

# Guidance

## ~~(Draft)~~ NESO Licence Expectations Document

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National Energy System Operator (NESO)'s licences set the minimum requirements and standards that NESO must comply with. Condition C1 of these licences sets out general principles the licensee must follow and minimum outcomes the licensee must seek to achieve through the delivery of its activities.

The NESO Licence Expectations Document provides further guidance in relation to the requirements in Condition C1. This is to support understanding of the requirements in Condition C1 and align expectations on some key ways in which they should be interpreted. This supports the enforceability of NESO's obligations.

**~~This is a draft version of the NESO Licence Expectations Document for consultation. In March 2026, we plan to issue a final version of the document to take effect from 1 April 2026.~~**

## Guidance NESO Licence Expectations Document

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## Version History

Versions applicable to NESO:<sup>1</sup>

| <b>Version</b> | <b>Summary of the document</b>   | <b>Publication date</b>   | <b>Release date</b>                              |
|----------------|--|---|--|
| 1              | Changes to reflect the introduction of NESO (published as the NESO Roles Guidance).  | 12 September 2024   | <del>12-1 September</del><br><u>October 2024</u> |
| 2              | Changes to implement our decision on NESO's performance framework for the third business plan cycle (BP3) in the RIIO-2 price control. | 1 April 2025  | 1 April 2025                                     |
| 3<br>(Draft)   | New approach to align with our August 2025 decision on NESO's enduring regulatory framework and updated Condition C1 requirements.     | <del>11-31 December</del><br><u>March 2025-2026</u><br>(for consultation) | 1 April 2026<br>(subject to<br>consultation)     |

<sup>1</sup> For previous versions of the NESO Licence Expectations Document (previously known as the NESO Roles Guidance) see: [NESO Roles Guidance 2023-2025 \(PDF, 689.07KB\)](#)

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## Guidance NESO Licence Expectations Document

# 1. Introduction

## Background

- 1.1 National Energy System Operator (NESO) is an independent, public corporation which has key responsibilities across the energy system. NESO has a leading role in driving a secure and cost-effective transition to a clean energy system, and its overarching duties and objectives are underpinned by legislation.<sup>2</sup>
- 1.2 We<sup>3</sup> regulate NESO, to ensure it is accountable for its performance delivering its duties and to ensure its actions align with the interests of consumers. NESO's licences set the minimum requirements NESO must meet when carrying out its roles. We monitor NESO's compliance with its licence requirements and, where necessary, may take action to enforce these requirements.
- 1.3 NESO has two licences: the Electricity System Operator Licence (ESO) Licence and the Gas System Planner (GSP) Licence. Condition C1 (General principles and minimum standards) of the ESO Licence and the GSP Licence sets out general principles the licensee must follow and general minimum outcomes the licensee must seek to achieve through the delivery of its activities. These general requirements are intended to support and align with the more specific, detailed requirements contained in other parts of NESO's licences.

## Purpose of this document

**1.4** The NESO Licence Expectations Document (LED) provides further guidance in relation to some of the licence obligations within Condition C1. The purpose of this guidance is to help align expectations on some key ways in which Condition C1 should be interpreted.

- **In Chapters 2 to 7,** this includes non-exhaustive examples of the actions we would expect NESO to take ~~(or not take)~~ to fulfil ~~the licence these~~ requirements **in Condition C1. In some areas, the guidance also explains how specific words or terms should be interpreted, as well as the actions we do not expect NESO to take to achieve the requirement.**
- **In Chapter 8, we have provided guidance on how we expect the requirements associated with a Notice of Remediation to operate in practice.**

**1.4.1.5** As set out in Part G of Condition C1 of the ESO Licence and Part E of Condition C1 of the GSP Licence, NESO must have regard to the NESO LED and must be

<sup>2</sup> See sections 163-165 of the Energy Act 2023 for more details: [Energy Act 2023](#)

<sup>3</sup> The Office of Gas and Electricity Markets (Ofgem) supports the Gas and Electricity Markets Authority ('the Authority') in its day-to-day work. In this Decision letter, 'we', 'Ofgem', and 'Authority' are often used interchangeably.

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able to demonstrate such regard when complying with the provisions of Condition C1.

1.51.6 If NESO does not meet its licence obligations in Condition C1, it may be found non-compliant. The Authority will have regard to this document in its decisions on any investigations or enforcement action related to non-compliance with Condition C1.

1.61.7 This document is guidance issued pursuant to Part G of Condition C1 of the ESO Licence and Part E of Condition C1 of the GSP Licence. Any changes to this document will follow the process outlined in those Parts.

1.8 NESO's licences and the NESO LED are designed to complement NESO's statutory duties. NESO should carry out all of its activities in a manner that best supports these duties.<sup>4</sup>

1.9 The requirements in Condition C1 and this guidance are designed to set minimum standards that NESO can realistically achieve through its own actions, and which require a level of effort which is proportionate to the impacts associated with the standard. This is reflected in the drafting of the conditions and guidance. As general principles, when considering NESO's compliance:

- We will consider the level of control or reasonable influence NESO has over an outcome. Where relevant, we will consider the roles of other parties, as well as how NESO interacted with those parties.
- We are not expecting NESO to take clearly disproportionate actions which it could only achieve with a level of effort and cost that demonstrably outweighs the benefit or which would consequently conflict with its duties under statute.

1.10 We will keep Condition C1 and this guidance under review. If stakeholders identify any potential issues or risks with these requirements, then please raise these with us at nesoregulation@ofgem.gov.uk.

## How to navigate this document

1.71.11 This document mirrors the structure of Condition C1 of the ESO Licence with a Chapter for each Part of that condition.

1.81.12 The GSP Licence contains some but not all of the Parts and conditions in Condition C1. This is because some conditions are applicable to electricity activities only. This means the same requirement in each licence may have different condition numbers. Throughout this document, we have specified which condition numbers in the ESO Licence and GSP Licence readers should refer to.

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<sup>4</sup> As set out in paragraph A2.20 of NESO's ESO licence and GSP licence, no provision in NESO's licence shall be construed as requiring, or take effect so to require, the licensee to act other than in accordance with its duties under the Energy Act 2023.

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~~1.9~~—Where this document uses capitalised terms, these have the same meaning as the equivalent definitions in Section A of NESO’s ESO Licence and GSP Licence.

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# 2. Operation of the electricity system

### Section summary

This section sets our guidance for the requirements in Part A of Condition C1 of the ESO Licence. This includes guidance on obligations related to secure, efficient, transparent and coordinated electricity system operation. It also contains guidance on the requirement for NESO to develop the capability for Net Zero compatible system operation, as well as requirements related to balancing market transparency and integrity.

