



# Consultation on the Design and Delivery of the Energy Industry Code Reform

## Response form

The consultation is available at:

<https://www.gov.uk/government/consultations/energy-code-reform-governance-framework>

The closing date for responses is 28 September 2021.

Please return completed forms to:

### **BEIS**

Team: Code Reform – Electricity Systems Team  
Department for Business, Energy and Industrial Strategy  
Postal address: Code Reform - Electricity Systems Team  
Department for Business, Energy and Industrial Strategy  
Abbey 1, 3rd Floor,  
1 Victoria Street  
London  
SW1H 0ET

### **And**

### **Ofgem**

Team: Industry Code and Licensing Team  
Office of Gas and Electricity Markets  
Postal Address: 10 South Colonnade  
Canary Wharf London  
E14 4PU

Email: [codereform@beis.gov.uk](mailto:codereform@beis.gov.uk) and [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

BEIS and Ofgem will share with each other all responses that are received.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

## Personal / Confidential information

Please be aware that we intend to publish [a summary of] all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☐

Comments: [Click here to enter text.](#)

## About You

Name: Vicky Bell

Organisation (if applicable): Independent Networks Association

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	Respondent type
<input checked="" type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

## Questions

### Question 1

*This question refers to chapter 2 – Scope of reform.*

To what extent do you agree with our proposals on the licensing of a code manager for engineering standards, and why?

☐ Strongly agree    ☒ Agree    ☐ Neither agree nor disagree    ☐ Disagree    ☐  
Strongly Disagree                      ☐ Not sure

Comments: Our members feel that this is a positive step change and therefore agree with the proposal for engineering standards to become codes rather than documents that are owned by the ENA who can be considered as a commercial player in the sector and therefore brings into question their objectivity. Engineering standards and recommendations are “owned” currently by the ENA which leads to a lack of input from iDNO’s as very few are subscribed members to the ENA and therefore independents naturally lose the opportunity to shape and influence the content of any such standards.

### Question 2

*This question refers to chapter 2 – Scope of reform.*

What are your initial views on how central system delivery bodies should be regulated (including their relationship or integration with code managers and the extent to which licensing may be appropriate), bearing in mind this will be the subject of future consultation?

Comments: [Click here to enter text.](#)

### Question 3

*This question refers to chapter 3.1 – Setting the strategic direction, chapter 3.2.4 - Detailed roles and responsibilities of the strategic body, and chapter 3.2.7 – How would our proposals differ under option 2?*

To what extent do you agree with the detailed roles and responsibilities of the **strategic function** as set out above, and why?

☐ Strongly agree    ☐ Agree    ☐ Neither agree nor disagree    ☐ Disagree    ☐  
Strongly Disagree                      ☐ Not sure

Comments: [Click here to enter text.](#)

### Question 4

*This question refers to chapter 3.2.3 - Detailed roles and responsibilities of the code managers, and chapter 3.2.7 – How would our proposals differ under option 2?*

To what extent do you agree with the proposed roles and responsibilities of the **code manager function** as set out above, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

### Question 5

*This question refers to chapter 3.1 – Setting the strategic direction, chapter 3.2.5 - Roles and responsibilities of other stakeholders, including code parties, and chapter 3.2.7 – How would our proposals differ under option 2?*

To what extent do you agree with the proposed roles and responsibilities of **stakeholders** as set out above, including the role of the stakeholder advisory forum, and why?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

Comments: We are concerned that the proposed changes will reduce the opportunities for different segments of the energy industry to engage with and influence changes which affect them specifically, as has already happened with the REC. We represent the independent Gas and Electricity networks, and our interests are not necessarily aligned with the larger Networks due to (amongst other things) differences in funding arrangements. We acknowledge BEIS and Ofgem's view that broad and extensive engagement with industry slows change down, but when managed well, it does minimise unintended consequences and thus reduces requirements to additional changes to 'fix' previous errors.

### Question 6

*This question refers to chapter 3.3 - Appeals process and compliance.*

In relation to option 1, where Ofgem would be the strategic body, to what extent do you agree with our proposals on how **decisions by the code manager** would be overseen by the strategic body with, as a minimum, existing appeal routes retained and moved to the strategic body

☐ Strongly agree   ☒ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

Comments: Maintaining existing routes for appeal seems like a sensible approach in which decisions can then be overseen by Ofgem as the strategic body. This maintains the status quo in regard to maintaining an objective process for onward recourse and dispute resolution.

### Question 7

*This question refers to chapter 3.3 - Appeals process and compliance.*

In relation to option 2, where the FSO would take on the role of the IRMB, to what extent do you agree with our proposals on how relevant **decisions by the code manager function** would be appealable to Ofgem, with a potential prior review route via an internal body?

☐ Strongly agree    ☐ Agree    ☐ Neither agree nor disagree    ☐ Disagree    ☐ Strongly Disagree    ☐ Not sure

Comments: [Click here to enter text.](#)

### Question 8

*This question refers to chapter 3.3 - Appeals process and compliance.*

Do you have any views on the two proposed options for appealing **decisions made by Ofgem on material code changes** in option 1 (with Ofgem as the strategic body) and option 2 (with the FSO as the IRMB)?

Comments: In relation to appealing decisions under Option 1 with Ofgem as the strategic body, our members are keen to see the current CMA appeal route be retained given the success that has been demonstrated in past cases. There are concerns that should this route be removed, any appeals would move directly into a judicial process and we do question whether this will be as objective and effective.

### Question 9

*This question refers to chapter 3.3 - Appeals process and compliance.*

Do you have any thoughts on other potential appeal routes?

