

#	Question	Comment
1	Do you have any recommended improvements to the Principles, Explanations, Techniques or Examples?	<p>We consider that the explanation of DBP principle 6 (<i>Learn and deliver to the needs of current and prospective Data Users</i>) should be revised to apply only to Data Users whose use-case is aligned to the overall objectives of this guidance (“to create benefits for consumers and/or the Public Interest”). Where, for example, a prospective Data User’s intention is to repackage data (produce at cost to the end consumer) and sell it on for profit, this principle should not apply. (DBP Supporting Information document, page 34, section 3.51)</p> <p>We also ask for clarification that the scope of Products and Services referenced in principle 1, is specific to ‘Digital’ Products and Services. (DSAP Supporting Information document, page 34, section 3.51)</p> <p>More generally we have set out in the attached Annex some additional suggested drafting changes to improve the clarity of the DBP Guidance and DSAP Guidance in line with Ofgem’s principles of use in respect of RIIO 2 Associated Documents.</p>
2	Are there any other Principles and Explanations you believe should be included?	No
3	Are there any additional Techniques or Examples you recommend we include?	No
4	Do you agree with our treatment of data literacy and skills and of data governance as pre-requisites to compliance?	Yes
5	Do you have a suggestion for improving our definition of Energy System Data and therefore the scope of data assets energy network companies must use in compliance with DBP?	<p>We were comfortable with the working definition of Energy System Data proposed as part of the RIIO-2 Final Determinations and quoted in the footer of the consultation, i.e. “the facts and statistics collected together that describe the energy system (current, historic and forecast), including: the presence and state of infrastructure, its operation, associated market agreements and their operations, policy and regulation”. (Main DSAP consultation, page 21, footnote 44)</p> <p>We consider the new definition “all Data Assets for which an entity is a Data Custodian as a consequence of it exercising its rights and obligations under a licence granted under section 6 (1) (1A) of the Electricity Act 1989 or section 7, 7ZA, 7A or 7AB of the Gas Act 1986” to be too broad in scope. This definition could be interpreted as ‘any and all data held by the licensee’. In order to protect data and help manage the risk of releasing data, where Data Users whose use-case is not aligned to the overall objectives of this guidance, we consider it appropriate to include the wording “where there is demonstrable societal and / or consumer benefit” to the proposed definition.</p>

6	What are your views on the DBP guidance and DSAP guidance being used as our data and digitalisation standards and, if you agree, what applications do you envisage for these standards?	The DBP Guidance is a logical starting point for data standards. We do however anticipate the DSAP Guidance needing to be reworked in order to function as a standalone digitalisation standard (rather than guidance around documenting and engaging with stakeholders around the process of digitalisation).
7	What is your view on the Electrical Engineering Standards Independent Review (EESIR) recommendation for 'presumed capture and publishing of data' in relation to our default positions (DBP guidance and DSAP guidance)	<p>The Electrical Engineering Standards Independent Review (EESIR) recommendation for 'presumed capture and publishing of data' goes beyond the principle of 'Presumed Open' i.e. the capture and publication of all data irrespective of costs and value from an end consumer perspective. <i>(Electrical Engineering Standards Independent Review (EESIR) recommendation for 'presumed capture and publishing of data', page 87, section 4)</i></p> <p>Under this recommendation, management of data security could be difficult where the capture and publication of the data is presumed rather than being based on an established need. To some extent, this depends on the definition and proposed scope of "publication" in this context. However, and for example, wider availability (or even existence without broader publication) of data providing "real time visibility of network and system state at all levels" would present an increased CNI security risk.</p> <p>Again, dependent to some extent on the proposed scope of this approach, this has the potential to incur significant cost and effort, especially when considered against the suggestion that this could be presumed without a need case in place, there is a risk that this runs counter to the interests of UK Consumers.</p> <p>Whilst we agree with the intention of this approach, we need to be able to evaluate the economic and efficient value of capturing the data to ensure it meets the overall needs of the DBP and DSAP guidance.</p>
8	Which gas and/or electricity market products/services (existing or planned) should be included in our upcoming data and digital monopolies review?	n/a

Annex

Comments on specific drafting of DBP Guidance

General	<p>We do not consider that the drafting of the Data Best Practice Guidance follows Ofgem's principles of use for RII0-2 Associated Documents, in particular as regards the clarity of obligations that are placed on licensees. We have identified a number of instances where the Guidance fails to detail obligations with sufficient precision and/or introduces obligations that are highly subjective and where it is not possible for the licensee to ensure that it is meeting the required obligation. This is of particular concern given the best endeavours obligation to act in accordance with the DBP Guidance in SpC 9.5.</p> <p>We would ask that Ofgem revisits the issues we have highlighted and the drafting across the document more generally to ensure these principles are adhered to.</p>
Definitions "Digitalisation Action Plan"	Typo refers to Electricity Services Operator, should be Electricity System Operator.
3.2	It is not appropriate to place an absolute obligation on licensees to enable Data Users to "easily" join Data Assets, as this is too subjective for an absolute obligation. We suggest this is amended to "In order to enable Data Users to search for and join Data Assets and associated Metadata to Data Assets and Metadata provided by other organisations licensees must label...".
3.3	It is not appropriate to place an obligation on licensees to "make it easy" for Data Users to work with and understand information, as this is too subjective. The obligations should be linked to objective steps that the licensee is required to take such as the provision of Metadata that the paragraph goes on to describe. We consider the opening sentence should be amended to "In order to assist Data Users in working with and understanding information that describes each Data Asset, the licensee must provide Metadata associated with...".
3.6	It is not appropriate to refer to Data Users being able to "easily identify" as this is too subjective. We suggest this is amended to "...the Licensee must ensure that the Metadata reflects any such changes so that Data Users are able to identify additions or changes.".
3.7	Please can Ofgem clarify its expectations of licensees with regards this paragraph as it is not clear that licensees will be able to determine what will lead to maximum consumer benefit or public interest, as in some instances interests may diverge or conflict. We suggest this is amended to "... the Licensee must make available supporting information that Data Users reasonably require in order to help facilitate the maximum benefits being gained by consumers and the Public Interest.".
3.9	We suggest this is amended to "The Licensee must take all reasonable steps to identify the Produce and Service requirements of Data Users...". It will not necessarily be practicable to identify the requirements of every Data User, but we consider it is appropriate the licensee takes all reasonable steps to identify these requirements and then develop Products and Services that meet those requirements it has identified.
3.10	We would suggest that this should be qualified to "of a quality that is sufficient to meet the reasonable requirements of its Data Users" as it is