## Secure system operation

### Licence requirement

#### Condition C1.6 (ESO)

The licensee must seek to ensure the ~~systems, processes and technical requirements for operating the~~ National Electricity Transmission System ~~is operated within safe and secure operational limits by maintaining the necessary operational capabilities and by promoting fit for purpose technical requirements enable it to maintain a safe and secure electricity system.~~

### Guidance

#### 2.1 For the purposes of this condition:

- Operational limits refer to the thresholds for frequency and voltage, thermal capacity, and other system parameters within which the National Electricity Transmission System (NETS) must operate to remain safe and secure.
- Operational capabilities refer to the systems, processes and personnel established to operate the NETS.
- Technical requirements refer to the rules, requirements and standards that ~~impact the safe and secure operation of the NETS, as defined in relevant licences and industry codes (such as the System Operator-Transmission Owner Code (STC), Grid Code (GC), and Security and the Quality of Supply Standard (SQSS)).~~

2.2 To achieve this requirement, ~~To maintain a safe and secure electricity system we expect the licensee to ensure it has in place the~~ that its operational systems and processes ~~capabilities it needs~~ enable it to operate the NETS within safe and secure operational limits and to comply, at all times, with its applicable technical requirements for the NETS. This includes NESO having the necessary operational capabilities to quickly and effectively respond to unplanned events that pose a

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material risk to the operation of the NETS.; industry codes and standards (such as the System Operator-Transmission Owner Code (STC), Grid Code (GC), and Security and the Quality of Supply Standard (SQSS)). We also expect NESO to robustly test, and regularly review, its systems and procedures for operating the NETS, under a range of scenarios. NESO should also ensure that it invests in the operational capabilities that are foreseeably needed to operate the NETS within safe and secure operational limits into the future.

2.1—We expect this to be achieved through robustly tested, and regularly reviewed, systems and procedures for operating the system, under different scenarios. This includes NESO having the necessary systems and processes that enable it to quickly and effectively respond to unanticipated events that pose a risk to the operation of the National Electricity Transmission System (NETS). We also expect NESO to ensure that it invests in the systems and skills needed to meet security standards into the future.

2.3 In relation to technical requirements, we expect the licensee to seek to ensure operational standards, including the SQSS and relevant industry codes. To promote are fit for purpose technical requirements, by we expect NESO to regularly reviewing and updating these requirements in response to whole energy system developments to identify key changes that may be required to prevent existing requirements from becoming out of date and presenting a material risk to with a safe and secure NETS. Where necessary changes are not in the direct control of NESO, we would expect NESO to use best endeavours to raise these with relevant parties at the earliest opportunity promptly, considering the urgency and materiality of the potential issue.

2.22.4 For the avoidance of doubt, safety and security in this context refers to the operation of the NETS within safe and secure operational limits. It does not refer to broader health and safety on the electricity system which is governed under the Health and Safety at Work Act 1974.

## Efficient system operation

### Licence requirement

#### Condition C1.7 (ESO)

The licensee must have effective systems and processes in place that enable it to accurately understand the National Electricity Transmission System's operational requirements and respond to these requirements in an economic and efficient manner.

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### Guidance

2.32.5 We will consider economy and efficiency with respect to the prevailing, established legal arrangements for operating the electricity system and instructing Balancing Services. This obligation does not therefore preclude NESO from proposing changes to balancing market arrangements and balancing principles where it considers this can better promote its ~~duties objectives~~ under ~~legislation statute~~.

2.42.6 ~~In order to~~ To operate the NETS ~~in an economically~~ and ~~efficiently manner~~ under the prevailing balancing market arrangements, we expect NESO to have systems and processes ~~in place which that~~ enable it to ~~(without limitation) at a minimum:~~

- Reliably monitor and forecast short term system data, including demand, technical constraints, voltage and inertia;
- Accurately instruct the volume of Balancing Services it needs to meet operational standards and requirements (without systematically and materially instructing more volume than is required to meet those standards and requirements); and
- Instruct any type of Balancing Services provider that has the technical capability to address the system need (no matter their technology or size), and without instructing more expensive providers for no demonstrable reason.

2.52.7 We will also consider economy and efficiency with respect to all the relevant information NESO should have reasonably had available to it at the time of making operational decisions.

2.62.8 To ensure its systems and process are effective, we expect NESO to regularly review and update these processes and systems in response to energy system developments. This includes ensuring its underlying IT infrastructure is fit for purpose, ~~and is able by promptly implementing any changes needed to ensure systems are able to~~ accommodate and instruct ~~new all~~ types of Balancing Services providers that have the capability to address the electricity systems technical needs, no matter their size or technology.

## Coordinated system operation

### Licence requirement

#### Condition C1.8 (ESO)

The licensee must exchange necessary information with Transmission Owners and Licensed Distributors to promote coordinated and efficient operational decision-making across the Total Electricity System.

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### Guidance

**2.9** Necessary information includes but is not limited to real-time operational data, information on operational strategies, network outages, and other information that can enable NESO and network operators to collectively understand the whole system impact of their respective operational decisions and thereby avoid actions which unnecessarily increase whole system operational costs.

**2.72.10** To promote coordinated and efficient operational decision-making, we expect NESO to seek to share accurate information with Transmission Owners and Licensed Distributors, in the timescales they reasonably need to discharge their obligations and duties. This includes following existing processes in Industry Codes and working with network operators to consider where changes would be beneficial.

**2.82.11** Where existing rules or requirements may prevent the sharing of data that ~~could be necessary for~~ is a material barrier to whole system efficiency, we expect NESO to consider proposing changes to these rules or to promptly raise the issue with the party able to change those rules.

## Net Zero system operation

### Licence requirement

#### Condition C1.9 (ESO)

The licensee must use best endeavours to establish and maintain the systems, skills and processes it needs to operate and restore the National Electricity Transmission System effectively in a Zero Carbon Energy System.

### Guidance

**2.92.12** To achieve this requirement, we would expect NESO to ensure it is developing the capability to operate the NETS during periods where the electricity market delivers a zero-carbon energy mix, without needing to dispatch additional carbon emitting sources of generation to maintain system security. We would expect NESO to ensure that between now and 2030, it is able to operate and restore the system in line with the Clean Power ~~2023-2030~~ Action Plan (~~CP2023CP2030~~)<sup>5</sup>, and that by 2035 NESO's capabilities do not present any barriers to an electricity system with net zero carbon emissions.

**2.102.13** Similarly, to restore the system effectively, we would expect NESO to take measures to ensure that system restoration can be provided under an energy mix

<sup>5</sup> [Clean Power 2030 Action Plan - GOV.UK](#)

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required to meet ~~CP2023-CP2030~~ and the 2035 net zero targets for the electricity sector.

### Balancing market integrity and competition

#### Licence requirement

##### Condition C1.10 (ESO)

The licensee must promote the overall transparency and integrity of Balancing Services markets and seek to protect against the exploitation of market power through effective market monitoring, investigation, and the communication of issues to the Authority.

#### Guidance

2.112.14 To achieve this requirement, we would expect NESO to have in place an effective monitoring regime to be able to understand Balancing Services providers' compliance with relevant rules and information requirements set out in the Industry Codes, licence conditions and relevant legislation. We would expect NESO to investigate ~~potential non-compliance~~ where necessary it considers there is a clear risk of potential non-compliance and raise concerns to ~~the Authority~~ Ofgem where it considers regulatory intervention may be needed ~~appropriate~~. We would also expect NESO to monitor market participant behaviour under existing arrangements to help identify where rules may need to change to address issues related to the undue exploitation of market power.