Comments: [Click here to enter text.](#)

### Question 10

*This question refers to chapter 4.1 - Proposed operating model and accountability (for option 1).*

To what extent do you agree with the proposed operating model and accountability structure for Ofgem as the strategic body, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

### Question 11

*This question refers to chapter 4.2 - Monitoring and evaluation (for option 1).*

To what extent do you agree with the monitoring and evaluation approach for Ofgem's performance as strategic body, and why?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

Comments: We would like to further explore who will set the direction for Ofgem; it is assumed this would be the Government however we are unclear as to how they will be held to account? Recognising that the term of the Government is generally a 5 year horizon whereas asset ownership is decades, this in itself presents a regulatory risk and with increased political influence (and uncertainty) this may have a detrimental effect on investment in the Energy Sector. More detail around the proposed accountability would be beneficial to all parties to gain more insight into how this will work end to end. We also recognise that to deliver the strategic role adequately, Ofgem will have to deepen its understanding across the fuels, particularly gas, and the interplay of new technologies in order to be fully effective and would like to understand how this will be achieved.

### Question 12

*This question refers to chapter 5.2 - Establishing code managers.*

To what extent do you agree with the ways we propose that the strategic body select code managers, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

### Question 13

*This question refers to chapter 5.3 – Budget and funding.*

To what extent do you agree with our proposed approach to code manager funding, and why?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Disagree   ☐  
Strongly Disagree   ☐ Not sure

☐ Not sure

Comments: It is understandable that the proposed approach will cost more than the current costs endured today. We note that costs are recoverable however would like to understand the proposed cost recovery mechanisms for independents given that we are not party to price controls and therefore do not have any mechanism currently available to us to recover additional costs.

#### Question 14

*This question refers to chapter 5.3 - Budget and funding.*

To what extent do you agree with our proposal that the strategic body should be accountable for code manager budgets, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐ Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

#### Question 15

*This question refers to chapter 6.1 - Proposed operating model and accountability (for option 2).*

To what extent do you agree with the proposed operating model and accountability structure for option 2, where the FSO takes on the role of the IRMB, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐ Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

#### Question 16

*This question refers to chapter 7.1 - Options analysis*

Overall, which of the two options do you think would be best placed to reform code governance, and why?

☒ Option 1, where Ofgem is designated as the strategic body with the power to licence separate code managers

☐ Option 2, where the FSO takes on the role of an IRMB, which combines the strategic and code manager functions

☐ Not sure



Comments: Appointing Ofgem as the strategic body seems the most logical option given their wealth of knowledge and experience across both the Electricity and Gas Industry and objectivity working with multiple parties across the industry. We perceive establishing the right organisation as the FSO, who can equally offer the same experience across both sectors, can execute the role without any bias to avoid any conflicts of interest and offers the same level of expertise when dealing with code changes and cross code changes may be very difficult to achieve and therefore poses the greatest risk out of the 2 options presented.

*The following three questions relate to the impact assessment on the code reform that is published along with this consultation. Please only answer the questions below if you have read the Impact Assessment.*

### Question 17

To what extent do you agree with our estimated costs for the new code manager function set out in the impact assessment, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐ Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

### Question 18

To what extent do you agree that the case studies included in the impact assessment are indicative of the major barriers facing code changes under the current system, and why?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐ Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

Can you provide further examples of when current code governance has resulted in either optimal or sub-optimal outcomes?

Comments: [Click here to enter text.](#)

### Question 19

To what extent do you agree with the scale and type of benefits to industry estimated in the impact assessment?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Disagree   ☐ Strongly Disagree   ☐ Not sure

Comments: [Click here to enter text.](#)

Are there further cost savings to industry that should be included?

Comments: [Click here to enter text.](#)

### Question 20

*This question refers to chapter 8.1 – Context and wider industry developments*

Are there any other wider industry developments we should consider in relation to the implementation timeline?

☐ Yes      ☐ No      ☐ Not sure

Please provide details of any industry developments you believe should be considered in the implementation timeline and how they could impact on code reform.

[Click here to enter text.](#)

### Question 21

*This question refers to chapter 8 – Implementation approach*

Are there any implementation issues, risks or transition considerations we should take into account?

Comments: [Click here to enter text.](#)

How do you think these could impact on code reform?

Comments: [Click here to enter text.](#)

### Question 22

*This question does not refer to any specific chapter.*

We invite respondents' views on whether our proposals may have any potential impact on people who share a protected characteristic (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation), in different ways from people who do not share them. Please provide any evidence that may be useful to assist with our analysis of policy impacts.

Comments: [Click here to enter text.](#)

### Question 23

*This question does not refer to any specific chapter. Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.*

Do you have any other comments that might aid the consultation process as a whole?

Overall, our members are supportive of the proposed approach of Option 1 thereby appointing Ofgem as the strategic body who will then appoint code managers. We appreciate that this is a more costly approach and understand the need for this although have highlighted that in essence this is likely to result in the independents having less influence over the strategic direction of the codes and similarly less influence over change decisions and any associated costs. We do not currently have any benchmark or experience of how this may work in reality and whilst the REC has been designed in a similar manner, it is currently too early to have established any pro's or con's. As such we would like to be closely engaged in the process moving forward to ensure independent parties are fully represented in the development of processes and ways of working moving forward.

Thank you for your views on this consultation.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BEIS we carry out our research on many different topics and consultations, and your views are valuable to us. Would you be happy for us to contact you again from time to time either for research or about other consultations?

☒ Yes

☐ No