Making a positive difference for energy consumers

Decision

Energy code reform phase 1: transitional measures and code changes

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Executive summary

Reforming the energy codes framework

The Energy Act 2023 (the 'Act') sets out powers and duties that will aid the modernisation of the energy system and fundamentally change the way the sector is regulated. Among these measures is a package of significant reform to the governance of the industry codes, including new powers and responsibilities for Ofgem.

In April 2026 we published our phase 1 consultation on transitional measures and code changes, where we set out proposals for changes to the phase 1 codes (Balancing and Settlement Code (BSC) and Retail Energy Code (REC)) to establish the new governance arrangements for licensed code managers. We also sought views on the proposed licence terms and amended licence conditions for the phase 1 code managers.

In this document we summarise respondents' views on the consultation and set out our decisions.

We expect to publish statutory consultations on the code and licence changes needed to implement phase 1 of the code governance reform programme later this year using our statutory powers.

Proposed changes to the BSC and REC

We have decided to take forward our proposed approach to:

- defining the scope of licensed code manager business for the phase 1 codes, including the use of case-by-case assessment for activities that do not clearly fall within the core code manager role
- the proposed classification of activities as code manager business for the REC, and to amend the proposed classification for the BSC by bringing Elexon's Data Integration Platform manager role within the scope of licensed code manager business
- assigning responsibility for non-code modification decisions currently taken by the BSC panel under future governance arrangements, subject to some refinements in response to stakeholder feedback
- the code manager performance incentives arrangements, with some refinements to the proposed framework and its administration in response to stakeholder feedback, noting the proposed transitional arrangements for the performance framework, set out below
- retain the governance arrangements for the Elexon and RECCo boards that are set out in the respective codes

- enable the effective implementation of standard licence condition (SLC) 21 (related to appealing the code manager budget) by adding a requirement to the BSC and REC to set obligations on the code party to consult with the code manager on a potential appeal item, and the code party and code manager to make reasonable efforts to resolve the potential dispute, prior to the code party raising an appeal

Code manager licence terms, and bespoke and transitional licence arrangements for code managers of the Balancing and Settlement Code and Retail Energy Code

For the revocation events and termination terms, we propose to take forward our proposed approach to:

- the revocation events that we consulted on for inclusion in the code manager licences, and to allow Ofgem to end a licence regardless of whether a revocation condition has been met, where five years has elapsed since the licence was granted and we have given a minimum of five years' notice

For the code manager licence conditions, we have decided to take forward our proposed approach to:

- transitional arrangements in relation to the annual budget, code manager cost recovery statements and delivery plans, including the introduction of the transitional budget
- the transitional budget not being subject to appeal, while updating the proposed licence drafting to clarify that any amendments to the transitional budget during the transitional period would be appealable
- allowing Ofgem to issue a direction disapplying the requirement to consult on the 2027/28 annual budget and delivery plan, where a phase 1 code manager has started consulting in its capacity as a code administrator
- transitional arrangements for the code manager performance framework until the enduring performance framework is fully implemented in the REC and BSC

1. Introduction

1.1 Energy code reform is modernising Great Britain's energy regulation by replacing complex, outdated governance with a simpler, more agile and forward-looking framework. Many of the rules that govern the operation of the energy system sit within industry codes. These codes set the rules for a wide range of commercial and technical activities from how parties connect to the electricity and gas networks, to how consumers switch suppliers, to who can access consumption data.

1.2 These rules need to keep pace with the transformation happening within our energy system. But taken together, they form a complex and fragmented landscape that can slow innovation, limit competition and hold back investment. Many of the policy and market improvements designed to deliver consumer benefits depend on changes to the codes, but progress can be delayed by friction and competing interests within the current governance arrangements.

1.3 Energy code reform is a joint programme between Ofgem and government to address these issues and turn energy codes into an effective engine for wider system change. It replaces the current industry governance process for updating the codes with a new framework, as enabled by the Act.

1.4 The reform supports Ofgem's Market Regulatory Strategy and Vision to 2030, as part of the low cost transition. By empowering independent code managers, strengthening strategic direction and improving the change process, system change can be delivered quickly and with greater confidence. Harmonising the processes across the code, consolidation and simplification of the codes is intended to make it easier for market participants to understand the rules that apply to them, reduce compliance burden and remove barriers to entry and innovation.

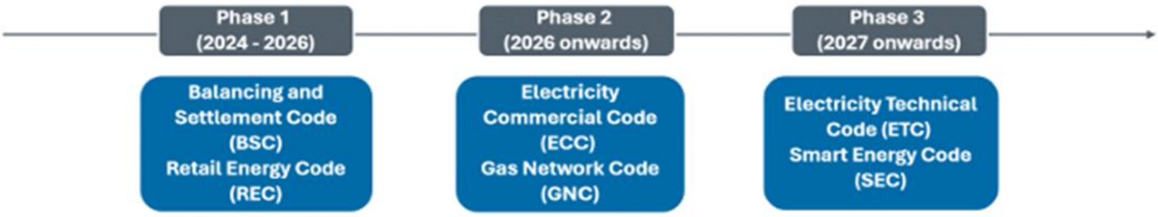
1.5 The reform introduces several key improvements to the current framework, including Ofgem licensing new code managers who will be responsible for leading code modifications and decision-making and ensuring that the codes develop in line with Ofgem's annual strategic direction statement (SDS). Industry expertise will remain at the heart of the framework, shaping and developing robust code change proposals and playing a vital role in the process through new stakeholder advisory forums.

1.6 To deliver the reform, Ofgem and government have been progressing several key activities including:

- Ofgem publishing annual strategic direction statements, setting out a clear and ambitious direction for how industry codes must evolve to deliver strategic priorities that support consumer outcomes and the transition to net zero. We published our consultation on the SDS-2 in April 2026 and will publish the decision later this year

- Ofgem selecting code managers for each code – Ofgem issued a minded to grant notice for phase 1 code managers in August 2025. We also published an invitation for expressions of interest for phase 2 code manager roles in January 2026. Following this, we recently published our decision to consider the Retail Energy Code Company for non-competitive selection as the code manager for the electricity commercial code. We have also decided to consider Xoserve, in partnership with Encodar (as the Joint Office of Gas Transporters) and Talan, for non-competitive selection as the code manager for the gas network code. Both candidates have been invited to submit licensing assessment forms
- Government, working with Ofgem, published the final code manager standard licence conditions in March 2026. The Secretary of State determined the code manager standard licence conditions for the purposes of Sections 33(1) and 81(2) of the Utilities Act 2000 in May 2026
- Ofgem turning the high-level design of the new governance framework into detailed licence and code modifications to bring the new framework into effect. This document helps deliver this new governance framework

1.7 Given the scale of the reforms, we will be delivering the new governance framework in three phases, starting with phase 1 which covers the BSC and REC.



The diagram shows the proposed code manager performance framework. It is organised around three performance areas: code management, delivery plan and implementation, and financial management. These areas are supported by seven key performance indicators covering stakeholder satisfaction, stakeholder engagement, code management, change management, code accessibility, cross-code coordination, delivery plan compliance, and budgeting and cost transparency.

