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Date:
28th March 2025

Contact / Extension
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Attn: Gavin Baillie

By email: industrycodes@ofgem.gov.uk

Dear Gavin,

Consultation on the preliminary Strategic Direction Statement and code governance arrangements

SPEN welcome the opportunity to respond to Ofgem's policy consultation on the preliminary Strategic Direction Statement (SDS) and code governance arrangements. We respect and carry out our licence conditions on applicable code compliance and actively participate in code modification and panel processes.

We work closely on a day-to-day basis with the current code administrators. Our role in the current process uses our technical expertise, vast corporate memory and allows us to comply with our licence obligations. Furthermore, our involvement in code management ensures that customers across our network are efficiently, economically, and safely delivered a secure, reliable electricity supply.

SPEN acknowledge the intent of the consultation, which shows clear reflection on previous consultation responses and consideration of issues covered within the code modification workgroup. Drawing on our extensive experience and knowledge in relevant electricity codes, we highlight specific considerations we believe are important for Ofgem to consider in the application of the SDS. A summary of these considerations is provided below. Our detailed response is set out in Annex 1.

Summary

Notwithstanding the detailed comments we outline in Annex 1, SPEN broadly support the preliminary SDS and the review of the code governance arrangements. It is imperative that Ofgem ensures that roles and responsibilities are clear across all involved parties and that the SDS is easily accessible, allowing for adequate scrutiny and assessment of success.

We broadly welcome the Consumer Interest Framework which notes investability and maintaining security of supply. This critical requirement of network licensees to own and operate a safe, resilient, and secure network should be maintained and should be at the forefront of the SDS. While we acknowledge and support a 'low-cost transition', we urge Ofgem to consider their position to ensure a 'cost effective transition' to maintain the appropriate balance in consumer value while meeting national decarbonisation and economic growth targets and enhancing resilience and energy security.

SPEN will continue to support code administrators in code change programmes and are committed to progression towards government targets for Clean Power 2030 (CP2030) and net zero targets alongside economic growth.

Licence modifications

We are concerned and alarmed with Ofgem's approach to introduce the proposed new cooperation standard condition. Due process is that licensees are consulted through working groups to ensure transparent and collaborative development of policy before licence conditions are drafted and consulted upon initially, before a final statutory consultation allowing for thorough scrutiny of legal changes.

We seek further clarification from Ofgem on the term 'reasonableness' for Transmission Owners (TOs) to support the proposed cooperation standard condition. This sets a high legal threshold, and we request clear definitions and associated timescales for complying with any requests from code managers. Additionally,

SPEN emphasise the need for such obligations to be reciprocated in the licence of code managers to ensure they act reasonably with information requests, considering factors like response times, information volume, data formats and sharing platforms to avoid placing disproportionate burdens on licensees. We would request sight of the draft code manager licence conditions as it is difficult to consider the impact of the proposed licence obligation without understanding the extent of the code managers' powers.

Ofgem SDS Obligation and Statement

We recognise the new obligation for Gas and Electricity Markets Authority (GEMA) to issue an annual SDS for designated industry codes. It is our belief that the SDS will play an important role in shaping the development of codes for the interest of consumers in line with technological and commercial developments, while supporting the transition to net zero.

We welcome that the SDS focuses on a period of one – two years, with a longer-term five-year vision, but challenge how a current code administrator will implement longer term priorities within the current resource. We view Ofgem as a key enabler to ensure the SDS is integrated into the current process. We welcome the clarity that policy will not be developed and implemented in the code forums, but instead code reform will take a 'wait and see' approach, before implementing the changes required.

SPEN supports the proposal to include reference to and a definition of the SDS in the code manager licence terms, as well as references to its implementation within code modification processes. This is essential to ensure adherence to the SDS by licenced and non-licenced parties. In the long term, we request that Ofgem considers where the responsibility in reviewing, setting, and updating the strategic direction lies, considering the independence, scrutiny and remit of an appointed code manager, the National Energy System Operator (NESO), and relationships with Ofgem and Department for Energy Security and Net Zero (DESNZ).

SPEN advocates for a simple overarching statement, which sits across the SDS as we believe this would be key to the success of the SDS, ensuring that it can be transparently assessed for achievement.

Roles and responsibilities

SPEN believe that it is imperative that Ofgem clearly outline the defined roles and responsibilities for all code administrators, code licensee parties, code participants including the NESO and indeed Ofgem themselves.

