

# Ofgem Call for Input on Energy Code Reform

February 2023

## *National Grid response*

National Grid sits at the heart of Britain's energy system, connecting millions of people and businesses to the energy they use every day. Overall, we will be investing around £15bn in the UK over 5 years to upgrade our networks and support the UK's net zero ambition. This includes connecting low carbon sources of energy; preparing for the wide-spread roll out of clean transport and low-carbon heat; and innovating across new technologies needed for an increasingly flexible energy system. We aim to support an affordable and fair transition to net zero, in which nobody is left behind.

We welcome the opportunity to respond to Ofgem's call for input on Energy Code Reform, as we recognise the significant role the industry codes have in facilitating wider energy policy as well as the efficient delivery of a secure, reliable, net zero power system for the benefit of end consumers. Our responses to the relevant call for input questions are set out below. Please contact us directly if you would like to discuss any aspect of our response further.

### **About National Grid**

National Grid Group's operations in the UK include: National Grid Electricity Transmission (NGET), which owns the high voltage transmission system in England and Wales; National Grid Electricity Distribution (NGED), which owns and operates electricity distribution networks in the Midlands, the South West and Wales; National Grid Ventures (NGV), which owns and operates energy businesses in competitive markets, including electricity interconnectors, CCUS and the Grain LNG storage terminal; and National Grid Electricity System Operator (NGESO), a legally separate business within National Grid Group which balances the supply and demand of electricity in real time across Great Britain.

This consultation response represents the view of National Grid Group. As a legally separate business, National Grid ESO views are not represented by this response.

### **Responses to call for input questions**

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

It is not entirely clear whether these specific principles will be able to fully inform codes consolidation. Whilst these are sound principles for the wider scope of Energy Code Reform more broadly, and can be reasonably extended for consideration of the consolidation of codes, there are important aspects which we believe may not be covered.

We would advocate further consideration to ensure:

- timeliness of delivery to give reassurance to energy market investors and to ensure facilitation of Net Zero targets;
- effective and proportionate discharge of key industry functions, successfully facilitating compliance by code parties to relevant licences and regulations;
- duplication or overlap of arrangements does not occur across two or more code frameworks, where appropriate, supporting efficient ways of working;
- codes consolidation has no adverse unintended consequences;

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

We agree with Ofgem's stance that 'horizontal consolidation' is potentially disruptive and/or complex to achieve. In our view there is minimal interaction or overlap of existing electricity and gas arrangements in the respective fuel-focused codes. We therefore agree that there would be minimal gains to be achieved by this approach to justify pursuing it.

Whilst the 'no consolidation' option would clearly be the easiest to implement, it could be a missed opportunity to address the current deficiencies identified by BEIS, Ofgem and wider industry in previous consultations. Nevertheless, it does ensure some level of stability to reassure investors in the GB energy sector.

We would appreciate some clarity as to whether BEIS/Ofgem believe code consolidation to be a core outcome of the Energy Code Reform as this is somewhat unclear as it stands. Nevertheless, we agree with the merit of at least assessing the potential for consolidation and would recommend an objective review process, involving industry experts as much as possible, with recommendations shared via a further consultation.

As mentioned above, consolidation must deliver timely outcomes and not lead to wider uncertainty or prevent the delivery on key strategic energy policy targets such as Net Zero.

3. **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:**
- a. **Whether the UNC and IGTUNC should be consolidated;**
  - b. **If/how to consolidate the electricity codes;**
  - c. **Whether the REC and SEC should remain separate; and/or**
  - d. **Whether the consolidation of any codes should be prioritised, and if so, why.**

Whilst we agree with Ofgem that it is appropriate to consider vertical consolidation options, we urge caution that this should not be pursued 'at any cost' (as highlighted above), particularly given the scale of proposed changes, particularly under options 4A and 4B.

It is vital, in recognition of the design principles set out (plus the potential additional criteria we have recommended above), that if some or all of these criteria cannot be satisfied via the preferred consolidation route, that is not pursued regardless. The importance of swift delivery of Energy Code Reform cannot be understated, given the codes help facilitate implementation of future energy policy (e.g. net zero; connections reform).

In respect of the options presented, 1A appears to present the most proportionate starting point to consider consolidation of the electricity codes. The potential combination of technical and operational requirements to connect and use the electricity system is sensible. This could offer harmonisation and rationalisation options which would benefit system users. However, there is a risk that such a consolidation approach could lead to nothing more than transmission and distribution instances of a vast unwieldy code of merged technical and commercial obligations (e.g. Grid Code and CUSC). Whilst this might help facilitate Stakeholder Advisory Forums (SAF) and Code Management appointments, it would offer little to no benefit for industry parties.