1.8 Our work on the code manager standard licence conditions and template code text will lay the foundation for all three phases of implementation. The recently published template code text will establish a consistent approach to the code modification process across all codes. Alongside this foundational work, we are preparing the specific licence conditions and consequential code and licence changes necessary to transition the phase 1 codes into the new framework which we will consult on in due course. We are aiming to be ready for designation of the phase 1 codes and appointing the first phase 1 code manager by the end of 2026. To do this, we need to finalise the code manager licence and revised code text, as well as complete the appointment process for the code managers of the REC and the BSC.

1.9 In our phase 1 consultation on transitional measures and code changes, we set out the policy underpinning potential changes to the Balancing and Settlement Code (BSC) and the Retail Energy Code (REC), where changes may be needed to implement phase 1 of the code governance reform programme. We focused on areas where there was new or substantive policy that we sought stakeholder feedback on before deciding whether to propose changes to the code.

1.10 This document sets out our decision to take forward proposals on the policy areas consulted on in the phase 1 consultation on code changes and transitional measures, namely proposed changes to the BSC and REC, code manager licence terms, and bespoke and transitional licence arrangements for code managers of the BSC and REC.

1.11 When this document says that "we have decided" or refers to a decision to proceed, this means that we intend to take the relevant policy proposal forward to the next stage of implementation, having considered consultation responses. The code and licence changes needed to implement those proposals may be subject to further statutory consultation. This includes consultation under the Energy Act 2023, the Electricity Act 1989 and the Gas Act 1986, where relevant.

1.12 References in this document to Elexon, RECCo or the phase 1 code managers should be read in the context of the current stage of the code manager selection and licensing process, and the proposals to grant code manager licences that were published in August 2025. They do not indicate that we have made a final decision to grant a code manager licence to Elexon or RECCo. We will make any licence grant decision separately, in line with the relevant statutory and regulatory requirements.

1.13 In a forthcoming notice under the Energy Act 2023, we intend to consult on the code changes needed to implement the proposals we have decided to take forward in this document. We also intend to consult on changes that are consequential to the new governance regime, and any changes needed to facilitate the introduction of Ofgem's new power to issue directions to central systems delivery bodies (CSDBs). That notice will set out our proposed approach to ensuring legal and operational coherence between the licences and the codes, including by removing obsolete provisions, aligning code text with licence requirements, or deleting provisions where there is a contradiction between the two. Stakeholders will have the opportunity to make representations as part of that process.

1.14 In a forthcoming statutory consultation under the Electricity Act 1989 and the Gas Act 1986, we intend to consult on the introduction of amended and special licence conditions for the phase 1 code manager candidates, to reflect the proposed transitional arrangements we have decided to take forward in this document.

Context and related publications

Below is a summary of consultations and decisions that have been published to date:

- Implementation of energy code reform: template code text | Ofgem (August 2026)
- Energy code reform: Code manager licence conditions and code modification appeals to the CMA (March 2026)
- Energy code reform: second implementation consultation (March 2026)
- Energy code reform: guidance on code manager selection (March 2026)
- Expression of interest invitation: code manager candidates | Ofgem (January 2026)
- Energy code reform: competitive code manager selection (December 2025)
- Establishing a harmonised prioritisation process in the industry codes: statutory consultation (November 2025)
- Decision on the Preliminary Strategic Direction Statement and governance arrangements for industry codes (August 2025)
- The Code Manager Selection (Competitive) Regulations 2025 (June 2025)
- Decision - Consultation on code manager selection (May 2025)
- The Code Manager Selection Regulations 2024 (October 2024)
- Energy Code Reform: Government response to consultation on code manager licensing and secondary legislation (October 2024)
- Implementation of energy code reform: decision (August 2024)
- Energy Act 2023
- Call for Input: Energy Code Governance Reform (December 2022)
- Government response to the consultation on Energy Code Reform (April 2022)

Decision-making stages

We received 21 responses from a range of stakeholders in response to our consultation. We also engaged with stakeholders through holding a webinar on the consultation, and meeting interested parties.

We carefully considered all responses raised by stakeholders, even where they are not specifically mentioned in this decision document. We have published all non-confidential responses on our website.

This document confirms our position on the consultation proposals and our intention on how we will proceed.

2. Proposed changes to the BSC and REC

Section summary

This section sets out a summary of responses to the consultation and our decisions on proposed changes to the BSC and REC related to:

i) code manager business

ii) treatment of BSC panel responsibilities

iii) code manager performance framework

iv) Elexon and RECCo board policy

v) BSC and REC budget appeals policy

Background

2.1 The Act introduced the code manager role as a licensable activity. The standard licence conditions reflect the core features of that role, including making decisions under the codes, administering code governance arrangements, ensuring that codes develop in line with Ofgem's strategic direction statement (SDS), and complying with requirements on budgets, performance and board independence. The licence also restricts code managers from undertaking activities beyond their licensed code manager business without Ofgem's consent.

2.2 This section sets out our decisions on proposed changes to the BSC and REC to support the transition to licensed code manager arrangements. These changes determine which of the code manager candidates' current activities will form part of the licensed code manager role, how existing BSC panel responsibilities should transfer or be adapted, and how performance, board governance and budget appeal arrangements should operate under the new framework. Together, these changes are intended to ensure that the BSC and REC operate coherently from licence commencement, with clear accountability for code manager activities.

Code manager business in the phase 1 codes

Consultation position

2.3 We proposed that the BSC and REC texts should distinguish between activities that form part of the licensed code manager business and activities that may be consented to as permitted business outside the licence. Activities within code manager business would be subject to the code manager licence requirements, including the code manager objectives, budget-setting and appeal arrangements, and performance requirements. We proposed not to include a list of permitted business activities in each code manager licence, to avoid creating unnecessary rigidity. Instead, we proposed to consent to permitted business separately, such as at the notice of licence grant or in a separate letter of consent.

2.4 For activities that do not clearly fall within the core code manager role, we proposed to assess their classification as either code manager or permitted business on a case-by-case basis. Relevant factors included in our consideration would be whether the activity supports code governance, whether its governance sits within or outside the code, its relevance to the code and code parties, compatibility with licence cost recovery requirements, whether regulation through the licence is appropriate, and whether inclusion would cause disruption to industry or consumers. We noted that the definition of code management in section 4 of the Electricity Act 1989, and section 5 of the Gas Act 1986 would also be relevant.

2.5 The table below summarises the proposed classification of activities for the phase 1 code manager candidates.

Code	Proposed code manager business	Proposed permitted business
BSC	BSCCo's code administration and secretariat services; operation or procurement of the central system comprising the BSC systems; and Smart Secure Electricity Systems governance.	Market Facilitator for Distributed Flexibility; CMAG Secretariat; Energy Intensive Industries payment administrator or levy administrator role; Market-wide Half Hourly Settlement implementation manager role; and Data Integration Platform manager role.
REC	All identified RECCo responsibilities, including REC governance, service management and administrative responsibilities relating to enquiry services, REC switching and registration arrangements, the REC Secure Data Exchange Portal, energy theft reduction and Green Deal arrangements.	None proposed.

2.6 We proposed to include Elexon's central system delivery functions in the licensed code manager business because of their close integration with Elexon's BSC administration role and the link between code change requirements and systems implementation. We also proposed to include Smart Secure Electricity Systems governance in the licensed role because of the synergies with BSC governance and the expectation that the relevant documents would be established as subsidiary documents to, or otherwise given legal effect under, the BSC. In both cases, their inclusion would make Elexon directly accountable to Ofgem through the code manager licence.

2.7 For the REC, we proposed that all identified RECCo responsibilities should form part of the licensed code manager business because they support the governance of the REC and we have interpreted the activities to fall within the legislative definition of making arrangements for the governance of the code.

