

# Consultation

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## Minded-to Decision on Health Reviews

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Contact:	Katy Phillips, Stephen Taylor
Team:	OFTO Policy Team, Major Projects
Email:	offshorelicensing@ofgem.gov.uk

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Since 2021, we have been consulting on a series of issues related to the Offshore Transmission Owner (OFTO) Regime and the End of Tender Revenue Stream (EoTRS). This minded-to decision is focused on the guidance relating to the Health Reviews of windfarm and OFTO assets needed to inform extension decisions. We would like views from people with an interest in this topic and would particularly welcome responses from generators and Offshore Transmission Owners.

This document outlines the scope and purpose of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations and will publish the non-confidential responses we receive alongside a decision on next steps on our website at [ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations).

If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential and if possible, put the confidential material in separate appendices to your response.

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## 1. Introduction

This section sets out the background to the OFTO regime and Ofgem's work on the End of Tender Revenue Stream to date, providing the context for the subject of this minded-to decision.

### Background

- 1.1 Since the first OFTO licences were granted in 2011, the OFTO regime has become a mature market. To date we have licenced 27 OFTOs across 8 tender rounds with a highly competitive cost of capital. The first round of licences will begin to reach the end of their regulated revenue streams, their Tender Revenue Stream (**TRS**), from 2030 onwards. Since 2021, Ofgem has been engaging with stakeholders about potential ways to extend the regulatory revenue period for assets that are still economically viable, in order to avoid those assets being decommissioned earlier than needed to maximise CO2 reductions and ensure best value to consumers.
- 1.2 We have been engaging with industry on the details of extending the lifetimes of their assets through a series of working groups, bilateral conversations and formal consultations. We published our first consultation document on EoTRS policy in March 2021<sup>1</sup>, followed by a decision in July 2021<sup>2</sup> on roles, responsibilities and timings.
- 1.3 Our second consultation document in June 2022<sup>3</sup> set out questions in relation to four areas: overarching policy objectives, the role of competition, the approach to OFTO asset value and the performance incentive mechanism. We published our decisions following that consultation in January 2024<sup>4</sup>.
- 1.4 We issued a third consultation document in November 2022<sup>5</sup> setting out a number of proposed modifications to offshore transmission licences. We

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<sup>1</sup> [OFTO End of Tender Revenue Stream- Consultation concerning policy development \(March 2021\)](#)

<sup>2</sup> [OFTO End of Tender Revenue Stream – 1<sup>st</sup> decision document \(July 2021\)](#)

<sup>3</sup> [OFTO End of Tender Revenue Stream- 2<sup>nd</sup> Consultation concerning policy development \(June 2022\)](#)

<sup>4</sup> [OFTO End of Tender Revenue Stream- 2<sup>nd</sup> decision document \(January 2024\)](#)

<sup>5</sup> [Statutory consultation on proposed modifications to OFTO licences \(November 2022\)](#)

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published our decisions on those modifications in June<sup>6</sup> and July 2023<sup>7</sup> confirming, among other things, that OFTOs may claim revenue adjustments for the cost of carrying out Health Reviews of their transmission assets and any Investment Works needed to extend the lifetime of those assets beyond the initial TRS period.

- 1.5 We have now developed guidance – set out in draft alongside this document – on our expectations of the Health Reviews of the windfarm and OFTO assets. Its purpose is to enable Ofgem, in close collaboration with generators and OFTOs, to make a judgement on the length and level of any new Extension Revenue Stream (ERS).

### What are we consulting on

- 1.6 This consultation sets out our 'minded to decision' on the Guidance on Health Reviews for both generators and OFTOs. In particular:
- The requirements for information sharing from both OFTOs and generators;
  - Process and timing for how the health reviews will work;
  - Content of the health reviews; and
  - Key deadlines for decision making
- 1.7 We set out how we intend to proceed and are seeking stakeholder input on our proposals.

### Next steps

- 1.8 Subject to responses to this consultation, we will publish the final Guidance for Health Reviews this Autumn (noting that we may, as we work through the first number of pilot projects, refine the guidance in due course for any lessons learned).
- 1.9 This will be followed by a consultation by end-2024 setting out the decision-making framework on extensions and the related revenue stream.

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<sup>6</sup> [Decision on proposed modifications to offshore electricity transmission licences \(June 2023\)](#)

<sup>7</sup> [Decision on proposed modifications to offshore electricity transmission licences \(July 2023\)](#)

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## 2. Health Review Guidance

This section summarises our approach on the Health Review Guidance, as well as feedback from discussion with industry. It sets out our expectations for the content and process of health reviews and how they will feed into the extensions process.

