

Consultation on Design and Delivery of the Energy Code Reform

Northern Powergrid's response

Key Points

We agree that reforms to energy industry code arrangements are necessary, but we consider it is vitally important that Ofgem doesn't introduce further complexity and blurred decision-making accountability. Ofgem as the industry regulator is the appropriate strategic body.

- **The Future System Operator ("FSO") should not be the strategic body**, given its development from the Electricity System Operator ("ESO"). The FSO, as the strategic body:
 - would become a rule maker and rule taker (and therefore, not independent);
 - risks baking in a centralised approach rather than improving wider access; and
 - would likely dilute its focus on whole system and net zero objectives at the expense of code management.
- **The overall system of code governance needs to police potential abuse by parties including risks of regulatory capture:**
 - Ofgem must mitigate against the potential for parties to manipulate codes and use the change process to raise self-interest changes aimed at moving costs/risks to other parties).
 - Ofgem is generally already the industry's code change decision and rule-maker, and creation of another such entity must be avoided; but the Code Manager(s) would add value by enforcing the strategic framework.
- It is essential that reform maintains the technical and commercial robustness of the code requirement to a preserve the integrity of the electricity system.
- As the electricity system becomes technically and commercially more complex, there is a need for a robust set of rules so that each party understands and delivers on a set of unambiguous requirements. The technical codes need to be drafted as simply as possible with the content only as detailed and complicated as it needs to be.
- Code changes that transfer costs between parties or assist "free riders" need to be prevented. Part of the role of the Code Manager(s) will need to be identifying these risks.
- Code Manager(s) should be allowed to prioritise code changes via effective triage.
- We believe there should be a minimum of four codes: Wholesale; Retail; and separate Electricity and Gas Network codes.
- More than one Code Manager will drive benefits in competition and benchmarking to drive best working practices.
- It will be challenging for Code Manger(s) to secure specialist subject matter experts, including for the network codes given that much of the specialist industry expertise is currently within existing licensees.
- Code Manager costs should be treated as pass-through for licensed code parties in RIIO-ED2.

Responses to consultation questions

1. This is Northern Powergrid's response to the questions posed in the Ofgem/BEIS joint consultation on 'Design and Delivery of the Energy Code Reform'

Chapter 2: Scope of reform

Question 1: To what extent do you agree with our proposals on the licensing of a Code Manager for in-scope engineering standards, and why?

2. We understand that the code management and modification structure need to be reformed in order to meet the increasing pace of technical and commercial changes required as network use develops. We fully support the concept of Code Manager(s), but it is very important that the role must be clearly defined and communicated for each code, or grouping of codes. It is essential that industry is consulted on their development in order to ensure they are set up correctly to achieve the ambitions for the role, have wide industry support, and buy-in from industry stakeholders.
3. It is clear that an element of control and management will be required to ensure Code Manager(s) operate as specified by Ofgem, but we are currently unconvinced that a specific full/specific licencing requirement would be necessary for every code or groups of codes, for example:
 - A full and specific licencing regime for the Code Manager(s) responsible for managing a central system delivery function may be appropriate given the likely immediate impact of any system failure on code parties, consumers, and other stakeholders; whereas
 - A full licencing arrangement is not necessarily required for strategic control of Code Manager(s) that do not run the delivery of central systems and this may be appropriate for technical engineering codes, including if, for example, the manager of a code already had a licence for other industry activities or already existed as a not-for-profit organisation.
4. Although full code-specific licencing would ensure control, it may not be flexible enough to manage any required changes in approach or strategy as new challenges are identified in the future. A fixed term contract, subject to re-negotiation upon completion of a defined term, should be considered as an alternative to licencing. For some codes, employing the Code Manager via an appropriate contract may be a sufficiently effective way to ensure the code manager function offers value for money. We think it would be worth carrying out a lesson learned exercise to look at the pros, cons, delivery costs and features in existing code administrator contracts, for example between licencing and contractual models, including not-for-profit models. We believe that there is clear merit in further consultation on options for control and supervision of Code Manager(s).

Question 2: 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 may be the subject of future consultation?

5. We note the proposal to legislate to give the strategic function powers to direct central system delivery bodies for the purposes of delivering the strategic direction, and we support this. We are pleased that the proposed reforms recognise the opportunity to consider further ways in which lines of accountability between central system delivery bodies and their users can be strengthened.

