

SCR Guidance

Introduction

1. The Significant Code Review (SCR) process provides a tool for Ofgem to initiate wide ranging and holistic change and to implement reform to a code based issue. This guidance sets out the steps in our process for launching and conducting SCRs and replaces the existing guidance in light of the revised process to result from the Code Governance Review (Phase 3) (CGR3).¹
2. This document is intended to provide guidance to interested parties on how an SCR would be conducted. It is intended to illustrate the steps and stages we would expect to follow when undertaking the SCR process. However, there may be instances where the process may need to deviate from that set out in this guidance.

Drivers for an SCR

3. We would consider whether to launch an SCR in response to various events including, for example, a Government-led policy, or an internal work stream, in addition to stakeholder made representations or code modifications that are proposed by industry.
4. An SCR may be appropriate where the solution to the issues raised would be given effect through code changes. We would consider whether the issues are significant in relation to our principal objective and/or our statutory duties and functions, or the result of obligations arising under retained EU law. In particular, we would consider if the issue may have significant impact on gas and electricity consumers or competition, and/or may be likely to have significant impact on the environment, sustainable development or security of supply and where the area of work is likely to create cross-code² and licence issues.

The SCR process

Forward Work Programme

5. We publish an annual Forward Work Programme (the 'FWP'), which sets out the activities that will help us to deliver our strategic priorities for the year ahead, as well as our core regulatory responsibilities and environmental and social scheme delivery. The FWP includes details on our planned deliverables and performance indicators and our estimated expenditure for the year ahead. Where possible, we would expect that any SCRs that we were considering undertaking would be highlighted in our Forward Work Programme.

¹https://www.ofgem.gov.uk/system/files/docs/2016/03/code_governance_review_phase_3_final_proposals_2.pdf

² A Cross Code Steering Group (CCSG) has been established under the REC. The CCSG will manage cross-code changes, covering the REC, BSC, UNC, IGT UNC, SEC and DCUSA.

Consulting on undertaking an SCR

6. We would consult before deciding on whether to undertake an SCR. We would expect the consultation to set out our views on the need for an SCR; the proposed scope and scale of the work including, where possible, an estimate of the time and cost implications; and the reasons why we consider that an SCR is the most appropriate mechanism to take forward the area of work. We would also expect to consult on which of the SCR process options (as set out in the diagram at the end of this document) we would expect to follow.

Launching an SCR

7. We will consider the responses to the consultation before deciding on whether or not to launch an SCR. Reasons for us not to proceed may include (but would not be limited to): other priorities being identified; that the work could be progressed through other code governance processes; or deciding the area of work may be unsuitable for an SCR as the solution lies outside of the industry codes. We would publish any decision not to proceed with an SCR and the reasons for it.
8. If we were to proceed, we would publish a statement on our website (the launch statement), and would also aim to highlight this to the code panels that we expect to have an interest in the SCR. The statement is likely to include (taking into account the responses to our consultation): the scope of the SCR; the process option to be followed; the reasons for launching and for carrying out the SCR rather than an alternative action; and, where possible, an initial estimate of the time and cost implications for both Ofgem and industry. It should be recognised that the information set out in this statement may change as the SCR process is followed.
9. Once an SCR has been launched, new modification proposals, which cover similar ground to the SCR, may not proceed through the standard industry modification process. Only urgent proposals or those specifically exempted by us will be allowed to proceed through the code modification process. As set out in the relevant licence condition, the SCR phase commences, or recommences, on:
 - (i) the start date, which we would expect to set out in the launch statement; or
 - (ii) the date the Authority issues a 'backstop direction'.

SCR process options

10. Following CGR3, there are additional process options that an SCR can follow (plus the ability to move between certain options).
11. All of the process options are set out in the diagram at the end of this document and can be described as follows:
 - (i) **Ofgem directs licensee(s) to raise modification proposal(s)**. At the end of the SCR phase of the process we would issue a direction to the relevant licensee(s). Our direction may set out high level principles (with the detail to be developed by industry) or more specific, detailed conclusions to be given effect through code change(s). The modification(s) would follow the standard industry code modification processes.³

³ Including, for example, establishing workgroups to develop and assess proposed change, and providing for alternatives to be raised if appropriate.