### Background

- 2.1 Health reviews of the windfarm and OFTO assets are a prerequisite to assess the viability of extending the lifetime of the assets beyond the initial TRS period.
- 2.2 The guidance document, published alongside this minded to decision, sets out the health review process through which generators and OFTOs will assess the condition of their respective assets; any investment works required to facilitate extensions; and the business case for those extensions. It also sets out the information-sharing processes between generators, OFTOs, and Ofgem required to support decision-making on the duration of any extensions and level of the corresponding extension revenue stream (ERS).
- 2.3 The guidance has been written after taking into account feedback from discussions with OFTOs and generators over the last twelve months. This section sets out the feedback received from the Energy Networks Association OFTO Forum, Renewables UK and three individual generators throughout the process, and how this has been considered by Ofgem in drafting the guidance.

### Stakeholder Views and Minded-to Decisions

#### *Competitiveness of OFTO extension bids and timing of Ofgem's decision*

- 2.4 A number of generators raised concerns that Ofgem's previous decision, set out in our January 2024 decision document<sup>8</sup>, that bilateral negotiations would be held with OFTOs would result in insufficient competitive pressures on the OFTO and not produce a competitive ERS. Generators also suggested that Ofgem should consider transferring transmission assets to generators.
- 2.5 Generators requested earlier confirmation of the ERS in order to reduce the uncertainty within their business case for the extension of the windfarm. They noted that there are many factors that could lead to a change in the target end-of-life strategy following the initial generator health review and subsequent

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<sup>8</sup> [End of OFTO Tender Revenue Stream- Decision \(January 2024\)](#)

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decision points identified in the guidance, and noted that a more dynamic process would be required, particularly given that merchant prices can be volatile.

- 2.6 OFTOs commented that if the duration of the planned extension changes after Ofgem states its initial decision, the stated ERS would need to change accordingly as funding costs/capex would need to be recovered over a different time period.

### *Our decision*

- 2.7 In evaluating incumbent OFTOs' extension bids, Ofgem will – as it does in establishing the transfer value of transmission assets initially and on other regulated assets outside the OFTO regime - be applying a robust approach to evidence and challenge proposed costs. Ofgem intends to use expert consultants as part of this process as appropriate to deliver the best value for money for the consumer on revenue stream extensions.
- 2.8 As stated in the July 2023 decision document<sup>9</sup>, it would not be possible to transfer assets to generators without government making changes to legislation. The Department for Energy Security and Net Zero intends to consider the merits of the generators' proposal, alongside other options being considered by Ofgem consistent with the existing OFTO regime, over the medium-term. In the meantime, Ofgem will continue to develop its policy framework in line with the prevailing legislation.
- 2.9 Ofgem's decision on the appropriate ERS must be preceded by both the generators' and OFTOs' health reports in order to be informed by their findings. We are also proposing that the OFTOs' health report to Ofgem is accompanied by a preliminary view of likely extension costs, so that Ofgem's view of the appropriate duration for extension can be informed by the economic case.
- 2.10 Ofgem recognises the interdependence of the decisions on duration and the ERS, and the need to provide as much certainty on each well in advance of the extension, while lending consideration to continued market developments in the run-up to T=0 that may affect OFTOs' costs. Our consultation on the wider extensions policy framework at the end of 2024 will consider whether adjustment mechanisms for the OFTO revenue stream might be appropriate.

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<sup>9</sup> [Decision on proposed modifications to tender licences \(July 2023\)](#), pg.3

### *Scope of generator health reports and timing of decisions*

- 2.11 Generators questioned the amount of information that they would be required to share with Ofgem – particularly around their business case - to support decision making, and what would be shared with other OFTOs in the process. One generator commented that they should not be obliged to use third parties to conduct windfarm health reviews, noting that they were qualified to do so themselves.
- 2.12 Generators noted that any decision on extensions at T-6 could only be preliminary in nature, given the amount of relevant information which is unknown at this stage. They also noted that the decision at T-2 should not be classified as final as the process is dynamic and merchant prices are volatile. Relatedly, they commented that applying financial guarantees where generators deviate from the decision at T-2 would add costs and uncertainty to their business case, which would undermine their case for extension.
- 2.13 Generators suggested that there may be benefits, particularly for older assets which may have a limited lifespan for technical or economic reasons, to allowing extensions of less than five years.

### *Our decisions*

- 2.14 As Ofgem’s decision-making on extensions relates primarily to OFTOs via our decision on their ERS, the template and inputs for OFTOs’ health reviews are set out in detail within the guidance. For the generators’ health reviews, we have instead focused on the outputs required to inform Ofgem’s decision-making. OFTOs will only receive the information that generators share directly with them, as per the guidance. Ofgem requires sufficient information on windfarms’ business case and modelling of different ERS levels to ensure its decision on the extension duration and ERS are calibrated with a clear view of their impacts on the windfarm, and ultimately to ensure that its decisions are in the best interest of consumers – including minimising the risk of consumer exposure in the event of early windfarm closures.
- 2.15 There is a lead-time for implementing decisions on OFTO asset extensions, including in relation to investment works to be undertaken as well as decommissioning, where DESNZ’s stated process for individual projects begins to focus on implementation in earnest at T-2. Therefore, while we agree that generators’ decision at T-6 will be taken as a preliminary decision intended to



inform the decision of whether OFTOs should undertake their health review to explore extension opportunities, we consider the final deadline of T-2 for generators to communicate a final decision on extensions to be both appropriate and necessary.

