

Kayte O'Neill

Kayte.ONeill@nationalgrideso.com

www.nationalgrideso.com

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National Grid ESO response to the Energy Codes Reform: Governance framework consultation

Dear Sir/Madam,

This response is on behalf of National Grid Electricity System Operator (NGESO) and is not confidential. National Grid ESO is the Electricity System Operator for Great Britain. We balance electricity around the country second by second to ensure that the right amount of electricity is where it's needed, when it's needed, always keeping supply and demand in balance. As Great Britain transitions towards a low-carbon future, our mission is to enable the sustainable transformation of the energy system and ensure the delivery of reliable, affordable energy for all consumers. We use our unique perspective and independent position to facilitate market-based solutions which deliver value for consumers.

We recognise the importance of change and support the shift to a governance model which achieves excellence in both strategy and delivery. We also share the sense of urgency that Net Zero places on us collectively as an industry, and support the model in Option 1 of the consultation. We see Option 1 as being achievable in a shorter timeframe as it requires less change from current arrangements. We also believe that some key benefits of Option 2, such as integrating whole system thinking into the strategic direction of code change, can be realised through an appropriate relationship between the FSO, the Strategic Body and Code Managers. We believe that this shorter timeframe and enhanced FSO role will lead to greater benefits to consumers and support progress toward Net Zero than would otherwise be the case and better maintain the required pace of framework change to support Net Zero targets.

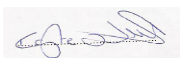
There are several key considerations which we believe are important to highlight:

- Whole system thinking and coordination will be critical in the journey to Net Zero. The role of the FSO will be central in advising the strategic code body and Code Managers on system needs and priorities, and should have an appropriate input to these roles.
- The technical codes, such as the Grid Code and SQSS, are core to system operation and system security. The ESO/FSO has both the subject matter expertise and experience required to inform the evolution of these Codes, and the obligation for system security that these codes ensure. We therefore believe that the ESO's central role in these codes should continue.
- Ofgem currently has governance structures and processes in place for all codes, making it well placed to fulfil the role of Strategic Body. Re-creating these in the FSO to achieve the IRMB model would require significant time and investment for little or no increase in value to consumers.

Our detailed response to your questions is appended to this letter using the official format.

We welcome the opportunity to further discuss the points raised in this response and look forward to working with BEIS, Ofgem, and industry as these reforms continue to be worked through. Should you require further information please feel free to contact me at Kayte.ONeill@nationalgrideso.com.

Yours sincerely



Kayte O'Neill

Head of Markets

National Grid Electricity System Operator

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 **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree
☐ Disagree ☐ Not sure

Comments:

The ESO supports the licensing of a code manager for in scope engineering standards. To support net zero it is important that technical implementation is robust and strongly linked to the markets within which those assets will operate. We believe that regulatory oversight and the potential for intervention in these areas as well as co-ordination and links to a wider strategic industry development plan will be hugely beneficial to consumers.

In the future we see value in the FSO having a strong role to play in monitoring and proactively recommending changes to engineering standards that are within its particular field of operation or expertise. Engineering standards currently cover a wide range and if the FSO has a role in this area we would see this as beneficial only where those engineering standards are relevant to the role of the FSO.

Including certain engineering standards is also important as it will enable further exploration of the proposal to develop a single technical code incorporating the current scope of the Grid Code, Distribution Code, SQSS and their subsidiary documents. This proposal has the potential to deliver significant consumer benefit through whole system alignment of technical codes and standards, lower barriers to entry for market participants, and improved governance and coordination of technical codes and engineering standards.

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:

We agree that a framework that allows more control and co-ordination of delivery would be beneficial. Industry changes are not just reliant on the code modification process itself but also on the systems and processes that ultimately underpin this. We do not consider that it is necessarily a requirement that these bodies are integrated with code managers but central industry participants such as code managers and the FSO should be able to feed into delivery plans and receive assurance that changes are being delivered expediently, driving benefits to consumers through efficient and timely delivery.

