

# Energy Code Reform

Consultation engagement workshop

5 August 2021

# Aims of the session

## Attendees to:

- **Understand** the consultation content
- Have the opportunity to **ask clarifying questions** on the consultation
- Have the opportunity to **provide early feedback** to inform policy development

# Agenda

Agenda	Time	Presenter
Welcome	9:30-9:35	BEIS
Vision	9:35-9:40	BEIS
Institutional governance options	9:40-9:50	BEIS
Strategic direction	9:50-9:55	BEIS
Roles and responsibilities	9:55-10:10	BEIS/Ofgem
<b>BREAK</b>	<b>10:10-10:30</b>	
Scope	10:30-10:40	Ofgem
Code manager appointment and transition	10:40-10:50	Ofgem
Implementation	10:50-10:55	Ofgem
Q&A	10:55-11:10	
Next Steps & Close	11:10-11:15	BEIS

# Vision

- Net zero requires a transformation across our energy system.
- Ensuring that energy system governance is fit for the future is a priority for both Ofgem and BEIS
- To deliver this, we envision an energy code governance framework that is:
  - forward-looking, informed by and in line with the government's ambition and the path to net zero emissions, and ensures that codes develop in a way that benefits existing and future energy consumers;
  - able to accommodate a large and growing number of market participants and ensure effective compliance;
  - agile and responsive to change whilst able to reflect the commercial interests of different market participants to the extent that this benefits competition and consumers; and
  - easier for any market participant to identify the rules that apply to them and understand what they mean, so that new and existing industry parties can innovate to the benefit of energy consumers.

# Institutional governance options

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# Background

## 2019 consultation

- This consultation follows on from our 2019 consultation on potential reforms to the energy code governance framework
- In the 2019 consultation, we:
  - Set out four areas of reform (right)
  - Proposed two suggested models to deliver the reforms
    - a code manager function and a strategic function performed by a separate 'strategic body'
    - a combined code manager and strategic function (i.e., an integrated rulemaking body)
  - Sought views on the placement of the strategic function

Four areas of proposed reform in 2019 consultation:

Providing  
strategic  
direction;

Empowered and  
accountable code  
management;

Independent  
decision-making;  
and

Code  
simplification and  
consolidation

## Respondent views

- Most respondents to the 2019 consultation agreed with our four areas of reform and with our proposal to introduce a strategic function and a code manager function
- More respondents were in favour of having a strategic body with separate code managers (48%) than an integrated rulemaking body (15%)
- Most respondents identified Ofgem as their preference for where the strategic function should sit

# Our proposal

## Scope of reform

- We propose to cover the 12 energy codes, along with central system delivery bodies and related engineering standards

## Institutional governance options

- Option 1 (preferred) – Ofgem as the strategic body, with separate licensed code managers
- Option 2 (alternative) – the FSO as the IRMB , containing both the strategic and code manager function.

