

23 April 2024

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By email only to [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

Dear Lisa,

**Re: Energy Code Reform: implementation consultation**

Last Mile Asset Management (LMAM) welcomes the opportunity to respond to the above consultation regarding Energy Code Reform. This response is provided by LMAM on behalf of Last Mile Electricity (LME), an Independent Distribution Network Operator (IDNO) and Last Mile Gas (LMG) an Independent Gas Transporter (IGT) operating 480,000 connections across mainland Great Britain. Within the Last Mile Group, we are also active in the heat network sector, installing and operating ambient heat networks through our Last Mile Heat business.

We are supportive of the general aim to align and simplify the Energy Codes and agreements. The Codes have developed over a significant period of time, growing in both scope, scale and complexity. Their associated content has also diversified in terms of management approach, drafting and governance making it increasingly challenging to monitor and engage in for existing market participants and new market entrants alike.

We outline our main broad points as follows:

- Consolidation and alignment should be sought where it is feasible to do so.
- The review should not change the regulatory requirements themselves but simply bring together the existing content and simplify.
- That the new Code drafting should be drafted in plain English
- That the supporting change process should be aligned
- That parties should not be marginalised under the new arrangements where they currently have the ability to input and influence activities that impact them.

We have responded to a number of the individual questions from the consultation and further outline our general comments in appendix 1.

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Registered in Scotland No. SC546822

Should you wish to discuss any of the points raised in this response please do not hesitate to contact me on the details below.

Yours Sincerely

**Gethyn Howard**  
**Head of Risk and Assurance**

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## Appendix 1

### ***Consolidation and alignment should be sought where it is feasible to do so.***

We are supportive of the principle of consolidating and aligning the Codes where it is feasible to do so as this will increase the efficiency in the management of the Codes. This should result in overall cost savings but it is important that under any future funding arrangements that parties do not see a material increase in costs compared to their contributions under the current arrangements.

### ***The review should not change the regulatory requirements themselves but simply bring together the existing content and simplify.***

It is vital that as part of any simplification and harmonisation work that the regulatory requirements themselves remain as they are. We support the simplification of the code structures and the drafting within but this should not be viewed as an opportunity to remove or change any regulatory protections or arrangements which under normal circumstances would be subject to open governance through the existing industry change procedures. Any specific changes that parties may wish to make to the regulatory requirements should be subject to the subsequent regulatory change processes once the new Codes are implemented.

### ***That the new Code drafting should be drafted in plain English***

There should be a clear objective that all revised drafting should be in plain English in order simply the language used and make it clear and easy for a reader to understand the requirements. Traditionally legalistic language has been used requiring both a base knowledge of the topic and experience within to be able to fully 'translate'. We have seen positive steps in recent years with the development of the Retail Energy Code "REC" for example where plain English has been used and are supportive of this approach being the standard for all other consolidated drafting.

### ***That the supporting change process should be aligned***

At present there are a range of approaches taken under the Codes relating to raising and progressing a modification. This can make the process unnecessarily complicated and complex and acts as a barrier to parties fully engaging in the process. This can discourage wider participation from parties including new entrants, potentially lessening innovation and competitive pressures alike. Additional benefits will be realised where this will make any required coordination of changes across Codes easier and more efficient to manage where all changes will

effectively follow the same process and timings. Referring back to the REC, this established a clear change process and supporting set of documentation coupled to a clear modification summaries within the REC portal. We view this as best in class and would support this approach being applied more broadly across the Codes.

***That parties should not be marginalised under the new arrangements where they currently have the ability to input and influence activities that impact them.***

It is important under the new arrangements that where industry parties currently have the ability to vote on and influence matters that impact them, that they continue to have the ability to do so. This should be a specific focus in the workstreams to ensure that future arrangements are equitable and fair.

