

codereform@beis.gov.uk and industrycodes@ofgem.gov.uk

28th September 2021

Dear Code Reform Team,

Consultation on the Design and Delivery of the Energy Code Reform

EDF is the UK's largest producer of low carbon electricity. EDF operates low carbon nuclear power stations and is building the first of a new generation of nuclear plants. EDF also has a large and growing portfolio of renewables, including onshore, offshore wind and solar generation, and energy storage. With around five million electricity and gas customer accounts, including residential and business users, EDF aims to help Britain achieve net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

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EDF welcomes this consultation on reform to the governance of the industry rules and codes. We support reforms to the overall energy governance arrangements including energy code reform, the Future System Operator and the designation of a Strategy and Policy Statement. These reforms should provide a more strategic approach to industry change and support progress towards a net zero energy system over this coming decade.

Specifically, we support your proposal for a code manager on engineering standards. We support either the Future System Operator as the integrated rule making body approach to the creation of a strategic body, or the Ofgem approach, with a slight preference for the latter. As per our 2019 response, we would not support the creation of an entirely new strategic body.

We have copied the response form below, and answer each of your consultation questions.

If you have any questions, please contact me, or Natasha Ranatunga on 07875 112 981.

Yours sincerely

Mark Cox, Head of Nuclear & Wholesale Policy and Regulation



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: Mark Cox

Organisation (if applicable): EDF

Address: 90 Whitfield Street, London, W1T 4EZ

	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)

	Respondent type
<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:

We agree with this proposal to license a code manager for engineering standards. This would create a strong driver for continuous improvement and regular updates to the standards to support the transition to net zero energy system. The technical / engineering standards will be particularly important as the power system decarbonises further, and it is critical that these documents evolve to ensure new technologies are accommodated and that overall resilience of the system is maintained. A licensed code manager should provide improved governance.

It is imperative that the code manager has the skills, knowledge and expertise to manage this activity.

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 with the issues that the consultation identifies in relation to whether to integrate code management and central system delivery or maintain separation. We believe there may be merit in pursuing separation but agree that it needs to be explored further.

Ultimately, it is vital that the Government legislates as soon as practicable to direct central system delivery bodies to support the delivery of the strategic direction.

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:

We would anticipate that a Strategy and Policy Statement (SPS) by the Secretary of State would provide the clear strategic steer from Government for the strategic function, which will in turn set a strategic direction for code managers and industry based on that vision. The strategic function will play a very important role in ensuring the system of code governance can respond to the significantly changing energy sector, and supporting competition and innovation. Therefore, it is imperative that the strategic function is properly resourced with the right skills, knowledge and expertise in order to effectively deliver its role.

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:

We agree with the proposed roles and responsibilities of the code manager function. The enhanced code manager role will need greater resource and expertise than some of the code managers currently have in order to facilitate meeting net zero objectives.

We agree that code managers will need to be able to raise modifications and it is important that there is transparency in the new governance process. Stakeholder input and engagement, using their pool of practical expertise and knowledge, will continue to be critical in order to deliver change that works.

We welcome code managers being given responsibility for ensuring legal drafting is prepared in a timely manner.

We note that you propose that the strategic body should have the power to directly change the codes. We believe that this should only be used rarely and in very limited circumstances of exceptional urgency.

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:

We are pleased that industry input will remain valued in the code change process, via the new stakeholder advisory forums. It is critical that there continues to be meaningful engagement with industry to make use of industry's practical experience and knowledge to deliver change that works.

We agree that code development should have a new net zero objective.

It will be necessary in the new strategic context for the code managers, or the IRMB, to have the power to reject some modifications at inception, when they are raised, without further process or resource being expended on them. We would expect transparency of reasoning when this happens to an industry-raised mod. Likewise, we accept that code managers, or under Option 2 the IRMB, would prioritise code changes and ensure their timely progress; again we would expect transparency in this area and that stakeholders can input their views. It is highly likely that on some areas where there is a lot of complexity, not all of it at first evident at high level, the IRMB or code managers should set up workgroups to seek industry expert input in a focussed and timely manner.

We look forward to engaging further in the future consultation on the details of how the stakeholder forums will be populated, and how they will be engaged to give their views.

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 support the retention of an appeal route to deal with the (hopefully few) occasions when the process delivers an unsatisfactory outcome.

Any decisions made by code panels today that include an appeal route to Ofgem must in future be appealable to the strategic body, Ofgem, where the decisions are made by code managers in the future (under option 1).

At the moment, as to the CMA appeal route, it is available where the Ofgem decision does not follow the majority recommendatory vote of the relevant industry code panel. This distinction is to be lost in future, due to a change of model. All strategic body decisions on code changes will be able to be judicially reviewed (JR), as Ofgem is a public body.