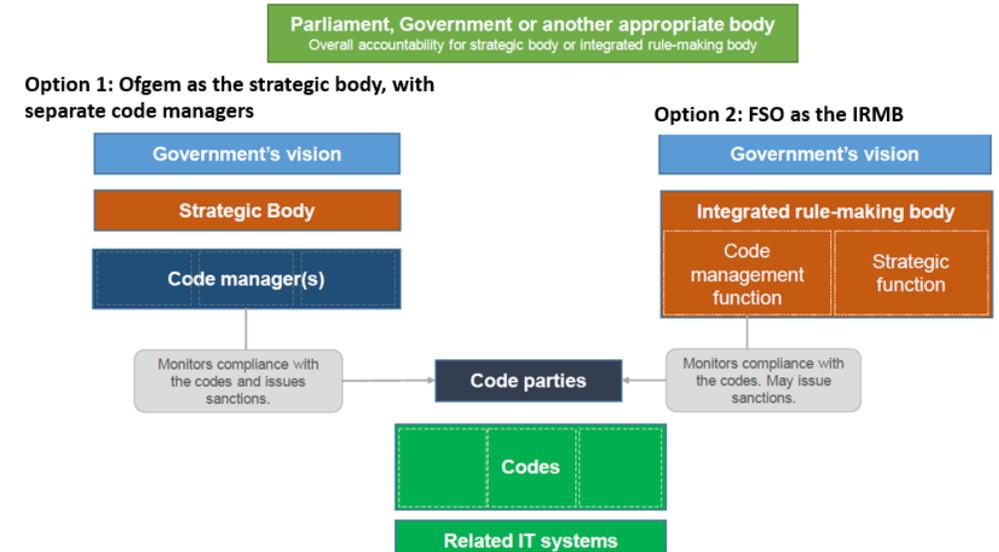
## Roles & responsibilities

### Strategic function roles:

- Develop a strategic direction for codes
- Hold code managers accountable (option 1)

### Code manager function roles:

- Enhanced role for code managers, taking on the roles of code administrator and code panels in the code change process
- Develop and deliver strategic work plans working with stakeholders
- Manage the code change process, including prioritisation and material impact
- Decide on approval of non-material code changes, and give a recommendation to Ofgem on material code changes



# Analysis of institutional governance options

## Assessment criteria

- We assessed both options against the following criteria:
  - their ability to address our four reform objectives;
  - value for money;
  - organisational capability and skills; and
  - feasibility of implementation.

## Why do we prefer option 1 (Ofgem as strategic body)?

- We concluded that both options would be viable and capable of delivering our reform objectives.
- However, we believe that our preferred option would:
  - result in a less complex governance landscape;
  - provide a greater net benefit;
  - build on the existing expertise of Ofgem; and
  - be more straightforward and quicker to implement.

## Key factors

- Under option 2, the strategic function would need to be partially split between Ofgem and the IRMB. This could make it more difficult for the IRMB to ensure that its strategic direction is delivered, as well as make the regulatory landscape less agile and responsive to change.
- We estimate that option 1 could be delivered significantly earlier than option 2. This would make it possible to realise the benefits of code reform more quickly under option 1 and provide greater value for money.
- Ofgem is an existing organisation, whereas the structure of the FSO is still subject to ongoing consultation.

# Question (via menti poll)

To answer, please go to [menti.com](https://www.menti.com) and use code: **3405 6155** or use the link in the Q&A chat

- Do you have an initial view of which institutional governance option would best deliver the reform areas?
  - Option 1: Ofgem as the strategic body, with separate code managers
  - Option 2: the FSO as the IRMB

# Strategic direction

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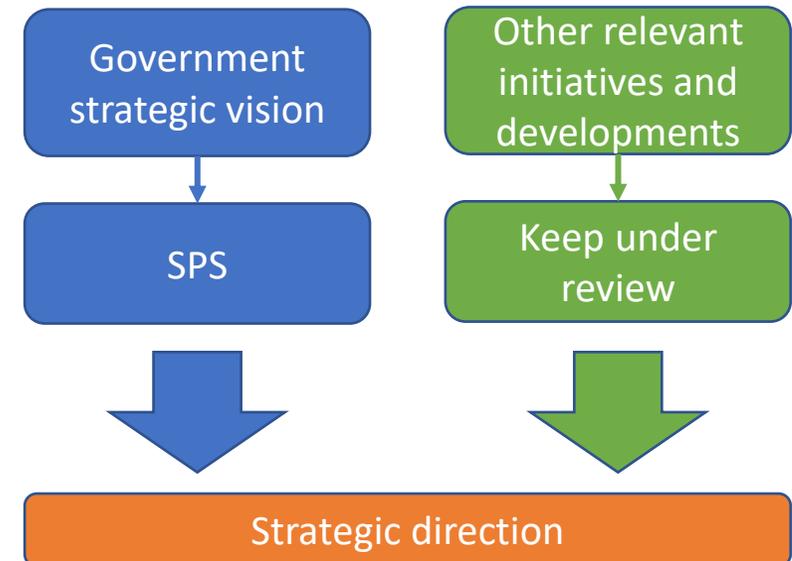
# From strategic vision to strategic direction

## Overview

- The strategic function sets a strategic direction for the code manager function to drive code changes in a holistic way and in alignment with the government's strategic vision for the energy sector and current and future trends in the energy market.
- The strategic function and government need to be aligned and coherent regarding their priorities, but independence needs to be maintained.

