

# Energy Code Reform

Government consultation response webinar  
26<sup>th</sup> April 2022

These slides are a summary of the government response to the July 2021 consultation on energy code reform. The full document can be found here: <https://www.gov.uk/government/consultations/energy-code-reform-governance-framework>.

**ofgem**



Department for  
Business, Energy  
& Industrial Strategy

# Agenda

Agenda	Organisation
Welcome	BEIS
Overview	BEIS
Institutional governance option decision	BEIS
Ofgem's new strategic functions	BEIS
Code managers	Ofgem
Stakeholder roles and responsibilities	Ofgem
Scope and system bodies	Ofgem
Implementation	Ofgem
Break	
Q&A	All to input
Next Steps & Close	Ofgem

# Aims of the session

- Share stakeholder comments to our consultation
- Share our decisions and understand how we have considered concerns and suggestions
- Give the opportunity to ask clarifying questions
- Share next steps

# Overview

# Overview

- 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 a governance framework that is forward-looking, accommodating to growing number of market participants, agile and responsive to change, supports innovation and benefits consumers.
- We have consulted on our proposed options and based on stakeholder views, further developed policy decisions that will require primary and secondary legislation in the future.
- Granting Ofgem new strategic functions and establishing a new governance framework will be the first step towards delivering code reform.
- Ofgem will develop the detailed plans and approach to code consolidation, code manager appointment, licensing and transition to code reform.
- We will continue our focus on implementing and delivering effective change that supports the market and consumers now and in the future.

# Institutional governance option decision

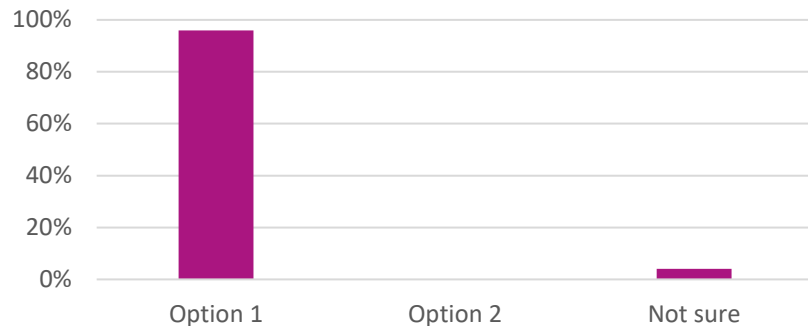
# Institutional governance option decision

## What we proposed

- Option 1 (preferred) – Ofgem as the strategic body (SB), with separate licensed code managers (CM)
- Option 2 (alternative) – the FSO as Integrated Rule Making Body (IRMB), containing both the strategic and code manager function

## What you said

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



### Common arguments in favour of option 1:

- Quicker and easier implementation than option 2
- Ofgem's existing skills and experience and ability to meet reform objectives
- Fewer conflicts of interest and clear separation between SB and CM roles

### Concerns with option 1:

- Ofgem's past track record on codes and perceived unwillingness to use its existing powers

### Arguments against option 2:

- Risk of conflicts of interest
- Distraction of FSO from its core responsibilities
- Lengthier implementation timelines and sub-optimal outcomes
- But some noting that it may be sensible to make the FSO responsible for codes

## What we will do

We have decided to **grant Ofgem a set of new strategic functions**, one of which will be the ability to select and licence code managers, rather than to create an IRMB as part of the FSO.

