



GEMSERV RESPONSE – OFGEM'S CONSULTATION ON THE IMPLEMENTATION OF ENERGY CODE REFORM

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WRITTEN BY SARAH GRATTE



Gemserv



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GEMSERV RESPONSE

1 DESIGNATION OF CODES AND CENTRAL SYSTEMS (SECTION 2)

Q1. Do you agree that we should recommend to the Secretary of State that the 11 industry codes listed (including the SQSS) should be designated as “qualifying documents” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

We believe this is the correct approach and that the 11 industry codes listed (including the SQSS) should be recommended for designation.

Q2. Do you agree that we should recommend to the Secretary of State that the 5 central systems listed (including the Central Switching Service) should be designated as “qualifying central systems” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

We agree that the 5 central systems listed, including the Central Switching Service, are appropriate. We support the recommendation to designate them as “qualifying central systems” as they all have a crucial central role to play in future arrangements.

As we stated in our call for evidence response last year, we believe it is essential that central systems are subject to strong governance alongside incentive regimes to hold the central system providers accountable to providing improved services and value for money.

We note the inclusion of the Data Transfer Service (DTS) but propose that the Data Transfer Service Agreement (DTSA), as the legal framework outlining the DTS governance, principles and rules, needs to be included within the scope of Code Reform and rehomed into the REC (Retail Energy Code). The Data Integration Platform for Market Half-Hourly is governed under the BSC (Balancing and Settlement Code) rather than a separate agreement. With all the codes and systems being in scope of code reform it seems the ideal opportunity to align the governance arrangements appropriately.

We support that the systems provided by the Data Communications Company are within scope but note that both the smart metering and central switching service elements are subject to licence discussions and industry consultation. We anticipate that these discussions are aligned with code reform rather than undertaking further activity in this area in the future.

2 CODE CONSOLIDATION (SECTION 3)

Q3. Do you agree with the monetised costs and benefits set out in the accompanying draft impact assessment (i.e. the quantitative analysis)? Please specify if you think there is any further evidence that we should consider.

Our response to this question relates primarily to the costs for the Unified Gas Network code. We note the NPV of £41m attached to the unification of the UNC (Uniform Network Code and the IGT UNC (Independent Gas Transporters Uniform Network Code) and are surprised by the apparent scale of the benefits and that this is the highest central estimate for all codes to be consolidated. Our surprise is in large part due to our understanding of the costs for these codes and that the IGT UNC, for which we are



code administrator, falls into the "low" category under Ofgem's definition. We accept that there is already a large amount of harmonisation, as the IGT effectively 'points' to the UNC currently, but it would be useful to understand further the higher estimated costs for this new code.

Q4. Do you agree with the hard-to-monetise costs and benefits set out in the draft impact assessment (i.e. the qualitative analysis)? Please specify if you think there is any further evidence that we should consider.

We note the inclusion of engagement within the hard-to-monetise costs and benefits. From our experience with the REC, there has not been increased engagement from smaller participants to date, possibly due to competing activities within industry. Whilst we support the aim for increased engagement through simplified code arrangements, there may need to be other changes within industry to enable engagement from all parties. The establishment of dedicated points of contact, such as the Operational Account Managers under the REC or the Operational Support Managers under the BSC may offer alternative engagement channels.

Q5. Do you agree with our preferred option to consolidate the CUSC and DCUSA to form a unified electricity commercial code?

Yes, generally we think this is the correct approach, although the effort and the time required to do so should not be underestimated. We also suggest that consolidation should consider other codes that obligations may fit better within rather than straight consolidation.

In our experience as REC Code Manager, we have identified aspects of regulation that would be best suited and more efficiently housed either in the REC or in a different code. These include a number of metering related obligations, such as the crowded meter room controller, which may not be suited to a commercial code. Leaving non-commercial elements within the newly formed commercial code may contribute to fragmentation and complexity for parties which are some of the current problems code reform is looking to resolve. This is the ideal opportunity to remove the fragmentation and complexity and align the current obligations into their appropriate long-term codes.