It is integral that any funding mechanisms for central system delivery bodies do not act as a hindrance to delivering code change. These bodies will need sufficient regulatory flexibility to digitise and enhance systems to support the programmes of the Strategic Body and Code Managers, in order to realise the consumer benefit of these changes.

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 **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree
☐ Disagree ☐ Not sure

Comments:

We agree with the proposed roles and responsibilities of the strategic function. To deliver net zero we consider that it is essential that the strategic body responds to advice and counsel from the FSO making use of the FSO's system knowledge and expertise. We see this link between the role of the FSO and the Strategic Body as important for all codes but particularly so for the technical codes such as Grid Code, System Operator Transmission Owner code, SQSS, and the charging methodologies that currently sit within the CUSC. If the FSO were to play a role as an advisory body it would see a need for a formal advisory process that facilitates consultation between the FSO and Ofgem as the strategic body on the prioritisation of areas for change.

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 **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree
☐ Disagree ☐ Not sure

Comments:

We agree with the proposed roles and responsibilities for the Code Managers function. We note the importance of CMs to have access to relevant expertise regarding the content of their codes. We consider this to be particularly pertinent for some of the more technical areas of codes and frameworks such as the Grid Code, SQSS and STC, as well as the transmission charging methodologies currently contained within the CUSC. We consider the FSO to be a clear candidate for these roles, and that the FSO should also be considered for other CM roles where its expertise is relevant. If the FSO were to be a CM then appropriate safeguards should be established to remove any potential perception of conflict of interest, which may be part of the FSO definition.

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 ☒ **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree
☐ Disagree ☐ Not sure

Comments:

We agree that stakeholder involvement in the change process will be fundamental to its success. It will be important for the strategic body and CMs to consider the advice of the FSO and its view on the prioritisation of change.

CMs should be incentivised to co-operate with and develop plans with stakeholder input. Without this incentivisation there is a real risk that stakeholders may see diminishing returns and may resolve to target their lobbying towards ultimate decision makers (ie Ofgem) resulting in a less efficient and considered change process. We consider that consumer benefits can be driven with thorough stakeholder engagement and that the success of this process will be crucial in achieving the overall aims of governance reform.

Although some input from industry stakeholders can complicate the process of development there is a real risk that without access to diverse perspectives with technical and commercial experience in the market, suboptimal approaches may be adopted resulting in greater costs to consumers overall.

We consider that existing ESO engagement models could be considered in relation to best practice for stakeholder engagement in complex areas. These include how we engage to develop ancillary service offerings, the management of the requirements for the Capacity Market, our approach to stakeholder engagement through charging futures and our work with stakeholders on the Future Energy Scenarios. If helpful we can provide further detail on the mechanisms and approaches taken through these different approaches to identify best practice for CMs in their approach to stakeholder engagement.

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 ☒ **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree
☐ Disagree ☐ Not sure

Comments:

The ESO agrees with the proposals. To ensure a rapid and efficient transition we consider that leaving arrangements as is as far as possible would result in better outcomes. We consider that the

FSO should be an integral part of the decision-making process for changes and that advice should be sought on the decisions that the strategic body and code managers plan to take. Although categorised as advice the formalisation of the relationship between the FSO and the strategic body/code managers should be such that they justify their decisions in light of the advice they receive.

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:

We agree with the proposed appeal route and see it as a necessary approach to ensure any perceived conflicts of interest can be well managed.

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:

Although we have no substantive comments on the appeal routes we believe that any route should be timely and create certainty upon its conclusion. Recent appeals such as the Judicial Review of CMP264/5 have created uncertainty for market participants as appeals have often taken place after a proposal has been implemented. An appeal route that avoids creating this uncertainty and establishes a firm decision prior to the implementation of a change to the code would result in benefits for all parties.

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 have no comments at this time.

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 have no comments at this time.

