

By email only: flexibility@ofgem.gov.uk

18 February 2026

RECCo response to: SSES Implementing the load control licensing regime

We welcome the opportunity to respond to this consultation. Our non-confidential response represents the views of the Retail Energy Code Company Ltd (RECCo) and is based on our role as operator of the Retail Energy Code (REC). RECCo is a not-for-profit, corporate vehicle ensuring the proper, effective, and efficient implementation and ongoing management of the REC arrangements. We seek to promote trust, innovation and competition, whilst maintaining focus on positive consumer outcomes.

Pursuant to the REC, we provide the industry governance and assurance framework for key retail market arrangements, including the Switching Arrangements and associated data interactions that underpin consumers' ability to change supplier and tariff reliably. RECCo also oversees the delivery and evolution of Enquiry Services, which provide standardised access to retail market data needed to support customer service and market processes.

Through the Smart Secure Electricity Systems (SSES) programme, RECCo has also been working at DESNZ's request on market-wide tariff interoperability that will be a key enabler of consumer-led flexibility as a mass-market proposition, supporting the interaction between flexibility propositions and supply tariffs in a way that is transparent, portable and compatible with consumer choice. In parallel, we are delivering the Consumer Consent Solution (CCS) that is intended to provide a consistent, auditable approach to capturing and evidencing consumer consent for sharing relevant retail data. In our view, these initiatives sit within a wider energy digitalisation landscape that includes the REC-governed Switching Arrangements and Enquiry Services, NESO's Data Sharing Infrastructure (DSI), Elexon's Flexibility Market Asset Register (FMAR) and Smart Data Repository (SDR), the DCC smart metering network and wider smart data work. These elements should be designed and operated as an integrated set of arrangements, rather than as parallel solutions, if flexibility is to be genuinely consumer-led, interoperable and capable of maximising benefits for consumers while minimising complexity and avoidable cost across the market.

While we have responded to all of the detailed questions set out in the Appendix, we would draw particular attention to the following key points:

- **End-to-end consumer outcomes and avoiding duplication:** We encourage Ofgem to ensure the Load Control licensing regime is designed around the full consumer journey (from consent and enrolment through to ongoing operation, complaints and exit/switching) and is implemented in a way that avoids creating parallel frameworks. Many consumers already struggle with basic switching, and should not be expected to navigate "balancing market" complexity to secure good outcomes. This strengthens the case for a consumer-first approach in which Principal Terms, communications and exit/switching processes are clear, simple and genuinely workable in practice, with consumers able to change provider or proposition without undue friction. In particular, aligning with existing REC-enabled enablers (including the Consumer Consent Solution and related retail market processes) will reduce fragmentation, strengthen consumer outcomes and avoid costly retrofit later.

- **End-state aligned governance that reduces burden over time:** We consider that bringing Flexibility Service Providers and Load Controllers into appropriate industry governance arrangements (including participation in, or accession to, relevant REC provisions) will, over time, reduce rather than increase regulatory and operational burden. Access to REC-enabled data and consent artefacts is likely to become a core requirement (including via Tariff Interoperability and Enquiry Services), and a common, code-governed route will be materially simpler than maintaining multiple bespoke bilateral access agreements.
- **Proportionality, Growth Duty and cyber clarity:** We support a risk-based and proportionate regime that reflects Ofgem's Growth Duty, including scalable obligations, appropriate use of derogations (including time-limited derogations where duplication would otherwise arise), and clear implementation timelines. We also emphasise the need for clear, workable cyber security guidance given the increasing threat landscape, changes in applicable regulation and the likelihood that this will be a new compliance area for smaller / new entrants.

We are happy to discuss any of the points raised in this response.

Yours sincerely,

Jon Dixon
Director, Strategy and Development

Appendix: RECCo response to consultation questions

Q1: Do you agree that the Licence Policy Principles, as well as Ofgem's Growth Duty, are the correct principles to guide the development of Ofgem's implementation proposals? Please provide reasons for your answer.

We broadly agree that the Licence Policy Principles and Ofgem's recently effective Growth Duty¹ are the right principles to guide the development of Ofgem's implementation proposals. The four Licence Policy Principles appropriately reflect the key outcomes the regime must balance: consumer protection and experience; energy security (including cyber security and grid stability); enabling vibrant markets; and enabling effective regulation.

