

Statutory consultation to modify Special Condition 3.14 Asset health Re-opener of National Gas Transmission Plc's gas transporter licence

Publication date:	25/03/2024
Response deadline:	22/04/2024
Contact	Graham Craig, Senior Manager
Team:	Price Control Operations
Telephone	0141 354 5447
Email:	Graham.craig@ofgem.gov.uk

This statutory consultation sets out our proposal to modify Special Condition (SpC) 3.14 Asset health Re-opener (AH_t) and SpC 1.1 Interpretation and definitions of National Gas Transmission Plc's (NGT) Gas Transporter Licence (the Licence). We are seeking views from all interested stakeholders. This document sets out the reasons for and effects of our proposed modifications.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

© Crown copyright 2022

The text of this document may be reproduced (excluding logos) under and in accordance with the terms of the [Open Government Licence](#).

Without prejudice to the generality of the terms of the Open Government Licence the material that is reproduced must be acknowledged as Crown copyright and the document title of this document must be specified in that acknowledgement.

Any enquiries related to the text of this publication should be sent to Ofgem at:
10 South Colonnade, Canary Wharf, London, E14 4PU.

This publication is available at www.ofgem.gov.uk. Any enquiries regarding the use and re-use of this information resource should be sent to: psi@nationalarchives.gsi.gov.uk

Contents

Statutory consultation to modify Special Condition 3.14 Asset health Re-opener of National Gas Transmission Plc's gas transporter licence	1
1. Introduction.....	4
What are we consulting on?	4
Context	4
Consultation Process.....	7
How to respond.....	7
Your response, data and confidentiality	7
General feedback	8
How to track the progress of the consultation	9
2. Proposed modification of Special Condition 3.14 and Special Condition 1.1 – Reasons and Effects	10
Section summary	10
Questions.....	10
Proposed modifications reasons and effects	10
Valves.....	10
True-up Mechanism	11
Appendix 1 – Special Condition 1.1 Interpretation and definitions.....	13
Appendix 2 – Special Condition 3.14 proposed modifications.....	14
Appendix 3 – Privacy notice on consultations	17

1. Introduction

What are we consulting on?

1.1. This statutory consultation sets out our proposal to modify SpC 3.14 Asset health Re-opener (AH_t) and SpC 1.1 Interpretation and definitions of the Licence granted to NGT. The proposed modifications will permit NGT to seek additional funding for asset health interventions on “Valves”¹ through the uncertainty mechanism established by SpC 3.14 and to true-up costs related to Valves, Compressor Cabs² and Plant and Equipment³ for the financial years 2021/22 to 2023/24.

1.2. This statutory consultation sets out the reasons for and effects of the proposed modification. We are seeking views from interested stakeholders on our modification proposals.

Context

1.3. The gas transmission network in Great Britain is owned and operated by NGT. Economic regulation of the network follows the RIIO (Revenue = Incentives + Innovation + Outputs) price control framework. The current RIIO-T2 price control period will last five years from 1 April 2021 to 31 March 2026. Prior to commencement of the price control period, we set out our policy on the economic regulation of the network during the period in the Final Determination (FD).⁴ These policy decisions were given effect by new SpCs in Part C of the Licence, which came into force on 1 April 2021.⁵

¹Valves means the valves and related systems, including actuators, seals and vents, that control and isolate the flow of gas at the St Fergus gas terminal.

² Defined in SpC 1.15 as “means the enclosures, air circulation, exhaust and fire suppression systems necessary for the protection and safe functioning of the compressor fleet.”

³ Defined in SpC 1.15 as “means the pipework at compressor stations and above ground installations, coated as a means of primary protection and protected by cathodic protection as a secondary means where it is below ground as well as the equipment associated with maintaining gas quality and pressure.”

