

Decision

Licence modifications to support the Market Facilitator

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This document sets out our decisions on modifications to the Standard Licence Conditions (SLCs) of the Electricity Distribution Licence and the SLCs of the Electricity System Operator (ESO) Licence.

We are introducing new licence conditions that require Distribution Network Operators (DNOs) and the National Energy System Operator (NESO) to comply with the Flexibility Market Rules, which will be developed and owned by the Market Facilitator, and to share information with the Market Facilitator to enable implementation monitoring of the Flexibility Market Rules.

This decision is part of a suite of new governance arrangements that support the set up and operation of the Market Facilitator, and should be read alongside our Final Market Facilitator Governance Framework Document and Final Impact Assessment.

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Executive summary

We outline here our decision to introduce new licence conditions to the Standard Conditions of the Electricity Distribution Licence and the Electricity System Operator Licence. These will require Distribution Network Operators (DNOs) and the National Energy System Operator (NESO) to comply with the outputs of the Market Facilitator in its role to standardise local flexibility markets and ensure their alignment with national flexibility markets. The Market Facilitator is due to go live by the end of 2025.

The licence conditions have been developed through a combination of internal work and stakeholder engagement. We held two early-stage stakeholder workshops in June 2025, which helped shape the proposals published in our [non-statutory consultation](#) in July 2025. Feedback from that consultation informed further refinements at the statutory consultation stage. During the statutory consultation period, we held an additional stakeholder workshop in October 2025. Input from both the formal consultation responses and the workshops has directly informed the final drafting of the new licence conditions.

This decision document relates to the statutory consultation on licence conditions. This was published in September 2025 as part of a suite of documents (known as the “[Market Facilitator Blueprint consultation](#)”) to implement the regulatory changes required to set up the Market Facilitator and support its operation.

Requirements for new licence conditions

The effect of these new licence conditions is to give DNOs and NESO new responsibilities to support the Market Facilitator:

- Flexibility Market Rules — licensees will be required to adhere to the rules that will be developed by the Market Facilitator in collaboration with DNOs, NESO and other interested stakeholders, through working groups and consultation
- Implementation monitoring — licensees will be required to provide data and information, referred to as “Market Facilitator Information”, to the Market Facilitator to demonstrate their compliance with the Flexibility Market Rules
- Market Facilitator input into NESO service design — introducing clauses relating to how the Market Facilitator and NESO will work together on NESO service design (for services in scope of the Market Facilitator) and consultation

1. Introduction

Section summary

This section provides background and context for our decisions and the process we have followed to inform those decisions.

What are we deciding on?

- 1.1 This document sets out our decision following our statutory consultation on the modification of the Electricity Distribution Licence and Electricity System Operator Licence, introducing new licence conditions to support the Market Facilitator.
- 1.2 Sections 2, 3, 4 and 5 outline the background and policy intent of each of the new licence conditions modifications, summarise stakeholder responses received both during our stakeholder engagement workshop and to our statutory consultation, and set out our decision.
- 1.3 In section 2, we introduce newly defined terms and definitions relevant to the new licence conditions.
- 1.4 In section 3, we outline the shared conditions that will appear in both the Electricity Distribution Licence and Electricity System Operator Licence. These place obligations on licensees to comply with Flexibility Market Rules (Part A) and provide information necessary for Implementation Monitoring (Part B).
- 1.5 In section 4 we set out the new conditions that will appear only in the Electricity System Operator Licence. These place an obligation on NESO to engage with the Market Facilitator and jointly establish and maintain a NESO-Market Facilitator Ways of Working Document. They also set minimum content requirements for this document.
- 1.6 In section 5 we discuss comments from stakeholders received in response to the statutory consultation that do not directly relate to the above sections.

Characteristics of responses received

- 1.7 We received 18 responses to our overall “blueprint” consultation. Of these, 16 included responses relating to the statutory consultation on licence conditions. Respondents included organisations from across the energy sector, including DNOs, Elexon, NESO, suppliers, and trade associations.
- 1.8 During this consultation period, we also held a stakeholder engagement workshop attended by 31 individuals from 18 unique organisations. While there was significant overlap between those who attended the workshop and those who submitted formal responses, the groups were not identical.

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- 1.9 Feedback from the workshop was considered alongside formal consultation responses.

