Call for Input

Ofgem
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for energy consumers

Energy Code Reform: Call for input

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1. Context

In April 2022, Ofgem and BEIS published a joint response (the "government response") to the 2021 consultation on energy code reform.[1] The government introduced an Energy Security Bill ('the Bill') to parliament setting out the legislation for energy code reform in July.[2]

In preparation for implementation of the proposed legislative reforms, we are seeking input from stakeholders to inform our policy development on potential code consolidation, and the code manager licensing framework. We also invite initial views on the role of stakeholders in

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[1] Energy code reform: governance framework - https://www.gov.uk/government/consultations/energy-code-reform-governance-framework
[2] https://www.gov.uk/government/collections/energy-security-bill

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the new code governance framework. Subject to progression of the Bill, we expect to publish additional calls for input in 2023 to inform a full consultation on our approach to implementing the reforms after the Bill receives Royal Assent.

2. How to respond

We welcome responses to this call for input from all interested stakeholders. Responses should be submitted to industrycodes@ofgem.gov.uk by 1 February 2023. To assist stakeholders in submitting a response we have published a response template alongside the call for input. It would be helpful if stakeholders could use this template for submitting a response if possible. If you do not wish for your response to be published, please clearly mark it as confidential. See Appendix for information on confidentiality and data handling. If you have any questions related to this work, please contact industrycodes@ofgem.gov.uk.

3. Overview

The energy code reforms set out in the Bill will, if enacted, give substantial new functions to Ofgem, including setting a strategic direction for the industry codes, and licensing and regulating code managers. These reforms aim to ensure that the energy codes promote effective competition and keep pace with technical and commercial developments in GB energy markets, consistent with BEIS and Ofgem's strategic objectives and policies. It is vital that we work with stakeholders to develop an approach to implementation of the reforms that successfully delivers the objectives we set out for this work alongside BEIS. These objectives are that a reformed code governance framework should:

- be forward-looking, informed by and in line with the government's ambition and the path to net zero emissions, ensuring that codes develop in a way that benefits existing and future energy consumers;
- be able to accommodate a large and growing number of market participants and ensure effective compliance;
- be agile and responsive to change, while able to reflect the commercial interests of different market participants, to the extent that this benefits competition and consumers; and,

- make it easier for any market participant to identify the rules that apply to them and understand what they mean, so new and existing industry parties can innovate to the benefit of energy consumers.[3]

Approach to implementation

The Bill sets out transitional powers to facilitate Ofgem's implementation of the reforms (for example, a power for Ofgem to amend relevant contracts or licence conditions).[4] These powers are temporary and expire seven years after the Bill is passed as an Act, or, for a particular code,[5] when that code is designated under the Bill (if earlier). We anticipate a phased approach to implementing the reforms, with code managers appointed to some codes ahead of others, meaning that these transitional powers would expire for some codes sooner than others.

In the government response, we said that Ofgem would begin considering code consolidation alongside the legislative process. A decision on whether, and if so how, to consolidate the codes using Ofgem's transitional powers is a key step toward progressing implementation of the code reforms, and we expect this to inform the sequencing of code manager appointments. This call for input seeks views on our proposed approach to code consolidation.

A significant amount of preparatory work is also required ahead of the first code manager appointment, including the development and passing of secondary legislation, drafting the code manager licence conditions, and a suite of consequential and governance changes that will be required to the existing codes and licences. We anticipate that this preparatory activity will take place over the next two years to enable the first code manager appointment to take place, subject to legislation. We will consult on transition process and timings in due course.

Stakeholder engagement

We want to ensure that all stakeholders who are impacted by energy code reform can engage throughout the implementation process and have their views heard. We also want stakeholders to assist with the transition, using their expertise to inform our approach.

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[3] Energy code reform: governance framework - GOV.UK (www.gov.uk)
[4] Schedule 9 Energy Bill [HL] (parliament.uk)
[5] As designated in accordance with clause 133 of the Bill; expiry of transitional powers provision is at paragraph 3 of Schedule 9 to the Bill.

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Following this call for input, we expect to carry out further stakeholder engagement in 2023 including additional calls for input and/or workshops to help facilitate our policy development in key areas,[6] prior to consulting on implementation of the reform package. We will also use industry meetings, including code panel meetings,[7] to provide stakeholders with updates on implementation activity, as well as engaging bilaterally.