It is also important to ensure that, not only is time given to the consolidation of obligations in the Code but, equally, also to subsidiary and supporting documents and guidance. These are often as important for users of the Code as the legal text.

It may be sensible to start thinking initially about those areas that would need to move from DCUSA which had a home there before the introduction of the REC before consolidation. This is an activity that could be delegated to the current code managers and code administrators to undertake collectively as part of the Code Administrators Code of Practice (CACoP) remit or under the Cross-Code Steering Group (CCSG) under the REC for included codes. The CACoP group may be a better fit for this activity as all codes are required to act in accordance with CACoP, but not all codes coordinate under the CCSG. Ofgem would need to gain buy-in from code panels to agree and undertake this work in a coordinated approach.

Q6. Do you agree with our preferred option to consolidate the Grid Code, STC, SQSS and Distribution Code to form a unified electricity technical code?

Yes, we believe this is the correct consolidation approach for these codes.



Q7. Do you agree with our preferred option to consolidate the UNC and IGT UNC to form a new unified gas network code?

We support consolidation of the IGT UNC and UNC. In our experience as code administrator for the IGT UNC, we know from first-hand experience of the inter-dependencies of the two codes and the recognition by stakeholders that consolidating them will simplify gas governance. The code business for the IGT UNC dedicates time in both Panel and the monthly Workgroup considering the implications for the IGT UNC of modifications that have been raised in the UNC. This is to ensure that any consequences are identified and properly applied and to identify when and who will raise modifications to ensure that Distribution Network sites and IGT sites are treated in exactly the same way to ensure the same consumer experience. Although the IGTs and Shippers, are parties to the IGT UNC and the UNC, the UNC modification development process rarely focuses on the cross-code implications and the efficiency gains in ensuring the CDSP (Central Data Service Provider) delivers the same system solution for all gas sites. Unifying the governance will be the first step, followed by the appointment of a Code Manager. We would expect and look to the Code Manager to ensure that, as the Codes themselves are rationalised and simplified, the Code Manager will ensure that no parties are disenfranchised and that the approach is balanced, productive and an opportunity to update the user friendliness of the Codes by introducing digital efficiencies and support.

The consolidation of the UNC and IGT UNC in phase two will be part of the first consolidation exercise. There is no single code administrator or code manager covering both codes, the Joint Office administers the UNC whilst Genserv administers the IGT UNC. In that capacity, we would be happy to work with the Joint Office in establishing a suitable governance vehicle, that may help streamline the process of consolidation. We note the publication of the DESNZ consultation on code manager licensing and selection which provides additional detail. It is anticipated that Ofgem will discuss options further with the incumbent code administrators in due course.

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

We agree with the proposals for rationalisation and support the approach of establishing the common contractual frameworks. The consultation outlines a single common contractual framework for each code, but there is an option to go further and align elements across the framework of multiple codes, i.e. party accession, code modifications, credit cover and disputes. If there was commonality across each of these areas, i.e. an organisation followed the same process for each code, it would help reduce complexity for parties. This in turn could lead to simplification in future whereby a new entrant could accede once and then be a party to all relevant codes through digitalised and harmonised processes. It would also be important to ensure that this commonality is maintained and does not drift over time. Retaining common language, structure and some content may reduce legal fees associated with maintaining codes.

Whilst we support rationalisation, there is also a need to ensure that, where certain codes exist for specific purposes, these are not lost or overlooked. There needs to be recognition of this when consolidating and rationalising the content of the impacted codes.

