

# Session 23

4 May 2023

Shared 2 May 2023

**FLEXFORUM** | 

## Session overview

1. Incorporation
2. Securing ongoing funding
3. Draft advice: opportunities to improve learning-by-doing
4. Draft advice: exploring flexibility knowledge of DER suppliers
5. Engagement update
6. Workplan update
7. Administration

# Incorporation – resolving some final questions about the draft constitution

## Story so far...

- 2 February 2023 – the group discussed a draft charter setting out the objective and ways of working expectations of an unincorporated association of entities
- 2 March 2023 – the group decided to incorporate and requested a draft constitution be prepared based on the draft charter
- 27 March 2023 – draft constitution shared with the group
- 6 April 2023 – the group discussed the feedback received and requested a revised version be circulated for final comments
- 11 April 2023 – revised draft constitution and draft procedures shared with the group
- 14-24 April 2023 – further feedback received from Transpower, Manawa, Orion, Meridian, Revolve, SEANZ and Vector

## What needs to happen now?

- Most of the feedback on the draft constitution was about clarity and tweaks to improve workability
- There were some requests for more information or clarification – see page 4.
- A couple of people proposed revisions which would cause a material change to the arrangements – see page 6. A decision on these is needed ahead of sharing the draft constitution more widely.

## Progress relies on the group endorsing the draft constitution

- next steps to move from talking about the draft constitution to doing things – see page 11

# Incorporation – more information or clarification was asked about 3 things

## **How does the draft constitution comply with the new Incorporated Societies Act?**

A new Incorporated Societies Act 2022 will come into force in October 2023. This makes it a bit difficult to draft a constitution to comply with the new Act before it comes into force and the final provisions are known, including those being announced through Regulations presumably in the next 6 months. The draft constitution reflects the known requirements of the new Act. Societies incorporated before October 2023 will have to comply with the 1908 Act and will have to re-register under the new Act before April 2026.

The FlexForum could wait until after October 2023 to finalise its constitution and the incorporation process. However, this delay extends the tensions driving the decision to incorporate, eg, having a legal entity to operate a bank account and a clear governance framework.

## **What are the obligations of an incorporated society?**

The key changes the new Act will bring are described [here](#). The main obligations include:

- The Steering Group will be treated as a committee under the new Act. The Steering Group members will be obliged to:
  1. Act in good faith and in the best interests of the society
  2. Exercise powers for proper purposes only
  3. Comply with the Act and the constitution
  4. Exercise reasonable care and diligence
  5. Not create a substantial risk of serious loss to creditors
  6. Not incur an obligation the officer doesn't reasonably believe the society can perform
- Societies will need to file annual financial statements which should be reviewed or audited by an independent accountant.
- Societies will need to have procedures for resolving disputes and other grievances between members as well as between members and the society

## **Is there any limit on the number of people from a single organisation allowed on the Steering Group?**

- Not as currently drafted.

# Incorporation – tweaks to improve workability

## Feedback since 6 April relating to workability and details

The workability-related changes are not expected to change the broad intent of the constitution or specific provision.

Examples include:

- delete the word fine from cl4.6
- delete a) and b) of cl5.5
- insert the selection criteria in the policies and procedures into the constitution
- Revise cl6.2 to say the Steering Group will comprise 7 members and the independent Chair
- Revise cl6.12 to say the Steering Group quorum will be 5 members of 7 (excluding the Chair)

# Incorporation – material changes which require a decision

## Feedback in two areas requires a decision

- comments about whether the FlexForum should have the standard powers available to an incorporated society relating to borrowing money, acquiring property (buy, lease) or undertaking building works
- comments about the process for selecting and appointing the Steering Group

## Powers of the FlexForum

- there is no harm from the FlexForum having the standard powers available to an incorporated society. The powers are discretionary and don't need to be exercised. The risk of the powers being exercised improperly is significantly less than the risk of unintended consequences, eg, the FlexForum wants to do something and cannot without amending the constitution

## Selection and appointment of the Steering Group including the Chair – there are three broad options

1. nominated by members and selected by members voting
2. nominated by members and selected by members voting, with the results vetted by a designated third party to ensure diversity of representation
3. nominated by members and selected by a designated third party (this is the option in the draft constitution)

Pros and cons of the three options are set out on pages 7-9. The objective is to ensure the Steering Group reflects the diversity of interests and participation in the FlexForum and the members will do a good job