From an NGET perspective, we are wary of any consolidation route for the STC, as proposed under option 1B. The STC discharges network company (i.e. Onshore Transmission Owner (TO), Offshore Transmission Owner (OFTO) and potentially Competitively Appointed Transmission Owner (CATO)) obligations in coordination with National Grid Electricity System Operator (NG ESO). The code therefore covers a broad range of operational processes which are **both** technical and commercial.

As such, the vertical consolidation approach might necessitate a split of the STC provisions into technical and commercial provisions before consolidation can be considered. This would be unnecessarily disruptive with minimal benefit, as it potentially leads to an increase in the number of codes the transmission companies would need to comply with. Unless BEIS/Ofgem believe there is a strategic imperative to reconsider licensee interfaces in STC (e.g. TO/OFTO-to-ESO), perhaps as a consequence of a wider strategic agenda (e.g. Future System Operator (FSO)), there appears to be little benefit to wider industry of incorporating a networks-facing code into the scope of consolidation. In the same vein, we also believe there is merit to considering maintaining the STC's Code Panel (or as close an approximation as permitted under the SAF model), noting its existing efficiency and simple accommodation of new impacted parties (e.g. OFTO, CATO).

From an NGED and NGV perspective, we believe that the Retail Energy Code (REC) and the Smart Energy Code (SEC) should not be considered for consolidation, given the significant complexity of the codes. We also note that the REC is in its infancy, and as a result we feel that it is too early to fundamentally alter the structure and contents of the code until REC parties have fully understood what aspects are or are not working before amending it.

The vertical alignment model (Option 3) proposed within the Cornwall April 2022 paper only shows one option, being to amalgamate all electricity codes into a single document, and likewise for gas codes (as well as disaggregating the current SEC and REC dual-fuel aspects into respective new electricity code and gas code).

Given the number and scope of electricity codes there is a question of whether a single Electricity Code could be unwieldy and potentially inaccessible, and hence conflict with Design Principle 1. A partial solution to address this could be to amalgamate technical codes (e.g. Grid Code, D-Code) with each other, and separately amalgamate commercial codes e.g. CUSC/BSC.

- 4. Do you agree with our preferred implementation approach (Option 2)?**
- a. 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?**
  - b. If not, please provide details.**

The preferred implementation approach appears sensible however further clarity and explanation of would be welcome to provide a more definitive view.

- 5. Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (e.g. in the codes)?**

Dispute Resolution requirements are identified as part of the Code Manager Licence, however the general scope and/or nature of disputes covered by the Licence could be useful. Depending on the relationship between industry participants and Code Manager, if there is the potential for disputes to arise in respect of a Code Manager decision or their performance, the process for resolving – including escalation to Ofgem/BEIS or beyond - might be required in the relevant code.

A further important aspect that we believe needs clarifying in the Code Manager's licence conditions is the scope of their decision-making, including what must be escalated to Ofgem.

Additionally, the primary basis for decisions on code modifications are the better facilitation of the code's applicable objectives but additionally the protection of/benefit for end consumers. Unless Ofgem plans to discharge some of its consumer protection role to Code Managers, some clarity on the Authority's role in code change determination where there is end consumer impact is required.

- 6. Are there any additional areas that should be subject to licence rules?**

We consider that further details relating to the assessment process for appointing Code Managers will be needed. So too will the provisions for what duration Code Managers are appointed, and whether on a fixed term or terminable upon notice (one-way / two way). In the event of a change in Code Manager, Licence obligations could be important to ensure orderly transition of information and data where relevant.

In terms of decision making (in addition to the points above on whether decisions are taken by the Code Manager or escalated to Ofgem), there could be requirement for broader criteria for decision-making itself. For example, there are existing licence standard conditions requirements for processes and outcomes to be objective and non-discriminatory, in addition to being transparent, all of which should be applicable in the case of Code Manager decisions.

More specific decision/assessment criteria should also be considered via enhancing and applying overall consistency to the existing code applicable objectives. These are currently specified in both the licence and the respective code frameworks, but do differ code to code. Where there is consistency, this largely relates to facilitating effective competition and efficient discharge of regulatory compliance. We consider it appropriate that all codes have consistent applicable objectives – whether codes are technical or commercial – providing standardised direction to all Code Managers in their delivery of code changes. We believe it important that code applicable objectives incorporate consideration of safe and efficient operation of power systems (not typically considered for commercial codes), plus whether changes help achieve lower costs for industry and end consumers (not typically considered under technical codes).

One additional aspect which does not appear to be considered in the licence drafting, is the accountability for the continuing efficiency of code governance arrangements post-reform. This might be an accountability for Ofgem in its strategic role, but it would seem unlikely that Ofgem can discharge this alone. It would also seem likely that BEIS, Ofgem or wider industry stakeholders would expect some level of ongoing reporting of stated

benefits versus outcomes which may need to be facilitated through licence obligations on Code Managers at the very least.

