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## Second consultation on the implementation of the energy code reform

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Team:	Code Governance Reform
Telephone:	020 7901 7000
Email:	<a href="mailto:industrycodes@ofgem.gov.uk">industrycodes@ofgem.gov.uk</a>

We are consulting on our approach to implementing the industry code governance reforms as set out in the Energy Act 2023. We would like views from people with an interest in energy code governance. We welcome responses from other stakeholders and the public.

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.

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Any enquiries related to the text of this publication should be sent to Ofgem at:

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## **Executive Summary**

### **Reforming the energy codes framework**

The [Energy Act 2023](#) (the 'Act') sets out powers and duties that will aid the modernisation of the energy system and fundamentally change the way the sector is regulated. Among these measures is a package of significant reform to the governance of the industry codes, including new powers and responsibilities for Ofgem.<sup>1</sup>

In January 2024, we published our first consultation on our proposed approach to implementing these reforms. This consultation follows on from that one and sets out our approach in a number of key areas. Our ambition is to create an agile, forward looking governance framework that will be more responsive to change and better reflect the government's ambition and achievement of net zero.

### **Our proposals**

#### **Future code modification process**

We set out our preferred approach for the future code modification process, to reflect changes introduced by code reform and introduce improvements through standardising the approach across codes. This includes the main stages of the process and proposed roles and responsibilities.

#### **Stakeholder Advisory forum (SAF)**

We set out our detailed proposals for Stakeholder Advisory Forums (SAF), including how we propose a SAF should carry out its role, proposals on membership and how we intend a SAF will operate. We seek views on our proposed SAF objectives and how code party members should be appointed, including length of term. We also seek views on our proposals that each SAF should have a least one independent member and that the chair of the SAF should be an independent member.

#### **Cross-cutting consequential code changes (subcommittees and derogations)**

We set out our proposals for how to implement consequential changes to two related areas of code governance: sub-committees (including performance assurance) and code derogations. We seek views on how sub-committees should be chaired, and propose an approach for reviewing their ability to make decisions and the basis on which members

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<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to the Gas and Electricity Markets Authority (GEMA). The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work.

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are appointed. We also set out policy proposals on the decision maker for code derogations.

### **Cost recovery**

We set out our proposal to retain code administrator cost recovery methodologies found in the Balancing and Settlement Code (BSC) and Retail Energy Code (REC) and to use these as the cost recovery methodologies for their respective code managers.

Additionally, we present some initial thinking on the implementation of the consequential changes that would be required in the REC and the BSC to reflect the code manager role and charges.

### **Directing Central System Delivery Bodies**

We set out the detail on Ofgem's power to direct responsible bodies for central systems, as provided for in the Act. We also provide a high-level summary of the consequential changes we expect may be necessary to facilitate this direction power.

### **Implementation and assurance approach**

We set out our proposal in relation to implementation timings and a programme of work, including consequential changes, code manager selection and code consolidation. We also present and seek views on the extent to which the proposal minimises uncertainty for stakeholders, allows industry to plan and manage resources, and is sufficiently developed to enable the transition's success.

### **Transition plan**

We set out our initial view of the sequencing of activities required to implement energy code reform across a series of workstreams. We invite views on the extent to which the plans i) are realistic, considering our project aims, ii) build in learning opportunities and continuous improvement, and iii) sufficiently capture the interaction with the business-as-usual work of the codes.

# 1 Introduction

- 1.1. The [Energy Act 2023](#) (the 'Act') sets out powers and duties that will aid the modernisation of the energy system and fundamentally change the way the sector is regulated. Among these measures is a package of significant reform to the industry code governance arrangements, including new powers and responsibilities for Ofgem.
- 1.2. The industry codes set out the detailed rules of participation in the gas and electricity markets, underpinning market operation. Energy code reform aims to ensure that the codes can respond to the significantly evolving sector, enabling change to the codes to be delivered more efficiently and effectively in the interests of consumers, and to support the transition to net zero.
- 1.3. The reforms to energy code governance enabled by the Act include giving Ofgem powers to appoint and license code managers, who will be responsible for performing the roles currently played by code panels and code administrators. Part of the code manager role will also be to ensure that the codes develop in line with a Strategic Direction Statement (SDS)<sup>2</sup> that Ofgem will publish annually, which will set out our vision for how the codes should evolve on an ongoing basis. We also intend for industry stakeholders to retain a vital role in code governance processes, with new Stakeholder Advisory Forums (SAF) formed to guide and inform code managers' decision-making.
- 1.4. The reforms aim to create a decision-making framework for the codes that:
  - is forward-looking, informed by and in line with the government's ambition and the path to net zero emissions, and ensures that the codes develop in a way that benefits existing and future energy consumers
  - is able to accommodate a large and growing number of market participants and ensure effective compliance
  - is agile and responsive to change while able to reflect the commercial interests of different market participants to the extent that this benefits competition and consumers
  - makes it easier for any market participant to identify the rules that apply to them and understand what they mean, so that new and existing industry parties can innovate to the benefit of energy consumers

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<sup>2</sup> Consultation on the preliminary SDS closed on the 28<sup>th</sup> March [Consultation on the preliminary Strategic Direction Statement and governance arrangements for industry codes | Ofgem](#)

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- 1.5. Proposals to reform energy code governance can be linked back to the outcome of the Competition and Market Authority's (CMA) [Energy market investigation](#) (2016). The investigation found that the existing code governance framework resulted in adverse impacts on competition arising from code parties' conflicting interests. It also found that there were limited incentives for industry to deliver strategic change and insufficient ability for Ofgem to set a strategic direction to implement policy changes, increasing the risk of changes that are in customers' interest not being delivered in a timely and efficient way.
- 1.6. Subsequent consultations sought views on the detailed design of the proposed reforms. These culminated in the government response to the joint consultation on the [Design and Delivery of Energy Code Reform consultation](#) (2022), which included decisions on the structure of the new code governance framework. These decisions were subsequently used to inform the drafting of the relevant provisions of the Act.
- 1.7. As we move forward with energy code reform, we are committed to engaging with stakeholders and providing clarity on how we intend to implement the reforms in practice. We aim to adopt a collaborative approach to implementing the necessary changes and achieving the project's aims, while also being mindful of industry time and resource. We are currently in the middle of a series of consultations on code reform that set out detailed implementation proposals, in order to present this information to the sector and invite feedback.

## **What are we consulting on**

- 1.8. This consultation sets out our proposals on a range of policy areas on how code governance reform would be implemented in practice, including sections on the code modification process, Stakeholder Advisory forums (SAFs), cross-cutting consequential code changes, cost recovery for the BSC and REC codes, directing central system delivery bodies, our implementation and assurance approach, and our transition plan.

## **Context and related publications**

- 1.9. Below is a summary of consultations that have been published to date:
  - [Consultation on the implementation of energy code reform](#) (January 2024) - we published our initial proposals on the implementation of energy code reform. This included, among other things, our proposals for developing and delivering the SDS, our intention to harmonise the code modification prioritisation processes under the existing arrangements, and our proposals for code consolidation.



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- [Implementation of energy code reform: consultation decision](#) (August 2024) - following our consultation, we published our policy decisions on the proposals we sought views on. We also noted our intention to consult further on detailed implementation proposals in due course, including consultations in accordance with Schedule 12 of the Act, where applicable.
- [Consultation on code manager selection](#) (November 2024) - following the government's response to our joint consultation on code manager selection and licensing, we consulted on further details related to Ofgem's process of assessing and selecting prospective code managers.
- [Consultation on the preliminary Strategic Direction Statement and code governance arrangements](#) (January 2025) - this consultation sets out our proposals on the content of the first preliminary SDS, as well as policy proposals on associated governance changes around prioritisation of code modifications and a cooperative licence condition.

1.10. Documents related to this publication include:

- [Modification Process Workgroup report – parts 1 and 2 \(ofgem.gov.uk\)](#)

## **Next steps**

1.11. This consultation is the latest in a series, setting out our proposals on different aspects of energy code reform. We will also continue to work jointly with DESNZ on the regulatory framework for energy code reform. We expect to publish a joint consultation with DESNZ in Spring 2025, on both code manager standard licence conditions and updates to secondary legislation for code modification appeals to the Competition and Markets Authority (CMA).

1.12. We are also expecting to publish another consultation later in 2025, where we expect to share areas of our approach which have not been covered in this consultation. That may include, but is not limited to, further proposals related to our implementation and transition process, such as transitioning live or inflight code processes, and drafts of proposed licence and code modifications.

## **Workgroups**

1.13. We believe achieving the ambitions of code reform relies on the continued support of industry in lending its expertise to this programme of work. We will therefore be convening a series of workgroups and bilateral discussions with code administrators and code parties later in the year.

1.14. We do not intend the sessions to reopen decisions on policy but focus instead on practical implementation considerations in respect of modifications to regulatory

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documents. Our intention is that the outputs from these workgroups and bilateral discussions feed into the next planned consultation, later in 2025.

- 1.15. More information on the proposed constitution of these workgroups, and the topics that we would proposed to cover, can be found in the invitation to express interest and draft terms of reference published alongside this consultation.<sup>3</sup> If you would like to volunteer for one of these workgroups, please respond by email to [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk) by Friday, 25 April 2025.

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<sup>3</sup> [Expressions of Interest to join Implementation Workgroups \(Phase 1\)](#)

## 2 Future code modification process

This section sets out proposals to update the modification process to reflect changes introduced by code reform and introduce improvements through standardising the approach across codes. It includes our proposals on the:

1. main stages in a future modification process
2. proposed roles and responsibilities in a future modification process.

### Questions

Q1: Do you agree with our proposal to have in place a premodification process and the proposed roles and responsibilities in this process?

Q2: Do you agree with our proposals on who can raise modification proposals and the associated triage criteria?

Q3: Do you agree with our proposals on when modifications proposals are deemed as withdrawn; i) if a code manager doesn't take ownership and ii) if the proposer does not engage in the process or acts vexatiously.

Q4: Do you agree with our proposed roles and responsibilities in determining the materiality and priority of a modification proposal?

Q5: Do you agree with our proposals on cross-code working; i) to use the cross-code working arrangements in the Retail Energy Code as the basis of future cross-code working and; ii) any improvements that could be made to the cross-code process.

Q6: Do you agree with our proposal on how a code manager should decide the need for a workgroup to develop a modification proposal?

Q7: Do you agree with our proposals on alternative modifications; i) who can raise them and ii) a limit on their number.

Q8: Do you agree the default should be that modification proposals are consulted on once?

Q9: Do you agree with our preferred option (Option 2) to deliver these proposed changes?

Q10: Do you agree with our proposals for the future of the Code Administration Code of Practice?

### Background

- 2.1. To reflect the new roles and responsibilities introduced by our reforms, we need to update the existing modification processes. At the same time, we intend to introduce improvements through standardising the approach across codes. This should help to provide consistency and make the modification arrangements easier for market participants to engage with and for strategic change to be delivered.

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- 2.2. In January 2024<sup>4</sup> ([January 2024 Implementation Consultation](#)) we set out that these changes provide an opportunity to identify what works well in existing arrangements and what could be improved across codes to ensure that efficient governance is in place.
- 2.3. To help us develop an updated code modification process, we asked for volunteers to participate in a workgroup (the Modification Process Workgroup (MPW)), chaired by Ofgem. The workgroup had a fixed membership of 16 code governance experts, drawn from a range of industry stakeholders. We asked workgroup members for their views on a range of topics related to the modification process.<sup>5</sup>
- 2.4. We are grateful to industry colleagues for their participation in the MPW. We have published two reports which summarises the workgroup's discussion.<sup>6</sup> The workgroup reports have, among other things, helped to inform our proposals related to the code modification process.
- 2.5. High level requirements for the current code modification processes are contained in relevant licence conditions. The licence conditions also provide for the role of the code administrator, who must have regard to (and where relevant, be consistent with) the principles contained in the Code Administration Code of Practice (CACoP).
- 2.6. The CACoP includes a high-level common modification process. Each code contains its own detailed modification process and, while there are similarities across the codes (in line with the licence requirements and the CACoP), differences exist between the detailed arrangements.
- 2.7. We have reviewed the high-level process included in CACoP and the arrangements in codes. We have aimed to develop proposals that:
- promote efficient governance
  - harmonise arrangements across codes
  - support the development of high-quality modifications that facilitate the code objectives
  - open up who can propose modifications to democratise the process and allow innovators to raise changes

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<sup>4</sup> [January 2024 Implementation Consultation](#)

<sup>5</sup> The topics covered with the MPW that are relevant to this consultation include: Stakeholder Advisory Forum (SAF), modifications including raising, owning and alternatives, pre-modification process, triage criteria and process, prioritisation process, workgroups, self-governance criteria, skill set of a code manager, decision making, cross-code working, and appeals to Ofgem decision.

<sup>6</sup> Part 1 and Part 2: [Implementation of energy code reform: decision | Ofgem](#).

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- reflect the role that the code manager and Stakeholder Advisory Forum will have in the code modification process

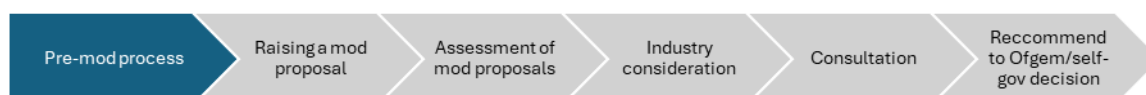
2.8. The stages of the code modification process and the key proposals for each stage are set out below.

Table 1: Key proposals for each stage

Stage	Key proposals
1. Pre-modification process	<ul style="list-style-type: none"><li>• Introduce a harmonised process across codes</li></ul>
2. Raising a modification proposal	<ul style="list-style-type: none"><li>• who can raise a modification</li><li>• a set of triage criteria for assessing modifications</li><li>• a proposer can request the Code Manager take ownership of their modification proposal</li></ul>
3. Assessment of modification proposals	<ul style="list-style-type: none"><li>• Code managers to prioritise assessment of modification proposals against consistent prioritisation criteria</li><li>• Updated cross-code change process in all codes</li></ul>
4. Industry consideration	<ul style="list-style-type: none"><li>• Default that a workgroup is established</li><li>• Process for alternative modifications</li></ul>
5. Consultation	<ul style="list-style-type: none"><li>• Code manager drafts consultation</li><li>• Modification proposals are consulted on once</li></ul>
6. Recommendation to Ofgem/self-governance decision	<ul style="list-style-type: none"><li>• Code manager responsible for producing the final report</li></ul>

2.9. We set out below our detailed proposals for roles and responsibilities in a future modification process.

## Pre-modification process



2.10. Under the current framework, a pre-modification process<sup>7</sup> allows an Issue<sup>8</sup> to be assessed prior to a modification proposal being raised. Often this is done through

<sup>7</sup>CACoP Principle 5 'Code Administrators shall support processes which enable users to access a 'pre-Modification' process to discuss and develop Modifications'.

<sup>8</sup>Means an issue affecting a code that may become a modification proposal in accordance with the code modification procedures of that code.

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an industry forum that meets to discuss Issues and to define possible modification proposals. The use of and approach of the pre-modification process is inconsistent across codes.

2.11. The MPW commented, that an effective pre-modification process can result in better developed modification proposals entering the process as well as encouraging less well-resourced parties and new entrants to participate in the modification process. It was also noted that the process can help identify cross-code issues and prevent unnecessary proposals being raised, where an Issue can be resolved by other means. We agree with this assessment.

2.12. We propose the future pre-modification process will include:

- the requirement for a pre-modification process where Issues can be assessed
- that an open forum to assess Issues should be available to stakeholders
- that the code manager, as part of its critical friend role, should support proposers when raising an Issue
- any stakeholder would be able to raise an Issue
- that the pre-modification process would not be a mandatory step for all modification proposals
- any future modification proposal would explain if it has been through the pre-modification process and the outputs from this

2.13. We also propose that a proposer of an Issue should be able to request that the code manager takes ownership of that Issue. We anticipate this could encourage less well-resourced stakeholders to raise Issues. The code manager would not be required to accept ownership of an Issue but would consider this where, for example, there is support from other stakeholders for the Issue to be assessed. Should the code manager (or any other stakeholder) decide not to adopt the Issue, the proposer may choose to retain the Issue, otherwise the Issue would be withdrawn.

### **Pre-modification triage criteria**

2.14. We propose to create a harmonised pre-modification process that can adapt to the needs of each code. This harmonised process would include that the code manager must assess all Issues against the pre-modification triage criteria, set out below:

- the Issue presented is incomplete or unclear
- the Issue could form part of a different Issue yet to be decided on
- the Issue is outside the scope of the code

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Following assessment by the code manager, an Issue may:

- not be accepted into the pre-modification process - the proposer of the Issue and SAF would be informed of the code manager's decision.
- enter the pre-modification process - the code manager would work with the proposer to consider next steps including if an Issue should be discussed at the stakeholder forum

2.15. Where an Issue is accepted into the pre-modification process, the code manager would be required to inform and update SAF on the progress of the Issue.

### **Pre-modification forum**

2.16. We propose that the codes should set out the requirements for a pre-modification forum. We consider a pre-modification forum should be open to any stakeholder to attend and there would be no requirement on an attendee to act impartially. We consider this may help small or less well-resourced parties to attend. The forum would only be held when needed, and each session of the forum would be chaired by the code manager.

2.17. We recognise that some codes have more than one forum where Issues are considered, with some being subject specific, eg a charging forum in each of the CUSC, DCUSA and UNC. For this reason, we do not propose limiting the number of forums a code manager could create. We expect code managers to work with stakeholders to identify the need for separate forums in the code to deliver an effective pre-modification process.

2.18. We propose that the purpose of a pre-modification forum would be to:

- review and assess Issues accepted by the code manager into the process
- discard Issues on the basis that they require no further action
- propose and develop solutions
- identify the impact of solutions developed
- provide the code manager with views on the impact of a proposed solution
- assess proposed solutions against the relevant code objectives
- request the code manager consults with stakeholders on an Issue and/or a proposed solution

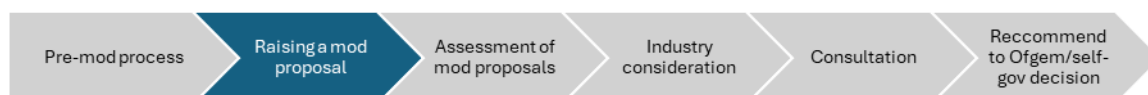
2.19. For any additional stakeholder forum that is created, we expect it must have a clear and concise purpose and that the terms of reference for the group is available to stakeholders. We also expect that an agenda and schedule of meetings should

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be made available to enable parties to join when particular Issues are relevant to them.