2.122.15 For the purposes of Condition C1.10, relevant licence conditions are those that obligate compliance with Industry Codes, and currently include Standard Condition 20A (also known as the Transmission Constraint Licence Condition or "TCLC") and Standard Condition 20B (also known as the Inflexible Offers Licence Condition or "IOLC") of the Generation Licence. Relevant legislation includes the Competition Act 1998 and retained EU legislation on the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT).

#### Licence requirement

##### Condition C1.11 (ESO)

The licensee must carry out its operational actions in a way best calculated to ensure it does not unduly:

(a) distort competition; or

(b) create inefficiency,

~~-~~ across the wholesale electricity market and Balancing Services markets.

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### Guidance

[2.132.16](#) For the purposes of Condition C1.11, operational actions include NESO's instruction of Balancing Services, its communications to market participants (public and bilateral), and the publication of data, information and notices that impact electricity market signals (including electricity wholesale prices and imbalance prices). To avoid undue distortion, we expect NESO to ensure these actions do not set false market expectations or provide any market participants with an unfair advantage.

[2.142.17](#) When taking operational actions, we expect ~~the licensee~~ NESO to consider the combined impact on both the wholesale electricity market and Balancing Services markets. If an action improves efficiency in one market but creates a negative effect in the other, the licensee should seek an approach that optimises overall outcomes in line with ~~consumer interest~~ its objectives under ~~statute~~. For example, NESO should ensure that actions taken to minimise balancing costs do not undermine wholesale market price signals, to the extent that the overall efficiency of the energy system is reduced.

## Transparent system operation

### Licence requirement

#### Condition C1.12 (ESO)

The licensee must provide transparency to electricity market participants on its overall approach to operating the National Electricity Transmission System and the framework and process it uses for deciding between different available actions.

### Guidance

[2.152.18](#) ~~Transparency means providing information on system operation that is open, accessible and clear enough to be reasonably understood by users.~~ To provide an appropriate level of transparency, NESO should provide ~~clear and accessible~~ information that enables participants to understand the rationale for ~~licensee's~~ its choices, reduces uncertainty, and promotes confidence in the fairness and efficiency of its system operation. To achieve this, we expect NESO to publish details of the principles, criteria and processes it uses to decide between different operational actions (including through relevant publications such as the Balancing Principles Statement required under Condition C9 of the ESO licence). We also expect NESO to deliver transparency by taking reasonable and proportionate steps to clearly explain to stakeholders how its published decision-making framework has been met in practice through cases studies on actual operational actions or events (including actions or events stakeholders have requested further information on).

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[2.162.19](#) We do not expect NESO to share information that creates a risk of system security, breaches data sharing requirements, that is commercially sensitive, or which would undermine energy system efficiency (including any steps which involve a level of cost and resource which is clearly disproportionate to the value created).

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### 3. Energy system efficiency and resilience

#### Section summary

This section sets our guidance for the requirements in Part B of Condition C1 of the ESO Licence and Part A of the GSP Licence. This includes guidance on obligations related to promoting whole energy system resilience. It also contains guidance on requirements on NESO to promote the overall efficiency of the energy system through effective energy system forecasting.

#### Energy system resilience

##### Licence requirement

##### Condition C1.13 (ESO) and Condition C1.6 (GSP)

The licensee must promote the enduring security and resilience of the energy system, including by ~~seeking to~~ ~~takeing~~ a leading role in coordinating resilience activities across the energy system.

##### Guidance

- 3.1 To promote the enduring security and resilience of the energy system, we expect NESO to conduct regular analysis and horizon scanning to identify current and future risks, communicate any identified risks to government and the Authority at the earliest opportunity, and to develop robust mitigations to ~~these key~~ risks (in line with the specific processes and requirements outlined in Condition C7 of the ESO licence, Condition C6 of the GSP licence and Condition C4 of the GSP licence). We expect NESO to consider a broad range of factors when considering risks, including relevant developments within Great Britain as well as developments ~~on~~ interconnected energy systems and international markets. Where mitigations to identified risks require action by NESO, we expect NESO to engage with impacted parties and seek to implement those mitigations in a timely manner. Where mitigations require the actions of other parties, we would expect NESO to provide clarity to those parties on the actions needed.
- 3.2 To take a leading role in coordinating resilience activities we expect NESO to develop effective working relationships and routes of communication on resilience issues with key stakeholders (including Ofgem, government and industry stakeholders). This includes working closely with stakeholders when preparing the regular reports and assessments required in Condition C7 the ESO licence and Condition C6 of the GSP licence, and taking a leading role in the energy sector's preparation for emergencies. NESO should also consider where and how it would be beneficial to provide transparency to wider stakeholders through the publication of its assessments and reports in Condition C7/C6, whilst having due regard to the need to protect confidential and sensitive information.

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- 3.3 We also expect NESO to monitor the effectiveness of the arrangements and processes established in Great Britain to promote system resilience, identifying where these arrangements can be improved or where roles and responsibilities can be clarified. This includes identifying where there may be unhelpful conflicts or inconsistencies between gas and electricity processes or requirements that could lead to an uncoordinated approach to whole energy system resilience.

### Licence requirement

#### Condition C1.14 (ESO) and Condition C1.7 (GSP)

The licensee must promote coordination between energy system developments in Great Britain and those in ~~maintain effective communication and relationships with the relevant transmission system operators for~~ interconnected electricity and gas systems, including through effective engagement with interconnected system operators and impacted stakeholders in Great Britain to understand developments that may impact the energy system in Great Britain.

### Guidance

- 3.4 To achieve this requirement, we expect NESO to seek to maintain effective relationships with system operators on interconnected systems, to understand the key developments (including market, network, or security related developments) that could materially impact the energy system in Great Britain (GB). We expect NESO to seek to influence European developments through its discussions with interconnected system operators, where this is consistent with its duties under statute. NESO should also engage and seek views from GB stakeholders, Ofgem and Government on these discussions where appropriate.
- 3.5 With respect to electricity, our expectations include NESO effectively participating in the ENTSO-E Working Arrangements established through the EU-UK Trade and Cooperation Agreement and any subsequent formal agreements. We expect NESO to disseminate relevant information and seek views from electricity TOs as part of its responsibility to represent UK Transmission System Operators in ENTSO-E coordination meetings.

## Energy sector digitalisation

### Licence requirement

#### Condition C1.15 (ESO) and Condition C1.8 (GSP)

The licensee must seek to facilitate the digitalisation required in the energy sector to enable a secure and efficient Zero Carbon Energy System.

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### Guidance

~~3.43.6 n/a~~ As part of its role to seek to facilitate energy sector digitalisation, we expect NESO to develop clear plans and strategies in line with the expectations in the Digitalisation Strategy and Action Plan (DSAP) Guidance. We also expect NESO to consider how it can strike the right balance between developing digital products and services itself, versus enabling third parties to build and improve services competitively through improved and standardised data access.

## Energy system forecasting

### Licence requirement

Condition C1.16 (ESO) and Condition C1.9 (GSP)

The licensee must produce and publish accurate and unbiased energy system forecasts that create overall value for ~~the energy system consumers and stakeholders~~.