Context and related publications

- 1.10 Our [April 2022 Call for Input](#) on local energy governance revealed inconsistent practices among DNOs, unequal access to information, and limited coordination between local and national flexibility markets.
- 1.11 In [March 2023](#), we consulted on proposals to introduce a new Market Facilitator role to address these issues. Following this, in [November 2023](#), we confirmed our decision to appoint a single expert entity to fulfil this role.
- 1.12 [In December 2023](#), we sought input on whether Elexon or NESO should carry out this function. [In July 2024](#), we confirmed the appointment of Elexon as the Market Facilitator delivery body.
- 1.13 Since then, Elexon has collaborated with the Open Networks programme hosted by the Energy Network Association (ENA) to facilitate the transition of relevant activities from DNOs. Elexon published a draft handover plan in March 2025 and a final version in [May 2025](#).
- 1.14 [In December 2024](#), we issued a consultation on the detailed policy framework for the Market Facilitator and in [June 2025](#), we published our decision on this.
- 1.15 In June 2025, we held two workshops focused on proposed licence drafting.
- 1.16 [In July 2025](#) we published a non-statutory consultation presenting our proposed licence condition changes to the Standard Conditions of the Electricity Distribution Licence and the ESO Licence for licensees to comply with the Flexibility Market Rules and implementation monitoring. We received 7 responses to the consultation from DNOs, NESO, and Elexon.
- 1.17 [In September 2025](#) we followed up with a statutory consultation, presenting our proposed licence changes which incorporated feedback received from stakeholders through both the workshops and non-statutory consultation. This formed part of a wider suite of consultation documents to implement the regulatory changes required to set up the Market Facilitator and support its operation. This consultation closed on 16 October 2025.
- 1.18 Ofgem's [Forward Work Programme](#) sets out the key reform projects that we intend to focus on. This consultation relates to Strategic Priority 3: Establishing an efficient, fair and flexible energy system. Specifically, it supports our work to enable consumer-focused flexibility.
- 1.19 The new Market Facilitator will work to harmonise arrangements across markets for flexibility, so that it becomes easier for providers of flexibility to 'stack their revenues' across multiple platforms operated by NESO and DNOs. Alongside the delivery of a large number of different policies, projects and programmes, this

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contributes to efforts to ensure that all consumers can access the potential benefits of flexibility as outlined in the [Clean Power 2030 Action Plan](#). This work relates to key priorities set out in the [Clean Flexibility Roadmap](#), including path building actions 34, 40, and 41.

Decision-making stages

Stage 1 Consultation open: 18 September 2025

Stage 2 Consultation closed: 16 October 2025

Stage 3 Responses reviewed and published: 11 December 2025

Stage 4 Consultation outcome: Decision published on 11 December 2025

2. New definitions

Section summary

In this section we introduce the new defined terms and definitions to be included in the licence conditions to be added to the Electricity Distribution Licence and the ESO Licence. We summarise stakeholder views received during the statutory consultation and set out our final decision on legal text.

Question from the statutory consultation

Q1. Do you agree with the updated proposed Definitions to be added to the Standard Conditions of the Electricity Distribution Licence and the ESO Licence? Are any changes required?

Background and policy intent

2.1 When introducing new licence conditions we are required to provide necessary definitions to support the conditions' drafting. In our statutory consultation we set out proposals for these new definitions, which had been informed by stakeholder feedback through workshops, internal review, and a non-statutory consultation.

Summary of stakeholder responses

2.2 There was broad support from a majority of stakeholders for the updates to the proposed definitions, with one stating that the changes provided clarifications in a simple and relevant manner.

2.3 No stakeholders expressed major concerns.

2.4 Some stakeholders proposed refinements to improve clarity. The following feedback on definitions was provided:

- **Flexibility Market Asset Registration (FMAR):** The question of whether, as a specific Flexibility Market Rule, this term needed to be defined in the licence was raised by NESO in its consultation response and by an attendee of the workshop. SP Energy Networks (SPEN) suggested that the definition should state that FMAR is owned by the Market Facilitator, but that it is still under development and is subject to separate consultation and governance processes.
- **Flexibility Market Rules:** A minority of stakeholders felt that this definition was not accurate or precise enough. One expressed concern that the current definition could be in respect of "any subject matter."
- **Market Facilitator Information:** Both NESO and Elexon suggested amending this definition to read "...that the Market Facilitator reasonably considers

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necessary for its implementation monitoring function.” This would align more closely with the text in paragraph XX.5, which states that requests for information from the Market Facilitator must be reasonable. UKPN’s view is that the Market Facilitator Information (ESO Licence) definition is not required in the Electricity Distribution Licence.