2.20. We are seeking stakeholder views on our proposal to have in place a pre-modification process and the proposed roles and responsibilities in this process.

## **Raising a modification proposal**



2.21. In existing arrangements, who can raise a modification proposal to each code is set out in licence and code provisions. These provisions vary across codes. Some codes allow non-code parties to raise modifications, for example, in the REC any interested person can raise a modification proposal. The BSC also allows for third party proposers to be designated by the Panel for the purposes of raising a modification proposal.

2.22. In earlier publications we set out our expectation that any interested person would be able to raise a modification proposal. Comments from the MPW included some support for this approach, noting it would democratise the process, and allow innovators to raise changes. However, there were also concerns it would allow non-code parties to raise modification proposals, which could benefit them commercially despite not being exposed to the potential risk or cost of the arrangements introduced by their proposed modification.

2.23. We recognise there are potential benefits associated with this approach including that it would allow anyone impacted by a code to be able to influence how it operates. This could potentially allow innovations in products and services to more easily enter the market. We also consider that it could make cross-code change easier. However, we note the concerns raised by the MPW and appreciate there is also a risk this could lead to ill-thought-out or poor-quality modifications, resulting in increased resources for code managers and industry.

2.24. We envision that non-code parties should be able to raise modification proposals across the codes, but with some safeguards around when they can raise a modification. We propose adding a list of parties who would be able to raise a modification proposal to the codes. We consider this list should include:

- a code party (including the code manager)
- the Authority (for Significant Code Reviews and assimilated law)



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- statutory consumer advocates<sup>9</sup>
- other code managers, only for cross-code change
- non code parties designated by the code manager for the purpose of raising a single modification proposal
- any other person listed in the relevant license or code

2.25. To enable the code manager to determine whether a non-code party should be designated and therefore permitted to raise a modification proposal, we also propose to add a set of criteria to the codes. These criteria should include:

- the explanation of why the non-code party has an interest in the code
- if the proposal has gone through other processes in the code, eg pre-modification and sandbox processes and the outcome of these
- if the proposal has not gone through other processes, the reason for this

2.26. We also consider that the code manager should consult with SAF and consider its views on whether the code manager should permit a non-code party to raise a modification. In cases where the code manager rejects a designation request from a non-code party, we propose that the interested non-code party would be able to appeal this decision to the Authority.

2.27. We consider that our proposal would open up the modification process to a wider range of stakeholders. We think both the designation and triage criteria, set out below, should mitigate the risk of the code manager becoming overwhelmed in the event of receiving a high volume of modification proposals.

2.28. We do not propose to change the provisions in the REC that allow any interested person to raise a modification. We recognise that, if our proposal is implemented, differences would remain in who can raise a modification across the codes. We are mindful that retaining the ability for any interested person to raise a proposal for modification could lead to poor quality modifications, but we have considered the current operation of the REC and in our view, the disruption changing this would create, outweighs the potential risks.

2.29. Like the pre-modification process, we intend that code managers would, as part of its critical friend role, support proposers when raising a modification proposal to ensure that the process is accessible to all parties, particularly smaller parties or

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<sup>9</sup> We are referring to Citizens Advice, Citizens Advice Scotland, and Consumer Scotland here.

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new entrants who may not be as familiar with raising proposals. We also consider that this could result in better developed modifications entering the process.

2.30. We are seeking stakeholder views on our proposals on who can raise modification proposals.

### **Triage criteria**

2.31. In line with comments made by the MPW, we consider that introducing triage criteria would help to mitigate the risk of spurious modifications from being raised.

2.32. We propose to introduce a harmonised triage criteria that code managers will use to assess each modification proposal, set out below:

- Does not have a reasonable prospect of being approved
- Is the scope of the modification correct / does it encompass too much proposed change?
- Is similar to a modification the Authority has rejected within the last six months

### **Process**

2.33. We propose that the code manager will assess each modification proposal against the triage criteria set out in the code. We also propose to include in codes that each modification proposal should include the following details:

- setting out the problem and the proposed solution
- an assessment of the modification proposal's materiality and priority
- impacted stakeholders
- cross-code impacts

2.34. The proposer would also be required to provide their assessment of the proposed modification against the relevant code objectives.

2.35. If the code manager is minded to refuse a modification proposal from entering into the process, they will be required to consult with SAF and take its view into account in their decision.

2.36. We intend the code manager would be required to inform SAF and the proposer of its final decision on whether to accept or refuse a modification proposal into the process. The code manager would publish their decision, with reasons, alongside any view from SAF.

2.37. Once a modification proposal is accepted into the process, like an Issue, we consider there are benefits to allowing a proposer to request that the code

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manager take ownership of their modification proposal. Again, we do not propose that the code manager would be required to accept ownership of a modification proposal but would assess this, eg by considering support from other stakeholders, whether there's a link to the SDS and what the impact of the proposal is. We also propose that, if a proposer requests that the code manager takes ownership of a modification proposal and this is rejected, the code manager would confirm withdrawal of the modification and set out the reasons for refusal.

2.38. Should the proposer of a modification fail to engage with the code manager or act in a manner which prevents the code manager from being able to ensure progress of the modification, we expect the code manager would contact the proposer to find out the reasons for this. We propose that the code manager may decide to withdraw the modification proposal from the process. We envision that the code manager will be required to give notice of the withdrawal of a modification to a list of individuals, as specified in the code. Where a proposer is unable to engage due to a lack of resource or expertise, we note our proposal that they may request that the code manager take ownership of their modification. In making the decision to withdraw a modification the code manager would be obliged to consult with, and take into account, the views of SAF. We intend to further consider where is most appropriate to incorporate this requirement upon the code manager (ie the code manager licence and/or the code) and this may form part of future consultations on the licence conditions.

2.39. We are seeking stakeholder views on the proposed triage criteria.

## **Assessment of modification proposals**



2.40. Under existing arrangements, the proposer is able to present their modification at the relevant panel meeting, and the panel determines how a modification will progress.

2.41. The decisions a panel makes on a modification proposal can include:

- materiality: should the modification proposal be taken forward as (i) requiring Authority consent, (ii) self-governance or (iii) fast track self-governance
- prioritisation: the priority of a modification proposal

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- progress of a modification and workgroups: does the modification proposal need further development or assessment or is it sufficiently clear and complete to enter the consultation process. They may also set terms of reference for workgroups

2.42. We intend that in a future modification process these decisions will be made by the code manager. However, we propose that the code would require the code manager to consult with and take account of views of SAF when making these decisions. Each of these decisions would be published, including any view from SAF, and reasons for their decision given by the code manager.

## **Materiality**

2.43. We do not propose to modify the self-governance or fast track self-governance criteria contained in existing licences.

2.44. In the existing process, the Authority may amend the materiality of a modification proposal following a determination by a panel. Our proposal is that the Authority would continue to have this oversight role.

2.45. We also propose that the existing ability to appeal a self-governance decision to the Authority would be retained alongside the objection route for fast-track self-governance modification proposals.

2.46. We are seeking stakeholder views on our proposed roles and responsibilities in determining the materiality of a modification proposal.

## **Existing panel roles**

2.47. In January 2025<sup>10</sup> ([January 2025 SDS and Code Governance Consultation](#)) we set out, our proposal to introduce consistent modification prioritisation processes across the codes prior to appointing code managers. We also consulted on prioritisation criteria that would extend the ability of code panels to prioritise the assessment of code modification proposals.

2.48. Subject to the decision of the January 2025 SDS and Code Governance Consultation, and the outcome of this implementation consultation, we propose that the panels' roles in prioritisation would move to the code manager once appointed. We also propose that the outcome of the code manager determination will be published and reasons given for the priority of a modification.

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<sup>10</sup>[January 2025 SDS and Code Governance Consultation](#)

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2.49. We also expect the code manager will be responsible for making a determination on the materiality of a modification. We consider the code manager should take into account the view of SAF prior to making a determination.

2.50. We are seeking stakeholder views on our proposed roles and responsibilities in determining the priority of a modification proposal.

### **Cross-code working**

2.51. Under existing arrangements, to ensure change is progressed efficiently, Principle 13 of CACoP<sup>11</sup> requires that code administrators ensure cross-code coordination.

2.52. The Cross Code Steering Group (CCSG) was set up under the Retail Energy Code (REC) to better facilitate cross-code change.<sup>12</sup> Changes were made to the Balancing and Settlement Code (BSC), Uniform Network Code (UNC), Independent Gas Transporters Uniform Network Code (IGT UNC), Distribution Connection and Use of System Agreement (DCUSA), and the Smart Energy Code (SEC) to enable a new approach to cross-code change. The purpose of the CCSG is to support the development of modifications that impact multiple industry codes.

2.53. Membership of the group consists of one representative from each industry code referred to above. The group assesses modification proposals that are referred to it to determine whether there are cross-code impacts.<sup>13</sup>

2.54. Where cross-code impacts are identified and two or more modification proposals (across two or more codes) are needed, the group will determine which code is to be used as the lead code for the change. The lead code shall coordinate with the other affected codes to allow them to manage the processes under their codes in parallel with the process under the lead code.<sup>14</sup>

2.55. We propose that we use the arrangements created under REC as the basis for an updated cross-code change process in all codes.<sup>15</sup> We also propose to use the terms of reference of the CCSG as the basis for a future cross-code forum.

2.56. We consider that introducing a harmonised approach to cross-code working could help to improve the raising and implementation of cross-code change across the codes. We also consider that the process steps created under the CCSG, eg, the

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<sup>11</sup> CACoP Principle 13 'Code Administrators will ensure cross-code coordination to progress changes efficiently where Modifications impact multiple codes'.

<sup>12</sup> [Retail Energy Code v2.0 and Retail Code Consolidation Decision](#)

<sup>13</sup> Information contained in REC CCSG Terms of Reference

<sup>14</sup> REC Schedule 5, Change Management, paragraph 3.4(b).9

<sup>15</sup> REC, BSC, UNC, IGT UNC, DCUSA, SEC, Connection and Use of System Code (CUSC), Distribution Code, Grid Code, System Operator Transmission Code (STC), and Security and Quality of Supply Standard (SQSS).

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process of determining a lead code for a change, are sensible and if followed, could be an effective way of implementing cross-code change across the codes.

2.57. We are seeking stakeholder views on our proposals on cross-code working, including any improvements that could be made to the cross-code process.

2.58. We intend to consult on the requirements related to facilitating consequential changes in the upcoming joint consultation with DESNZ.

## **Progress of a modification proposal and workgroups**



2.59. We intend that code managers would be responsible for determining the timeframe for progressing a modification proposal. This would include whether the modification can go forward for consultation or if a workgroup needs to be established.

2.60. While we recognise that the need for a workgroup will vary between modification proposals, we propose that the default will be that a workgroup is established. This would help to ensure that industry expertise is drawn on when required. Comments from the MPW included some support for having workgroups as the default, noting that outcomes are better when there is industry participation. However, a workgroup will not be needed for every modification. Reasons for not having a workgroup may include:

- the proposed solution is fully developed and clearly explained
- the impacts of the modification are included and explained, including on central system delivery bodies
- there are unlikely to be alternative modification proposals raised

2.61. However, we intend that the code manager and the proposer will work together to develop modifications ahead of a workgroup. This could include the code manager commissioning analysis to help assess a modification. This should reduce the need for a workgroup or number of workgroups held for a modification proposal.

2.62. When deciding whether a workgroup should take place, as well as the number and frequency of these, we propose the code manager would be required to consult SAF for its views. Where the code manager decides a workgroup is not needed, they would be required to explain this decision in the consultation report.

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- 2.63. In current arrangements, there are different types of workgroups. These include workgroups to consider a single modification proposal or standing groups where modification proposals cover a specific part of the code, for example charging. We do not propose to restrict the type of workgroup the code manager can establish.
- 2.64. We intend that workgroups should consist of a core membership and that quoracy arrangements would be in place to ensure their view carries appropriate weight. Any stakeholder would be able to request to join a workgroup, but they would need to provide justification for their inclusion. We also propose that workgroup members are not required to act impartially to encourage less well-resourced parties to join. Part of the role of a workgroup would be to provide their assessment of the modification proposal against the relevant code objectives. The workgroup will also be asked to confirm if it has met its terms of reference.
- 2.65. The code manager will play a key role in workgroups. We propose that this will include chairing meetings, facilitating and coordinating input from workgroup members or other stakeholders as well as procuring additional analysis, where needed. We also expect that code managers will have a role in ensuring that the views of under-represented participants are recorded and considered as part of the workgroup discussion.
- 2.66. We welcome any comments from stakeholders in respect of how a code manager should decide the need for a workgroup in a future modification process.

## **Alternative modifications**

- 2.67. Alternative modifications allow for other options to be developed alongside the original modification proposal. Who can raise alternative modification proposals varies across codes. Some codes also include a numerical limit on the number of alternative modifications that can be raised.
- 2.68. We expect that the creation of a pre-modification process across codes and the code manager assessing modification proposals against the proposed triage criteria should help to ensure that modification proposals are well-developed before entering the modification process.
- 2.69. We recognise, however, that during workgroup discussions changes could be proposed to the original modification proposal. For this reason, we consider that workgroups should be able to raise alternative modifications. We also propose that the code manager may raise an alternative modification.
- 2.70. We have also considered if a numerical limit should be placed on the number of alternative modifications that can be proposed. Restricting the number of alternative modifications that can be raised should avoid multiple similar

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alternatives and improve the quality of alternative modifications. Comments from the MPW included some support for this approach, noting that it can be difficult to manage multiple alternatives. However, there were concerns that stakeholders may feel disenfranchised by the process if they are unable to raise an alternative.

- 2.71. We propose that codes should have a limit of three alternative modifications that can be proposed, in line with our recent decision on a DCUSA modification.<sup>16</sup> Any alternative proposal would be assessed by the code manager against the triage criteria before being accepted into the modification process. We also propose that an alternative modification must be considered as better than the original modification proposal (rather than the baseline of the code) for the code manager to accept it as an alternative. We consider that SAF should provide its view to the code manager on whether the alternative modification is better than the original modification proposal.
- 2.72. Where it is proposed to raise more than three alternative modifications, we intend that the code manager must consult with SAF on a way forward. We propose that the code manager should be able to withdraw an existing alternative to introduce a new one. We welcome stakeholder views on any checks and balances that may be needed in this situation.
- 2.73. We do, however, recognise that there could be exceptional circumstances where more than three alternatives may result in the best solution being delivered. We envision that the code manager should consider if a further alternative would address the issue in a substantially different way to the existing alternatives prior to accepting it into the process. We propose that where the code manager and SAF disagree on whether a further alternative modification should enter the process, it may be appealed to the Authority.
- 2.74. We are seeking stakeholder views on our proposals on alternative modifications.

## **Consultation**



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<sup>16</sup> [DCP441: Proposal to increase the number of allowed Change Report alternative variations from two to three - Authority decision | Ofgem](#)



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2.75. In existing arrangements, modification proposals are consulted on to obtain the views of stakeholders. The number of times a modification is consulted on varies.

2.76. We propose that the default will be that modification proposals are consulted on once, and that the code manager would be able to carry out an additional consultation if needed. The code manager will be required to produce the draft modification report for consultation.

2.77. The consultation must include, as a minimum, an initial assessment of whether the modification proposal better facilitates the relevant code objectives. This should include the assessment and the reasons for it (or a summary of), from the following:

- proposer of the modification proposal
- code manager
- SAF
- workgroup, where relevant

2.78. The consultation will also include detail, where relevant, of the workgroup discussions and how the modification proposal developed through this process.

2.79. The code manager will also be required to explain how it has taken the view of SAF into account in its assessment. In the event that the code manager and the SAF do not align on whether the modification proposal should be implemented, the code manager must explain the reasons for this misalignment.

2.80. We are seeking stakeholder views on our proposal set out above.

## **Recommendation to Ofgem / Self-governance decision**



2.81. The code manager will be responsible for producing a final report for submission to the Authority. This report will set out the modification proposal and either (i) seek the Authority's consent to the proposal; or (ii) inform the Authority of the code manager's decision in respect of a self-governance modification (that doesn't require Authority consent).

2.82. Prior to making their final assessment of a modification proposal against the relevant code objectives, the code manager will share with SAF the views of

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stakeholders in response to their consultation. The code manager and SAF should consider stakeholder responses prior to finalising their view on whether the modification better facilitates the relevant code objectives.

2.83. In this final report the code manager would provide an assessment of the modification against the relevant code objectives (with the reasons for this assessment). It would also provide the final view of the SAF. Like the consultation stage, the report must also explain how the code manager has taken account of the views of SAF in making their assessment against the relevant code objectives. Should the code manager and the SAF not align on whether the modification proposal should be implemented, the code manager would provide the reasons for this misalignment.

### **Send back**

2.84. We envisage that the Authority will retain an ability to send back modification proposals where it considers that it is unable to form an opinion in relation to a modification report. We anticipate this will be included in the code manager licence and intend to consult with stakeholders on this as part of an upcoming consultation with DESNZ.

### **Delivering change to the modification process**

2.85. In our January 2024 Implementation Consultation, we discussed how best Ofgem could deliver an updated code modification process and presented two options:

- Option 1: Ofgem approved document prescribing a high-level modification process, including a set of principles and key stages for all code managers to align with (similar to the CACoP). Existing legal text in codes would be updated in line with this guidance, by Ofgem using transitional powers when introducing the role of the code manager. This option would allow code managers to further develop the detail of their modification process specifically for their code. However, it may embed existing differences that continue to prevent effective co-ordination and/or engagement.
- Option 2: New template legal text to align, as far as possible, a standard end-to-end modification process across all codes. Ofgem would implement new code modification sections into the codes using transitional powers, rather than applying incremental changes to update the existing legal text. This option may deliver a more coherent and consistent process but risks being inflexible.