We understand that once appointed, code managers would then be targeted to rationalise and simplify the rules further. Whilst we appreciate that there are different levels of complexity in different codes, it



may be prudent to consider how industry parties will support this rationalisation if multiple code managers undertake activities in parallel. There needs to be a coordinated approach which could be agreed as part of CACoP (if it is still an operational forum following code reform), to balance with the other priorities within industry. It may also be useful to provide some guidance timescales for the rationalisation to complete to provide some certainty to the timescales to solve the complexity and fragmentation problem. Without guidance on timescales, this exercise to rationalise entirely could take many years and still be ongoing.

3 STRATEGIC DIRECTION (SECTION 4)

Q9. Do you agree with our proposal to publish the first SDS for all codes next year (before code managers are in place)?

We fully support the proposal to introduce and publish the Strategic Direction Statement (SDS) in 2025, focusing on the next one to two years and up to a five-year period. We also welcome the transition approach of publishing the SDS, which will give codes the opportunity to understand the priorities and direction of travel for the energy market, before being appointed and enabling them to be effective from day one. The publication of the SDS and implementation approach must consider the fundamental timings of finalising code budgets for the year, including stakeholders' year ends as outlined further in Q10.

To avoid any surprises within the SDS, capacity and capability requirements are needed to set this up for success. Striking the right balance is critical for codes to be clear on the strategic review with their stakeholders. Recent feedback from stakeholders has expressed that they are overwhelmed, have too much going on, and prefer a steady approach. Having a clearly laid out strategic plan will assist stakeholders, so it is important that the plan is strategic across the forthcoming years and not a near-term work plan.

The proposal to publish the SDS ahead of the appointment of code managers will also require confirmation/consideration of the potential impact on current governance structures, for codes that may transition to the new arrangements at a later date.

Q10. Do you have views on the proposed SDS process?

Developing and executing plans, particularly for the first time, should not be underestimated, as they may pose budgetary risks. It is essential to align SDS publication with code budget years to prevent amendments in the middle of the year. Prior to Code Manager appointment, the existing provisions within the codes will need to be met.

Each code currently works to a different process and timescale for budget setting, although they are all aligned to the April budget cycle, e.g. the SEC budget can take up to four months to finalise content for consultation, others may take longer or shorter. Our understanding from the recent DESNZ/Ofgem Code Manager consultation is that budgets will need to be consulted on from 1st November each year for 28 days. The SDS will need to be published and assessed by each code prior to any budgets being developed, reviewed and agreed for consultation.



It is crucial to engage with all affected stakeholders, particularly those who are currently disengaged, and ensure that their opinions are heard. In our experience this can be difficult to do. Ofgem should consider a multi-channel approach and make engagement as easy as possible for stakeholders who have limited resources.

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?

Gemserv agrees that a principles-based standard condition would facilitate the development and delivery of code modifications related to the SDS for gas and electricity licensees. We also agree with the proposed code obligation for non-licensed code parties.

From our experience of managing and administering codes, the input and support of code parties is required to progress change and modifications. Party engagement provides expertise and options which help to deliver the most appropriate solution for changes. This can be evidenced by the involvement of parties in the solution development under the REC Issues Group for a number of change proposals over the last 12 months. From our experience, where a party is required to undertake any activity, the priority of that activity is increased if there is licence or code obligation attached to it.

4 CODE GOVERNANCE ARRANGEMENTS (SECTION 5)

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

We support Option 3 fixed/impartial membership as the preferred model for Stakeholder Advisory Forum (SAF) that will in essence replace the existing code panel arrangements.

This gives consistency of membership, decision making and reliance on people attending. While the expectation is that there will be a pool of members to join if needed, within the REC and IGT UNC, we have observed either a lack of stakeholders attending or fewer experts putting themselves forward onto panels. An essential requirement of the impartial code party representative will be to ensure effective two-way communication with the constituencies, to ensure their perspectives are reflected in discussions.

The reduction of available resources may be in part due to the number of concurrent activities currently in play across the energy landscape, with many organisations having to choose the most appropriate activities for their resources to undertake. This needs to be a consideration for not only SAFs but other code activities as well, e.g. change, rationalisation of codes and consultations.