## Proposals

- Use the **Strategy and Policy Statement (SPS)** set out in the EA2013 to communicate government vision to the strategic function and introduce a duty for the strategic function to have regard to the SPS (once designated).
- **Ensure that the strategic function keeps under review** any relevant government policy initiatives or other developments in the energy sector likely to impact codes and which occur or emerge between the reviews of a SPS.



# Developing and publishing the strategic direction

## Overview

- The **strategic function** will develop and publish a document called the strategic direction aimed at the code manager function.
- The **code manager function** will prepare a delivery plan for each code to deliver the strategic direction.

## The strategic direction

- Strategic direction would be published annually, and the strategic function would be required to consult before publication.
- The extent to which the strategic direction varies each year would depend on the extent of developments since the previous strategic direction.
- It should include:
  - relevant content from any designated SPS;
  - any initiatives or developments it has considered as part of the keep under review work;
  - the impact of the government's policy priorities and emerging trends on the codes landscape; and
  - a high-level view on which codes may need to change as a result.

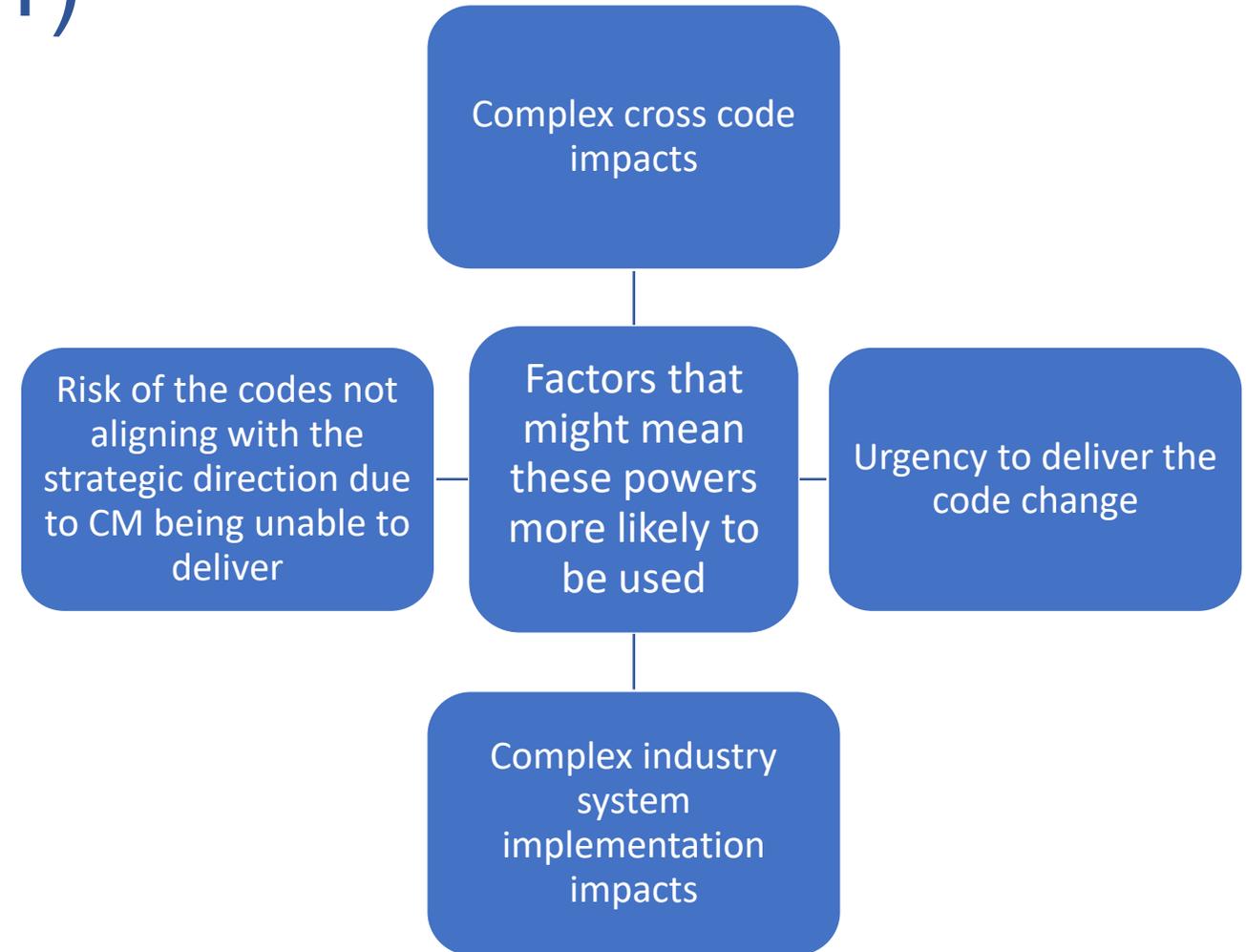
# Roles and responsibilities

The code change process and the role of industry and other stakeholders

# The strategic body's role in delivering code changes (under option 1)

## Key features

- The strategic body could
  - develop or coordinate the development of the details of code changes; and
  - directly change the codes.
- The strategic body would consult where appropriate before, e.g. directing changes
- Expect these powers to be used in limited circumstance
- Decides on approval of material changes
- Challenges to code change decisions could be addressed through judicial review or a combination of judicial review and CMA appeal



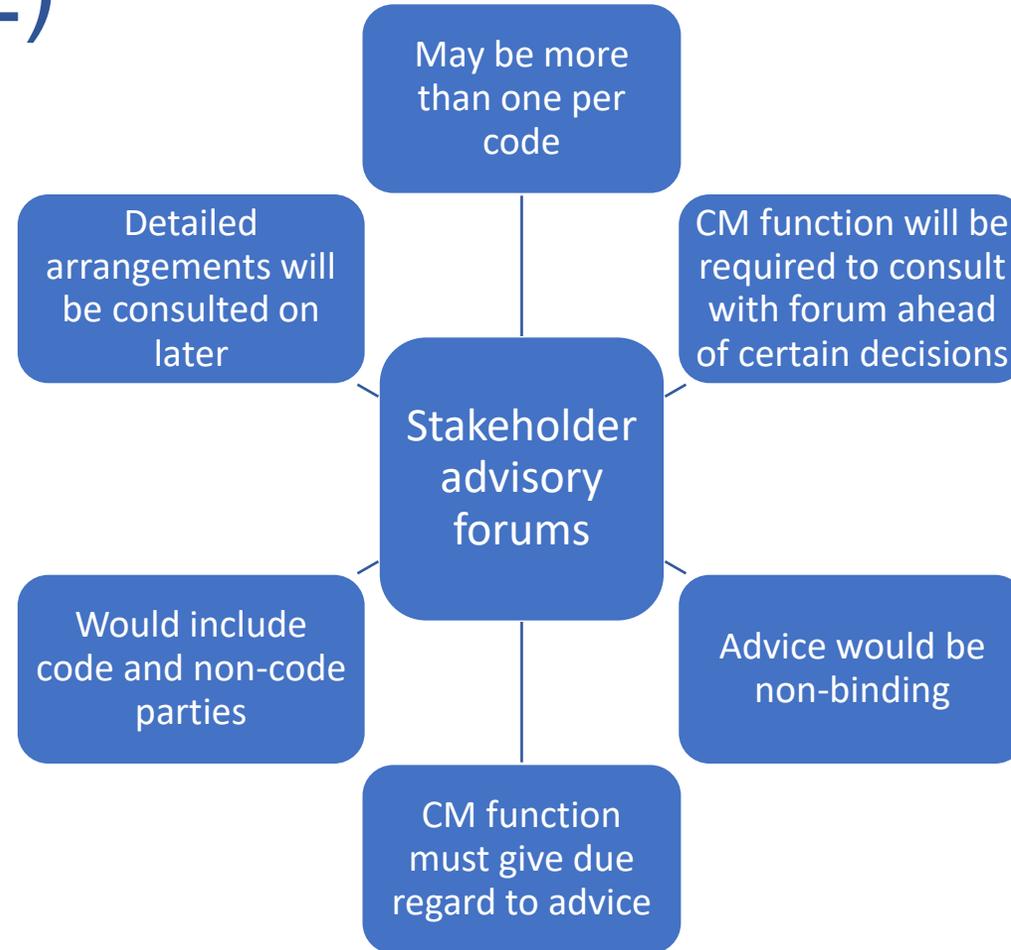
# Code manager function-led code change process (under options 1 and 2)

