



# Consultation on the Design and Delivery of the Energy Industry Code Reform

## Response form

The consultation is available at:

<https://www.gov.uk/government/consultations/energy-code-reform-governance-framework>

The closing date for responses is 28 September 2021.

Please return completed forms to:

### **BEIS**

Team: Code Reform – Electricity Systems Team  
Department for Business, Energy and Industrial Strategy  
Postal address: Code Reform - Electricity Systems Team  
Department for Business, Energy and Industrial Strategy  
Abbey 1, 3rd Floor,  
1 Victoria Street  
London  
SW1H 0ET

### **And**

### **Ofgem**

Team: Industry Code and Licensing Team  
Office of Gas and Electricity Markets  
Postal Address: 10 South Colonnade  
Canary Wharf London  
E14 4PU

Email: [codereform@beis.gov.uk](mailto:codereform@beis.gov.uk) and [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

BEIS and Ofgem will share with each other all responses that are received.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

## Personal / Confidential information

Please be aware that we intend to publish [a summary of] all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☒

Comments: [Click here to enter text.](#)

## About You

Name: **Chris Wright**

Organisation (if applicable): **ExxonMobil Gas Marketing Europe Limited (EMGME)**

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	Respondent type
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input checked="" type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

## Questions

### Question 1

*This question refers to chapter 2 – Scope of reform.*

To what extent do you agree with our proposals on the licensing of a code manager for engineering standards, and why?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **EMGME is primarily concerned with gas production, shipping and trading activities codified within the Uniform Network Code (UNC). We note that gas engineering standards are currently not captured by an energy code(s) in the same way that electricity engineering standards are. Nevertheless, evidence shows that gas engineering and safety standards have not been compromised, nor excessive costs incurred, as a result of these standards sitting outside of this code framework. We see no compelling reason to bring gas engineering standards under a code governance framework now, irrespective of whether this is overseen by a licenced or unlicensed code manager. It is however absolutely essential that the whole gas value chain is consulted on matters such as changes to gas quality specifications, especially given that this is a key focus of the energy transition.**

### Question 2

*This question refers to chapter 2 – Scope of reform.*

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 will be the subject of future consultation?

Comments: **Our primary concern is that central systems operate accurately and efficiently, with changes undertaken in a cost effective, independent and non-discriminatory way. System changes should be prioritised appropriately, respecting that codes such as the UNC are commercial contracts between gas shippers and transporters. At this stage we do not have firm views on future governance arrangements for central systems, providing that these outcomes are secured.**

### Question 3

*This question refers to chapter 3.1 – Setting the strategic direction, chapter 3.2.4 - Detailed roles and responsibilities of the strategic body, and chapter 3.2.7 – How would our proposals differ under option 2?*

To what extent do you agree with the detailed roles and responsibilities of the **strategic function** as set out above, and why?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **The UNC has proven itself adaptable over many years, and overall we believe that stakeholders have worked and behaved appropriately to deliver change. While it's possible that the current codes framework could rise to the challenges of the energy transition and net zero, achieving these goals is a huge ambition, where additional strategic guidance as described may be required. We believe that Ofgem is probably best placed to fulfil this role. Irrespective of who takes on this role, however, it is critical that the status of the UNC as a multilateral commercial contract between gas shippers and gas transporters, is understood and respected. We are also keen to ensure that the strategic function is appropriately resourced and empowered to engage positively and constructively at all stages of the change process, providing advice and direction as required during the development of change proposals, and making fast decisions at the end.**

#### Question 4

*This question refers to chapter 3.2.3 - Detailed roles and responsibilities of the code managers, and chapter 3.2.7 – How would our proposals differ under option 2?*

