 8.1f)], whenever possible, any requirements contained in a BSI Flex are expressed in terms of performance rather than design or descriptive characteristics.

NOTE A more detailed discussion of this principle appears in Annex A of the BSI Rules for the structure and drafting of UK standards [1] (see 8.3.1).

8.3 Drafting

8.3.1 Drafting rules

A BSI Flex is usually drafted in accordance with BSI Rules for the structure and drafting of UK standards [1].

8.3.2 Language

If dealing with a highly specialized topic or addressing a very specialist readership, a BSI Flex might necessarily use technical language not readily understood by non-specialists. Nonetheless, every effort has to be made to keep the tone of each version clear, direct and free of jargon, and its structure intuitive to its intended users.

Given the wider context in which a BSI Flex might be used, it is likely to be translated into other languages. It is therefore important to guard against the possibility of mistranslation, or the introduction of ambiguities, deliberate or accidental.

8.3.3 Scope statement

The scope statement is an essential part of the early stage of the development of a BSI Flex, defining both the scope of the document and the scope of the project to develop it.

The scope is a definitive statement of the type of BSI Flex (see **8.4**), the subject being standardized, and its application. It should also indicate subject matter that a user might expect to be included but which is in fact excluded, and, where possible, direct users to where the subject is covered.

Whilst the scope statement should be short and succinct, it is important that it is worded to take into account the principles listed in **8.1**, items a), f) and g).

8.4 Types of BSI Flex

A BSI Flex usually fits into one of the following types.

- A specification gives a coherent set of absolute requirements, each objectively verifiable. The result is a non-negotiable set of criteria for products, services or systems. It is particularly suited to giving the performance criteria demanded of a product, or the fundamental elements of a service or management system.
- A management systems standard provides a model to follow when setting up and operating a management system. It is usually written in the style of a specification. All international management system standards use the structure given in Annex SL in the Consolidated Supplement to the ISO Directives [2]. National management system standards should use this structure whenever possible, to align with international standards.
- A code of practice contains recommendations and guidance, where the recommendations relevant to a given user have to be met in order to support a claim of compliance. Users may also justify substitution of any of the recommendations in a code of practice with practices of equivalent or better outcome. Depending on the context and field of application, a code of practice usually reflects current good practice as employed by competent and conscientious practitioners.
- A guide primarily contains information and guidance. It may also include recommendations where appropriate, but these are generally of a nature that would not support reliable claims of compliance.
- A method of test provides repeatable and reproducible procedures with consistent outcomes for the assessment of material, product or process performance.
- A method of specifying gives characteristics of a material, product, process or system so that a customer can select the values needed before agreement with a supplier.
- A vocabulary is a compendium of terms and definitions, which helps harmonize the use of language within a given sector, field or discipline.
- A classification is an ordering of items or grading system for use across a given sector, field or discipline.

8.5 Intellectual property rights (IPR)

8.5.1 Principles

There are two categories of intellectual property rights (IPR) that are relevant to a BSI Flex:

- a) IPR in the wording, drawings, data and other content of the BSI Flex themselves (content IPR). This content IPR should be owned by BSI to enable proper publication, distribution and licensing of the BSI Flex; and
- b) IPRs that may exist in the products, methods, processes and technologies described in the BSI Flex (product/process IPR). BSI's policy is to ensure that, to the extent possible, a BSI Flex does not require the use of third-party product/process IPR, so as to facilitate widespread and easy adoption of a BSI Flex in the relevant sectors.

8.5.2 Ownership of content IPR

The collaborative work of the contributors leads to the creation of new content IPR. Contributors agree that all content IPR in contributions made by each contributor belongs to BSI and, to the extent required to achieve this, each contributor assigns to BSI (on their own behalf and on behalf of their employer) all such content IPR. In exceptional circumstances, BSI may, at its sole discretion, agree to an alternative form of transfer of IPR.

Contributors agree not to contribute content in which third parties own content IPR.

Contributors are expected to waive all moral rights (or similar rights) in their contributions and to agree that their contribution may be used without referencing the contributor's name.

8.5.3 Use of content IPR

Contributors are entitled to use content IPR and other relevant content published and owned by BSI as part of the BSI Flex development process and in accordance with BSI policies.

Use of BSI's content IPR by contributors outside the scope of the BSI Flex development process requires approval by BSI and might entail payment of a fee.

8.5.4 Product/process IPR

8.5.4.1 General

BSI's policy is to ensure that, to the extent possible, a BSI Flex does not require the use of third-party product/process IPR, so as to facilitate widespread and free adoption of a BSI Flex in the relevant sectors.

8.5.4.2 Good faith disclosure obligation

Contributors are expected to use reasonable endeavours to inform BSI in good time if either of the following come to their notice:

- a) any product/process IPR that appears to be relevant to the BSI Flex under development; and/or
- b) any claim that product/process IPR is applicable to a BSI Flex, whether released or still under development.

This includes, in each case, product/process IPR in which advisory group members, or their employer, or any other entity with which they have a link, may have an interest.

8.5.4.3 Formal calls for disclosure

A formal call to identify all product/process IPR will be made at the following stages during the development of each BSI Flex:

- a) at each meeting of the advisory group;
- b) as a draft BSI Flex is released to the advisory group for comment; and
- c) during, or immediately prior to, the final approval process of each BSI Flex version.

8.5.4.4 Disclosed product/process IPR

Advisory group members should endeavour to ensure that a BSI Flex does not include any product/process IPR to the extent reasonably possible.

If this is not possible, advisory group members should liaise with any third owning such product/process IPR to agree terms on which such product/process IPR may be used by users of the BSI Flex. These should:

- a) be the least restrictive licensing terms possible;
- b) be made available to all users of the BSI Flex on fair, reasonable and non-discriminatory (FRAND) terms; and
- c) ensure that any entity to which the IPR holder transfers its IPR is similarly bound by this commitment.

A note drawing attention to any product/process IPR included in a BSI Flex will be included at the appropriate point in the released version of the BSI Flex.

If any third-party IPR holder is unwilling to provide this commitment, the advisory group will assess the appropriate action to be taken. This includes reviewing the BSI Flex to see if it can be rewritten so as not to require use of such product/process IPR.

BSI itself does not perform any check on the existence, status or validity of any product/process IPR and accepts no liability for inclusion or omission of such IPR in a BSI Flex.

Bibliography

Standards publications

For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

BS 0, *A standard for standards – Principles of standardization*

PAS 0, *Principles of PAS Standardization*

ISO/IEC Guide 2:2004, *Standardization and related activities – General vocabulary*

Other publications

- [1] BRITISH STANDARDS INSTITUTION (BSI). *Rules for the structure and drafting of UK standards*. London: BSI, 2017.³⁾
- [2] INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO). *Procedures specific to ISO*. ISO/IEC Directives, Part 1 – Consolidated ISO Supplement. Geneva: ISO, 2018.⁴⁾

³⁾ Available at www.bsigroup.com.

⁴⁾ Available at www.ISO.org/directives.

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