# Ofgem's new strategic functions



# Strategic functions (I)

## What we proposed

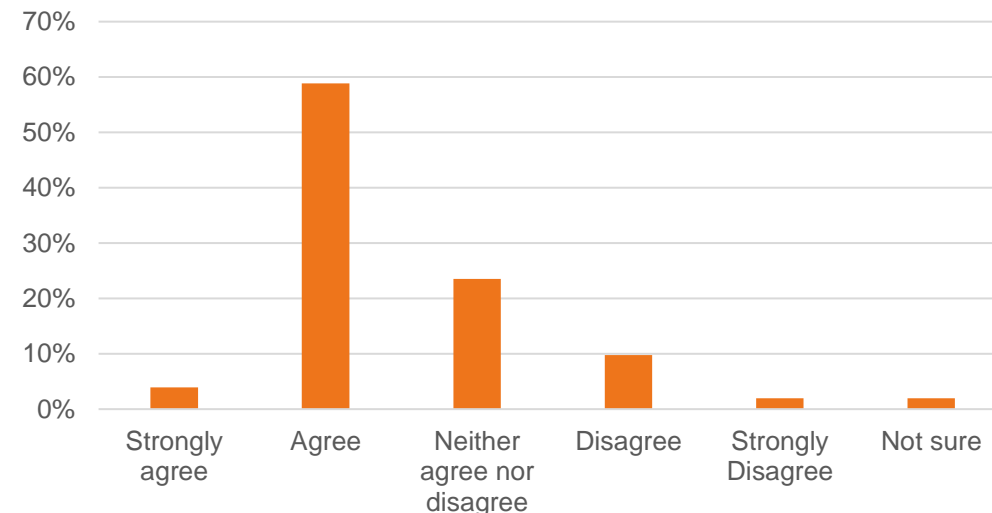
We set out the roles and responsibilities of the strategic function as being to:

- develop and publish a strategic direction for code managers,
- oversee and monitor the code change process;
- hold code managers accountable through licences; and
- deliver code changes, including the ability to develop or coordinate the details of code changes and to change the codes directly.

## What you said - summary

- Proposed strategic functions were **well-received overall**
- Strong agreement with the need for a strategic direction, with appropriate consultation
- A desire for Ofgem to take on a more active role in the code change process
- Mixed views on CM licences, with more respondents in favour of licensing than against
- Suggestion that direct changes should only be possible in clearly defined circumstances

*To what extent do you agree with the detailed roles and responsibilities of the **strategic function**?*



# Strategic functions (II)

## What we will do

### 1. Strategic direction:

- Ofgem will be given a duty in primary legislation to publish a document annually that sets out how the codes should evolve each year
- This document will serve two key purposes:
  - Used as a framework by code managers when developing their annual delivery plans
  - Provide industry and government with information on pending code changes
- Public consultation will be required
- The SoS will have the power to transfer this duty to the Future System Operator, if appropriate

### 2. Select and licence code managers:

- Ofgem will be empowered to grant code manager licences
- Ofgem will have the ability to choose from a range of code manager selection options, both competitive and non-competitive

# Strategic functions (III)

## What we will do

### 3. Direct code changes:

- Ofgem will be given the power to modify codes directly under the following four circumstances:
  - **urgent** changes where existing urgency provisions would lead to delay;
  - changes where the code manager has, or may have, an **unmanageable conflict of interest**;
  - particularly **complex** changes that are required to deliver the strategic direction; and
  - any changes required to implement **code consolidation**.
- All direct code changes will be subject to public consultation, SoS veto and CMA appeal
- Revisions to Ofgem's existing Significant Code Review powers may be needed

### 4. Direction of system delivery bodies:

- Ofgem will be given the ability to issue directions to in-scope system delivery bodies
- Ofgem's existing enforcement powers will be available if a system body fails to comply with a directive

# When will these functions be available?

## What we will do

### **Legislation will be required:**

- Ofgem's new strategic functions will be set out in primary legislation
- Some of these functions will also rely on more detailed provisions in secondary legislation

### **Most of these powers will 'go live' on a code-by-code basis:**

- Ofgem's enduring powers, such as the ability to make direct code changes, will not be available for a particular code until the first CM has been appointed

### **A transitional period (and powers) will be required:**

- Ofgem will also be granted transitional powers for the purposes of implementing code governance reform
- These powers will turn off once a code has gone live