- **Market Facilitator Governance Framework Document:** NESO restated its view (initially expressed in response to the non-statutory consultation) that this definition should include standard provisions outlining its scope and change processes, consistent with how similar documents are treated in the ESO Licence.
- **NESO-Market Facilitator Ways of Working Document:** NESO expressed the view that this definition reads as if NESO and the Market Facilitator are co-designing services.
- Two responses focused primarily on promoting specific technologies or solutions. While these contributions may be valuable in broader discussions about market innovation, they were outside the scope of this consultation, which was focused on the governance and role of the Market Facilitator.

Our decision

2.5 Our decision is to introduce definitions as we consulted on, with only minor changes (in red below) to:

- remove the the unused “Market Facilitator Information (ESO licence)” from the Electricity Distribution Licence and the “Market Facilitator Information (Electricity Distribution Licence)” definition from the Electricity System Operator licence
- move the ‘Market Facilitator Governance Framework Document’ into the correct alphabetical order in the table.

2.6 We acknowledge stakeholder concerns regarding the precision and accuracy of the proposed defined terms. However, we remain confident that the definitions as drafted are appropriate and sufficiently clear for their intended purpose. They have been refined based on stakeholder input from workshops and previous consultations. We will not make further changes to the proposed defined terms and definitions.

2.7 We have retained the defined term Flexibility Market Asset Registration and its definition. As set out in our response to the non-statutory consultation, our view is that this definition is necessary since it is referred to in the definition of Flexibility Market Rules as well as in key policy documents, for example the Clean Flexibility Roadmap.

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Licence text

Table 1: Definitions common to both the Electricity Distribution Licence and ESO Licence

Defined term	Definition
Flexibility Market Asset Registration	means common digital infrastructure enabling the collection, storage and access of asset registration data for local and national flexibility markets, covering technical asset data and flexibility service data.
Flexibility Market Rules	means the set of rules of that name (inclusive of rules in respect of Flexibility Market Asset Registration) owned by the Market Facilitator and developed in collaboration with the licensee.
Market Facilitator	means the role created by the Authority with a mandate to standardise local flexibility markets and align with national flexibility markets.
Market Facilitator Governance Framework Document	means the document of that name that is published by the Authority and amended from time to time by direction.
Market Facilitator Information (Electricity Distribution Licence)	means such information to be provided by the licensee to the Market Facilitator which: (a) relates to the licensee's Distribution System; (b) is in the possession or control of the licensee; and; (c) the Market Facilitator considers necessary for its implementation monitoring function.
Market Facilitator Information (ESO Licence only)	means such information to be provided by the licensee to the Market Facilitator which:

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Defined term	Definition
	<p>(a) relates to the Transmission or Distribution System;</p> <p>(b) is in the possession or control of the licensee; and;</p> <p>(c) the Market Facilitator considers necessary for its implementation monitoring function.</p>
Market Facilitator Governance Framework Document	means the document of that name that is published by the Authority and amended from time to time by direction.

Table 2: Definitions for the ESO Licence only

Defined term	Definition
Electricity Balancing Regulation	means Commission Regulation (EU) No 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing as it had effect immediately before IP Completion Day as read with the modifications set out in both SI 2019/532 - The Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019 and SI 2024/706 - Energy Act 2023 (Consequential Amendments) Regulations 2024.
Market Facilitator Information (ESO Licence)	<p>means such information to be provided by the licensee to the Market Facilitator which:</p> <p>(a) relates to the Transmission or Distribution System;</p> <p>(b) is in the possession or control of the licensee; and;</p> <p>(c) the Market Facilitator considers necessary for its implementation monitoring function.</p>

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Defined term	Definition
NESO-Market Facilitator Ways of Working Document	means the document of that name to establish a framework for coordination between the licensee and Market Facilitator relating to the design of the NESO Services and other matters.
NESO Services	means the services which are deemed to be in scope of the role of the Market Facilitator as set out in the Market Facilitator Governance Framework Document.