**The group can decide to use a different process for selecting/appointing the initial Steering Group** to the ongoing selection/appointment to the process described in the constitution – see page 10

# Selection and appointment – pros and cons of voting (1)

## Option 1: nominated by members and selected by members voting

- Each member nominates two people - someone to be the chair and someone to be a member of the Steering Group
- Members then vote on the nomination

Pros	Cons
FF members have a better measure of capability and who will make the best contribution to the SG	There is no mechanism to ensure diversity of representation and participation as SG membership will fall according to the votes.
FF members get to decide who is on the SG	Risk of unintended consequences without voting rules, eg, it is possible each member votes for their candidate. Probably need a drop off system with multiple voting rounds.
	Option to achieve diversity is to allocate 'seats' to sectoral interests. This will be difficult given the diversity of the FF means blurred boundaries, eg, is Our Energy a retailer, an aggregator or a technology firm (or all 3?).

# Selection and appointment – pros and cons of voting plus vetting (2)

## Option 2: nominated by members, selected by members voting, with the results vetted by a third party

- Each member nominates one person to be a member of the Steering Group, and potentially the chair
- Members then vote on the nomination
- A neutral third-party (eg, the chair or MBIE) vets the elected candidates to confirm diversity. The same third-party could appoint the chair
- This option is based on this suggestion from Orion
  - an independent (& non-voting) Chair, appointed by MBIE, plus
  - 7 people elected by the appointed representatives of each member organisation, from a pool of candidates who have been nominated by their organisations.
  - The Chair to review the resulting steering group make up, to confirm that diversity and representation criteria have been met. Where criteria are not met, up to two additional steering group members from the candidate pool may be appointed by the Chair to ensure the criteria are met.

Pros	Cons
FF members have a better measure of capability and who will make the best contribution to the SG	Relying on the third party to make a good choice about the chair
FF members get to decide who is on the SG	Risk of unintended consequences without voting rules, eg, it is possible each member votes for their candidate. Probably need a drop off system with multiple voting rounds.
A mechanism to promote diversity of representation	Mechanism to promote diversity doesn't provide complete confidence that diversity will be achieved
	Most plausible outcome of giving Chair option to add extra members is to further increase the size of the Steering Group, and still not achieve diversity of representation



# Selection and appointment – pros and cons of a neutral selector (3)

## Option 3: nominated by members and selected by a neutral selector

- Each member nominates one person to be a member of the Steering Group and one person to be Chair
- A neutral party does the selection and appointment. This step can occur with input from the incumbent Steering Group
- This option is described in the draft constitution and draft policies and procedures
  - it is consistent with the approach used by Cycling NZ which uses a Board Appointments Panel comprising 3 people – 1 retiring Board member, 1 person from a professional organisation experienced in governance and 1 person appointed by Sport NZ (see cl19 [CNZ Constitution](#))

Pros	Cons
FF members nominate the people who they think will make the best contribution to the SG	Relying on the neutral selector party to make good choices
Provides a process for appointing the SG that should ensure diversity with reasonable checks and balances	Means members are not directly responsible for appointing the SG
Process is used elsewhere	

# Selection and appointment – a process to select the initial Steering Group

Before registering an incorporated society, the prospective members need to choose its officers or board

This group can do that. It could be as simple as:

- everyone submit a nomination to be chair and to be a member of the initial Steering Group
- decide taking account of the criteria etc

## **This process can occur outside the constitution**

Homework: everyone provide a fantasy steering group – 8 people, 1 chair and 7 members – which they think achieves the desired mix of diversity and competence. **The purpose is to find common ground on what good looks like**

- submit your fantasy team to the secretariat **by cob Wednesday 3 May**
- the results will be presented anonymously at the session

Action for this item:

1. Agree to a process to select and appoint an initial Steering Group
2. Complete that process

# Incorporation – next steps

Progress relies on the group endorsing the draft constitution

## Next steps

- We agree the draft constitution and draft Policies and Procedures can be shared with a wider audience
- We share the draft constitution etc with existing and prospective FlexForum participants
  - people get two weeks to respond
    - ‘we would like to join’
    - plus any tweaks to the constitution – do you want relitigate key aspects of things, eg, the selection/appointment process?
- We decide on the initial Steering Group
- We schedule a meeting to do 2 things – this meeting involves everyone who says ‘we would like to join’
  - approve the constitution
  - resolve to apply for incorporation
- Finalise the incorporation process, eg, requires signatures from 5 organisations and payment of \$88.89+gst