# Code managers

# Code manager roles and responsibilities

## What we proposed

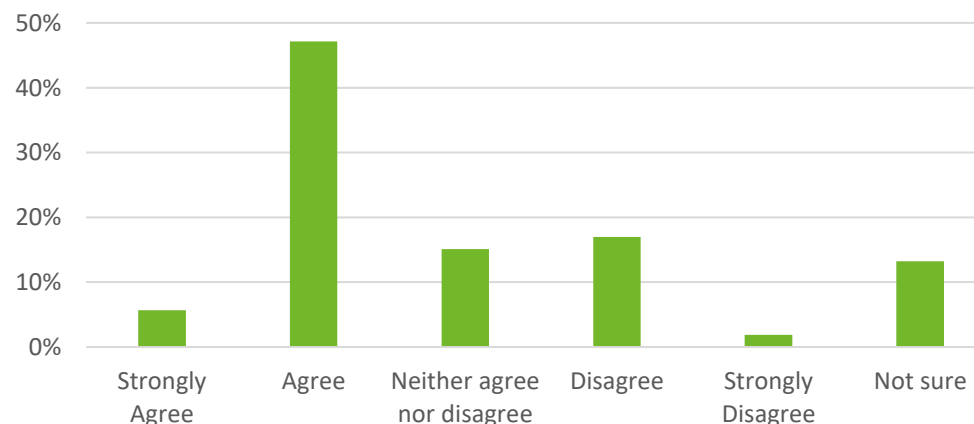
We set out the roles and responsibilities of code managers as being to:

- develop and publish a strategic direction delivery plan;
- identify, propose and develop code changes;
- prioritise code changes;
- manage the code change process;
- facilitate cross-code coordination and change; and
- take decisions currently made by panels.

## What you said - summary

- Proposed roles and responsibilities of the CM overall were well received
- Need for right resources and expertise
- Concerns on industry being excluded from change process (stakeholder engagement is key)
- Concerns about conflict of interest of CMs

*To what extent do you agree with the proposed roles and responsibilities of the **code manager** function?*



## What we will do

Ofgem will **consult further on the CM roles and responsibilities**, as part of its work to develop the CM licence ahead of initiating the CM selection processes.

# Code manager selection

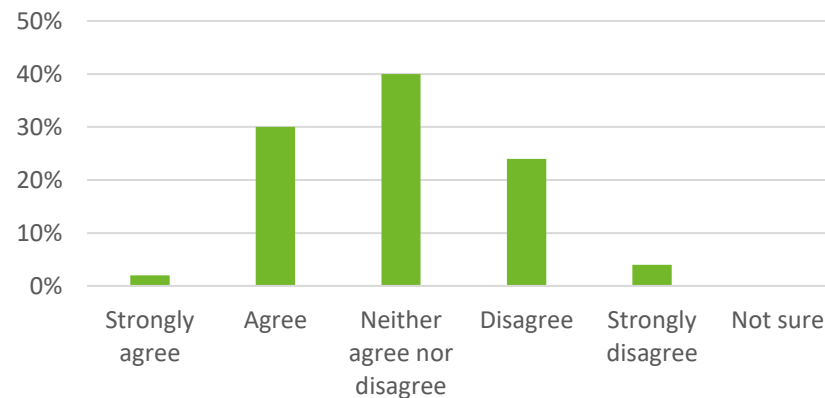
## What we proposed

- SB to select a CM for each in-scope code
- Three routes for CM selection: by tender, licensing a built-for-purpose company, or direct selection
- Decisions to select CMs in any other way than tendering would require SoS approval
- Existing CAs could become CMs, but this would not happen by default

## What you said - summary

- Need for robust tendering criteria
- Potentially not enough interest for a tender to be successful; tendering could reinforce the current siloed approach
- Options other than tendering only in exceptional circumstances and with explanation, consultation or SoS consent
- Conflicts of interest need to be mitigated
- CMs should be not-for-profit organisations
- Existing licences should not become CMs

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



## What we will do

- Ofgem will be able to **select the CMs through a range of selection options, competitive and non-competitive.**
- BEIS will bring forward secondary legislation to clarify the non-competitive options available and any constraints on when they could be used.
- Ofgem will **consult further on code manager funding and budgets.**