It is clear that the proposed responsibilities and expectations of code managers will differ to that of a code administrator with licence obligations to implement, promote and prioritise the SDS. Further clarity is required from Ofgem on how non-licenced code parties will be considered and addressed.

SPEN support the SDS implementation and welcome the forthcoming consultation on code prioritisation, meanwhile we continue to play an active role in the current code process.

It is imperative that SPEN's role as a **key stakeholder and expert advisor** is maintained with our unparalleled technical and commercial knowledge and experience continuing to be utilised post reform. For the avoidance of doubt, our engagement as a key stakeholder needs to be managed differently from 'wider' stakeholders to ensure the economic, safe, secure, and resilient supply of electricity to the homes and business we serve, whilst adapting and facilitating the necessary steps to achieve national decarbonisation targets and enhance energy security.

We welcome clarification on Ofgem's stakeholder engagement plan and further engagement with Ofgem on the points highlighted in this response.

Yours sincerely,



Lauren Logan
Head of Transmission Regulation and Policy
On behalf of SPEN

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

We support the three time horizons proposed. The splitting of the SDS content into three areas of action aids transparency, with a rationale that is easy to understand.

Below we outline some of our considerations with the three time horizons. It is key to note that there are objectives within the horizon areas where we query their placement, which we highlight in our response to question two.

Act now

- The horizon of “Act now” and the ask of industry stakeholders to “develop code modifications that enable the described policy and for these to be implemented in the codes. We expect that in most cases the legal text will have been drafted and implemented within two financial years of the publication of the SDS.” While seemingly reasonable, this will place additional burden on existing code panel members who are already committed to the progression of code modifications and the application of major policy change for example, connection reforms.
- We suggest there is an important role for Ofgem in the progression and planning of code modifications to meet the suggested SDS time horizons. The role of Ofgem in current workgroups can be limited and whilst we appreciate the inability to direct discussion within the current workgroups, the input of Ofgem policy intent, current thinking and the posing of questions would help in faster decision making in advance of final modification reports being submitted for decision. Ofgem supporting current processes more cohesively would ensure panel members had increased time to review the proposals of any ‘Act now’ objectives. In addition, constructive Ofgem support earlier in the code modification process would speed up and allow more suitable and / or appropriate modification developments which would allow faster change.
- Within all the horizons, in particular ‘Act now’ and prior to code consolidation / code manager appointment, there is a need to ensure that related cross code modifications are progressed in parallel rather than in a sequential manner. Whilst we appreciate this is difficult given the dependency on one solution driving change in another code, the current sequential way of working can be inefficient and could lead to the proposed SDS time frames not being achieved (i.e. ‘Act now’, two financial years). While we recognise that there is a need for code modifications to be processed more quickly, we believe that it could be suboptimal to force such modifications with the timescales set out in the SDS. It should also be noted that the two financial year timeline whilst in practice may improve current processes it will still be too long in the context of reaching national decarbonisation targets such as CP2030.
- The timeline for ‘Act now’ includes the financial year 2025-26. Budgets, policy priorities and any associated modifications are already in place for 2025-2026. We seek urgent clarity on Ofgem’s expectations on current code administrators and involved stakeholders for the upcoming financial year.
- Given the already limited industry code administration resources, it is important to recognise the expected increased role and expectations on current code administrators, participating code parties and code compliant parties in supporting the preliminary SDS. This is particularly relevant given the proposals to review priorities for ‘in progress’ code modifications.

Think & plan

- We welcome the horizon of “Think & plan”. However we would highlight that this is a revised role for stakeholders (panel participants will develop modifications), with work potentially required pre-modification being raised. As a TO and DNO, our current operational, independent role includes developing modifications presented, reviewing and providing comment on legal text and raising modifications when required. Whilst recognising the benefit in revising the current role of code panels to think & plan, SPEN will continue to provide support and expertise in delivering required code modifications up to and beyond changes being implemented, clarity being delivered, and code managers being appointed.