However, further consideration needs to be given to certain scenarios where a one size fits all approach would not be appropriate. Further thought must be given where a code panel has delegated to subcommittees, such as the security subcommittee within the SEC. These subcommittees have specific roles set out in the code that are, by their very nature, confidential and do not necessarily report directly to panels. We therefore assume that, where a code requires an existing committee to be constituted, this continues, albeit with changes to reflect the code manager governance role.

Maintaining the code manager's role in the modification process is crucial, even with input from the SAF, to ensure accountability and consistency in decision making. There must be a clear separation between



the code manager and the SAF to work effectively and avoid the potential risk of reworking modification solutions. We therefore assume that all the pre-work carried out by the code manager associated with modifications, such as stakeholder working groups, issues or operational groups, will continue as they do today to ensure any modifications address the issues.

When prioritising modifications, it's important to involve central system providers in discussions to ensure they have the capacity to enable those changes effectively and to consider design optionality and cost. Their input and involvement are essential for successful implementation.

What Ofgem expects the SAF to cover needs to be clarified; for example, are these just modifications, or would they cover performance assurance aspects? The role of appointing the SAF chair would be best placed by the code manager, thereby avoiding potential conflicts. The appointment of the chair and its representatives/members should be for a minimum period of two years in office and the opportunity to stand for a further term. Consideration should be given to staggering the appointments so that the SAF membership is not renewed all at once, thus ensuring continuity of personnel and corporate memory.

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 unsure if it is necessary to introduce a new objective to support the net zero target for 2050. If introduced, Code Managers and parties would need to have the relevant skills and expertise to assess whether changes would support the net-zero objective. This is not currently required as a skillset and would require investment and training for organisations.

However, we foresee several challenges with implementing a new objective, particularly if it needs to be demonstrated with each modification. This practice is not how the current modification process generally works and amending it to having to fulfil this requirement for each change could become unworkable and inefficient. Instead, we propose a pragmatic approach where the new objective is implemented 'where appropriate'. In some cases, assessments to determine the net zero benefits might be easy to complete, based on cost-benefit analysis, supported by evidence, including minutes of discussions held. However, in others, it could be a very significant undertaking requiring additional skills and expertise.

To ensure a consistent approach, guidance on introducing code objectives may be better informed by the Strategic Direction Statement (SDS). Consideration might be given to review of the Code Objectives in light of the first SDS, and then a periodic review thereafter to ensure alignment.

Q14. Do you agree with our proposal to extend and harmonise the ability of code panels to prioritise the assessment of code modification proposals?

Whilst there may be some benefit in industry having a consistent criterion by which to prioritise code modification proposals, there needs to be an element of tailoring depending on the code being managed.

Prioritisation plays a crucial role in assessing modifications, and the criteria should include smaller and easier to implement modifications. Applying prioritisation means that changes will be made. It is not an 'if' they'll be done; it is a 'when' they'll be done. In certain circumstances, the industry needs to consider whether it is necessary to stop or pause progress on a modification in mid-process to let a more urgent



one through. Furthermore, we assume the prioritisation matrix would be driven by and reflected annually in the SDS. Prioritisation helps with strategic development and is supposed to aid industries. Based on our experience of the REC, we anticipate a flurry of code changes after harmonisation that will also need to be appropriately assessed. Following harmonisation, we foresee three different sets of changes happening: current changes in progress, backlogs of each code, and any corrections. It is essential to consider prioritisation during code consolidation, since any backlog from the old code changes will transfer to the new consolidated code. We anticipate further detail will emerge in the drafting phase and the Modifications Process Workgroup, chaired by Ofgem.

5 TRANSITION (SECTION 6)

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

Yes, we agree activities should be overlapped and phased in a sequence. However, running activities in parallel can also be beneficial. Including areas from other codes that should be part of the new code are recommended, as this can aid the overall transition, particularly when consolidating activities for relevant codes.