(ii) **Ofgem raises modification proposal(s)**. At the end of the SCR phase of the process we would raise a modification(s) under the relevant code(s), and the modification(s) would follow the standard industry code modification processes.

(iii) **Ofgem leads an end-to-end process to develop code modification(s)**. The standard industry process for modification proposals would not apply; Ofgem would lead consultation and engagement needed to develop the appropriate code change(s). We would expect close involvement of the industry; for example, we may establish and lead workgroups similar to the approach under the standard industry code modification processes (but led by us). Further detail is provided under the Communication and Consultation section below.

12. In addition, the Authority may also, in exceptional circumstance, issue a **'backstop direction'**, for example, where development of the modification proposal under the standard industry code process is not meeting the expected policy direction or timescales for implementation. After the issuing of a backstop direction, the SCR phase could progress under any of the three options, i.e. the Authority could re-issue SCR conclusions and/or directions, or begin the Ofgem-led end-to-end SCR process. Prior to leading an end-to-end process where an industry code panel phase (under either option 1 or option 2) has already commenced, Ofgem may issue a backstop direction requiring SCR modification proposals and any alternatives to be withdrawn.

Criteria for choosing the SCR process options

13. As noted above, we would first expect to consult on which of these options we would follow prior to launching the SCR; however, the process option chosen initially may change as the SCR progresses. This could include taking over the drafting of the modification proposal(s) if we have previously directed a licensee to raise a modification(s)⁴. Our expectation is that we would use the end-to-end process in circumstances where all three criteria below are fully met, although this will depend on the particular circumstances on a case by case basis.

14. The criteria that we would expect to consider when making a decision on which option to follow, and in particular whether option 3 should be followed, are likely to include:

- To what extent the issues affect multiple codes, and whether a higher level of co-ordination is required as a result of there being complex cross-code issues.
- Incentives for industry to participate in particular issues and whether these may be misaligned with outcomes in the best interests of consumers.
- Timing and implementation issues that could potentially influence the outcome of policy conclusions or facilitate a more efficient end-to-end process and avoid potential duplication under two separate processes.

Setting the Timetable

15. As noted above, we would expect to include an indication of the time we anticipate it will take to complete the SCR process in the launch statement. Such a timetable will, inevitably, be subject to change and will be determined as a result of consultation with all interested parties.

16. Depending on which option the SCR follows, we may at a later stage also consider the benefits of directing the timetable for the development of code modification(s), in cases

⁴ By the issuing of a Backstop Direction.

where the SCR process relies on a direction to a licensee (or to licensees) to raise changes under the normal industry change processes. Again, we would expect to consult prior to directing such a timetable.