We also support Ofgem explicitly framing its approach through the Growth Duty, which requires it to have regard to the promotion of sustainable economic growth through its regulatory activities. In this context, it is helpful that Ofgem links the Growth Duty to an implementation approach that is proportionate, necessary and consumer-focused, coherent with existing licensing regimes, and designed to minimise unnecessary duplication and burden while providing a stable foundation for innovation.

That said, while the Growth Duty is now in effect, there is relatively limited practical experience to show how it will be applied and evidenced in "real world" regulatory judgements, particularly where growth considerations may sit in tension with other duties (including consumer protection). We therefore encourage Ofgem to be transparent in how it operationalises the Growth Duty alongside the other principles, for example, by clearly documenting how trade-offs have been assessed in key design choices and keeping the approach under review as implementation progresses.

Q2: Are there other measures Ofgem and DESNZ should consider in order to ensure the regime is proportionate and our approach minimises unnecessary burden? Please provide reasons for your answer.

We recognise that Ofgem and DESNZ have already taken helpful steps to embed proportionality, including a tiered application form and an intention to align obligations with existing regimes (notably for supply licensees and for cyber security under NIS). Additional measures worth considering to minimise unnecessary burden while maintaining protections include:

- Greater use of scale- and risk-based triggers for certain 'fixed cost' obligations (for example, staged application of some requirements once a business reaches defined thresholds, similar in concept to the way some supply-licence obligations scale with customer numbers);
- Explicit, time-limited derogations where obligations would otherwise duplicate equivalent requirements under another Ofgem licence, or where there is a clear case for phased implementation;
- Standardised data definitions and reporting templates across suppliers/FSPs/Load Controllers, with a 'report once' approach for entities holding multiple licences; and,
- Early publication of clear guidance, example evidence packs and Request for Information specifications to reduce rework and promote consistent interpretation.

We consider that wherever possible, DESNZ and Ofgem should consider the long-term integration of Flexibility Service Providers (FSPs) and load controllers with the on existing industry data sources and governance, including the REC-enabled retail data, the Consumer Consent Solution (CCS), Tariff Interoperability and relevant Enquiry Services, rather than creating parallel reporting, assurance and access arrangements. While REC participation may appear an additional step for FSPs and Load Controllers, we expect that, in practice, accession and compliance with the relevant REC provisions will reduce overall regulatory and operational burden over time by providing a single, standardised route to the data and consent artefacts these parties will increasingly need, avoiding a proliferation of bespoke bilateral access agreements and associated complexity as the market scales.

¹ Economic Growth (Regulatory Functions) (Amendment) Order 2024 (SI 2024/587)

Q3: Do you agree with the proposed application form evidence requirements for each area? Please provide reasons for your answer, including any concerns with providing the requisite information and why.

RECCo broadly supports the proposed approach in Annex C to the Load Control Licence application form, including the emphasis on Tier 1 as the baseline evidence requirement and the use of Tier 2 as a targeted mechanism where Ofgem identifies a clear need for additional scrutiny. This tiered, risk-based approach is broadly consistent with evidence expectations in other Ofgem licence application processes and should help to keep the regime proportionate.

To help ensure the evidence requirements remain workable in practice, we additionally suggest that Ofgem:

- Differentiate “minimum” evidence from optional supporting material more explicitly, to reduce the risk of applicants over-supplying information and to streamline “duly made” checks;
- Where an applicant is an existing domestic supply licensee (within the same legal entity), permit cross-referencing to relevant existing submissions, assurance and established policies/processes (with Tier 2 used only where specific risk indicators arise), rather than requiring wholesale re-submission;
- Ensure the consumer-protection evidence requests are clearly aligned to Annex D (the draft consumer protection guidance) and framed around demonstrable outcomes under the relevant Standard Licence Conditions (SLCs)—for example, transparent Principal Terms, effective complaints handling and Alternative Dispute Resolution (ADR) arrangements, and enabling consumers to exit/switch without undue friction—rather than prescribing detailed process where Annex D already sets expectations;
- Provide clearer guidance on cyber security evidence, including explicitly mapping application expectations to the Cyber Assessment Framework (CAF) profile and clarifying what Ofgem will accept as a “reasonable equivalent” to a Cyber Resilience Assessment (CRA) audit. Given the increasing threat of cyber attacks, and the likelihood that cyber assurance will be a new area for Small Businesses seeking to enter the market as Flexibility Service Providers (FSPs) and Load Controllers, clearer guidance will support consistent preparation and assessment; and
- Include a structured evidence index/checklist to help applicants map supporting documentation to each question, reducing iterative clarification and improving the efficiency of the application process for both applicants and Ofgem.