Decisions made by Ofgem as the strategic body could be appealable to the CMA if new criteria can be developed in this new context, followed by new legislation to allow such CMA appeals under the new framework. We would like to see the CMA appeal route retained. It is, however, not clear what these limiting criteria might be. As this is costly and resource-intensive, we do not expect there to be many CMA appeals (or JRs).

Under option 2, with an IRMB and decisions made by Ofgem, we believe there should still be an ultimate CMA appeal route.

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:

Yes, it makes sense for there to initially be an internal review process within the Future System Operator as IRMB. However, where this fails, an appeal route with transparent process and decision making to Ofgem under Option 2 is vital.

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:

Please see response to question 6.

Question 9

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

Do you have any thoughts on other potential appeal routes?

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 agree that the strategic body should set the strategic direction for code managers, and develop or coordinate the development of the details of code changes. We agree that the strategic body should have the power to directly change the codes.

Ofgem will need increased resources to fulfil the strategic body role.

As per our August 2019 response, we would be particularly opposed to the creation of a new strategic body that was neither Ofgem nor the FSO. They would have to make a standing start, as new interfaces would be needed, leading to delay.

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:

Yes, it makes sense for Ofgem as the strategic body to set a strategic direction, and for this to be in line with the government's strategic vision communicated via the Strategic Policy Statement (SPS). We agree with agree with the monitoring and evaluation approach for Ofgem's performance as the strategic body. It would be required demonstrate to government its progress, and how the strategic direction is itself correctly aligned with government policy as these are captured by BEIS in the SPS. An annual report from Ofgem that sets out its annual forward work programme on upcoming direction and

activity, could help government to scrutinise the realisation of direction and the forthcoming direction - this would form the basis of the monitoring and evaluation of the strategic body by the government.

It is also appropriate to seek stakeholder views on the performance of the strategic body and of code managers.

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:

Yes, code managers should be selected through a competitive tender where possible but we support the various other alternatives which could be used where appropriate as set out in the consultation

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

Comments:

We agree that code managers will be funded by code parties in accordance with a charging method set out in the codes. We have some concerns about unregulated (unlicensed) code manager business, such as new business development, potentially being a distraction on occasion from a code manager's core role, and this will need to be avoided.

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:

Since it is the strategic body that, via the workload it sets, determines a lot of the resources the code managers will consume to do their work, it is appropriate for that same body to set their budgets so that they have said resource, and can deliver.

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 set out in the consultation are reasonable if this option is taken forward.

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 believe that either option 1 or option 2 can deliver reform of code governance. We would be markedly opposed to the creation of a new strategic body that was neither Ofgem nor the FSO.

Overall we support option 1 as this is most likely to be delivered in a timely manner. The challenges of creating an FSO and then adding these further additional responsibilities at the same time will be a significant challenge.

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 note the estimates, from your impact assessment. For option 1, the establishment of Ofgem as the strategic body is estimated to cost around £2 million per year, while the estimated cost of the code managers is £35 million per year. For option 2, where these two functions are combined within the IRMB, the estimated cost is £33 million per year. There is no detail behind these costs and we cannot validate them, but they do not look unreasonable. They are close to one another, will have a fair degree of uncertainty at this stage, and given the critical importance of moving as fast as possible to net zero, are not at a scale that should determine the choice between option 1 and option 2.

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:

Case Study 1

We agree that BSC code modification P272 in relation to mandation of half hourly metering for profile classes 5 to 8 was slow to be enacted, and could have been processed more quickly under the new proposed Energy Network Code arrangements.

Case Study 2

We agree that the reform of gas transmission charging arrangements was slow to proceed given that it launched in 2013. With 9 modification proposals having been rejected as not being compliant after a lot of time had been spent on them by Ofgem and industry, a power to reject non-compliant modifications at inception could have saved a lot of time.

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:

Yes. The most important benefits are not able to be monetised in the IA. We agree that a more efficient, strategically aligned code process aiming for net zero to a clear formula and direction is likely to reduce the frequency and magnitude of delays to code modifications that are beneficial to consumers and/or to net zero.

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?

No; we have already made clear why we support the FSO's creation and will respond separately on that.

Question 21

This question refers to chapter 8 – Implementation approach

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

Not much is said in this consultation about code simplification and consolidation, other than mentioning the phrase, and there were no questions about it. The views we gave in the last consultation in September 2019, still stand. The merger of the distribution code and grid code that is ongoing will give useful insights and should be beneficial.

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: We have nothing to add

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

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