

Consultation on the implementation of energy code reform

Questions

Section 2

Q1. Do you agree that we should recommend to the Secretary of State that the 11 industry codes listed (including the SQSS) should be designated as “qualifying documents” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

Yes. In order to effectively deliver strategic change moving forward, we believe it’s important that all 11 codes are fully captured.

Q2. Do you agree that we should recommend to the Secretary of State that the 5 central systems listed (including the Central Switching Service) should be designated as “qualifying central systems” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

Yes, we agree that the 5 central systems listed, should be designated as “qualifying central systems”, but contingent on appropriate stakeholder engagement and modification rules being in place, as is the case currently.

Where Ofgem directs Central System Delivery Bodies to deliver changes to systems in order to deliver the strategic direction, these should be preceded by changes to the legal text of the relevant code. It would be inappropriate for strategic system changes to be agreed without first determining the necessary industry code changes, informed by appropriate stakeholder input and cost-benefit analysis, especially given there is likely to be consequential impact on the systems of industry participants and associated costs.

The scale of disruption and cost that unscheduled or short notice changes can have on the systems of code parties should not be underestimated. To promote efficiency and certainty for stakeholders, a principle of minimum standard lead times should be introduced and applied consistently across codes where changes to code party systems are required.

Section 3

Q3. Do you agree with the monetised costs and benefits set out in the accompanying draft impact assessment (ie the quantitative analysis)? Please specify if you think there is any further evidence that we should consider.

No, we do not fully agree with the monetised costs and benefits. The potential costs and benefits are difficult to estimate given the number of variables involved but we believe that the analysis of the benefits could be overstated, and costs understated.

However, we acknowledge there is the potential for an overall net benefit to accrue from proposed changes to code frameworks and rationalisation and simplification of rules within a consolidated code framework. This could help enable a more agile, forward-looking code governance framework to help achieve the government’s ambition and achievement of net zero.

Although it is difficult to estimate costs given the number of uncertainties, the total estimate of code management-related costs of approximately £25.2m per year appears low, given the expertise and experience required from appointed code managers, especially for any consolidated codes which will have a wider scope. We note that a previous estimated cost of the enhanced code manager

function was an additional £35m per year from 2024 onwards and we have seen no evidence to suggest that costs will be below that estimate.

From a benefits perspective, effective code consolidation should reduce the number of consequential modifications required to one code as a result of another and potentially reduce the number of associated meetings. We also agree that clearer and more consistent processes across codes should make the process of code change more efficient. However, we believe that the central estimated savings over a 12-year horizon for some of the codes to be potentially overstated and that a figure closer to the lower estimate in each case appears more realistic.

To help maximise benefits, any rationalisation of rules needs to be carefully targeted and carried out with effective stakeholder input. For consolidated codes, it needs to be clear which sections would apply to different party categories and that key contextual detail is not lost. We believe that learnings can be taken from when the REC was established, for which our experience of rationalisation is that it has not achieved the potential benefits available, with some areas being less clear than they were prior to transition.

As a general observation, in terms of the CUSC and DCUSA, the reference to 12 code modifications raised to one of these codes over the past three years as a consequence of the other, appears to have been TCR-related, which was a discrete and complex industry change and so isn't necessarily reflective of the long-run.

Q4. Do you agree with the hard-to-monetise costs and benefits set out in the draft impact assessment (ie the qualitative analysis)? Please specify if you think there is any further evidence that we should consider.

No, we believe that the potential overall benefits, including those from the hard-to-monetise costs and benefits set out in the draft impact assessment to be overstated.

Although we broadly agree with the design principles for the qualitative assessment as set out in table 1 of the Impact Assessment, in order to achieve the design principle of making it easier for market participants to engage with and understand the codes, any code consolidation needs to be carefully managed, with industry stakeholder feedback acted upon, and not simply as a broad rationalisation exercise. This is particularly important for those participants that will be parties to consolidated codes but for which there are significant elements of the consolidated code that are not applicable to them.

Our experience with the REC consolidation process included an unintended consequence of losing vital detail. For example, although REC Schedule 30 'Resolution of Consumer Facing Switching and Billing Issues' has significantly less text than the equivalent MRA and SPAA procedure documents for areas such as erroneous switches and switch meter reading problems, in our opinion, this has been to the detriment of key underlying context and detail that was developed over time through joint MRA/SPAA meetings. Upon initial transition to the REC, rather than simplifying matters it was necessary for us to contact REC to clarify what some parts of REC Schedule 30 were now stipulating, because key detail had been removed.

Another unintended consequence was losing contextual understanding and corporate memory, with the new REC Performance Assurance Code Manager not fully understanding the complexity of the reporting that they were requesting and the burden that this presents to the industry.