# Stakeholders



# Stakeholder roles and responsibilities

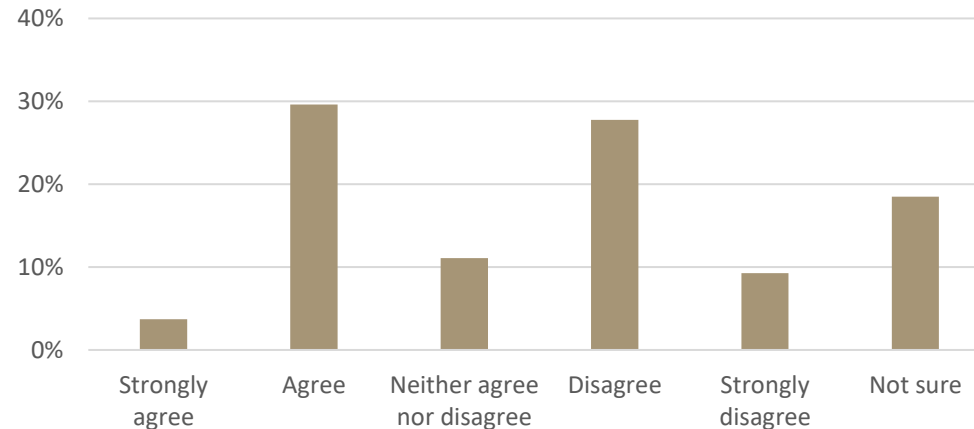
## What we proposed

- Decision-making would move from code panels to CMs and panels would be disbanded
- All interested stakeholders would continue to be engaged in the code change process
- CMs would need to establish stakeholder advisory forums and consult with them ahead of making certain decisions

## What you said - summary

- Proposals would allow a wider range of parties have their views represented
- Removing decision-making powers of industry risks less engagement
- More details on engagement required
- Code managers should follow advice of stakeholder advisory forums

*To what extent do you agree with the proposed roles and responsibilities of **stakeholders**, including the role of the stakeholder advisory forum?*



## What we will do

We note the concerns raised by respondents about removing the decision-making powers of industry.

We consider that **stakeholders have a key role in developing these proposals**, including around the detail of how the **stakeholder advisory groups** could work. We will therefore work closely with stakeholders to develop these proposals and will consult on the detail of these arrangements.

# Scope and System Bodies

# Engineering Standards

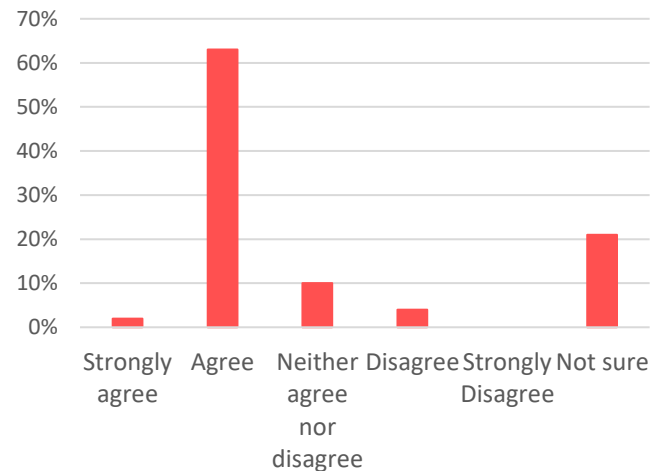
## What we proposed

- We proposed to include the electrical engineering standards contained within the **Distribution Code (DC)**, **Grid Code (GC)** and **Security and Quality of Supply Standard (SQSS)**, and their subsidiary documents, within the scope of our reforms
- We proposed to appoint one or more code manager(s) to oversee these standards

## What you said - summary

- Engineering standards will play a key role in meeting net zero objectives.
- Split views on whether other engineering standards (e.g. gas) should be brought into scope.
- The appointed code manager(s) will need to have appropriate technical knowledge and expertise to perform its role effectively.
- FSO should have a role in the development of engineering standards due to existing skill and expertise.

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



## What we will do

One or more **code manager(s)** will be appointed to oversee the **engineering standards** contained in the DC, GC and SQSS. The processes for appointing code managers will ensure that they are suitably equipped for the role, including in relation to necessary technical expertise.

The FSO could be appointed as a code manager. However, where it is not, it could still provide advice to code managers or Ofgem.