Future consultations

Subject to the legislative process and timings, we currently expect to consult in 2023/24 as follows:

> ➢ Joint consultation(s) with BEIS on policy for secondary legislation (including on the process for code manager selection) and the content of code manager licence conditions.
> ➢ Ofgem proposals for code consolidation, implementation and transition.

4. Code Consolidation

Background

The 2021 consultation set out the codes and engineering standards[8] that would be included within scope of the reforms. It described code consolidation as "merging all or some of the codes into one or several codes to improve accessibility and facilitate coordinated change".[9] This can be done by grouping two or more codes (or parts of codes) into a single document, under a unified contractual framework. Once consolidated, the provisions within the code may then be further rationalised and/or simplified by making modifications to the code. Below we set out the issues that we think code consolidation will contribute towards addressing. We then set out and seek views on:

- the design principles that we think should inform any code consolidation decision, and

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[6] Including development of the code manager licence conditions, the role of stakeholders in the new governance framework, and changes to existing governance arrangements that will be needed to effectively implement the legislative reforms.

[7] We will encourage code administrators to include these updates in the outcomes of panel meetings published on relevant websites.

[8] Balancing and Settlement Code (BSC); Connection and Use of System Code (CUSC); Distribution Connection and Use of System Agreement (DCUSA); Grid Code; Distribution Code; System Operator – Transmission Owner Code (STC); Security and Quality of Supply Standard (SQSS); Uniform Network Code (UNC); Independent Gas Transporters Uniform Network Code (IGTUNC); Smart Energy Code (SEC); and Retail Energy Code (REC).

[9] Page 11 of the consultation on the design and delivery of energy code reform: https://www.gov.uk/government/consultations/energy-code-reform-governance-framework.

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- the high-level options for code consolidation:
    - which codes should be consolidated and why; and,
    - how code consolidation, and rationalisation, can be delivered.

We have also published an independent report, prepared for Ofgem by Cornwall Insight in April 2022 ("Cornwall Insight's report"), which should be read in conjunction with this call for input. The report assesses a range of high-level options for code consolidation. These options are discussed below.

Problem statement

Code consolidation can play a role in ensuring that the intended benefits of energy code reform are delivered effectively, and that the following issues[10] are addressed:

- **Fragmentation of codes leads to poor co-ordination and slows pace of change**

The current code structures make it difficult to coordinate and implement changes across codes effectively. When a change is required in one code, the mechanisms[11] in place to understand the impacts on all the other codes have not always been effective. This lack of co-ordination can inhibit the efficient delivery of strategic change. The codes need to be better coordinated and able to adapt quickly to facilitate the transition to net zero and deliver benefits for consumers.

- **Complexity of the code landscape makes it difficult for parties to engage with and understand the rules that apply to them. This in turn creates barriers to effective compliance, competition, and innovation**

The gradual and piecemeal evolution of the industry codes has resulted in increased complexity, including several different approaches to governance, which acts as a barrier to code parties (particularly new and smaller parties) engaging effectively with the codes. This

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[10] The joint Ofgem/BEIS consultation on reforming the energy industry codes (2019) identified these issues within the existing industry code arrangements: https://www.gov.uk/government/consultations/reforming-the-energy-industry-codes.
[11] The Code Administrators Code of Practice (CACoP) requires code administrators to work together to deliver effective cross-code coordination; however, this has not always been effective. The Cross Code Steering Group (CCSG) was established as part of the Retail Code Consolidation SCR to support the development of change proposals that impact multiple industry codes. However, the CCSG currently only covers the REC, BSC, DCUSA, UNC, IGTUNC and SEC.

risks inhibiting competition and innovation that drives benefits for consumers. As the sector evolves, the codes will need to be accessible to a more diverse range of market participants, which will also enable new business models and technologies.

Proposed design principles

To inform our assessment of code consolidation options, we propose the following design principles. These principles build upon the overarching objectives for code governance reform, and, as part of an assessment of the costs and benefits, would guide any decisions on whether and how to consolidate codes:

1) Making it easier for market participants to engage with and understand the codes

Consolidated codes should enable more effective accession, engagement and compliance, and reduce the amount of time and resource required for market participants to identify and understand the rules that apply to them.

