

Dr Gavin Baillie
Code Governance Reform
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

28 March 2025

Dear Gavin,

**CONSULTATION ON THE PRELIMINARY STRATEGIC DIRECTION STATEMENT
AND CODE GOVERNANCE ARRANGEMENTS**

Thank you for the opportunity to comment on the issues raised in this consultation. This response is submitted on behalf of ScottishPower and primarily reflects the views of our energy retail and renewable generation businesses. Our networks business, SP Energy Networks (SPEN), is responding separately from its perspective as an electricity networks licensee.

Our responses to the specific questions raised in the consultation are set out in the annex to this letter. We would highlight the following points:

Implementation of the Preliminary SDS

While we think Ofgem has sufficiently captured the relevant policy objectives and workstreams in the draft preliminary Strategic Direction Statement (SDS), we also think current code administrators and panels could benefit from assistance from Ofgem in its implementation. The SDS is directed at code managers, which will have the necessary scope and obligations in their licences to raise, prioritise and implement code modifications that facilitate the SDS. However, by introducing the preliminary SDS ahead of the introduction of code managers, it will be left to current code administrators and code panels to implement it, who may be less equipped to do so than future code managers will be expected to be. We think code administrators and panels would benefit from supplementary guidance from and engagement with Ofgem on how they can approach medium and longer-term policy objectives and cross-code modifications.

Responsibility for the SDS

While Ofgem has the option under powers granted to it under the Energy Act 2023 to delegate production of the SDS to the National Energy System Operator (NESO), we believe Ofgem is best placed to produce and manage the SDS, with the NESO providing advice as appropriate. This approach reflects the roles and responsibilities as set out in the draft preliminary SDS, which we believe should continue on an enduring basis.

Should you have any questions regarding any aspect of this response, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink that reads "Richard Sweet". The signature is written in a cursive, flowing style.

Richard Sweet
Director of Regulatory Policy

**CONSULTATION ON THE PRELIMINARY STRATEGIC DIRECTION STATEMENT AND
CODE GOVERNANCE ARRANGEMENTS – SCOTTISHPOWER RESPONSE**

Q1. Is the structuring of SDS content into three-time horizons (Act now, Think & plan, Listen & wait) helpful?

The three proposed time horizon categories appear sensible in the context of a five-year, forward-looking timescale. Nevertheless, the “Think & Plan” and “Listen & Wait” categories may be less meaningful for code administrators without supplementary guidance from Ofgem on how they should approach future code modifications, including cross-code changes. Ahead of code managers being in place, we think it will be beneficial for Ofgem to maintain an active and ongoing dialogue with code administrators and panels on code activities and the time horizons in the preliminary SDS.

Q2. Do you agree with the way modifications have been categorised into these three time horizons (Act now, Think & plan, Listen & wait)? If not, please specify what changes you suggest and why.

While we have not exhaustively assessed every categorisation of the SDS policy objectives, we would offer the following observations on some cases:

- 1.2 Working with Others to Tackle the Affordability Crisis – We think that more specific deliverables would be required in more immediate timescales than the proposed Think & Plan categorisation and the implied 2–3-year time horizon, and we would recommend that this objective be reassessed in this light.
- 6.2 Continue to Operate and Iterate the Offshore Transmission Owner Framework – Given the number of reforms being considered to the OFTO regulatory framework, for example in the recent Evolution and Extension of a Mature Asset Class consultation, we are surprised that Ofgem has not identified any scope for future code modification. We think Ofgem should reassess this area.
- 10.3 Strengthening Cyber Resilience – We consider this area likely to be a fast-evolving policy objective, requiring code stakeholders to be more responsive to events than the Listen & Wait category would entail. We think this area would benefit from further review to provide more detailed definition of cyber resilience and what developments might be captured by this policy objective.
- 10.4 Build Resilience to Extreme Weather Events and Long-Term Climate Change – We think this is a more immediate priority than the Listen & Wait classification. We also consider the Distribution Code would be impacted but is not identified in the SDS. Similarly, we think the Distribution Code should be included in the 10.1 Grid Forming policy objective.

Q3. On the basis that the SDS should contain a strategic assessment of government policies and developments relating to the energy sector, which will or may require the making of code modifications, do you think there is anything missing from the SDS that you would expect to require code modifications in the next 1-5 years? If so, please specify.

We think the draft SDS has sufficiently captured the principal known areas of energy policy that may in future involve code modifications over the next five years. With the SDS's current preliminary status, ahead of code managers coming into effect, we note that responsibility remains with Ofgem to review its identified items against individual code objectives, to ensure that no potential conflicts arise between the SDS and code modifications. Unlike the envisaged code managers, code administrators and panels do not have obligations to facilitate and achieve the SDS, and this requirement is also absent from any of the code objectives of the designated codes. We think it would be helpful for Ofgem to provide an explicit assessment of the preliminary SDS against the relevant code objectives in each area.

Q4. Did you find the SDS easy to understand and do you think that the level of detail included is sufficient to allow you to begin raising and implementing code changes?

We think the SDS is sufficiently accessible and does well in mapping the 14 objectives and related workstreams to the main pillars of Ofgem's duties. In contrast, the mapping to government policy objectives is less clear. However, we recognise that Ofgem must draw on the Strategic Policy Statement (SPS) approved in the last Parliament in 2024 and also capture the policy initiatives announced by the new Government (eg Clean Power 2030). We would expect that, by the time of the next annual SDS, the SPS may have been updated to reflect the current Government's policy agenda and that, by extension, the SDS can incorporate any consequential changes. In this context, we suggest there would be benefit from including an overarching statement, as a "primer" to the preliminary SDS, which includes the principles such as safety and security of supply, consumer protection, decarbonisation and cyber security. This approach, of high-level principles and policy objectives, would make the intent of the SDS clearer to all relevant audiences.

As noted in our response to Question 1, we do not think the objectives assessed as Think & Plan and Listen & Wait are sufficiently detailed for code administrators, panels and parties to understand how to prepare for and approach related code modifications. In this context, Ofgem will need to actively engage with these stakeholders on the implementation of the SDS beyond current live code modifications. We would expect to see in future SDSs clarification of the roles of code managers, as they are phased in, for respective codes to 2030.

Q5. If you are a code administrator or code panel, what action do you intend to take, if any, to implement the SDS following publication?

Not applicable.

Q6. Do you have any suggestions about the best way to implement the SDS in the context of budget setting, delivery planning and the introduction of a harmonised prioritisation process? Please note we will be doing stakeholder engagement in early 2025 to discuss this further.

As we have noted in previous question responses, we believe that the key to successful implementation of the preliminary SDS, in advance of code managers being appointed, will be active engagement by Ofgem with stakeholders, including code administrators, panels and parties. Otherwise, we think that, in the absence of such engagement, there is a risk that SDS policy workstreams are not sufficiently and consistently embedded into codes (including

through cross-code initiatives). We recommend that Ofgem engage through existing channels more actively, including through its participation in code panels, boards and working groups. In addition, the existing cross code working group could be more effective if its scope and remit were expanded beyond the retail-focused codes.

Q7. Do you have any other feedback?

No.

Q8. Do you agree with our proposed prioritisation process, including the requirements that:

- (a) a proposer of a modification proposal should be required to include an assessment of their proposal against the prioritisation criteria**
- (b) that the code panel should then be responsible for determining the prioritisation category of the modification proposal**
- (c) that code panels should reassess the prioritisation category of modification proposals on a quarterly basis**
- (d) that all codes contain a requirement for a code modification register, that also includes whether a modification is urgent and the prioritisation category. If not, please specify what changes you suggest and why.**

We agree with Ofgem's proposed prioritisation process for assessing code modifications against the SDS. Our one reservation is the suggested frequency of quarterly reassessment which feels too frequent, between annual SDSs. If Ofgem is anticipating this level of frequency of changes in SDS-related code modifications within 12 months, this would reinforce the need for much more active engagement by Ofgem with the individual codes to ensure the SDS is effectively implemented.

Q9. Do you agree with our proposed prioritisation criteria and prioritisation categories? If not, please specify what changes you suggest and why.

We agree that the proposed prioritisation criteria and categories appear sensible. We would suggest Ofgem provide supplementary guidance on how the criteria should be interpreted and applied, which will help ensure consistency of prioritisation between respective code panels.

Q10. Do you agree with our proposed legal drafting of code modification prioritisation procedure included in Annex A? If not, please specify what changes you suggest and why.

We agree with the proposed drafting for the prioritisation process.

Q11. Do you agree with our proposed definitions to form future guidance on Code Modification Prioritisation included in Annex B? If not, please specify what changes you suggest and why.

Yes.

Q12. Do you have views on whether this proposed prioritisation process should also apply to all live modifications that exist at the date that the proposed code changes take effect, as well as newly proposed modifications from this date onwards?

For consistency and clarity, we believe that the new prioritisation process should be applied to all live modifications currently under consideration from the date of effect. Should such an approach not be applied, some modifications would be prioritised in relation to the SDS and some would not, which would leave the unprioritised modifications in an uncertain position. In

our view, the code panels would be best placed to undertake any analysis that would underpin such a reprioritisation, instead of the individual proposers of the relevant modifications.

Q13. Do you agree with our proposed drafting of a new principles-based standard condition, for cooperation with code modifications related to SDS, for all gas and electricity licences, included in Annex C?

Yes, we agree with the proposed condition. However, the reasonableness of the licence condition is contingent on the procedures, criteria, test for “reasonable requests” and other safeguards placed on code managers which will sit in the respective codes. We think it reasonable for such provisions for the REC and BSC, whose code managers will be operational in 2026, to be consulted on alongside the licence condition, so that all licensees can assess the full implications of the new licence obligation. Under this approach, other industry codes would replicate the drafting approved for the REC and BSC.

We would also expect a reciprocal licence condition to be part of the code managers’ licence, when introduced, as a reasonable safeguard on them exercising the cooperation licence condition.

Additionally, we would like to understand how equivalent arrangements will be introduced for non-licensed code parties. If the burden of cooperation requests is placed solely on licensed parties, we think this should be an additional consideration, constraining code managers in their exercise of cooperation requests.

Q14. Do you agree with the proposed criteria the code manager should consider prior to issuing a request for cooperation?

Yes, the proposed criteria appear sensible, but safeguards concerning the code managers’ exercise of such requests should be incorporated into their new licences and into the respective codes. With code managers for the REC and BSC expected to be awarded licences in 2026, we think it is reasonable that the drafting for the REC and BSC should accompany consultations on the licence condition, so that all licensees can assess the full implications of the new licence obligations. Once approved, respective drafting for other industry codes should align with the REC/BSC drafting, to ensure consistency of approach between code managers.

The key here is having a definition on what constitutes “reasonable” in cooperation requests. As part of this definition, we believe code managers should be required, before issuing requests, to demonstrate that they have checked existing information they hold and receive, to ensure the request is not a duplication of effort.

ScottishPower
March 2025