**7. 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?**

The priorities set out in the Call for Input seem appropriate and focus on the areas that may be of fundamental interest to parties who are undertaking the role of a Code Manager. However, it would be beneficial for BEIS/Ofgem to apply the overlying design principles to these areas and consider whether they facilitate them.

It would seem appropriate, not least in a future state where codes consolidation may occur, that cross-code working, and collaboration be seen as a priority.

**8. 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)?**

We would anticipate the biggest potential challenge for the transition to Code Managers would be addressing any actual or perceived conflicts of interest for the prospectively appointed organisations. We would anticipate, for example, that NG ESO may find this the most challenging of all the current Code Administrator organisations, given the breadth and materiality of their many operational and market facilitation roles at transmission.

This transition from Code Administrator/owner to Manager may therefore need careful scrutiny from BEIS/Ofgem, including requiring ring-fencing of Code Manager activities or requiring evidence of separation of duties within organisations. This could be done in a phased manner as NG ESO evolves to become the FSO but may pose a challenge for 'day one'.

It is vital to ensure the neutrality and objectiveness of Code Managers under this model. The appointment process must identify these potential areas of interest in advance, with organisations in question challenged on how they could be mitigated. The Code Manager licence should also have a continuing obligation to verify that these mitigations remain fit for purpose, and that if any breaches are identified they are managed and reported to BEIS/Ofgem as well as relevant industry stakeholders (perhaps via an annual compliance statement process).

**9. 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?**

We are still unsure whether the Stakeholder Advisory Forum (SAF) model offers significant improvements on industry's existing Code Panels. Along with other industry stakeholders, we have reservations over the potentially limited scope, issues with arranging effective industry representation, as well as the levels of influence/scrutiny over Code Managers outputs that the SAF model might facilitate.

The case against Code Panels from our perspective appears to be largely focused on specific examples from existing Panels rather than being a universal concern. Disbanding Panels risks creating a vacuum of experience and expertise from key industry representatives. Instead, the SAF approach seemingly relies on Code Managers and/or Ofgem (as the strategic body) to have to replicate or replace this experience within their own organisations. This feels potentially ambitious and costly.

There is a significant burden of responsibility on Code Managers to deliver effective code governance outcomes, and the associated licencing regime needs to recognise and incentivise this. A more proportionate route could surely be to support the function of Code Management by relying on Code Panels (or 'enhanced SAFs') to provide Code Managers a more formal steer at the beginning and end of the code mod development process.

On the SAF model more generally, under the proposed framework it appears that only Ofgem or Code Managers are able to formally propose modifications. Where an industry market participant identifies an improvement, it is unclear how this would or could track through into the work plan for the Code Manager, and how such could be prioritised alongside changes identified either by Ofgem in its strategic direction setting and the Code Manager in its implementation.

We are wary that this situation, as well as the proposed nature of SAFs to be advisory in nature, could inherently lead to said Forums becoming a one-way information flow, which would not capture the benefit of pan-industry

expert debate. It will be important to capture this valuable element of current code panels under the SAF approach. The paper states that the Forum 'should provide an opportunity for discussion and debate...'. In practice this must be the role of the Forum.

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

An existing deficiency of some existing Code Panels and code modification workgroups is that representation is dominated by a specific industry role. This leads to voting outcomes or recommendations which could disproportionately represent the weight of support (or not) for proposed changes.

It is therefore vital that SAFs facilitate broad and proportionate levels of industry input – from across the sector - whilst recognising that consensus is not always possible when it comes to balancing the various perspectives of licensees or impacted parties. This current situation is understandable, however Code Managers and Ofgem need the expertise to be able to discern objectively the pros and cons of changes in these circumstances. This relies on Ofgem and Code Manager organisations having access to relevant expertise (as mentioned above), or that SAFs are constituted to mitigate this.

We consider that SAF rules need to be contained within the Code Manager licence as well as the appropriate code framework's governance rules to ensure they have legal standing and transparently deliver effective outcomes.

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

As mentioned above, in our experience, the majority of other Code Panels already provide effective and informed scrutiny of code change activities, providing formal steer to Code Administrators, modification proposers and Ofgem. We therefore worry that SAFs could represent a backward step when compared to effectively-run Code Panels.

We are also unclear on the number of SAFs proposed by BEIS/Ofgem, although we recognise this may rely on outcomes of code consolidation. Either way, the model for a single SAF could lead to inefficiency due to the significant breadth of subject matter in the codes - and consequently the breadth of stakeholder input needed to feed in. This could make achieving specific direction or consensus almost impossible to achieve.

Alternatively, if multiple SAFs are needed (e.g. a SAF per code), this appears to be a duplication of effort for existing Code Panels which are already defined in governance rules. Some minor reform could be undertaken to bring them in line with the expectation of BEIS/Ofgem, rather than replacing them potentially unnecessarily.