### Guidance

~~3.53.7~~ To understand the types and timeframes of energy forecasts that create overall value for ~~the energy sector consumers and stakeholders~~, we expect NESO to regularly engage with stakeholders to understand their needs and to consider what forecasts would help improve the operational efficiency of the energy system. This could include, but is not limited to, forecasts of energy demand, electricity generation / gas supply, energy margins, and carbon usage or intensity. We would not expect NESO to publish forecasts that compromise the security or efficiency of the energy system.

~~3.63.8~~ To produce accurate forecasts, we expect the licensee to regularly review the methodologies that underpin these forecasts to ensure they use up to date tools and techniques and reflect key developments across the energy system.

~~3.73.9~~ Unbiased forecasts means that the licensee uses its best estimate of the outturn value without making adjustments to forecasts or forecasting techniques to build any unnecessary conservatism or optimism.

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# 4. Markets for electricity system services

### Section summary

This section sets our guidance for the requirements in Part C of Condition C1 of the ESO Licence. This includes guidance on obligations related to NESO's development and procurement of Balancing Services, including requirements related to market-based procurement, transparency, accessibility, and non-discrimination between providers. It also contains guidance on requirements related to coordination across transmission and distribution services.

Please note that the Condition C1 requirements and guidance do not replace, override, or limit any relevant duty or obligation imposed on NESO under Assimilated Law.

## Market-based, competitive procurement

### Licence requirement

#### Condition C1.17 (ESO)

The licensee must procure all Balancing Services through market-based mechanisms **and** seek to maximise competition in Balancing Services procurement.

### Guidance

- 4.1 NESO should procure all Balancing Services through market-based mechanisms, unless NESO has received a formal derogation from the Authority under C9.6 of Condition C9 or another written formal agreement with the Authority that a non-market-based mechanism is necessary to protect energy consumers' interests (which we would generally expect would only be required under exceptional circumstances).
- 4.2 To seek to maximise the use of competition, we expect NESO to take measures to phase out any procurement of Balancing Services that is non-competitive, unless NESO can clearly demonstrate that this is either infeasible or not in the best interests of consumers.

## Non-discrimination

### Licence requirement

#### Condition C1.18 (ESO)

The licensee must not unduly discriminate between any persons or classes of person in its procurement of Balancing Services, including by:

- (a) designing Balancing Services requirements so they do not unduly restrict new or existing service providers or technologies from competing; and

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(b) using best endeavours to resolve, as soon as reasonably practicable, any technical or capability issues the licensee has which could restrict its ability to procure Balancing Services in a non-discriminatory manner.

### Guidance

- 4.3 Through the design and procurement of Balancing Services, NESO may consider price differences, the technical needs of the electricity system and whether the technical capabilities of different providers or types of providers can address those needs. Undue discrimination could include Balancing Services designs or procurement decisions that include requirements or restrictions that do not serve a legitimate purpose (for example, designs or decisions based solely on individual preferences for certain technology types, sizes of provider, or past practices).
- 4.4 To avoid undue discrimination, we would expect NESO to have a robust system of controls to stress test the requirements for both existing and new Balancing Services. This would be ~~the~~ with the aim of ensuring the market designs and associated requirements serve a legitimate purpose and are necessary and reasonable to achieve the purpose (with no clearly less restrictive way to achieve the purpose).
- 4.5 A legitimate purpose could include instances whereby NESO can demonstrably evidence that certain market designs or requirements are consistent with its statutory duties. This could include near-term arrangements which encourage the development of nascent market arrangements or market participants to create longer term consumer benefits, or arrangements where security of supply cannot otherwise feasibly be achieved.
- 4.6 Where NESO identifies any system or capability issue that may restrict its ability to procure Balancing Services from all types or sizes of providers (now and into the future), we would expect NESO to be open and transparent about the issue, seek to rectify this as a priority, and provide clarity to stakeholders and Ofgem on the plan and timescales for remedying the issue. NESO should be able to justify its timelines for a remedy, considering materiality of the issue, the relative detriment caused, and the complexity of the solution.

### Licence requirement

#### Condition C1.19 (ESO)

The licensee must demonstrate it is not unduly discriminating between any persons or classes of person in its procurement of Balancing Services by clearly and transparently explaining ~~and justifying~~ Balancing Services design and procurement outcomes.

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### Guidance

- 4.7 To ~~clearly and transparently explain~~~~demonstrate that and justify a~~ Balancing Service design ~~is not unduly discriminatory~~, we expect NESO to set out ~~and engage on~~ its ~~Balancing Services~~ design considerations in a timely manner, ~~and to engage industry in design at relevant stages so stakeholders can meaningfully provide input and raise any issues~~. Where any design choices appear to exclude or restrict certain providers or technologies, NESO should provide full justification of that position to industry as early as possible, and in any case ahead of any consultation period.
- 4.8 ~~We would expect NESO to publish clear data and information on procurement outcomes (in line with specific requirements in Condition C9) and be able to explain how these outcomes are non-discriminatory and consistent with the original service designs. Where NESO determines that the publication of aggregated or anonymised data is necessary, we expect NESO to provide an explanation alongside the data publication. Where there is no required deadline for the publication of procurement outcomes, NESO should use its best judgement to determine the best timing of these publications and communicate its expectations to stakeholders. We also expect NESO to be able to respond to reasonable and proportionate requests for further explanation of procurement outcomes in a timely manner.~~
- 4.9 ~~We do not expect NESO to take disproportionate steps that involve a level of costs to consumers that clearly outweigh with the benefits, or to share information that is commercially sensitive. For example, we do not expect NESO to publish an individual explanation for every bid and offer accepted in the Balancing Mechanism (BM); but we would expect NESO to clearly explain aggregated BM procurement data and trends (such as skip rates) where this is needed to build industry confidence in NESO's procurement approach.~~

## **-Clear and accessible balancing services**

### Licence requirement

#### Condition C1.20 (ESO)

The licensee must ensure that Balancing Services are designed ~~in a~~ ~~to be~~ accessible manner ~~so that~~ ~~maximises participation~~ ~~the level of participation is not unnecessarily reduced~~.

### Guidance

- 4.74.10 For Balancing Services to be accessible, we would expect NESO to keep these services under review and seek feedback from current and potential providers of these services. This should be with the objective of identifying and

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removing unnecessary complexities or barriers to entry that could limit interest or engagement in NESO's Balancing Services. We also expect NESO to clearly communicate rules and requirements and engage with potential providers to explain the opportunities and processes for providing Balancing Services.

### Licence requirement

#### Condition C1.21 (ESO)

The licensee must provide transparency on its future procurement needs for Balancing Services to provide clear investment signals and foster competition.

### Guidance

**4.11** To provide transparency on procurement needs, we would expect NESO to publish the volumes of all Balancing Services it expects to procure, over a range of timeframes. This includes the publication of longer-term forecasts and explanations of its expected operational needs. We would expect these to be provided sufficiently far ahead of time to maximise the participation of existing and potential providers of Balancing Services who are able to address those system needs.