## Action for this item:

1. Agree on the next steps

# Securing ongoing funding

The starting point for securing ongoing funding is 50/50 co-funding by government and industry

- the indicative budget is \$500,000 – enough to have 3-4 FTE with various expertise to support the Steering Group, workstreams, Knowledge Group, collate and share information (ie, webpage and knowledge hub, webinars etc) and prepare advice/insights
- the Steering Group will need to confirm the budget and workplan

Participants in the incorporated version of the FlexForum will contribute 50% of its operating costs

- the annual subscription will be set by the Steering Group based on the workplan and budget agreed with members
- the working assumption is
  - large participants will each contribute \$20,000 a year
  - medium-sized participants and industry associations will each contribute \$10,000 a year
  - small participants will each contribute \$1500 a year
  - individuals will contribute \$0.

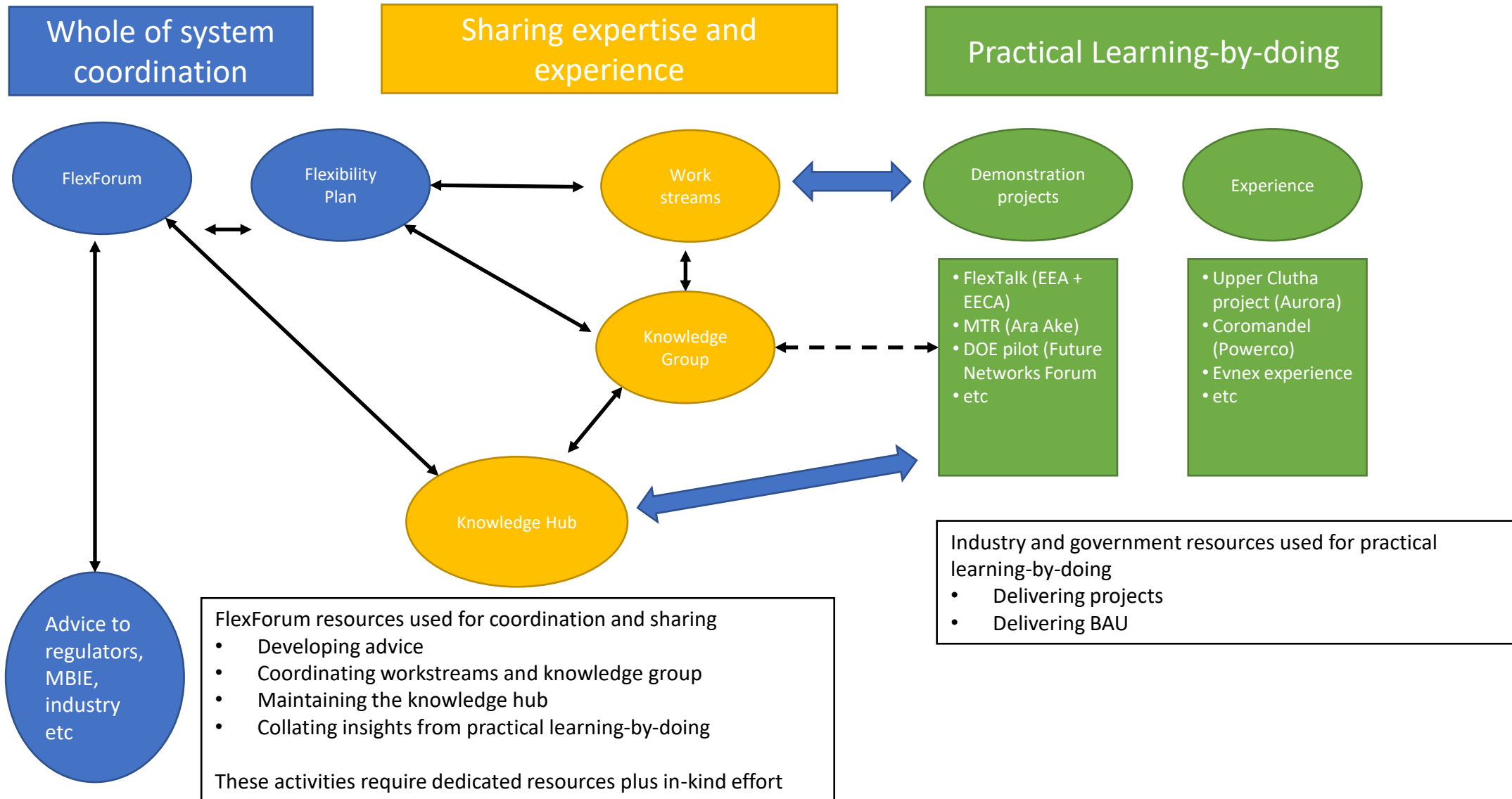
Government – MBIE and EECA – have indicated a willingness to contribute the other 50%