Summary of consultation responses

Q1. Do you agree with our proposed approach to defining the scope of the licensed code manager business for phase 1 codes, including the use of a case-by-case assessment of activities that do not clearly fall within the core code manager role?

Q2. Do you agree with our proposed classification of activities as code manager business or permitted business for the phase 1 code managers, as set out for the Balancing and Settlement Code and the Retail Energy Code?

Approach

2.8 A large majority of respondents supported our proposed approach to defining the scope of licensed code manager business, including the use of a case-by-case assessment for activities that do not clearly fall within the core code manager role. Respondents generally considered this to be a pragmatic approach, given the range of activities currently undertaken by the phase 1 code manager candidates and the need to avoid disrupting existing functions that support effective code governance. Some respondents also noted that bringing relevant activities within the licence framework would support clearer accountability and regulatory oversight.

2.9 Some respondents qualified their support by asking for the approach to be applied consistently and transparently. Respondents highlighted the need for clear criteria, documented decisions and appropriate safeguards against inconsistent treatment or scope creep. A few respondents also asked for greater clarity on the relationship between code manager business and permitted business, including how permitted business would be funded, how consent would be granted, and whether permitted business would be subject to budgetary appeals under the licence.

2.10 A majority of respondents supported the proposed classification of activities as code manager business or permitted business for the BSC and REC code managers. Supportive respondents generally considered that the classification provided useful clarity on the boundary between licensed activities and other activities undertaken by the code managers. However, a few respondents raised specific concerns about the treatment of particular activities, especially where those activities are embedded in code arrangements closely linked to central systems or funded through existing code arrangements.

Balancing and settlement code

2.11 Some respondents specifically supported our proposal to treat the operation or procurement of the central system comprising the BSC systems as licensed code manager business. These respondents considered that the BSC systems are central to the effective operation of the BSC and that responsibility for these systems is closely linked to the code manager's role in administering the code and supporting implementation of BSC changes. Respondents also noted that including these activities within scope would provide clearer regulatory accountability and avoid separating code governance from the systems needed to implement code requirements.

2.12 An area of concern raised was the proposed treatment of the Data Integration Platform (DIP) manager role. A few respondents argued that this role should fall within the scope of licensed code manager business because it is codified in the BSC, has a regulatory link to BSC obligations and is closely integrated with existing BSC code management functions.

2.13 A couple of respondents also raised questions about the proposed classification of the SSES and other BSC-related activities. They queried whether SSES should be treated as code manager business, noting its wider IT and industry-facing elements and questioning whether BSC parties were the primary beneficiaries of the programme. Two respondents also noted that the Strategic Data Repository was not identified as either code manager business or permitted business and suggested that its classification should be made explicit to improve transparency on accountability and cost recovery.

Retail energy code

2.14 Respondents who commented on the proposed scope of RECCo's licensed code manager business were supportive of the approach and no respondent disagreed with the proposed scope. Some respondents nevertheless raised several detailed points for clarification. A few respondents requested further information on the treatment of the Central Registration Service and Central Switching Service ahead of finalisation of the REC code manager licence. Some respondents also raised concerns about the interaction between the REC Enquiry Services and existing electricity distribution licence obligations. These respondents sought greater clarity on the future operation of these arrangements, the allocation of responsibilities between parties, and how licence obligations would apply where code parties are required to use services that are delivered by RECCo.

Decision

2.15 We have decided to take forward our proposed approach to defining the scope of licensed code manager business for the phase 1 codes, including the use of a case-by-case assessment for activities that do not clearly fall within the core code manager role. We intend to amend the proposed classification for the BSC by bringing the Data Integration Platform manager role within the scope of licensed code manager business. We also intend to proceed with the proposed classification of activities as code manager business for the REC.

Rationale for our decision

Approach

2.16 We consider that the case-by-case approach remains appropriate. Although the definition of code manager business in the standard licence conditions is the same for all licensees, the activities that each code treats as falling within that definition may vary. This is because each code is different, and activities may differ in their purpose, governance, funding and relationship to the code. If we applied the definition in the same way across all codes, without taking those differences into account, some activities could be treated as code manager business when that is not appropriate and other activities that should fall within the licence framework could be excluded.

2.17 We will therefore continue to assess relevant activities by reference to the factors set out in the consultation. These include whether the activity supports code governance, whether it is governed through the code, its relevance to code parties, whether licence regulation is appropriate, whether it is compatible with licence cost recovery arrangements, and whether inclusion would avoid or create disruption for industry and consumers.

2.18 We recognise respondents' comments on the need for transparency, consistency and safeguards against scope creep. We have been transparent throughout this process about our proposed classification of activities and the rationale underpinning those proposals. We will continue this approach by setting out the basis for future decisions on whether activities are brought within the licensed code manager business or consented to as permitted business. This will help ensure that similar activities are treated consistently, while preserving the flexibility needed to reflect differences between codes, activities and code manager candidates.

2.19 We also note questions raised by stakeholders about the relationship between code manager business and permitted business. Permitted business may only be undertaken by a code manager alongside its licensed role where the Authority has given consent. The consent requirement allows the Authority to consider whether a proposed activity could give rise to conflicts of interest or otherwise undermine the effective discharge of the code manager's licensed functions. However, permitted business does not form part of the licensed code manager business and is not subject to the obligations that apply under the code manager licence. This means that permitted business may be subject to different cost recovery arrangements from those that apply to licensed code manager business.

Budgetary decisions relating to permitted business will also not be appealable under the budget appeal arrangements in the code manager licence.

Balancing and settlement code

2.20 For the BSC, we have decided that the operation or procurement of the central system comprising the BSC systems should form part of the licensed code manager business. These functions are closely integrated with the governance and implementation of the BSC, including the delivery of code change requirements through central systems.

2.21 We have also considered the separate statutory framework for designated central systems, including our power to give directions under section 194 of the Energy Act 2023. That power remains available where the relevant statutory tests are met and the inclusion of functions connected to central systems within a specific Code Manager licence does not replace, narrow or otherwise alter the separate statutory direction power where functions are also within licensed code manager business the direction power may be used to as a compliment to accountability through the code manager licence.

2.22 We have also considered the specific comments on the Data Integration Platform (DIP) manager role. We originally proposed to treat the DIP manager role as out of scope of licensed code manager business because the DIP has its own detailed governance and change framework, including the DIP Rules and DIP Subsidiary Documents (DSDs), and because we were conscious of the need not to create unnecessary barriers to future evolution of the platform through Elexon's code manager licence.

2.23 Having carefully considered stakeholder feedback, we have decided that the DIP manager role should be brought within the scope of licensed code manager business.

2.24 We consider that the role is sufficiently embedded in the BSC framework both in law and in practice. The DIP Supplement forms part of the BSC, sets out the functions, duties and powers of the DIP manager, and provides that functions carried out under the DIP Rules are functions under and pursuant to the BSC. The role therefore has a direct connection to the governance and administration of the BSC, rather than being a separate operational activity.

2.25 The DIP is also essential to Market-wide Half-Hourly Settlement. Its day-to-day governance, operation and change control are therefore part of the arrangements through which the BSC is implemented and maintained in practice. Bringing the DIP manager role within licensed code manager business will support more coherent governance by keeping oversight of the DIP Supplement and DSDs within a single, strategically aligned governance framework. This will support clearer accountability and help deliver Ofgem's strategic direction statement.