Each code needs to be able to develop independently and there should not be a one size approach to all codes. Early code managers should not necessarily determine the template for subsequent codes, although there may be merit in ensuring lessons are learned. Where there is a desire to determine common ways of working, this should include a full understanding and assessment of how subsequent codes may be impacted.

Q16. Do you identify any strategic or operational considerations that might inform the transition sequence?

It is recommended that Ofgem appoint an independent Programme Manager in 2024 to oversee the overall implementation plan and ensure that it aligns with the agreed arrangements. Key aspects needed will also include any actions to be met in 2025 and help avoid any issues or potential issues among codes.

Based on our reflections and lessons learned when consolidating the REC, we have identified several operational considerations that should inform the transition sequencing. These include the need to factor in sufficient time, complexity, and nuances. As a result, and in hindsight, certain activities remaining within the BSC and DCUSA would have been better placed within the REC, such as: the BSC Metering Codes of Practices; the DCUSA distributor meter moves during service alterations; or the metering requirements under the IGT UNC.

All codes require effective performance assurance activities to instil confidence in meeting requirements, prevent redundant audits, and minimise impacts on industry and consumers.

Based on our experience, electricity and gas resources are often separate entities, operating independently. Therefore, expert and trusted knowledge in resourcing is essential and cannot be entrusted to someone to learn on the job.



Due to DCC's licensing review and existing dual governance arrangements with DESNZ transitional powers, we fully support the decision for the SEC to go last in the transitional sequencing. We assume this would mean that a timeline of c.2028 for a SEC code manager appointment, which seems sensible considering there will also be significant procurement activities with renewing data service provider contracts. Consideration needs to be given to the impact on existing governance bodies and processes for codes that transition at a later date, for example as noted in Q9 the impact of the SDS. Other key factors to consider also include the effects of the MHHS programme, industry, and unlicensed code managers, as well as changes to code going through their processes. Additionally, the forthcoming General Election and any change in Government may impact the current thinking and timescales. The energy landscape is already very busy with a number of big changes taking place in the coming years (as noted above). It will be vital that the timing and availability of industry to undertake the not insubstantial work associated with code reform is considered carefully as part of the planning.

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

We agree with the sequencing proposed, however we would welcome further clarification on exactly what is included in each, e.g., if it is agreed that obligations within DCUSA need to be transitioned into the REC, will this be done in phase one or two?

We suggest removing any components that no longer fit in another code and move them into the REC as part of phase one. Once this is done, we can determine what is required. The consolidation process should take place in 2024, with code changes ready by 2025. This will enable Ofgem to start appointing code managers in 2026.

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

Ofgem recognises that the central system delivery functions fall under the purview of code reform, and it would be helpful to consider these functions during the implementation and transition process. As set out in our response to Question 2, we anticipate the DTS will be included in the REC and part of phase one.

We would also urge Ofgem to complete the appointment of Code Managers as soon as possible to mitigate risks of uncertainty, as the changes will be made over a significant period. There is a heightened risk for current Code Administrators to maintain resources and attract suitable candidates to deliver these changes for the future, while the selection and appointments of code managers, along with the wider reforms are being finalised.

Our working assumption is that changes to codes will need to be made sooner rather than later to give effect to these reforms. Code Administrators will need to consider the changes required for each code and we expect that these would be implemented via Ofgem under Energy Act 2023 transitional powers, some possibly sooner than the appointment of Code Managers. It would be useful to confirm the process and understand the potential timetable for this to occur.

We recommended the appointment of a Programme Manager to coordinate the activities and manage cross industry communications. This needs to include horizon scanning to anticipate energy wide activities which may impact on code administrators and parties. Energy code reform requires input from across industry and timings and resource constraints are likely to impact on the success and timescales of implementation.



Contact Genserv

T: +44 (0) 207 090 1000

77 Gracechurch Street, London,
EC3V 0AG.



Genserv



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