6. We agree that the central system delivery functions play an important role in the current industry arrangements and the bodies that perform the central system delivery functions have a key role in supporting effective delivery of changes to central system changes and coordinating with other system changes. Our initial view is that we agree that more integration between code management and central system delivery could make it easier to deliver the strategic direction. We see merit in the Code Manager(s) and the respective code delivery functions being closely joined up under a common licence, but not necessarily integrated in to a single code management and delivery function, noting the potential option to grant licences in respect of full end-to-end delivery responsibilities (i.e. making a licensee responsible for both code management and central system delivery, but providing clear delineation between code management and system development/performance responsibilities).
7. We understand the reasoning for opening up the facility to raise code change proposals to wider stakeholders (i.e. beyond code parties). This will drive the need for efficient and effective triage to identify and prioritise cost-effective change proposals that benefit consumers and decarbonisation. Arrangements will also need to continue to identify any changes to central systems that may be disproportionately costly for the benefits they may bring. Licencing provides a route for appropriate cost controls for the management and development of central systems delivery functions.
8. We are pleased that further stakeholder engagement is expected on these detailed considerations ahead of any changes in this area.
9. As noted in response to question 1, we understand the need for change and agree with the concept of Code Manager(s), to ensure that they operate as agreed and with buy-in from stakeholders. However, and also as noted in response to question 1, we are not convinced that licensing is necessarily the best way to control and manage the Code Manager(s). Whilst licencing would ensure control, it may not be flexible enough to manage any required changes in approach or strategy as currently unknown challenges are identified. A fixed term contract, available (subject to agreement by both parties) for re-negotiation upon completion of the defined term, could be a possible alternative to licencing?

Chapter 3: Roles and responsibilities

Question 3: To what extent do you agree with the proposed roles and responsibilities of the strategic function, as set out above, and why?

10. Governance option 1, with Ofgem as the Strategic Body, remains our preferred model as it provides a clearer distinction between the strategy and Code Manager delivery roles. The Strategic Body needs to work in a synchronised way with the regulator and there is no better way to achieve than by having the Strategic Body within Ofgem's sphere of managerial control. We have a strong preference for this model as it provides greater clarity of roles than option 2 (Integrated Rule Making Body (IRMB)) and there is less scope for confusion over the boundaries of strategy and code manager roles.
11. We note the proposal to legislate to amend the Strategy and Policy Statement (SPS) framework in the Energy Act 2013 to impose new duties on the strategic function; this is logical, and we support it.
12. We believe it is important that the roles of the Strategic Body and Code Manager are clearly separate to allow each to concentrate on specific areas. The Strategic Body to gather information

and horizon scan, reflect high-level government strategy and capture Ofgem policy decisions. The Code Manager should focus on managing modifications, consultations, and develop communication with industry parties and wider stakeholders. Alignment of the strategy and management function is essential, and good communication and working relationships between the two separate functions/parties is essential for the successful delivery of key government targets.

13. From the information provided in the consultation, the role of the Code Manager(s) appears to be broad, and the level of authority will allow it to focus on those change proposals that have clear merit and a genuine intention to improve the codes and standards. The Code Manager must have the authority to be able to address persistent and pedantic calls for modifications without the need to provide extensive explanation as to why a change request has not been progressed.
14. While prioritisation, development, and delivery of changes are ultimately the responsibility of the Code Manager, there should be a requirement for the Code Manager to formally consider the views of forum members and set out why a particular decision has been made. This will ensure that all views are heard, and the Code Manager can be seen to engage across all users of the code. It will also reduce grounds for future appeals where final decisions have not met all stakeholder issues.
15. Having the Code Manager(s) reporting to Ofgem as the Strategic Body is similar to the current arrangement and working practices which will assist in the transfer to any new arrangement as the process is already understood and the working relationships are established.
16. It is important that Code Manager(s) are overseen by a regulating body via a clear strategic and escalation structure. The role of the Strategic Body should be to provide and monitor the strategic direction necessary to achieve government targets, but how that direction prompts what code and standard changes are required should remain the remit of the Code Manager(s).
17. The authority of Ofgem as the Strategic Body to oversee changes is acceptable, but they should only become involved directly in the management of code changes where the change does not meet, or is contrary to, the strategic direction. It is suggested that the Strategic Body has access to the materials used in the code change decision in order to support the assessment of appeals.
18. It is also noted that there is limited additional funding beyond current levels being made available to resource the Strategic Body. Adequate resourcing will be required to ensure the Strategic Body has the appropriate technical and commercial skill set to be able to support both government and the Code Manager(s).
19. While change decisions will always try and consider all stakeholder views it is accepted that not all parties will always agree with all decisions. In developing it we suggest that guidance on appeals processes and suitable reasons for raising an appeal are put in place to avoid unnecessary appeals on minor matters or changes.
20. Although not discussed in the consultation document, has the introduction of an independent appeals body been considered? This body could review appeals off-line, so the day-to-day management of the code is not impacted, and decide if the appeal meets pre-agreed criteria before referring back to the Code Manager and Strategic Body to agree the extent of action required.