- MBIE contribution requires identification of deliverables. Advice on expectations is coming, ie, generic deliverables versus specific topics

Timeframes for various actions are not aligned to finance continued operation

- industry contributions through subscriptions are notionally linked to finalising the constitution and incorporation – this is likely to take another 2-3 months at least
- the FF needs to agree deliverables with MBIE to undertake the procurement/funding process. It could easily take until July 2023 before the initial Steering Group is established and able to confirm a budget and workplan.

# FlexForum: indicative operational model (or who does what)



# Draft advice: opportunities to improve learning-by-doing

Draft advice – coming. Should be shared by 4 May

- work on the draft constitution and funding arrangements has absorbed a bunch of time
- advice is scheduled for delivery by 28-04-23

Next steps – similar process as for previous FF Insights

- Like it or hate it comments on draft advice
- Final draft will be shared for review and comment
- final tidyification and publication

Action for this item:

1. Note the process and timing for finalising the advice on learning-by-doing

# Draft advice: opportunities to improve learning-by-doing – key points

## Three complementary measures to increase the amount and quality of learning-by-doing

- **Measure 1: Ensure whole-of-system coordination and collaboration** to help realise more bang for the learning-by-doing buck by having an entity which provides a whole-of-system view of learning-by-doing done, underway and needed.
  - The FlexForum is setting itself up to perform this role – a founding purpose of the FlexForum is to support coordinated, collaborative learning-by-doing. There is a lot of activity underway and more needed. Having an entity take a whole-of-system view of who is doing what, and as importantly, what is not being done, to use flexibility and integrate DER will help the electricity sector to better leverage its finite resources and expertise.
- **Measure 2: Improve incentives and increase the level of investment in learning-by-doing**, particularly in the short-to-medium term pending Commerce Commission strengthening incentives for distributors to invest in learning-by-doing, including relating to flexibility.
  - A well-rounded programme fund is needed to support a range of learning-by-doing projects and collaborative, customer-centric trials between now and 2026 [sized to] deliver an additional 4-6 medium-sized collaborative projects and 1-2 larger collaborative projects every 18 months to 2 years. Achieving this level of activity is estimated to require government to commit \$4.6 million over four years towards a contestable funding pool (with corresponding industry funding)
  - The learning-by-doing funding pool should be complemented as soon as possible (ie, 2023) by a flexibility first commitment developed and agreed by MBIE, the Commerce Commission, and network operators.
- **Measure 3: Ensure regulators dedicate resources to enable faster-paced learning-by-doing** by adopting more agile decision-making and accommodating experimentation.
  - Regulators – especially the Electricity Authority and Commerce Commission – can contribute to fast-tracking learning-by-doing by prioritising resources to... [answer] questions and otherwise supporting energy innovators and start-ups navigate complex regulatory frameworks, and trial new products and services. The Australian Energy Regulator Energy Innovation Toolkit is a useful reference point.

# Draft advice: flexibility knowledge of DER suppliers

## Flexibility Plan step# 1: Identify what information and education can be provided to consumers and to their advisers to assist decisions about DER and flexibility

- on behalf of the FF, Ara Ake undertook a survey to explore what DER suppliers know about the capability of DER (ie, flexibility) and the electricity market environment
- advice on the findings is scheduled for delivery to MBIE by 26-05-23

## Initial conclusions

- EV charging suppliers seem to have a greater level of understanding of the capability of DER than PV providers
- Key areas to address information gaps relate to:
  - Undertaking more learning-by-doing
  - Ensuring that the relationship between DER providers and EDBs that are hosting this DER is robust.
- Further work is needed to confirm initial conclusions and improve understanding
  - Talk directly to people dealing directly with customers, such as solar panel installers or electric vehicle salespersons
  - Talk to firms providing different services / technologies in the DER space (ie, home batteries, water heater controllers etc)
  - Explore why PV providers and car dealers (not directly highlighted in the survey) have less knowledge, based on limited survey data, than others such as EV charger providers