	not reasonable to expect a licensee to meet every requirement, even where these are unreasonable, particularly given the overarching best endeavours obligation to act in accordance with the DBP Guidance.
3.11	We suggest this is amended to “as soon as reasonably practicable”. Noting the best endeavours obligation that applies to acting in compliance with the DBP Guidance, we consider that it is right that the licensee’s obligation should be to do this in a time that is reasonable in all the circumstances.
3.12	It appears that there is wording missing from the end of the sentence, suggest “from other data and digital services” is added to the end of the sentence. We would note that this is a very broad obligation requiring interoperability with any third party data assets, and would suggest this is qualified, such as “...must enable interoperability insofar as is reasonably practicable...”.
3.13	It is not appropriate to place an absolute obligation on licensees to “make it easy for Data Users to gain information and/or insight” as this is too subjective. We suggest this is amended to “In making Data Assets available the Licensee must have regard to the ease with which Data Users may gain information and/or insight from those Data Assets when used in conjunction with other Data Assets”..
3.15	We suggest it would be helpful if additional language is included to make clear that these other obligations are to prevail and take precedence in the event that compliance with the DBP Guidance would have a negative impact. For example the requirement under 3.16 regarding seeking stakeholders’ views on archiving data when it is no longer required by the licensee could raise GDPR compliance issues if the data in question comprises personal data.
3.24	Typo “available to stakeholders to..”

Comments on specific drafting of DSAP Guidance

General	<p>We do not consider that the drafting of the Data Best Practice Guidance follows Ofgem's principles of use for RII0 2 Associated Documents, in particular as regards the clarity of obligations that are placed on licensees. We have identified a number of instances where the Guidance fails to detail obligations with sufficient precision and/or introduces obligations that are highly subjective and where it is not possible for the licensee to ensure that it is meeting the required obligation.</p> <p>We would ask that Ofgem revisits the issues we have highlighted and the drafting across the document more generally to ensure these principles are adhered to.</p>
DSAP principles, principle 4	We do not consider it is appropriate to refer to "make it easy for stakeholders" as this is too subjective, we suggest instead this should refer to "Enable stakeholders to understand..."
Definitions	We note that the Guidance document does not use the definitions within the licence defined terms, even where the same term is used. We think this lack of consistency could create confusion and uncertainty. Insofar as terms are defined in the licence we consider the same definition should be used in the Guidance document.
3.3	We consider it is consistent with other similar obligations to refer to the licensee "seeking views of stakeholders" or "consulting with stakeholders" as it is not clear what is intended by "gain stakeholder validation and assurance".
3.4	With reference to the earlier paragraphs (eg 3.1) that refer to benefit of end consumers or Public Interest consider this should be amended to "for the benefit of end consumers and/or the Public Interest".
3.6	Please can Ofgem clarify what is intended by this section and what it expects of licensees, as it is not clear what is meant by "...make clear how the DSAP integrates with and enables the Licensee to meet its responsibilities as it exercises its rights and obligations under a licence granted under section 6 (1) or (1A) of the Electricity Act 1989 or section 7, 7ZA, 7A or 7AB of the Gas Act 1986.".
3.7	With reference to the earlier paragraphs (eg 3.1) that refer to benefit of end consumers or Public Interest consider this should be amended to "to deliver benefits to end consumers and/or the Public Interest early".
3.9	We do not consider it is appropriate to place an obligation on licensees to "make it easy for Stakeholders to understand..." as this is too subjective. Suggest this is amended to "... the Licensee must provide information to Stakeholders regarding the specific Products and Services that are planned to be available...".
3.10	We do not consider it is appropriate to place an absolute obligation on licensees to "make it easy for Stakeholders" as this is too subjective. We suggest this is amended to "... and Products and Services presented in a manner that facilitates Stakeholders' comparison with the Products and Services included in other Licensee's DSAPs.".
3.12	We do not consider that it is clear what is intended by "meaningful update" we suggest this is amended to "such that stakeholders are

	provided with clear information about progress and delivery between publication of updates to the DSAP.”
3.17	We do not consider the words “validate measures” are clear. We suggest this is amended to “...must consult on measures and definitions of success with stakeholders...” as is consistent with other equivalent obligations to seek input from stakeholders. We also consider that the obligation should be “as soon as reasonably practicable”, in order to allow licensees a reasonable period to undertake this consultation for existing actions etc.
3.19	With reference to the earlier paragraphs (eg 3.1) that refer to benefit of end consumers or Public Interest consider this should be amended to “to end consumers and/or the Public Interest”.