

**Questions**

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

Yes. Given the scale of change required to achieve net zero ambitions, we broadly agree with the proposed design principles. However, because Cornwall Insight analysis was only qualitative, we believe that further quantitative cost benefit analysis should be carried out for any shortlisted consolidation option. We offer the following comments on the specific design principles.

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

We agree that the codes arrangements are currently lengthy and complex. This reflects the complexity of the industry and the need for legally enforceable obligations and rules. In the short term, we anticipate an increase in code complexity as new parties with new business models are fully incorporated into codes after a period of sandbox arrangements.

We would support rationalisation of codes to ensure complexity is minimised and agree with some of the listed potential benefits such as standardising certain areas such as more effective accession, engagement and assurance/compliance, and reducing the amount of time and resource required for market participants to identify and understand the rules that apply to them.

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

Provided that Code Managers have sufficient resource and experience of the codes for which they are responsible, we agree that consolidated codes have the potential to be better able to adapt to significant market or industry changes. It is important that impacted stakeholders are adequately represented and consulted.

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

In order to effectively deliver future change that benefits consumers, it's important that Code Managers have sufficient resource and experience and that there is appropriate representation and engagement for impacted code parties. If not, there is a risk that sub-optimal decisions will be made.

We believe that code objectives should remain because a balance is needed between strategic direction and achieving objectives across codes so that parties can raise code modifications that meet reasonable code objectives other than strategic objectives alone.

**iv) Supporting the ongoing operation of central systems**

If the strategic function (Ofgem) is given powers to direct Central System Delivery Bodies to deliver changes to systems in order to deliver the strategic direction, we believe that any changes to systems should be required to follow (not pre-empt) associated changes to the code(s). If the strategic function directed system changes to be made, there should first be a legal basis agreed under the code on which to make those system changes. It would be inappropriate for strategic system changes to be agreed without first determining the necessary industry code changes,

informed by appropriate stakeholder input and cost-benefit analysis, especially given there is likely to be consequential impact on the systems of industry participants and associated costs.

**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.**

Regardless of whether consolidation takes place, we believe that there is merit in standardising and simplifying code governance and addressing common cross code issues such as: quoracy, differing criteria for self-governance, and rationalising code modification consultation stages. These measures in themselves would make the code change process swifter and more responsive and could be carried out for all of the options listed including "no consolidation".

We believe it's important that learnings are gained from the recently consolidated REC. We have encountered issues with the new REC Performance Assurance Code Manager not fully understanding the complexity of the reporting that they are requesting and the burden that this presents to the industry. It is important that any Code Managers have the required resources, skills and experience, and that high levels of industry stakeholder engagement are maintained in order to ensure that impacts of any potential decisions are fully understood.

Efficient cross-code working, aided by a level of code consolidation and alignment across codes, would be optimal. Moreover, for any of the consolidation options, robust navigation of the codes, aided by effective digitalisation would be essential to enable code parties to identify which areas of the consolidated codes are relevant to them.

**No consolidation** – We agree that this option has the benefit that it could be implemented more swiftly than the other options and with no obvious disruption to central systems. This option scored relatively highly in the Cornwall Energy analysis and could be enhanced by introducing consistent governance arrangements for a number of key areas such as quoracy and code modification consultation stages.

**"vertical" consolidation** – If some form of consolidation does take place, we would favour the minimal reform vertical consolidation options 1A and 1B. We agree that these options should ensure that fuel-specific expertise remains focussed, recognising that gas and electricity codes are, out of necessity, fundamentally different in some areas.

We also agree that this should be quicker and simpler to implement than horizontal consolidation as it does not necessarily impact all eleven codes. The less significant disruption to central systems is another important benefit.

We are supportive of merging the UNC and IGTUNC to form a single gas code. Given that many IGT code changes follow those of the UNC in order to ensure a consistent approach, then this appears to be a sensible and relatively straightforward option.

Of these minimal reform options, Option 1B is our preferred option, consolidating technical codes into a single Electricity Technical Code, separate from commercial codes such as CUSC and DCUSA.

If Option 1B is adopted, then over time the following additional consolidation should be considered:

- That the CUSC and DCUSA be combined into a single use of system (and associated charging) code because there is an increasing interaction between these two commercial codes. This would include cost recovery for networks for generation and demand users and would bring charging and connection regimes into one place.
- We agree that the REC and SEC should remain as dual fuel codes but recommend that, over time, they be consolidated into a single dual fuel code covering arrangements for the delivery and operation of the retail market such as meter installation, switching and theft. There are a number of areas within these codes which could be aligned, and which could reduce complexity, duplication and costs for code parties.

Option 1B, with the recommended amendments set out above should make it easier for Ofgem to drive strategic change while avoiding forcing the gas and electricity code arrangements to align in ways that might not be suitable in practice.