Q4: Do you agree with the proposal for a 12-month transition period? Please provide reasons for your answer.

We support in principle a 12-month transition/grace period, recognising the need for an orderly move to mandatory licensing and crucially that this regime is being applied to an existing (and still nascent) market activity, rather than creating a wholly new activity. The transition should therefore be rooted in how long it is reasonably necessary for existing providers to become implementation-ready (systems, governance, consumer-facing processes, security assurance and code-related onboarding), in a way that supports consumer and system outcomes without chilling market growth.

However, we do not consider it appropriate for the transition to be justified wholly (or primarily) on providing Ofgem time to assess and process applications. Ofgem’s consultation proposes that organisations wishing to operate at the end of the transition should apply within 3 months of applications opening, and indicates that applications may take around 9 months to determine. It also states that where an applicant has made a “duly made” application but no decision has been made by the end of the transition period, the applicant would not be able to continue operating legally until a licence is granted.

We agree that tacit authorisation (i.e. deeming an application approved if not determined within a set period) is inappropriate for this consumer-facing and evolving market role and note Ofgem’s rationale that this is consistent with the position for electricity supply licensing and is justified by “overriding reasons relating to the public interest”.

That said, to avoid an unnecessary cliff-edge, we recommend an alternative “interim permission to continue operating” mechanism. Where an applicant has submitted a duly made application (complete form and supporting evidence) within the expected window, they should be permitted to continue operating beyond the end of the transition period until Ofgem determines the application, subject to appropriate safeguards (e.g. ongoing compliance expectations, conditionality/requirements to address issues identified, and the ability to curtail/stop activity where risks are identified). This would avoid the wholly inappropriate outcome of a firm being treated as operating unlawfully primarily because of delays in Ofgem’s determination. This approach would be analogous to the REC metering accreditation, where the applicant can be issued a provisional approval pending completion of assurance steps (e.g. a site visit), and certificates/approvals can be controlled and withdrawn rather than deemed granted automatically.

We have also separately suggested in our response to the DESNZ licensing consultation that Government should consider imposing a statutory deadline for Ofgem’s determination of load control licence applications, given the policy intent to stimulate a new market and the risk that long determination times could inhibit entry and investment. Failing that, and consistent with the Growth Duty framing we supported in response to Q1, we encourage Ofgem to adopt a voluntary KPI for processing load control licence applications that is demonstrably aligned with enabling market growth (and transparent about performance against that KPI).

Q5: Do you agree with our proposed application process for certain licensed suppliers? Please provide reasons for your answer. Note, please refer to the DESNZ Licensing Consultation for a specific question on licence condition derogations.

We broadly agree with Ofgem’s proposal to adopt a streamlined application route for certain licensed domestic electricity suppliers, recognising the benefits of avoiding unnecessary duplication where the same legal entity is already subject to, and demonstrably compliant with, broadly equivalent governance, financial and consumer-protection requirements under the electricity supply licence. In our view, this approach can support a proportionate and efficient pathway to market entry, provided it is clearly bounded in scope and underpinned by robust checks of pre-existing compliance before any elements of the application form are disappplied.

At the same time, we consider it important that any streamlined route remains conditional on the applicant evidencing its ability to comply with those Load Control Licence obligations that are not addressed through the supply licence. This is particularly relevant where the proposed load control activity introduces new third-party delivery chains, materially different operational arrangements, or new technology and data handling practices, such that existing supply-licence controls may not provide equivalent assurance. Ofgem should therefore retain the ability to require additional information and/or assurances where risk indicators arise, to ensure that the streamlined route does not inadvertently weaken the integrity of the licensing regime.