- 2.16 In relation to potential financial guarantees from generators at T-2, Ofgem's objective is to deliver value for money for consumers, including by protecting them from additional costs in the event that a windfarm ends generation earlier than expected, which would leave consumers to fund the residual regulatory revenue stream and potentially other costs as well. This is why we are considering protections both in terms of a guarantee by generators and curtailing payments to the OFTOs early if assets are taken offline earlier than expected, in order to ensure a balanced mechanism that delivers for all parties and for consumers. We will consult on proposed measures in this vein as part of our wider consultation on the extension process by end-2024.
- 2.17 Ofgem will consider the appropriate durations of extensions for projects individually. Given the lead-in time for decisions by the generators, OFTOs and Ofgem to extend, as well as the implementation timeline, we anticipate that extensions will occur on a multi-year basis, for example 5 years or more. Where generators request shorter extension periods, we will consider this on a case-by-case basis and may allow it in exceptional circumstances.

### *Timing and costs of the OFTO health reviews*

- 2.18 One generator noted that one-off health reviews of the windfarm and OFTO assets at T-6 and T-5, respectively, may not capture all the information that is needed for generators, OFTOs and Ofgem to make final decisions on extensions.
- 2.19 Generators made suggestions on how OFTOs and generators could work together to minimise any disruption arising from the requirements of the health reviews, such as having the OFTOs give sufficient notice to generators of when works to facilitate the health review would take place. OFTOs noted that they would only require outages for intrusive maintenance and testing, and these requirements would be discussed with the generator before scheduling via normal channels.
- 2.20 Generators were not in favour of covering the costs of the OFTO health review and investment works. Two generators noted that they should only be required to cover the costs of the health reviews if they communicated a plan to life

extend and then subsequently reversed the decision prior to a life extension commencing. OFTOs commented that the costs should be recoverable by the OFTO as they did not represent part of the initial TRS.

- 2.21 One generator asked that the guidance sets out that, where practical and not overly detrimental to the likelihood or cost of any life extension, OFTO asset investment works should be performed as close to the end of the initial TRS period as possible.

*Our decisions*

- 2.22 The health review process for generators and OFTOs at T-6 and T-5 respectively is designed to ensure that both parties conduct a thorough evaluation of the condition of their asset, accompanied by a business case, and share the relevant information with each other and Ofgem to begin the process of extensions. This timing responds to feedback received from industry in response to previous consultations on the necessary lead-in time to begin the extensions decision-making process. As set out in the guidance and in line with good industry practice, both parties should continue to carry out regular monitoring and inspection of the assets following the review. The generator/OFTO should inform the other party and Ofgem of any significant issues that are subsequently identified that may impact the extension decision.
- 2.23 As set out in the guidance, in scheduling any transmission outages required to conduct the health review, OFTOs should consult with the generator before scheduling the review in order to reduce disruption as much as possible.
- 2.24 As set out in Ofgem's 2021 decision <sup>10</sup> and implemented through OFTO licence modifications in 2023<sup>11</sup>, OFTOs will – subject to review and approval of claims by Ofgem - be able to claim for costs that are economically and efficiently incurred as a direct result of carrying out health reviews of their transmission assets. OFTOs may also claim adjustments for availability lost as a direct result of carrying out the health reviews and investment works in accordance with the relevant licence conditions. We expect investment works will be performed either at the start of the extension period or at the end of the TRS period.

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<sup>10</sup> [OFTO End of Tender Revenue Stream – 1<sup>st</sup> decision document \(July 2021\)](#)

<sup>11</sup> [Decisions on proposed modifications to OFTO licences \(July 2023\)](#)

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### *Scope and governance of the OFTO review*