Question 4: To what extent do you agree with the proposed roles and responsibilities of the code manager function as set out above, and why?

21. We think the Code Manager function should be established by and be accountable to the Strategic Body. We are in favour of there being more than one Code Manager covering the codes, as this should provide ongoing benefits of competition and benchmarking opportunities as well as driving best working practices. We see no reason why this should confuse parties and code access could still be via a single common portal for all codes.
22. We agree with the proposed roles and responsibilities of the Code Manager function, particularly on their role to be proactive and forward looking, and recognise that the detailed arrangements will be the subject of further consultation. We suggest that such consultation should include further discussion in the following aspects:
 - The criteria used to establish whether a change is material or non-material.
 - The criteria used to establish whether a change proposed by a stakeholder is to be progressed, or not. This is a significant change to the present proposer ownership concept of open governance and could reduce stakeholder confidence in the change process if applied too stringently.
 - The criteria used to establish priorities.
 - The requirement for the Code Manager to provide feedback to stakeholder consultation responses, particularly when their feedback is not incorporated; this is important to retain stakeholder engagement and
 - The role of stakeholders in the change process (we have expanded on this in our response to question 5).
23. We believe that code changes that are intended transfer costs and risks between parties or assist “free riders” need to be prevented. Part of the role of the Code Manager(s) will need to be identifying these risks. We would be happy for the Code Manager(s) to prioritise code changes via effective triage.
24. Discussions around the degree of autonomy and flexibility accorded to the Code Manager will also be required as the role is developed. It is important to ensure that the Code Manager has the authority to select and set up appropriate stakeholder groups and prioritise specific changes without necessarily having to report or gain approval from the Strategic Body for every matter.
25. Communication between Strategic Body and Code Manager is essential to agree and set strategic direction, but the Code Manager should be free to make commercial and technical decisions with limited input from the Strategic Body, unless there is failure of the Code Manager to direct modifications in accordance with the strategic direction.

Question 5: 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 forums, and why?

26. We support the creation of stakeholder advisory forums especially if wider stakeholders value this as more convenient route to access information about change proposals in the pipeline and for then to inform and support the development of proposals. There may also be an additional benefit in easing,

or sharing, the burden on code party employed experts who often shoulder work to develop change proposals where working group membership is smaller than desirable.