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

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **Achievement of the energy transition and net zero will depend heavily upon investment by private businesses. Those same businesses will almost certainly also be signatories to at least one energy code. In order to have confidence to invest in the UK, businesses will also require confidence that they will be treated appropriately throughout the energy codes process. This applies especially to decisions made by code managers who themselves will be neither regulators nor signatories to the codes and will not be financially impacted by the decisions they make. We recognise that the topic of code change will be subject to further consultation, but would encourage the development of appropriate checks and balances so as not to undermine the necessary and legitimate interests of code parties.**

#### Question 5

*This question refers to chapter 3.1 – Setting the strategic direction, chapter 3.2.5 - Roles and responsibilities of other stakeholders, including code parties, and chapter 3.2.7 – How would our proposals differ under option 2?*

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 forum, and why?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **Whilst we agree that broad stakeholder engagement can lead to higher quality outcomes, this should not lead to a diminishment of the role of code parties. Code parties collectively are likely to have the greatest level of understanding of the impacts of code changes, and will face the most immediate financial consequences. Therefore, similar to our response to Q4, the role of non-code party stakeholders must be balanced with the interests of code parties so as not to undermine investor confidence in the UK's energy systems.**

### Question 6

*This question refers to chapter 3.3 - Appeals process and compliance.*

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

☐ Strongly agree   ☒ Agree   ☐ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **We agree that current safeguards must not be eroded.**

### Question 7

*This question refers to chapter 3.3 - Appeals process and compliance.*

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?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☒ Not sure

Comments: **It is not clear from the consultation whether the prior internal review of decisions and appeals by the FSO would be deterministic, or whether it would simply add a further level of scrutiny to decisions before every case was passed to Ofgem for a decision. We would not support the FSO deciding appeals and consider that all valid appeals must be determined by Ofgem. We would also caution that adding the FSO as a first level of review would build in further time and complexity to the code modification change process. To clarify however, our preference is that Ofgem fulfils the roles of both strategic and appeal body.**

## Question 8

*This question refers to chapter 3.3 - Appeals process and compliance.*

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)?

Comments: **In respect of either Option, we do not support moving the appeals mechanism to Judicial Review only. We consider that the CMA (and its predecessors) has played a valuable role in adjudicating on energy code decisions, and has done so in an effective, and reasonably accessible and cost efficient, way. We take comfort from the independent technical and economic rigour that the CMA applies, and believe that this generally leads to best possible outcomes. Judicial Review should remain available for appealing non-code decision, as now.**

## Question 9

*This question refers to chapter 3.3 - Appeals process and compliance.*

Do you have any thoughts on other potential appeal routes?

Comments: **No**

## Question 10

*This question refers to chapter 4.1 - Proposed operating model and accountability (for option 1).*

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

☐ Strongly agree    ☒ Agree    ☐ Neither agree nor disagree    ☐ Somewhat disagree    ☐ Disagree    ☒ Not sure

Comments: **We broadly agree with the proposals.**

## Question 11

*This question refers to chapter 4.2 - Monitoring and evaluation (for option 1).*

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

☐ Strongly agree    ☒ Agree    ☐ Neither agree nor disagree    ☐ Somewhat disagree    ☐ Disagree    ☐ Not sure

Comments: **We broadly agree with the proposals.**

## Question 12

*This question refers to chapter 5.2 - Establishing code managers.*

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

☐ Strongly agree    ☒ Agree    ☐ Neither agree nor disagree    ☐ Somewhat disagree    ☐ Disagree    ☐ Not sure

Comments: **We broadly agree with the mechanisms set out, but highlight the need for close scrutiny to ensure that prospective code managers demonstrate adequate knowledge about the code they are to manage as well as the wider industry.**

## Question 13

*This question refers to chapter 5.3 – Budget and funding.*

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

☐ Strongly agree    ☒ Agree    ☐ Neither agree nor disagree    ☐ Somewhat disagree    ☐ Disagree    ☐ Not sure

☐ Not sure

Comments: **The proposals seem appropriate, albeit we understand that they will be significantly more expensive than current arrangements.**

## Question 14

*This question refers to chapter 5.3 - Budget and funding.*

To what extent do you agree with our proposal that the strategic body should be accountable for code manager budgets, and why?