3. Shared conditions for Electricity Distribution and System Operator Licences

Section summary

In this section, we set out the clauses for inclusion in the licence conditions to be added to both the Electricity Distribution Licence and the ESO Licence. For each clause, we explain the policy intent, summarise stakeholder views received during the statutory consultation, and set out our final decision on the legal text.

Questions from the statutory consultation

- Q2. *Do you agree with the updated proposed licence condition clauses for Flexibility Market Rules to be added to both Licences? Does the current drafting deliver the policy intent? Do you have any suggested changes?*
- Q3. *Do you agree with the updated proposed licence condition clauses for implementation monitoring to be added to both Licences? Does the current drafting deliver the policy intent? Do you have any suggested changes?*

Introduction

Background and policy intent

- 3.1 In our non-statutory consultation (July 2025) we set out an obligation on DNOs and NESO to engage and comply with the Market Facilitator in its role to align and standardise flexibility markets and flexibility market arrangements and processes.
- 3.2 In our statutory consultation (September 2025) we removed “and comply”, to more accurately reflect our policy intent for licensees to have an obligation to engage with the Market Facilitator. Compliance with Flexibility Market Rules is set out in Part A: Flexibility Market Rules XX.2.

Summary of stakeholder responses

- 3.3 Only one stakeholder (E.ON) objected to removal of “and comply,” citing concerns that the Flexibility Market Rules may not always be fully effective at delivering their intended outcomes. It argued that, in such cases, retaining an obligation to comply with the Market Facilitator itself would provide an additional layer of assurance while the Flexibility Market Rules are updated.

Our decision

- 3.4 Our decision is to retain the removal of “and comply” from XX.1 as this aligns with the policy intent set out in previous documents. Flexibility Market Rules are to be developed collaboratively, and the enduring change management process includes open and transparent governance. Our view is that a direct obligation to

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comply with the Market Facilitator outside of this framework would not be consistent with this.

Licence text

XX.1

The purpose of this condition is to set an obligation on the licensee to engage with the Market Facilitator in its role to align and standardise flexibility markets and flexibility market arrangements and processes.

Part A: Flexibility Market Rules

Background and policy intent

- 3.5 The Market Facilitator will develop Flexibility Market Rules in collaboration with DNOs, NESO and other interested parties. In our non-statutory consultation we proposed new licence conditions which set out obligations for licensees to comply with Flexibility Market Rules. In our statutory consultation we confirmed our position that the obligation should be absolute, and not include a “reasonable endeavours” clause.
- 3.6 In our previous publications we explained that an appeals process will be available for both the Flexibility Market Rules and the Market Facilitator budget. In our statutory consultation we asked for stakeholder views on our decision to move details of the appeals process from the licence text to the Market Facilitator Governance Framework Document to give stakeholders a greater opportunity to shape the appeals process.
- 3.7 Following feedback, we also made some refinements to the text to provide further clarifications, including that Flexibility Market Rules do not override licensees’ existing duties.
- 3.8 We also set out our view that Flexibility Service Providers (FSPs) should not be subject to Flexibility Market Rules, since it is DNOs and NESO that operate the markets.

Summary of stakeholder responses

- 3.9 5 respondents to this question expressed full support of these licence clauses.
- 3.10 We received mixed views on the absolute nature of XX.2, obligating licensees to comply with Flexibility Market Rules. 2 stakeholders expressed support for our decision to retain an absolute obligation, agreeing with our view that this provides clarity and is essential for achieving the policy intent of more coherent flexibility markets. Northern Powergrid (NPg) reiterated its position that it is “unreasonable” to expect licensees to accept this given the Flexibility Market Rules have yet to be defined or consulted on. SPEN also restated concern about the absolute nature of this obligation. They proposed that the requirement be revised to state that

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licensees must “use reasonable endeavours” to comply, or alternatively, that a mechanism is included, allowing licensees to apply to Ofgem for a derogation from a given Flexibility Market Rule.