2.86. We consider that Option 2 would allow us to effectively deliver the changes we have set out in this section. It would also more effectively harmonise arrangements across codes which could help to facilitate cross-code coordination. We also

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consider that harmonisation would make it easier for smaller parties to engage across the codes. We recognise that there are individual differences between codes that could mean full alignment across codes is not possible and we are mindful that these should be taken into account in future drafting.

2.87. We are seeking stakeholder views on our proposal set out above.

### **Code Administration Code of Practice (CACoP)**

2.88. The CACoP was introduced in 2010 and includes principles for code administrators to follow as well as principles applicable to a code modification process. There are currently 16 principles.

2.89. Alongside the CACoP is the CACoP Forum, which is a regular meeting of the code administrators<sup>17</sup>. There is also a website that allows stakeholders to access information on multiple codes in one place, including a central modification register.

2.90. In our proposals for a future modification process, we have considered the principles contained in CACoP and may incorporate these, where appropriate, into our proposals. The activities of code managers will be subject to licence conditions and may include obligations, for example to report on their performance.

2.91. If the decision is taken to proceed with these proposals, we do not consider that the CACoP would be needed under the new framework, and we propose to remove it.

2.92. We do not propose to modify existing licence obligations referring to the CACoP at this time, because we consider these provisions may still be required until the transition to the new code governance framework is complete. However, we intend to keep this under review during the transition and will consult further if our position changes.

2.93. We welcome any comments from stakeholders in respect of the future of the CACoP.

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<sup>17</sup> [Home - CACoP](#)

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## 3 Stakeholder Advisory Forum (SAF)

This section sets out our detailed proposals for Stakeholder Advisory Forums. It includes our proposals on:

1. proposed SAF objectives
2. SAF membership
3. how a SAF should operate including impartiality requirements and SAF voting.

### Questions

Q11: Do you agree with our proposed SAF objectives?

Q12: Do you agree with our proposals for SAF membership?

Q13: Do you agree with our proposals on how a SAF will operate?

- 3.1. Code reform introduces licensed code managers, whose role will include recommending code changes to Ofgem. It will be essential that stakeholder views are heard and accounted for within code manager recommendations. In the previous chapter, we set out ways in which we envisage the SAF view will be accounted for in the future modification process.
- 3.2. In July 2021<sup>18</sup> ([July Design and Delivery Consultation](#)) we set out our expectation that we would require code managers to establish SAFs. In April 2022<sup>19</sup> (Design and Delivery Response), we confirmed that we would consult further on the detailed design of SAFs. In our August 2024 Implementation Decision we decided that SAFs would be constituted with a fixed impartial membership of stakeholders, including code party representatives and independent parties plus a pool of additional members. In this chapter, we set out our more detailed proposals on the composition and operation of SAFs.
- 3.3. We have aimed to develop proposals that:
  - ensure that the SAF is able to provide the code manager with advice, support and assistance for carrying out its role
  - reflect the important role of stakeholder views in the code modification process
  - require a range of stakeholder views to be captured within each SAF

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<sup>18</sup> [Design and Delivery of the Energy Code Reform: consultation](#)

<sup>19</sup> [Government response to the consultation on Energy Code Reform](#)

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- ensure SAF views are heard and accounted for within code manager recommendations
- would enable SAFs to have effective impartial discussion.

3.4. The key function of SAFs will be in the modification process, including providing related advice and support to the code manager as well as assessing code modifications against the relevant code objectives and voting on whether modifications better facilitate the objectives. However, we propose that their role will go beyond the modification process. These roles would be detailed in the licence or code, and would include providing support and advice to the code manager on some non-modification business (such as regarding the code manager budgets).

## **Detailed SAF arrangements**

### **SAF objectives**

- 3.5. Most existing code panels have objectives that frame how they should carry out their role. We consider that similar objectives could work well for a SAF by setting clear expectations about the role of SAF and encouraging appropriate behaviours from SAF members. We also consider objectives would be well understood by stakeholders familiar with current panel arrangements.
- 3.6. We propose to introduce into the codes objectives that the SAF should carry out its role:
- in an efficient, economical and expeditious way
  - with a view to ensuring the relevant code facilitates achievement of the relevant code objectives
  - with a view to ensuring that the relevant code is given effect without undue discrimination between the parties or any classes of party

### **SAF membership**

#### **Independent members**

- 3.7. We have previously set out our intention that SAFs will include independent members. We propose that the code manager will appoint independent members and each SAF will have at least one independent member.
- 3.8. We propose that in order to qualify as an independent SAF member, an individual must have no personal or professional connection to the code manager. Further, we propose that the relevant code would specify that an independent member must not have been a party to the code in the last 12 months (this would mirror

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requirements in existing codes, regarding independent members).<sup>20</sup> In addition we have considered if they must also be fully independent from industry parties. Our view is that full independence from industry is not necessary as it could prevent experts with relevant experience being appointed to SAF.

- 3.9. We have considered if it would be beneficial for SAF to be chaired by someone independent of the code manager. An independent SAF chair could provide confidence to stakeholders that the operation of SAF is effective, provide oversight of code processes on behalf of stakeholders and ensure that SAF members are treated fairly and equally. We therefore propose that an independent member should perform the role of SAF chair.
- 3.10. We also propose that no more than three independent SAF members, including the independent chair, should be appointed to each code, allowing for flexibility in the SAF composition. When deciding if an additional independent SAF member is necessary, the code manager should consult with the SAF chair.
- 3.11. We are seeking views on the proposals set out above in relation to independent members. We expect to consult further on restrictions relating to independent members, and in the meantime welcome comments on this from interested stakeholders.

### **Code party representatives**

- 3.12. We do not propose to set a fixed number of code party members for all SAFs as we recognise the importance of allowing flexibility to suit the circumstances of each code. However, we have considered how code party members should be appointed to the SAF so that the process is transparent and fair. This was echoed by the MPW, and there was also some support from the group for SAF members to be voted on. We have assessed two options:
- Option 1: nominations from code parties assessed by the code manager
  - Option 2: nominations from code parties followed by voting by code parties
- 3.13. For both options, a nominee would be required to set out the reasons why they should be appointed to SAF. This would include their expertise and experience in the modification process. They should also set out a declaration of interest.<sup>21</sup> The outcome of the appointment process would be published by the code manager.

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<sup>20</sup> BSC, Section B, 2.5.3

<sup>21</sup> For example as required in the Connection and Use of System Agreement, 8.3.4(e)(ii).

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- 3.14. Option 2 is our preferred option as it would provide code parties with a greater role in the appointment process than option 1, ensuring that the process is open and transparent, providing assurance to code parties. We welcome stakeholder views on our initial proposal for how code party members should be appointed to the SAF. To ensure appropriate representation of code parties at each SAF meeting, we also propose that the code will allow for the appointment of alternate SAF members.
- 3.15. Our proposal is that alternate SAF members will be appointed through the voting process (or by the code manager if option 1 is taken forward), rather than nominated by an existing SAF member. We consider our proposal could allow a wider range of code party members to gain experience of attending a SAF. This could result in a wider range of views and expertise in the forum and build a wider pool of individuals with experience of the SAF who can step forward where necessary. We welcome stakeholder views on our initial proposal for how alternate SAF members should be appointed.
- 3.16. We propose to stagger the appointment of SAF members initially by appointing some members for a two-year period while others would be appointed for a three-year period.<sup>22</sup> After the initial staggering period, we propose that members will serve a two-year term drawing on precedent from the codes. We recognise there are both opportunities and challenges with this proposal. We expect that initially staggering appointments would help to retain expertise and avoid loss of all members at the same time. However, there may also be challenges in how to select the differing length of appointment.
- 3.17. We also propose to limit the number of terms that a code party member can serve as a SAF member to two consecutive terms. We consider this could provide an opportunity for new members to be appointed to SAF which could encourage the diversity of SAF and help to build a greater base of industry expertise. Comments from the MPW included that there should be ways of updating SAF membership and encouraging new members to come forward. We recognise that limiting the number of terms could result in the loss of valuable expertise and experience, however, we anticipate that previous members would be able to seek re-election which should mitigate this risk. We welcome stakeholder views on this proposal.

## **Consumer representatives**

- 3.18. We propose that the SAF should accommodate at least two statutory consumer advocates. We do not propose that these spaces must be filled, but setting minimum requirements will ensure the consumer voice is able to be represented. The proposal for the consumer voice to be captured aligns with existing panel

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arrangements, where most codes require at least one consumer representative. There is precedent for requiring two representatives, such as on the BSC.

### **Pool of members**

3.19. In our August 2024 Implementation Decision, we confirmed how we intend SAF to be constituted, which included that there would be a pool of SAF members. A pool of members would consist of people with expertise, for example, academics and experts, who would be invited to join when needed. We do not propose to determine the membership of each pool of SAF members. Instead, it would be the responsibility of the code manager to have in place a pool of members with relevant knowledge and expertise. This should be done after consulting with the SAF.

### **Operation of SAF**

3.20. In our August 2024 Implementation Decision, we confirmed that we want SAF members to act impartially.<sup>22</sup> To achieve this, we propose to require SAF members to provide undertakings from themselves and their employer that they will act impartially. We consider that their employer could provide a letter agreeing to them acting as a SAF member and that their duty to act impartially prevails over their duties as an employee.<sup>23</sup> For the avoidance of doubt, our proposals requiring SAF members to act impartially would include pool members.

3.21. In existing arrangements, panel membership is subject to a number of requirements, for example a member may choose to resign. Views from the MPW included that members should be removed from the SAF if they fail to attend a certain number of meetings. In some codes, panel members are required to attend a certain number of panel meetings.<sup>24</sup> We propose to include similar provisions for SAF, by including that members can be removed if they fail to attend a certain number of meetings. We consider this may help to encourage engagement. In addition, if a SAF member leaves their existing employment, we propose they should be required to resign their SAF membership. We welcome views on this proposal.

3.22. Each SAF will be required to assess a modification proposal against the relevant code objectives and provide its view to the code manager on whether a modification proposal should be implemented. To provide this view, we have considered whether the SAF should vote. There are benefits to having a SAF vote;

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<sup>22</sup> Impartiality requirements would not apply to some SAF members, for example consumer advocates.

<sup>23</sup> For example as required in the BSC for panel members,

<sup>24</sup> For example as required in the Smart Energy Code, C4.5(b)



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it provides a clear view from SAF and allows the view of each member to be noted. However, voting could lead to SAF becoming more adversarial and less focused on consensus building. Nuanced discussion may be less likely if the focus of the group is the outcome of the vote.

- 3.23. Overall, we think the SAF should be required to provide a vote on whether a code modification proposal better facilitates the relevant code objectives, and if the modification should be implemented. It would allow unanimity of SAF to be highlighted. We do, however, expect the code manager to accurately reflect the discussion held by SAF in the final modification report and for this to include the detailed reasons for the view of SAF, including the minority view. We welcome views on this proposal.
- 3.24. We have previously said that we expect independent members will be paid by the code manager. We do not propose that code party or pool SAF members will be paid. There would, however, be arrangements in place for these members to claim expenses.

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## 4 Cross-cutting consequential code changes (subcommittees and derogations)

### Section summary

We set out our approach to code changes for two related areas of code governance: subcommittees (including performance assurance) and code derogations.

We set out proposals for how subcommittees should be chaired, and an approach for reviewing subcommittees' ability to make decisions and the basis on which members are appointed.

We set out policy proposals on who the decision maker should be for code derogations.

### Questions

Q14: Do you agree with our preferred approach of conducting a case-by-case review of subcommittees in terms of delegated decision making and impartiality?

Q15: Do you agree with our proposals for the running of subcommittees, including that code managers chair and provide the secretariat in all cases?

Q16: Do you agree that the same approach we are taking for subcommittees should be applied to performance assurance boards or committees where these are already in place?

Q17: Do you have any views on whether we should introduce performance assurance frameworks to the consolidated electricity technical code and electricity commercial code?

Q18: Do you agree with our preferred option of making the code manager decision maker for all code derogations?

Q19: In terms of sandbox derogations, do you agree that in the long-term there should be a harmonised process across all codes? Do you have views on our options for how SAF members are consulted on sandbox derogation requests?

Q20: Do you have views on what works well within existing sandbox derogation processes? Or views on what should change?

4.1. Various code provisions and arrangements will become out of date with the move to a new governance framework, creating a need for "consequential changes" to codes and licences. We have identified subcommittees and derogations as two areas where the underlying policy rationale for making these changes is likely to be cross-cutting, meaning that our proposed approach in the context of one code (such as the more urgent phase one codes, the BSC and REC) is likely to apply to all other codes as well.

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- 4.2. The most obvious areas that will require change are provisions and governance processes that mention either the code administrator or the code panel. Our starting assumption is that the code manager will adopt all previous functions in both instances. For example, we consider below proposals for how subcommittees should be chaired. The need to review this aspect of their arrangements is driven by mention of the code administrator in many of the existing arrangements.
- 4.3. However, in the case of both subcommittees and derogations, the need to identify consequential changes creates an opportunity to review existing governance arrangements and assess whether there is scope for a more harmonised approach across codes.
- 4.4. For both the areas in this section, decision making is a key aspect of the governance framework. Subcommittees often make decisions with authority delegated from code panels and will have a new relationship to the code manager. Derogation decisions are often coordinated by panels but we have not identified a common approach across the different codes in terms of who makes the decision to grant a derogation. We will, therefore, need to determine whether in all cases decision making should transfer to the code manager, and whether processes should be kept as they are, or updated using our transitional powers.
- 4.5. The proposals that we set out below have been informed by the following considerations:
- Ensuring that decisions are taken in an objective and independent way
  - Simplifying code governance arrangements so that they are easier to engage with for parties (both existing and prospective) and other stakeholders
  - Ensuring that we do not unnecessarily cause disruption in the energy sector
  - Ensuring that the right expertise is involved in decisions

## **Subcommittees**

- 4.6. Much of the day-to-day work of code governance is carried out by subcommittees, which often possess delegated authority from industry code panels. These subcommittees are typically made up of industry representatives and other experts. Their work ranges from making decisions and recommendations on code modifications to implementing the provisions of a code and dealing with disputes, party accession and exit, security, and more.
- 4.7. As additional context, we have set out some of the most common subcommittee types below (although this list is not exhaustive):

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- **General issues groups** provide a general forum for stakeholders to discuss issues and can inform the development of the code. For example, the DCUSA Issues Standing Group.
  - **Specialised issues groups** discuss a more specialised set of issues, for example the Grid Code's Joint European Stakeholder Group, which focuses on cross-border issues.
  - Certain **technical groups**, such as the REC's Metering Expert Group and the SEC's Smart Metering Key Infrastructure Policy Management Authority, are delegated powers by Panels to make decisions and recommendations on specific parts of a code. Certain other technical groups, such as the Distribution Code's Industry Technical Codes Group, exist primarily to advise on technical matters relating to the development of a code.
  - **Disputes groups** advise or rule on disputes under the code, for example, the BSC's Trading Disputes Committee and Q8 Committee.
  - Certain **settlement groups** advise on areas where the operation of a settlement rule calls for decision making, such as the Allocation of Unidentified Gas sub-committee in the UNC. Certain other settlement groups make decisions on matters under a code relating to the settlement of dues, such as the Imbalance Settlement Group in the BSC.
  - **Accession/exits subcommittees** deal with accessions and/or exits, for example the Offtakes Committee in the UNC.
  - **Performance assurance subcommittees** monitor compliance with the code, for example existing groups in the REC, BSC and UNC.
- 4.8. The removal of code panels and introduction of new roles – the code manager and the stakeholder advisory forum (SAF) – means there is a need to look at how to update provisions and other documentation describing subcommittees, and also an opportunity to look at how they should operate under the codes' new governance arrangements. We assume that where delegated authority is retained, this would flow from the code manager instead of the panel. However, there is a need to review whether retaining delegated authority is the right solution under the new governance arrangements.
- 4.9. The question of whether subcommittees should continue to have delegated authority is also linked to their membership, as who sits on the subcommittee will determine who is in practice making the decision. One of the key questions in terms of membership is whether members of a subcommittee should attend on an

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impartial basis or not. We have therefore also considered whether to introduce impartiality requirements as part of this process, where those may not already exist.

4.10. Impartiality would mean that members contribute to discussions and decisions without being unduly influenced by concerns relating to their own organisation. Considering impartiality contributes to our code reform objective to achieve independent governance of the codes, which has driven our decision to introduce impartiality requirements for SAF members. However, we are conscious that while these arrangements are appropriate for the SAF, they may not be appropriate in all cases for subcommittees.

### **Subcommittee delegated authority and membership**

4.11. We set out below different approaches to the decision making and membership of subcommittees, including our preferred approach of a case-by-case review by Ofgem and industry of the delegated authority and membership arrangements of subcommittees.

4.12. All the options involve retaining subcommittees in some form. We believe that not retaining them would risk significant loss of expertise in decision making processes and lead to disruption. It is also important to note that under options that involve retaining delegated authority, this does not rule out subcommittees with delegated authority also acting in an advisory capacity in some instances (ie, considering issues where their expertise is relevant, but not necessarily making a decision):

- **Option 1 – case-by-case review (preferred):** Ofgem works with industry to review the delegated authority and impartiality requirements of subcommittees on a case-by-case basis. Where delegated authority is retained or introduced, we expect in most cases this would move to delegated authority from the code manager<sup>25</sup>
- **Option 2 – decision making moves to the code manager:** any delegated authority is removed and decision-making transferred to the code manager; all subcommittees to have impartiality requirement

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<sup>25</sup> Where delegated authority currently stems from the code panel, this would result in a code change where mention of the panel is updated to refer to the code manager. We believe this will cover many instances of delegated authority, but will consider instances of delegated authority from other sources also on a case-by-case basis. We believe there is a strong case for moving the source of delegated authority to the code manager, unless there is a particularly compelling reason to take a different approach.

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- **Option 3 – mixed approach:** any delegated authority is removed and transferred to the code manager; Ofgem works with industry to review impartiality requirements on a case-by-case basis
- **Option 4 – maintain status quo:** all existing delegated authority and impartiality arrangements are retained, but with necessary consequential changes (for example, where delegated authority is currently from the code panel, this would be retained but code changes would change the source of delegation from the panel to code manager)

4.13. We consider that option 1 strikes a balance between a one-size-fits-all approach that risks causing disruption and a status quo approach that risks embedding ineffective arrangements in the future code governance landscape. Option 1 would also allow us to look at membership and delegated authority side by side. For example, if a subcommittee does not have delegated authority, this might change the assessment of whether impartiality requirements for members are also needed. This option would allow decisions on these matters to be taken with reference to the purpose and business of the subcommittee.