2) Enabling the codes to be agile and adaptable to future market arrangements

Consolidated codes should be better able to adapt to significant market or industry changes,[12] while also being able to reflect the commercial interests of market participants.

3) Facilitating the delivery of strategic change and being compatible with new code governance arrangements

Consolidated codes should support the delivery of future strategic change and industry reforms that benefit consumers, including the delivery of the strategic direction that will be set by Ofgem. The code framework should facilitate effective implementation of the new code governance arrangements set out in the Bill, including the appointment of licensed code managers.

4) Supporting the ongoing operation of central systems

Code consolidation should enable the ongoing effective governance and operation of the central systems that underpin the codes and enable effective coordination between code managers and central system delivery bodies to deliver code and system changes.

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[12] Including the proliferation of new industries such as heat, hydrogen, carbon capture and other as-yet-undetermined technologies.

Q1: Do you agree with the design principles proposed to frame our assessment of code consolidation options? If 'no', please explain why.

Which codes to consolidate

Cornwall Insight's report explores a non-exhaustive set of options for code consolidation and puts forward a suggested 'shortlist' based on a qualitative assessment of the consumer benefits and relevant advantages and disadvantages of different approaches (described in section 1.2 of the report). The options we describe below are based on this shortlist, and we do not propose to further assess any other options from Cornwall Insight's original longlist.[13] While the options described in this call for input and those shortlisted in Cornwall Insight's report focus primarily on 'whole' codes being consolidated, we note that consolidation could involve 'parts' of codes being moved to other codes.

Most of the shortlisted options in Cornwall Insight's report can be grouped into three broad themes. We describe these as follows, and the table below sets out our early thinking on each approach which has been informed by an initial assessment against the above proposed design principles.

> **No consolidation** *(see Cornwall Insight's shortlist: Option 0[14])*

This option would retain the existing 11 codes and standards in scope of the energy code reforms, with a code manager appointed for each code.[15] Code managers could be tasked with delivering improvements within their individual codes to support their efficient operation and cross-code co-ordination. Such improvements could include rationalisation, simplification and digitalisation of the codes.[16]

> **"Vertical" consolidation** *(see Cornwall Insight's shortlist: Options 1A, 1B, 4B & 4C)*

This approach would keep the code rules relating to gas and electricity separate, except for the existing dual-fuel retail codes (REC and SEC). The existing electricity and gas codes could be consolidated into one or more fuel-specific codes. The REC and SEC could either be kept as separate codes or be consolidated into one dual-fuel retail code.

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[13] Cornwall Insight's longlist of options can be found in Chapter 4 of their report.
[14] Cornwall Insight's shortlisted options are described in Chapter 6 of their report.
[15] This option would not prohibit the same entity being appointed as the code manager for more than one code, and holding a code manager licence for each code.
[16] These improvements could also be delivered in addition to code consolidation.

> ➤ **"Horizontal" consolidation** *(see Cornwall Insight's shortlist: Option 2B)*

Given the interactions between gas and electricity systems, and strategic changes such as the introduction of the whole system Future System Operator (FSO),[17] this option considers bringing gas and electricity codes together to adopt a dual-fuel code framework. For example, a 'dual-fuel charging code' could set out the network charging arrangements for both gas and electricity systems.

Options discounted at this stage

A further option shortlisted in Cornwall Insight's report that does not fall within the three broad approaches set out above will not be considered further: "*Option 6 - Framework Agreement*". This option would see a single overarching 'core' code, underpinned by several modules specific to areas of the industry (connections, market, engineering etc). We expect this option would require the appointment of a single code manager to oversee the entire framework and anticipate that this would likely be too large and unwieldy for a single code manager to handle effectively. This could lead to increased costs and risks to code parties (and ultimately consumers). Establishing such a framework would also be a hugely complex undertaking, likely requiring a 'big bang' implementation approach. We consider that this would significantly delay delivery of energy code reform compared to other consolidation options, which could be delivered in a more phased manner. Nevertheless, a similar 'modular' approach within consolidated codes could potentially be considered to aid ease of engagement for parties and the assessment of cross-code impacts, and therefore is something that code managers could explore once in place.