**We do not intend to bring any other engineering standards in to scope at this stage.**

# Central System Delivery Functions (I)

## What we proposed

- To bring the following central system delivery functions into scope:
  - **Smart Metering** (delivered by the DCC); **Gas** (delivered by Xoserve); **Electricity** (delivered by Elexon); and the **Data Transfer Service** (delivered by Electralink).
- We anticipate that this will also include the **Central Switching Service** in future.
- We would give Ofgem the power to direct central system delivery bodies for the purposes of delivering the strategic direction.
- We asked: ***What are your views on how central system delivery bodies should be regulated by the strategic functions?***

## What you said – summary

- Better coordination between code management and system delivery will ensure code and system changes are delivered in a timely and efficient manner.
- Enhanced oversight of central system delivery bodies will lead to improved performance.

### **Licensing central system delivery bodies** (in favour > against)

#### Pros of licensing:

- Allows the strategic body to better oversee and monitor performance;
- Allows good performance to be incentivised and builds competition in service delivery.

#### Cons of licensing:

- Introduces a disproportionate level of regulatory oversight over central system delivery;
- Could stifle innovation where the spending of these bodies needs to be justified through a licence mechanism (e.g. price control).

### **Combined vs Separate code management and system delivery** (combined > separate)

#### Combined:

- Would drive efficiencies between the two activities.

#### Separate:

- Would be easier to set clear performance targets in both activities, and could result in more competitive tendering for code management roles.

# Central System Delivery Functions (II)

## What we will do

We have decided that the following central system delivery functions will be included within the scope of our reforms:

- **Smart Metering** (delivered by the DCC); **Gas** (delivered by Xoserve); **Electricity** (delivered by Elexon); the **Data Transfer Service (DTS)** (delivered by Electralink).

To achieve this better coordination between code management and central system delivery, we intend to:

- Give Ofgem the power to direct central system delivery bodies for specific purposes; and
- Place licence obligations on code manager(s) to cooperate with central system delivery bodies for the purposes of delivering the strategic direction.

## Licensing central system delivery bodies

- We consider our proposed reforms will deliver the desired outcomes of improved oversight and better coordination between code and system interactions.
- We therefore do not consider licensing central system delivery bodies to be appropriate at this time.
- However, we have not discounted exploring the possibility of licensing central system delivery bodies in future.

## Combined vs Separate code management and system delivery

- We consider that decisions in this space are best taken by Ofgem on a case-by-case basis.
- Our reforms will retain, but not mandate, the option of a single legal entity undertaking both functions.

# Implementation

# Implementation

## What we proposed

- High level stages for implementation were set out in our consultation, noting that this will be in the context of existing work programmes by the government, Ofgem and industry
- We proposed that, once designated as the strategic body, Ofgem would move into a more formal delivery phase of code reform activities

## What you said - summary

- Respondents noted the challenges in delivering reform on this scale, in the context of the energy transition and the wide range of industry developments and change programmes under way
- Concerns were raised about the availability of resources within Ofgem, Government and industry as a whole
- The importance of effective engagement with industry parties was noted and the need for careful knowledge management

## What we will do

- Transitional powers to allow Ofgem to modify relevant codes, licences and contracts for implementation purposes
- Power for Ofgem to establish transfer schemes to facilitate transition
- Ofgem will set out a proposed approach to implementation, transition activities and stakeholder involvement later this year. This will include an outline of how code consolidation may be delivered.
- We will engage with stakeholders on a more detailed timeline that will also cover selection of code managers and potential phasing of implementation

BREAK (10 mins)



# Q&A

Please ask and vote on any questions in the chat.

# Q&A and wrap-up

Close

# Next steps & closing remarks

- We will prepare for the introduction of primary and secondary legislation.
- BEIS will publish a public consultation on the draft SPS in the first half of 2022.
- We have set out today the key areas that we will develop to enable effective implementation and we intend to work closely with stakeholders to develop our proposals.
- Ofgem will set out details on its approach to implementation and transition in an open letter later this year. The open letter will also set out the opportunities for stakeholders to engage through this process.

# 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)