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:

Code managers will be required to fulfil a technically demanding role with a high level of expertise required in the subject area that they will focus on. A balanced approach to their appointment is required and although there will be benefits to regularly tendering, there are potential issues such as distraction from core work driven by demands of a competitive tendering process and the potential for a very narrow field of competitors. This lack of "market liquidity" in the tender could result in inefficient costs for consumers. Additionally, a cost-focused tender approach to driving performance may risk compromising the quality of service from CMs, when their role will be critical in enabling net zero. A licence based regulatory approach to driving performance may result in better outcomes overall by reducing inefficiencies in the process and allowing organisations to focus on the core activities of a Code Manager.

The ESO also considers that the appointment of CMs is an opportune moment to establish a framework for rationalising and consolidating the codes. This could be done through establishing a framework of licencing or tendering along the lines of the intended consolidation. A key expectation of those code managers could be to deliver that consolidation in the first stages of the establishment of the code reform regime.

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 **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree
☐ Disagree ☐ Not sure
☐ Not sure

Comments:

We agree with the proposal that industry parties should fund code managers through a methodology established under each relevant code/group of codes. We welcome commitment to future consultation on this issue and the appropriate methodology for each CM to be established as part of the overall programme of reform.

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 **X Agree** ☐ Neither agree nor disagree ☐ Somewhat disagree ☐ Disagree
☐ Not sure

Comments:

The funding model for Code Managers must be flexible enough to respond to changing demands from the Strategic Body and from industry participants. We recognise merit in various potential funding models and welcome further consultation on this issue.

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 ESO recognises that the proposed operating model under option 2 may present certain advantages. This may be particularly true when considering the longer term and the FSO's

potential to link system considerations with those of flexible consumers – essential for delivering the overall aims of Net Zero. We support the other elements of the structure that are proposed.

It is worth noting that:

- The existing ESO does not have the necessary expertise to consider and deliver changes in retail markets. This would take significant time to integrate within the FSO model which may result in delay and costs to consumers.
- The FSO organisation will be expanding to take on a number of new roles during the transition period to the new code governance structure. An additional set of responsibilities with regard to code governance and strategic direction may take focus away from the FSO's core activities and could result in lower levels of senior attention on the FSO's overall activities as it seeks to integrate a IRMB business unit within its structure.
- Many of the benefits of Option 2 could be achieved through significant collaboration between the strategic body and CMs of Option 1 and the FSO. The rationale for the FSO taking on the IRMB is to link its wider strategic roles and function with code reform. Strong and effective links between the FSO and strategic body/CMs and duties on all parties to co-operate to deliver necessary change may result in the same benefits as option 2 whilst incorporating the efficiencies of option 1.

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?

X 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 agree that a change to the governance around the codes will be essential for the industry and consumers and it is crucial that it is implemented in a way that accelerates the changes required to facilitate the transformation of our energy system. Our preference is for Option 1 within the Energy Code Reform consultation. A Strategic Body working with code managers would provide the required direction to the industry and better facilitate the required changes to unlock the barriers to net zero. In order to achieve this, it is important that the code managers have decision making power to provide a better balance between the needs of industry and consumers. An additional benefit of a move away from code committees or panels and towards a model that provides greater accessibility for diverse market participants or energy stakeholders would be to ensure that the innovation and new business models required for net zero have a voice in the codes process.

We consider that Ofgem's current wide expertise and existing governance structures make it the best fit for a Strategic Body. Ofgem's role already gives it experience across all industry codes and the value of its existing decision-making structures and expertise should not be undervalued. We believe that its forward work plan also provides an established vision for industry development across all of its areas, and would result in quick progress for its strategic aims. This current wider

remit, established strategic planning, clear focus on consumer benefits and retained expertise means Ofgem stands out as the best option to enable a speedy transition to Net Zero through co-ordinated changes to the codes. Within Option 1, we see an important advisory role to both the Strategic Body and to Code Managers for the FSO, to ensure that whole system thinking and coordination underpin the transformation of codes and net zero is delivered efficiently.