Communication and Consultation

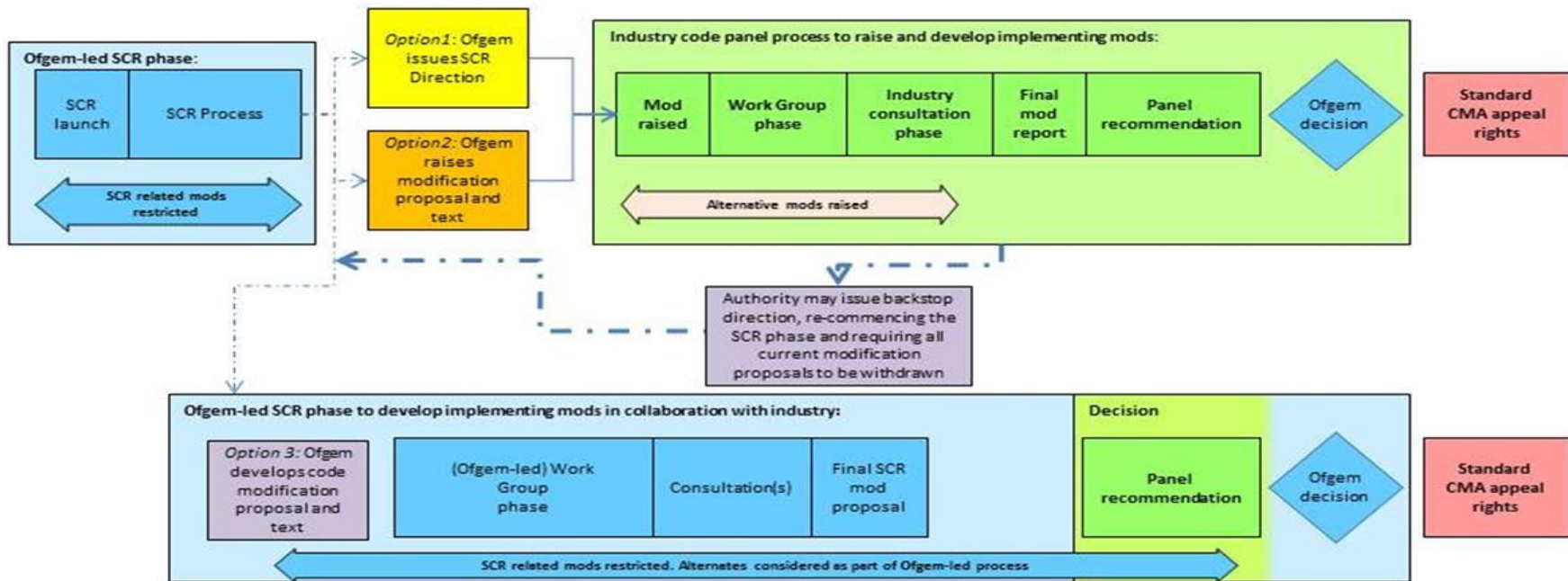
17. We would expect all communications in respect of the SCR to be fully inclusive and seek to ensure that all parties that may be affected are fully aware of developments as the SCR progresses.
18. Depending on the scale and length of the SCR we would expect to undertake a number of written consultations setting out the issues and our thinking on how to tackle those issues through code changes.⁵ We may also undertake consultations on specific aspects of complex issues, to allow interested stakeholders to provide views.
19. Regardless of the SCR process being followed, including where we develop code modifications, we expect to work collaboratively throughout the process with code administrators, code managers, code owners, affected licensees, code parties and code panels as appropriate. This will enable all parties to undertake analysis and to consider all possible implementation solutions in detail.
20. This could also be achieved through working groups established by Ofgem and which could be designed effectively to mirror the working arrangements used by code panels as part of the established code modification process.
21. If the chosen option of the SCR is an Ofgem led end-to-end process, we would expect that all realistic/viable options and potential alternatives for achieving the required outcomes would be the subject of consultation prior to the conclusion of the SCR process.

End of the SCR phase

22. The steps that we would expect to take in order to complete the SCR phase are dependent upon which of the options has been followed.
 - Under the option for us to direct a licensee to raise code modification(s) we would expect to issue an SCR conclusions document. If we consider that code changes are required, we would expect to issue SCR Direction(s) to the relevant licensee(s) within our SCR conclusions document (or in a separately published document within 28 days of our conclusions). The SCR phase would end on the date on which the licensee has made a modification proposal in accordance with directions issued by the Authority. The SCR Direction(s) will set out the code matters to be addressed by the licensee(s) that should form the basis of modification proposal(s).
 - Under the option for us to raise modification proposal(s) we would expect to issue an SCR conclusions document and to raise any modification(s) following publication of that document, at which point the SCR phase would end. This modification proposal(s) would then follow the standard industry process.
 - Under the option where we lead an end-to-end process we would expect that a modification proposal(s) would have been developed and been presented to the relevant Panel(s) during the SCR phase. The SCR phase would therefore end the Authority makes a decision on any modification proposal(s).

⁵ We would also consider whether we should undertake an Impact Assessment in line with our statutory duties under section 5A of the Energy Act.

23. An SCR could be completed without a modification proposal being taken forward if, for example, it were felt that the issue being addressed could be better resolved through alternative measures. We would communicate this to interested parties should such a decision be taken.



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