**4.84.12** We would expect NESO to explain the limitations behind any longer-term forecasts of its procurement needs, including any key uncertainties. We would expect that shorter term forecasts provide a greater degree of certainty on the specific volumes being sought.

## Coordinated electricity markets

### Licence requirement

#### Condition C1.22 (ESO)

The licensee must work with electricity market participants, ~~Licensed~~ Licensed Distributors and the Market Facilitator to support the coordinated development of markets across the Total Electricity System and remove unnecessary restrictions to competing in both Balancing Services and distribution-level flexibility services.

### Guidance

**4.94.13** To support the coordinated development of markets, we expect NESO to collaborate with stakeholders to identify and implement opportunities to improve how Balancing Services operate with and in relation to the flexibility services procured by Distribution Network Operators (DNOs). We would expect NESO to respond to these opportunities by making beneficial changes that are within its control and, where needed, support others to implement beneficial changes that are not directly within its control. This should be with the aim of improving whole

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electricity system efficiency and preventing conflict and inconsistencies between services that create unnecessary complexity, or which unnecessarily prevent market participants from stacking revenues between different markets.

**Cross-border markets**

## Licence requirement

Condition C1.23 (ESO)

The licensee must maintain processes that support the effective trading of electricity with markets connected to Great Britain, ~~including by removing and seek to remove~~ barriers which could unnecessarily restrict flows over interconnectors.

## Guidance

~~4.104.14~~ 4.14 n/a

## 5. Wholesale market arrangements, codes and charging

### Section summary

This section sets our guidance for the requirements in Part D of Condition C1 of the ESO Licence and Part B of the GSP Licence. This includes guidance on obligations related to NESO's roles in wholesale markets, code administration and Electricity Market Reform.

### Wholesale market design

#### Licence requirement

##### Condition C1.24 (ESO) and Condition C1.10 (GSP)

The licensee must engage with industry stakeholders, the Authority, and government to promote the development of energy wholesale market arrangements that facilitate a secure ~~and~~, efficient ~~and economical~~ Zero Carbon Energy System.

#### Guidance

- 5.1 Energy wholesale market ~~arrangements~~~~frameworks~~ include all rules and requirements which establish the energy wholesale markets in Great Britain, including requirements in legislation, licences and Industry Codes.
- 5.2 Our expectations for NESO in this area extend to actions which are within its control. This includes seeking to change to rules and requirements which NESO has the powers to change but also providing necessary advice or recommendations on required changes to other parties who have the legal responsibility to make those changes.
- 5.3 For example, we expect NESO to use its energy system expertise to help identify and propose changes to the Industry Codes which can ~~best~~ improve the functioning of the electricity and gas wholesale markets with respect to the wider energy system. We also expect NESO to leverage its relationships with stakeholders, the Authority, and government to share recommendations on necessary changes to licences, legislation and wholesale market design so that markets can help achieve prevailing energy system policy objectives. ~~For clarity, we do not expect NESO to take clearly disproportionate steps which would not justify the costs, and we expect NESO to prioritise changes which it considers have the greatest relative impact.~~
- 5.4 With respect to gas, we expect NESO to take a leading role in coordinating the strategy for the progression and development of gas wholesale markets (including through the delivery of clear and robust Future Market Plans, as required in Condition C7 of the GSP Licence).

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### Code administration

#### Licence requirement

##### Condition C1.25 (ESO)

The licensee must administer the Industry Codes it manages ~~in an impartial, impartially and in a manner that facilitates broad stakeholder engagement~~accessible and ~~coordination~~coordinated across Industry Codesmanner.

#### Guidance

5.5 To achieve this ~~requirement~~requirement and deliver impartial and accessible code processes we expect NESO to keep its approach to code administration under review and gather feedback on reasonable and proportionate improvements that should be made to improve the experience for code users. This includes seeking to understand improvements that may be needed to better align with the principles under the Code Administration Code of Practice<sup>6</sup>.

5-55.6 ~~For Industry Codes to be administered in a coordinated manner, NESO should identify where code change proposals may have cross cutting impacts with other code change proposals or other Industry Codes. NESO should consider and clearly explain these interactions and, where necessary, work with other code administrators to ensure changes across multiple Industry Codes are progressed efficiently.~~

### Electricity charging

#### Licence requirement

##### Condition C1.26 (ESO)

The licensee must develop, manage and maintain ~~the fit for purpose~~ Charging Methodologies ~~in a transparent and effective manner, including by~~and engage ~~effectively~~ing with relevant parties to identify changes that would better deliver the ~~applicable Connection and Use of System Charging objectives~~ Use of System Charging Objectives and Applicable Connection Charging Objectives.

#### Guidance

5-65.7 n/a

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<sup>6</sup> [The CACoP - CACoP](#)

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## Licence requirement

Condition C1.27 (ESO)

The licensee must use reasonable endeavours to provide clear **and transparent** communications and **transparent** forecasts around future Use of System Charges, so that market participants can understand; and **as far as feasible predict reasonably estimate** these charges.

## Guidance

[5-75.8](#) n/a

**Electricity Market Reform**

## Licence requirement

Condition C1.28 (ESO)

The licensee must maintain transparent, impartial and effective processes in its delivery role for the government's Electricity Market Reform arrangements, including by providing accessible qualification processes and fair and timely guidance and advice.

## Guidance

5.9 To achieve transparent, impartial and effective processes we expect NESO to:

- Provide clarity on and support stakeholder of the processes, timelines and requirements for participation in the Capacity Market and Contracts for Difference;
- Apply Electricity Market Reform (EMR) rules in a consistent manner and clearly explain prequalification decisions;
- Act in accordance with independence requirements in Condition B1 of the licences, as well as seeking to protect NESO's operational independence; and
- Maintain robust internal systems and conduct effective stakeholder engagement to ensure EMR processes run smoothly and without unnecessary costs, errors or delays

## Licence requirement

Condition C1.29 (ESO)

The licensee must seek to support the effective design and operation of the Capacity Market **and Contracts for Difference** arrangements.

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## Guidance

5.85.10 To support the effective design of the Capacity Market ~~and Contracts for Difference (CfD)~~ arrangements, we would expect NESO to use its expertise and knowledge to make recommendations to government, and ~~where relevant~~ Ofgem, on ~~the key~~ future changes that would enable ~~to Capacity Market the~~ ~~arrangements~~ to better meet prevailing energy system policy objectives.

5.95.11 To support the effective operation of these ~~se~~ ~~Capacity~~ ~~Market~~ ~~arrangements~~, we expect NESO to implement necessary changes to the Capacity Market rules in a competent and timely manner, with minimal delays or errors ~~which are within its control~~.

## 6. Energy system planning and connections

### Section summary

This section sets our guidance for the requirements in Part E of Condition C1 of the ESO Licence and Part C of the GSP Licence. This includes guidance on obligations related to energy system planning, electricity connections and medium-term outage planning.

### Transparent and coordinated system planning

#### Licence requirement

##### Condition C1.30 (ESO) and Condition C1.11 (GSP)

The licensee must effectively engage with industry stakeholders, the Authority, and government to ensure that **its** frameworks and procedures for planning the development of the whole energy system are transparent, coordinated and support the timely, secure, **and** efficient **and economical** transition to a Zero Carbon Energy System.