☐ Strongly agree    ☒ Agree    ☐ Neither agree nor disagree    ☐ Somewhat disagree    ☐ Disagree    ☐ Not sure

Comments: **The proposals seem appropriate.**

## Question 15

*This question refers to chapter 6.1 - Proposed operating model and accountability (for option 2).*

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



☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **The proposals seem appropriate, however, our preference is for Ofgem to fulfil the strategic body role.**

### Question 16

*This question refers to chapter 7.1 - Options analysis*

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

☒ Option 1, where Ofgem is designated as the strategic body with the power to licence separate code managers

☐ Option 2, where the FSO takes on the role of an IRMB, which combines the strategic and code manager functions

☐ Not sure

Comments: **We would support Ofgem taking on this role.**

*The following three questions relate to the impact assessment on the code reform that is published along with this consultation. Please only answer the questions below if you have read the Impact Assessment.*

### 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?

☐ Strongly agree   ☐ Agree   ☒ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **We are not well placed to provide a view on this.**

### 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?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☒ Somewhat disagree   ☐ Disagree   ☐ Not sure

Comments: **The Case Study representing the Gas Charging Review omits a critical point.**

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

Comments: **The Gas Charging Review process (and indeed other UNC modifications) could have been concluded significantly faster and more efficiently if Ofgem were permitted to play a more active role in the current code modification development process. Currently, Ofgem opines on key aspects of a code modification only once the modification has completed the industry development stage. There were numerous occasions during the Gas Charging Review when specific guidance was sought from Ofgem, for example on its interpretation of compliance with EU network codes, but none was forthcoming. This lack of input results in the industry having little choice but to develop multiple potential solution, each with slightly different features, in order to test Ofgem's approach. Allowing or requiring Ofgem to provide this input during the code development stage would deliver significant efficiencies to UNC business without the need for the extensive code governance changes now being considered.**

### Question 19

To what extent do you agree with the scale and type of benefits to industry estimated in the impact assessment?

☐ Strongly agree   ☐ Agree   ☐ Neither agree nor disagree   ☐ Somewhat disagree   ☐ Disagree   ☒ Not sure

Comments: **We are not well placed to comment on this.**

Are there further cost savings to industry that should be included?

Comments: **We are not well placed to comment on this.**

### Question 20

*This question refers to chapter 8.1 – Context and wider industry developments*

Are there any other wider industry developments we should consider in relation to the implementation timeline?

☐ Yes   ☐ No   ☐ Not sure

Please provide details of any industry developments you believe should be considered in the implementation timeline and how they could impact on code reform.

### Question 21

*This question refers to chapter 8 – Implementation approach*

Are there any implementation issues, risks or transition considerations we should take into account?

Comments: **Clarity must be provided both on the implementation date for the new arrangements, and on the cut-over process between the old and the new arrangements. It will be important for code parties to understand in advance how change proposals are to be treated when they are “in-flight” when new rules are implemented – i.e. will they conclude under the old arrangements or transition to the new ones?**

How do you think these could impact on code reform?

Comments: **Detailed planning and communication should be undertaken with relevant stakeholders.**

## **Question 22**

*This question does not refer to any specific chapter.*

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 policy impacts.

Comments: **Extending and expanding the role of stakeholders as proposed has the potential to lead to greater inclusivity. It is important, however, that this extended and expanded role for non-code party stakeholders does not unduly undermine the legitimate interests of code signatories.**

## **Question 23**

*This question does not refer to any specific chapter. Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.*

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

[Click here to enter text.](#)

Thank you for your views on this consultation.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BEIS we carry out our research on many different topics and consultations, and your views are valuable to us. Would you be happy for us to contact you again from time to time either for research or about other consultations?

☒ Yes

☐ No