- 3.11 Ohme and ADE agreed with our decision not to make FSPs subject to new licence conditions. We did not receive any objections to this decision.
- 3.12 Some stakeholders suggested alterations related to the change process for Flexibility Market Rules. SSEN Distribution expressed the view that amendments should be in line with requirements to amend a licence condition. SPEN, as well as a workshop attendee, suggested that paragraph XX.3 should reference the change process outlined in Elexon’s governance document. NESO also requested details of the change process to be set out in the licences.
- 3.13 We received mixed views on the clarity of our policy position that Flexibility Market Rules do not override existing obligations. NPg and a workshop participant requested further clarifications on this point. In contrast, ADE and SSEN Transmission considered the current wording to be sufficiently clear, with the latter welcoming the inclusion of paragraph XX.4.

Our decision

- 3.14 Our decision is to introduce the licence conditions as consulted on, without changes.
- 3.15 Our view is that an absolute obligation to comply with the Flexibility Market Rules is appropriate given the importance of removing the fragmentation that currently exists across local and national markets.
- 3.16 As outlined in Annex F of the market facilitator blueprint consultation, we accepted Elexon’s change management process as set out in Elexon’s Market Facilitator Detailed Design Document. We believe that the Market Facilitator – rather than Ofgem – is best placed to manage proposed changes to Flexibility Market Rules. Accordingly, we do not agree that amendments should follow the same process as changes to licence conditions. Certain change decisions will remain appealable to Ofgem, thereby providing additional safeguards. We also consider it appropriate for the details of the change process to remain in Elexon’s documentation, rather than the licences themselves.
- 3.17 It is our view that current drafting is clear that Flexibility Market Rules do not override licensees’ existing duties. We expect that any potential conflicts between Flexibility Market Rules and licensees’ obligations will be identified and addressed during the development and consultation process for those rules. A conflict between a Flexibility Market Rule and an existing obligation is also a ground for appeal, as set out in the Market Facilitator Governance Framework Document. We remain open to further engagement with licensees if issues emerge as these arrangements are operationalised.

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Licence text

XX.2

The licensee must comply with the Flexibility Market Rules, subject to XX.4.

XX.3

The Market Facilitator will issue and amend the Flexibility Market Rules. The licensee may raise appeal to The Authority upon the issuing or amending of the Flexibility Market Rules, in accordance with the process outlined in the Market Facilitator Governance Framework Document.

XX.4

Nothing in this condition replaces, overrides or limits: (a) any statutory duty imposed on the licensee; or (b) any other obligation of the licensee under the licence or any industry code.

Part B: Implementation Monitoring

Background and policy intent

- 3.18 Ofgem is responsible for ensuring compliance with and enforcement of licence conditions. However, the Market Facilitator will be accountable for monitoring how licensees implement the Flexibility Market Rules.
- 3.19 To carry out this implementation monitoring, the Market Facilitator will require data and information from DNOs and NESO to assess compliance with the Flexibility Market Rules. In the proposed licence condition this is referred to as "Market Facilitator Information." To minimise the burden on DNOs and NESO, we previously set out our expectation for the Market Facilitator to use publicly available data and information wherever possible. We also said that any requests for additional information must be reasonable.
- 3.20 We stated that licensees must provide this data as requested, noting that some data may be legally privileged, and proposed that such data be excluded. This exclusion was included in the proposed definition of Market Facilitator Intelligence (now Information) set out in the non-statutory consultation.
- 3.21 In response to stakeholder feedback, we made the obligation to comply with requests from the Market Facilitator for Information subject to a test of reasonableness. We also set out our view that the proposed definition of Market Facilitator Information ensures that the Market Facilitator can only make requests that are capable of being fulfilled by the licensee, and that an absolute obligation to comply with these requests is proportionate.

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Summary of stakeholder responses