4.14. However, there may be a stronger case for this option for the phase 2 and 3 codes, rather than the BSC and REC, as there will be an additional need to review subcommittees as part of code consolidation (ie ensuring that consolidation does not lead to duplication of very similar subcommittees). We are also mindful that option 1 would represent a higher resource burden for both us and the industry, which will need to be balanced against other work required during the transition period.

4.15. Option 2 would remove delegated decision making from subcommittees in all cases. It would also require all subcommittee members to act impartially. This option would mean that subcommittees more closely mirror the SAF, which will be advisory and have a requirement for impartial members. This option would most closely align with our principle of creating independent decision making as far as possible, as decisions previously taken by subcommittees would move to code managers.

4.16. However, we believe that option 2 is likely to place unnecessarily stringent requirements on subcommittees in a way that could be disruptive and risk loss of valuable expertise. While we think impartial membership and advisory status is right for the SAF, the greater array of subcommittee business, and the fact the SAF is a new forum whereas subcommittees will not be, means taking this approach without further review of subcommittees holds risks.

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- 4.17. Option 3 would introduce the case-by-case approach of option 1, but only in relation to membership impartiality requirements. All delegated authority for decision-making would be transferred to the code manager. The disadvantage of this approach is that it does not allow for the in-the-round analysis of subcommittee purpose, membership, and delegated authority to determine the best overall combination of these factors.
- 4.18. Option 4 would cause the least disruption and require the least resource, but risks embedding governance processes that do not achieve our aim of independent decision making. As a result, we consider that option 4 is likely to be a missed opportunity to review and update subcommittee arrangements using Ofgem's transitional powers. By using our powers to ensure independent decision making is given proper consideration, we are more likely to meet the overall aims of energy code reform.
- 4.19. We welcome stakeholder feedback on whether option 1 is the right approach to subcommittee membership and delegated authority arrangements. We expect that the case-by-case review will involve using a workgroup approach. We have also set out further detail on our approach to industry engagement in the section below on implementation.

### **Subcommittee chairing and relationship to the code manager and SAF**

- 4.20. Under current arrangements, there are different approaches to the chairing of subcommittees. In some cases, the code administrator has responsibility for appointing the chair, and in other cases it is responsible for chairing. Similarly, in some codes it is stipulated that the chair should be independent, whereas in other codes there are only references to specific aspects of the chair's role, (for example, ensuring that the terms of reference should be observed, the fact that the chair does not cast a vote in terms of decision making).
- 4.21. Should our preferred option be taken forward, we believe that there is a strong rationale for standardising arrangements for the chairing of subcommittees, with the code manager becoming responsible for chairing and providing the secretariat for all subcommittees. This approach would allow code managers to have oversight of the work of subcommittees, allowing them to draw connections between different aspects of code governance.
- 4.22. There will be significant scope to further refine and develop the role of the code manager as chair and secretariat for subcommittees, and we are interested to hear stakeholders' views on this point. However, we think it is important to provide

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initial thinking on the kind of role we envisage so that stakeholders have sufficient context to consider our proposal.

- 4.23. In chairing the subcommittee, the code manager would ensure the business of the committee is conducted according to the terms of reference and guide the business of the committee in an impartial way, for example by setting the agenda for meetings in collaboration with subcommittee members and ensuring the right balance of views is considered during meetings. Chairing would also involve questions of access to the meeting, for example, agreeing to additional attendees and overseeing the subcommittee's membership processes.
- 4.24. We consider that not placing code managers in this role would be a missed opportunity to ensure coordination and build synergy between the work of subcommittees. In many cases, the code administrator already has responsibility for both chairing (or for appointing a chair) and providing the secretariat for subcommittees, and therefore this proposal would be a continuation of the role that code administrators already provide.
- 4.25. By chairing subcommittees, code managers would also be able to direct the work of subcommittees. But, as impartial owners of code governance, they would still need to ensure that the views of subcommittee members are fully reflected, such as when setting agendas and agreeing workplans. We acknowledge that this may lead to a change in how subcommittees determine their business in some instances. We welcome stakeholder views on the above proposals.

## **Performance Assurance**

- 4.26. Among the subcommittees that exist for different codes are those related to the performance assurance frameworks of the REC, BSC, UNC and SEC. With the exception of the REC Performance Assurance Board, which reports to the Retail Energy Code Board, the remaining committees report to their respective code panels.
- 4.27. We recognise that performance assurance is an area that may warrant special consideration within the context of our proposals on subcommittees. We consider that given the sensitive nature of performance assurance, and its potential impact on market stability and consumer protection, this will be an area where decisions must be taken by the relevant code manager in the future.
- 4.28. When it comes to the independence of the performance assurance board or committee, we note that various independence arrangements are already in place for all four of these codes. We will therefore need to consider whether to preserve these existing arrangements, where they currently work well and are tailored to



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the unique context of the code in question, as opposed to potentially seeking to align them across codes where a common approach would provide benefits.

- 4.29. We would be interested in stakeholder views on whether you agree with our proposal to adopt a mixed approach to our review of performance assurance regimes (ie, option 3 above), with decision making authority transferred to code managers and a case-by-case review of existing independence requirements.
- 4.30. Separately, we are interested in exploring whether performance assurance regimes should be extended to the remaining two codes – the electricity technical code and the electricity commercial code. This may be explored further at the Code Consolidation working groups detailed in Section 7 of this consultation. At this point, we welcome stakeholder views on this approach, and whether you have any concerns.

## **Code derogations**

- 4.31. Code derogation provisions allow parties to request to have certain code rules disapplied. The codes currently have different processes for derogations, although in most cases the code administrator and the code panel have a key role. These roles will need to be updated, and as mentioned above, our starting assumption is that the code manager would be the replacement in both instances.
- 4.32. One of the key uses of these provisions is to allow parties to trial innovative approaches in the sector. When used in this way, code derogations can form part of our Energy Regulation Sandbox. The sandbox exists to help innovators trial or bring to market new products, services, business models and methodologies without some of the usual rules applying.<sup>26</sup> The BSC and DCUSA both have sandbox derogation provisions that involve making an application to Ofgem.
- 4.33. We are also aware that in some cases derogation provisions have a more specific application in the codes. For example, the BSC has “sandbox” derogation provisions that are detailed in section H10 of the code, as well as specific derogation provisions that apply to the rules around the “Qualification process” that are included in section J3. In the case of the Qualification derogations, the panel is the decision maker. This demonstrates a need to consider different derogation processes when making consequential changes, rather than only focusing on sandbox provisions.

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<sup>26</sup> More information on the Energy Regulation Sandbox can be found here: [Energy Regulation Sandbox | Ofgem](#)

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4.34. In this section, the main policy question we explore is who the decision maker should be for derogations. We consider there is a strong rationale for making the code manager the decision maker across all derogations. Providing policy clarity on who should make derogation decisions will help to set direction for the key consequential changes required.

4.35. Beyond our proposals on changes to the decision maker, we do not expect to alter other aspects of the derogations processes as set out in the REC and BSC in the shorter-term. However, as explored in the second part of this section ("development of the regulatory sandbox" subsection below), we do expect there to be further changes to sandbox derogation provisions in the longer term as part of our wider work on innovation.

### **Code manager as decision maker for derogations**

4.36. We envisage benefits to having a consistent decision maker for both sandbox and rule-specific derogations. Having a common decision maker will make processes easier to engage with for parties and innovators. Having decisions made by the same body may also improve efficiency of governance, by ensuring one organisation is responsible for continuous improvement of processes and making links between derogations applications.

4.37. Below we set out four options for who could be the decision maker under the new code governance framework, with a preferred option for this to be the code manager in all cases:

- **Option 1** (preferred approach) – code manager
- **Option 2** – performance assurance board
- **Option 3** – Ofgem
- **Option 4** – maintaining the status quo, and only changing provisions where a consequential change is required

4.38. We prefer Option 1 because we believe the code manager will be best placed to ensure derogation decisions are taken in an independent way, with all relevant considerations taken into account, meeting one of the key principles set out at the beginning of the section. Code managers will also have access to the expertise needed to reach balanced and informed decisions. The BSC derogation process offers an example of where the code administrator must already undertake in depth analysis to inform a decision before bringing an application to the panel. Similarly, we expect the code manager, once in place, will be able to conduct or commission relevant analysis.

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- 4.39. Our proposals on making code managers responsible for chairing subcommittees will also improve the ability of code managers to access relevant expertise where this is not already available within their organisation.
- 4.40. For some more technical derogations, the panel is the decision maker and, with code managers adopting panel functions, option 1 would be consistent with the wider approach of code managers adopting panel functions.
- 4.41. There is some precedent for option 2, with the performance assurance board taking derogation decisions for the REC. Because these boards do not exist across all codes, this option would mean we are not able to achieve a harmonised approach. It is likely for the same reason that this option would create more disruption during implementation, as there may be a need for further reconfiguration of governance beyond what is required by code reform.
- 4.42. In terms of option 3, Ofgem currently has a decision-making role for some sandbox derogations and would be able to ensure that derogation decisions are taken on an independent basis. The fact that Ofgem currently takes sandbox derogation decisions would also mean less disruption for some codes. However, we do not consider that it would be either proportionate or efficient for Ofgem to act as the default decision maker for all types of rule-specific derogations, particularly when considered alongside the introduction of the licensed code manager role.
- 4.43. Option 4 would involve making the minimum number of changes to the derogations processes, in most cases this would involve changing references to the code panel and code administrator. In the case of sandbox derogation provisions for the phase 1 codes, it would likely mean replacing panel roles with that of the code manager in the BSC. However, the REC would remain largely unchanged, leaving the performance assurance committee as decision maker. This approach would leave the processes unaligned in the nearer term and, while this would minimise disruption, it would not meet our principle of streamlining processes. It may also mean processes are not aligned in terms of how they ensure independent decision making.

## **Development of the regulatory sandbox**

- 4.44. Separately from energy code reform, we are currently reviewing the regulatory sandbox, and plan to bring forward separate proposals later for how it should develop to meet the needs of the industry. Developing proposals for an optimised derogations process will likely form part of this work. For example, we have already heard from industry that the ability to switch off code rules, while useful to an extent, provides insufficient flexibility to trial new rules in some instances.

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4.45. Because this work is taking in place in tandem with code reform, we will keep under review how and when the new proposals on sandbox derogations should be implemented in the codes.

4.46. However, we want to use this consultation to test certain design principles that would apply to the development of sandbox derogation provisions. We think it is important for Ofgem to continue to have a role in sandbox derogation decisions, although further work is needed to determine the best way for Ofgem to interact with sandbox applications. We also think that there is a potential role for SAF to provide views to the code manager before a decision is taken. We are therefore proposing that, as part of our preferred option, that the code manager would need to seek representations from both Ofgem and SAF members before reaching a decision. However, the ultimate decision maker would be the code manager.

4.47. In summary, the key points we are seeking stakeholder views on are whether:

- There should be a single, harmonised sandbox process across all codes, with small differences only where required (which is our preferred approach), or whether each code should develop its own regulatory sandbox process
- SAF members should be sighted and have the opportunity to comment on all derogation requests, or whether only certain derogation requests should be presented to SAF, as determined by the code manager

4.48. We are also interested to hear from stakeholders about features of existing sandbox derogation processes that work well and should be kept, and features of the process that do not work well.

## 5 BSC / REC Cost Recovery

### Section summary

This section sets out our proposal to retain the code administrator cost recovery methodologies found in the BSC and REC and adapt these for use as the cost recovery methodologies for the respective code managers. Additionally, we present some initial thinking on the implementation of this and the consequential changes that will be required.

### Questions

- Q21: To what extent do you agree with the proposal to retain the existing code administrator cost recovery methodologies in the BSC and the REC? (Noting that appropriate consequential changes would need to take place)?
- Q22. Are there any specific factors or concerns we should consider when carrying out the consequential changes required to implement the changes to the cost recovery mechanisms?

## Background

- 5.1. In the October 2024 government response to the consultation on code manager licensing and secondary legislation,<sup>27</sup> we set out our decision to proceed with the proposal to decide on a code-by-code basis whether to retain existing cost recovery methodologies for the code administrators when transitioning to the code manager framework. This decision was broadly supported by stakeholders, although some noted that this may cause inconsistencies between codes. Whilst we recognised this concern, we noted that we would assess each existing methodology against uniform criteria, which should help to mitigate inconsistencies.
- 5.2. We are now consulting on our preferred approach for the REC and the BSC,<sup>28</sup> which is to retain the existing cost recovery methodologies.

## Approach to analysis

- 5.3. In forming a view on whether to retain the existing cost recovery methodologies we have assessed them against the following criteria:
- Is the cost methodology cost reflective?

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<sup>27</sup> [Energy Code Reform: Code manager licensing and secondary legislation - government response](#)

<sup>28</sup> These are the first codes we expect to have a code manager in place for.

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- For example, does it reflect usage of the service and/or the parties size/market share?
  - Is it transparent? Is it clear?
    - We have considered transparency as being open and clear about who pays for the code charges as well as clarity on where this is set out, is there clear signposting etc. Transparency also ties in with cost reflectivity
  - Does it have a negative impact on competition?
    - Is there any evidence to suggest that the methodology can have negative impacts on competition, through for example unduly burdensome administrative costs (which could impact smaller parties)?
  - Considerations for implementation
    - Is there a risk of it being unduly burdensome or complicated to retain the approach?
- 5.4. These were developed based on the factors we indicated that we would consider in the March 2024 consultation<sup>29</sup>
- 5.5. Neither the REC nor the BSC are being consolidated with another code, as set out in our August 2024 Implementation Decision.<sup>30</sup> Additionally, following the decision to proceed with a non-competitive selection process of the code managers for the REC<sup>31</sup> and the BSC,<sup>32</sup> both Elexon and RECCo are being considered to become code managers for their respective codes. If we do proceed to license Elexon and RECCo, then maintaining the current cost recovery arrangements would help to minimise disruption.

## **Overview and analysis of the REC's cost recovery methodology**

- 5.6. In table 2, we provide an overview of the REC's cost recovery methodology, which summarise where it is set out, what services it covers and who pays.
- 5.7. In table 3, we analyse the methodology against the criteria specified above.

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<sup>29</sup> [Energy Code Reform: Code manager licensing and secondary legislation - government response](#)

<sup>30</sup> [Implementation of energy code reform: decision | Ofgem](#)

<sup>31</sup> [Determination of the basis of selection of a code manager for the Retail Energy Code](#)

<sup>32</sup> [Determination of the basis of selection of a code manager for the Balancing and Settlement Code](#)

Table 2: Overview of the REC cost recovery mechanism

Where is the methodology set out?	RECCo's administration costs are set out in clause 9 of the REC. Additionally, clause 10 requires that schedule 10, "charges dependent on usage", is developed and implemented.
Does the methodology only cover code manager activities / services?	<p>The cost recovery framework in the REC covers services required by the code that may not align with the role of a code manager. For example, the enquiry services provided by RECCo. A decision whether these additional services will be identified in the code as code manager activities has yet to be made. We plan to make a decision on this in the next phase of the project as part of our work on consequential changes to the code<sup>33</sup>.</p> <p>Where it is determined that there are functions under the code that are not code manager activities, the costs and charges related to the code manager role will need to be distinguished in the methodology.</p>
Who pays?	Energy suppliers and DNO's pay for RECCo costs (section 9). Non-code parties may pay for specific charges set out in schedule 10 (charges dependent on usage).

Table 3: Analysis of the REC cost recovery mechanism

Is consolidation with another code planned?	No
Is the cost methodology cost reflective?	Yes, the charges for code administration are reflective of the parties' market share, measured by number of meter points on the energy supplier or DNOs network. RECCo publish an annual charging statement which explains the breakdown of these charges. <sup>34</sup>

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<sup>33</sup> We note that we are not proposing to remove any additional services currently provided by RECCo as required by the REC. Any consequential changes made to the REC will focus on specifying whether these additional services will be provided in a code manager capacity or a non-code manager capacity.

<sup>34</sup> [REC Charging Statement 2024](#)

Is it transparent? Is it clear?	Yes, it's clear how code administration costs as well as charges dependent on usage are recovered and what approach is implemented. For example, the annual charging statement provides a breakdown of RECCo charges – this is a subsidiary document but is clearly sign posted throughout the REC.
Does it have a negative impact on competition?	We have not come across any evidence that this methodology could have a negative impact on competition. Costs, and what each party pays, are clearly set out, and it does not appear that the administrative process for paying these, or how to calculate costs, are unduly burdensome (which could impact smaller parties). They are also distributed based on parties' size, such as number of metering points.
Considerations for implementation	Focus on changing language within the code to reflect code reform. Ensure costs for code management are distinguished and clearly reflected.

## Overview and analysis of the BSC's cost recovery methodology

5.8. Below, in table 4, we provide an overview of the BSC's cost recovery methodology, which summarise where it is set out, what services it covers and who pays.

5.9. In table 5, we analyse the methodology against the criteria specified above.

Table 4: Overview of the BSC cost recovery mechanism

Where is the methodology set out?	BSC administration costs are primarily set out in section D of the BSC.
Does the methodology only cover code administrator activities/services?	The cost recovery framework in the BSC covers services required by the code that may not align with the role of a code manager. For example, the central system delivery body function and MHHS programme delivery performed by Elexon. A decision whether these additional services will be identified in the code as code manager activities has yet to be made. We plan to make a decision on this in



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	<p>the next phase of the project as part of our work on consequential changes to the code<sup>35</sup>.</p> <p>Where it is determined that there are functions under the code that are not code manager activities, the costs and charges related to the code manager role will need to be distinguished in the methodology.</p>
Who pays?	BSC Parties, including energy suppliers and generators.