## Action for this item:

1. Provide any feedback as soon as you can
2. A final draft will be shared mid-May ahead of publication by 26-05-23



# Engagement update

## Engagement since previous session

- Electricity CE Forum - meeting on 13 April
- ongoing conversation with MBIE about funding

## Upcoming engagement

- FF Speaker series event on 16 May 2023. Non-network options in the regions - you never know what you might find until you look
  - 43 registrations so far (session will not be recorded) – a FF invite will be sent soonish
- Government is seeking feedback on a draft EV charging infrastructure strategy. Comments by 11 May. Draft submission will be shared directly

## April newsletter interest





*Apparently this is pretty decent*

Recipients	Open Rate	Total Opens	Click Rate	Total Clicks	Top links clicked:
290	47.2%	523	11.9%	126	April 2023 Insights Report_____36 FlexForum Webpage_____32 Flexibility Plah_____21 Newsletter subscribe link_____18

## March newsletter interest

Recipients	Open Rate	Total Opens	Click Rate	Total Clicks	Top links clicked:
237	49.1%	345	11.1%	92	Jan 2023 Insights Report_____32 FlexForum Webpage_____20 LinkedIn feedback report post_____17 6 Month Update Report_____15

# Workplan update: overview of progress

Task	Scope & output	Timing	Notes
1. Scope and confirm a Delivery Model for the Flexibility Plan	Purpose is to get input on a minimum viable set of arrangements for the future FlexForum – role and functions, participation & resourcing – to produce and agree a charter for the future FlexForum	Deliver by 31-05-23	<ul style="list-style-type: none"> <li>See item 1 this meeting</li> </ul>
2. FF insights: Network access and connection arrangements	A paper documenting FlexForum insights on network access and connection and identifying specific research questions	Published 31-01-23 	<ul style="list-style-type: none"> <li>Webinar = 21 March 2023</li> <li>Speakers from ANU and SAPN</li> </ul>
3. FF insights: Flexibility contractual arrangements	A paper documenting FlexForum insights on the main terms of trade in contracts for flexibility and identifying specific research questions	Published 30-03-23 	
4. Dependencies, gaps and critical path	A critical path analysis exercise is identifying progress, gaps and opportunities against the steps in the Flexibility Plan		<ul style="list-style-type: none"> <li>3 groups have shared views on impact/timing for each step</li> <li>First draft of conclusions is 60% done</li> </ul>
5. FF insights: Barriers to progress	Document the barriers to progress identified by the FlexForum during phase 1, the impacts and the resulting research questions (ie, steps).		<ul style="list-style-type: none"> <li>First draft shared 8 February 2023 – comments were good</li> <li>Will share final draft and suggested timeframe for publication after easter</li> </ul>
6. Step #C Customer journey mapping	A project which undertakes a customer journey mapping exercise. The Orion Resi-flex (residential flexibility) project includes residential customer journey mapping	Journey mapping complete. 	<ul style="list-style-type: none"> <li>Delivered via the Orion/WE Resi-flex project</li> <li>Results discussed with FF 06/04/23</li> <li>Write up and consideration of implications underway</li> </ul>
7. FF insights: valuing and pricing flexibility	A paper documenting FlexForum insights on valuing and rewarding flexibility and identifying research questions	28 April 2023	<ul style="list-style-type: none"> <li>Initial input received</li> <li>Other things took priority</li> </ul>
8. FF insights: Communication and connectivity	A paper documenting FlexForum insights on communication and connectivity requirements to enable flexibility and identifying research questions	Published 21-04-23 	
9. Step #B Learning-by-doing ecosystem review	A project to review how well the learning-by-doing ecosystem supports firms attempting flexibility-related R&D and commercialisation.	28-04-23	<ul style="list-style-type: none"> <li>Draft report shared (hopefully)</li> <li>Publication by mid-May is possible</li> </ul>
10. DER supplier flexibility awareness	A project to explore the flexibility knowledge of DER installers/hardware suppliers to identify what they would like to know to enable them to provide useful information/advice to customers	By 26-05-23	<ul style="list-style-type: none"> <li>Draft advice shared 27-04</li> <li>Feedback due 3-05</li> </ul>

# Administration

Budget update