#### Guidance

**6.1** This requirement refers to the system planning frameworks and procedures that NESO has the responsibility to deliver (including the Future Energy Pathways (FEP), Strategic Spatial Energy Plan (SSEP), Centralised Strategic Network Plan (CSNP), Regional Energy Strategic Plan (RESP), Gas Network Capability Needs Report and Gas Options Advice Document).

**6.16.2** To achieve coordinated frameworks and processes, we expect NESO to be able to demonstrate how ~~the these~~ system planning processes ~~it delivers (including the Future Energy Pathways (FEP), Strategic Spatial Energy Plan (SSEP), Centralised Strategic Network Plan (CSNP), Regional Energy System Planning (RESP), Gas Network Capability Needs Report and Gas Options Advice Document)~~ fit together so that the system is planned on a whole system basis. We also expect to see evidence that **NESO's** governance arrangements across these planning processes are coherent and where necessary, coordinated or aligned. Coordinated also means that NESO should consider the needs of other parties directly impacted by its system planning outputs (such as network operators and Ofgem). This includes providing accurate information and data in sufficient lead times as reasonably required for those parties to discharge their roles and obligations in system planning and network price controls. Where there is uncertainty about responsibilities with respect to these frameworks and procedures, we would also expect NESO to engage with other parties to help clearly define these responsibilities.

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**6.26.3** To provide transparency, NESO should be able to explain (including through its public methodologies, plans, and through its general communications) how the different planning processes work together. This should include clear explanations of which information is being used from other network planning processes and at what stage of the process this information is being considered. Transparency also means NESO providing clarity about ~~the results of the assessments~~ its network planning recommendations, including being able to clearly evidence how these have been reached and how they align with any approved methodologies. We also expect NESO to clearly communicate the expected timings of its processes or consultations so that stakeholders are aware of when and how they need to input.

**6.4** To support the timely, secure, ~~and~~ efficient and economical transition to a Zero Carbon Energy System, we expect NESO to take steps within its control to ensure key system planning outputs are delivered on time and sufficiently aligned with any regulatory guidance or approved methodologies. This is to minimise the risk of delays to knock-on processes, such as price control and investment decisions. ~~we~~ We also expect NESO to keep all aspects of ~~the~~ its energy system planning framework under review to identify any key barriers to achieving these expectations, including any unhelpful conflicts or inconsistencies between gas and electricity planning processes or requirements. NESO should prioritise seeking to make the most beneficial changes, including directly making key changes when this is within its control, and making timely, evidence-based proposals and recommendations to Ofgem or government ~~on frameworks or process changes,~~ where needed.

## Electricity system connections

### Licence requirement

#### Condition C1.31 (ESO)

The licensee must ~~use best endeavour~~ take all reasonable steps, through effective engagement with relevant industry stakeholders, the Authority, and government, to ensure the process and procedures for connecting to the electricity system are efficient, and support a timely, secure and efficient transition to a Zero Carbon Energy System.

### Guidance

**6.36.5** Our expectations ~~for NESO in this area extend to cover~~ all actions which are within ~~its~~ NESO's control or influence, ~~(which include~~ ing ~~ing~~ NESO's ~~its~~ ability to convene, communicate with, ~~influence~~ and make recommendations to other parties). We recognise that NESO does not have unilateral control over all

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elements of the electricity connections process and may be able to reasonably shape some processes and procedures to a different degree to others.

**6.46.6** With respect to the NETS, w~~we~~ expect NESO to achieve this obligation by keeping all aspects of the ~~electricity transmission~~ connections process under review to identify key issues which could undermine the timely, secure and efficient transition to a Zero Carbon Energy System.; NESO should seek to directly making address these key issues beneficial changes when it has the powers to do so, and making make timely, evidence-based proposals and recommendations to Ofgem or government where needed. ~~This NESO's~~ ongoing review should consider future developments on the electricity system, including the volume, locations and types, of connections, and how that may impact the suitability of existing processes. NESO should also seek to ensure connections methodologies, such as those required under Conditions E15, E16 and E17 of the ESO Licence, are effectively coordinated and aligned with the needs of the energy system as identified through the licensees wider strategic planning processes.

**6.7** To promote an efficient overall whole electricity system connections process, we expect NESO to work closely with DNOs and TOs to ensure the timing of connections across the transmission and distribution systems are well coordinated and take account of total electricity system benefits, costs and impacts. We recognise that NESO may have less visibility over distribution-level connections which do not have a direct transmission-level impact and may therefore be less reasonably able to ensure that these connection decisions account for whole system impacts. However, we expect NESO to regularly engage with DNOs to understand overall trends that could impact the whole system and to promote beneficial coordination and consistency between transmission and distribution connections processes.

### Licence requirement

#### Condition C1.32 (ESO)

The licensee must take all reasonable steps to ensure that the ~~processes it manages~~ for parties seeking to connect to the electricity system ~~is~~are fair, transparent and robust.

### Guidance

**6-56.8** To deliver a fair, transparent and robust process, we expect NESO to make clear, consistent and evidence-based decisions on applications to connect to the electricity system which are in line with agreed legal frameworks (including relevant requirements in legislation, NESO's licences, approved licence methodologies under Conditions E15 to E17, and Industry Codes).

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6-66.9 Additionally, to achieve this requirement, we expect NESO to:

- ~~P~~rovide clear and timely guidance on the opportunities, requirements and processes for connecting to the electricity system;
- ~~M~~aintain reliable and accessible stakeholder platforms for submitting and tracking connections applications;
- ~~E~~nsure that relevant connections data is easily accessible in line with the Data Best Practice Guidance;
- ~~C~~learly communicate with connecting parties, including on the reasoning for decisions;
- Provide timely responses to queries on connection offers; and
- ~~D~~eliver minimal process errors.

— Our expectations ~~in this area~~under this condition only apply to connections to the electricity system where NESO would hold a contract with the connecting party and has a required role in processing and decision-making role deciding on connection offers.

6-76.10

## Medium term outage planning

### Licence requirement

#### Condition C1.33 (ESO)

The licensee must seek to optimise the timing of outages under the Outage Plan on the National Electricity Transmission System to drive whole energy system benefits.

### Guidance

6.11 For the purposes of this condition, whole energy system benefits include trade-offs related to system security, efficiency and economy, and the achievement of Net Zero. This includes costs and benefits over a range of timeframes, including short term operational cost savings and future system benefits resulting from timely network investment.

6-86.12 Under this requirement, we expect NESO to seek to optimise the timing of outages in the initial Outage Plan agreed prior to Week 49 as well as subsequent Outage Changes. To optimise timings, we expect NESO to work with TOs, Offshore Transmission Owners (OFTOs), and relevant generators and DNOs to consider the whole system cost and security impact of scheduling outages at certain times, as well as the impact on the investment needed for a Zero Carbon Energy System.

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6.96.13 \_\_\_\_\_ NESO should also use the mechanisms available to it under the STC to bring forward commercial solutions that ~~reduce overall system costs~~ drive whole system benefits, whilst ensuring providing assurance that the estimated costs proposed by TOs and OFTOs through the STCP 11-4 procedures<sup>7</sup> are ~~fair and reasonable~~ cost reflective.