## **Section 2**

*No response*

## **Section 3**

Q3-7:

We are supportive of the proposals to develop a unified electricity commercial code, unified electrical technical code and unified gas network code. Bringing the existing Codes together to create these would simplify the existing processes and arrangements making it easier for parties to track and engage in industry matters. It is difficult however to comment on the accuracy of the proposed monetised benefits. Taking the GNC for example, it is hard to see how the low estimate saving would be as high as £12m over a 12-year period as the majority of IGT UNC participants would attend the GNC in place of IGT UNC fora. Coupled to this, due to the low volume of IGT UNC changes raised since 2010, there is likely to only be a minimal saving relating to the provision of duplicate modification responses to the IGT UNC and UNC (on the basis that existing parties respond to both sets of modification currently). The only tangible saving could relate to the costs of secretariat services but that would only hold true if IGTs would not then be making a contribution to the secretariat costs under the GNC which though is yet to be discussed and agreed, would be an unlikely outcome.

Q8 - *Do you agree with our proposals to rationalise the identified code provisions as part of any consolidation exercise?*

We are generally supportive of the proposals to harmonise the accession and contractual frameworks along with standardised code objectives and view these as 'day 1' requirements. We would suggest however that credit cover should be subject to the relevant change procedures under the codes once implemented on the basis that these relate to activities that exist now and post code consolidation and any changes could have a significant commercial impact on parties.

#### **Section 4**

*Q11. Do you agree with our proposal that a principles-based standard condition for gas and electricity licensees would support the development and delivery of code modifications related to the SDS?*

We generally view principle-based requirements as a positive approach in the regulatory environment as promotes innovation and flexibility. However, for such an exercise such as code reform we would ask if this is the correct approach given there will be well defined deliverables and associated timescales. Given the proposed approach, it also must be asked how compliance against the SDS will be evaluated and how parties will be monitored i.e. if a small party chooses to monitor and not actively engage in the programme, will they therefore be in breach of the requirement to deliver?

#### **Section 5**

*Q12. Do you agree with our preferred option for how a Stakeholder Advisory Forum should be constituted?*

We are supportive of option 2 'fixed membership of constituency-based representation' as is broadly similar in concept to current arrangements under number of codes. This will ensure that all relevant parties' views are fed into the process and smaller parties who may not be able to attend or participate via consultation are included. We also support option 2 over option 3 as there is a danger that full impartiality may result in some parties' views being overlooked or dismissed where a significant negative impact on a small part of the market is outweighed by a larger overall benefit which would come through stronger for consideration under option 2.

*Q13. What are your views on i) a requirement to assess the greenhouse gas impact of code modifications with updated guidance, or, ii) introducing a 'net zero' code objective?*

We are supportive of a general requirement to assess the greenhouse gas impacts of a code modification. However, this should only be required where it is possible to calculate such value and not mandatory in all cases as will undermine the credibility of the assessment where claims are made that cannot be evidenced or justifiable. Clear supporting guidance will also be required to ensure a consistent approach is taken when making such assessments and consideration should be given to who undertakes the assessment i.e. such as the code administrator to ensure some form of independence in the assessment itself.

In terms of the codes being required to have a 'net zero' obligation, there is the potential that organisations become captured by dual governance requirements to achieve net zero. Such an approach also raises the question as to how this will be assessed and who the liable parties would be where it is found that this is not being fulfilled under the code.

## **Section 6**

*Q15. Do you agree with our proposal to adopt a phased approach to transitioning codes to the new governance model?*

We are supportive of a phased approach to transitioning the codes to the new governance model. However, consideration should be given to the available bandwidth within the industry to manage any overlaps to ensure that there is sufficient engagement and support from industry.

*Q17. What are your views on our proposed transition sequencing?*

We support the proposed sequencing of codes. Greater detail on the timings would be appreciated however to enable code signatories and administrators to prepare for accordingly. It must also be noted that phases 2 and 3 include the amalgamation of existing codes which will not occur during phase 1. The process involved in these latter phases will therefore likely be different to that in phase 1 and experience differing challenges and obstacles. Sufficient time and preparation for these workstreams will be key to their success along with the sharing of any learning points throughout the process.

*Q18. Do you have any other comments on how Ofgem should approach the implementation and transition process?*

It is important for any learnings across any of the three phases are shared to enable the end-to-end process to work as efficiently as possible. We would recommend a summary report is provided at each of the major milestones within each of the phases which will be readily available for participants to review and understand who may not be impacted or involved until later phases in the project.