- 3.22 The largest proportion (6) of respondents to this question agreed that the current drafting of the licence conditions delivers the policy intent, including NGED and SSEN Distribution. 5 respondents to the consultation did not answer this question. 4 stakeholders proposed refinements to improve clarity. 2 respondents disagreed.
- 3.23 E.ON suggested that setting out indicative timeframes, which could be tiered according to the urgency of the request, may be more useful than the term “reasonable timeframes.”
- 3.24 Clarifications on the meanings of “sufficient quality” and “reasonably requested” were asked for by ADE, NPg and NESO.
- 3.25 NESO expressed concern about the administrative burden of data requests.
- 3.26 3 DNOs expressed concerns about the Implementation Monitoring clauses, in relation to:
- Disclosure of commercially sensitive information, particularly where this relates to third party information. NPg cited the risk that sharing such information with the Market Facilitator could harm commercial relationships and business interests, and expose licensees to legal action for potential breach of their contractual obligations.
 - Insufficient safeguards for how information will be handled. NPg and SPEN noted uncertainty around protections.
 - Clarity of obligations: NPg and NGED questioned the value of adding XX.7 and raised concerns that confirming whether a licensee would be compelled to produce information in civil proceedings may be difficult to establish. NGED did not agree that the addition of XX.7 alleviates potential conflicts regarding confidentiality obligations or data protection legislation.
- 3.27 The respondents suggested ways to mitigate these concerns including:
- Explicitly excluding certain categories of information (such as commercially sensitive information) from the definition of Market Facilitator Information.
 - Amending the obligations so licensees must use “reasonable endeavours” to comply with requests from the Market Facilitator.
 - Extending the appeals process to cover information requests.
 - Introducing a process to assess “reasonableness” of requests.
- 3.28 The stakeholders who disagreed that the licence drafting delivers the policy intent made suggestions for amendments that we consider to be out of scope.

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Our decision

- 3.29 We have decided to implement the licence conditions as consulted on. The only change we have made is to clarify that the “Information” referred to in XX.7 is “Market Facilitator Information.”
- 3.30 We recognise the importance of stakeholder feedback and have acted on concerns regarding information requests and data safeguards by making adjustments to the Market Facilitator Governance Framework Document. As this is a new framework, we expect to learn and improve over time. Stakeholders will continue to play a key role in shaping these improvements, which – if necessary – we will reflect through updates to the Market Facilitator Governance Framework Document, following appropriate consultation. We also, where appropriate, refer below to actions that Elexon is already taking which address some of the concerns raised.
- 3.31 We have not introduced explicit exclusions for categories of Market Facilitator Information. Implementation Monitoring is essential to achieving the Market Facilitator’s objectives, and exclusions could limit its effectiveness. Instead, we have focused on ensuring robust processes and safeguards to mitigate risks associated with sensitive information.
- 3.32 We reiterate here that Flexibility Market Rules, including data requirements, will be developed collaboratively and consulted on. This approach will help identify and address potential issues early, before Market Facilitator Information requests arise.
- 3.33 To address concerns about confidentiality and data protection, we have strengthened the Governance Framework Document to require Elexon to follow robust safeguarding procedures and comply with [Data Best Practice Guidance](#).
- 3.34 We have also updated the Governance Framework Document to require Elexon to include reporting requirements for each Flexibility Market Rule. This will ensure that there are clear expectations for timescales, format, and quality, and establishes that Market Facilitator Information linked to specific rules falls within the scope of the appeals process.
- 3.35 Where Elexon requires additional information—for example, to monitor market effectiveness—requests must be “reasonable” and fall within the definition of Market Facilitator Information. What is reasonable will depend on the circumstances, and Elexon’s escalation process provides a route for resolving disputes. Elexon has outlined its process for Implementation Monitoring, including scope and escalation. Initially, Elexon will seek resolution directly with the licensee. If issues remain unresolved, they will be referred to Ofgem’s compliance and enforcement teams.

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- 3.36 We have retained the term “reasonable timeframes,” as Elexon is best placed to determine appropriate response times for information requests. We consider this approach provides sufficient flexibility while maintaining accountability.
- 3.37 We have retained XX.7 as consulted on with one minor change: we have added ‘Market Facilitator’ to “Market Facilitator Information” to ensure the term is aligned with the definition. The wording of XX.7 is used in both the [gas supply licence](#) (standard condition 5, paragraph 5.2) and has been proposed for the [code manager licence](#) (Annex A - condition 30, paragraph 30.3). It is also well established in primary legislation, for instance being used in the Electricity Act 1989 ([section 28](#)) and the Gas Act 1986 ([section 38](#)).

Licence text

XX.5

The licensee must, within a reasonable timeframe, provide Market Facilitator Information to the Market Facilitator as and when reasonably requested by the Market Facilitator.

XX.6

The Market Facilitator Information must be provided by the licensee in sufficient quality and format as the Market Facilitator may reasonably request.