The FSO as an Integrated Rule Making Body is not our preferred option. We are concerned that the implementation of an Integrated Rule Making Body requires a significant increase in FSO resource and skill sets to manage codes that are not currently under our remit, while creating new governance structures and processes would be complex, time consuming, and add little or no benefit beyond what is already largely in place for Option 1. We consider that Ofgem and BEIS's concerns that this implementation may distract from the prioritisation of the FSO's other work are valid and could lead to costs to consumers and a delay to the net zero transition. While there are potential benefits of wider system co-ordination in Option 2, we believe that these can largely be realised within a version of Option 1. We also feel that having separation between the strategic function and code manager better facilitates stakeholder relationships between the FSO and other industry participants - which will be important as we work together to transform our energy system

Ultimately we consider that these decisions need to take on board the need to proceed quickly to meet the strategic challenges of net zero and to deliver value for consumers. The model that best achieves these aims should be focussed on and taken forward at pace – Option 1 best meets this criteria.

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: No comment at this time

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: No comment at this time.

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

Comments:

There are many examples of code changes whose importance was at best subjective or where the proposal was poorly formed and required disproportionate effort to draw it to a conclusion. Open governance requires all modification proposals to be taken forwards, subject only to panel prioritisation. The code administrators do not directly prioritise modifications in the current model. This can lead to a significant loss of opportunity in terms of progressing strategically important, but more complex changes. Examples of strategically important modifications which have not been prioritised as much as they could have been include Grid Code modifications GC0117, which reviews generator thresholds for code application, and GC0137 which defines a specification for 'grid-forming' functionality which will facilitate system support from converter connected technology such as HVDC interconnectors and windfarms. Both are extremely important in facilitating net zero, but have been deprioritised against modifications that have been quicker to develop, despite many of these having low impact or having ultimately been rejected by Ofgem. Development of modifications is also more time-consuming than is perhaps necessary since the codes are viewed by some as a means to chase out all legal risk which can lead to over-complication and protracted legal argument.

Current Grid Code, CUSC and STC governance allows Alternative Modifications to be raised and considered alongside the Originally proposed Modification. There is no limit to the number of Alternative Modifications that can be raised. Recently there have been Modifications where a significant number of alternatives have been raised which are combinations of different elements of the solutions. Examples of this are modifications CMP317/327 and CMP368/369. It is difficult for the industry to understand the difference between such a high number of alternatives, particularly when they have quite subtle distinctions. A lesser number of Alternatives would make better use of the industry, the Code Administrator, Panel and the Authority's time. It is also the case that under the current governance rules parties can raise proposals that are contrary to Ofgem guidance and therefore waste industry time and resource when assessing proposals that will not ultimately result in approval.

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:

Although it is difficult to assess the ultimate savings associated with code reform we consider the impact assessment has highlighted clear first order benefits. In addition, we consider that overall the second order benefits could be significant by facilitating and prioritising more timely and coordinated change without the sometimes significant delays caused by spurious and inconsequential modification proposals that are currently brought forward.

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

Comments: No comment at this time.

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?

X 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.

Other than the FSO programme we are aware of the charging reform work, market-wide Half Hourly settlement, arrangements for offshore transmission, competition onshore and our projects to develop a whole system Grid Code and to digitalise the current Grid Code. We do not consider that any of these present a barrier to reform of code governance but consideration of the objectives and timelines of these programmes to avoid unintended consequences would be welcome.

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:

We consider that the success of the reform will in part depend on the transition from code administrators to the CMs and that appropriate funding of code administrators continues to ensure a successful handover. We also consider that significant consideration of existing organisations expertise and experience should be taken into account. This is particularly in relation to the staff whose experience and knowledge will continue to be invaluable and the systems/processes that are already established.

How do you think these could impact on code reform?

Comments: No comment at this time

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:

Inclusivity and understanding of diversity will be of critical importance in code change processes. We take this very seriously and are considering how the current codes we administer could be changed to better reflect this. Ultimately this process should result in diversity within the organisations established to fully take into account the wide range of views that will be needed to achieve net zero.

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?

No further comments at this time.