We support the proposed phased approach to delivery with learnings from each phase to be taken into the next phase. If code managers are to be tasked with delivering improvements within their codes, it's important that learnings from each previous phase are reviewed and acted upon.

In order to optimise potential benefits and reduce costs for these hard-to-monetise areas, it is important that code managers have the required resources, skills and experience, and that high levels of industry stakeholder engagement are maintained in order to ensure that the impacts on industry participants of any potential decisions are fully understood.

Q5. Do you agree with our preferred option to consolidate the CUSC and DCUSA to form a unified electricity commercial code?

Yes, we support Option 1 (as set out in the draft impact assessment document) - consolidating the CUSC and DCUSA into a combined single use of system (and associated charging) code because there is an increasing interaction between these two commercial codes. We therefore agree with the rationale of consolidating these codes based upon their subject matter, rather than network level. This would include cost recovery for networks for generation and demand users and would bring charging and connection regimes into one place.

We agree with the observation that consolidating the contractual and commercial arrangements set out in the CUSC and DCUSA would create a very large code and that the code manager would therefore need to have the appropriate skills and resources in place to enable it to oversee the consolidated code effectively.

As NESO has responsibility for the System Operation functions, it is likely to want to develop modifications. There is the potential for conflicts with other areas or statutory duties if the NESO is a licensed code manager. It may therefore be advisable that the NESO is not appointed as a licensed code manager. Appointing clearly independent code managers should mitigate any risk of conflicts of interest. In general, it would be preferable to have a number of bodies who could be code managers rather than having specific bodies who are the only option considered.

We believe that code manager licences should be granted for a fixed term, with licence reviews at certain intervals and a further selection process used to award a new licence in the future based on stakeholder feedback. This might enable a review for potential competition in the market for code managers, once the code manager role has been fully established.

Q6. Do you agree with our preferred option to consolidate the Grid Code, STC, SQSS and Distribution Code to form a unified electricity technical code?

Yes. We agree that this approach presents good opportunities for simplification and rationalisation which could reduce the burden on code parties. However, there is currently limited representation by some categories of industry parties across these codes. If these 4 codes are consolidated, we believe it is important that all relevant industry parties including suppliers and generators have adequate representation and involvement in the modification process so that appropriate stakeholder engagement is utilised.

It is also important, that decisions can be challenged by these stakeholders and that there are reasonable lead times for implementation of any agreed changes.

Q7. Do you agree with our preferred option to consolidate the UNC and IGTUNC to form a new unified gas network code?

Yes. Consolidating the UNC and IGT UNC into a combined UNC code appears logical because IGT UNC provisions frequently refer to the UNC and we note from the impact assessment that up to 80% of current IGT UNC modifications may be unnecessary for a single unified code. This option could reduce duplication with the text and required code manager and industry resource.

Given the potential benefits, we agree that consolidation of the UNC and IGT UNC should take place no later than phase 2 delivery. However, given the similarity of content covered by the existing codes and subsequent expected relative ease to implement, consideration could be given to delivering this earlier - discussed further in our response to question 17.

Q8. Do you agree with our proposals to rationalise the identified code provisions as part of any consolidation exercise?

Yes. We agree that establishing a common contractual framework for a consolidated code has potential benefits, such as reducing the amount of time and resource required for market participants to identify and understand the rules that apply to them. However, it is important that any change is managed carefully and with appropriate stakeholder engagement.

We support standardisation across codes in areas such as accession arrangements, code modification procedures, compliance and enforcement arrangements, and dispute arrangements. It is particularly important that market participants have a clear and robust disputes and appeals process in place. For instance, if a code manager recommends a change to Ofgem, but the majority stakeholder view is contrary to the ultimate Ofgem decision, any party should have the right to appeal that decision.

We agree that careful consideration and analysis is required regarding potentially rationalising some of the credit cover arrangements as part of any code consolidation. For example, relevant parties should not be inhibited from recovering their reasonable costs.

Section 4

Q9. Do you agree with our proposal to publish the first SDS for all codes next year (before code managers are in place)?

Yes. We acknowledge that it's not expected that all code managers will be appointed at the same time and agree that early sight of the Strategic Direction Statement (SDS) will provide opportunities for strategic change to be progressed under existing governance and enable code managers to be better prepared to commence their role once appointed. It should also enable Ofgem to take learnings from earlier versions of the SDS as part of the proposed phased delivery approach.

Q10. Do you have views on the proposed SDS process?

We agree that it's important that industry stakeholders, who will be impacted by proposed changes are engaged in the SDS consultation process from winter 2024, prior to the proposed publication of the final SDS in spring 2025.

Ofgem has confirmed the intent is to have one SDS that will address all codes and it will be clear which parts of the SDS are pertinent to each code. However, we are concerned that this may not be sufficiently granular to provide clarity for stakeholders.