	Option 1 (Ofgem as SB)	Option 2 (FSO as IRMB)	Current typical approach
<b>Who can propose a code change?</b>	Any interested person	Any interested person	Mainly code parties. Sometimes Ofgem and materially affected parties
<b>Prioritises change</b>	Code manager / code manager function		Panels set the timetable, and some can prioritise
<b>Manages the governance process</b>			Code administrator
<b>Develops the details of the code change</b>			Proposer 'owns' the code change; code administrator supports them
<b>Decides on non-material code changes</b>			Panels
<b>Decides on material code changes</b>	Strategic body	Ofgem	Ofgem
<b>Appeal body for some code manager function decisions</b>	Strategic body	Ofgem, with possible initial review by internal body	Some decisions made by Panels can be appealed to Ofgem

# The role of industry and other stakeholders (under options 1 and 2)

## Key features

- Code parties will continue to play an important role in shaping code decisions
- Code manager function will be required to consult and engage with stakeholders, with flexibility to tailor the approach
- Code panels will be disbanded, with stakeholder advisory forums ('forums') being created



# Roles and responsibilities - differences in option 2

## Key differences to option 1

- Most roles and responsibilities of the strategic function would be similar as set out for option 1.
- Initially Ofgem (not the strategic function) would decide on the approval of any changes that have a material impact on consumers or competition and on those where Ofgem is required to retain decision-making powers by retained EU law or the TCA – could be kept under review over time
- The IRMB would not have the power suggested under option 1 of being able to directly change the codes – would be kept under review
- Code manager function would be integrated into the IRMB so no role for current code administrators as such in option 2, but we would work to ensure that any establishment of the IRMB captured existing knowledge and skills.
- IRMB would be able to tender out administrative tasks, in line with procurement rules. Any administrative service provider would not be involved in any decision-making on whether code changes are approved.

# Question (via menti poll)

To answer, please go to [menti.com](https://menti.com) and use code: **3405 6155** or use the link in the Q&A chat

To what extent do you agree with the roles proposed for:

- a) Strategic function
- b) Code manager function
- c) Stakeholders

# Scope of reforms

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# Proposed scope of reforms

## Outline

- We propose that the following **codes** will be in-scope:
  - **CUSC, Grid Code, STC, BSC, MRA, DCUSA, Distribution Code, SEC, UNC, SPAA, IGTUNC**. This would also include the **REC**, following retail code consolidation.
- We also propose to bring the following **central system delivery functions** into scope:
  - **Smart metering** (delivered by DCC), **gas** (delivered by Xoserve), **electricity** (delivered by Elexon), and the **Data Transfer Service**.
- Following stakeholder feedback and building on the conclusions of the Engineering Standards Review, we propose to bring certain **engineering standards** into scope.
- Other codes and systems (e.g. the Central Switching Service) could be brought into scope in future if, for example, they are likely to have a material impact on the delivery of the strategic direction or the objectives of code governance reform.
- The strategic function would keep evolving codes and standards under review and, where necessary, could recommend appropriate reforms to the regulatory framework to government.