2.26 We have also considered comments on Smart Secure Electricity Systems (SSES) governance. We acknowledge that SSES has wider industry-facing and systems-related elements, and that some respondents questioned whether BSC parties are the primary beneficiaries. However, our decision concerns Elexon's relevant SSES governance functions, not all technical or operational aspects of SSES.

2.27 We consider that those governance functions are sufficiently connected to BSC governance to justify inclusion within licensed code manager business. In particular, the relevant SSES Governance Framework document will be given effect through the BSC framework as a document owned by the BSC panel. We expect responsibility for that document to transfer to the code manager. The relevant SSES Technical and Security Governance Groups will also operate as BSC panel subcommittees and, consistent with our wider approach to BSC panel subcommittees, responsibility for supporting those governance arrangements should transition to the code manager.

2.28 These governance groups will be relevant to key BSC parties, including suppliers and distribution network operators, and to load control licensees, which are expected to become BSC parties once the relevant licence arrangements are in place. The SSES governance role also aligns closely with the administrative, secretariat and governance functions we expect a code manager to perform. We therefore consider that inclusion within licensed code manager business is justified by the governance route for the activity and its connection to the BSC, rather than by whether all operational or technical aspects of SSES are solely for the benefit of BSC parties.

2.29 We acknowledge respondents' comments about whether responsibility for the Smart Data Repository (SDR), which is being developed as part of the Market-wide Half-Hourly Settlement programme, should form part of licensed code manager business or be treated as permitted business. We intend to consult separately on proposals for the creation and management of the SDR, including the appropriate legal and regulatory framework and how responsibility for it should be treated. This may include obligations in section E1 of the Electricity System Operator licence, which establishes the BSC. Stakeholders will therefore have an opportunity to comment on those proposals before we decide whether responsibility for the SDR should sit within licensed code manager business or be treated separately.

Retail energy code

2.30 For the REC, we have decided that the identified RECCo responsibilities set out in the consultation should form part of the licensed code manager business. We consider that these activities support the governance and administration of the REC and fall within the intended scope of licensed code manager activity. This includes REC governance, service management and administrative responsibilities relating to enquiry services, REC switching and registration arrangements, the REC Secure Data Exchange Portal, energy theft reduction and Green Deal arrangements.

2.31 We acknowledge respondents' requests for further clarity on the Central Registration Service and Central Switching Service. These services will continue to be operated by the Data Communications Company under the terms of its licence, RECCo's responsibility under its code manager licence will be limited to governance of those services. This decision does not transfer operational responsibility for those services from DCC to RECCo.

2.32 We also acknowledge respondents' queries about the REC Enquiry Services and the interaction between REC arrangements and electricity distribution licence obligations relating to Metering Point Administration Services, including the enquiry service requirements in standard licence condition 18 of the electricity distribution licence. Our decision to include RECCo's governance and administration responsibilities for the REC Enquiry Services within its code manager business does not alter RECCo's existing responsibilities under the REC for these services, nor does it transfer, remove or modify obligations that sit directly with electricity distribution licensees under their licences. We are not proposing any changes to those obligations as part of this decision. Any future proposal to amend relevant code or licence obligations would be considered separately and consulted on in accordance with the applicable statutory requirements.

Treatment of BSC panel responsibilities

Consultation position

2.33 We considered changes needed to the BSC to reflect the removal of the panel and code administrator role, and the introduction of the new code manager role. We identified several existing arrangements in the BSC where the panel is responsible for making a decision on non-code modification matters. We proposed that under future code governance arrangements, the code manager would be responsible for making these decisions.

2.34 Where an existing panel decision would clearly fall within the code manager's remit of governing and administering the code, we proposed that BSCCo, acting in its capacity as the licensed code manager, would be able to make the decision independent of any input from the SAF.

2.35 We also proposed that where the BSC panel currently makes decisions in collaboration with another body, for example, with BSCCo, acting as code administrator, that the code manager would need to consult with the SAF and take into consideration their views before making a decision. Where the BSC panel currently acts as an appeal route for a BSCCo decision made in its role as code administrator, we proposed that BSCCo, acting in its capacity as the licensed code manager, would be responsible for making the decision. In doing so, they would be required to consider the SAF's views and clearly justify any deviation from the SAF's advice in its final decision.

2.36 Where an existing BSC panel decision would no longer be applicable under future arrangements, for example, where the role no longer exists, we proposed to remove the relevant code provisions.

2.37 We noted that our proposed approach does not extend to any decision-making responsibilities that the panel may have delegated to subcommittees.

2.38 We also sought views on whether there are any existing decisions taken by the BSC panel where our proposed approach would not be appropriate.

Summary of consultation responses

Q3. Do you agree with our proposed approach for who should be responsible for making decisions currently made by the BSC panel?

Q4. Are there any existing decisions that are taken by the BSC panel where our proposed approach would not be appropriate?

2.39 Some respondents supported our proposed approach to assigning responsibility for non-code modification decisions currently taken by the BSC panel under future code governance arrangements. A few respondents agreed it is appropriate for the code manager to be responsible for administrative decisions. A couple also considered that requiring the code manager to provide reasons where it departs from SAF advice would ensure transparency.

2.40 A couple of respondents emphasised the importance of retaining industry expertise within decision-making processes, particularly in relation to technical or operationally significant matters.

2.41 One respondent favoured a more flexible approach, whereby the code manager could seek the SAF input on any decision, rather than prescribing their involvement in the code. In contrast, another respondent considered that the SAF's role should be clearly defined in the code to avoid inconsistent application. A respondent also suggested that the proposed approach does not align with the draft template code text for the SAF that we consulted on as part of our decision on the second consultation on the implementation of the energy code reform.

2.42 A couple of respondents raised concerns about the potential for conflicts of interest where the code manager is making the decision on an appeal or dispute raised on an earlier code manager decision.

2.43 Two respondents considered that the approach taken for codes in future phases should be assessed on a case-by-case basis, noting that technical codes may require a different approach from commercial codes. Some other respondents also sought further clarity on decision-making responsibilities currently delegated to subcommittees, including whether these decisions would involve the SAF.

Decision

2.44 We have decided to proceed with our proposed approach, subject to the following refinements in response to stakeholder feedback. This approach will be reflected in the BSC code modifications that we intend to consult on as part of an upcoming statutory consultation:

- we have provided more detailed guidance that we may refer to when considering which decisions the code manager must consult the SAF on
- the code manager will not be required to consult the SAF where both the code manager and the SAF agree it is unnecessary
- we will introduce additional checks and balances for code manager decisions that can currently be appealed to the panel

Rationale for our decision

2.45 We recognise respondents' comments on the importance of retaining relevant industry expertise in decision-making. We therefore intend to refine the categories of decisions that the code manager may make independently. We envisage these categories operating as a guide that Ofgem may refer to when considering the types of decisions the code manager may make independently, with the governance approach for each decision being set out in the BSC. We consider independent decision-making by the code manager should be limited to decisions that fall within its expertise and can be made without the exercise of significant subjective judgement or the consideration of external expertise. This would include objective decisions, involving little or no discretion. For decisions that require the exercise of significant subjective judgement or the consideration of external expertise, we think that the code manager should be required to seek the views of the SAF.