Table 5: Analysis of the BSC cost recovery mechanism

Is consolidation with another code planned?	No
Is the cost methodology cost reflective?	The amount each BSC Party pays (Funding Shares) depends on their market role and the volume of energy they generate, supply or trade. This is broadly cost reflective, on the basis that the more energy the party generates, supplies or trades, the more reliant one is on the BSC (including the administration of it) to facilitate those activities.
Is it transparent?	Yes – code administration charges are clearly set out in section D.
Does it have a negative impact on competition?	<p>We have not come across any evidence that this methodology could have a negative impact on competition. Costs, and what each party pays are clearly set out, and it does not appear that the administrative process for paying these, or how to calculate costs, are unduly burdensome (which could impact smaller parties).</p> <p>They are also distributed based on parties' size, such as number of metering points.</p>

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<sup>35</sup> We note that we are not proposing to remove any additional services currently provided by Elexon as required by the BSC. Any consequential changes made to the BSC will focus on specifying whether these additional services will be provided in a code manager capacity or a non-code manager capacity.

Considerations for implementation	Focus on changing language within the code to reflect code reform. Ensure costs for code management are distinguished and clearly reflected.
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## Proposal

5.10. Following the assessments above, our preferred approach is to retain the existing cost recovery methodologies in the REC and the BSC, subject to appropriate consequential changes to reflect the new code manager framework. We believe that they sufficiently satisfy the criteria regarding cost reflectivity, transparency and competition. We also consider that retaining existing approaches is likely to provide the least disruption to industry, and that there is not a strong rationale to change something that works well. Therefore, we consider this approach preferable to developing new methodologies and mechanisms for cost recovery.

## Approach to implementation

5.11. Subject to the proposed approach above being adopted, we propose to engage with Elexon and RECCo to develop draft consequential changes to the current cost recovery mechanisms set out in the REC and the BSC. In addition to housekeeping changes reflecting the new framework, we anticipate that this will involve work to draw out and distinguish the code manager costs from other potential functions being charged for under the code. This is to improve transparency and make the links to the code manager budget (as has been described in the 2024 joint consultation) clearer. We expect that, to the extent possible, the mechanisms under which parties are charged will remain the same. More detail on the implementation of this is set out in chapter 7 of this consultation.

## 6 Directing Central System Delivery Bodies

### Section summary

This section provides detail on Ofgem’s power to direct responsible bodies for central systems, as provided for in the Energy Act 2023. We explain the purposes for which these directions may be used, and some possible scenarios in which it may be appropriate to issue them. We explain the process that we will follow to determine whether to issue a direction and the steps we will follow should we decide to do so. We also provide a high-level summary of the consequential changes we expect may be necessary to facilitate the direction power.

### Questions

Q23: To what extent do you agree with the proposed approach to issuing directions to responsible bodies for designated central systems, in particular the proposed consultation process?

Q24: Are there any factors we should consider when carrying out the consequential changes required to implement the power to direct responsible bodies for central systems?

## Background

- 6.1. The Energy Act 2023 grants Ofgem the ability to give directions to the bodies responsible for operating, or for procuring the operation of, ‘designated central systems’.<sup>36, 37</sup>
- 6.2. On 29 January 2025, the Secretary of State designated the following systems as “qualifying central systems” for the purposes of Schedule 12 of the Act, which allows us to use the transitional powers set out in that Schedule to make any changes needed to facilitate Ofgem’s power to issue directions:
  - the central system operated by the Central Data Service Provider (CDSP) (as defined in Standard Special Condition A15 of the gas transportation licence) for the purposes of providing CDSP Services (as defined in Section D of the General Terms of the UNC). The person currently responsible for operating or procuring the operation of the central system is Xoserve Limited:

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<sup>36</sup> [Energy Act 2023 section 194](#)

<sup>37</sup> Directions under Part 6 of the Energy Act 2023 may only be used in relation to central systems that have been designated for the purposes of Part 6 of the Act by notice given by the Secretary of State.

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- the central system comprising the BSC Systems as defined in section X-1 of the BSC. The person currently responsible for operating or procuring the operation of the central system is Elexon Limited
- the central system operated for the purposes of providing Data Transfer Services in accordance with Standard Condition 37 of the electricity distribution licence. The person currently responsible for operating or procuring the operation of the central system is ElectraLink Limited
- the central system operated for the purposes of providing smart metering services, namely the Core Communication Services and Enabling Services as defined in condition 6.5(a) and condition 6.5(c) of the Smart Meter Communication Licence. The person currently responsible for operating or procuring the operation of the central system is Smart DCC Limited; and
- the central system comprising the Central Switching Service, as defined in Schedule 25 of the REC. The person currently responsible for operating or procuring the operation of the central system is Smart DCC Limited

6.3. We will continue to assess whether any new systems should be brought into scope of the reforms and will consult with stakeholders ahead of making any such recommendation.

## **Directions to Responsible Bodies**

- 6.4. Under Section 194 of the Energy Act, Ofgem may give a direction to the responsible body in relation to a designated central system for the purpose of ensuring that the body complies with their obligations under the relevant code or takes such steps as Ofgem considers may be necessary for the efficient operation or implementation of the provisions of the relevant code.
- 6.5. Directions may be issued by Ofgem where responsible bodies are not complying with their obligations under a code or codes. This could be, for example, where a certain service required by a code is not being provided (or is not being provided to the standards or specifications required), but could also be where a responsible body is not complying with its broader obligations, such as providing information to code managers.
- 6.6. We consider this direction power will provide Ofgem with an additional route for ensuring that codes run smoothly, that services are provided appropriately and that code managers are provided with the information they need to carry out their role. While we would expect any instances of non-compliance with the code to be addressed in the first instance through engagement between responsible bodies

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and code managers/Ofgem, the power to direct responsible bodies will provide a route for Ofgem to enforce against non-compliance with directions, should alternative routes fail.

- 6.7. Ofgem may also issue directions for the purposes of ensuring the efficient operation or implementation of provisions of the code. We consider that this may be appropriate where there are clear steps that should be taken by responsible bodies to ensure a code runs more effectively. There are a wide range of circumstances in which such a direction may be appropriate, including, for example, where systems are outdated and need to be upgraded or where there is a need to implement integration with systems required under other codes.
- 6.8. We recognise that complying with directions could have cost implications for responsible bodies and that this may be disruptive for their customers should budgets need to change mid-year. As part of the process of determining whether to issue a direction, we would carefully consider the potential cost implications on both the responsible body and on funding parties. Additionally, the consultation process set out below would be an opportunity for funding parties to raise any concerns.

### **Process for issuing Directions and consulting with stakeholders**

- 6.9. Before issuing a direction we would, in line with section 194 of the Energy Act 2023, always consider the ability of the responsible body to recover any costs reasonably incurred in complying with the direction and to comply without contravening any other obligations under the relevant code or in its operation of the designated central system.
- 6.10. Following this, we would publish a notice setting out the information below, and invite representations from any interested party on:
- our proposal to issue a direction
  - the reasons for proposing to give the direction
  - the proposed text of the direction
  - the intended effect of that direction
  - the date from which we propose the direction would have effect; and
  - the date by which any representations must be provided to Ofgem
- 6.11. We consider this to be an important step, providing any interested party to comment on our proposed direction. It would give the responsible body in question

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an opportunity to provide information on the potential cost implications and any additional impact of complying with the proposed direction.

6.12. If we decide to proceed with issuing a direction, following consideration of any representations received, we would publish a further notice stating:

- our decision to issue the direction
- the text of the direction
- the intended effect of the direction
- how we have considered any representations made in response to the earlier notice (see paragraph 6.10)
- the reasons for any differences between the direction set out in the earlier notice and the proposed direction

## **Consequential changes**

6.13. Ahead of central systems being designated by the Secretary of State, which will allow Ofgem to issue directions, Schedule 12 of the Act grants Ofgem certain time-limited transitional powers which allow us to, amongst other things, modify existing codes, licences and contracts. As stated at the start of this chapter, the central systems listed have now been designated for the purposes of Schedule 12 by the Secretary of State. We intend to use these powers to make any changes to codes and contracts that are needed in order to facilitate our ability to use the direction powers.

6.14. Firstly, we intend to determine whether any changes are needed to codes and contracts to ensure that responsible bodies are able to recover any costs incurred in complying with directions. This may require, for example, making specific reference to Ofgem directions in cost recovery and charging methodologies and/or ensuring that appropriate mechanisms are in place to ensure any additional costs incurred in complying with a direction can be reasonably recovered.<sup>38</sup> We will also consider whether appropriate safeguards are in place, either through existing mechanisms or through the introduction of new ones, to ensure that any costs passed onto funding parties are reasonable and cost-reflective and that changes do not cause undue disruption.

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<sup>38</sup> As part of the review of the review of regulatory arrangements for smart metering, Ofgem has recently consulted on proposals relating to the design of an *ex-ante* cost control framework for DCC under the Successor Licensee ([DCC review: Phase 2 – Process for determination of Allowed Revenue](#)). We will consider whether, and how, costs incurred in complying with directions may need to be incorporated into the future framework.

6.15. Secondly, we need to ensure that existing arrangements for making changes to systems, processes or budgets set out in codes or contracts contain appropriate provisions for allowing directions to be complied with. As a minimum, this is likely to involve making reference to Ofgem directions in existing provisions in the relevant codes and contracts to ensure that changes can be made through established processes. For example, where an Ofgem direction requires changes to the services delivered by third-parties, amendments may be required to the processes for approving such changes and ensuring appropriate oversight. As set out in chapter 7, we intend to work closely with existing responsible bodies and code administrators to ensure that any barriers to complying with directions are identified and, where appropriate, amended.

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## 7 Implementation and Assurance Approach

### Section Summary

This section sets out our proposal in relation to implementation timings and a programme of work. It presents and seeks views on the extent to which the proposal minimises uncertainty for stakeholders, allows industry to plan and manage resources, and is sufficiently developed to enable the transition's success.

#### Questions

- Q25: Do you have views on our approach to allocating roles and responsibilities to the range of implementation activities?
- Q26: Do you have views on the completeness of the list of implementation activities, and how we expect to be assured of good outcomes?
- Q27: Do you agree with our view on the responsibility individual stakeholders should have in readiness for the transition?
- Q28: Are there specific ways we can facilitate timely industry readiness?
- Q29: Do you agree with our proposed approach to the implementation and monitoring of the code manager candidate?
- Q30: Do you agree with the list of products proposed for the final assurance assessment to demonstrate compliance with the standard licence conditions?
- Q31: Do you agree with our proposals on code consolidation (including use of workgroups, and early proposals on the common contractual framework)?

### Background

- 7.1. Implementing energy code reform will require significant changes to the governance of the industry codes. The changes we will make to documents, such as licences and codes, and the changes that the industry will subsequently need to implement in processes and ways of working, will require the combined efforts of industry stakeholders to get right and to do well.
- 7.2. In our August 2024 Implementation Decision, we committed to consult on timings for the implementation of energy code reform and a corresponding programme of work. In this section we describe our approach, the activities we believe are needed to develop the required changes, and the stakeholders who we consider are best placed to contribute to those activities. We also set out our implementation aims, to reflect the manner in which we would like to bring forward these changes.
- 7.3. In setting these aims, we considered areas of concern raised in response to the January 2024 Implementation Consultation, which we discussed in our subsequent



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August decision, as well as those raised in response to other code reform consultations. This led to the development of the following list, which we intend to use when considering options to sequence implementation activities, namely how best to:

- Minimise uncertainty for stakeholders
- Minimise resource burden on code administrators, industry and us
- Minimise unreasonable disruption to the work of the codes
- Maximise opportunities to deliver reforms quickly, where possible and beneficial, by overlapping activities across phases and or working concurrently
- Maximise opportunities to learn lessons and deploy them in subsequent phases to improve the efficiency of our processes

7.4. As part of our continuous process of consultation and engagement, and given the changes to come will be material and wide-ranging, we will aim to facilitate stakeholder input to identify where modifications impact them. We also intend to seek views on how best to avoid unintended consequences or negative interactions with existing processes or change programmes, and to supplement and assure modification proposals.

## **Framework for “what” and “who”**

7.5. We have identified three main areas of change that will need to be considered for each phase of the transition process, as part of implementing the new governance framework:

- to create and or modify regulatory documents and instruments, primarily the codes, licences, and contracts ("**Consequential changes**")
- to select and license code managers for each code, including the steps needed to assure that they are ready to carry out the licensed activity at the moment of licence grant ("**Code manager selection**"), and
- in respect of phases 2 and 3,<sup>39</sup> to combine certain governance and contractual provisions across particular codes, creating new consolidated codes ("**Consolidation**").<sup>40</sup>

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<sup>39</sup> In our August 2024 Implementation Decision, we decided to proceed with a three-phase transition sequencing of the gas and electricity codes to the new governance framework.

<sup>40</sup> Similar to Consequential changes, Consolidation may create and or modify regulatory documents and instruments but is treated separately to account for activities of a cross-code nature. Likewise, Code manager selection may produce consequential changes as described.

7.6. Later sections provide details specific to these three areas of change. Here, we describe the general framework we used to organise the implementation activities required for each of these areas (“what”) and assess options for the roles and responsibilities that industry parties might have in them (“who”). We propose to assign roles and responsibilities based on relevant competencies appropriate to activities, with the possibility of roles evolving over time.

## **The mix and interaction of implementation and assurance activities**

7.7. In each area of change we have identified activities covering policy development, discovery work, developing modification proposals, and developing implementation plans to put those proposals into effect. Each of these areas is described in additional detail below.

7.8. **Policy:** While consultations on the substantive policy underpinning our code reform proposals are now at an advanced stage,<sup>41</sup> we are mindful that during the development of modification proposals questions or assumptions of policy ‘in practice’ may arise.

7.9. **Discovery:** As part of moving to implementation, we expect to formalise discovery work to ensure a shared understanding of what and whom might be impacted by the policy decisions in aggregate. We expect to develop this understanding by considering:

- Regulatory documents, contractual arrangements, any other formal or informal arrangement
- Processes, systems, and ways of working
- People, including code administrator and or code manager organisations’ staff, code parties, system users, and wider industry stakeholders

7.10. To the extent possible, we will consider relevant enablers and constraints (primarily those of impacted parties) as part of deciding when to bring the new governance framework into effect for each code. We expect these factors to include relevant organisations’ approval processes, implementation cycles, such as for IT releases, and, generally, the workflow of inflight processes, including organisational policy priorities.

7.11. Considerations of impacts and factors will interact with the development of modifications and implementation proposals.

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<sup>41</sup> “Context and related publications” provides a summary of consultations that have been published to date.

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7.12. **Modifications:** We expect to develop proposals for modifications to the legal text of regulatory documents and instruments. Other parties will develop plans for changes to processes, systems, ways of working, and plans for readying organisations and people. Together, these will form the combined set of changes needed to enable the new governance framework for each code. Discovery work will provide a checklist for the combined set of changes.

7.13. **Implementation:** We expect that the rollout of the combined set of changes will require careful coordination with relevant parties, and the use of our transitional powers.

7.14. As designation of industry codes will happen in phases, there will be periods of the transition where some codes are live under the new governance framework while others are still under the current one.

### **Stakeholder roles and responsibilities**

7.15. We are responsible for establishing the new governance framework. Nevertheless, there are activities where we expect to call on stakeholders' expertise and participation to contribute to its successful delivery.

7.16. In this context, we consider stakeholders to be incumbent code administrators (both the panel and administrative functions), licensed code managers, code manager candidates, central systems delivery bodies, code parties, licensees, and wider industry.

7.17. When considering which stakeholder may be most appropriate to input on different activities (policy, discovery, modifications, or implementation), we took into account their:

- Ability to rollout or operationalise changes, including having the required authority
- Subject matter expertise and content knowledge
- Proficiency on a business-as-usual basis
- Access to source systems and or information, and
- Capacity, in terms of resource and time.

7.18. As a result, we expect to be able to rely on the code manager's (including candidates) or code administrator's access to platforms and systems for their support in certain discovery activities. We also expect that they will be central in developing modification proposals and plans for changes to processes, systems and ways of working, and plans for readying organisations and people.

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- 7.19. We also expect to call on the expertise of delivery bodies and code party constituencies relevant to a particular code or codes, in the development of modification proposals.
- 7.20. In response to this consultation and subsequent engagements, we would value the collective input of all stakeholders on our policy and modification proposals. We would also welcome the sharing of readiness-related constraints, dependencies and potential interactions with us.

### **Our role**

- 7.21. The successful delivery of the reform programme to prescribed timescales will require significant coordination. We therefore anticipate having ongoing oversight across all phases.
- 7.22. We expect to set the timetable for critical path activities, monitor delivery and intervene, as needed. Factors which affect deliverability will be informed by discovery exercises: workgroups (or similar) for consequential changes and consolidation; and regular interaction with code manager candidates, as part of the implementation and assurance stage of their selection process.
- 7.23. We expect to undertake or commission assurance at intermediate and or concluding steps, to validate the quality of outputs, outcomes, and or participation of parties. For consequential changes and consolidation, we expect regular scrutiny by subject matter experts in workgroups (or similar). For code manager selection, we expect that this would take the form of periodic delivery updates and reports.
- 7.24. We will keep our level of direct involvement under review, and will take a risk-based approach when considering whether to perform tasks ourselves, or whether there is a need to put in place additional governance or other arrangements to facilitate the sequencing of critical path activities.
- 7.25. Below, we detail implementation and assurance plans specific to the three main areas of change: consequential changes, code manager selection and code Consolidation.

## **Consequential changes**

### **Background**

- 7.26. We expect that a wide range of modifications may be required during each phase of the transition and for the subset of codes within it, supported by industry expertise and engagement.

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7.27. The modifications may include creating and or modifying regulatory documents and instruments (primarily the codes, licences, and contracts) required in connection with the new governance framework.

7.28. We intend to consult on modification proposals and, where a decision is taken to proceed with any such proposals, we envisage these changes may (where possible) come into effect alongside the grant of the relevant code manager licences.

7.29. In this context, we set out specific activities we believe are needed to develop and, where a decision is taken to proceed with a modification, to implement such proposals.

## **Discovery**

7.30. To identify where potential changes are needed, we expect to review: regulatory documents, contractual arrangements, any formal or informal arrangement, and processes, systems, and ways of working.

7.31. We want to ensure that all parties have a shared understanding of what may be in scope of change and that the transition plan reflects that understanding.