# Central system delivery functions

## Outline

- Central system delivery functions, and the bodies that perform these functions, play an important role in the current framework.
- We propose that the following central system delivery functions should be included in scope:
  - **Smart metering, gas, electricity, and the DTS.**
- Our reforms seek to ensure that future substantive system changes will be consistent with the strategic direction.
- We propose to legislate to give the strategic function powers to direct central system delivery bodies for the purposes of delivering the strategic direction.

## Licensing central system delivery functions

- We are exploring ways in which lines of accountability between central system delivery bodies and their users can be enhanced.
- One way to achieve this is to further codify the powers and responsibilities of central system delivery bodies through licence.
- We would further engage with stakeholders on this in due course, however we welcome initial views at this stage.

## Accountability through licensing could be achieved by:

Establishing a new licensable activity and licence in respect of central system delivery

Granting licences in respect of full end-to-end delivery responsibilities (e.g. responsible for both code management and central system delivery)

# Engineering standards

## Outline

- Engineering Standards Review found that standards have become overly complex and lacking in areas (e.g., interoperability).
- The review recommended that a single party should be responsible for coordinating changes to these standards.
- Under option 1, we propose to act on this by introducing one or more code manager(s) responsible for in-scope engineering standards.
- Under option 2, we propose that this responsibility would sit with the code manager function of the IRMB.
- Where the FSO does not take on the role as the IRMB, it may still have a role working closely and engaging with the strategic body and code manager(s) to recommend necessary changes.

The role of the code manager function would be consistent with the roles and responsibilities set out in chapter 3 of our consultation, including:

Developing and maintaining the relevant provisions in codes and in-scope engineering standards

Overseeing the change process, including developing and prioritising changes

Proposing changes

Making decisions on non-material changes

# Question (via menti poll)

To answer, please go to [menti.com](https://menti.com) and use code: **3405 6155** or use the link in the Q&A chat

- Do you agree with our proposal to bring system bodies into scope?

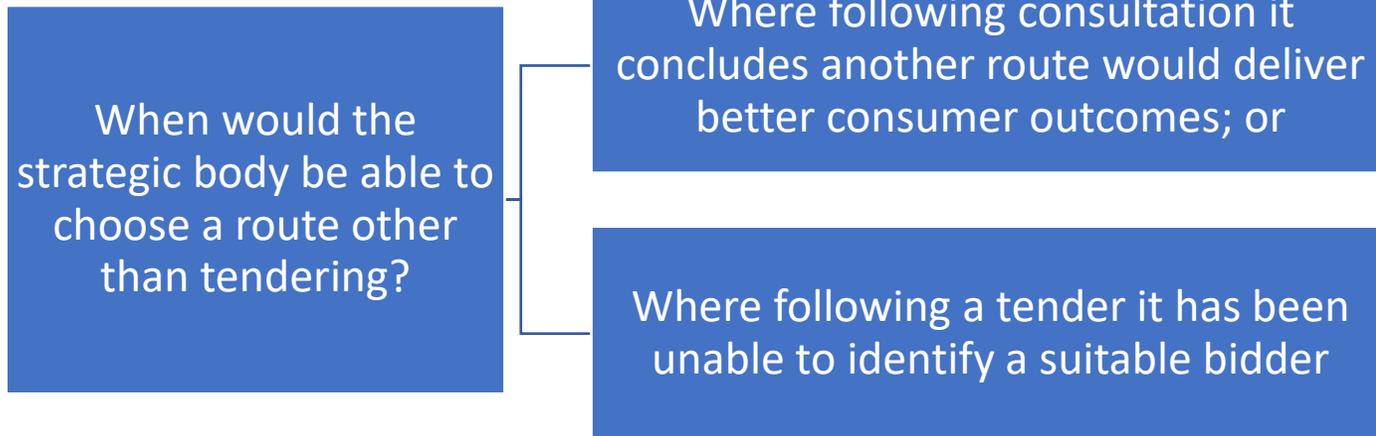
# Code manager governance and transition