27. We agree that stakeholder advisory forums should consist of a range of stakeholders, including non-code parties, but whilst parties such as academics and innovators (as identified in the consultation) will provide valuable expertise, the forums should be led by those with deep industry knowledge i.e. representatives of class of code parties such as the networks and suppliers etc. Any quoracy requirements should be weighted towards code parties so to ensure sufficient representation.
28. We think that the technical and commercial complexity of electricity systems will increase as systems develop to accommodate the decarbonisation agenda and 2050 requirements; hence it is essential to ensure that opportunities are taken to utilise the existing stakeholder expertise when developing the technical and commercial changes. We believe that this would help ensure that the changes promoted and developed by Code Manager(s) are in support of the strategic direction are technically are commercially robust, both conceptually and in terms of the detailed legal text which some stakeholders would be legally obligated to comply with if implemented. Importantly it would also ensure that any change proposals have the general support of stakeholders. It is important that all stakeholders 'buy into' technical and commercial change if we are to meet the 2050 targets.
29. We strongly agree with the proposal that there is a need for Stakeholder Advisory Forums to be established, comprising appropriate industry experts, as proposed, that would enable stakeholder expertise and resource to be harnessed and used to help the Code Manager make changes. Whilst stakeholder advisory forums may be established/disbanded to support specific change proposals/topics, we see that there would be value in enduring stakeholder advisory forums that would be able to take a longer term view of the change over a period of time and would be consulted in the majority, if not all, the proposed changes.
30. Such advisory forums and could, for example, ensure that the change process had:
 - Involved appropriate stakeholder consultation and that consultation responses had been properly taken into account; this would provide reassurance to stakeholders responding to consultations that their concerns had been properly considered, thus encouraging further engagement.
 - Considered all the relevant issues.
 - Considered all the appropriate options to implement the strategic direction and that where there are different solutions to the effect change the most efficient solution should be selected.
 - Considered any practical implementation issues so that the changes can be implemented by the affected stakeholders quickly and efficiently.
 - Taken all opportunities for existing industry expertise to be exploited to facilitate the change.
31. We note the intention for industry to continue to play a key role in the code change process and the stated importance of this, we also note the expectation that code panels will be disbanded and we highlight a potential unintended outcome. The panel members are often industry experts with wider code experience who can spot issues for other codes that may be present within a code change proposal, issues that may not have been spotted by a code administrator. These experts may, or may not, join the proposed stakeholder advisory panels or join working groups for specific code

changes under the new arrangement. The role of standing expert groups may need to be considered (in addition to stakeholder advisory forums) as a means of avoiding expertise dissolving with the disbanding of panels.

32. In addition, we think that it would be wise for Code Managers to develop technical and commercial code changes using expertise and experience of stakeholders via the use of appropriate working groups. We think this would be essential in the early stages of implementing new code governance processes, at least until the Code Manager(s) had acquired the required expertise. This would help ensure that all shareholder issues associated with technical and commercial change were addressed as the changes and the associated legal text are developed. This would help to ensure that the changes were robust, well developed, and co-ordinated with existing codes where appropriate, and had the general support of stakeholders. This would facilitate changes being protectively implemented and less likely to be subject to appeal or future code modification proposal to resolve issues that could have been more efficiently addressed at the code change development stage.
33. We also think that a move to more principled based codes and standards might enable strategic changes to be made more easily, leaving the detailed technical implementation to those stakeholders who would need to implement changes. This may avoid the risk of the code change process becoming bogged down in detail that may have implications for other stakeholder obligations (for example compliance with the Electricity Safety, Quality and Continuity Regulations (ESQCR)) which again could result in the need to appeal decisions or raise further code modifications. There would need to be a balance between principle based and prescriptive standards as, at some stage, detailed requirements will need to be set and minimizing differences of interpretation or application across different stakeholders is important from the end customers perspective.

Question 6: 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?

34. We have previously stated our clear preference for option 1, and reiterate that having the Code Manager reporting to Ofgem as the Strategic Body is similar to current arrangements and working practices, which will assist in the transition to any new arrangements as the process is already understood and the working relationships are established. There are other similarities to existing arrangements where codes already make recommendations to Ofgem and then Ofgem make code decisions; in addition, non-material changes can already be approved within codes (i.e. a two tier approach that can be maintained under option 1 with Ofgem as the Strategic Body making decisions on more material code changes, including those highlighted at the end of section 3.3.2.).

Question 7: 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?

35. We do not believe that the Strategic Body should sit outside of Ofgem as it would effectively give licensees two masters. There is a risk that IRMB becomes a rule maker and rule taker. Additional concerns would arise if it was also involved in code change appeals. While ultimately reportable to Ofgem, there would be concern that the IRMB could stand behind a strategy and process they alone are responsible for to address appeals. There is also concern that the IRMB would not be able to

successfully demonstrate separation from company operational and commercial pressures or prove no conflict of interest.

36. Option 2 is far less preferable to option 1 as it creates the risk of scope creep and unnecessary expansion of the Code Manager's activities through creating potential for it to have undue influence over the Strategic Body through having a relationship that is too closely connected.
37. Please also see our response to question 8.

Question 8: 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)?

38. We note the proposal that Ofgem would continue to make decisions on the approval of any changes that have a **material impact on consumers or competition** (as well as on those where retained EU law, or the Trade and Cooperation Agreement (TCA), requires approval decisions to be made by Ofgem). Given that consumer outcomes are at the heart of the proposed code reforms and that three of the four stated aims of code reform (in 1.2.1 of the consultation) include benefits for consumers, we assume that many change proposals for decision will involve consumer outcomes and therefore appeals on decisions are likely to be on changes that affect consumers. We see no merit in involving the IRMB in appeals. Any IRMB involvement in code decisions and appeals may add a layer of unnecessary bureaucracy to change decisions

Question 9: Do you have any thoughts on other potential appeal routes?

39. No. We think all code decision appeals should be considered by Ofgem as the Strategic Body under option 1. Option 2 unduly complicates code decision making and appeals and shouldn't be taken forward.

Chapter 4: Ofgem as strategic body with separate code managers (option 1)

Question 10: To what extent do you agree with the proposed operating model and accountability structure for Ofgem as the strategic body, and why?

40. The option to reform the code management structure with separate Code Manager(s) working with Ofgem as the Strategic Body is similar to the existing operating model so the new arrangement would be more easily accommodated within management and consultation processes and stakeholder groups, accepting that these stakeholder groups will need to be extended beyond industry to other interested parties as appropriate to the change.
41. The introduction of option 1 should engender a closer working relationship between Ofgem and Code Manager(s) and ensure commitments made in industry stakeholder regulatory plans are reflected in, and are supported by, code changes, and that codes can be adapted as the requirements and challenges on the networks develop.
42. We agree the use of existing legislation Strategy and Policy Statement (SPS) to manage the Strategic Body, as this will help facilitate the implementation of the new code structure by removing the need to develop and approve completely new legislation.

Question 11: To what extent do you agree with the monitoring and evaluation approach for Ofgem's performance as the strategic body, and why?

43. We agree that there is a need for a monitoring and evaluation approach to ensure that Ofgem, as the Strategic Body, is effectively delivering against its role and responsibilities. We note the expectation that Ofgem will seek stakeholder views on its performance as the Strategic Body and that Ofgem would also seek regular stakeholder feedback on the performance of Code Managers. For these reasons we agree with the proposed monitoring and evaluation approach.

Chapter 5: Code manager approach under option 1

Question 12: To what extent do you agree with the ways we propose that the strategic body selects code managers, and why?

44. The appointment of Code Manager(s) must be by a selective process to ensure adequate resources and knowledge of codes is put in place before code administrators and panels are disbanded. We are strongly in favour of Code Manager(s) that are already equipped with industry knowledge, understand industry stakeholders, can demonstrate they can engage with industry stakeholders, and add genuine value in order to ensure continued engagement with the main users of the codes.
45. We are opposed to any consideration of code management contracts being awarded to more generic, administrative, consultancy, or project management companies. While such companies might provide specific outsourced support services to Code Manager(s), they should not be the lead company due their fundamental lack of industry knowledge. The transition timetable will be challenging enough without adding the need for code party staff/ ex code administrator staff to educate the staff of a non-industry company.
46. There should be individual Code Managers for each sector of codes, for example technical (separating electricity and gas), retail, and wholesale, as this will enable individual and group stakeholders with core skill sets to participate in developing the code(s) in which they have specific understanding.
47. Costs based on providing adequate resources should be reviewed but not included in the final assessment and selection of the Code Manager(s). It is important that the Code Manager is selected on its ability, and we suggest that the codes are run on a not-for-profit basis.

Question 13: To what extent do you agree with our proposed approach to code manager funding, and why?

48. We note the proposal that Code Manager funding would be via charges levied on code parties and that charges would be based on portions set through a methodology. We would prefer Code Manager costs to be centrally funded either via the Strategic Body or licence fees. However, as the central funding option appears to have been dismissed, we make some observations on funding through charges to code parties.
49. The parties that are being charged need to align to the respective code activity, for example, the costs of the retail energy code and central faster switching delivery should continue be funded by suppliers rather than network operators, as change of supplier is clearly a supplier-led activity. Similarly, the costs of settlement reforms using half-hourly metering data need to be faced by

suppliers as metering is a supplier activity and more accurate settlement benefits supplier's forecasting and trading positions.