Assessment of the three broad approaches to consolidating codes

	No consolidation	**Vertical consolidation**	**Horizontal consolidation**
Pros	• Enables other reforms (eg appointment of code managers and setting of the strategic direction) to occur sooner. • Minimal or no disruption to central systems.	• Ensures fuel-specific expertise remains focussed, recognising that gas and electricity codes are fundamentally different in some areas.	• Could support better consideration of cross-fuel issues. • Separation between substantive (ie operational) subject matters (wholesale,

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[17] Known in the Bill as the Independent System Operator (ISOP).

	No consolidation	Vertical consolidation	Horizontal consolidation
		• Quicker to implement than horizontal consolidation as it does not necessarily impact all 11 codes. • Lower impact on existing party roles, compared to horizonal options. • Significant disruption to central systems not anticipated.	charging, etc) so code manager and industry expertise could be focussed on specific content.
Cons	• Existing barriers to engagement observed with the status quo (eg complexity and fragmentation) could be more difficult to overcome. • Missed opportunity to further reduce resource burden on parties, retaining current number of codes they are required to engage with. • Harmonisation and coordination across 11 codes harder to achieve, increasing the risk that delivery of strategic change is fragmented.	• Potential for less effective/efficient delivery of 'whole system' change compared to dual-fuel code approach. • Could entrench existing structures and inhibit consideration of cross-cutting issues.	• Complex to deliver. • Could present new challenges for existing parties in terms of engagement with the new dual-fuel arrangements. • Possible significant disruption to the governance of central systems. • Code managers would need dual-fuel expertise, which could be more difficult to establish, at least in the short term. • Some aspects of electricity and gas – eg engineering standards, wholesale market operation – are, and are likely to remain, distinct.

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Our early assessment has, at this stage, led us to an initial preference for exploring a vertical[18] consolidation approach. We note that the two short-listed consolidation options[19] identified as the highest scoring in Cornwall Insight's independent assessment (Options 1A and 1B) align with this approach. This would likely be quicker to deliver than horizontal consolidation, with less disruption to licensees and central systems, and would enable faster delivery of the wider energy code reform package. The report's shortlisted horizontal option (Option 2B) scored poorly for its feasibility and ease of implementation, its interaction with central systems and its compatibility with the appointment of code managers. Horizontal consolidation has already been delivered at a retail level,[20] however, we consider that dual-fuel codes at a wholesale or networks level could be extremely complex, and that some aspects of gas and electricity codes are different for fundamental operational reasons (and are likely to remain so) meaning synergies may be lower or non-existent.

While maintaining separation of electricity and gas codes, other than at the retail level, could potentially inhibit consideration of cross-fuel issues, this could be addressed in other ways such as reducing the number of distinct electricity and gas codes, exploring better alignment in code structures and/or by placing licence obligations on code managers to work effectively across codes. Greater cooperation across fuels, driven by code managers, could inform future consideration of horizontal consolidation options, should circumstances warrant this.

Respondents to previous consultations have been supportive of merging the UNC and IGTUNC to form a single gas code, and this is something that we propose to consider further.[21] For electricity codes, there are several options for how these could be consolidated, for example by network level (eg a transmission code, and distribution code)[22] or, recognising the growing coalescence between distribution and transmission networks, by content (eg a commercial code and a technical code).[23] A key consideration for all options would be the future of the BSC,[24] with potential arguments that it remains as a standalone code due to its complexity

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[18] For clarity, we do not propose to consider the disaggregation of the existing dual-fuel codes.
[19] Excluding the 'no consolidation' option - Option 0 "Other Reform" in Cornwall Insight's report.
[20] With the creation of the SEC and REC.
[21] For example, a number of respondents to the 2019 consultation:
https://www.gov.uk/government/consultations/reforming-the-energy-industry-codes.
[22] For example, a transmission code could set out the provisions currently contained within the CUSC, Grid Code, and SQSS, while a distribution code could merge the DCUSA and Distribution Code.
[23] For example, a commercial code could contain the provisions currently set out in the BSC, CUSC and DCUSA, while a technical code could merge the Grid Code, Distribution Code, and SQSS.
[24] Including in the context of the ongoing Review of Electricity Market Arrangements:
https://www.gov.uk/government/consultations/review-of-electricity-market-arrangements

and focus.