2.46 We note concerns regarding the potential for conflicts of interest where the code manager is making the decision on an appeal or dispute raised on an earlier code manager decision. Under our proposed approach, we have only identified a small number of decisions where the code manager would be responsible for determining an appeal on its own decision. For these decisions, the code manager will be required to seek SAF input as part of the initial decision-making process. We have also decided that any appeal decision should be approved by an appropriately senior individual within the code manager who was not involved in the original decision, for example, a person defined under the SLCs as someone with “Significant Managerial Responsibility or Influence”. Under this approach, the code manager would still be required to consult the SAF and provide reasons where it departs from its advice. We also note that the code manager standard licence conditions establish safeguards that incentivise effective decision-making, which are supported by the compliance and regulatory tools available to Ofgem for licensed code managers.

2.47 We have considered a respondent's view that the SAF's role should not be prescribed in the code and a more flexible approach should be adopted. We have decided to retain our approach of clearly defining the SAF's role in the code to promote consistency and transparency. However, we expect to introduce a mechanism that would allow the code manager and the SAF to agree that SAF input is not required for certain decisions. This mechanism would not apply to decisions relating to the code modification process. We think that this approach will strike an appropriate balance between ensuring the consistent application of governance arrangements and enabling efficiencies where both bodies agree that SAF input is not necessary.

2.48 We acknowledge a respondent's view that the proposed approach does not align with the draft template code text for the SAF. We note that the draft template code text for the SAF is intended to serve as a template across all codes, which will be adapted as appropriate for each code. We will consider whether any changes are required as part of an upcoming statutory consultation on BSC code changes.

2.49 We expect that the approach for codes in phases 2 and 3 will be assessed on a case-by-case basis, noting that there are differences between codes. We acknowledge respondents' questions about decision-making responsibilities currently delegated to subcommittees. We reiterate that our proposed approach does not extend to these delegated responsibilities. We intend to review such arrangements on a case-by-case basis and will set out our proposals in an upcoming statutory consultation on BSC code changes.

Code manager performance framework

Consultation position

2.50 We proposed a performance framework based on SLC 25, which requires:

- the relevant code to include code performance metrics
- the code manager to monitor and report on its performance and perform to at least a 'minimum acceptable' level
- the code manager to seek stakeholder engagement and input into the assessment of its performance

2.51 We also proposed transitional arrangements for the period between the licence commencement date and implementation of enduring arrangements. The performance framework would sit in a transitional form until introduced into the codes, from 2028 at the earliest.

2.52 The proposed framework included the three overarching performance measurement areas (set out in figure 1 below) capturing key elements of the code manager role. The measurement areas would be underpinned by seven KPIs, informed by ten metrics and stakeholder input gathered through surveys. The KPI and metric reporting would be supplemented by code manager narrative in the performance report. The proposed framework also included 21 non-performance metrics (which we termed 'code health' metrics).

2.53 We proposed that code managers undertake three forms of surveying; 'SAF and PAB', 'events-based' surveying, and a stakeholder satisfaction survey. The SAF and PAB surveying would be a six-monthly survey of SAF and PAB members, aligned across all code managers in terms of questions, ratings, and timings. The events-based surveying would be short, targeted surveys issued after specific events. The stakeholder satisfaction survey would be an annual survey of all code parties to determine satisfaction with code manager services.

Figure 2. Overview of proposed performance framework

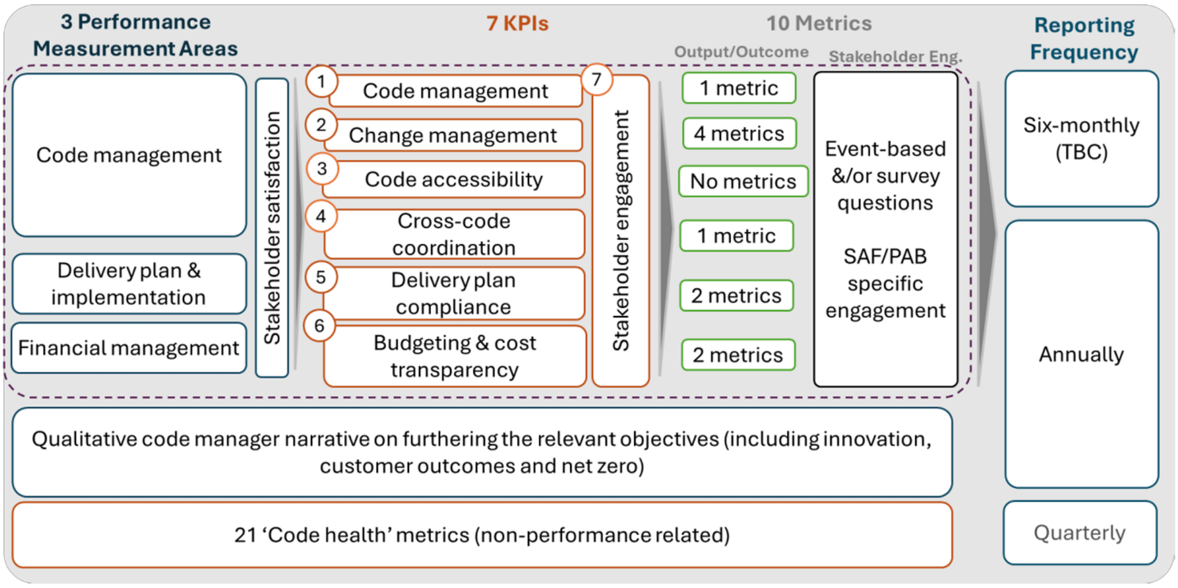


Diagram showing the proposed code manager performance measurement framework. Performance is assessed across three areas: code management, delivery plan and implementation, and financial management. Seven KPIs are grouped under stakeholder satisfaction and stakeholder engagement: code management, change management, code accessibility, cross-code coordination, delivery plan compliance, budgeting and cost transparency, and one additional KPI. KPI results are measured using a combination of quantitative metrics, event-based survey questions and stakeholder engagement feedback. Reporting frequencies vary, including six-monthly, annual and quarterly reporting. The framework also includes a qualitative code manager narrative and separate code health metrics that are not performance-related.

Summary of consultation responses

Q5. Do you agree with the proposed approach for the overarching performance framework?

Q6. Do you agree with incorporating the proposed performance-related metrics in the framework? Are there any you do not think should be included?

Q7. Are there any additional metrics you consider we should include in the performance framework (including any from the annex that we have proposed not to include)?

Q8. Do you have any views on what could constitute appropriate performance levels for the metrics?

Q9. Do you agree with incorporating the proposed 'code health' metrics?

Q10. Do you agree with the proposed approach to stakeholder engagement and surveying?

Q11. Do you agree with introducing an additional, centralised survey? If so, do you have any views on its format or questions to be included?

2.54 Most respondents supported the proposed performance framework with some noting it would improve accountability, transparency, and consistency.