50. New code arrangements that facilitate change proposals being raised by 'any stakeholder' creates an additional level of uncertainty for code management and potential changes to central systems (and code party's interfaces) with those systems. Robust and transparent multi-year budgets that are subject to consultation alongside work plans will be essential and we believe the details of these aspects should be subject to further consultation.
51. We believe there should be routes into the new arrangements for industry parties to comment on Code Manager budgets, expenditure plans and code work plans. This is because industry parties are likely to be significantly affected by the Code Manager's activities and its performance.
52. One option for fairer cost distribution could be for the Code Manager and Strategic Body to consider requesting larger groups and companies to part fund specific modifications if there is a material commercial benefit for a specific product or process.
53. The Code Manager(s) funding budget should be reflected in an apportioned flat fee to be reviewed annually as opposed flexible within-year funding based on volumetric activity (e.g. based on the number of changes, length of code change development or levels of consultation changes). The fee should reflect the resources and work plan involved in managing the code(s) under the Code Manager and should be set to avoid the Code Manager being incentivised to generate or encourage large volumes of changes to increase income. The flat fee would also encourage Code Managers to group similar modifications into one proposal to the Strategic Body increasing the agility of changes.
54. We suggest that Code Manager costs are treated as pass-through for licensed code parties in RIIO-ED2, as per the decision on the treatment of Data Communications Company (DCC) charges under the Smart Energy Code (SEC).
55. The Strategic Body should be able to monitor annual spend against budget but should also be accountable for overspend should the strategic direction change or require a wider scope of work than planned.

Question 14: To what extent do you support our proposal that the strategic body should be accountable for code manager budgets, and why?

56. We support the proposal that the Strategic Body should be accountable for Code Manager budgets as they are a necessary oversight to try and ensure value for money and that costs are commensurate with benefits to consumers and net zero goals. Code Manager budgets, alongside corresponding work plans, should be subject to stakeholder consultation.

Chapter 6: Alternative option: Future System Operator as Integrated Rule Making Body (IRMB) (option 2)

Question 15: To what extent do you support the proposed operating model and accountability structure for option 2, where the FSO takes on the role of the IRMB, and why?

57. We do not agree that the Code Manager and Strategic Body should fall within the remit of a single organisation. While the FSO as the IRMB will no doubt have the knowledge necessary to manage the codes, there would be concerns regarding independence, accountability, and maintaining objectivity where modification proposals did not align with a single company's internal policies.

58. Distribution network operator (DNO) experience of the current Grid Code modification process through the Grid Code Review Panel is that it is complicated, slow, and dominated by procedure rather than content. There is concern that if the FSO continues to use the same, or at least similar, processes, it would be unable to meet the agile change and wider stakeholder involvement targets sought by the Strategic Body and Code Manager(s) proposal.
59. It is imperative that any replacement to the panels and processes are seen to be, and act as, supportive and proactive as the needs of customers and network operators alike develop.
60. In addition, option 2 creates concerns about the span of remit of the FSO. Given the key responsibilities of the FSO in terms of achieving whole system deliverables and supporting net zero objectives, we think that adding management of all code to the FSO's core purpose would create an overly-wide remit. We would highlight that the codes cover a very wide range of industry activity including some niche, but important topics that would be an unnecessary distraction from the FSO's core purpose, including, for example: DCUSA credit cover; domestic energy theft; management of unmetered supply inventories; customer engagement via the smart metering installation code of practice; and many more code activities that have little bearing on whole system/net zero.

Chapter 7: Analysis of institutional governance options

Question 16: Overall, which of the two options do you think would be best placed to reform code governance, and why?

61. As stated previously we believe option 1 provides the best solution to reform code governance. Option 1 provides wider access to all stakeholders, clear accountability and improved agility while retaining modification and communication processes similar enough to existing arrangements not to require extensive legislative change or put off existing code stakeholders from being involved.
62. All Code Managers must ensure, at the commencement of each code change, that all stakeholders understand the background and reason for the change. Using the Distribution Code management process as an example, the panel and sub-groups are led by the code administrator, utilising industry experts in developing agreed code modifications. When addressing a particular issue within the Distribution Code or its supporting Annex standards it will only propose one final and considered modification and utilises its good working relationship with Ofgem to discuss more complex changes ahead of submission for approval to minimise the risk of rejection. Understanding, direction, stakeholder involvement and communication, are key aspects in ensuring efficient and timely changes. It is suggested that the Code Manager(s) follow a similar approach in the reformed code management structure.

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?