XX.7

The licensee is not required to comply with paragraph XX.5 if the licensee could not be compelled to produce or give the **Market Facilitator** Information in evidence in civil proceedings before a court.

4. Conditions for the Electricity System Operator only

In this section, we set out the clauses to be included in the licence conditions that apply only to the ESO Licence. For each clause, we explain the policy intent, summarise stakeholder views received during the statutory consultation, and set out our final decision on the legal text.

Questions from the statutory consultation

Q4. Do you agree with the updated proposed licence condition clauses for Market Facilitator input into NESO service design to be added to the ESO Licence? Does the current drafting deliver the policy intent? Do you have any suggested changes?

Part C: Market Facilitator input into NESO service design

Background and policy intent

- 4.1 These licence condition clauses recognise that there are already existing processes for NESO to develop and consult on new and existing products as part of its service design, and set out requirements for formalised engagement between NESO and the Market Facilitator via a Ways of Working document.
- 4.2 We set out licence conditions that oblige NESO, in collaboration with the Market Facilitator, to jointly establish and maintain the NESO-Market Facilitator Ways of Working Document. In our statutory consultation we specified the minimum content requirements for this document.
- 4.3 Following feedback from NESO and Elexon, we removed the licence obligation for NESO to comply with the terms of the NESO-Market Facilitator Ways of Working Document, recognising that this is more appropriately maintained as a working-level agreement.
- 4.4 We also amended the text to clarify that NESO should engage with Elexon prior to formal consultation, as originally set out in our policy intent.

Summary of stakeholder responses

- 4.5 4 stakeholders agreed that these licence condition clauses broadly deliver the policy intent with no or very minor changes proposed. 9 respondents did not answer this question. 3 stakeholders partially agreed, proposing some changes. 2 stakeholders (Drax and Exergy3) disagreed.
- 4.6 ADE supported the requirement that NESO and Elexon engage prior to formal consultation. ADE and Ohme also emphasised the importance of a working-level agreement to ensure alignment of national and local flexibility markets.

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- 4.7 One stakeholder requested clarification on the term “fully engage,” suggesting that “fully” be removed or replaced with “reasonably.”
- 4.8 NESO asked for clarity on engagement with respect to the Balancing Mechanism, and for those services and changes that would not trigger a formal consultation.
- 4.9 Volcore proposed that the Market Facilitator should have a role in assessing the quality, timeliness and consistency of publications for NESO services.
- 4.10 E.ON suggested referencing the Market Facilitator’s objectives as set out in the Market Facilitator Governance Framework Document, and proposed that any disagreement between NESO and the Market Facilitator should be escalated to Ofgem for mediation.
- 4.11 NESO questioned whether its licence needs to include specific requirements for the Ways of Working document.
- 4.12 Drax and Centrica disagree with the removal of the obligation on NESO to comply with the Ways of Working Document. Drax is concerned this will weaken the purposes of the document, while Centrica question what regulatory levers Ofgem have to ensure that NESO fully complies with the Ways of Working Document.

Our decision

- 4.13 Our decision is to introduce the licence conditions as consulted on, with no changes. We are confident that this approach reflects the policy intent set out in previous documents.
- 4.14 The obligation for NESO to engage with the Market Facilitator is designed to promote collaboration and alignment across national and local flexibility markets. We consider the wording “fully engage” to be appropriate and proportionate, as it signals the importance of meaningful engagement without prescribing specific outcomes.
- 4.15 We have not reinstated an obligation for NESO to comply with the NESO-Market Facilitator Ways of Working Document. The document is intended as a practical guide to support collaboration, not as a legally binding instrument. Retaining flexibility in its use aligns with the policy intent and avoids unnecessary prescription.
- 4.16 We have retained the minimum content requirements for the NESO-Market Facilitator Ways of Working document. Our view is that this is important for ensuring transparency and provides a clear baseline for collaboration, while allowing flexibility for NESO and the Market Facilitator to adapt the document as markets evolve.
- 4.17 We do not consider it appropriate for the Market Facilitator to assess the quality, timeliness, or consistency publications, as this falls outside its defined remit. The Market Facilitator’s role is focused on supporting strategic alignment and

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coordination of service design processes, rather than monitoring NESO's transparency obligations.