We have no objection to having SDS-related code modifications progressing through the existing process and are pleased that if a code modification does not specifically align with the SDS, code managers will still be required to give it due consideration and for it to be treated equitably in the prioritisation process based on its relative merits.

It is essential that industry parties have a route to raise code modifications, even where they don't directly align with the SDS and that delivery plans have sufficient flexibility to deliver such changes. We would also expect this principle to apply after the appointment of code managers.

We support the proposal to engage with industry stakeholders following publication of the first SDS to establish how it has been received and so that any learning can be applied going forward.

Q11. Do you agree with our proposal that a principles-based standard condition for gas and electricity licensees would support the development and delivery of code modifications related to the SDS?

No. We believe it would be disproportionate to compel competitive organisations such as generators, suppliers and shippers to support the development of any code modification related to the SDS.

All licensees should be required to 'cooperate', as appropriate and applicable, and where reasonable to do so, but they should not be compelled to proactively 'support'. Competitive organisations should be able to choose when and how they engage. It would be inappropriate for commercially based organisations to employ staff to engage with the development and delivery of any code modification, including potentially those that have no direct impact upon the party in question, solely because they have a licence obligation to do so.

Such a licence condition obliging 'support' may be more appropriate for monopoly network parties, which are subject to price control and so could have the ability to recover the additional costs associated with supporting the development and delivery of code modifications.

Q12. Do you agree with our preferred option for how a Stakeholder Advisory Forum should be constituted?

Regardless of which Stakeholder Advisory Forum (SAF) option is adopted, it's critical to have industry expertise represented in the SAF, particularly from industry parties whose systems and processes will be impacted by any decisions made.

We do agree that independent experts may bring useful insights and experience and there should always be opportunities for them to engage as with any other stakeholder.

We welcome the additional clarification that Ofgem has provided that the SAF is intended to be the key industry forum for informing and influencing the code manager's decision-making on code change, but that Ofgem does not envisage that the SAF replaces the need for code modification workgroups.

On that basis, our preferred option is a derivative of Option 2, where SAF representatives under fixed membership of constituency-based representation would be required to act impartially. We discuss this further below and refer to it as "Option 2A".

- **Option 1 – open forum that any stakeholder could attend, where participants would not be required to act impartially**

This is our least favoured option because it could be disorganised if any party could attend meetings in an unsystematic manner. This option would introduce risks of low attendance and lack the ability to build institutional memory and expertise. This could also result in the need to routinely recap on previous forum comments for the benefit of parties that did not attend previous forum meetings. This could be exacerbated where more vocal parties dominate the discussion on certain topics of particular vested interest. Larger participants would also be more able to resource broad attendance which could lead to their vested interests having greater influence of the outcomes.

- **Option 2 – fixed membership of constituency-based representation**

This option is similar to current arrangements and would promote better institutional memory and consistent SAF attendance. However, because SAF representatives would not be required to act impartially, there is a risk that the views of constituents without fixed membership may not be appropriately represented. To mitigate this risk, we propose that a further option - 'Option 2A' - is considered, where SAF representatives would be required to act impartially.

The status quo is a fixed membership of constituency-based representation and independent parties acting impartially. This has largely worked well and so we would favour a similar model, i.e. 'Option 2A'. Current Panel members are legally signed-off by themselves and their employing organisations to act impartially under some codes; such an approach should continue.

Option 2A would help to ensure that the views of all constituents are impartially represented by parties with an up to date understanding and experience of the underlying impacts that proposed changes will have upon that constituent group. This should support code managers to ensure that optimum decisions are made.

- **Option 3 – fixed membership of stakeholders and independent parties acting impartially**

We do not support this option because fixed membership appointment would restrict the ability for impacted stakeholders to have the ability to attend meetings and have their views heard.

Fixed membership is also likely to exclude smaller industry parties due to resource constraints, and has an inherent risk that fixed members' knowledge of issues impacting different stakeholder categories may not be up to date. This could lead to sub-optimal decisions being made, reducing the potential benefits that could be achieved and potentially resulting in more appeals.

Greater clarity is required on how the pool of paid independent members would be used. Although specialist expertise may be beneficial on certain code modifications, we would not support the routine funding of academics or consultants simply so that they can offer their 'sage wisdom' on topics where they have no particular expertise or experience.

There is a risk that paid independent members will not appreciate the impacts of any proposed changes on industry systems and processes which code parties (and ultimately consumers) will be required to fund. It is important therefore, that industry representation at these forums is not unduly diluted in order to avoid impractical proposals being recommended and prioritised by code managers over and above more cost-effective proposals formulated by a range of industry experts. There would need to be a degree of balance in fixed membership to ensure that there is adequate representation for each industry stakeholder type, for example, large and small supplier representatives, domestic and non-domestic supplier representatives, different types of generator (e.g. dispatchable versus intermittent), etc.