#### **“Horizontal” consolidation –**

Although this option would reduce the number of codes and could support alignment for industry areas across both fuels, we agree with the Cornwall Insight view that it would create issues where there are limited similarities between fuels and it would take a significant amount of time to implement and to achieve any potential associated benefits. It would also require the most significant disruption to the governance of central systems and so should not be considered further.

The REC has been introduced relatively recently, including provisions for cross-code working, but presents a potentially useful benchmark for the risks and benefits that can accrue from code reform and amalgamation. We would recommend taking learnings from the REC, prior to consideration of wider code reform. For example, some of the REC schedules have been drafted to cover processes for both fuels as succinctly as possible, but in our opinion, some of this streamlining has removed important details required by operational teams and so has made some processes less straightforward to follow.

**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 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.**

We believe that many of the intended benefits could be achieved by standardising areas such as code governance and addressing common cross code issues such as: quoracy, differing criteria for self-governance. These measures, supported by digitalisation of the codes would help to make them easier for code parties to follow.

However, as set out in our response to Q2, if some form of consolidation is to take place, we are broadly supportive of the minimal reform options, with 1B being our preferred option. We agree that these options ensure that fuel-specific expertise remains focussed, recognising that gas and electricity codes are fundamentally different in some areas.

Option 1B should be relatively straightforward to implement compared to some of the other options within the Cornwall Insight Code Consolidation Report, and with less risk of disruption to central systems because it would not fundamentally change the codes that govern them. Notwithstanding any consolidation, enhanced cross-code coordination should be a priority, with a greater role for CACoP for example.

The National Grid Whole System Technical Code (WSTC) project proposes to simplify, align and digitalise GB electricity technical codes (such as the Distribution Code, Grid Code and the SQSS). This work could be built upon if option 1B was developed with the Electricity Technical Code, but given its complexity, it would require significant resource and industry engagement in order to ensure the best outcome for consumers.

Consolidating the UNC and IGT UNC into a combined UNC code appears logical because IGT UNC provisions frequently refer to the UNC and many IGT UNC code changes follow those of the UNC. This option could reduce duplication with the text and required code manager and industry resource. We therefore believe that consolidation of the UNC and IGT UNC should be prioritised, given the potential benefits and relative ease to implement.

Although we are broadly supportive of the minimal reform vertical alignment options, we are not supportive of Option 3 which would amalgamate all codes into two: one each for gas and electricity.

Because the dual fuel REC has only recently been established it appears counter-intuitive to initiate a significant undertaking in time and money to unpick the REC and SEC. The two codes would also be extremely large such that any cross-fuel synergies would be lost.

**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.**

We broadly agree with Ofgem's preferred implementation approach (Option 2). If two or more codes are consolidated it appears sensible to bring the provisions of those codes into a single document under one Code Manager licence.

We agree that, as well as amending the code contractual arrangements to create a single code document, that, where appropriate and practicable and subject to stakeholder consultation, common governance arrangements should be established for discreet elements of the codes. For example, party accession, code modification processes and credit cover arrangements. This approach should help to introduce much needed consistency across the current eleven codes and would, in particular, help to simplify arrangements for new market entrants.

**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)?**

Within the Deliverables and reporting section, for which Code Managers will have a proposed obligation to produce a delivery plan consistent with the strategic direction, there is a risk that if a modification does not fit in with the delivery plan, Code Managers may disregard stakeholder views and de-prioritise the modification. We believe that industry change proposals raised by market participants should be given due consideration and be treated equitably in the prioritisation process.

based on their relative merits. Equally, delivery plans need to have sufficient flexibility to accommodate such changes.

In terms of Code Manager licences, we would recommend that as many provisions are kept within the codes as possible. In principle, licences should set out the regulatory framework and principles to be adhered to, and should wherever possible avoid overly prescriptive detail or obligations, whereas Codes should embody the detailed arrangements and market rules.

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

Currently, stakeholders can appeal Ofgem's decision if it differs to the recommendation made by the Panel. Going forwards, if Code Managers replace the panels, stakeholders should have the right to dispute and appeal to the CMA and/or Judicial Review as they do currently. For instance, for changes that the Code Managers recommend to Ofgem, but the majority stakeholder view is different, any party should have the right to appeal if they don't agree with the ultimate Ofgem decision. This would also help ensure that the stakeholder advisory forums have a meaningful role in any code development/modification.

If there are to be changes that Code Managers can make decisions on and others that Code Managers will refer to Ofgem for decision, then the distinction between these self-governance type and Ofgem-determined categories should be clearly and formally defined.

**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?**

We agree in the majority of cases, but would draw attention to the following points.

Regarding "conflicts of interest", because Code Managers have the power to raise modifications and to approve some and recommend others to Ofgem, there is a risk of Code Managers "marking their own homework".

We agree with prioritisation of "Supporting, engaging and consulting stakeholders, and decision-making". It is essential that there is a robust governance procedure in place to ensure that changes are developed with sufficient representative stakeholder engagement and that stakeholder advisory forums are effectively consulted upon. It is important also that an effective critical friend role is provided.

We believe that "Dispute resolution requirements" should also be prioritised because it's important that market participants have a clear and robust disputes and appeals process in place. For example, if a Code Manager recommends a change to Ofgem, but the majority stakeholder view is contrary to the ultimate Ofgem decision, any party should have the right to appeal that decision.

Given we favour minimal reform options 1A and 1B, we believe that "Cooperation and cross-code working" should be prioritised. If the majority of electricity and gas codes were to be kept separate, then a joined-up approach is needed across codes and systems.

We agree that "Incentives and any links to revenues" should be prioritised but additional clarity is required regarding the implications of Code Managers failing to meet their licensed performance requirements. For example, if Ofgem was to apply a penalty upon Code Managers, then who would ultimately be liable for any penalty charges (industry participants, consumers)?

Another funding-related area for which clarification is required is regarding where only part of a consolidated code is relevant to a given industry party, i.e. how should code costs be attributed across code signatories in a fair and equitable manner.

We believe that “Ease of use of the code” should be prioritised because if codes are consolidated and combined, effective navigation of the codes aided by digitalisation is essential, not least in order to make it easier for code parties to engage with and to identify which areas are relevant to them.

**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)?**

There are a number of practicalities to be considered in a change to Code Managers, including consideration of existing contractual relationships and the potential winding down of the existing code owner legal entities.

**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?**

As a general principle, we are opposed to reducing the level of involvement of market participants, which the proposals as outlined appear to do.

Given the range and complexity of industry codes, if panels are to be disbanded and stakeholder advisory forums established, we believe there would be a need for more than one forum per code. It is also important that forums consider cross-code impacts of change which may necessitate joint code meetings. For instance, input would be required from experts across codes for changes needed to achieve net zero ambitions as they will need to consider various dimensions and interactions.

Although proposals recognise that stakeholders will need to continue to play a key role in supporting code decisions, there is limited detail regarding the forums and their frequency.

In order to achieve net zero ambitions, we recognise that forums may require a range of stakeholders, including non-code parties such as from the EV arena. However, this introduces the risk that not all forum members will necessarily understand the impacts of proposed changes to industry systems and processes which code parties will presumably be required to fund. It is important therefore, that industry representation at these forums is not unduly diluted in order to avoid potentially innovative but impractical proposals being recommended and prioritised by Code Managers over and above more cost-effective proposals based upon a reasoned review of impacts by a range of industry experts.

The frequency of these forums is also important because if held too infrequently, there is a risk that each forum will attempt to review too many changes in a single session, resulting in a lack of progress, or decisions made based upon limited analysis and information. Reducing industry input in the code change process, such as in the prioritisation of code changes, reduces the ability of expert industry parties to influence the design and progress of changes for the better. While this may enable more agile prioritisation of changes by Code Managers in line with the strategic direction, it increases the risk of sub-optimal changes going forward to the strategic body, leading to sub-optimal outcomes and potentially also increasing the number of appeals.

In a similar vein, if Code Managers have the power to propose modifications, it’s important that stakeholder advisory forums also have the powers to require Code Managers to raise the changes that they require.

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

It is important that a robust governance procedure is in place to ensure that code modifications are developed using appropriate stakeholder engagement. Proposed stakeholder advisory forums will include non-code parties who do not have systems and processes that will be impacted by certain code decisions, and so are unlikely to fully understand the associated impacts of any recommendations made. It is therefore essential that forums are representative of those parties impacted by any code change and that representatives act independently rather than representing the commercial interests of their particular organisation.

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

To build upon the current direction towards digitalisation of the codes. If code consolidation takes place, it's important that code parties are able to easily identify which code elements are relevant to them.

If consolidation is to be considered, Ofgem should take lessons from the REC. Although there will inevitably be teething issues when consolidating predecessor codes into a single dual fuel code, in our opinion, the splitting of functions within the REC has not worked well.

It is also important that an effective critical friend service is provided, with sufficient Code Manager expertise being made available to support code parties swiftly and effectively. The best administered code bodies, such as (in our opinion) Elexon, publish details of assigned analysts against each specific modification or subject area, with telephone and email contact details and whom when contacted use best endeavours to support code parties, leveraging their experience. In contrast, some code administrators don't provide contact numbers but instead provide a general helpdesk facility which introduces delays when the helpdesk attempts, with little or no knowledge of the subject area, to direct enquiries to the appropriate contact. In some cases, requests for which tickets are raised can have SLAs of several working days to even establish the appropriate contact.