⁴ [RIIO-2 Final Determinations - NGGT Annex \(REVISED\) \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications/riio-2-final-determinations-nggt-annex-revised)

⁵ The SpCs as made on 3 February 2021 can be found in [Decision on the proposed modifications to the RIIO-2 Transmission, Gas Distribution and Electricity System Operator licences | Ofgem](https://www.ofgem.gov.uk/publications/riio-2-transmission-gas-distribution-and-electricity-system-operator-licences) and the current version of the SpCs is [National Gas Transmission Plc - NTS - Consolidated Special Conditions - Current Version.pdf \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications/national-gas-transmission-plc-nts-consolidated-special-conditions-current-version)

1.4. Asset health interventions are interventions on existing assets or groups of assets in response to defects that have negatively impact the level of risk associated with the operation of the asset. Such interventions do not result in a material increase in network capacity.

1.5. At our FD⁶, asset health interventions were split into seven broad project themes with allowances granted on the bases of these themes:

- Cab infrastructure
- Plant and Equipment
- Valves
- Pipelines
- Compressors
- Electrical
- Civils

1.6. At FD, baseline allowances were provided for each project theme for several projects. However, due to uncertainty with respect to either unit costs and / or the volume of interventions, we decided that an Asset health Re-opener should be established to adjust allowances during the price control period for certain project themes. These were:

- Compressor Cabs
- Plant and Equipment
- Valves⁷

1.7. In our RIIO-T2 FD, we introduced an asset health uncertainty mechanism to adjust NGT's allowances during the price control period. SpC 3.14 Asset health Re-opener of the Licence establishes the mechanism to adjust by direction, where the adjustment to the value of any term relates to asset health interventions on Compressor Cabs or Plant and Equipment, the following Price Control Financial Model⁸ terms:

⁶ Table 12 at page 60-61 of [RIIO- 2 Final Determinations NGGT Annex \(Revised\)](#)

⁷ Specifically remediation of defects on actuating gas ring main at St Fergus gas terminal, at paragraphs 3.115, 3.119 and 4.29.

⁸ The Price Control Financial Model is the template used to calculate the Allowed Revenue of National Gas Transmission. This template is updated annually in accordance with Special Condition 8.2 Annual Iteration Process for the GT2 Price Control Financial Model

-
- AHT⁹ (SpC 3.14 Asset health Re-opener);
 - NARMAHOT¹⁰ (SpC 3.1 Baseline Network Risk Outputs); and
 - NLAHOT¹¹ (SpC 3.15 Asset health non-lead assets Price Control Deliverable).

1.8. As such, the current scope of SpC 3.14 does not provide for funding to be granted for Valves.

1.9. One of the projects that we decided not to provide baseline funding for, but which we noted at FD could subsequently be funded through this Asset health Re-opener, was the work required at St Fergus's gas terminal to repair the terminal's actuating gas main ring. NGT have submitted two applications for funding works at St Fergus under SpC 3.14. Some of the funding required is for Valves which is currently outside the scope of SpC 3.14, this brought to our attention the unintended disconnect between the policy decision set out in the FDs and the subsequent licence modifications to give effect to that decision which inadvertently did not include reference to Valves. We are therefore now looking to remedy this and amend SpC 3.14 to bring it in line with our FD.

1.10. Further, at FD we provided baseline funding for those asset health project themes included in SpC 3.14 for only the first three years of the price control period.¹² We decided that those allowances should be subject to an ex-post adjustment mechanism as there was some uncertainty regarding them.¹³ We provided a true-up mechanism in SpC 3.14.9 which allows Ofgem to align allowances with efficiently incurred costs and work volumes during this period. However, the current drafting of SpC 3.14.9 only allows us to adjust baseline allowances for the first two years of the price control period.

⁹ Contributes to the calculation of the UMTerm, which is used to calculate the opex escalator term under SpC 3.18. It has the value zero unless directed otherwise in accordance with Special Condition 3.14 (Asset health Re-opener).