Regardless of which option is taken forward, we believe that the SAF should vote on code modifications to provide a majority SAF-view to enable stakeholders to record a preference and to have it considered. Where the SAF has voted on a majority view, code managers should be required to evidence clear justification if they wish to go against that decision and with a requirement for transparency around such decision making to be captured within licence obligations. A clear appeals route will also be essential. For instance, if a code manager recommends a change to Ofgem, but the majority stakeholder view is contrary to the ultimate Ofgem decision, any party should have the right to appeal that decision.

Given the range and complexity of industry codes, we believe there may be a need for more than one forum per code. It is also important that SAFs consider cross-code impacts of change which may necessitate joint code meetings.

Although proposals recognise that stakeholders will need to continue to play a key role in supporting code decisions, there is limited detail regarding the forums and their frequency. The frequency of these forums is important because if held too infrequently, there is a risk that each forum will attempt to review too many changes in a single session, resulting in a lack of progress, or decisions being made in haste or made based upon limited analysis and information.

If code managers have the power to propose modifications, it's important that SAFs also have the powers to require code managers to raise the changes that they require.

Q13. What are your views on i) a requirement to assess the greenhouse gas impact of code modifications with updated guidance, or, ii) introducing a 'net zero' code objective?

We favour option 2 - introduce a new code objective to support the delivery of the net zero target for 2050 in all codes to be assessed alongside the other current objectives of each code. This is directly in line with powers and responsibilities given to Ofgem under the Energy Act 2023 to support the government's ambition and achievement of net zero. Code managers will be required to deliver to a framework as directed by Ofgem, which this new code objective would support.

We also favour alignment of code objectives generally across codes to help ensure consistency. This is in line with our general view that consistency can be introduced into other areas such as quoracy and the consultation process.

Q14. Do you agree with our proposal to extend and harmonise the ability of code panels to prioritise the assessment of code modification proposals?

Yes, we believe it would be sensible and helpful to implement standard prioritisation criteria and processes across codes.

Section 6

Q15. Do you agree with our proposal to adopt a phased approach to transitioning codes to the new governance model?

Yes. We agree that this approach should reduce disruption, complexity and risk, and allow lessons learnt to be applied in order to improve the efficiency of the processes in each subsequent phase.

Q16. Do you identify any strategic or operational considerations that might inform the transition sequence?

See our response to question 17.

Q17. What are your views on our proposed transition sequencing?

We generally agree with the rationale behind the proposed transition sequencing.

However, in line with our response to question 7, we believe that delivery of the unified GNC could be delivered earlier than phase 2. We believe that the BSC and GNC could be standardised relatively swiftly and provide an appropriate model for code modification processes going forward. The BSC and GNC have consistently received the highest stakeholder score from the perspective of code administration and governance arrangements and should require less change than other codes to consolidate. We therefore propose the following alternative transition sequencing which we believe could deliver benefits quicker.

- **Phase 1** - BSC and GNC
- **Phase 2** – ECC
- **Phase 3** - ETC and consolidated SEC and REC

The ECC will be a complex consolidation exercise which may justify its own phase as shown above.

Part of our rationale for the alternative proposed phasing above is that although the REC is the most recently established code and has some similarities with proposed code reform, such as the concept of a 'code manager', we do not believe it is appropriate or justified to assume that the REC model is one that should be followed.

We believe that the transition to the REC has diluted the ability of participants to engage meaningfully in the change process. This has been to the detriment of efficiency and good code management. We believe that there are important lessons to be learnt from the REC consolidation. For example, the REC Performance Assurance Code Manager has introduced additional reporting requirements for which we don't believe they appreciated the burden that this presents to industry.

In our experience, innovations such as the REC Portal have increased complexity and decreased the availability of information. In addition, the majority of REC staff cannot be contacted by phone, directing code parties instead to use email or to raise enquiries via the REC helpdesk. We also have concerns that REC have limited appreciation of the impact of change proposals on REC Party systems and processes as reflected in some of the short lead times afforded.

We therefore propose that the REC be moved from phase 1 to phase 3 and that the REC and SEC be consolidated into a single dual fuel code covering arrangements for the delivery and operation of the retail market, such as meter installation, switching and theft. There are a number of areas within these codes which could be aligned, and which could reduce complexity, duplication and costs for code parties.

Q18. Do you have any other comments on how Ofgem should approach the implementation and transition process?

We agree that having a sequence of three phases, with potential for some overlap between phases appears manageable. However, where overlap does occur, it's important that opportunities to learn from previous phases is not lost.