- 2.25 Generators suggested that we set a baseline scope for the content of the OFTO health reviews and requested that it be comprehensive enough to enable informed judgements to be made on the health of the asset in a consistent way across projects. They also asked for the scope of work for the reviews to be detailed in the guidance in order to give certainty on the way in which assessments will be made. OFTOs commented that the template set out in Annex 2 of the health review guidance provides the structure for the final health report, and that the actual output would be a detailed due diligence report expanding on each of the subject areas to the level necessary for each specific site.
- 2.26 Generators requested that they be given the opportunity to agree the scope of the health review, be granted access to witness physical inspection activities, and have the opportunity to input their own observations into the process.
- 2.27 Generators requested third party assurance for aspects of the OFTO health reports and sign-off, noting that this would support the production of a review that was fair and impartial, as well as providing expertise that OFTOs might not have around cyber security and IT. OFTOs disagreed, noting that they and their appointed maintenance and asset integrity management contractors were the experts on their assets with the most knowledge of its condition and operational history; and that their lenders' technical advisors were appropriate reviewers due to their keen interest in ensuring sound decisions, whilst minimising costs of the review.
- 2.28 Three generators also requested a formal dispute resolution process overseen by Ofgem in the event that the OFTO and generator disagree on the findings of the OFTO health review and resulting inspection and maintenance strategy.

### *Our decisions*

- 2.29 We agree with the value of a baseline scope and structure for health reviews to enable consistent and comprehensive decision-making across projects, as set out in the template within Annex 2 of the guidance. The template reflects good industry practice and risk-based assessment of the assets. The specifics of each project will need to be factored into the health review process, and the guidance sets out that generators should be given an opportunity to make reasonable suggestions on this at the beginning of the process.

- 2.30 As set out in the guidance, generators and OFTOs are expected to work together to make the OFTO Health Review process as efficient and informed as possible. We note that OFTOs and generators work successfully together to arrange site visits in the normal course of day-to-day business and would expect this to continue as part of the Health Reviews.
- 2.31 Having weighed the arguments for and against requiring OFTOs to utilise external third parties to conduct their health reviews, we have concluded that OFTOs are qualified to decide on what aspects external advice is required and agree with their proposal to have their lenders' technical advisors sign-off the reports in the first instance. Generators' involvement throughout the process and their ability to raise any concerns with both the OFTO and Ofgem directly provides one check. Thereafter, Ofgem has a key role in reviewing health reports and intends, at least for pilot projects, to utilise expert consultants to support the review and ensure the process and outputs are robust.
- 2.32 While Ofgem expects to see close collaboration between the OFTOs and generators in conducting the health review and discussing the findings to be reflected in the report to Ofgem, as noted in the guidance the review and report are ultimately the sole responsibility of the OFTO. We do not consider it appropriate to introduce a formal dispute resolution mechanism into the process. However, as set out in the guidance, in the event that generators have any outstanding comments on the final report that they deem material, they may submit these to Ofgem for discussion – after first discussing them with the OFTO.

### Next steps

- 2.33 We would welcome feedback from generators and OFTOs and any other interested stakeholders on the guidance in line with the consultation timings set out in Section 3 below.
- 2.34 We intend to keep this guidance and our approach to health reviews and extensions more widely under review to ensure alignment with policy developments in the offshore regime and to deal with project-specific issues as they arise. We will continue to engage with stakeholders and consult as appropriate to ensure that the regime remains fit for purpose.

### 3. Your response, data and confidentiality

#### Consultation stages

- 3.1 The consultation will be open for written response until 4<sup>th</sup> October 2024, and a roundtable will be held by Ofgem to discuss it in early September. Responses will be reviewed, and we anticipate that the consultation decision will be published by early November 2024.

#### How to respond

- 3.2 We want to hear from anyone interested in this consultation. Please send your response to [offshorelicensing@ofgem.gov.uk](mailto:offshorelicensing@ofgem.gov.uk).
- 3.3 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 3.4 We will publish non-confidential responses on our website at [www.ofgem.gov.uk/consultations](http://www.ofgem.gov.uk/consultations).

#### Your response, your data and confidentiality

- 3.5 You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- 3.6 If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 3.7 If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing

its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

- 3.8 If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

### **General feedback**

- 3.9 We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk)

## How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. Choose the notify me button and enter your email address into the pop-up window and submit.

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Would you like to be kept up to date with *Consultation name will appear here?* subscribe to notifications:

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Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

**Upcoming** > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

## Appendices

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## Appendix 1 – Privacy notice on consultations

### Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

#### **1. The identity of the controller and contact details of our Data Protection Officer**

The Gas and Electricity Markets Authority is the controller, (for ease of reference, “Ofgem”). The Data Protection Officer can be contacted at [dpo@ofgem.gov.uk](mailto:dpo@ofgem.gov.uk)

#### **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

#### **3. Our legal basis for processing your personal data**

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

#### **4. Your personal data will be stored in a secure government IT system.**

Your personal data will be held for six months after the final policy has been issued.

#### **5. Your rights**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data

- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3<sup>rd</sup> parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

**6. Your personal data will not be shared outside Ofgem, sent overseas or used for any automated decision making.**

### **7. More information**

For more information on how Ofgem processes your data, click on the link to our "[ofgem privacy promise](#)".