Finally, we consider that this streamlined route should sit alongside a clear and transparent framework for derogations (including time-limited derogations where appropriate), so that proportionality is managed through formal, consistent mechanisms rather than through informal exemptions.

Q6: Do you agree that the proposed application process for certain licensed suppliers should apply to licensed domestic suppliers, and not licensed suppliers who supply non-domestic customers only?

We agree that the streamlined process is most defensible for licensed domestic suppliers, given the breadth of consumer protection obligations and regulatory oversight already in place for domestic supply. However, we suggest that Ofgem also makes clear that the appropriate application route should ultimately be determined by the customer segment and activities being undertaken under the load control licence (eg domestic and small business consumers), rather than by the label of the applicant’s existing supply licence alone. This will help avoid unintended loopholes and support consistent consumer outcomes.

Q7: Do you agree with our proposed application process for non- licensed suppliers? Please provide reasons for your answer.

Yes. For non-licensed suppliers (and other organisations that have not previously undergone Ofgem licensing scrutiny), it is appropriate that applicants complete the full relevant sections of the application form and provide evidence that they are ready to comply with the regime.

We support the consultation's emphasis on allowing established operators to evidence track record and existing controls, provided Ofgem maintains clear minimum expectations for consumer protection, operational capability and (where relevant) cyber security.

Q8: Do you agree that the proposed application process for different types of applicants is proportionate and reflects the SSES purpose and Licence Policy Principles? Please provide reasons for your answer.

Overall, yes we agree that the proposed differentiation between applicant types is broadly proportionate and consistent with the Licence Policy Principles. To further strengthen proportionality and reduce unintended barriers to entry, we would also encourage Ofgem to:

- publish clear criteria for when additional scrutiny (Tier 2) is likely to be triggered;
- ensure that entities holding multiple licences can meet information requests through a single, coordinated process ('report once'); and,
- make pragmatic use of derogations and staged commencement (where appropriate) to manage fixed compliance costs in a nascent market.

Q9: Do you agree that our proposed timelines for licence application processing are reasonable? Please provide reasons for your answer.

We do not consider the proposed nine-month end-to-end turnaround for determining Load Control Licence applications to be reasonable, particularly in the context of a nascent market where timely entry is essential to enable innovation and effective competition. A nine-month determination period risks creating a regulatory bottleneck that could stymie new entrants (including Small Businesses) and delay consumer and system benefits from Load Control activities.

Ofgem should instead aim to determine applications as soon as practicable, adopting more efficient ways of working that are consistent with its statutory duties (including its Growth Duty) and with the approach taken in other licensing contexts. In that regard, it is difficult to reconcile a nine-month timeline with the materially shorter timescales that Ofgem has cited for other licence determinations (for example, generation licence applications on the order of around 65 working days). We recognise that the Load Control Licence is new and may require some initial bedding-in, but that should be a reason to design a process that is clearly structured, risk-based and operationally efficient—not to normalise extended lead times.

More fundamentally, if this activity were being outsourced, Government would rightly expect any bidder to provide a detailed breakdown of the tasks undertaken as part of the application assessment process, together with the time and cost associated with each activity. It is notable that no such breakdown has been provided and we consider that Ofgem should be held to a similar standard of transparency: it should be able to justify the proposed determination period by reference to a clear set of process steps, service standards and resource assumptions. This is particularly important because each day an applicant cannot lawfully commence licensable activity imposes real costs—both for the applicant and for consumers—through delayed market participation, deferred investment, and postponed delivery of flexibility value.