63. We have not formed a view on the estimated costs of the new Code Manager(s) functions as we believe the current code administrators should be much better placed to provide a view on likely costs and savings.
64. While a "money is no barrier" approach is not an appropriate solution, focus should be on efficiency in achieving strategic goals and making codes more widely accessible and understood and ensuring adequate resources are provided by, and are available, to the code manager and the Strategic Body.

65. It is felt that the impact assessment makes a number of assumptions and extensions of previous estimates have been used to quantify the Code Manager costs. It is not clear that network operators will automatically see a reduction in costs from the reform, but this is, of course, subject to future decisions on funding, licencing arrangements and cost pass-through provisions. The Code Manager function will need to be adequately resourced and funded to manage changes from all stakeholders including “any interested party”.
66. However, we have an observation on the role and costs of subject matter experts. Any replacement code management process will continue to require considerable support by industry, particularly for the technical codes, and this support will require a continued high level of industry resource investment.
67. Under the current code arrangements, topic experts employed by industry parties often write change proposals, draft initial legal text, and input to change development (including as a result of Ofgem’s direct requests to do so) with all this input provided at no cost to the codes. If the new Code Manager(s) take ownership of these aspects and the Code Manager does not have access to the subject matter experts on code panels (as panels are proposed to be disbanded), it is unclear how the costs of recruiting and employing such subject matter experts within Code Manager(s) has been factored into the cost in the impact assessment.
68. Such expertise is unlikely to be low-cost especially if Code Manager(s) need to incentivise such staff to leave their current employer. A lower cost alternative may be to establish standing technical expert groups within new code management arrangements.

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

69. We have no further examples although it is logical that larger scale and more contentious change proposals are always likely to take longer to progress than more simple/low cost changes. For example, any change proposal on new activities that places costs or risks on a particular industry party type, but with no or few benefits to the affected parties will always be ‘sticky’ to progress, particularly where input from industry parties is needed to develop the changes.

Question 19: To what extent do you agree with the scale and type of benefits to industry estimated in the impact assessment? Are there further cost savings to industry that should be included?

70. Please see our answer to question 17.

Chapter 8: Implementation approach

Question 20: Are there any other wider industry developments we should consider in relation to the implementation timeline? How do you think these could impact on code reform?

71. It is important that codes are developed to be flexible in order to facilitate new and varying uses of the network and its supporting technologies (e.g. operational telecommunications systems supporting smart grid operation, simplified commercial and balancing agreements to facilitate management of domestic low carbon generation) without always requiring a material change.

72. Codes should be developed to be written in plain English wherever appropriate, accepting that some technical, legal, or commercial terminology must remain to ensure formal communication of the compliance requirements.
73. It is important that any code consolidation or combination is not simply assumed to have achieved a simpler journey for stakeholders just because the total number of codes is smaller. The key to success in terms of stakeholder access to code would be the quality of any digitisation, associating the user guides and Code Manager(s) assistance in navigating the resulting codes. There needs to be clarity for stakeholders on the key steps they need to take to access processes and information with new codes.

Question 21: Are there any implementation issues, risks, or transition considerations we should take into account? How could these impact code reform?

74. Any replacement code management function will continue to require considerable support by industry and without it, management of the codes could be more difficult and fractured. It is therefore essential that the Code Manager(s) is supported by industry but also that sufficient funding is made available to appoint expert consultant support for complex and major changes to requirements.
75. There are a number of standards supporting the codes developed, managed and owned by current code administrators (for example the Annex 1 and 2 standards supporting Distribution Code). Clarity needs to be provided on the responsibility for these standards should the current Code Administrator for these codes not be appointed to the code manager role, and how they would be transferred without commercial consequence to the current incumbent.
76. If the transition process is unclear for too long there is a risk of creating uncertainty for code administration staff in respect of job security. This may prompt some individuals to leave the industry code functions for opportunities outside the industry and create gaps in knowledge and experience that would be important to aid efficient transition and future development of codes.

Chapter 9: Next steps

Question 22: 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 impacts.

77. We have no observations on these aspects.

Question 23: Do you have any other comments that might aid the consultation process as a whole?

78. We have an administrative comment on the consultation document itself. While the contents page is clear and so is the section numbering, the numbering of individual paragraphs would have also been useful for digesting the consultation and constructing responses.