¹⁰ Contributes to the calculation of NARM asset health Re-opener term (NARMAHt) under SpC 3.1.5. In accordance with SpC 3.1.5 means the sum of allowances directed by the Authority in accordance with paragraphs 3.14.4(b), 3.14.8(b) and 3.14.9(b) of Special Condition 3.14 (Asset health Re-opener).

¹¹ Contributes to the calculation of the asset health – non-lead assets Re-opener term (NLAHt), under SpC 3.15.5. In accordance with SpC 3.15.5, means the sum of allowances directed by the Authority under paragraphs 3.14.4(c), 3.14.8(c) and 3.14.9(c) of Special Condition 3.14 (Asset health Re-opener).

¹² See paragraph 4.28 of [RIIO-2 Final Determinations - NGGT Annex \(REVISED\) \(ofgem.gov.uk\)](#).

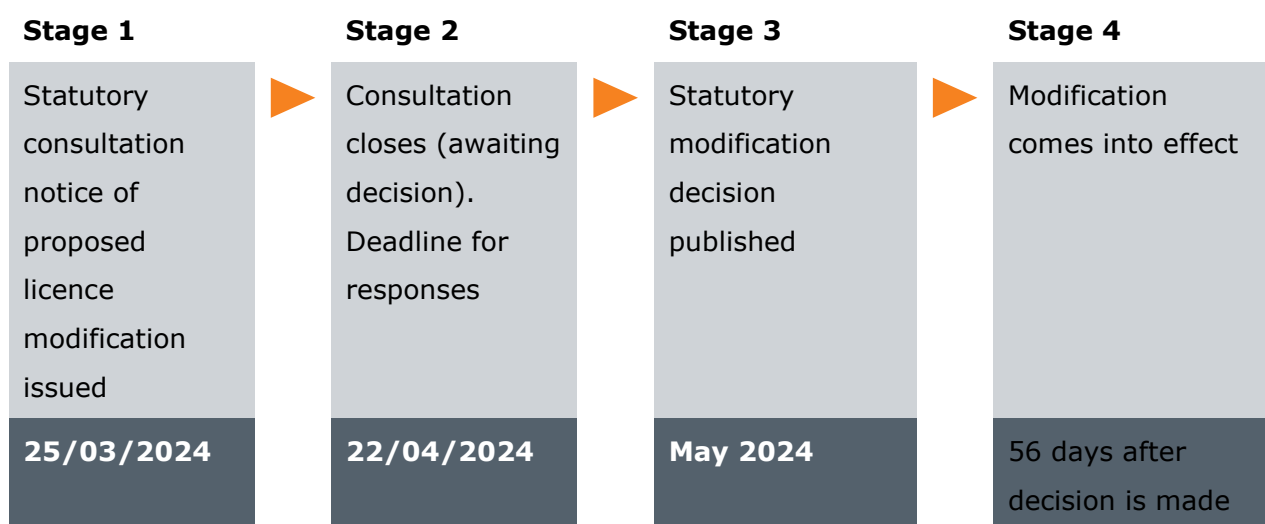
¹³ See paragraphs 4.28 and 3.117 of [RIIO-2 Final Determinations - NGGT Annex \(REVISED\) \(ofgem.gov.uk\)](#)

1.11. We propose modifying the Licence to correct this inconsistency and to enable us to true-up allowances for the first three years of the RIIO-T2 price control for works done at St Fergus, in line with actual efficient costs and work volumes.

1.12. After we make our decision on modifying SpC 3.14 we intend to consult on NGT's St Fergus applications for funding under SpC 3.14, which will be described in more detail then.

Consultation Process

1.13. Figure 1 shows the stages of this statutory consultation process:



How to respond

1.14. We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page. We have asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can. We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

1.15. You can ask us to keep your response, or parts of your response, confidential. We will 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.

1.16. 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. If necessary, we will contact 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.

1.17. 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 GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 3.

1.18. If you wish to respond confidentially, we will keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We will not 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.