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<sup>7</sup> [STC Code Documents | National Energy System Operator](#)

## 7. Cross-cutting requirements

### Section summary

This section sets our guidance for the requirements in Part F of Condition C1 of the ESO Licence and Part D of the GSP Licence. This includes guidance on obligations related to stakeholder engagement, ~~impartial and~~ transparent decision-making, providing accurate and accessible information, ~~making evidence-based recommendations~~, and ensuring externally used ~~IT processes platforms~~ are fit for purpose.

### Stakeholder engagement

#### Licence requirement

##### Condition C1.34 (ESO) and Condition C1.12 (GSP)

The licensee must ensure that through the delivery of its activities it carries out ~~robust stakeholder effective~~ engagement ~~with stakeholders~~ on issues, recommendations or decisions which ~~are important for materially impact those~~ stakeholders or ~~the~~ energy sector ~~outcomes~~.

#### Guidance

7.1 To deliver ~~robust effective~~ stakeholder engagement, we expect NESO to deploy good common practices in its approach, including:

- Taking measures to understand, review and track which stakeholders are impacted by NESO's actions;
- Using open engagement methods that ~~promote are accessibility accessible~~ and ~~inclusivity inclusive~~, and which take account of stakeholder needs;
- Engaging at a sufficiently early stage of a decision-making process so that views can be fully considered, ~~including by providing appropriate length periods for public consultations~~;
- ~~Being clear and transparent about the opportunities for sharing views and how those views will be considered; and~~
- ~~Responding to queries and reasonable requests from stakeholders clearly and in a timely manner.~~

7.2 We expect NESO to have effective internal processes to track and monitor stakeholder priorities and concerns to understand the level of ~~importance impact~~ of issues, ~~recommendations or decisions~~. We also expect NESO to consider the overall costs, ~~and~~ benefits ~~and distributional impacts~~ of recommendations and decisions when determining their level of importance and the appropriate engagement strategy.

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## Transparent decision-making

### Licence requirement

#### Condition C1.35 (ESO) and Condition C1.13 (GSP)

The licensee must take all reasonable steps to clearly explain the reasons underpinning its decisions or recommendations, ~~considering and to provide a level of detail in its stated rationale that is proportionate to~~ the impact those decisions or recommendations have on stakeholders and the energy sector.

### Guidance

7.3 To achieve this requirement, we expect NESO to ~~provide a level of transparency around its decision-making that is comparable to the standards expected from public bodies in the UK. This includes taking all reasonable and proportionate steps to:~~

- ~~E~~Ensure the reasons and rationale for its recommendations and decisions are clearly stated and included in relevant public documents;~~:-~~
- ~~This includes C~~clearly explaining how any stakeholder feedback that was collected prior to the decision or recommendation has been considered and the reasons why NESO agrees or disagrees ~~s~~ with those stakeholder views; ~~and:-~~
- ~~We would also expect NESO to R~~respond promptly and clearly to any subsequent ~~reasonable and proportionate~~ requests from stakeholders for greater explanation of the decisions within public documents.

7.3.4 To ~~consider provide a proportionate level of detail in its stated rationale impacts on stakeholders and the energy sector,~~ we expect NESO to have effective internal processes to track and monitor stakeholder priorities and concerns to understand the level of impact of its decisions and recommendations. We also expect NESO to consider the overall costs; ~~and~~ benefits ~~and distributional impacts~~ of recommendations and decisions when determining their importance and the appropriate level of detail in justification and rationale that should be provided. ~~The level of transparency and explanation should be commensurate with the level of impact.~~

7.5 We do not expect NESO to ~~publish or~~ share information that creates a risk of system security, breaches data sharing requirements, that is commercially sensitive, or which would undermine electricity system efficiency (including any steps which involve a level of cost and resource which is clearly disproportionate to the value created).

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### Accurate information

#### Licence requirement

~~Condition C1.36 (ESO) and Condition C1.14 (GSP)~~

The licensee must put in place effective processes and governance for the purpose of ensuring that any information, ~~or data or analysis~~ it publishes or provides to the Authority or government is accurate and that any analysis does not contain errors.

#### Guidance

~~7.47.6~~ We will consider accuracy based on all information the licensee should have reasonably had available to it at the time, taking account of uncertainties. Examples of ineffective processes and governance could include repeated examples of information submissions or publications that contain material errors due to a lack of internal assurance.

~~7.7~~ In situations where NESO must make judgements or forecasts about uncertain factors, unless this is already clear, we would expect NESO to make those limitations or uncertainties clear.

~~7.57.8~~ To achieve this requirement, we also expect NESO to ensure public datasets are maintained and managed in line with the Data Best Practice Guidance.

### Evidence-based recommendations and decisions

#### Licence requirement

~~Condition C1.37 (ESO) and Condition C1.15 (GSP)~~

The licensee must ensure ~~any formal advice or recommendation provided to the Authority or government is clear, impartial and evidenced-based.~~

~~7.6~~—For the purposes of this condition, ~~formal advice and recommendations include:~~

- ~~• Advice provided in response to requests made under section 171 of the Energy Act 2023;~~
- ~~• Reports, plans or methodologies explicitly required under NESO's ESO and GSP licences which inform subsequent decisions made by Ofgem or government.~~

~~7.7~~—To achieve this requirement, we expect NESO to take measures to understand the supporting information and evidence that Ofgem or the government will reasonably need to carry out their subsequent decisions or policy measures. We expect NESO to clearly explain how it has reached its key conclusions and to share the underlying data, analysis and assumptions it has used when Ofgem or

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~~government reasonably require this to understand the advice or recommendation.~~

~~7.8—To ensure advice is impartial, NESO should also ensure it has effective internal review processes to avoid conclusions being driven by either conscious or unconscious bias from employees towards certain outcomes.~~

## Accessible information

### Licence requirement

Condition C1.38-37 (ESO) and Condition C1.16-15 (GSP)

The licensee must use reasonable endeavours to ensure that ~~the~~ any published information or data is clear and easily accessible to the users of that information.

### Guidance

7.9 To achieve this requirement, we would expect NESO to take steps to understand the primary users of published information and seek feedback from those users to understand their views and needs. We would also expect NESO to consider the needs of individuals with visual impairments and provide information in a machine-readable format. NESO should also align its data publication practices with the Data Best Practice Guidance, as required under Condition C3 of the ESO Licence and GSP Licence.

## Robust industry-facing **platforms processes**

### Licence requirement

Condition C1.39-38 (ESO) and Condition C1.17-16 (GSP)

The licensee must use reasonable endeavours to ensure that any **externally used processes or information technology platforms** ~~the licensee that it~~ is responsible for, ~~and which are used by external parties,~~ are **robust and operationally ready prior to their introduction** ~~introduced and maintained in a manner that does not create unnecessary costs or disruption for energy system users.~~

### Guidance

7.10 ~~These~~ **This obligation processes or platforms refers to information technology (IT) systems, operated by NESO that are used by current or prospective gas and electricity market participants, network companies and other energy system users. These systems** include but ~~are~~ are not limited to Balancing Services, ~~platforms portals~~ for processing connection-applications, ~~prequalification platforms for EMR,~~ and ~~processes systems~~ for issuing industry charges.