Finally, while the two retail codes (REC and SEC) could also be consolidated, our early thinking is that, given the content and focus of each code,[25] as well as the relatively recent work to establish these codes, there may be limited benefits in exploring consolidation at this stage. Nevertheless, we welcome views on whether a consolidated retail code could deliver benefits.

Q2: What are your views on the high-level options for code consolidation we have described ('no consolidation', 'vertical' & 'horizontal')? We welcome input on the possible benefits/disbenefits of each option.

Q3: Do you agree with our initial preference to explore vertical code consolidation options and, if so, do you have any observations on the potential models[26] set out in Cornwall Insight's April 2022 report? We welcome specific views on the following:
- **Whether the UNC and IGTUNC should be consolidated;**
- **If/how to consolidate the electricity codes;**
- **Whether the REC and SEC should remain separate; and/or**
- **Whether the consolidation of any codes should be prioritised, and if so, why.**

How to deliver code consolidation

The Bill sets out powers[27] which enable Ofgem to deliver code consolidation prior to the appointment of a code manager, including powers to amend or terminate certain contracts, such as those which give effect to the codes.[28] We outline below what we consider to be three possible options to deliver code consolidation as part of the transition to the new code governance arrangements. **Option 2 is currently our preferred approach**.

> **Option 1: Common contractual framework only**

Under this option, the existing contractual arrangements underpinning the codes being consolidated would be amended to establish a single common contractual framework for the consolidated code. This would bring the provisions of two or more existing codes into a single

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[25] The SEC is primarily a technical code focussed largely on the smart metering infrastructure, while the REC governs the end-to-end retail activities.
[26] See shortlist options 1A, 1B, 4B and 4C in Cornwall Insight's April 2022 report.
[27] See, for example, the powers at paragraphs 2, 4, 6 and 7 of Schedule 9 to the Bill.
[28] Often referred to as framework agreements.

document, under one code manager licence. All existing governance and substantive (ie operational) rules would remain separate. The consolidated code would likely have separate schedules containing the predecessor code provisions, each with its own governance arrangements. This may be a quicker approach in terms of facilitating the appointment of a code manager, however, having different code governance arrangements within a consolidated code would retain complexity and inefficiencies and we do not think this option would support the most effective implementation of the code management functions.

> **Option 2: Common contractual framework and governance arrangements**

In addition to amending the code contractual arrangements (Option 1) to create a single code document, we could also use the transitional powers in the Bill to establish common governance arrangements for the code. **This is currently our preferred approach** as we think that creating single, overarching governance provisions would reduce complexities and would likely facilitate more efficient and effective delivery of the code manager's functions upon appointment. Our initial view is that relevant governance arrangements could potentially encapsulate a range of provisions including, for example, code modification processes, party accession, and code enforcement. It is possible that the governance arrangements that form part of the consolidation exercise may vary by code. The code could make provision for two (or more) separate operational subject matters, and once a code manager is in place, rationalisation and simplification of those substantive rules could be delivered as part of code managers' functions. Ofgem would have tools to oversee the delivery of such improvements, eg through the annual strategic direction, or via licence conditions.

> **Option 3: Consolidation with rationalisation of the code arrangements**

Working closely with industry, Ofgem delivered code consolidation by closing down the MRA and the SPAA, and rationalising and transferring their substantive rules to the newly established REC using the Significant Code Review (SCR) process.[29, 30] In our view, a similar approach would not be beneficial during the transition to the new code governance framework, as it could significantly delay the appointment of code managers(s) and delivery of the intended benefits of code reform. We consider that a 'REC-style' rationalisation of the substantive code provisions would be a longer-term goal to be achieved, where beneficial,

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[29] The creation of the REC was driven by the policy goal of delivering faster and more reliable switching arrangements set out in our Switching Programme: https://www.ofgem.gov.uk/energy-policy-and-regulation/policy-and-regulatory-programmes/switching-programme

[30] The SCR process, set out in relevant licences and codes, provides a tool for Ofgem to initiate wide ranging and holistic change in one or more codes.

after the new code governance framework is established.[31] We are therefore not proposing to consider this option further as part of our implementation approach.