General feedback

1.19. We believe that consultation is at the heart of good policy development. We welcome any comments about how we have run this consultation. We would also like to get your answers to these questions:

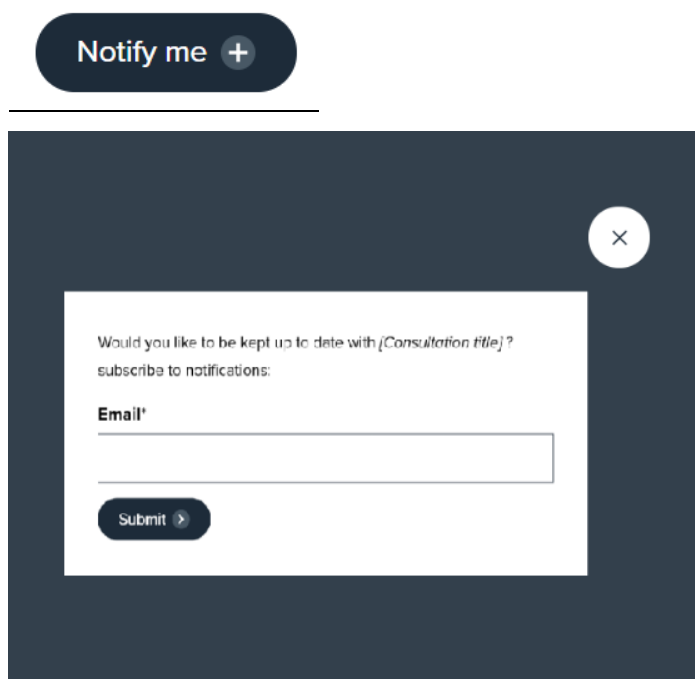
1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

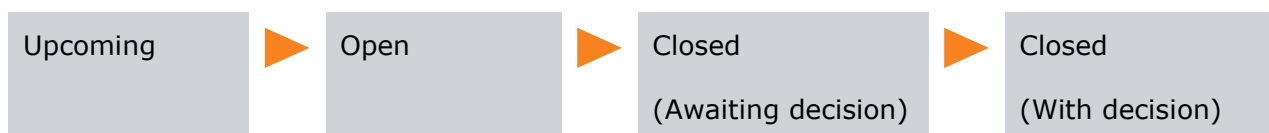
You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website.

[Ofgem.gov.uk/consultations.](https://www.ofgem.gov.uk/consultations)



The image shows a dark blue button labeled 'Notify me' with a white plus sign. Below it is a dark blue modal window with a white close button (X) in the top right corner. Inside the modal is a white form with the text: 'Would you like to be kept up to date with [Consultation title]?' followed by 'subscribe to notifications:'. There is an 'Email*' label, a text input field, and a dark blue 'Submit' button with a white right arrow.

Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:



2. Proposed modification of Special Condition 3.14 and Special Condition 1.1 – Reasons and Effects

Section summary

This Chapter sets out the questions, gives an overview of the Asset health Re-opener mechanism, our reasons for the proposed modification and the effect the modification would have.

Questions

Question 1: Do respondents agree with our proposed modifications to Special Conditions 1.1 and 3.14 of NGT's gas transporter license?

Question 2: Do respondents propose any changes to the proposed licence modification?

Proposed modifications reasons and effects

2.1. The reason for the proposed modifications to SpC 3.14 Asset health Re-opener and SpC 1.1 Interpretation and definitions is to align the Licence with the policy intention as stated in FD, so that Ofgem can direct adjustments to NGT's allowances under SpC 3.14 for Valves, Compressor Cabs and Plant and Equipment.

2.2. We are proposing to introduce a new defined term "Valves" into SpC 3.14, so that funding for Valves can be allocated alongside funding for Compressor Cabs and Plant and Equipment. We are also proposing to extend by one year the period subject to the ex-post true-up mechanism set out in SpC 3.14.9 to cover the first three years of the RIIO-T2 price control. Our proposed modifications to SpC 1.1 are found in Appendix 1 to this document, and the modifications to SpC 3.14 are in Appendix 2. Additions are marked in double underlined text and deletions in strikethrough.