Finally, we reiterate the earlier point that the risk of regulatory bureaucracy becoming a constraint could be mitigated through an interim permission structure (subject to appropriate safeguards) to enable certain low-risk

activities to commence while full determinations are completed. This would help to preserve consumer protection and system security while avoiding unnecessary delays to market development.
Q10: Do you agree with our proposal that tacit authorisation should not apply to the load control licence? Please provide reasons for your answer.
Yes. Given the systemic risks associated with load control (including potential consumer harm, cyber security and grid stability impacts) and the fact this is a new and evolving market, we agree that tacit authorisation should not apply at launch. However, as noted in earlier answers including to Q8, this is predicated on Ofgem being able to turnaround licence applications in a timely manner and/or adopt an interim permission / authorisation process pending full consideration of the application. If these are not adopted and Ofgem processing timescales prove to be an impediment to flexibility market growth, and/or the number of applicants is much greater than current envisaged and planned for, tacit authorisation may need to be revisited.
Q11: Should Ofgem reconsider the question of tacit authorisation in future? Please provide reasons for your answer.
Potentially yes, once the market and Ofgem's supervisory approach are more mature and there is sufficient evidence about risk profiles and compliance behaviours, and or greater than expected numbers of applicants. If reconsidered, we suggest limiting any future tacit authorisation to lower-risk scenarios (for example, clearly-defined modifications or extensions where the applicant is already licensed and has a strong compliance record), and ensuring it is supported by robust 'duly made' checks and clear safeguards. This would allow Ofgem resource to be more effectively targeted on the higher risk applications.
Q12: Do you agree with the proposed approach to compliance-related monitoring? Please provide reasons for your answer.
We broadly agree with the proposed approach to compliance-related monitoring, including the use of Requests for Information (RFIs) aligned to the licence conditions and a focus on early identification of emerging consumer harm. However, mindful that RFIs can impose a significant regulatory burden, we encourage Ofgem to keep the approach tightly targeted and to avoid duplication, particularly where an entity holds multiple licences (eg supply and load control), or equivalent information is already collected through existing reporting routes. Standardised definitions (for example, for complaints categories) and machine-readable reporting templates would also help reduce burden and improve data quality.
Q13: Do you agree with the proposed approach to market insights-focused monitoring, and are there any additional market indicators we should consider tracking? Please provide reasons for your answer.
We agree with the proposed market-insights monitoring and the focus on a limited set of priority indicators. Additional indicators worth considering (subject to proportionality and data availability) include: • Consumer outcomes and engagement: realised rewards/savings (where measurable), opt-out and churn, override frequency, and indicators of 'lock-in' (e.g. exit / switching friction). • Interoperability: uptake of multi-device / multi-provider propositions, and any recurring interoperability issues (including interactions with time-of-use tariffs and bundled offerings). • Retail interactions: the extent to which propositions depend on, or constrain, consumer ability to switch supply tariffs (in addition to switching FSPs), recognising the interdependency between flexibility value and retail arrangements. Where possible, these should be informed by existing data sources and governance, including REC-enabled retail arrangements, to avoid creating parallel reporting burdens.
Q14: Are the proposed RFIs proportionate and manageable? Please provide reasons for your answer.

Broadly yes, we agree that the proposed RFIs appear proportionate and manageable provided they remain tightly targeted, clearly specified and avoid duplication. As we noted in our response to Q12, RFIs can impose material burden, so Ofgem should keep information requests focused, use standardised definitions (e.g. complaints categories), and adopt machine-readable templates to improve data quality and reduce cost.

We are particularly supportive of annual RFIs as the default. Where Ofgem proposes quarterly RFIs, we encourage Ofgem to set out a clear justification for the frequency and – critically - what the data will be used for in practice (e.g. defined supervisory triggers, prioritisation of compliance engagement), rather than primarily for descriptive market reporting.

We also support Ofgem’s intent to combine RFIs for multi-licence holders (e.g. suppliers that are also FSPs/Load Controllers) and encourage a “report once” approach. Drawing on lessons from REC performance assurance, Ofgem should also maximise use of centrally available data wherever possible and minimise ad-hoc RFIs in favour of predictable reporting cycles and published data dictionaries/templates.

Q15: Please estimate the costs for your organisation for responding to the proposed RFIs. In the impact assessment accompanying the DESNZ Licensing Consultation government estimated indicative costs of approximately £7,000 to £24,000 per annum. Is this estimate appropriate? Please provide reasons for your answer.

RECCo will not seek to become a Load Control Licensee, and so we have no specific comments on this aspect of the proposals.