Applies to option 1 – Ofgem as strategic body

# Selecting code managers

## Overview of proposals

- The strategic body would have discretion on how it selects code managers
- It would tender where this would deliver the best outcomes
- We will consider whether to legislate to require that the strategic body must obtain the Secretary of State's consent or veto before following a different approach than tendering.



## Options for strategic body to select code managers

Competitive tender

Built-for-purpose company

Directly select FSO or affiliate

As a backstop, appoint a licensee other than FSO

# Accountability and transition

## Outline

- Code managers would be licensed by Ofgem as the strategic body
- Allows for strong accountability and flexibility in an evolving energy system.

## Transition

- We expect code administrators will exist alongside code managers for a limited time to ensure an orderly handover of responsibilities

## Licensing

- When the strategic body selects a code manager (see previous slide) it would grant a code manager licence
- Strategic body could set licence conditions and modify them over time
- Strategic body could also enforce licence breaches, including issuing fines.

# Implementation

High-level approach

# Implementation approach

	Option 1 (Ofgem as strategic body)	Option 2 (FSO as IRMB)
<b>Preparation for codes reform</b>	<ul style="list-style-type: none"> <li>Ofgem begins review of consolidation options</li> <li>Ofgem to review and consider options for standardising processes for code changes and code simplification</li> <li>BEIS and Ofgem prepare necessary steps for selecting and licensing code managers</li> <li>Legislative process in parliament</li> </ul>	As in option 1, but Ofgem may not need to prepare specific code manager licences
<b>Mobilisation of strategic body and code managers/IRMB</b>	<ul style="list-style-type: none"> <li>Ofgem to further develop strategic body</li> <li>If primary legislation is passed, BEIS will prepare any necessary secondary legislation for code managers to be selected and licensed</li> <li>Ofgem to select, establish and license code managers (likely a process, not point in time)</li> </ul>	<ul style="list-style-type: none"> <li>Dependent on approach for implementation of FSO</li> <li>Once fully operational, the FSO would start to build its capabilities to deliver its role as the IRMB</li> </ul>
<b>Implementation of code reform</b>	<ul style="list-style-type: none"> <li>Ofgem (as SB) to move into formal delivery phase of code reform activities</li> <li>Licensed code managers (w/ stakeholders) to deliver the consolidation of codes under SB leadership based on previous options review</li> </ul>	<ul style="list-style-type: none"> <li>IRMB to deliver codes consolidation of codes based on previous options review</li> </ul>

# Q&A and wrap-up

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# Q&A

Please ask any questions in the chat

# Next Steps

For you:

- Respond to the ‘Design and delivery of energy code reform’ consultation by **28<sup>th</sup> September.**
- Contact [codereform@beis.gov.uk](mailto:codereform@beis.gov.uk) and/or [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk) with any further questions you have

# Next Steps

For us:

- Analyse the responses to the consultation and use them to inform policy development, including informing final government decisions on:
  - which institutional governance option to implement;
  - the core roles and responsibilities of the strategic and code manager functions; and
  - if the preferred institutional governance option is implemented, the framework powers for the strategic body to select and license code managers.
- Publish a government response covering both this consultation and the 2019 consultation
- Move to introduce primary legislation when parliamentary time allows

# Thank you for attending

For any further questions, contact [codereform@beis.gov.uk](mailto:codereform@beis.gov.uk) and/or [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)