

Consultation name: Proposal to modify the Re-opener Guidance and Application Requirements Document

Issued by: Ofgem

Territorial extent: Great Britain

Response author: SGN

Deadline for responding: 18th April 2025



By email to: ReopenerConsultations@ofgem.gov.uk

18th April 2025

Dear Reopener Consultations Team,

Proposal to modify the Re-opener Guidance and Application Requirements Document

Thank you for the opportunity to respond to the above statutory consultation¹.

SGN have reviewed the Proposed Modifications to the Redaction Policy. We are supportive of the approach to enhance transparency for customers while protecting sensitive information and providing consistency across all licensees. We also agree that standardisation will provide consistency between licensees and Ofgem. There are, however, some points of clarification required and areas we feel could be better defined, in particular relating to redactions for non-disclosure agreements and more generally in terms of the process to be followed. We have provided detail on this within the specific questions provided by Ofgem.

Similarly, SGN agree with the proposed amendments to the Re-opener Submission Template, which will further standardise data submissions and align the design to the Regulatory Reporting Pack submissions for consistency. We have given our feedback within the specific questions set out by Ofgem where we believe further improvements can be made.

Should you have any questions or wish to discuss further, please do not hesitate to contact me on alexandria.graham@sgn.co.uk

Yours sincerely,

Alexandria Warren
Regulatory Reporting Manager
SGN

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Re-opener Guidance and Application Requirements Document

Question 1: Do you have any views on the proposed revisions to the Re-opener Guidance and Application Requirements Document? Proposed revisions are shown in tracked changes in the document version 3.1.

SGN are in agreement overall with the proposed changes to the Re-Opener Guidance, however, some clarity is needed in specific areas which we have highlighted within questions 2 - 14.

Appendix 12: Redaction Policy

Question 2: Do you agree that a more comprehensive Redaction Policy is required purposes explained in section 1 (Introduction) of the proposed Redaction Policy?

SGN support the rationale that has led to this revision to the guidance for a more detailed redaction policy. SGN, although aiming to give customers and stakeholders as much of an informed view of our documents as possible, are cautious when releasing information that may cause risk or security concerns to our network or the public. Having a detailed and structured guidance ensures that all licensees are providing the same level of security when it comes to the publication of sensitive information.

Question 3: Do you have any views on the proposed approach as set out in section 2 (Approach to Redacting Information) of the proposed Redaction Policy?

SGN views the approach to redacting information as reasonable. We note however that section 2.3 and footnote 5, although uncontroversial in substance, do not seem to align to terms or definitions used in the Competition Act 1998 or accompanying guidelines as currently suggested.

Question 4: Do you agree with the three proposed redactable information categories? Are there any other categories that should be considered?

SGN would agree that the three areas specified for redaction; *Confidential information*, *commercially sensitive information*, and *information that may pose risk to national security*, are appropriate measures to protect all parties involved. We do not have any further proposals for redaction categories.

Question 5: Do you have any views on the redactable information category explanations set out in Annexes 1, 2, and 3?

SGN broadly agree with the explanations set out in Annexes 1, 2, and 3, although would advise that the policy on NDAs would sit better in Annex 1 or should be separated out from the 3 annexes as per our response to question 6.

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Question 6: Do you agree that the existence of a Non-Disclosure Agreement (NDA) should, in itself, not be sufficient reason for redaction or non-compliance with the policy (as explained in Annex 2)?

In principle, SGN finds this to be reasonable, as we always look to be open and share as much as possible in the interest of the customer. However, SGN would suggest that the specifics around NDA redactions should not sit in Annex 2, as an NDA could be implemented to protect confidential information, commercially sensitive information or, more generally, other information. It is not clear why confidentiality agreements and NDAs would only be referenced in Annex 2.

Ofgem appears to be indicating that only certain types of information which may be covered by an NDA will be redactable under the guidance i.e. if it is objectively confidential in nature in the sense of Annex 1 (including if the conditions about relevant statutory provisions or significant commercial harm, prejudicial information or personal data are met) or commercially sensitive in the sense of Annex 2 (and 3, subject to comments below in relation to Question 7).

Please note that the current reference in Annex 2 to breaching competition law “and confidentiality agreements” is unclear, as information that (if shared) could breach competition law is commercially sensitive regardless of whether or not it is protected by a confidentiality agreement. We understand that such information should in principle be published at a level that is not sensitive, instead of being entirely redacted.

Where information is covered by an NDA to which the licensee is a party, then we consider that the requirement for any redaction should be that the licensee must provide sufficient justification as to why the requirements of Annexes 1 or 2 (or 3, subject to comments below in relation to Question 7) are met (in the light of Ofgem’s guidance about NDAs) and why this outweighs the general principle of disclosure in the public interest, rather than that the licensee must show “non-disclosure would be in the consumer interest.” We do not think that the current drafting is consistent with Section 2.3 of the Redaction Policy.

Question 7: In your view, is the proposed scope of the redaction policy correct? Should it apply to all re-openers or should some mechanisms be excluded from scope?

In the current Re-opener guidance section 2.6 it states “*Where publishing an application would pose a risk to national security, the application should not be published at all and no explanation of the lack of publication needs to be published. This may be the case with applications relating to cyber resilience and physical security Re-openers.*” It is SGN’s view that this approach, for both Cyber and physical security should still be applicable for the revised guidance and included in the redaction policy.

Question 8: Do you agree with the process as set out in Section 4 (Process for Publications) for (a) Ofgem’s publications, and (b) licensee’s publications?

Clarity is required in terms of the interaction between Section 4 of the Redaction Policy, and Section 2.4 in the Redaction Guidance.

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In the current Guidance - and in Section 2.4 of the draft update to the Reopener Guidance - licensees are given a window of 5 working days following submission of an application to Ofgem to publish the application to our website with appropriate redactions.

Section 4.1.a. of the new redaction policy seems to conflict with this, and as such the extent of the change that Ofgem seeks to make to current processes is unclear but raises a concern. Section 4.1.a. says that – in relation to Ofgem publications - provisional redactions need to be requested at the same time as any submission to Ofgem that will lead to an Ofgem publication. It is not clear whether this refers to the reopener applications as submitted to Ofgem by the licensee, but if these are within scope then, as with any submission made to Ofgem, licensees would require the 5 working days post-submission (as per 2.4 of the Guidance) to evaluate the application against the Redaction Guidance. If 4.1.a. does not include reopener applications, we would welcome clarity in terms of publications which would be considered in scope, and confirmation of how licensees will be notified of Ofgem's intention to publish, in order that the former can offer redaction recommendations.

With regards Section 4.2 of the Redaction Policy, we note that this could be considered consistent with Section 2.4 of the Reopener Guidance, however it would benefit from clarification that the 5 working days window applies. Within this section we would also flag that there is no timescale on Ofgem for consideration of ad hoc publications / redactions, which could delay publication beyond the 5 day window and could be perceived negatively by stakeholders on the licensee.

Question 9: Do you have any views on the General Consideration set out in section 5 (General Considerations)?

No specific views.

Appendix 13: Re-opener Submission Template, and Appendix 14: Instructions

Question 10: Please provide your views on the split between direct and indirect costs on each of the 2_Costs_Section worksheets.

While we are comfortable with the split between direct and indirect costs, it should be noted there is still likely to be a challenge in comparing costs across companies that have differing contractor strategies, in particular those that have indirect costs embedded within contractor derived workloads. To expect costs to be split at a level required by Ofgem from contractors can create an increase in reporting burden that may cause some contractors not to bid for workloads.

Question 11: Please provide your views on the split between Company Costs and Contractor Costs on each of the 2_Costs_Section worksheets.

No specific views.

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Question 12: In your view is specific instruction required for any of the individual worksheets? Please provide as much detail as possible on what is required. We also welcome suggested draft text.

There are no specific instructions for worksheets 2.4 to 2.11. This should be included in the same manner as worksheets 2.2 and 2.3.

Question 13: Do you have any views on the overall structure and design of the Reopener Submission Template?

Energy companies submit reopeners in line with their special licence conditions, clearly setting out the associated cost categories (Opex, Repex, or Capex). However, we have identified an issue in the Price Control Financial Model (PCFM) during our recent HSE Reopener submission. The PCFM currently fixes the HSE reopener under a predetermined cost category, which may not align with the categorisation allowed under the special licence conditions. In our view, the PCFM should allow flexibility for companies to amend the cost categorisation of reopeners to reflect the nature of expenditure being submitted.

In addition, the reopener submission template should have an additional section that will allow energy companies to clearly show if the re-opener request is under Opex, Capex, and Repex.

To ensure clarity in reporting it would be helpful to have an area to input any existing allowance funding within the price control settlement that should be offset against the updated cost forecasts. While the template could be completed net of any existing funding, this would reduce the transparency of re-opener claims and in particular with challenges to the disaggregation of allowances, this could cause problems with consistent application of re-opener funding across networks.

Question 14: Do you have any views on the scope and content of the Re-opener Submission Template?

In Appendix 14, 3.1_Asset _Volumes: - the guidance states that *"The Replacement Volumes are calculated as: ['Additions' + 'Disposals'] x 0.5. In the case on nonlike-for-like replacements this may result in half unit replacements."*

However, the formula in the spreadsheet template adds up all Addition, Disposal, Replacement and Refurbishment, therefore does not match the guidance instruction.

In Appendix 13, Reopener submission Template – Supporting Data Section is under "6_Supporting_Data>>" and the description of tab names included here don't match the specified tabs.

While costs and volumes are set as inputs, for re-openers it would be useful to have clear what changes are expected to key drivers that are used in price control settlements, such as repair workloads, customer numbers, etc. While in many cases these should not change, there are areas

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where a capex and opex trade off will generate lower opex costs and increased clarity on this would support re-opener asks.

We would also note that the re-opener guidance will require further update to align with changes according to the GD3 settlement. Along with any changes Ofgem propose for the re-opener process in the draft and final determinations, the current list of projects included for GD2 may not remain relevant and there may also be further re-openers to replace those that will be removed.