2.55 Some more high-level suggestions from respondents on the performance framework included:

- it should include targets that are measurable, transparent and enforceable
- reporting needs to be publicly available
- there needs to be greater clarity on the consequences for where performance standards are not met

2.56 While support for the overall framework was strong, views on the proposed metrics were more mixed. Some respondents considered the proposed metrics appropriate and sufficiently concise, while others raised concerns about their design and implementation, including:

- the volume of metrics could be overly burdensome and duplicative
- the metrics should capture more areas
- they could create unintended incentives for code managers or parties to raise changes, or complete modifications at a fast pace that compromises quality, purely to meet a metric
- they should not be introduced immediately but should be gradually introduced in consultation with stakeholders

2.57 A few respondents believed that no additional metrics are needed, but there were some suggested additional metrics from other respondents, including:

- operational metrics, such as settlement performance and customer satisfaction
- quantitative and qualitative indicators to measure stakeholder engagement
- code change management

2.58 Respondents generally supported incorporating stakeholder engagement into the performance framework. There was broad support for including the six-monthly SAF/PAB survey in the framework, with respondents noting that parties are actively involved in code activities. Views were more divided on the use of events-based surveys, with some respondents considering that they would not add value or would be onerous.

2.59 Views on the appropriate level of prescription for surveys were mixed. Some respondents supported a less prescriptive approach to enable code managers to adapt questions to suit their individual code. Others preferred a more prescriptive approach, expressing concern that code managers could otherwise be selective in the issues they choose to survey.

2.60 It was also suggested that caveats should be applied to the budget amendment and SDS delivery milestones metrics. Specifically, they proposed that:

- the budget amendment metric should only apply to activities within the scope of the licence that could reasonably have been foreseen by the code manager
- the SDS delivery metric should exclude milestones that have been formally rescheduled in accordance with the relevant governance arrangements, and provide exceptions for periods of unprecedented urgent change

Decision

2.61 We have decided to:

- retain the overall framework, including the performance areas; KPIs; metrics (performance and code health); survey results; and the code manager narrative
- proceed with the number of performance metrics as proposed (subject to small refinements to ensure clarity) and without caveats to the budget amendment and SDS delivery metrics suggested by a respondent
- rename the ‘code health metrics’ as ‘code information metrics’, reduce the reporting frequency for these from quarterly to annually (noting that code managers may voluntarily report more frequently) and reduce the number of these metrics to a smaller set of priority metrics (see Annex A: Transitional Performance Framework)

2.62 For the performance surveys, we have also decided to:

- provide instructions to RECCo and Elexon on how to develop the survey questions, including any events that may prompt the need for a survey. This includes requiring them to introduce a baseline set of questions to be used consistently across code managers and across all three survey types. These questions must help to inform the assessment of the Licensee's performance against the three performance areas. Individual code managers would also be able to ask additional questions. In developing the survey questions, RECCo and Elexon would be required to have regard to the illustrative questions published in Annex A: Transitional Performance Framework
- for the centralised survey, require each individual code manager to do a survey that is independently administered. We intend that this would leave scope for the code manager to incorporate the survey questions within an existing independently administered survey

Rationale for our decision

2.63 We consider that retaining the overall structure and approach to the performance framework will enable us to monitor the quality and consistency of the code managers' performance of their functions, which we consider will be critical in delivering the intended outcomes of energy code reform. We also note that respondents were broadly supportive of the overarching framework. While respondents raised concerns regarding aspects of its implementation, such as the number of metrics and surveying techniques, these concerns were generally directed at specific elements of the framework rather than its overall structure or approach. Consequently, we consider that targeted refinements are more appropriate than fundamental changes to the framework.

2.64 We consider that the term 'code information metrics' more accurately reflects the purpose of the metrics than 'code health metrics'. We also consider that limiting the metrics to those of highest priority will provide the necessary information while keeping the framework proportionate and focused. In addition, we consider that annual reporting is more appropriate than quarterly reporting, as these metrics are intended for information purposes only and a lower reporting frequency reduces the administrative burden on code managers.

2.65 We consider that the number of performance metrics should remain limited to help ensure that the framework remains proportionate and focused on the areas most relevant to assessing code manager performance. Respondents generally supported this approach. We also consider that the additional metrics suggested by respondents are either already captured through other elements of the proposed framework, such as surveys, or fall outside the scope of the performance framework. As such, we do not consider that additional metrics are necessary.

2.66 We acknowledge that performance against some metrics may be influenced by factors outside of the direct control of the code manager, but do not consider it necessary to introduce the caveats raised by the respondent. The performance framework is intended to be applied holistically and requires code managers to provide supporting narrative and context alongside reported metric results. This will enable code managers to explain circumstances where a metric result has been affected by external factors or events outside their reasonable control. Also, results against a single metric would not automatically determine whether a code manager has met their obligations to perform at a minimum acceptable standard. Ofgem will take a proportionate, evidence-based approach in assessing performance.

2.67 We consider that our proposed approach to the survey questions strikes an appropriate balance between consistency and flexibility. Under this approach, RECCo and Elexon, would be required to introduce a baseline set of questions that must be used consistently across the code managers, using instructions provided by Ofgem, while also allowing individual code managers to ask additional questions. This would support the development of a robust set of questions, which will allow more effective comparison of code manager performance.

2.68 We consider that the metric wording helps address the risk of code managers completing modifications at a pace that compromises quality as it enables the code manager to set an estimated time tailored to the complexity of the change. Also, the metric related to send-backs will help to incentivise the good quality modifications and analysis.

2.69 We consider that the requirement for each individual code manager to do an annual survey that is independently administered, would help to ensure that parties not represented on the SAF or PAB have sufficient opportunity to provide feedback on the code manager’s performance. We consider that the independent administration requirement aligns with standard practice. While we acknowledge respondents’ concerns regarding survey fatigue, we consider that this risk can be mitigated by limiting the survey to a concise set of questions and allowing code managers to incorporate those questions into existing independently-administered surveys where appropriate.

Elexon and RECCo board policy

Consultation position

2.70 We noted that Elexon and RECCo each have an established board of directors. We noted that if they are licensed as code managers, those boards, by default, will also oversee Elexon's and RECCo's new licensed activities.

2.71 We considered whether the governance arrangements for these boards that are set out in the respective codes, require any changes to ensure they do not contradict or undermine the SLCs, particularly to ensure consistency with code manager independence and conflict of interest conditions (SLCs 15-19). We focused on (i) the ability for code parties to remove directors; (ii) the nomination committee procedures; and (iii) the requirement for industry experience.

2.72 We proposed retaining the existing code provisions as we noted our view that the current arrangements for the REC and BSC do not contradict or undermine the licence requirements.

Summary of consultation responses

Q12. Do you agree to retain the current governance arrangements and procedures as set out in the BSC and REC?

Q13. Are there any code provisions that potentially contradict the board independence requirements set out in the SLCs?

2.73 Most respondents agreed that we should retain the current governance arrangements and procedures set out in the BSC and REC.

2.74 The key reasons provided in support for retaining the current governance arrangements and procedures for the REC and BSC included that they do not undermine the code manager independence and licence conditions and the approach is low risk. A few respondents noted that although the approach is suitable for phase one codes, future phase codes may require a different approach. No respondents identified code provisions that contradict the board independence requirements in the SLCs.

Decision

2.75 We have decided to retain the majority of existing BSC and REC code provisions that set out the governance arrangements for the respective boards. However, we intend to make housekeeping changes, including removing provisions that are no longer applicable, and to address an inconsistency between the BSC and SLC 16 (Sufficiently Independent Directors).

Rationale for our decision

2.76 We consider that most of the current governance arrangements for the BSC and REC align with the code manager licence, subject to housekeeping changes and the removal of provisions that are no longer applicable. However, we have identified a potential inconsistency between an existing BSC provision and the licence, where the BSC allows, in limited circumstances, for an employee of Elexon to be the board's chairperson, which we consider is not permitted under SLC 16 (Sufficiently Independent Directors). We intend to consult, in an upcoming statutory consultation, on proposed code modifications to address this issue. As part of this statutory consultation, we also expect to consult on removing provisions that are no longer applicable, and other housekeeping changes.