Valves

2.3. These modifications are necessary as the current drafting of SpC 3.14 permits Ofgem to direct adjustments to NGT's allowances for asset health interventions relating to the Compressor Cabs and Plant and Equipment project themes only, which cover:

-
- Compressor Cabs - the enclosures, air circulation, exhaust and fire suppression systems necessary for the protection and safe functioning of the compressor fleet; and
 - Plant and Equipment - the pipework at compressor stations and above ground installations, coated as a means of primary protection and protected by cathodic protection as a secondary means where it is below ground as well as the equipment associated with maintaining gas quality and pressure.

2.4. This does not make provision for adjustments to allowances for asset health interventions relating to the Valves project theme, which covers valves and related systems, including actuators, seals and vents, that control and isolate the flow of gas. As explained in Chapter 1 above, Valves were also identified at FD as requiring funding under the Asset health Re-opener mechanism in SpC 3.14 for works required to remediate defects on the actuating gas ring main at St Fergus' gas terminal. This had to be provided for under SpC 3.14 due to the level of uncertainty around both unit cost and volume at FD, which meant it was not possible to set a baseline allowance for the entire price control period.

2.5. This modification will allow Ofgem to allocate funding to NGT for Valves under SpC 3.14, so that the works related to Valves to remediate defects on the actuating gas ring main at St Fergus gas terminal can be funded.

True-up Mechanism

2.6. At FD we provided baseline allowances for the first three years of the price control for Valves, Compressor Cabs and Plant and Equipment. Further, we stated that the Asset health Re-opener mechanism would allow us to adjust allowances for those first three years based on an ex-post assessment.¹⁴

2.7. The current drafting of SpC 3.14.9 allows us to adjust allowances for actual efficient costs and work volumes for only the first two years of the price control (2021/22 and 22/23). As such, we are proposing to modify SpC 3.14.9 so that we can also adjust allowances for the third financial year of the price control (2023/24), to bring the Licence in line with our FD.

¹⁴ See paragraphs 3.117 and 4.28 of [RIIO-2 Final Determinations - NGGT Annex \(REVISED\)](https://www.ofgem.gov.uk/rriio-2-final-determinations-nggt-annex-revised) ([ofgem.gov.uk](https://www.ofgem.gov.uk))

2.8. This proposed modification will permit the application of the ex-post true -up mechanism to a greater proportion of baseline allowances reducing risk for both NGT and gas consumers.

Appendix 1 – Special Condition 1.1 Interpretation and definitions

Insert into the table at paragraph 1.1.15 the following definition, between the definitions of “User” and “Valve Operations”:

<u>Valves</u>	<u>means the valves and related systems, including actuators, seals and vents, that control and isolate the flow of gas at the St Fergus gas terminal.</u>
---------------	--

Appendix 2 – Special Condition 3.14 proposed modifications

Special Condition 3.14 Asset health Re-opener (AHT)

Introduction

- 3.14.1 The purpose of this condition is to calculate the term AH_t (the asset health term). This contributes to the calculation of the Totex Allowance.
- 3.14.2 The effect of this condition is to:
- (a) establish a Re-opener triggered by either the licensee or the Authority to adjust allowances for Valves, Compressor Cabs and Plant And Equipment for Regulatory Years commencing on 1 April 2023 to 1 April 2025; and
 - (b) provide for the true up of costs incurred in Regulatory Years starting on 1 April 2021, 1 April 2022 and 1 April 2022~~3~~.
- 3.14.3 This condition also explains the process the Authority will follow when directing any changes as a result of the Re-opener.

Part A: What is the scope of this Re-opener?