Q4: Do you agree with our preferred implementation approach (Option 2)?

- **If so, do you have any additional observations on what we should consider when further developing this approach, including which code provisions should be considered within the scope of governance arrangements?**
- **If not, please provide details.**

5. Code manager licensing

Code manager licence conditions

Introduction

The Bill, if passed, will establish code management as a licensable activity.[32] The figure below sets out the main features of the code manager's expected role:

Make decisions under the codes	Administer code governance arrangements	Deliver Ofgem's strategic direction
• Currently the role of code panels. Will include deciding whether to approve some code changes and making recommendations to Ofgem on whether to approve others.	• Currently the role of code administrators.	• New role, including to identify, raise and develop code changes.

Code managers will take on the current role of the code panels in making recommendations on, or approving, code modification proposals. In the next section we seek views on the role of stakeholder advisory forums to ensure that the voices of stakeholders are heard and

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[31] In accordance with the powers and processes under Part 5 of the Bill.
[32] Pursuant to the Electricity Act 1989 and Gas Act 1986

considered ahead of a code manager recommendation or decision. The requirements and process for selecting, and transitioning to, code managers will be consulted on in due course.

Licences for code managers will follow a similar structure to existing gas and electricity licences, and we anticipate the relevant licence conditions may include both standard and special conditions.[33] The standard conditions will be developed jointly with BEIS, with Ofgem leading the initial policy development work to facilitate a joint consultation in due course, prior to designation of the conditions by the Secretary of State.

As a first stage of developing the code manager licence framework, this call for input seeks to develop a comprehensive list of content that will potentially be covered in the licence conditions and identify key issues and priorities for policy development. We have set out below an overview of the high-level content we think should be included in the licence conditions and our proposed priority areas for policy development. At this stage, we are not seeking views on the detailed policy questions that we will work through for each of the proposed areas. We are instead focusing on whether we have identified all of the broad areas of licence content that require development.

Code manager licence content

In developing the licence content, we note that some obligations are likely to be set out at a high level in the licence, with further detail in the relevant code (or potentially in other documents, such as a guidance document referred to in the licence), and, that licence obligations may be either prescriptive or principles-based.

For each of the areas we have initially identified for inclusion in the code manager licence, we have provided our view on the priority of progressing the policy development, based on the following three criteria:

- whether the licence policy or provisions are required ahead of commencing the code manager selection process;
- the anticipated time needed to develop, consult and decide on these provisions; and,
- whether the policy area will inform other areas of code reform implementation.

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[33] Standard conditions would apply to all code managers, special conditions would be specific to one or more code managers.

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The high-level content is grouped into three main areas: i) governance and conduct, ii) funding and incentives, and iii) deliverables and reporting. The policy areas that we believe are highest priority for us to engage stakeholders and develop detailed content are shaded red (and marked 'priority').

Governance and conduct

Content	Illustrative examples and initial thoughts
Definitions and how to interpret the licence	Explanation of any defined terms used across multiple conditions and how to interpret the licence.
Code governance and requirement to become a party to and comply with the relevant code	The code manager will be required to become a party to and comply with the code. This obligation may be part of a wider condition that requires the code manager to have certain processes in place. There may also be an ability for the Authority, where necessary, to direct that the code manager does not need to comply with certain code provisions.
Dispute resolution requirements	The code manager may be required to have processes to resolve any dispute arising under the code.
Conflicts of interest *Priority*	It will be important to manage any potential or perceived conflicts of interest that the code manager has, including where it is managing the code modification process.[34] The licence may need obligations on: the ownership, control or governance of the code manager; business separation requirements; restrictions on activities; ring-fencing of finances; and/or having a 'compliance officer' to ensure compliance with any conditions related to conflicts of interest.

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[34] Ofgem will have powers, provided by the Bill, to directly change a code where the code manager would be conflicted in managing the change under the normal governance procedures.

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Content	Illustrative examples and initial thoughts
Requirement to tender for services or to contract with current code administrators	Subject to code manager selection, we have previously indicated[35] that we may oblige the code manager, in the short term, to tender for code management services or to contract with existing code administrators, eg to facilitate the code manager providing services more quickly upon appointment.
Data handling	Requirements around how data, including confidential data, should be handled, stored and shared amongst third parties.
Corporate and financial controls *Priority*	We may require the code manager to have (or, where appropriate, have access to) the particular expertise needed for carrying out its obligations under the licence and code. To minimise the risk of financial failure we may require code managers to meet certain standards related to financial resilience. The licence may also contain requirements related to ensuring effective corporate governance, internal control and risk management, change in ownership or board composition.
Supporting, engaging and consulting stakeholders, and decision-making *Priority*	Core provisions relating to stakeholder advisory forums, and requirements to consult and take views of certain parties into account. Critical friend role, including supporting new entrants and smaller parties to navigate the code and code processes, and, requirements around transparency in decision-making.
Cooperation and cross-code working	Requirement to work with other code managers and system bodies (and panels and code administrators during the transition) to ensure a joined-up approach across codes and systems, eg such as where a single issue requires changes to multiple codes or changes to both code(s) and system(s).

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[35] Section 5.2.1 of the joint BEIS and Ofgem consultation on the design and delivery of the energy code reform (July 2021).

Funding and incentives

Content	Illustrative examples and initial thoughts
Budgets (related to code manager funding) *Priority*	Requirements may include how the budget will be set (including frequency, process, and any role for Ofgem and/or other stakeholders in budget setting/scrutiny); and any restrictions on what the budget can be spent on.
Incentives and any links to revenues *Priority*	This may include: incentive mechanism(s), eg KPIs/performance assessment; how revenues will be affected by performance against incentives; and any role of Ofgem and/or stakeholders in overseeing performance and incentives. Compatibility of any incentive mechanism with for-profit and not-for-profit code managers to be considered.
Charging methodology – code manager funding *Priority*	The government response noted that we believed code managers should be funded through charges levied on code parties in accordance with a charging methodology in the relevant code(s), and that Ofgem would consult further on code manager funding.[36] While the detailed methodology may sit in the relevant code(s), the licence would likely include some detail on the approach to charging (eg potential 'objectives' against which any proposed changes to the methodology would be assessed).

Deliverables and reporting

Content	Illustrative examples and initial thoughts
Production of a delivery plan consistent with the strategic direction	Code managers will have a role in developing and publishing a delivery plan consistent with Ofgem's strategic direction. The licence may need to contain requirements on producing the delivery plan and potential requirements around scope, timing,

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[36] See section 5.4 of the joint BEIS and Ofgem government response to the consultation on Energy Code Reform.

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Content	Illustrative examples and initial thoughts
Priority	consultation (including with Ofgem), publication, keeping it under review/updated, cross-code interactions, etc.
Complying with the delivery plan and reporting on progress **_Priority_**	The licence might place requirements on code managers to carry out the delivery plan (eg proposing, prioritising, developing and deciding whether to approve some code changes), and report to Ofgem (and possibly more widely) on progress.
Obligations towards Ofgem and BEIS	We may include requirements to provide Ofgem and BEIS with information upon request. We may also require code managers to provide guidance to Ofgem (eg to support the production of the strategic direction) and to report on compliance and performance. Code managers may also be required to inform Ofgem of relevant developments (eg where the code manager believes Ofgem intervention is needed due to the code manager having a conflict of interest on a particular code change), and to comply with any directions Ofgem issues.
Ease of use of the code	Potential requirements on simplifying (where beneficial) and digitalising the code to make it easier for code parties to engage with.
End of licence term and code manager of last resort arrangements	If licences are time-limited, and/or in response to any financial failure of a code manager, code managers would need obligations that ensure a smooth handover of responsibilities and assets to a new code manager.

Q5: Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (eg in the codes)?

Q6: Are there any additional areas that should be subject to licence rules?

Q7: Do you agree with our indicative prioritisation for policy development, and do you identify any specific dependencies that you think we should factor into our policy considerations?

Code owners

Currently for each industry code there is a licence condition on relevant licence holders that sets out the obligation on the licensee to have the code in place, and legal right for that licensee (or class of licensee) to amend the code. These licence conditions will typically require the licensee(s) to prepare and have in force a code that contains certain provisions and achieves applicable objectives.[37] That licensee (the 'code owner') may modify the code, in accordance with the modification procedures set out, and with the consent of the Authority where required.

Given the introduction of licensed code managers we will consider whether these requirements (insofar as they remain relevant) should be entirely transferred to the code manager licence.[38]

Q8: Are there any issues that we should take into account when considering moving the current 'code owner' licence provisions to the new code manager licence (such as unintended consequences)?

6. Stakeholder Advisory Forum

The July 2021 consultation and April 2022 government response set out that licensed code managers would take responsibility for making decisions and forming recommendations on code modifications, and consequently code panels would be disbanded. Alongside the new code manager role, industry stakeholders will have a role advising, informing and supporting code managers, including through consultation and stakeholder advisory forums, ensuring their expertise helps to inform the decision-making process. In relation to the stakeholder advisory forums, the joint consultation and response documents set out that:

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[37] For example, see condition C3 of the standard conditions of the electricity transmission licence (in relation to the BSC)
[38] We note that the existing licence drafting may also be impacted by code consolidation.

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- these forums would include a range of stakeholders, including non-code parties and representatives of classes of code parties that are impacted by the code manager's decisions;

- there may be more than one stakeholder advisory forum per code with specific areas of focus and expertise;

- the forum should provide an opportunity for discussion and debate on code manager proposals;

- code managers would be required to consult with relevant forums ahead of making certain decisions. The advice provided by a forum would not be binding but the code manager would, for example, be required to give due regard to it.

We will develop options on the role and constitution of the stakeholder advisory forums as part of developing proposals for implementing the new governance framework. To inform this work we are seeking stakeholders' initial views on the following:

Q9: What do you think the stakeholder advisory forums' key roles and/or functions should be, and what areas (other than code change) should the forum(s) potentially have a role in?

Q10: What options/issues should be considered in terms of constituting the stakeholder advisory forum(s), in terms of membership and securing appropriate representation?

Q11: Are there any lessons learnt (either good or bad) from the current code arrangements that should be considered?

Call for Input

Appendix

Call for input questions

Code Consolidation

Q1: Do you agree with the design principles proposed to frame our assessment of code consolidation options? If 'no', please explain why.

Q2: What are your views on the high-level options for code consolidation we have described ('no consolidation', 'vertical' & 'horizontal')? We welcome input on the possible benefits/disbenefits of each option.

Q3: Do you agree with our initial preference to explore vertical code consolidation options and, if so, do you have any observations on the potential models[39] set out in Cornwall Insight's April 2022 report? We welcome specific views on the following:
- Whether the UNC and IGTUNC should be consolidated;
- If/how to consolidate the electricity codes;
- Whether the REC and SEC should remain separate; and/or
- Whether the consolidation of any codes should be prioritised, and if so, why.

Q4: Do you agree with our preferred implementation approach (Option 2)?
- If so, do you have any additional observations on what we should consider when further developing this approach, including which code provisions should be considered within the scope of governance arrangements?
- If not, please provide details.

Code Manager Licensing

Q5: Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (eg in the codes)?

Q6: Are there any additional areas that should be subject to licence rules?

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[39] See shortlist options 1A, 1B, 4B and 4C in Cornwall Insight's April 2022 report.

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Q7: Do you agree with our indicative prioritisation for policy development, and do you identify any specific dependencies that you think we should factor into our policy considerations?

Q8: Are there any issues that we should take into account when considering moving the current 'code owner' licence provisions to the new code manager licence (such as unintended consequences)?

Stakeholder Advisory Forum

Q9: What do you think the stakeholder advisory forums' key roles and/or functions should be, and what areas (other than code change) should the forum(s) potentially have a role in?

Q10: What options/issues should be considered in terms of constituting the stakeholder advisory forum(s), in terms of membership and securing appropriate representation?

Q11: Are there any lessons learnt (either good or bad) from the current code arrangements that should be considered?

Providing a response

We welcome responses to this call for input from all interested stakeholders. Responses should be submitted to industrycodes@ofgem.gov.uk by **1 February 2023**. To assist stakeholders in submitting a response we have published a response template alongside the call for input. It would be helpful if stakeholders could use this template for submitting a response if possible.

Your response, data and confidentiality

You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you do wish to be kept confidential and those that you do not wish to be kept confidential. Please put the confidential material in a separate appendix to your response.

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If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of UK GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.