REC and BSC budget appeals policy

Consultation position

2.77 We proposed to add a requirement to the REC and BSC to enable the effective implementation of SLC 21 (Appeals to the Authority on the Annual Budget of the Licensee). This would set obligations on the code party to consult with the code manager on the potential appeal item, and the code party and code manager to make reasonable efforts to resolve the potential dispute, prior to the code party raising an appeal.

Summary of consultation responses

Q14. Do you agree with our proposal to require code parties to consult with the code manager on a potential appeal item prior to raising an appeal?

2.78 Most respondents supported the proposed requirement to engage with the code manager prior to raising an appeal. A few respondents noted the pre-appeal mechanism was seen as a pragmatic, proportionate mechanism to reduce unnecessary appeals and improve the efficiency of resolutions.

2.79 A few respondents mentioned that the pre-appeal mechanism would help resolve issues earlier and prior to an appeal, particularly if the appeals arise from misunderstandings that can be addressed through communication.

2.80 A few respondents noted that code managers should administer the appeals process to minimise cost on code parties. Some raised concerns that having to engage in a pre-appeal process would disincentivise code parties from raising appeals.

Decision

2.81 We have decided to proceed with our proposal, with minor refinements to the drafting, to require the code party and code manager to engage and make reasonable efforts to resolve a matter before a budget appeal is raised.

Rationale for our decision

2.82 We recognise this will create an additional step in the budget appeal process. However, we consider that the overall benefits outweigh this additional requirement, as it could enable earlier resolution of issues and potentially reduce the time and resources needed to process formal budget appeals.

3. Code manager licence terms, and bespoke transitional licence arrangements for code managers of the Balancing and Settlement Code and Retail Energy Code

Section summary

This section sets out a summary of responses to the consultation and our decisions on proposed code changes and transitional measures related to:

i) revocation and termination terms of the code manager licence

ii) amendments to the standard licence conditions to address issues during the transition

iii) performance

Background

3.1 We consulted on the revocation terms of the code manager licence, including the addition of 'other revocation events', and on the licence termination period.

3.2 Additionally, we sought views on transitional arrangements for the SLCs related to the annual budget, cost recovery statements, delivery plans and code manager performance incentives. We believe these arrangements will support the effective implementation of the new governance framework for phase 1 codes and are necessary to allow the code manager to conduct their business from the licence commencement date.

Revocation and termination terms of the code manager licence

Consultation position

3.3 We proposed to divide revocation events into three categories:

- emergency revocation events, which allow the Authority to revoke the licence after giving at least 24 hours' notice
- grant revocation events, which allow the Authority to revoke the licence after giving at least 7 days' notice
- other revocation events, which allow the Authority to revoke the licence after giving at least 30 days' notice

3.4 To ensure consistency with existing licence arrangements, we proposed to include revocation events that are common across the existing classes of licences.

3.5 There are some revocation events that do not appear in all existing classes of licence. Of these, we proposed to include the following events in the code manager licence terms. These would all sit under the heading of 'other revocation events', which would be subject to 30 days' notice:

- a code manager has ceased to perform their licence function
- the Authority considers that the licensee has committed, or has failed to take reasonable steps to prevent, a breach of the restriction on becoming a related undertaking (SLC 7)
- the Authority considers that the licensee has committed, or is committing, a serious breach of any conditions of its licence, or of any statutory requirement connected with the licence, such that it is no longer appropriate for the licensee to continue to hold its licence

3.6 We have decided not to include the following revocation events in the code manager licence:

- where the code manager has never performed the function
- for any breach of security requirements
- for unpaid amounts to the Authority (excluding financial penalties)

3.7 We proposed that we will have the power to end a licence regardless of whether a revocation condition has been met, provided that five years has elapsed since the licence was granted and that we give a minimum of five years' notice.

Summary of consultation responses

Q15. Do you agree with the proposed revocation terms and licence termination notice period, including the proposed legal drafting set out in annex B?

3.8 The majority of respondents supported the proposed revocation terms and licence termination notice period.

3.9 A couple of respondents commented that the proposed legal drafting broadly aligned with other licences granted by Ofgem.

3.10 One respondent suggested a two-year notice period instead of five, noting that this shorter notice period could provide more flexibility to Ofgem.

3.11 One respondent noted concern over the proposal not to include a revocation event for breaches of security requirements, highlighting RECCo’s responsibility for consumer data.

Decision

3.12 We propose to take forward the proposed revocation events and 'other revocation events' in the code manager licence.

3.13 We also propose to take forward our proposal to be able to end a licence regardless of whether a revocation condition has been met, provided five years has elapsed since the licence was granted and that we give a minimum of five years' notice.

Rationale for our decision

3.14 We note that most respondents agreed with our proposals.

3.15 Our proposals will largely align the code manager licence with other licences granted by Ofgem.

3.16 We consider that the 'other revocation events' we propose to include in the licence provide appropriate regulatory safeguards and support consistency with comparable licence frameworks, while reflecting the specific requirements and responsibilities of the code manager role.

3.17 We consider that our proposal not to include a revocation event for breaches of security requirements is an appropriate approach to the code manager licence. This revocation event is included in the Smart Meter Communication Licence and relates to matters such as the licensee's physical location requirements and procurement of key infrastructure, which reflects the critical nature of the DCC's role to security. We do not consider these matters relevant to the code manager licence.

3.18 We believe having a termination notice period of five years strikes a good balance between giving flexibility to Ofgem to respond to the evolving code manager framework and industry needs while providing certainty to code managers.

Budgets, cost recovery statements and budget appeals

3.19 We proposed to introduce transitional arrangements to address issues in certain licence conditions in the code manager licence. These proposals primarily address timing constraints that arise from the licence commencement date to 31 March 2027 (the transition period).

Consultation position

Annual budget in the transition period

3.20 We proposed to allow RECCo and Elexon to continue using their approved code administrator budgets until 31 March 2027. This budget would be known as the transitional budget under the licence arrangements. We also proposed to require them to publish a document alongside the transitional budget clearly identifying which costs (or proportion of costs) relate to the code manager business.

Code manager cost recovery statements in the transition period

3.21 We proposed to allow the code managers to continue to use their existing 2026-27 cost recovery statements in the transition period. Under this approach, SLC 23 would apply from 1 April 2027, unless otherwise directed by Ofgem.

Appeals to the transitional budget

3.22 We proposed to amend the licence to clarify that the transitional budget is not subject to appeal under the licence.

Code manager budget for 2027-28 financial year

3.23 We proposed that if RECCo and Elexon, in their capacity as code administrators, have started their consultation on the 2027-28 budget before the licence commencement date, they will not have to carry out a further consultation once the licence has commenced. We proposed to amend SLC 20 to enable Ofgem to issue a direction, disapplying the requirements to consult on the budget.

Summary of consultation responses

Q16. Do you agree with our preferred approach to code manager budgets in the transition period, including the proposed legal drafting set out in annex C (SLC 20)?

Q17. Do you agree with the proposal relating to the cost recovery statement in the transition period, including the proposed legal drafting set out in annex C (SLC 23)?

Q18. Do you agree with the proposal relating to budget appeals in the transition period, including the proposed legal drafting set out in annex C (SLC 21)?

Q19. Do you agree with our proposed approach for the 2027-28 code manager budget, including the proposed legal drafting in annex C (SLC 20)?

Annual budget in the transition period

3.24 A majority of respondents supported our proposal to allow RECCo and Elexon to continue to use their approved code administrator budgets in the transition period. No respondents disagreed with the proposal.

Code manager cost recovery statements in the transition period

3.25 A majority of respondents supported our proposal to allow the code managers to continue to use their existing 2026-27 cost recovery statements in the transition period and to disapply SLC 23 until 1 April 2027, unless otherwise directed by Ofgem.

Appeals to the transitional budget

3.26 A majority of respondents supported our proposal that the transitional budget should not be subject to appeal.

3.27 Some respondents expressed concern that the proposal implied that budget appeals on any changes to the transitional budget after the licence commencement date would not be permitted in the transition period. Noting that this would restrict scrutiny of any amendments to the transitional budget.

Code manager budget for 2027-28 financial year

3.28 A majority of respondents supported our proposal to amend SLC 20 to allow Ofgem to issue a direction to disapply the licence requirements to consult on the annual budget if one had begun before the licence commencement date.

Decision

Annual budget in the transition period

3.29 We have decided to proceed with our proposal to allow RECCo and Elexon to continue to use their approved 2026-27 code administrator budgets in the transition period.

Code manager cost recovery statements in the transition period

3.30 We have decided to proceed with our proposal to allow RECCo and Elexon to continue to use their existing 2026-27 cost recovery statements in the transition period by disapplying SLC 23 until 1 April 2027, unless otherwise directed by Ofgem.

Appeals to the transitional budget

3.31 We have decided to proceed with our proposal to not allow appeals of the transitional budget, by disapplying SLC 21 in relation to that budget.

3.32 However, to ensure alignment with our policy intent on budget appeals in the transition period, we have decided to update the amended conditions to make it clear that if the transitional budget is amended after licence grant it will be subject to appeal in line with SLC 21.

Code manager budget for 2027-28 financial year

3.33 We have decided to proceed with our proposal to amend SLC 20 to allow Ofgem to issue a direction disapplying the requirement to consult on the 2027-28 annual budget.

Rationale for decision

Annual budget in the transition period

3.34 We note that most respondents supported our proposal and consider our proposed approach to be fair and proportionate to ensuring continued cost recovery for licensable activities as we transition to the new code manager framework.

3.35 We acknowledge concerns about code managers amending the transitional budgets before or after the licence commencement date. We consider any amendments to the transitional budget (ie once the licence has commenced) should follow the process set out under the licence (and any supporting code requirements).

Code manager cost recovery statements in the transition period

3.36 Noting that the phase 1 code managers will continue to use their approved code administrator budgets from the licence commencement date, we consider it proportionate to allow them to continue to use their existing cost recovery statements in the transition period. This provides time for RECCo and Elexon to develop a new cost recovery statement for the 2027-28 financial year, that meets the requirements in SLC 23.

Budget appeals in the transition period

3.37 We believe it would be inappropriate to allow appeals on an unamended transitional budget that has been approved through an existing governance process under the code administrator framework. We note that most respondents supported this position.

3.38 We acknowledge some stakeholders concern on appeals on amendments to the annual budgets during the transition period. We consider it helpful to improve clarity to the amended conditions on budget appeals to better reflect our policy intent, which is to allow appeals on amendments to annual budgets after the licence commencement date. Updated licence drafting reflecting this policy intent will be included in an upcoming consultation, and therefore stakeholders will have an opportunity to feedback on specific text.

Code manager budget for 2027-28 financial year

3.39 We note that most respondents supported our proposal.

3.40 Our decision ensures the 2027-28 budget won't be consulted on twice, without impacting on the ability for stakeholders to provide input and scrutiny.

Delivery Plans

Consultation position

3.41 We proposed to require RECCo and Elexon to have a delivery plan in place by 31 March 2027, in line with the requirements set out in SLC 29. We noted that, where they have started consulting on their delivery plan before the licence commencement date, we would amend SLC 29 to enable Ofgem to issue a direction disapplying the requirement to consult on the 2027-28 delivery plan.

Summary of consultation responses

Q20. Do you agree with our proposed approach to ensure the code manager has a delivery plan in place from 31 March 2027, including the proposed legal drafting in annex C (SLC 29)?

3.42 A majority of respondents supported our proposal to ensure the code manager has a delivery plan in place from 31 March 2027. This included support for Ofgem disapplying the requirements in SLC 29 if RECCo and Elexon have started a consultation on their delivery plans ahead of the licence commencement date.

3.43 Some respondents stated that this was a pragmatic and sensible approach and ensures that the delivery plan is robustly developed without creating a governance gap.

Decision

3.44 We have decided that RECCo and Elexon will need to have their first delivery plan in place from 31 March 2027.

Rationale for decision

3.45 We acknowledge that most respondents supported our proposal.

3.46 We believe that it is important not to delay code managers implementing their delivery plans and the benefits that will flow from this. We consider that this aligns with our proposed plans to formalise the second preliminary SDS for the BSC and the REC upon their designation, as set out in our consultation on the second preliminary SDS.

Performance

Consultation position

3.47 We set out two options for the transitional arrangements needed for the code manager performance framework:

- **Option 1 - No transitional arrangements**: Under this option Ofgem would use the Energy Act 2023 powers to implement an enduring performance framework from the licence commencement date
- **Option 2 - Transitional arrangements (preferred):** Under this option Ofgem would introduce transitional arrangements before an enduring performance framework is fully implemented in the BSC and REC

3.48 Option 2 was our preferred approach. We noted that the performance framework would sit outside of the of the code for some period of time following the licence commencement date, supported by streamlined governance arrangements distinct to the code modification process. Specifically, RECCo and Elexon would be required to create a document, separate from the code, containing the performance framework as set out in the decision document, making necessary tweaks and minor changes to operationalise it. Once operational, they would be able to amend the performance framework provided they had consulted with the stakeholder advisory forums (SAFs).

Summary of consultation responses

Q21: Do you agree with our preferred approach for the performance transitional arrangements, including the proposed legal drafting in annex C (SLC 25 and 26)?

3.49 Most respondents supported the proposed approach to transitional arrangements. A few explicitly supported the governance approach, including that it is done in collaboration with the SAF. No respondents disagreed with the proposed approach, though some raised suggestions:

- for further workshops and engagement with stakeholders on the performance framework
- review the framework at the end of the transitional period
- clarify the transitional arrangement procedures relating to the change being agreed by all Licensees

Decision

3.50 We have decided to proceed with introducing our preferred option 2. We will introduce a defined transition period between the licence commencement date and implementation of the enduring arrangements, during which the framework could be applied and refined without being embedded in the codes.

Rationale for decision

3.51 We consider that introducing a transitional performance framework (with transitional governance arrangements) ahead of introducing enduring arrangements to the code would support the development of an effective and high-quality enduring approach by allowing Ofgem to observe how the new code manager role operates in practice, identify lessons learned, and incorporate them into the enduring approach.

3.52 Code managers will need to consult the SAFs before making any changes to the transitional performance framework. This will include where they introduce survey questions to the framework (noting we have not prescribed the questions they must include). In general, when developing survey questions or considering material changes to the transitional performance framework, we would expect the code managers to consider their objectives (as set out in SLC 3) regarding transparency and cross-code collaboration.