Listen & wait

- We suggest that “Listen & wait” is not useful terminology in the context of accelerated delivery to achieve national decarbonisation targets and enhance energy security. We would therefore suggest that ‘Listen and Readiness’ may be more appropriate.
- Whilst we understand the “Listen & wait” horizon, it seems counterintuitive to set time frames for the implementation of these objectives. By the nature of “Listen & wait”, it is uncertain about the progression of policy development which is not in the jurisdiction of a Code Manager. Further, the three - five-year timeline of implementation is ambiguous given that the timeline for policies and pathways will be unknown. While we recognise the intent of these timelines, it does not add value to the “Listen and wait” horizon.
- In the published preliminary SDS as presented by Ofgem, we recognise the robust and broad strategic review of the government Strategy and Policy Statement, the CP2030 Action Plan and work undertaken with DESNZ and NESO, in collating the multiyear strategic objectives.
- In advance of any code manager appointments, we would suggest that the horizon of “Listen & wait” and potentially “Think & plan” will see little development given the ongoing industry reform, ambitious targets of CP2030 and Net Zero and the already increased burden on industry of implementation at this pivotal moment.

We would suggest that two tasks are appropriate at this time.

- A need for an overarching SDS principle to sit across all codes which reflects the requirements of codes in the enduring safety, security and resilience of supply. The overarching principle should recognise national decarbonisation targets, the role codes play in consumer protection and consider the necessity of growth. It should also sit across all codes as a target that would change little in any iteration of the SDS, although it would be a fundamental remit for all code managers on appointment.
- There are policy areas in the preliminary SDS that are classified as N/A where Ofgem “do not think this objective currently has policy that requires implementation through codes”. For example, objective 11.1: Regulate NESO. Given the expectations on the current code systems and, prior to code manager appointment, we suggest any publication of the Multiyear Strategy Objectives would be clearer without these included. The work has already been undertaken, so it can be used and enhanced by code managers on their appointment. The N/A objectives could be reviewed as part of the SDS review process and included at this stage if they become applicable.

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.

Please review our response below in conjunction with Q1.

Overall, we broadly support the objectives and the horizon categories they have been placed within, although the necessity for a thorough review is clear and we include below some key areas which we feel require addressing. In addition, we would ask that code panels and current code administrators review the horizon suggestions and propose potential streamlining of overlapping objectives prior to publication. Given code panels and current code administrators are not only the expert stakeholders but also those being requested to consider the implementation of the SDS prior to code manager appointment, we would deem this a reasonable request.

Suggested further Multiyear Strategy Objectives.

Given Ofgem’s mandate to ensure that network licensees remain financeable and investable, we urge Ofgem to consider including this as a multiyear objective across the energy codes.

We also believe that Ofgem’s new Net Zero and Growth Duty, alongside government’s Clean Power 2030 targets should be considered in the multiyear objectives across the energy codes.

Suggestion for the streamlining of objectives

Objective 10.3 Strengthen cyber resilience is allocated a time horizon of N/A, yet this is of significant importance to industry. With the growing number of industry participants and the increasing expectation to reduce barriers to entry, the area of cyber security for the energy system (not just network owners / operators) is more important than ever. In addition, we believe the objective interacts with both 14.1: Set governance and standards to digitise system data and improve data sharing, plus 14.2: Enable innovation across the sector, policy area digitalisation, which are allocated a time horizon of Act now.

In relation to objective 14.3: 'Establish a framework for responsible use of Artificial Intelligence in the energy sector' and unnumbered Objective 'Adaptability for Innovation', we would suggest that these could be merged and streamlined.

Time horizons requiring review

We seek clarity in the objectives listed below and the proposed time horizon.

- 6.1: Continue to drive accelerated onshore network investment. Currently: Listen & wait. We would suggest this is a priority given the national decarbonisation targets of net zero and CP2030 as well as the need to enhance energy security.
- 10.1: Pursue security of supply, policy area: grid forming. Currently: Think & plan. We would suggest this is an overarching principle and that this is a fundamental part of the need for codes, rather than a Think & plan objective.
- 10.4: Build resilience to extreme climate events and long-term climate change, policy area: climate resilience standards. Currently: Listen & wait. The allocation of Listen & wait to this category is disconcerting, as this is crucial in the activities of network owners and operators. This should be an overarching principle of any code. The need for consumer protection against new asset investments for the effects of extreme climate events and long-term climate change means this should be a time horizon of Act now.
- 14.3: Establish a framework for responsible use of Artificial Intelligence in the energy sector is marked as Time Horizon N/A. We do not believe this is appropriately rated. Given the linkages between AI and increased cyber security threats etc. we believe that this should be considered as Act Now or, at least, Think & Plan.