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- 7.11 For ~~processes or IT~~ platforms ~~to be robust and operationally ready to be introduced and maintained in a manner that avoids unnecessary costs or disruption~~, we expect NESO to carry out appropriate and proportionate testing and validation to appropriately ~~minimise the risk unnecessary costs and disruption to market participants~~ assure that platforms operate effectively and are ready for use by external parties.- This may include phased implementation approaches, such as pilots or beta releases, where these are used to support appropriate testing, learning and refinement prior to full operational deployment.
- 7.12 We also expect NESO to develop systems that are interoperable-by-design, in line with expectations under the DSAP Guidance. To achieve this, we expect NESO to engage with the energy system users who rely on, or interface with, these systems to support operational compatibility and readiness.

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## 8. Notice of remediation

### **Section summary**

This section includes guidance on the requirements in Condition C1 for NESO to produce a Remediation Plan following a Notice of Remediation. This includes guidance on the purpose of the requirements; illustrative examples of when Ofgem may issue a Notice of Remediation; a summary of how the process interacts with other regulatory mechanisms; and guidance on the general approach to the notice and plans.

### **Background**

- 8.1 Part H of Condition C1 in the ESO Licence and Part E of Condition C1 in the GSP Licence sets requirements on NESO related to the production of a Remediation Plan. Under this condition, Ofgem can direct NESO to produce a Remediation Plan through a Notice of Remediation (NoR).
- 8.2 The guidance in this chapter is intended to build greater understanding of the purpose of the NoR and how it may be used. This is to align expectations and minimise confusion about how the NoR may be used and how it fits within NESO's regulatory framework.
- 8.3 Please note that the guidance in the chapter is designed to build understanding and transparency. The guidance is non-exhaustive and does not set a rigid or mechanistic framework in relation to Ofgem's application of a NoR.

### **Guidance**

#### Overall purpose of the NoR

- 8.4 The NoR is a regulatory lever that Ofgem can use when we consider NESO needs to provide greater assurance on the actions it is taking to resolve a material performance concern. The overall policy aim of this requirement is to enable timely and targeted regulatory intervention where this may be necessary. This is to minimise the risk of a material performance concern developing into a serious performance failure that could have significant negative impacts for consumers or the energy sector.

#### When a NoR may be issued

- 8.5 The licence does not contain mechanistic triggers for issuing a NoR as we consider that the context of each individual performance concern needs to be considered. It is important that Ofgem retain the flexibility to respond in the best way possible, given the specifics of the situation. However, to aid understanding, this section contains a non-exhaustive list of example situations that may lead us to issue a NoR.

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### Licence conditions: Condition C1.45 (ESO) and Condition C1.23 (GSP)

A Notice of Remediation would be issued where the Authority considers the licensee needs to provide greater transparency and confidence on the actions and steps it is taking to ensure continued compliance with the obligations in this licence or to remedy any perceived performance concerns.

8.6 In most scenarios, before issuing a NoR, we would first seek to resolve emerging performance concerns with NESO through the performance assessment processes (governed by the NESO Performance Arrangements Governance Document). We would expect NESO to respond to concerns raised by us and stakeholders through these processes, and where needed, proactively publish additional plans and clear communications to build confidence and understanding around how it responding to any key issues.

8.7 Illustrative examples of situations we may decide to issue a NoR include:

- There is a high and escalating risk of material consumer detriment without timely and targeted action by NESO.
- There is a major performance concern which has been persistently raised through the performance assessment processes, but NESO has not provided a clear or satisfactory solution.
- There are persistent and material NESO-driven delays to a critical industry process that risks blocking the achievement of a secure, efficient and economical transition to a Zero Carbon Energy System.
- There are widespread industry concerns about a material NESO-driven issue, that if left unaddressed, could significantly impact future costs or investment certainty.

### Interactions with other regulatory processes

8.8 NESO's performance assessment process and the NoR are both mechanisms we can use to influence NESO's behaviour and consumer outcomes. However, they are distinct levers which operate in different ways.

8.9 The performance assessment is a regular and holistic process focussed on NESO's overall performance delivering key outcomes. A NoR on the other hand is a targeted mechanism for addressing specific issues, which we would only intend to use in exceptional circumstances. A NoR would require a much more focused and specific response to a material performance concern than the annual performance assessment processes.

8.10 The information we gain through the performance assessment arrangements can inform the need for a NoR. For example, the feedback from stakeholders through stakeholder surveys, the Independent Challenge Panel and our ongoing call for evidence will help raise awareness and build our understanding of any material performance concerns.

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8.11 For the avoidance of doubt, a NoR does not constitute statutory enforcement proceedings or a statutory investigation into a breach of a licence condition. The process and procedures for statutory licence enforcement action for NESO are unaffected by the NoR and remain governed by Ofgem’s enforcement guidelines.

### Approach to the NoR and Remediation Plan

Licence conditions: Condition C1.46 (ESO) and Condition C1.24 (GSP)

A Notice of Remediation will specify:

- (a) The issue(s) that the Authority considers the licensee must seek to address;
- (b) The licence condition(s) relevant to the issue(s);
- (c) The information the licensee must provide within a Remediation Plan;
- (d) The timeframes for producing and submitting the Remediation Plan to the Authority; and
- (e) Any other requirements related to the Remediation Plan, including but not limited to any publication requirements.

Licence conditions: Condition C1.47 (ESO) and Condition C1.25 (GSP)

On receipt of a Notice of Remediation the licensee must produce a Remediation Plan which complies with the requirements set out in the Notice of Remediation.

8.12 A NoR is a direction by Ofgem on the need for NESO to produce a Remediation Plan. As with all licence directions, the NoR would be reasoned and published on our website. We will not include confidential or market-sensitive information in the published NoR.

8.13 The specific requirements and timelines the NoR places on NESO to produce a Remediation Plan will depend on the specific context, materiality and urgency of the issue. However, for clarity, a NoR will seek to put the onus on NESO to be clear to Ofgem and industry about how it is responding to a performance concern, rather than Ofgem telling NESO the solution or remedy to the issue.

8.14 We expect that in all cases the NoR will place a requirement on NESO to publish its final Remediation Plan on its website. We will consider on a case-by-case basis whether additional steps, such as NESO engagement with industry or other external review, may be required.

8.15 We expect to engage with NESO before issuing a NoR to explain the reasons for the NoR and the key requirements set out in the NoR. Where practicable, we will consider any views from NESO on how the content of the NoR could support a better Remediation Plan or deliver better outcomes for consumers. The timing and nature of this engagement will depend on the specific context.

**Guidance** NESO Licence Expectations Document

## Send us your feedback

We are keen to receive your feedback about this guidance. We would also like to get your answers to these questions:

- Do you have any comments about the quality of this guidance?
- Do you have any comments about its tone and content?
- Was it easy to read and understand? Or could it have been better written?
- Do you have any further comments?

Please send your feedback to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk)