
Implementation of the energy code reform: Second decision – response template

This document provides a template for responses to our new consultation questions on the proposed code text and current conflict of interest provisions.

If you are interested in responding to this consultation, please complete this word document and send it to industrycodes@ofgem.gov.uk by the end of the day on Friday 17 April 2026.

Guidance

We typically publish consultation responses when we publish our decision. To ensure that we can correctly attribute your response, please ensure that you enter all relevant details in the “Your organisation’s details” section (template part 1).

If you would like us to treat your response as being confidential, either in full or in part, please indicate this to us below. Further information on how we will treat your response, data and confidentiality can be found at the end of this document.

Please use template part 2 “Code text consultation responses” to provide your responses. For all questions, the template below provides space for you to enter free text comments. Some questions also ask whether you agree with our proposals. Please indicate the extent to which you agree or disagree with relevant proposals by deleting all but one of the bullets provided.

There is also a section for “General feedback” (template part 3). Please use this section to provide any views on the overall consultation process.

Template part 1: Your organisation's details

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Do you want your response treated as confidential? (If yes, please indicate whether you would like the whole of your response to be confidential, or just particular parts).	No

Template part 2: Code text consultation responses

Consultation section 2: Future code modifications process

For each section of the proposed code text, please answer the following question:

Question 1: To what extent do you agree that the proposed code text accurately reflects our policy decisions set out in the main document?

Sections A1-A2: To what extent do you agree that the proposed code text accurately reflects our policy decisions set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO fully supports the principles of enabling smaller parties to access industry codes, facilitating new entrants and new technologies, simplifying approaches to deliver better value to consumers, and supporting the industry's transition to net zero in a safe, secure and cost-effective manner.

However, given the Code Manager's role and associated licence obligations, the proposed drafting would benefit from further consideration to ensure effective delivery in practice. Drawing on NESO's experience as a Code Administrator and its role in the commercial and technical operation of the transmission network, NESO has identified several areas in the Schedule A text where further clarification would be helpful.

A2.12 states that *"The Proposer will retain ownership of the legal text of the Modification Proposal, and no changes can be made to the legal text without the Proposer's approval."* This implies that, unless the Code Manager agrees to take over a modification in line with paragraph 5.10, only the Proposer can determine the final text incorporated into the code.

Drafting legal text can be complex and, even within experienced Workgroups, inconsistencies can arise. In practice, such drafting typically requires oversight from individuals with appropriate legal expertise. It is therefore unclear how effective governance of code quality would be achieved where responsibility for legal drafting rests with the Proposer, while accountability for overall code quality lies with the Code Manager. The availability and role of Code Manager legal resource must also be considered.

Several of the options set out in section A2, including A2.10, would allow Proposers to raise a modification and subsequently request that it be handed over to the Code Manager for delivery at any point in the process. This could place significant obligations on Code Managers in terms of process management, engagement with the SAF, and interaction with Proposers, despite the work not having been initiated by the Code Manager. In some cases, this could represent a material workload, skills and capability risk, as well as a cost burden, particularly where analysis and/or a CBA is required. Greater clarity is therefore needed on how such requests would operate in practice, including how associated costs would be managed and controlled.

For the commercial codes, this approach may also create difficulties in managing the quality of code outputs at a time when Code Managers are also expected to consolidate and simplify codes to improve accessibility. For technical codes, the drafting of legally binding text by “interested parties” who may not be subject matter experts could pose risks to system safety, security and resilience.

More generally, NESO considers terms such as “reasonable” and “proportionate” to be inherently subjective and would welcome clarity on how these terms would be applied consistently across different codes.

Paragraph A2.6(b) places a requirement on the Code Manager to support Proposers in “*understanding the operation of the Code*”. It is unclear how this requirement should be interpreted across different codes. While a Code Manager can appropriately advise on the code change process and the role of the SAF, the Code Manager is not the operator of the code itself, and this distinction would benefit from clearer articulation.

Finally, given that the SAF is consulted but not an approver, and that the Code Manager may not have final control over the drafting of legal text, NESO seeks clarity on whether, and how, its responsibilities as System Operator would be protected, including whether any form of safeguard or veto would apply in circumstances where code quality, safety or operability concerns arise.

Section A3: To what extent do you agree that the proposed code text accurately reflects our policy decisions set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

The role of the SAF, as described, appears to mirror many aspects of the existing Code Panel arrangements operating under open governance. However, NESO's understanding of the SAF's role under Energy Code Reform is that it is subtly different from that of a Code Panel.

The stated aim of the SAF is to support the Code Manager in arriving at the most appropriate solution that supports industry needs, achieves the code objectives and alignment to the SDS, drawing on expert input from industry. NESO understands the SAF's intended role to be that of an assurance body, providing advice and constructive challenge on change proposals and assisting in presenting a balanced, expert view.

On this basis, it would seem logical for paragraph A3.3 (*"The Code Manager consults with the SAF on a decision"*) to occur prior to paragraph A3.2 (*"The Code Manager informs the SAF of a decision"*). In addition, as A3.3 appears to relate to provisional or initial decisions, NESO considers that this should be reflected in the title of paragraph A3.3.

NESO also notes that paragraph A3.4(b)(ii) (*"if any other proposed modification would better facilitate the Relevant Code Objectives"*) would benefit from clarification to refer explicitly to a *"proposed alternative modification"*, to clearly limit the scope of the SAF's review.

Given that the Code Manager is required to appoint and remunerate independent SAF members and to maintain a pool of experts to advise the SAF, NESO considers that the primary value of industry participant members of the SAF is to provide an industry perspective. In this context, such members could declare the capacity in which they are representing industry.

Finally, NESO considers that further clarification would be helpful regarding the intended value and purpose of the SAF voting on different modification options, given its role as an assurance and advisory body.

Section A4: To what extent do you agree that the proposed code text accurately reflects our policy decisions set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO supports this proposal. As harmonisation is a stated objective of Energy Code Reform, NESO considers there would be value in a centralised, harmonised code space across the industry, using common data, formats and conventions. This should include consistent information such as modification number, title, governance route and current status, and would also support effective cross-code working. Assigning each modification a unique reference and tracking its status through to closure would enhance industry wide transparency, in line with the objectives of Energy Code Reform.

Paragraph A4.6(a) requires all modifications to be assigned a prioritisation category; however, NESO considers it unclear why urgent modifications would not be identified as part of this process.

Section A5: To what extent do you agree that the proposed code text accurately reflects our policy decisions set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

Section A5 reflects the existing principle that, where a Proposer withdraws support for a modification, another party may assume ownership. However, NESO has concerns that a Code Manager could invest significant time and resource in supporting a Proposer, only to subsequently receive a request to transfer ownership. This could result in unplanned rework, capability and resourcing risks, and wider delivery impacts for the Code Manager.

Section A5 also states that the Code Manager may be requested to adopt or agree to a transfer of ownership at any stage in the process. Where a Proposer has already progressed a modification to a defined solution, potentially including drafted legal text, a late request for the Code Manager to assume ownership would, in effect, transfer administrative responsibility for a modification that is already at an advanced stage of development. This raises concerns about both the appropriateness and timing of such transfers.

NESO considers that, given the Code Manager's responsibility for managing the operation and maintenance of the code, as set out in the Code Manager Objectives (paragraphs 3.2(a)–(h) in Part A of Annex A of the proposed Code Manager Licence Conditions), once a modification proposal has been prioritised against the Authority's Strategic Direction Statement (objective (g)), the Code Manager should, where appropriate, be able to take ownership of the modification. Where the Code Manager is not the owner of any modification within the approved delivery pipeline, this may compromise its ability to deliver against its licence objectives.

NESO suggests where a Proposer wishes to relinquish ownership of a modification, responsibility should sit with that Proposer to identify and agree a suitable alternative sponsor.

NESO also questions the requirement for a party adopting ownership of a modification (other than the Code Manager) to declare that it has no conflict of interest. In practice, organisations are likely to invest time and resource in developing and progressing a modification where they consider it to be aligned with their interests.

Finally, where a modification has no suitable owner and the Code Manager elects to assume ownership in order to meet its licence objectives, NESO considers that the

Code Manager should not be bound to adopt the approach or legal text developed by the previous owner.

Section A6: To what extent do you agree that the proposed code text accurately reflects our policy decisions set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

Under section A6.3, NESO generally agrees with points (a)–(d). However, based on our experience, we would welcome confirmation from the Authority that point (d) would also apply in circumstances where a modification is non-compliant with, or unlawful under, current UK or assimilated EU law.

NESO would also welcome clarification on the application of scenario A6.3(b). Where an issue is discussed at the Pre Modification Forum and the Code Manager determines that no further action is required, but the Proposer does not wish to withdraw the issue, it is unclear whether, under section A6.4, the Code Manager may, after a defined period, make a preliminary recommendation to the SAF that the modification be withdrawn. Such clarity would be helpful in managing the risk of an accumulating backlog of proposals that are unlikely to progress.

If this approach is intended, NESO would welcome clarification on whether the Code Manager may determine an appropriate timeframe. If not, further guidance would be helpful on how such proposals are expected to be managed to avoid inefficiencies.

Section A7: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO does not consider section A7.2 (*“Any interested person may submit an Issue, regardless of whether it is a Code Party”*) to be appropriate, given the potentially significant impacts that code changes may have across the industry. While this approach may be suitable for certain codes, the objective of alignment across codes should also recognise that, for the types of codes currently administered by NESO, it would be inappropriate for a party that is neither a code signatory nor a nominee of a signatory to propose modifications that are legally binding on code participants, particularly where the Proposer may not have the requisite knowledge or expertise.

While proposals raised by non-Code Parties may ultimately be rejected at the pre-modification stage, the associated assessment and processing activity would still give rise to additional workload and cost. This could delay the progression of higher-value changes that are better aligned with the Strategic Direction Statement. This risk is further amplified by paragraph A7.6, which allows a non-Code Party to raise a concern or defect and express a preferred outcome without regard to how that outcome might be delivered, thereby increasing the complexity of impact assessment.

NESO recognises that some non-Code Parties, such as Network Transmission Operators, may have a legitimate interest in certain proposed changes to the codes. NESO therefore proposes that such parties are identified by the Code Manager and managed as exceptions, as set out in NESO's response to Section A8.

With respect to paragraph A7.6, it is also unclear whether the statement that this *“will not preclude the Code Manager from exploring and developing solutions which, in the Code Manager's view, may better fulfil the Proposer's intention and/or the Relevant Code Objectives more generally”* is intended to apply at the pre-modification stage. Where a Proposer identifies a defect but does not propose a solution, it is unclear whether this would instead fall within the scope of paragraph A7.7(a) or (b), and how the Code Manager should assess a proposal against solutions it has itself developed.

Paragraph A7.8 states that, where the Code Manager refuses to accept submission of an Issue, it must write to the Proposer and offer assistance (where reasonably practicable) to address the reasons for refusal. While this is broadly similar to the existing “critical friend” role performed by Code Administrators, the phrase “where reasonably practicable” is open to interpretation. Further clarification would be

helpful, particularly given that paragraph A7.6 appears to suggest it may be reasonable for Proposers to expect the Code Manager to develop solutions to issues raised.

Finally, paragraph A7.12 appears to preclude the Code Manager from appointing an independent chair. NESO seeks clarification as to whether this is intentional, as permitting an independent chair may support the objectives of transparency and fairness under Energy Code Reform and help mitigate any perceived risk of Code Manager bias at this stage of the process.

Section A8: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO questions the need for A8.1(c). Statutory consumer advocates are appointed to the SAF and therefore already have visibility of code change discussions. While consumer advocates have a specific role that aligns closely with the Authority's objectives, they are neither signatories to the codes nor likely to be experts in their operation. It would therefore appear more appropriate for consumer advocates to raise consumer-specific concerns with the Authority, which could then, where it considers there to be merit, instruct the Code Manager to raise a modification.

Similarly, NESO questions the suitability of A8.1(f), which allows for "*non-Code Parties designated by the Code Manager for the purpose of raising a single modification proposal*". Given that non-Code Parties are not subject to code obligations, it is unclear whether it is appropriate for parties that are neither Code Parties nor formally delegated by a Code Party to raise change proposals that they themselves will not be bound by.

While NESO recognises that this approach could provide a valuable route for certain impacted parties, such as Transmission Operators, NESO considers that A8.1(f) is too broad. NESO therefore suggests that, in fulfilling their obligation to establish SAFs with broad representation of impacted parties, Code Managers should be permitted to designate appropriate non-Code Parties to the SAF by exception, subject to agreement from the Authority.

Finally, while poorly defined or lower priority proposals may be filtered out through the pre-qualification process, the activities required under A8.2 to A8.5 are likely to be time-consuming for both the Code Manager and the SAF. This represents a cost to industry in terms of resource and may delay the progression of higher value work that is better aligned with the SDS. Given that a stated objective of Energy Code Reform is simplification and improved efficiency, the introduction of additional complexity and process without clear added value risks being counterproductive.

Section A9: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO would welcome clarification on the proposed approach to agreeing the details of modification paths. Section A13.1 states that, apart from fast-track self-governance modifications, *“all modifications need to go through a consultation stage”*, which raises questions in relation to the timelines set out in section 9, the differences in process across modification paths, and how these are intended to operate in practice. It would be helpful to understand whether the detailed design of these processes is intended to be determined by the Code Manager for a given code (or codes), in agreement with the SAF and the Authority.

A9.9 appears to apply to activities relating to maintaining the code; however, code consolidation activity does not appear to fall clearly within this categorisation. Consolidation work would instead seem more appropriately captured under paragraph A9.7. As this activity may involve significant change, there is a risk that applying the same process requirements could slow the progress of consolidation.

Section A10: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO would expect the Proposer to have undertaken an initial assessment of their modification and to provide a view based on the latest SDS. The Code Manager could then assess the proposal to determine whether that assessment aligns with their own view.

NESO considers there to be a lack of clarity regarding the process for urgent modifications. It is unclear whether Code Managers can shorten process stages, whether urgent modifications follow a distinct process route, and whether a Code Manager may progress an urgent modification via a route other than self-governance or fast-track (for example, as an urgent Authority Consent modification). Clarification would also be helpful on the intended approach for agreeing the detailed governance arrangements for each pathway, including whether this is for the Code Manager to agree with the SAF and the Authority.

Where a Code Manager's assessment of urgency is supported by the Authority, NESO would welcome clarity on the associated expectations and requirements. For example, it is unclear whether the Code Manager would be required to issue formal urgency request letters.

There is potential for significant levels of Code Manager led change to progress through a relatively complex process to facilitate consolidation activity in Phases 2 and 3 of Energy Code Reform. NESO therefore considers whether there may be merit in an additional category within the self-governance route for Ofgem approved consolidation activity, to avoid slowing other SDS aligned work.

Section A10.4 proposes a bi-annual cycle for Code Manager engagement with the SAF to review prioritisation categorisation. For active codes, such as the proposed ECC or ETC, and potentially others, NESO recommends quarterly reviews of the prioritisation stack, supplemented by ad hoc reviews where necessary.

Section A11: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

Section A11 appears well considered for modifications that require Workgroups.

A11.2 describes a more project-oriented approach, with defined steps and a requirement in paragraphs A11.2(d) and A11.5 for a timeline for progression. Assuming these activities can be timeboxed, unlike under open governance, this represents a positive development. However, to achieve the timeliness and efficiency objectives set out in the Energy Code Reform consultations, each phase would need to be clearly mapped out with any relevant mandated timeframes and service level agreements. NESO would welcome clarification on whether this is intended to be left to individual Code Managers to agree with the SAF and the Authority.

A11.3 and A12.3 are also positive steps, as they allow the Code Manager to define Workgroup membership and ensure a broad cross-section of industry input. It has been stated elsewhere that the Code Manager is responsible for coordinating any required analysis (A12.7(b)), with support from participants. However, it is unclear from this section whether certain analysis is considered a baseline requirement. If a CBA is required, there also needs to be clarity on how this is funded.

Finally, A11.4 states that “*the Code Manager must support the Proposer to develop the Modification Proposal*”. This could be interpreted as requiring the Code Manager to co-develop every modification with each Proposer, while not owning the resulting output. NESO would welcome clarification on whether this is the Authority's intended position.

Section A12: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

Based on experience, NESO has some concerns about the potential for Workgroups to become difficult to manage where attendance becomes too large. NESO is also concerned that section A12 lacks clarity in some areas. For example, paragraph A12.9 indicates that Workgroup members (but not observers) sign off the Workgroup Report; however, it is unclear whether this sign-off is intended to be by majority vote.

A12.6 states that the Code Manager should procure additional analysis where required, rather than the Proposer. Further clarity on roles and responsibilities would be helpful, given the potential level of expertise required and the scale of such activity. While Workgroups may request analysis, it is unclear whether certain forms of analysis, such as a cost benefit assessment, are considered a baseline requirement to support decision-making. As the provision of analysis has cost implications, clarification is also needed on how this activity is to be controlled. For example, is the Code Manager responsible for determining whether analysis is required, and is there an expectation that individual modifications or Workgroups operate within a defined budget, or is this intended to be code-specific and determined by the Code Manager?

Paragraph A12.12 states that observers may participate in discussions but not sign off the Workgroup report. Where the Code Manager has selected Workgroup members to ensure a balanced discussion, allowing unrestricted participations by observers may influence deliberations and result in observer views being reflected in the Workgroup Report. NESO therefore considers that observers should only contribute where invited to do so by the chair (the Code Manager). Observers are present to observe rather than participate, as unrestricted participation risks undermining control of discussions and reintroducing potential biases. While NESO notes that observers do not sign off the Workgroup Report, it remains unclear whether Workgroup approval is intended to be determined by a vote.

Section A13: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

As with previous sections, NESO considers that further detail would be helpful if a consistent approach is intended. A13.4 is unclear as to whether the Final Modification Report (FMR) is required to include any prescribed or mandatory supporting documents within the FMR section to support the SAF to reach a decision.

In relation to paragraph A13.8, NESO would welcome clarification on the expectations where the SAF disagrees with the Code Manager's proposal. It is unclear whether the SAF is required to substantiate its objection with reasons grounded in the supporting analysis.

Where the Code Manager is obliged to consider and potentially amend its approach at a stage where the proposal has already been subject to Workgroup discussion and analytical scrutiny, any alternative view from the assurance body would need to be presented in a balanced and transparent manner prior to consultation. Failing to do so risks diluting the contributions of smaller participants and proponents of new or innovative approaches who have engaged through the Workgroup process, engagement which the Code Manager is actively seeking to encourage.

Finally, NESO has concerns about the volume of work that may be expected of the SAF for a large, combined code. This may be unrealistic for unpaid contributors, particularly smaller Code Parties. There is a risk that SAF membership will be drawn primarily from the existing pool of individuals employed by larger organisations who are resourced to participate in governance activities, potentially limiting the breadth of representation.

Section A14: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO supports the scope of the Modification Report and consultation being broad and robust. It is important, in our view, that focus on both (a) the proposed solution (substance) and (b) views on process (form) is maintained.

A14.3 states that *“all assessments of the SAF and the Code Manager are to be made without regard to whether the Modification Proposal was raised in consequence of a Strategic Direction Statement”*. Given that work is prioritised by virtue of its alignment with the SDS (Proposed Code Manager Licence Objective h)), it is unclear how paragraph A14.3 is intended to be applied in practice.

From a delivery perspective, NESO would also welcome clarification on whether the Final Modification Report (FMR) is required to include any specific documents to support the SAF in reaching a decision.

Section A15: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

It is unclear whether the Workgroup has a role in deciding whether an alternative modification is accepted, or whether this is solely a Code Manager decision. NESO assumes that the same level of diligence described in section A6 applies; for example, if an alternative proposal were unlawful, the Code Manager would be able to reject it.

NESO also considers that paragraph A15.5 would benefit from additional guidance. The provision that *“the Code Manager will decline to accept it if, in its view, the overall number of Alternative Modification Proposals that have been put forward is disproportionate to the materiality of the issue sought to be addressed”* appears subjective. Clarification would be helpful as to whether this judgement rests solely with the Code Manager or involves the Workgroup, and how *“disproportionate”* is intended to be assessed in practice.

A15.8 and A15.9 appear to describe a principle but lack detail on how the process would operate in practice. Where two or more modifications are to be aligned or combined, it is unclear whether ownership would be shared, whether one Proposer would be required to withdraw, or whether a lead Proposer would be designated by the Workgroup or the Code Manager.

Finally, in relation to A15.2, it is unclear whether this refers to an individual Workgroup member or the Workgroup collectively. The concept of collective ownership by a Workgroup, or as implied under paragraph A15.9, appears to be misaligned with the approach set out in paragraphs A1 - A2, which assume a single Proposer entity.

Section A16: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

It is unclear whether solutions can be altered following a send-back, or whether the Workgroup and Code Manager are expected to address only the specific send-back points. Clarity on this would be helpful.

In relation to A16.4(a), NESO refers to its earlier observations on the SAF review and the importance of SAF views being supported by structured and reasoned argument. Where the SAF differs from the Code Manager and/or the Workgroup view, and a failure to amend the solution to align with the SAF position results in a send-back on the basis that the Code Manager is deemed not to have sufficiently considered the SAF's input, there is a risk that the SAF begins to operate as an approval body rather than as an advisory assurance function.

A16.4(b) appears to imply that the Code Manager would submit a single preferred modification, with clear reasons as to why that option is recommended. Clarification would be helpful as to whether this reflects a concern that insufficient analysis supported the recommendation, or whether the Authority intends to review all alternative options. The latter would risk duplication of effort and could require the Code Manager to develop all options in detail for Authority consideration, potentially slowing the process further.

Paragraph A16.5 indicates that send-backs will be directional, which is a positive principle. Clear objectives and defined timescales align with the needs of the Code Manager. NESO queries whether the Authority would engage in a bilateral discussion with the Code Manager prior to issuing a send-back, enabling concerns to be addressed through targeted rework before the matter is returned to the Workgroup.

If paragraph A16.8 could be expanded to accommodate more material changes required for consolidation activity, this would represent a significant enabler.

Finally, there appears to be an error at paragraph A16.10(b) which we suspect should state that an appeal will only be considered by the Authority if the Authority *does not* consider that the appeal has been raised for reasons that are trivial or vexatious, or has no reasonable prospect of success.

Section A17: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO is unclear how SCRs fit within a framework where Ofgem can raise its own modifications and where the Code Manager is operating within the context of a clearly defined SDS.

The SCR phase needs to take into account any strategic work that could be significantly impacted by paragraph A17.2(d) or whether a hiatus on non-related code modification activity is required. In this context, dialogue with the Code Manager would be important to minimise impacts on the Code Manager's change plans.

Section A18: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

Strongly agree
Agree
Neither agree nor disagree
Disagree
Strongly disagree
Don't know/no view

Comments:

It is unclear to NESO how the process for Authority led modifications operates in practice, and under what circumstances the Authority would issue a send back on its own modification to the Code Manager.

Section A19: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

The Code Manager would benefit from early warning from the Authority where a Direct Code Modification is being considered, to minimise impacts on BAU activity and to allow flexibility over timetables where changes to more than one code are required.

More generally, section A19 appears to focus on the suspension of impacted change, which is sensible. However, paragraph A19.7 refers to paragraph A19.5, where it appears it should instead refer to paragraph A19.6.

Section A20: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree (generally)
- Strongly disagree
- Don't know/no view

Comments:

Paragraph A20.4 states that a “*such modification is implemented with effect from the approved date*”. This does not appear to account for scenarios where implementation dates may need to be set to accommodate transitional arrangements or modifications with retrospective implications. In such cases, impacted parties may require sufficient time to adjust their operations, procurement processes, or systems.

Further guidance on the circumstances in which a revised implementation timeline may be requested would be helpful, given that the implications of paragraph A20.6 could be significant. For example, clarification is needed as to whether A20.6 is intended to apply where a delay is requested by the Code Manager for efficient planning and sequencing purposes, as opposed to situations where delays arise due to critical factors outside the Code Manager's control.

Section A21: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO considers that, while this approach seems reasonable, there is a need for effective communication between codes under paragraph A21.4. If the CCSG meets monthly and the appeal window is 30 days, there is a reliance on the lead code (which may raise an appeal) being advised quickly by consequential codes of any impacting decisions.

In addition, NESO considers there should be discretion to apply different timetables where changes to more than one code are required.

Section A22: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO considers section A22 to be a key enabler, given that analysis for a code modification is to be the responsibility of the Code Manager rather than the Proposer.

Given the criticality of this requirement, it may be appropriate to consider reflecting the expectations set out in section A22, and similar provisions, within Code Party Licences. In addition, providing guidance on the Authority's expectations of Code Parties would help to avoid potential challenges relating to the interpretation of what is considered reasonable.

Question 2: Are any amendments needed to the proposed code text to ensure it reflects the specific requirements for the BSC and REC?

Comments:

The consumer facing nature of the BSC and the REC necessitates this approach, but it may not be appropriate for all codes within the scope of ECR.

As commented previously, NESO, in its role as the National Energy System Operator and custodian of national infrastructure security and resilience, should have provision for a voting seat on Code SAFs where it is not the Code Manager, with the BSC being a key example.

NESO fully supports proposals such as the appointment of an independent chair and would suggest that Code Managers review existing arrangements to ensure these remain consistent as the ECR changes are progressed.

Consultation section 3: Stakeholder Advisory Forum (SAF)

For each section of the proposed SAF text, please answer the following question:

Question 3: To what extent do you agree that the proposed SAF text accurately reflects our policy decisions set out in the main document?

Sections B1-3: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO recognises the value of the SAF as an assurance body, and Section B3.1 sets out several assurance activities that we would support. We agree with the principle of the SAF supporting Code Managers in ensuring that code changes align with the objective set out in B2.

However, we note that several aspects of the proposed SAF structure and responsibilities appear to mirror current Panel arrangements, notwithstanding the fact that the intended role is described as serving a different function. We would welcome clarification as to whether this is the intended outcome.

For example, B3.1(d) states that SAFs are *“to vote on whether a Modification Proposal, or any Alternative Modification Proposal, would, as compared with the existing provisions of the Code, better facilitate the achievement of the Code’s Objectives.”*

NESO does not consider that a voting role of this nature is consistent with the intended purpose of the SAF. The SAF’s role should be to provide structured, independent assurance to support the Code Manager, rather than to take decisions on whether a modification should be progressed. Where the SAF has concerns, these should be articulated clearly, together with an explanation of how the Code Manager might address the identified issues.

The role of the SAF in consultations was not intended to operate as a governance or approval body. While we believe the role to be of significant value to Code Managers, we do not see a clear rationale for the inclusion of a formal voting mechanism.

Given that Workgroup members already vote on whether a modification should be implemented, appropriately reflecting their proximity to the detailed development of the change, NESO questions the additional value of a SAF vote. In circumstances where the SAF does not align with the Workgroup and the Code Manager, such a vote would appear unlikely to add meaningful assurance and may risk undermining decisions taken by those closest to the modification detail.

Section B4: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

B4.1(b) states that there should be “*a fixed number of independent members, as defined in B4.7 (Appointment details), that must be determined on a code by code basis.*” This is likely to be appropriate for certain codes (for example, ETC), where the technical nature of the content may benefit from a higher number of independent members with specialist knowledge, including a focus on security and resilience.

B4.13/B10.7 (b) asserts all SAF members should be acting independently of their organisation's interests. NESO would argue that the inclusion of independent members reflects a recognition that current Panel arrangements do not always assure independence. This prompts the question of why Code Party SAF members are asked to declare impartiality, as this approach appears to mirror existing Code Panel structures, which may not necessarily deliver true independence.

A potential alternative approach would be for Code Party SAF members to contribute their industry perspective to inform and advise the Code Manager, while declaring any conflicts of interest for transparency.

B4.2 states that each SAF member must be a natural person and that no individual may hold more than one office as a SAF member. NESO would suggest that B4.2 should be extended to prevent more than one representative from the same organisation (or consultancy) from sitting on a SAF at the same time.

B4.7 sets out the independence requirements, including that an individual must not have been employed by a Code Party within the year preceding appointment and must not have a personal or professional connection to the Code Manager. NESO notes that “independence” may be difficult to assess in practice. In particular, B4.7(a) should consider scenarios where individuals who have not been directly employed by a Code Party within the qualifying period may nevertheless have ongoing interests in that Code Party, for example through consultancy arrangements.

In addition, the Code Manager is required to appoint an independent Chair and independent SAF members who comply with B4.7(b). However, by appointing individuals to paid roles, the Code Manager may create a professional relationship that could, on a strict reading, disqualify them from appointment. The drafting may therefore benefit from clarification, for example by stating “*save for the appointment itself.*”

Given that B4.11 requires Code Managers to appoint independent SAF members, it is recognised that individuals employed by industry Code Parties cannot be considered independent, as they will bring a commercial perspective. Rather than requiring such individuals to commit to neutrality, NESO considers it would be more valuable for them to declare their alignment openly and advocate their industry view, thereby providing the Code Manager and the wider SAF with a comprehensive understanding of potential industry impacts.

NESO believes that, for relevant Codes, NESO, acting in its role as the National Energy System Operator, should hold a permanent seat on the SAF, similar to the position of consumer representatives. This would not be subject to election or term limits.

With regard to B4.23 and B4.24, NESO welcomes the intention to ensure that the SAF is accessible to all. However, clarification is needed on how this will be governed to prevent misuse. For example, could the CCSG agree a common approach, or require Code Managers to apply their existing organisational policies on expenses?

Section B5: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

This approach would seem to align with the panel election arrangements currently in place for most, if not all, codes. While this format is familiar to industry, NESO would suggest further consideration is given to the selection of Code Party Representatives to ensure an appropriate breadth of representation.

Independent members should collectively reflect a range of industry interests, and it may be appropriate to allow for changes in independent membership where industry needs evolve over time. As these roles are remunerated, the Code Manager should be able to draw on a broader pool of independent experts as potential SAF members, without those individuals being excluded under clause B4.7(b).

As set out in B4, for relevant codes, NESO considers that the National Energy System Operator should hold a position on the SAF without the need for election. Any term limits should apply to the nominated representative rather than to NESO's seat on the SAF.

Section B6: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO would seek clarification under B6.2 as to whether, as part of ascertaining suitability, Code Managers would be required to undertake a credit or Disclosure and Barring Service (DBS) check on independent members.

In addition, in relation to B6.2, if an independent SAF member's independence were to be compromised and this was not declared by the individual, but the Code Manager became aware of the issue through other means, there appears to be no explicit provision to either exclude that individual from involvement in a particular modification, or, where the issue is persistent, for the Code Manager to remove the individual from the SAF. In such circumstances, the Code Manager would appear to be reliant on B6.1(b) and B7.4.

NESO therefore questions whether there is a case for including a specific provision within B6.1 to allow a Code Manager to remove an independent individual from their SAF role where their independence has been compromised, and to terminate their remuneration accordingly.

Section B7: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- Neither agree nor disagree
- **Disagree**
- Strongly disagree
- Don't know/no view

Comments:

NESO finds the focus of B7 to be unclear. The inclusion of remunerated “independent” SAF members would appear to recognise that SAF members employed by Code Parties have, by the nature of their employment, their independence compromised.

The aims of the SAF would be better served if Code Party members were required to declare their representation transparently and to advocate on behalf of their industry segment, such that the Code Manager and the SAF have a full understanding of the potential impacts of any change.

On that basis, NESO suggests that the aspirational obligations set out in B7.1 should apply only to independent SAF members, and that clause B7.2(d)(ii) should not apply to Code Party representatives.

NESO further suggests that, under B7.6, independent members, who are selected specifically for their independence and are remunerated accordingly, should not be permitted to nominate alternates.

In addition, notwithstanding the requirement for SAF members to be “*natural persons*”, there should be a clear restriction preventing more than one individual from the same organisation from sitting on a SAF. To support balance and mitigate the risk of undue bias, consideration should also be given to ensuring that industry segments materially affected by a code are represented in a broadly proportionate manner.

Section B8: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

NESO considers Section B8 to be positive, as it recognises that SAF members may have conflicts of interest on occasion and contributes to SAF transparency. However, as stated previously, we question the value gained by the SAF voting on modifications on which it is consulted. Such a vote is compromised by Code Party members with a commercial interest and consumer representatives who are not bound by the code changes.

Section B8.2 states:

“Where a SAF member raises a Modification Proposal, that SAF member is deemed to have a conflict of interest. They may participate in any discussion relating to the Modification Proposal but must not participate in the vote.”

Given that the vote itself is not a governance activity and is not binding on the Code Manager, the value to be gained by the SAF and the Code Manager lies in the reasoning behind a proposal and the discussion of anticipated impacts. The key requirement here is that conflicts of interest are declared, as the emphasis is on transparency.

As the licensed electricity system operator, NESO's role is to ensure system security and efficiency for industry. NESO does not seek to favour any industry sector and sees the value of the SAF in the change process as providing a transparent forum to discuss competing industry needs, in order to support the Code Manager in its assessment of change and alignment with the SDS.

If it is believed that conflicts of interest will compromise the SAF, there may be a case for members excluding themselves, as occurs with some Code Panels currently. However, this would appear counterproductive if the aim is to have an assurance forum that is representative of all of industry.

Section B9: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

The final line of B9.5 would appear to be grammatically incorrect: *“for death or personal injury caused by their own resulting from the negligence.”*

NESO notes that there is little reference to indemnity in the decision document, although we understand that this is addressed in other code texts. Is this a component that is intended to be expanded on further?

Section B10: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- **Strongly agree**
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

Section B10.4 states: *“A nomination or voting paper received by the SAF Secretary after the deadline date set must be disregarded in the election.”* This would seem sensible, provided a suitable length of time is allowed for issuing voting instructions and for the closure period, to accommodate leave periods, etc.

Section B10.9(b) states that the Secretary *“must select at random”*. Given the significance of the role, would it be more appropriate for the Secretariat to select a nomination and declare the basis on which the selection was made, so that the process is transparent and consistent across all codes?

Section B11: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- **Agree**
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

B11.1

Code Managers should be a party to the arrangements for meetings, as the content of the discussion will, in practice, be driven by the Code Manager. Under the current provision, the decision to hold a meeting sits with the Chair and the SAF, which, without the involvement of the Code Manager, is prone to inefficiency and the incurrence of non-value-adding costs.

B11.2

Such meetings must be convened with at least five Working Days' notice (unless the SAF agrees to a shorter period). NESO would suggest that the Code Manager should initiate discussions with the relevant parties to agree alternative timelines, for example in the case of Urgent Modifications.

B11.4

"Any SAF member may notify matters for consideration at a meeting of the SAF, in addition to those notified by the SAF Secretary, by notice to all SAF members at least three Working Days before the date of the meeting."
As a principle, NESO considers this to be a reasonable approach. However, as highlighted previously, coordination by the SAF Chair and Secretariat, including the Code manager, is required for urgent or unforeseen matters and the associated SAF meetings.

This would appear to be referenced in B11.17,

More generally, the process appears to imply that the Code Manager must notify the SAF of proposed decisions with a 14-day SLA, seek feedback, and consult with the SAF as part of the process. This would seem to be at odds with a minimum meeting frequency of monthly meetings where discussion is required. Should the process instead state that the Code Manager must notify SAF members and seek feedback and approval of decisions at the next scheduled SAF meeting (maximum monthly)?

B11.5/B11.6/B11.7

Leaving it open to agreement when in the month a meeting will take place is not beneficial and should be set out in the code text. As noted under B11.1, where the

Code Manager is developing the content for the SAF to discuss, meetings should not be driven solely by the SAF.

B11.9

NESO believes that ensuring a minimum of five Working Days' notice before convening an additional meeting is sensible. However, NESO would expect that the SAF Chair and Secretariat would ordinarily coordinate a dialogue involving SAF members and the Code Manager to avoid repeated reliance on B11.11. Does this also apply in the case of Urgent Modifications, or would those constitute an exception?

B11.22

“If no other independent member is available to chair the meeting, the Code Manager must make appropriate arrangements to ensure that progress is not delayed.”
Are we to assume that, if necessary, the Code Manager may chair the meeting in such circumstances? Can we also assume that the SAF Secretary can support the administrative aspects associated with the SAF Chair role?

Section B12: To what extent do you agree that the proposed code text accurately reflects our policy decision set out in the main document?

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don't know/no view

Comments:

It is unclear to NESO what purpose the SAF vote is intended to serve. As an advisory and assurance body whose members may be employed by Code Parties affected by the Code changes and the Code Manager's recommendation, such a vote appears significantly compromised and could, for readers of any subsequent report, risk leading them toward a particular position.

Is there a risk that, for proposals which support the SDS but do not benefit influential parts of industry represented on the SAF, such a vote, while not binding within the process, creates a mechanism for industry to dispute Code Manager and Authority decisions?

The stated aim of the SAF across the various consultations has been to support the Code Manager in reaching rigorously considered and balanced outcomes from code change proposals in a fair, transparent, and timely manner. With this in mind, the differing positions of industry participants on the SAF should reflect a range of perspectives. Transparency would be better served if SAF members clearly declared which part of industry they represent, rather than seeking nominal independence. Discussion involving both independent SAF members and a pool of technical experts would be more informed and robust.

The proposed SAF structure appears to replicate many aspects of the existing panel model, rather than focusing on its mandate to support future Code Managers in considering differing industry perspectives when delivering the SDS.

Regarding B12.8(c), there is a risk that a skewed SAF could result if several members are unavailable or delayed. However, the proposed approach appears pragmatic in seeking to avoid delays and wasted journeys for those attending in person as agreed.

Question 4: Are any amendments needed to the proposed code text to ensure it reflects the specific requirements for the BSC and REC?

Comments:

As above, the consumer facing nature of the BSC and the REC necessitates this approach, but it may not be appropriate for all codes within the scope of ECR.

As commented previously, NESO, in its role as the National Energy System Operator and custodian of national infrastructure security and resilience, should have provision for a voting seat on Code SAFs where it is not the Code Manager, with the BSC being a key example.

NESO fully supports proposals such as the appointment of an independent chair and would suggest that Code Managers review existing arrangements to ensure these remain consistent as the ECR changes are progressed.

Question 5: Do you have any views on whether conflict of interest provisions should be introduced under current panel arrangements?

Comments:

NESO believes that, given the phased implementation of ECR and the intention to govern code change for a period during which both Code Managers and Code Panels will operate, there should be a greater focus on consistency across panels. This should include consistent approaches to voting and the management of conflicts of interest for panel members and alternate panel members. Accordingly, NESO considers that explicit provisions on conflicts of interest should be introduced for existing Panels.

Panel members should be independent insofar as practicable where they have any involvement in developing (including as a third party) or raising a Modification. Where a conflict of interest exists, panel members should be required to declare their interest and abstain from voting. This approach is established practice in some codes, such as the BSC, where members routinely abstain from voting where conflicts exist. The SEC also operates, to our understanding, a conflicts-of-interest policy covering panel and sub-committee members.

In relation to SAF membership, NESO believes there is scope for improvement through clearer guidance on the composition of panels, supported by amendments to administered codes to establish a more consistent model. This could include measures to ensure broader representation, limit participation to a single representative per organisation, and prevent panels being dominated by members from a single industry sector, which risks creating bias and undermining governance principles.

Within the future ECR model, the Authority has recognised the limitations of elected Code Party representation through the introduction of remunerated independent members. Nevertheless, NESO remains unconvinced that the proposed approach to managing conflicts of interest is appropriate. In particular, as an advisory forum, the value of Code Party representatives voting on specific proposals is unclear.

The role of assurance should be to challenge change leads where conclusions are questionable, ensure that appropriate processes are followed, confirm that decisions are informed and robust, and challenge actions that do not align with the principles of the model or that have foreseeable undesirable impacts. The SAF should also provide confidence that the Code Manager is not exposed to judicial review or, where relevant, CMA challenge, and that the Authority does not need to issue send-backs. The role of the SAF should not be to enable Code Parties that may be resistant to certain SDS-driven changes to subtly undermine, delay, or influence outcomes in pursuit of commercial interests. Transparency should instead mean clearly recognising and declaring conflicts, allowing those views to be heard, and considering how legitimate concerns can be mitigated.

NESO has been established as a not-for-profit organisation, acting in the interests of consumers and ensuring system security. NESO therefore considers that, given our role and ownership structure, similar to consumer representatives, our participation

should be via appointment rather than nomination and election. If SAF voting is retained, NESO believes it should have voting rights across all panels, including for Modifications raised by NESO.

As the National Energy System Operator, NESO is required under its licence to operate independently and transparently. NESO agrees that the principle of transparency is valid and should be applied such that the interests of any panel member associated, directly or indirectly, with an existing Code Signatory are clearly declared. Any voting outcomes should be captured in an annex to the Modification Report rather than in the main body of the report, in order to avoid unduly influencing industry stakeholders.

Template part 3: General feedback

We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to the following questions.

Question	Response
Do you have any comments about the overall process of this consultation?	Responses are sought not on the decision itself but on the associated process and SAF structural text. We have therefore responded using tracked changes and comments, setting out our general observations and some suggested amendments to the legal text based on your proposals (please refer to separate documents attached), together with NESO's recommended changes and clarifications to the decision itself and the associated text as set out above. The legal text would also need to reflect the recommended changes in NESO's coordinated response, should those be taken forward. Draft legal text reflecting those recommendations has not been included within the proposed changes attached; however, we would be happy to discuss this further.
Do you have any comments about its tone and content?	Overall, the tone and content are balanced and seek to maintain impartiality. However, the proposed approach to the SAF appears largely analogous to a Code Panel model with the governance elements removed. This risks missing an opportunity to fully leverage the expertise and informed, and at times partisan, perspectives of participants to inform the Code Manager and mitigate risk.

	As an advisory body intended to provide oversight and rigour to code change activity, supporting both the Code Manager and the Authority in delivering the SDS effectively, the proposed structure has the potential to introduce additional complexity and may detract from the positive outcomes intended by the reforms.
Was it easy to read and understand? Or could it have been better written?	In places, the level of detail is inconsistent, with some areas appearing overly detailed while others lack sufficient definition. Certain terms would benefit from further clarification and guidance to ensure a consistent approach across all codes. Additionally, there are a small number of statements that appear to contain errors, and some elements, such as panel and working group indemnity, do not appear to have been fully considered.
Were its conclusions balanced?	NESO is concerned that the differing characteristics of retail codes and operational codes mean that certain aspects of the proposals, particularly where the REC is used as a blueprint, may be inappropriate in some contexts. Allowing parties who are not subject-matter experts, or who are not Code Parties bound by the code's obligations, standards, and fees, to participate in code assurance and propose amendments is questionable. It may be more appropriate for non-expert bodies, such as consumer representatives, to observe SAF proceedings and pursue amendments via the Authority, which is both appropriately informed of wider system impacts and mandated to protect consumer interests. Overall, based on NESO's experience of the constraints of the current governance model, we are concerned that the proposals reflect the status quo too closely and do not fully leverage the opportunity to deliver meaningful change.
Did it make reasoned recommendations for improvement?	Some aspects of the proposals appear misaligned with the stated objectives. If the aim of ECR is to deliver efficiency and timely change in support of Net Zero objectives, enabling non-Code Parties to raise change proposals, assigning proposals to the Code Manager at the Proposer's request, and assigning ownership of code text to proposers all risk adding unnecessary complexity. Even where proposals are ultimately rejected or ownership transfers to the Code Manager, the associated approval processes and engagement with the SAF still require time and

	effort from both the SAF and the Code Manager, representing a material opportunity cost. While the recommendations provide improvements in certain areas, they do not fully address some of the core issues observed under existing arrangements.
Any further comments?	NESO believes a more consistent level of detail is required within the legal text provisions. The use of broad or undefined terms, such as “<i>reasonable</i>”, without accompanying guidance on what the Authority considers reasonable, creates a risk of inconsistent interpretation and application across codes. Given the need to consolidate codes and align processes through Phase 2 and Phase 3, clear and consistent messaging is essential. Where flexibility is intended to reflect differences between codes, supporting guidance should be provided to ensure overall consistency of approach. If the objective is to encourage a more innovative and balanced approach to code change, the significant accountabilities and approval role proposed for the SAF, particularly for complex and high-volume codes, may deter participation by smaller Code Parties. This risk is heightened given that the role is non-compensatory, even if suitable candidates from smaller parties were available. As an assurance body, there may be a need for the Code Manager to have stronger powers to ensure balanced representation and effective operation of the advisory and assurance function. From the perspective of an experienced Code Administrator, the proposed arrangements risk introducing additional complexity, which may undermine the objectives of ECR rather than enable them. Modifications intended to support Code Consolidation may also require specific resourcing and treatment, given the likely volume and complexity involved. The Code Manager and the Authority could consider, through Modifications, the development of new architectural or design principles for future technical codes to improve navigation and simplification. Establishing a common set of industry-wide definitions, potentially overseen by the CCSG, could provide a useful starting point.

Your response, data and confidentiality

You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.