Licence text

XX.8

The licensee must fully engage and consult with the Market Facilitator in the service design for new and existing NESO Services prior to implementation decisions being made and prior to formal consultation (required under Condition C9 of this licence and Article 18 of the Electricity Balancing Regulation) by the licensee, for NESO Services.

XX.9

The licensee must, in collaboration with the Market Facilitator, jointly establish and maintain the NESO-Market Facilitator Ways of Working Document.

XX.10

The NESO-Market Facilitator Ways of Working Document must contain information on how NESO and the Market Facilitator will coordinate change processes. This should cover, at least:

1. How NESO and the Market Facilitator will ensure strategic alignment
2. Processes for managing instances where a Flexibility Market Rule affects NESO's service design
3. Processes for handling NESO service design changes that require early stage input from the Market Facilitator.

XX.11

The licensee must provide a copy of the NESO-Market Facilitator Ways of Working Document to the Authority no later than the date on which this condition comes into effect, or another date agreed with the Authority.

5. Additional comments and suggestions

Section summary

In this section, we summarise stakeholder comments received in response to our statutory consultation that do not relate to the proposed licence conditions set out in the previous sections. We provide our response to these comments.

Question from the statutory consultation.

Q5. Do you have any additional comments or suggestions?

Background

5.1 We asked stakeholders for additional comments and suggestions not captured under the previous sections.

Summary of stakeholder responses

5.2 BUUK agreed with our decision and rationale to exclude Independent DNOs from the new licence conditions.

5.3 Volcore expressed confidence in Elexon as “trustworthy, high quality data custodians.”

5.4 E.ON expressed the view that the Market Facilitator’s strategic leadership function should enable it to drive progress on broader actions needed to deliver flexibility, even where those actions fall outside its direct remit.

5.5 Centrica disagreed with the removal of a named senior sponsor from the licence conditions.

5.6 NPg called for the inclusion of a right for licensees to apply to Ofgem for a derogation, which would release them from specific obligations, to account for “unforeseen circumstances or unintended consequences.”

5.7 NGED raised the challenges posed by the volume and timing of consultations relating to the Market Facilitator, citing that responding would be particularly difficult for smaller organisations. They highlighted the risk of this compromising the quality and robustness of the resulting governance framework.

Our response

5.8 We do not agree that the Market Facilitator’s strategic leadership function should extend beyond the scope outlined in the Market Facilitator Governance Framework Document. We recognise the importance of ensuring that the Market Facilitator is empowered to support efforts to unlock flexibility. The licence conditions are designed to provide a clear and proportionate framework for the

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Market Facilitator's role. Expanding its remit beyond this scope would risk creating ambiguity and undermining accountability. This decision is accompanied by the Market Facilitator Governance Framework Document, which provides mechanisms for collaboration and stakeholder input, ensuring that gaps in scope can be identified and addressed through transparent processes.

- 5.9 We do not intend to reinstate the requirement for a named senior sponsor in the licence conditions. This decision was announced in our previous consultation, following feedback received during the first stakeholder workshop in June 2025. However, as set out in our non-statutory consultation, we expect DNOs and NESO to provide named contacts to the Market Facilitator to support its work.
- 5.10 We will not introduce broad derogation powers for the new licence conditions that support the Market Facilitator, as these obligations are fundamental to ensuring effective coordination. However, Elexon intends to allow licensees to apply for derogations from specific Flexibility Market Rules, with Elexon acting as the decision-maker for those requests.
- 5.11 We acknowledge the challenges posed by the volume and timing of consultations and the pressure this placed on stakeholders. While the pace was necessary to establish the Market Facilitator and governance arrangements promptly, we agree that meaningful engagement is essential. We appreciate stakeholders sharing their views despite the challenging timelines. As this is a new framework, we remain committed to refining it as needed. We will continue engaging through the Stakeholder Advisory Board and welcome feedback if any aspects are not working as intended.

Send us your feedback

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this decision. We would also like to get your answers to these questions:

- Do you have any comments about the quality of this document?
- Do you have any comments about its tone and content?
- Was it easy to read and understand? Or could it have been better written?
- Are its conclusions balanced?
- Did it make reasoned recommendations?
- Do you have any further comments?

Please send your feedback to stakeholders@ofgem.gov.uk.