Overarching principle

In our response to question 1 we suggest the need for an overarching principle to sit across all codes, as a high-level principle of the SDS and would suggest that the following objectives (but not exclusive to) could form part of this including the objectives which are proposed to be applicable for all codes:

- 9.1: Use our regulatory tools to ensure high quality service and supply
- 10.3: Strengthen cyber resilience
- 11.2: Reform energy code governance to enable faster, more strategically aligned rule changes across the sector
- 14.1: Set governance and standards to digitise system data and improve data sharing
- Adaptability for Innovation (unnumbered objective).

Code allocation expansion

Objective 6: Expand electricity networks

- 6.1: Continue to drive accelerated onshore network investment. Given the inclusion of the Distribution Code (DCode) and System Operator Transmission Owner Code (STC) here, we are surprised by the omission of the Grid Code (GCode) especially in relation to the need to compel Distribution Network Operators (DNOs) to provide NESO with information. The GCode is currently one of the main vehicles used by NESO to gain information from DNOs given that they are 'Users'. The DCode is mainly focussed on customers connecting to the Distribution network so is limited in its application here.

- 6.3: Enhance flexibility through electricity interconnection. We would have expected the Security and Quality of Supply Standard (SQSS) to be included for this objective, given the role played in shaping the criteria required for offshore transmission network design requirements.

Objective 10: Secure and resilient supplies

- 10.1: Security of Supply. Grid Forming - also under this objective only the GCode is included, yet within some of the resources may be embedded DCode interactions.
- 10.3: Strengthen cyber resilience - currently the DCode documents (EREC G98 and G99) include cyber security requirements for those seeking connection to the distribution network, so depending on the exact nature of the policy it could be possible that the codes governing the technical connection requirements may need to be included.
- 10.4: Build resilience to extreme climate events and long-term climate change – we would expect to see the DCode included here.

Clarity on terminology and / or meaning.

- 10.1: Security of supply. There is some ambiguity in the term “security of supply” as it has two subtly different meanings. There is the overall ensuring meaning “that there is sufficient generation” and then the “standards that networks should be designed to (e.g. SQSS and EREC P2/8)”. In addition we also highlight that network security is referred to within CP2030, the requirement to protect from price control shocks internationally. For clarity, the objective should be clearly defined in its meaning and intention.
- 10.2: - we seek clarity from Ofgem on who 'non-retail regulated network companies' may be and SDS interactions?

We request clarification from Ofgem on the content of column O within the Subsidiary-Documents-2-Preliminary-SDS-spreadsheet² as column title is Unknown.

Should any of the above be unclear, or our understanding of the objective be incorrect and the horizon deemed appropriate, we would ask that this lack of clarity was considered in our response to question 4.

Q3. On the basis that the SDS should contain a strategic assessment of government policies and developments relating to the energy sector, that 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 support that the SDS, as it has been drafted contains a strategic assessment of the relevant documents relating to the energy sector to reflect the targets, investment focus and operability expectations. As a first action point, we would propose that the preliminary SDS is reviewed against current code objectives to avoid unnecessary duplication and the potential impact of de-prioritising current inflight code modifications.

It is imperative that the electricity network design standards, safety and efficient operability objectives are retained through the code objectives. This is critical due to the essential role that codes play in network operability. This will also go towards ensuring the delivery of government expectations around industry standardisation where appropriate.

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?

The SDS multiyear strategy objectives as outlined in the excel document circulated with the consultation are easy to understand and can be seen as aligned to the relevant codes notwithstanding the points raised in our response to question 2.

As outlined SPEN suggests and would support an overarching principle of the SDS, including but not exclusive to the economic, safety, security and resilience of supply, the net zero objective, and growth consideration, which can be reviewed annually, but would not be expected to significantly change. This would align with the objectives that are then set, and would focus and ensure licensees operating within the codes can comply with their licence commitments without undue pressure from non-licensed code parties and that

code modifications are appropriately formulated to ensure the attaining of overarching principles is prioritised.

Given the pivotal moment and necessity of a timely approach to achieve the wider targets of net zero and CP2030, there is a huge amount of work required within codes to help facilitate development. To use a current example, the volume of code work being undertaken within the STC and CUSC to facilitate connections reform and the back log of modifications which have stood still during the focus on this work, implementation of SDS related modifications prior to code manager appointment would require a wider resource pool than what is currently in place.

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?

SPEN are an active part of the code governance process, playing a key role as expert contributors to panels, both as members and alternates and participating in workgroups. In addition, we regularly and consistently respond to both workgroup and code administrator consultations. Our expertise and experience are relevant and should not be undermined in reformulating modifications and suggesting alternative solutions across the codes in which we are present.

Following publication of the preliminary SDS we would expect support from Ofgem and close co-ordination with current code administrators to reflect the SDS within the current code system and processes. We would see benefit in using the SDS within our existing roles outlined above to assist in the prioritisation of new proposed code modifications and to assist in the evaluation of current code modifications which have perhaps stalled.

As an ambitious TO and DNO, SPEN believe that an overarching SDS will support and allow the development of industry codes to progress at the necessary speed and depth to focus on our role in achieving net zero and CP2030 alongside enhancing energy security.

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.

In our response to question 5 we highlight the necessity of Ofgem support to current code administrators in the implementation of the SDS. The task to assess the SDS against current code objectives and ensure alignment to prevent clashes of approach is a key prior to implementation.

We believe a primary task of Ofgem is to review the current modification processes of all codes which are planned to be consolidated, canvas opinion from the present code administrator and those who are active in the energy codes to establish the following:

- How reactive the current process is
- The ability to flex the prioritisation queue and review process
- Assessment criteria for new modifications, route of assessment

A well-structured and transparent process for SDS implementation which ensures early and meaningful stakeholder engagement is imperative. This should allow stakeholder review of budget cost breakdowns and well-defined monitoring and sign-off protocols, whilst including routine reporting. SPEN's primary request in respect of budget-setting is that the SDS should facilitate processes that are fair, transparent and receptive to stakeholder feedback. For example, in relation to the distribution network, we would highlight the existing budget-setting process for the DCUSA as an example we consider to be a thorough and balanced process, while allowing for transparency and stakeholder input.

We suggest that the process across the codes to be aligned should be considered and adjustments made prior to code manager appointment to avoid duplication of efforts throughout code reform. Once the alignment of current process has been considered, there should be a reflection on how the SDS can impact and influence the process appropriately.

Question 6 suggests stakeholder engagement will commence in early 2025, given we are currently approaching Spring it would be helpful to see a revised timetable for Code Reform with indicative dates and stakeholder requirements.

Q7. Do you have any other feedback?

We are pleased to include feedback on the preliminary SDS and would urge Ofgem to consider the aspects detailed below prior to a publication decision.

Role of GEMA / Ofgem in setting the SDS

The SDS is warmly supported by SPEN, and we recognise the efforts to date in the objectives circulated. We see an explicit role for Ofgem to retain authority over the publication of the SDS to ensure transparency between the key stakeholders required for implementation. Retaining this ability would also allow for accountability in deliverability from licensees, code parties and code managers.

Size of SDS in consolidated codes

Recognising that code consolidation is the focus of Energy Code Reform and the SDS will sit across all codes, we would urge a review in the number of objectives applicable for each code. The Grid Code in the preliminary SDS has 14 objectives, once consolidated into a larger technical code, the number of objectives increase. The future number of objectives per larger consolidated code should be reviewed now to ensure the methodology is fit for purpose.

Licence obligation

SPEN welcome the opportunity to provide comment on the newly proposed standard licence condition for licensees, however we are concerned at the approach that Ofgem have taken to introduce such a condition. We seek clarification from Ofgem on the newly proposed licence condition which references reasonableness throughout and request that this is clearly defined alongside any timescales associated with this. Further, SPEN is limited in its ability to comment on the appropriateness of this condition without first seeing the draft code manager licence conditions – to understand the extent of the new code managers' powers.

Further, in the consultation, 2.10 "In future, we envisage that code managers may be subject to a licence obligation to prepare delivery plans setting out how they will facilitate delivery of the SDS through industry codes". Given the licence condition drafting being consulted upon for TOs & DNOs, we feel that any code manager should be subject to a licence condition that sets out how they will deliver and facilitate the SDS. This licence condition should sit alongside the recruitment process for a code manager in defining the suitability and acumen for undertaking the position.

SPEN recognise that, as stipulated in the consultation, "a secure and stable energy supply remains as important as ever" and this is seen as an overriding part of our obligation as a TO / DNO. We would support this forming part of an overarching SDS principle.

Stakeholder roles in setting the SDS

- **Stakeholder Advisory Forum (SAF):** Going forward, we seek clarity on the role of the code SAF in the prioritisation of the SDS objectives and in setting time horizons.
- **Current Code Administrators and Panel Members:** These parties have a valuable role in sharing their knowledge, expertise and experience that should be formally accounted for to help shape the SDS. This should be formally recognised in a SDS methodology.
- In our response to previous consultations on Energy Code Reform we have advocated for the appointment of a **Technical Expert Group** to support Code Managers. This group could form an important role in working with the Code Manager given their depth of knowledge to formulate code modifications to meet SDS objectives in the think & plan, watch & wait time horizons.
- **Transmission Owners:** Given the TOs' minority voice in industry and the vital role they play, it is important that they are engaged at the earliest stages of SDS discussions to ensure the safety, security and resilience of supply.

- **Distribution Network Operators:** Given the DNOs' vast expertise, experience and knowledge, DNOs must have appropriate input into the SDS to share this experience and knowledge.

Resource

Throughout this response we highlight the issue of industry resources given this pivotal time of development and delivery of national critical infrastructure projects across the UK to meet ambitious delivery targets.

The role of all parties that access codes is important, not just licensees but all code participants including panel members and code administrators etc. It is imperative that there is transparency in the decision-making process when any additional burden is being considered for any parties. We would urge consideration of all party resources, including that of Ofgem when reviewing the SDS process prior to code manager appointment.

Considering the above, an annual review of the SDS objectives would require industry, code and Ofgem resource to re-calibrate the years of expected delivery, review delivery and forward plans for future compliance.

Section 3: Prioritisation of code modifications

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

We agree with the consultation that the proposer of a modification should complete an assessment of their proposal against the prioritisation criteria considering the proposal against: (a) Alignment with the SDS; (b) Complexity; (c) Importance; and (d) Time-sensitivity. It would be sensible within the codes currently administered by NESO for this assessment to be included within the standard proposal template.

In addition, we would also suggest that the modification is reviewed against the overarching SDS principle as outlined in our response to question 1, which would ensure any modification took account of the need for a safe, secure and resilient network.

(b) that the code panel should then be responsible for determining the prioritisation category of the modification proposal

The current code panels decide on the prioritisation of modifications, and it is important for this to remain during reform, retaining and utilising the expertise and knowledge the panel has. We would urge against a prescriptive scoring route as any review by panel members is ultimately subjective. There is a wider question on cross code modifications as this requires further consideration.

(c) that code panels should be agile in reassessing the prioritisation category of modification proposals on a quarterly basis

Within current code practice there is already a set process for the reassessment of priority, and we would suggest that, in advance of code manager appointment, any review aligns with current process. We would question if the re-prioritisation were necessary on a quarterly basis, given the SDS will change annually. Would it be better and less burdensome to set a longer review period of six months, allowing panels the capacity to give it detailed consideration in a timely manner?

We would highlight that code panels are currently responsible for proposing urgent code modification treatment but are not the ultimate decision maker (this being an Ofgem decision) and nor do panel members review the governance route of a modification once inflight. Should this reassessment become a requirement of current code panels it will require additional resource and initial Ofgem support to guide members through the criteria.

(d) that all codes contain a requirement for a code modification register, that also includes whether a modification is urgent and the prioritisation category

This is currently standard practice within the codes we participate and adhere to. We would seek clarity that this is an extension of the monthly code tracker and prioritisation stack published by NESO, whilst recognising other codes may publish similar documents. It is key to note that we believe that it is only the NESO who carry out such tracking and publication practices and would support the need from this to be broadened across the newly proposed technical and commercial codes going forward.

If not, please specify what changes you suggest and why.

In addition to the above we feel it is important to consider the following within a modification process given the changes being proposed and processes reviewed:

- How any housekeeping issues required prior to code manager appointment would be facilitated given they would not perhaps meet the SDS criteria.
- A modification which was required as a necessity to ensure network safety, security of supply should an overarching principle not be in place.
- Relationship of proposed modifications between codes and the necessary interactions and prioritisation decision may incur cross code. Especially relevant with CUSC modifications which may have unintended consequences for interconnecting codes such as the STC and subsequent STCPs in which there is currently no feedback loop.
- Identification of key stakeholders to assure involvement within the process, in assessment of the modification and subsequent prioritisation.
- Potential impact on licensees, given code modifications can be raised by any code party without due diligence on licence impact. For any costs which may be incurred by licensees, should a cost benefit analysis be required, which necessitates collaboration between the proposer and affected parties?

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

The rationale to reflect the same process across all codes for transparency and continuity in readiness for future code consolidation is clear. However, we would ask Ofgem to consider the practicality of implementation at this time. There is already an urgency process in place within the Grid Code, STC, DCUSA, which allows a modification to be raised as urgent and 'sprint' processes across the industry. Given this will remain, we would query if further definition is required into priority and standard modifications. The two higher categories, urgent and priority will be dealt with, but consideration is required as to how standard modifications will develop given the resource in the current system. We would also seek clarity on the movement and re-assessment of inflight modifications once classified as urgent, how treatment between urgent and priority will be different and if modifications will be reassessed after a period to potentially move between categories (given a standard modification may increase in rank if time elapses)?

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 have reviewed the proposed legal drafting and included a detailed response on the drafting below.

In relation to the code modification prioritisation procedure, we think it has been drafted in a way that clearly requires participants to ensure any modification has gone through the urgency criteria review, and if not urgent that it has been set a Prioritisation Category.

We would suggest, relevant for all codes, the definitions of Prioritisation Criteria and Prioritisation Category which is published in the Ofgem Guidance on Code Modification Prioritisation should be defined in each code. In practice, this means that each code would need to be updated if the definitions in the guidance are changed, making the legal text much simpler to review.

We urge Ofgem to ensure that any changes to the Prioritisation Criteria and Prioritisation Category should be undertaken through the recognised code modification process which includes a transparent and consultative approach.

SPEN Feedback on Individual Code Licence Modifications.

BSC

- At 1.3.3(b), 1.4.2(c)(i) and 1.4.2(c)(iii) of the BSC, the word “or” suggests there is an option whether to state that the Modification is an Urgent Modification or to state the Prioritisation Category. We question if it is the intention that the Modification Register and Monthly Progress Report would record one or the other? We would suggest that the wording is revised for clarity to confirm that the register and report includes confirmation of the prioritisation status by Ofgem and the code administrator / Code Manager. Suggested wording: “or, where the Modification is not an Urgent Modification, the Prioritisation Category...” to make this clearer.
- At 1.4.2(c)(iii) of the BSC there appears to be an extra “the”.
- At 2.2.3(c)(ii) of the BSC, it is not best practice to have two sentences in a list. 2.2.3(c)(ii) of the BSC could be reworded to read as follows: “subject to paragraphs 2.2.8 and 2.2.9, subject to taking into account the assessment made under paragraph 2.1.2(m), and subject to the Panel having already determined that a Modification Proposal is not to be considered as an Urgent Modification Proposal, the Prioritisation Category accorded to the Modification Proposal (as compared with other Pending Modification Proposals) and the timetable to apply for completion of the relevant procedure; and”.
- At 2.2.3(d)(iv) of the BSC, it is not best practice to have two sentences in a list. “Subject” should also have a lower case “s”. 2.2.3(d)(iv) of the BSC could be reworded to read as follows: “subject to paragraphs 2.2.8 and 2.2.9, subject to taking into account the assessment made under paragraph 2.1.2(m), and subject to the Panel having already determined that a Modification Proposal is not to be considered as an Urgent Modification Proposal, the Prioritisation Category accorded to the Modification Proposal (as compared with other Pending Modification Proposals).”
- At 2.2.10 of the BSC it looks like wording is missing at the end of the sentence.

CUSC

- Should there be an “and” between 8.13.3(a) and 8.13.3(b) of the CUSC, as well as a full stop after 8.13.3(b)?
- At 8.14.2(c)(iii) of the CUSC “the Prioritisation Category of such CUSC Modification Proposal accorded to each CUSC Modification Proposal by reference to each other pending CUSC Modification Proposal” does not read well. Could “of such CUSC Modification Proposal” be deleted?
- At 8.17B.3 and 1.17B.4 of the CUSC there appears to be an extra “the”.
- At 18.19.1(c) of the CUSC the “)” should be reinserted.
- At 8.23.13 of the CUSC “of the CUSC Modification Proposal” should be deleted.
- At 8.28.3A of the CUSC “of the modification” should be deleted.

Distribution Code

- At 21(i)(1) and 21(n)(1) of the Distribution Code, it is not best practice to have two sentences in a list. Could the new wording go into its own sub-paragraph (2)?
- Throughout 4.1 of the Distribution Code, “Standards” should be added after “Annex 1” for consistency.
- At 4.1(vi) of the Distributions Code, the comma at the end should be replaced with a full stop.

DCUSA

- At 11.10 of the DCUSA “of that proposal” should be deleted.

Grid Code

- No comments.

Smart Energy Code

- No comments

STC

- At 7.2.5.8 (g) should be a comma instead of a full stop to introduce “together with a summary of representations...”?
- At 7.2.7.3(e) “Whether” should be “whether”.

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.

Please review our detailed response to question 8 on the proposed code modification process and future considerations.

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?

We support the prioritisation process being applied on a forward-looking basis only; modifications currently in progress should continue in the current timelines. It may help code administrators when submitting modifications to Ofgem for decision to highlight the SDS objectives which the modification helps the code achieve. This could be supported by panel discussion at the presentation of the draft final modification report.

Retrospective application of the SDS would be a cumbersome task for larger codes, however this could be considered for those codes where a regular review takes place and where a small number of modifications are underway. We would flag that application of the proposed prioritisation process to live modifications would unlikely alter the delivery of such modifications so would only be additional work for current code panels.

Section 2. Role of stakeholders

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?

We have reservations on the proposal of a principles based standard licence condition which can cause unnecessary ambiguity in its implementation. The proposal for a cooperation licence condition is very open ended and vague in terms of what it requires of licensees. It is therefore difficult to provide valuable comments without first seeing the code manager licence conditions. We outline further detail on this below. Given SPEN's current, active, role in code modification and working groups we would query why such a condition was necessary and whether this is proportionate (particularly given not all code parties are licensees).

We strongly believe that the requirement for cooperation with the code manager in the development and delivery of code modifications related to the SDS, should be a stipulation for all parties involved in the code this is especially relevant given not all code parties are licensees. It is equally important that a reciprocal expectation is placed on code managers to be reasonable with requests for information. Factors such as timescales for responses, the volume of information required, data formats or platforms for data sharing may place disproportionate burdens on licensees if code managers fail to act reasonably.

Lastly, it is imperative that consideration is given to the licensees' appeal rights in respect of code modifications which a licensee does not support. The process to appeal to the CMA should not be impacted by this new obligation/the wider changes being made.

Within the licence drafting we seek clarity from Ofgem on the following.

- Further detail is required to inform the extent of the code managers' information gathering powers. The use of the term 'reasonable'. Whilst the consultation outlines how a request will be assessed for reasonableness, there is no route of challenge for a licensee if the test once undertaken is marginal or open to interpretation. Will the criteria described in the consultation (para 3.39) be included in the code manager licence?
- Safeguards that will prevent code managers from continuing with modification processes where a licensee has provided notification that a proposed code modification related to the SDS may have a "significant implication on their processes and systems". We would recommend that an impact assessment required on code managers may go toward preventing this. Detail is also required should a

licensee not supply information due to its commercially sensitive nature, risk to security implications or a failure by code managers to be clear, accurate and proportionate in their requests for information. It remains unclear as to what rights the licensee has to challenge code manager requests as well as the facility for TOs to escalate certain information requests, issues around significant implications or concerns around the submission of commercially sensitive information to Ofgem for a decision to be made on the reasonableness of code manager actions.

- The timeframe within which information would be required following a code manager request and that this timeline was applicable to both parties should a licensee request information on an issue from the code manager.
- Avoiding multiple requests for the same information. There are opportunities for code managers to be efficient by requesting information on multiple licensees from the NESO. Independent workstreams within NESO are requesting increased amounts of information from TOs and DNOs. We would encourage a streamlining of the process for requesting information that obliges a code manager to first assess if the information it requires is readily available from the NESO.

SPEN Comments on Drafting

- The commas in the second bullet point should be removed, or the paragraph could be reworded as follows “if they reasonably expect that proposed code modifications related to the strategic direction statement may have a significant implication on their processes or systems, disclosing that to the code manager.”
- In the code manager definition, reference to “section 6(g) of the Electricity Act 1989” should be to “section 6(1)(g) of the Electricity Act 1989”
- In the Strategic Direction Statement definition, reference to “GEMA” should be to the “Authority”.
- In the Strategic Direction Statement definition, there is inconsistent use of “section” and “s.”.

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

Whilst we agree with the criteria that would form the basis of assessment, we would suggest there should be two previous stages a code manager should be required to undertake prior to an assessment.

1. Code managers should engage via all other routes available to them which are already supported by licensees, potentially SAFs, technical group or ongoing work groups.
2. Code managers should review information previously supplied and held within the organisation to avoid duplication of efforts and requests for information previously supplied via a different process or team.

Taking these two steps prior to embarking on any criteria of assessment would reduce licensee impact, reduce regulatory burden and improve code manager efficiency.