## **Documents**

7.32. We will need a consolidated list of all documents (or their component parts, where maintained separately) which may require consequential changes, or be impacted by them. For some codes, for example, this includes but is not limited to sections, schedules, procedures, standards, recommendations, guides, forms and templates.

7.33. For each document, we will need i) details of the current process to update its text, including arrangements governing the update process, and ii) version descriptors for the latest release, as well as for pre-release modifications.

7.34. It may be appropriate to develop modifications on an approved (under current governance arrangements) but yet-to-be-released version of a regulatory document. This may allow us to capture the policy priorities of inflight modifications and minimise iterations of legal text.

7.35. The current process and governance to update the text of particular documents will be factored into the implementation proposal.

## **Processes**

7.36. We anticipate that consequential changes to regulatory documents may, in turn, require changes to processes, systems and or ways of working. We want to be able to map proposed consequential changes onto corresponding processes to understand the type of changes needed, if any.

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7.37. Reflecting our desire to minimise disruption to the work of the codes, we intend for our implementation proposal, as far as possible, to take account of those changes in two main areas:

- Inflight business-as-usual processes, where we may provide principles or direction on matters such as the treatment of live modifications
- The 'internal to the code' change process, where we may consider linking activities or formalising dependencies in our planning.

### **Enablers and summary considerations**

7.38. A stated aim of discovery is to identify factors which may be taken into account as part of the consideration of the timing of a decision on when to bring the new governance framework into effect for each code. We will ask relevant parties to provide us with such factors (not limited to the business-as-usual timings of approval processes or document release cycles), as well as exception handling.

7.39. In addition, at appropriate points during the development of modification proposals, we may seek assessments of the potential impact to system users and other relevant parties (as done currently). We will also welcome responses from individual code parties or stakeholders for whom modifications may have impacts to their organisations, processes, systems and or ways of working (see 'Readiness' below).

7.40. Where more efficient ways to conduct discovery work are identified, we will seek to use them. This may include earlier start on discovery for upcoming codes, flexing with the capacity of incumbent code administrators of those codes, and knowledge sharing on priority areas.

7.41. We expect to make these discovery requests of the relevant code administrator and or code manager.

### **Modifications**

7.42. We will lead on the development of the legal text of any proposed modifications that are, in our view, required. We intend to utilise our transitional powers under Schedule 12 to the Act in order to take this forward. Proposed modifications will be subject to consultation.

7.43. For targeted policy areas, we anticipate the need for engagement with industry experts early in the modification development process across a range of tasks, which may include co-designing the approach to identifying changes, reviewing 'rules for change', and reviewing legal text.

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7.44. For these policy areas, we propose to invite interested parties to join workgroups of industry experts to help us develop modification proposals in line with our policy objectives. The section on 'Workgroups' below provides details of the topics we would like to discuss.

## **Implementation**

7.45. As part of our analysis of when it is appropriate to bring the new governance framework into effect for each code, we intend to draw together (in so far as possible) all proposed modifications and consider how these may align with the delivery of corresponding change plans ("implementation proposal"). We envisage components of the implementation proposal to include:

- Finalised modification proposals (on, for example, licences, codes, and contracts), following consultation in accordance with our duties under the Act
- Confirmation of readiness for any change plans for the code's processes, with summary impact and agreed transition for business-as-usual work
- Code manager candidate's change plans
- Sequencing of dates versus the relevant party putting the changes or change plans into effect

7.46. Where we decide to proceed with the implementation proposal, the finalised modification proposals would take effect on a date specified in our decision notice. In terms of our consideration of the overall sequencing of the different components within an implementation proposal, we intend, where possible, to take into account the timing of the designation of the relevant code and the grant of the relevant code manager licence and change plans (whether for code processes, or the code manager), while remaining mindful that the exact sequencing may need to be adapted on a case by case basis.

## **Summary of implementation and assurance activities**

7.47. Table 6, below, sets out activities we plan to undertake or commission regarding discovery, modification and implementation proposals.

Table 6: Summary of implementation and assurance activities

	<b>Implementation activity</b>	<b>Description</b>	<b>Assurance activity</b>
Discovery: Documents	Identify impacted documents.	We provide an initial list based on regulatory documents and instruments.	Incumbent code administrator revises and assures the list for completeness.
Discovery: Documents	Source appropriate document versions.	We set principles for selecting document	Incumbent code administrator provides

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	Implementation activity	Description	Assurance activity
		versions, considering the impact of inflight modifications and the work of the codes.	the relevant document versions.
Discovery: Processes	Horizon scan for impact, readiness and compliance requirements.	Incumbent code administrators supplement our understanding of factors affecting potential readiness for the modifications, and any other user or system impact which we should take into account in the scheduling of implementation activities.	Industry engages and responds to this consultation (and any similar update on the code reform programme of work) where there are requirements for readiness and compliance which we should take into account.
Modifications: Documents	Our development of modification proposals: analyse documents for potential areas for change, and develop the corresponding legal text.	We will lead the work on developing the set of modifications.	Industry engages and responds to the suite of Ofgem-led modification proposal consultations, with a particular request for representations from codes experts.
Modifications: Documents	Joint development of modification proposals (using channels such as bilaterals or workgroups): a range of tasks, such as co-designing the approach to identifying changes, review 'rules for change' and or legal text.	We will set out the policy areas where we anticipate the need for targeted subject matter expertise and our preferred channels to receive it.	We will request representations from workgroup members, or bilateral codes experts.
Implementation	Ofgem-led modification proposal consultations. <sup>42</sup>	Proposed modifications will be subject to consultation, in accordance with Ofgem's duties under the Act.	Industry engages and responds to the suite of Ofgem-led consultations, with a particular request for representations from codes experts  Relevant code managers, code manager candidates,

<sup>42</sup> Similar to the proposed legal drafting for the code modification prioritisation procedure set out in Annex A of the January 2025 *Consultation on the preliminary SDS and code governance arrangements*, we expect in many cases to present the sections of the code (or other relevant documents) that are proposed to change and other parts that we consider are relevant to those changes.



	Implementation activity	Description	Assurance activity
			and code administrators prepare for 'go-live' and provide confirmation of readiness  It will be for individual users to ensure that they develop their own readiness plans, such that they are prepared to carry out activities in accordance with proposed modifications.
Implementation	Ofgem decision on final modifications and the date they will take effect.	Notices of decisions to be published as appropriate and in accordance with the relevant sections of the Act.	We may seek assurances of the progress and or completion of change plans, and the smooth running of the code.

## Industry expertise and engagement

7.48. While Ofgem will lead on the development of any required modifications, we consider that the participation of various code party constituents in bilateral discussions and workgroups will be vital to the success of the transition process, particularly as it relates to developing modification proposals and refining the sequencing and coordination needed to implement them.

## Workgroups

7.49. We currently envision convening workgroups for several sessions during Spring/Summer 2025, with a likely start date in May 2025. We expect to cover policy topics specific to each phase 1 code, with separate sessions organised for the BSC and REC. For topics of a cross-cutting or cross-code nature, we expect to convene a group representing both phase 1 codes, and codes in future phases, where appropriate. Such discussions may focus on interactions between the BSC and REC or look at interactions with, or across, future codes.

7.50. We also expect to cover topics relevant to implementation planning. For example, early identification of factors which may impact how we rollout out modifications or other change plans will be essential to refining the timing and sequencing of our critical path activities. We will seek to review ongoing discovery outcomes regularly in sessions that convene code administrators, the panel and code parties, as appropriate.

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### Topics

7.51. To ensure the most value out of the planned workgroups, we intend to focus on topics where industry expertise is most required. We do not intend to include topics where we expect limited changes and or where we believe we understand the scope of changes, including in the codes. We may also seek to include some topics still subject to consultation where we are satisfied this will help us to move at pace and or avoid multiple iterations and time lost on suboptimal solutions. Further information on the list of proposed topics can be found in the invitation to express interest letter published alongside this consultation.

### Requests of members

7.52. In advance of workgroup sessions, we expect to detail the range of tasks and requests of workgroup members. We do not intend the sessions to reopen decisions on policy but focus instead on practical implementation considerations in respect of modifications to regulatory documents. It may include some, or all, of the following:

- co-designing the approach to identifying changes, for example, where to look, where knock-on impacts may come from and where cross-referencing might be required
- considering helpful best practice
- review of 'rules for change' we have identified
- views on relevant policy proposals, prior to drafting the legal text for consultation, and or
- review of legal text

### Membership

7.53. Alongside this consultation, we have published a request for expressions of interest to join one of three Ofgem-led Implementation Workgroups (Phase 1). We are seeking participation from stakeholders who are interested in the detailed implementation of code reform, particularly as it relates to developing modification proposals and refining the sequencing and coordination needed to implement them.

### **Readiness**

7.54. It will be important for individual stakeholders to prepare for the transition to the new governance framework and to ensure that they develop their own readiness plans, such that they are prepared to carry out activities in accordance with obligations from the relevant date (as set out in decision notice(s) using our transitional powers).

7.55. Nevertheless, we anticipate that some of the discovery work during the development of modification proposals, primarily where code administrators support us with assessments of potential user or system impacts, should surface areas of concern that we may be able to take into account. Where possible, we will look for opportunities to address these bilaterally and or as part of any subsequent consultation on modification proposals.

7.56. We encourage individual stakeholders to consider the impact of any proposed modifications on their organisation, processes, systems and ways of working. It may be useful to evaluate plans for areas including:

- Changing roles and responsibilities
- Decision-making and escalation pathways
- Technical, data and process readiness
- Organisational success measures or performance indicators

## **Code manager selection**

### **Background**

7.57. In November 2024, we consulted on our proposals for the selection of code managers<sup>43</sup> under regulations provided for by the Energy Act 2023.<sup>44</sup> We proposed to divide the selection process into three sequential stages that would apply to all code manager selection exercises: an eligibility assessment, a licensing assessment, and an implementation and assurance process. At the end of this process, we would expect candidates to be fully compliant with all relevant licence requirements and ready to carry out the licensed activity.

7.58. We also set out some initial thoughts on the potential role that we might play during the implementation and assurance process, to support the implementation activities of individual candidates. For example, we could decide to adopt a hands-on role to both implementation and assurance, with joint governance arrangements, versus an approach where milestones would be agreed at the outset, with little direct involvement from us afterwards.

7.59. In this section, we set out proposals on how we intend to oversee the implementation of the necessary processes and steps that each candidate will undertake in preparation for taking on the regulated code manager role. We also

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<sup>43</sup> [Energy code reform: consultation on code manager selection | Ofgem](#)

<sup>44</sup> [Energy Act 2023](#)

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describe the key products that we propose to require that each candidate provide, to enable us to determine whether to grant it a licence.

### **Stakeholder feedback**

7.60. In their responses to our November 2024 consultation on code manager selection, stakeholders were not aligned on whether we should have an active role in the implementation process or whether this should be primarily candidate driven.

Some stakeholders noted that this may vary, depending on the type of selection exercise being conducted (for example whether the code was consolidated, whether an incumbent was being selected, or a new Special Purpose Vehicle (SPV)).

7.61. Similarly, there was no consensus on the assurance approach. Some stakeholders pointed out that periodic assurance could prevent the need for a time-consuming final assessment, but the need for robust checks and balances, be it periodically or at the end of the process, would be necessary given the strategic importance of the code manager role. Some stakeholders called for the use of an external party to provide an independent and impartial report on the candidate's progress, as well as offering professional expertise and consistency across appointments.

7.62. Stakeholders welcomed continued engagement with industry throughout the transition process, to provide clarity on governance arrangements and provide stability to business as usual. A few were in favour of minimising the implementation period as much as possible, to reduce disruption to the ongoing code administrators and panels. Stakeholder feedback also reflected the need for ongoing review of transition arrangements following each new grant of a code manager licence. It was acknowledged that there may be lessons learned to draw from the first selection exercises that could be applied to future appointments – and that the smooth transition and enduring delivery of services needed to be protected. It was also suggested that each code manager candidate's necessary transitional arrangements should be assessed as part of the final assurance process.

### **Ofgem role and process design**

7.63. We have taken on board stakeholder feedback regarding our role in the implementation process for code managers and have considered how to ensure that our approach is in the best interests of the industry and consumers.

7.64. In designing our approach, we have considered the following:

- **Timeliness:** ensuring that the implementation process can proceed at pace, allowing us to grant code manager licences and realise the benefits of code

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reform as soon as possible, and to reduce any period of uncertainty for industry during the period where a selected code manager is transitioning into the new role

- **Cost or disruption:** whether the implementation process risks being overly burdensome to industry, requiring additional cost and resource that may be passed onto consumers, without delivering additional benefits or assurance
- **Robust outcomes:** that the implementation process can ensure we have confidence in the candidate's ability to perform the code manager role at the point of licence grant.

7.65. With this in mind, we are of the view that we should be taking an active oversight role by monitoring and assuring the implementation process, with some joint governance established to enable discussions at regular intervals, to ensure that the candidate's plans are progressing as expected. This will allow us to identify and address risks and issues as they emerge. The implementation process itself, and the submission of any required information or evidence, would remain the responsibility of the candidate, and we do not intend to be involved in the drafting of their detailed plans. However, we consider that an oversight role will ensure that we can act in a timely manner where certain thresholds or progress are not met, and we will review any plans accordingly.

### **Implementation and monitoring**

7.66. As part of the licensing assessment, our November 2024 consultation proposed that code manager candidates would be required to provide us with detailed proposals for how they would acquire any additional capabilities or expertise needed to perform their new role, as well as to demonstrate that they would be able to comply with the conflict of interest requirements in the code manager licence. They would also be required to provide us with plans for how they would approach the implementation process in practice, including proposed milestones and timelines.

### **Discovery work**

7.67. Given our desire to progress implementation as quickly as possible, we propose to commence the process by agreeing ways of working between Ofgem and the candidate, with implementation plans building on what will have been provided to us during the licensing assessment stage. We propose to ensure that the candidate has provided a blueprint with clear timelines for any envisaged implementation milestones for us to monitor over the course of the period and demonstrated that it has a plan to provide funding for these activities. We believe that the candidate will

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be best placed to drive the operationalisation of the vision set out during the licensing assessment stage, with Ofgem providing an oversight function.

7.68. If the candidate is an incumbent code administrator, we expect that costs may be covered through its existing mechanisms. However, there may be circumstances, such as where a code has been consolidated or an SPV has been selected for the role, where Ofgem may need to have a more active role in considering any cost recovery proposals before the implementation process commences, in order to ensure that those effectively deliver value for money to consumers and the industry.

7.69. Once the implementation period has commenced, we propose to adopt a regular format of working-level discussions between Ofgem and the candidate to discuss the candidate's progress with implementation and delivery against relevant milestones. We expect code manager candidates to be open and constructive in their engagement with us, and therefore we would require the candidate to be proactive in providing relevant information to these meetings, such as updates or programme reports. Any failure to co-operate with Ofgem during this process may contribute to a decision not to grant the candidate a code manager licence.

7.70. Due to industry interest in this process, we anticipate that progress updates could also be provided to code panels on a regular basis, where this would not entail a breach of confidentiality.

### **Candidate implementation activities**

7.71. We expect that the candidate's implementation activities will be divided into the following topics, with the potential for some degree of variation from one code to the next depending on the underlying context:

- Acquisition of resources against the licensing criteria, notably the hiring of staff and/or procurement of services
- Cost assessment (and monitoring of any changes to costs that emerge during the implementation process), to provide certainty to code parties as to potential forthcoming charges
- Cultural change management strategy, and updates on employee engagement
- Governance and organisational changes, particularly where these are required to meet conflict of interest requirements, including the appointment of independent directors where required

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- Implementation of necessary infrastructure, systems and processes to support the code manager role.

### **Ofgem-led implementation Activities**

7.72. There will be some areas where we would expect to lead on the necessary implementation activities. These may include the development of, and consultation on, necessary code modifications to reflect each code manager's licence obligations, where this requires engagement with wider parties. This activity may draw on input via industry working group discussions (see previous section) established by us.

7.73. During the implementation period, we may exercise our transitional powers under Schedule 12 or 13 of the Energy Act 2023, such as the ability to establish transfer schemes or modify relevant pension arrangements. Where we propose to exercise these powers, in line with the relevant processes and conditions contained in the Act, our intention would be to work with candidates and incumbent code administrators to ensure that we minimise disruption as much as possible, while still enabling the achievement of our underlying policy objective.

### **Final assurance assessment**

7.74. Once the period of implementation has progressed sufficiently against our requirements for us to be confident in the candidate's readiness to be licensed, then Ofgem will conduct a final assurance assessment. This assessment will underpin our final determination as to whether the candidate is able to meet its licence obligations.

7.75. In our November 2024 consultation, there was strong support for the overarching scope of our proposed final assurance assessment, which we proposed should be based on the requirements of our licensing assessment criteria. We believe that assessment in accordance with these criteria will enable us to get a holistic picture of the candidate's readiness to deliver the essential code manager services.

7.76. Some stakeholders also requested for the final assurance to assess transitional arrangements for resolving any issues that may arise as plans go live. We envisage that transitional provisions may be addressed using a special licence condition, depending on the candidate and the timing of the licence grant.

7.77. We further recognise that, in addition to our broader licensing criteria, there will be certain deliverables that are required from the code manager as part of its licence obligations. We propose for the final assurance process to be based on an assessment of compliance with certain requirements of the licence that we have

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determined must be in place for the candidate to commence its role. The products are set out in Table 7.

Table 7: Final assurance products for compliance with the standard licence conditions<sup>45</sup>

<b>Section of the licence</b>	<b>Final assurance requirements</b>
Nature and conduct of the licensee's business	<p>Confirmation of establishment of the necessary corporate controls including:</p> <ul style="list-style-type: none"><li>• organisational structure and controls</li><li>• corporate governance</li></ul> <p>Final 'fit and proper' assessment to determine candidate suitability to hold a licence.</p>
Financial and operational controls	<p>Demonstrable evidence that the candidate has the appropriate management and financial resources, personnel, fixed and moveable assets, rights, licences, and facilities in place for the licence to be properly and efficiently conducted.</p> <p>Confirmation that the candidate does not have any ongoing transfers or leases of sums, assets rights or benefits to any affiliate or related undertaking.</p> <p>Confirmation that the candidate does not have any cross-default obligation.</p> <p>Confirmation of candidate's plans to monitor financial resources and ensure ongoing financial stability in place</p>
Arrangements for the Licensee's independence (with the possibility of exceptions in limited cases)	<p>Where the candidate is a subsidiary of a parent organisation, confirmation of governance structures in place that will prevent the parent organisation from exerting material influence over the candidate. This may include evidence that a separate subsidiary organisation has been established, with separate governance, financial ringfencing and independent directors.</p> <p>Legally enforceable undertakings to have been procured from any parent company.</p> <p>Confirmation that 50% of directors at the organisation are independent, including name and employment details.</p>
Performance Incentives and Remuneration	No particular deliverables required at final assurance stage.

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<sup>45</sup> The full set of standard licence conditions will be subject to a consultation in due course, and therefore the exact wording of these requirements may be subject to change as a result of that consultation.



Budgets and cost recovery	An existing budget for funding the code manager activities, or a newly prepared draft budget that will be consulted on by stakeholders in accordance with requirements of the licence.  A cost recovery statement.
Governance, delivery and reporting	No particular deliverables required at final assurance stage.
Arrangements for intervention and continuity	No particular deliverables required at final assurance stage.

7.78. As the particular activities and outputs will be specific to each code manager candidate, we do not propose to develop a universal form to be used for all code manager candidates as part of the final assurance assessment. Instead, we propose to develop a necessary means of collating the information relevant to each candidate over the course of the implementation period, using the regular programme reports provided to us as part of the joint governance process, which we will review when received. We believe that this approach will minimise resource burden on candidates, and the wider industry, and remove unnecessary duplication of assessments as the implementation and assurance process progresses.

## Code Consolidation

### Background

7.79. In August 2024, we published decisions on code consolidation.<sup>46</sup> We said that we would proceed with our proposals to create an electricity commercial code, a gas network code, and an electricity technical code.<sup>47</sup>

7.80. We also published our decision to limit the scope of any Ofgem-led consolidation activities during the transition period, with our intent being to conduct targeted rationalisation of the following areas, using the transitional powers granted by the Act:

- Common contractual framework

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<sup>46</sup>[Implementation of energy code reform: consultation decision \(ofgem.gov.uk\)](#). We also published the final impact assessment for code consolidation alongside our decision: [Energy Code Reform: Code Consolidation – Final Impact Assessment](#).

<sup>47</sup>We also acknowledged concerns raised by respondents about the inclusion of the STC in the consolidated technical code, recognising that further detailed consideration is needed to determine how the STC can best be included within the governance of the new technical code.

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- Contract boilerplate and defined terms
- Party accession and exit
- Code objectives
- Code modification process
- Code compliance
- Credit cover arrangements
- Dispute processes
- Derogation provisions

7.81. We said that this initial consolidation exercise would form the first phase of a longer-term exercise to rationalise and simplify the codes by code managers, once in place, and noted that we would set our expectations in relation to this activity, where necessary, via our annual Strategic Direction Statement.

7.82. The work led by us to consolidate codes during the transition period will therefore be limited in its scope, with the primary aim being to streamline the code governance process prior to granting licences to relevant code managers, with as little disruption to industry as possible.

### **Sequence of activity for code consolidation**

7.83. The next step for the consolidation of energy codes will be in-depth industry engagement that will allow us to identify the necessary code changes.

7.84. We propose that the first step will be a series of workgroups that will allow us to gather detailed views from industry stakeholders about the code changes needed to achieve consolidation, and the risks and issues involved. We intend to hold these workgroups before developing code changes.

7.85. These workgroups will therefore fulfil the “policy” and “discovery” activities identified at the beginning of this section, but not “modification proposals”. We expect that we will have developed policy proposals ahead of the workgroups starting, rather than industry workgroups being tasked with beginning the work. It is also likely that the workgroups will discuss “implementation proposals” issues (for example, how and when Ofgem uses its transitional powers, especially in terms of creating a common contractual framework, and, where necessary, accession of new parties to the consolidated code).

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7.86. This means that, overall, we expect the following steps to be involved in code consolidation. We will carefully consider any feedback on this plan, and in light of that, will consider whether any adjustments are appropriate:

- We lead a series of workgroups for each consolidated code to understand industry views about the code changes needed, and any risks and issues
- We use the outputs from these workgroups to develop the code changes needed
- We publish the proposed code changes needed to implement code consolidation, seeking industry feedback, either through a consultation or a more informal mechanism
- Depending on feedback to our proposals, we may hold further workgroups on more complex aspects of code change drafting

7.87. The above steps would feed into consultation on any changes that may be required, in accordance with the requirements under Schedule 12 of the Act, which will provide a further opportunity for industry to comment.

7.88. If a decision is taken to proceed with these proposals, the modifications would come into effect on a date specified in our decision notice. Where possible, we envisage this happening prior to, or around the time of, grant of the relevant code manager licence.

7.89. Our current intention is to launch workgroups for the gas network code and the electricity commercial code in the second part of 2025, with workgroups for the electricity technical code to follow later. This sequencing reflects our overall project phasing, and seeks to avoid, as far as possible, overloading industry stakeholders by having concurrent running of all three groups.

### **Alternative approaches**

7.90. It would also be possible to use initial workgroups to develop draft code changes. This approach would have the benefit of using industry expertise directly in the drafting process. It may also reduce the need for publication of the changes and repeated workgroups. However, consultation in line with the requirements under Schedule 12 of the Act would still be required.

7.91. We have proposed to avoid bringing draft code changes to the initial workgroups to reduce the burden on industry. We consider the approach of seeking views first, and then using Ofgem resource to turn these views into draft changes that are shared with industry through consultation, to be a more suitable balance of resources.

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7.92. We believe this approach strikes the right balance. While we have the ability to modify codes through our transitional powers, we consider that industry subject matter expertise will be essential. We therefore intend to inform our drafting approach through the steers provided in workgroups.

### **Workgroup topics**

7.93. We expect the workgroups to cover two main areas (i) creation of the common contractual framework and (ii) each of the areas we have identified for rationalisation of code provisions.

7.94. We expect the creation of the common contractual framework to be a key early topic for the workgroups as this will include issues such as:

- Whether one of the codes being consolidated continues as a legal document, in effect becoming the new consolidated code, or whether a completely new legal document is created.
- How parties would accede to the new code, and how we would ensure that parties are only required to comply with provisions relevant to them (for example the REC already has mechanisms signalling where content applies to some but not all parties)

7.95. For each area we have identified for rationalisation we would examine:

- What works well in terms of existing provisions, what works less well, and whether it is possible to identify a preferred set of provisions from one of the predecessor codes
- Whether there are areas where some party-specific provisions may need to be retained, such as where a one-size fits all approach to something like derogations might not be suitable
- What are the risks and issues involved in the process of consolidating text

### **Membership**

7.96. We expect to chair the workgroup and provide a secretariat function, and may also present content ahead of discussion.

7.97. We are also keen to ensure that we have a broad range of industry voices participating in each consolidation workgroup. We intend to launch an expression of interest for membership of the gas code and electricity commercial code consolidation workgroups later this year and will consider all responses before finalising workgroup members.

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7.98. We believe that a limit of 16 industry attendees worked well for our modification workgroups, and intend to apply the same limit again. This would ensure that there is a focused membership, with members expected to fully commit to the process, and avoid sending delegates unless completely necessary.

7.99. While the expressions of interest we receive will ultimately determine membership, we are keen for a balanced representation across different code parties. Where there are distinct categories or groups of code party, we believe it will be important to seek representation from each of these. We believe attendance from the existing code administrators and relevant central system delivery bodies will be important.

### **Terms of reference**

7.100. We intend to develop and finalise a full terms of reference document ahead of launching the workgroups, and hope to share more details about the terms of reference alongside the expression of interest for members.

7.101. As noted above, the key aim of the workgroups will be to determine a policy position on the implementation of the common contractual framework, and on each rationalisation area (as listed above). As each consolidated code will have its own workgroup, the policy positions will be specific to that consolidated code.

7.102. However, it will be the task of the secretariat to ensure that the workgroup is aware of the policy development for other consolidated codes and also the phase 1 codes (where policy decisions may have already been taken in relation to areas relevant for targeted rationalisation).

7.103. As noted above, the policy discussions would then inform the process of drafting the subsequent code modifications, that we intend to lead on and prepare for consultation.

7.104. It will be the role of the secretariat to prepare papers for the workgroups, and we expect to bring developed policy proposals to the workgroup for discussion, rather than asking the workgroup to develop analysis and options. We may work with the incumbent code administrators, and potentially other stakeholders, to prepare this analysis in some cases.

## 8 Transition Plan

### Section Summary

Based on the considerations set out in the previous section on the implementation and assurance approach, this section provides an initial view of the sequencing of activities across a series of workstreams. It invites views on the extent to which the plans i) are realistic, considering our project aims, ii) build in learning opportunities and continuous improvement, and iii) sufficiently capture the interaction with the business-as-usual work of the codes.

### Questions

- Q32: Does our plan capture the critical path activities for a 2026 go-live for the phase 1 codes? If not, what is missing and how would it improve the deliverability of our plan?
- Q34: Are there activities in the business-as-usual timetable for the codes you believe are important to build into our plan? What are they and why?

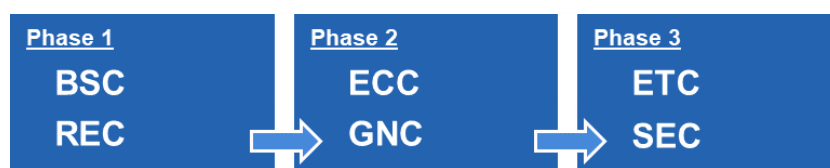
### Background

- 8.1. This section presents an initial plan for transition sequencing, focussing on activities and milestones we consider that industry stakeholders should be aware of. We avoid detailing our internal processes, except where we believe it is helpful, or it provides context to explain our assumptions.
- 8.2. It is our aim that this plan allows stakeholders to consider the nature and timing of their potential involvement with code reform transition, and to provide us (in response to this consultation and subsequent engagement opportunities) detailed reflections to aid the plan's rigour and deliverability.

### Dates and milestones

- 8.3. Dates in this plan are indicative. The timing of any event implied by this document is without prejudice to, and shall not limit our discretion in, the exercise of existing or future powers in relation to policy, legislation, licences and codes.
- 8.4. Nevertheless, we have set ourselves an ambition to appoint the first phase 1 code managers in 2026.

Figure 1: Transition sequence from the August 2024 decision



8.5. In our August 2024 Implementation Decision, we decided to proceed with a three-phase transition of the gas and electricity codes, focussing on a sub-set of codes in each phase. Under this approach, interim milestones will occur at the designation of each of the six codes, which is when we expect to also implement any necessary modifications to relevant documents and grant the corresponding code manager licence.<sup>48</sup> Our critical path activities will therefore mark progress to designation.

8.6. Based on current assumptions, the interim milestones and timings of critical path activities for phase 1 codes are as follows:

- **Spring / Summer 2025:** Phase 1 bilaterals and workgroups with the industry will be held for targeted policy topics.
- **Later in 2025 / 1H-2026:** We expect to consult on modification proposals for phase 1 codes. Implementation and assurance activities for phase 1 code manager candidates are expected to run during this period.
- **Spring / Summer 2026:** Phase 1 code manager appointments are expected.

8.7. Later in 2025, we expect to consult on other aspects of implementation and transition planning across the phases.

8.8. For subsequent phases, our current assumptions are:

- **Later in 2025:** Phase 2 bilaterals or workgroups with the industry are expected to begin, covering content related to both code consolidation and consequential changes. We also expect to begin the eligibility assessment process for anyone who may be interested in becoming a code manager candidate of a phase 2 code.
- **Commencing in 2026-27:** We expect to publish our minded-to decisions with respect to the identity of the phase 2 code managers, followed by the start of the subsequent implementation and assurance period.

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<sup>48</sup> Designation by the Secretary of State of a particular industry code pursuant to s.182 of the Act and licence grant by us are both subject to decision.

## **Critical path activities**

8.9. Our plan presents the inter-related workstreams of code reform as four critical path activities,

- Go-live: using legal instruments to formalise and give effect to certain decisions
- Workgroups: sessions between us and industry experts
- Consultations: various consultations on modification proposals in accordance with our duties under the Act
- Code manager selection: contingent selection pathways

8.10. Below, we take each of the four in turn. We describe which activities are included and our considerations for how long an activity might take, dependencies affecting its start and end, and any mitigations or exception handling. As we learn from the delivery of phase 1, we expect to revise assumptions for activities further into the transition period.

### **Go-live**

8.11. We describe go-live for a particular code as the use of our and the Department's transitional powers, by notice, to i) decide on a package of modifications to documents, such as licences, codes and contracts, ii) designate documents and central systems, iii) grant a licence to a particular body, and iv) the execution of any other relevant transitional power under Schedule 12 or 13 of the Act (eg the use of a transfer scheme or modification of pension arrangements, as part of code manager selection), where each event has legal effect on a date set out in notice (the "effective date").

8.12. We anticipate a period between go-live and the effective date to allow decision cascades across key organisations and final readiness for the changeover on the effective date.

8.13. Broadly, we consider that two things are therefore required to be in place and ready for go-live: the package of finalised modification proposals and the code manager to be deemed ready to be licensed, both with sufficient time to navigate our and the Department's governance approvals.

### **Workgroups**

8.14. Section 7 details our approach to using workgroups to support the implementation of energy code reform.



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- 8.15. When scheduling workgroups, we will consider what is practicable,<sup>49</sup> including how many topics need to be covered and their complexity, what is achievable in a single session, and where topics may require multiple sessions, alongside our project aims and milestones.
- 8.16. We envisage workgroup outputs will feed into consultations on modification proposals later in 2025, which is on the critical path to a 2026 go-live for the phase 1 codes.
- 8.17. We anticipate adjusting our approach to scheduling workgroups in subsequent phases based on lessons from phase 1. Phase 2 workgroups will also need to cover consolidation, and we will consider how best to convene the required expertise efficiently for the codes that are to be consolidated, as well as potential interactions between consolidation and consequential changes for a given policy area.

## **Consultations**

- 8.18. We have duties under the Act to consult on proposed modifications with appropriate parties. We have project aims regarding facilitating stakeholder input to assure the quality of modification proposals and avoid unintended consequences.
- 8.19. Our central plan assumes that proposed modifications will be material and wide-ranging and would be best presented in stages. We therefore anticipate having two sets of consultations in sequence: consultations on draft elements of modification proposals seeking input from industry during the development stage, and consultations on modification proposals under the Act, the first feeding into the second. The plan describes these, respectively, as “Initial Modification Proposals Consultations: Licences, Codes” and “Follow-up Modification Proposals Consultations: Licences, Codes”.

## **Initial Modification Proposals Consultations**

- 8.20. In consulting on draft modification proposals, we hope to have additional scrutiny by stakeholders. We expect that this approach should allow us to gather views on any potential impacts that have not already been identified through discovery work, while also allowing us sufficient time to refine legal drafting and or other required changes prior to consultation under the Act.
- 8.21. We will require sufficient time following industry engagement via bilaterals and workgroups to consolidate relevant outcomes with our internal work. The amount of time will be sensitive to emerging issues and the outturn of volume of work. To

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<sup>49</sup> We will seek to take lessons from other workgroups, such as the modification process workshops, reports annexed to the [August 2024 decision](#)

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the extent possible, we intend to work in parallel to minimise the post-workgroup tasks.

- 8.22. We will take account of the volume and materiality of proposed changes to decide on the optimal presentation of these draft proposals, such as a series of proposals versus a single consolidated proposal, and the period for which consultations will be open to representations.

### **Follow-up Modification Proposals Consultations**

- 8.23. Sufficient time will be needed following the initial modification proposals consultation(s) in order for us to assess its outcomes, and to consider whether to proceed (and if so, when) with a follow-up consultation.
- 8.24. Lessons from earlier consultations may inform how we present the final versions of the modification proposals and for what period. The responses to, and potential issues flagged in, the initial modification proposal consultations may be taken into account in assessing what an appropriate time period for responses is to any resultant consultation.

### **Code manager selection**

- 8.25. Our plan assumes that code managers for the phase 1 codes will be selected on a non-competitive basis, in line with our recent determination on selection route.<sup>50</sup>
- 8.26. We show the implementation and assurance stage over the period to align with our plans to appoint phase 1 code managers in 2026. We expect to further refine and clarify the timing of this stage through regular engagement with both code manager candidates, once we have decided whether to proceed with their selection, with lessons learned applied to future selection exercises.
- 8.27. We will learn from phase 1 how we may best support code manager candidates in successful delivery of their implementation and assurance processes in the least amount of time.
- 8.28. Where relevant, we will also seek to use these lessons to help inform our analysis of what support may be required to facilitate the timely implementation and assurance of any competitively selected code managers, or when seeking to establish a Special Purpose Vehicle (SPV).

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<sup>50</sup> March 2025 [Determination of the basis of selection of a code manager for the Balancing and Settlement Code](#) and [Determination of the basis of selection of a code manager for the Retail Energy Code](#)

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8.29. We envisage beginning the expressions of interest / eligibility assessments of some or all phase 2 and 3 codes at the earliest practicable opportunity.<sup>51</sup>

8.30. Therefore, in the case of phase 2 codes, the plan shows only an indication of how future decisions on selection routes might impact the readiness of one or both phase 2 code managers, and therefore the potential differences in timing of go-live under different selection scenarios.

### Sequencing considerations

8.31. Our plan considers risks, mitigations and general learning through the phases. We therefore expect to revise our plans accordingly over time. The table below provides summary reflections on the issues we expect to manage across the phases.