- 3.14.4 The licensee may apply to the Authority for a direction:
- (a) adjusting the value of the AH_t term;
 - (b) adjusting the value of the $NARMAHO_t$ term; or
 - (c) amending the outputs, delivery dates and allowances in the Asset Health Non-Lead Assets PCD Tables
- where it is seeking allowances for work relating to Valves, Compressor Cabs or Plant And Equipment in Regulatory Years commencing on 1 April 2023 to 1 April 2025.

Part B: When to make an application

- 3.14.5 The licensee may only apply to the Authority for an adjustment under paragraph 3.14.4 Between 25 January 2023 and 31 January 2023, or during such later periods as the Authority may direct.

Part C: How to make an application

- 3.14.6 An application under paragraph 3.14.4 must be made in writing to the Authority and include:
- (a) the changes the licensee is requesting to:
 - i. the value of the AH_t term and the Regulatory Years to which that adjustment relates;

-
- ii. the value of the NARMAHO_t term and the Regulatory Years to which that adjustment relates; and
 - iii. the Asset Health Non-Lead Assets PCD Tables;
- (b) the basis of the calculation for the proposed adjustments to any allowances; and
- (c) such detailed supporting evidence, including justification of unit costs and volumes of work based on historical outturn data, benchmarking, actual condition information, cost benefit analysis, and updated engineering justification papers, as is reasonable in the circumstances.

3.14.7 An application under paragraph 3.14.4 must:

- (a) relate to changes to the licensee's investment plan that have developed since the licensee submitted its GT Asset Health Plan to the Authority in December 2019;
- (b) relate to costs incurred or expected to be incurred that exceed the Materiality Threshold; and
- (c) be confined to costs incurred or expected to be incurred on or after 1 April 2021.

Part D: Authority triggered Re-opener

3.14.8 The Authority will also consider directing:

- (a) an adjustment to the value of the AH_t term;
- (b) an adjustment to the value of the NARMAHO_t term; and
- (c) an amendment to the outputs, delivery dates and allowances in the Asset Health Non-Lead Assets PCD Tables

without an application being made under paragraph 3.14.4, in relation to costs incurred or expected to be incurred relating to Valves, Compressor Cabs or Plant And Equipment Between 1 April 2023 and 31 March 2026 that exceed the Materiality Threshold.

Part E: Assessment of Years ~~1 and 2~~, 2 and 3

3.14.9 After the Regulatory Year starting on 1 April 2022~~3~~, the Authority will assess costs relating to Valves, Compressor Cabs and Plant And Equipment for Regulatory Years commencing on 1 April 2021, 1 April 2022 and 1 April 2022~~3~~ and direct:

- (a) an adjustment to the value of the AH_t term;
- (b) an adjustment to the value of the NARMAHO_t term; and
- (c) an amendment to the outputs, delivery dates and allowances in the Asset Health Non-Lead Assets PCD Tables

to reflect actual efficient costs and work volumes.

Part F: What process will the Authority follow in making a direction?

3.14.10 Before making a direction under paragraph 3.14.4, 3.14.8 or 3.14.9 the Authority will publish on the Authority's Website:

-
- (a) the text of the proposed direction;
 - (b) the reasons for the proposed direction; and
 - (c) a period during which representations may be made on the proposed direction, which will not be less than 28 days.

3.14.11 A direction under paragraph 3.14.4, 3.14.8 and 3.14.9:

- (a) will set out any adjustments to the value of the AH_t term and the Regulatory Years to which that adjustment relates;
- (b) will set out any adjustments to the value of the $NARMAHO_t$ term and the Regulatory Years to which that adjustment relates; and
- (c) where any amendments are being made to the outputs, delivery dates or allowances in the Asset Health Non-Lead Assets PCD Tables, will replace the text in Appendix 2 to Special Condition 3.15 (Asset health – non-lead assets Price Control Deliverable).

Appendix 3 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem").

The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. We will not be sharing your personal data.

5. Your personal data will be held for twelve months after the consultation has closed.

6. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you

-
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure government IT system.

10. More information For more information on how Ofgem processes your data, click on the link to our "[ofgem privacy promise](#)".