Table 8: Reflections across the phases

Phase	Sequencing considerations
1	<p><u>Go-Live:</u></p> <ul style="list-style-type: none"><li>We are targeting similar timelines for go-live for both BSC and REC, but we recognise the potential challenge of aligning different organisations' readiness processes.</li></ul> <p><u>Modifications:</u></p> <ul style="list-style-type: none"><li>Developing the required modifications for two different codes may take different amounts of time and may have different complexities.</li></ul> <p><u>Selection:</u></p> <ul style="list-style-type: none"><li>The implementation activities required by candidates may vary, leading to different processes and timelines, as may our approach to assurance over time.</li></ul>
2 and 3	<p><u>Go-Live:</u></p> <ul style="list-style-type: none"><li>We have yet to express a preference for the sequencing of go-live for codes within a given phase. Our current assumption is that each will go-live at different times.</li></ul> <p><u>Modifications:</u></p> <ul style="list-style-type: none"><li>We will take lessons from the modification development processes in phase 1, primarily with regard to maximising the benefits of industry workgroups with our own internal work. Where there are lessons regarding cross-code considerations, such as harmonisation opportunities, they will help to refine our approach to consolidation.</li><li>How and when code managers are selected for these codes may impact the sequencing of relevant consequential changes and therefore adjustments may be required.</li></ul>

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<sup>51</sup> Before we can facilitate a competitive selection process, we will first need to prepare regulations under Section 189 of the Energy Act 2023 and then work in collaboration with DESNZ to lay them before Parliament. Their purpose would be to make provision for us to select a person to be a code manager on a competitive basis. We intend to work with DESNZ to introduce these regulations in 2025, subject to Parliamentary timetables, with the aim to have them come into force before the end of the year. See November 2024 [Energy code reform: consultation on code manager selection](#)

Phase	Sequencing considerations
	<ul style="list-style-type: none"><li>Developing the required modifications for different codes may take different amounts of time and may have different complexities. Consolidation introduces an added layer of complexity.</li></ul> <p><u>Selection:</u></p> <ul style="list-style-type: none"><li>Adjustments may be required depending on how many eligible candidates seek to become code managers for these codes, and whether the selection process follows a competitive or non-competitive selection route.</li><li>We anticipate different risk profiles of activities, and their respective duration, based on the selection outcomes.</li></ul>

## Transitional powers under the Energy Act 2023

8.32. Our plans reflect our duties under the Act, and we detail below some key aspects of the legislation relative to our transitional powers in code governance reform.

8.33. Schedules 12 and 13 to the Act provides certain powers to us in relation to 'qualifying documents', 'qualifying contracts', 'qualifying central systems' and particular transfer schemes.<sup>52</sup>

8.34. In this context, a qualifying document is a document "maintained in accordance with the conditions of a relevant licence and is designated for the purposes of [Schedule 12] by notice given by the Secretary of State", such as the BSC.<sup>53</sup> A qualifying contract means a contract "that constitutes the whole or part of the arrangements under which a qualifying document has effect, that relates to the governance of a qualifying document, or that is a central system contract". A qualifying central system means "a central system that is designated for the purposes of [Schedule 12] by notice given by the Secretary of State".

8.35. On 29 January 2025, the Secretary of State, having received the recommendation to do so from us, designated for the purposes of Schedule 12, several documents, including the BSC, CUSC, Grid Code, DCUSA, Distribution Code, STC, UNC, iGT UNC, SEC, and REC as qualifying documents; and five central systems as qualifying central systems.<sup>54</sup> We expect that the designation of the SQSS as a qualifying document will follow in due course.

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<sup>52</sup> This paragraph is not an exhaustive description of all the powers within Schedule 12 [Energy Act 2023](#) and Schedule 13 [Energy Act 2023](#).

<sup>53</sup> The Balancing and Settlement Code (**BSC**), being the document of that title maintained in accordance with Condition E1 of the electricity system operator licence granted pursuant to section 6(1ZA) of the Electricity Act 1989. The BSC has been designated as a qualifying document, see the next footnote.

<sup>54</sup> [Designation Notice under paragraphs 1\(1\)\(b\) and 1\(5\) of Schedule 12 to the Energy Act 2023 designating certain documents and central systems for the purposes of Schedule 12 to the Energy Act 2023](#)

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8.36. Under Schedule 12, we have the ability to, amongst other things, modify qualifying documents, the conditions (and standard conditions) of relevant licences and to make amendments to qualifying contracts, for certain purposes and subject to the processes described in the Act (including requirements to consult).

8.37. We intend to utilise our transitional powers to propose various modifications and amendments, in pursuit of the various purposes for which these powers may be exercised, as set out in Schedule 12(2). These may include, for example, modifications for the purposes of harmonising the governance of particular qualifying documents or to facilitate the implementation of the new code manager role. Once this process of modification development has been undertaken for a code or set of codes (and/or qualifying contracts), we would recommend their designation under s.182.

8.38. The powers conferred on us under Schedule 12 to the Act, in relation to a particular qualifying document, expire (a) when the document becomes a 'designated document' under s.182 of the Act, or (b) if earlier, at the end of the period of 7 years after the Act received Royal Assent (therefore, the 7 year period runs from October 2023 to October 2030).<sup>55</sup>

## **Learning and Next Steps**

8.39. We expect that learning retrospectives will be a feature of our ongoing oversight and will provide opportunities for us to deploy lessons learned and make continuous improvements.

8.40. We think sensible points to reflect will be at the close of workgroups and the modifications development process, at the close of consultations on modification proposals, during the implementation and assurance stages of code manager selection, and after a code go-live.

8.41. We envisage the below as themes we intend to keep in mind as a continuous exercise, and where there can be lessons learned, those will be taken into account for future phases:

- A refresh of the factors affecting deliverability of the plan, such as, discovery and horizon scanning activities in collaboration with relevant code administrators, code managers and or code parties

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<sup>55</sup> As an example, the date on which the BSC is designated as a 'designated document' (were it to be so designated) is the same date the transitional powers related to the BSC would expire. Transitional powers related to yet to be designated codes would remain available up to the earlier of a similar corresponding designation event or October 2030.

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- Revising and or streamlining requests of stakeholders
- Revisiting how quickly we can move from one activity to another, and the trade-offs of doing things concurrently versus in sequence
- Taking decisions on changing the nature and or level of involvement of any stakeholder group
- Revisiting when and how we share revisions to the transition plan
- Go-live outcomes for a particular code
- How we are meeting our project aims

8.42. At or around interim milestones (that is, the upcoming go-live of a particular code), and where there have been manifest changes to the plan, we expect to share those revisions in a suitable forum and with a suitable level of detail to help stakeholders revise their plans.

8.43. Further, and as part of the initial modification proposal consultations later in 2025, we expect to share areas of our approach which have not been covered in this consultation. That may include, but is not limited to, transitioning live or inflight codes processes.

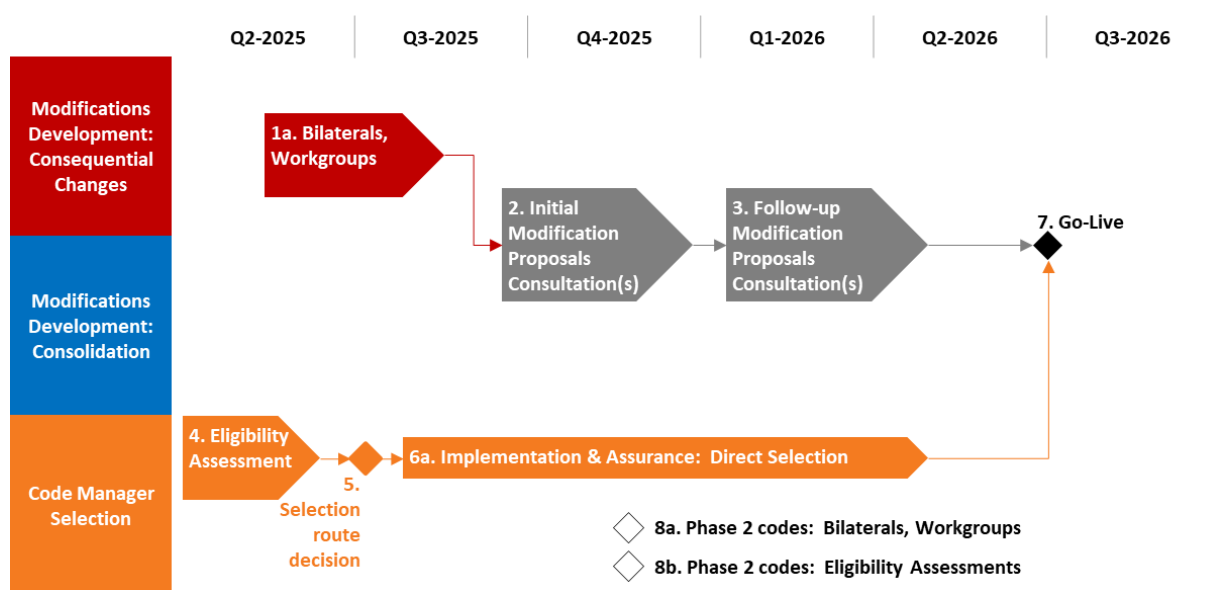
## **High-level transition plan**

8.44. Below we set out an overview of the anticipated critical path activities in the lead up to go-live for a particular code.

8.45. Figure 2 shows the parallel flows of activities for modifications development, and code manager selection for phase 1 codes.

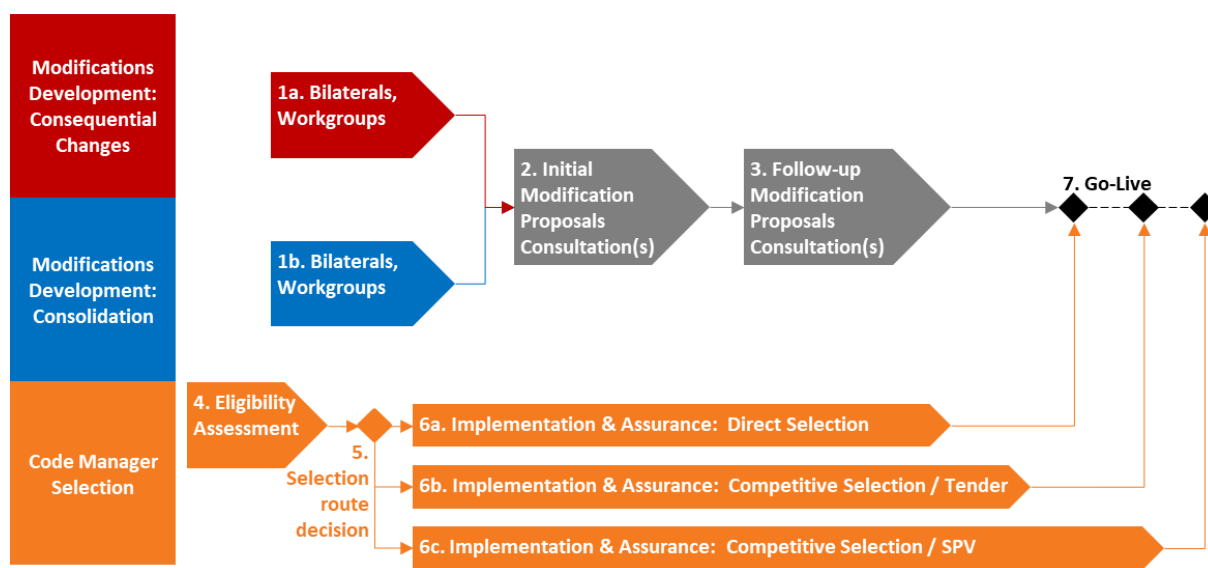
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Figure 2: High-level transition plan for phase 1 codes



8.46. Figure 3 shows the parallel flows of activities for modifications development, and code manager selection, with the potential differences in the timing of go-live under different selection scenarios.

Figure 3: High-level transition plan reflecting timing under different selection scenarios



8.47. We welcome any comments from stakeholders in respect of how we should approach the implementation and transition process for code reform.

## **9. Your response, data and confidentiality**

### **Consultation stages**

- 9.1 The consultation will be open until 29<sup>th</sup> May 2025. Responses will be reviewed and the consultation decision will be published later this year.

### **How to respond**

- 9.2 We want to hear from anyone interested in this consultation. Please send your response to [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk).
- 9.3 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can. A response template has been provided as a subsidiary document to this consultation on the Ofgem website.
- 9.4 We will publish non-confidential responses on our website at [www.ofgem.gov.uk/consultations](http://www.ofgem.gov.uk/consultations).

### **Your response, your data and confidentiality**

- 9.5 You can ask us to keep your response, or parts of your response, confidential. We'll 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.
- 9.6 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'll get in touch with 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.
- 9.7 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 4.
- 9.8 If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we



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receive. We won't 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**

9.9 We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd 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](mailto:stakeholders@ofgem.gov.uk)

## How to track the progress of the consultation

- 9.10 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. Choose the notify me button and enter your email address into the pop-up window and submit. [ofgem.gov.uk/consultations](https://ofgem.gov.uk/consultations)

Notify me +

Would you like to be kept up to date with *Consultation*  
*name will appear here?* subscribe to notifications:

**Email\***

Submit >

- 9.11 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:

**Upcoming** > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

## Appendices

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## **Appendix 1 – Consultation questions**

### **Section 2**

- Q1: Do you agree with our proposal to have in place a premodification process and the proposed roles and responsibilities in this process?
- Q2: Do you agree with our proposals on who can raise modification proposals and the associated triage criteria?
- Q3: Do you agree with our proposals on when modifications proposals are deemed as withdrawn; i) if a code manager doesn't take ownership and ii) if the proposer does not engage in the process or acts vexatiously.
- Q4: Do you agree with our proposed roles and responsibilities in determining the materiality and priority of a modification proposal?
- Q5: Do you agree with our proposals on cross-code working; i) to use the cross-code working arrangements in the Retail Energy Code as the basis of future cross-code working and; ii) any improvements that could be made to the cross-code process.
- Q6: Do you agree with our proposal on how a code manager should decide the need for a workgroup to develop a modification proposal?
- Q7: Do you agree with our proposals on alternative modifications; i) who can raise them and ii) a limit on their number.
- Q8: Do you agree the default should be that modification proposals are consulted on once?
- Q9: Do you agree with our preferred option (Option 2) to deliver these proposed changes?
- Q10: Do you agree with our proposals for the future of the Code Administration Code of Practice?

### **Section 3**

- Q11: Do you agree with our proposed SAF objectives?
- Q12: Do you agree with our proposals for SAF membership?
- Q13: Do you agree with our proposals on how a SAF will operate?

### **Section 4**

- Q14: Do you agree with our preferred approach of conducting a case-by-case review of subcommittees in terms of delegated decision making and impartiality?
- Q15: Do you agree with our proposals for the running of subcommittees, including that code managers chair and provide the secretariat in all cases?

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Q16: Do you agree that the same approach we are taking for subcommittees should be applied to performance assurance boards or committees where these are already in place?

Q17: Do you have any views on whether we should introduce performance assurance frameworks to the consolidated electricity technical code and electricity commercial code?

Q18: Do you agree with our preferred option of making the code manager decision maker for all code derogations?

Q19: In terms of sandbox derogations, do you agree that in the long-term there should be a harmonised process across all codes? Do you have views on our options for how SAF members are consulted on sandbox derogation requests?

Q20: Do you have views on what works well within existing sandbox derogation processes? Or views on what should change?

### **Section 5**

Q21: To what extent do you agree with the proposal to retain the existing code administrator cost recovery methodologies in the BSC and the REC? (Noting that appropriate consequential changes would need to take place)?

Q22: Are there any specific factors or concerns we should consider when carrying out the consequential changes required to implement the changes to the cost recovery mechanisms?

### **Section 6**

Q23: To what extent do you agree with the proposed approach to issuing directions to responsible bodies for designated central systems, in particular the proposed consultation process?

Q24: Are there any factors we should consider when carrying out the consequential changes required to implement the power to direct responsible bodies for central systems?

### **Section 7**

Q25: Do you have views on our approach to allocating roles and responsibilities to the range of implementation activities?

Q26: Do you have views on the completeness of the list of implementation activities, and how we expect to be assured of good outcomes?

Q27: Do you agree with our view on the responsibility individual stakeholders should have in readiness for the transition?

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Q28: Are there specific ways we can facilitate timely industry readiness?

Q29: Do you agree with our proposed approach to the implementation and monitoring of the code manager candidate?

Q30: Do you agree with the list of products proposed for the final assurance assessment to demonstrate compliance with the standard licence conditions?

Q31: Do you agree with our proposals on code consolidation (including use of workgroups, and early proposals on the common contractual framework)

## **Section 8**

Q32: Does our plan capture the critical path activities for a 2026 go-live for the phase 1 codes? If not, what is missing and how would it improve the deliverability of our plan?

Q33: Are there activities in the business-as-usual timetable for the codes you believe are important to build into our plan? What are they and why?

## **Appendix 2 – Subsidiary documents**

The following subsidiary documents have been published on Ofgem’s website alongside this consultation:

- Subsidiary Document 1: Expression of Interest for the Impementation of Phase 1 (Consequential Changes) Workgroups

## Appendix 3 – Glossary

Acronyms	Definition
BSC	<b>Balancing and Settlement Code</b>
CACoP	Code Administration Code of Practice
CCSG	Cross Code Steering Group, set up under the Retail Energy Code (REC) to better facilitate cross-code change.
CSDBs	Central System Delivery Bodies
CDSP	Central Data Service Provider
CMA	Competition and Markets Authority
CUSC	Connection and Use of System Code
DCUSA	Distribution Connection and Use of System Agreement
DESNZ	Department for Energy Security and Net Zero
GEMA	Gas and Electricity Markets Authority
IGT UNC	Independent Gas Transporters Uniform Network Code
MPW	Modification Process Workgroup
REC	Retail Energy Code
SAF	Stakeholder Advisory Forum
SCR	Significant Code Review, a way for Ofgem to influence the existing end-to-end code change process to modify industry codes
SDS	Strategic Direction Statement means a statement prepared and published by GEMA that sets out a strategic direction for industry codes and contains a strategic assessment of government policies and developments related to the energy sector, that the GEMA considers will or may require the making of modifications to industry codes.
SPV	Special Purpose Vehicle
SQSS	Security and Quality of Supply Standard
STC	System Operator- Transmission Owner Code
UNC	Uniform Network Code



## **Appendix 4 – 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](mailto: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. With whom we will be sharing your personal data**

We may share data with the Department for Energy Security and Net Zero.

#### **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for up to 12 months after the project is closed, including subsequent projects or legal proceedings regarding a decision relating to this consultation.

#### **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

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- 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 3<sup>rd</sup> 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](#)".