Q16: Do you agree with our proposed risk-based and proportionate approach to compliance under the load control licensing regime? Please provide reasons for your answer.

Yes, we support Ofgem adopting a risk-based and proportionate approach to compliance and supervision, particularly in the early years of the regime when the market is likely to include a mix of established regulated entities and new entrants (including Small Businesses) who may be less familiar with regulatory requirements and assurance expectations.

To make this approach effective and predictable in practice, it will be important for Ofgem to provide clear guidance on: (i) the risk factors it will use to assess and segment Load Control Licensees (for example, scale of activity, consumer reach, criticality of assets and operational arrangements, use of third-party delivery chains, and cyber security posture); (ii) how those risk assessments translate into different levels of monitoring and engagement; and (iii) the monitoring signals or indicators that would trigger escalation (for example, incident trends, complaints intelligence, audit findings, or material changes in operating model). This transparency will help licensees to target compliance investment efficiently, support consistent supervisory outcomes and reduce avoidable uncertainty and cost.

We also consider that a risk-based model should operate alongside clear escalation and remediation pathways, including proportionate use of supervisory tools and (where relevant) time-limited remedial measures, so that Ofgem can address emerging risks promptly without imposing unnecessary burden on lower-risk licensees.

Q17: Are there additional factors we should consider when determining the level of compliance engagement for different types of licensees (e.g. new entrants vs licensed suppliers)? Please provide reasons for your answer.

It would be appropriate for Ofgem’s compliance and supervisory approach to take account of a range of factors beyond the applicant’s type (for example, whether the applicant is a new entrant or an existing domestic supplier). In our view, the following considerations are likely to be particularly relevant to determining risk and therefore the appropriate intensity of monitoring and engagement.

- 1) Ofgem should have regard to scale and system/consumer criticality, including the aggregate volume of load under control, the number of consumers affected, and whether the controlled load relates to essential end uses (for example, space heating or hot water) where inappropriate control could have heightened consumer detriment. Where a proposition is capable of materially affecting consumer outcomes or system stability, a higher degree of supervisory attention is likely to be justified.
- 2) Technology and delivery model should be a key determinant. This includes the level of automation and remote-control capability, the extent of reliance on third-party technology providers and delivery chains, the robustness of interoperability arrangements (including device-to-service and tariff-to-service interactions), and the complexity of the overall proposition. More complex operating models and multi-party chains can increase both operational risk and the likelihood of accountability gaps and may therefore warrant closer oversight.
- 3) Ofgem should consider consumer risk indicators and conduct-related signals, including complaints volumes and themes, Alternative Dispute Resolution (ADR) outcomes, evidence of mis-selling or poor disclosure of Principal Terms, and the extent to which the proposition is taken up by, or targeted at, consumers in vulnerable situations. These indicators provide a practical basis for assessing whether consumer protections are working as intended and whether additional supervisory intervention is required.
- 4) Incident history and operational resilience should inform risk assessment, including both operational incidents and “near misses”, and (where relevant) cyber security events. A pattern of incidents, recurring control failures, or inadequate remediation would be a clear basis for heightened engagement and potential escalation.
- 5) Ofgem should pay particular attention to conflicts of interest and bundling risks, for example where a supplier also acts as a Flexibility Service Provider (FSP) and/or Load Controller, or where propositions are bundled in a way that could create switching friction or otherwise inhibit consumer choice. In these circumstances, enhanced scrutiny may be appropriate to ensure that consumer outcomes remain fair and that the market develops in a way that supports competition and innovation.

Taken together, these factors would provide a transparent and objective basis for Ofgem to segment licensees by risk and apply proportionate monitoring, while giving market participants greater predictability in how compliance expectations are likely to be applied in practice.

Q18: Do you support the proposal to use informal account management relationships to support licensees into compliance in the early years? Please provide reasons for your answer.

Yes, we support the use of informal account management relationships as a transitional tool to support compliance, provided the approach is applied consistently and is underpinned by clear published guidance.

Q19: Do you agree with the proposed priority areas for compliance engagement? Please provide reasons for your answer.

Yes, the proposed priority areas (cyber security, treating customers fairly, and operational/financial/managerial controls) are appropriate and align with the key risks to consumers and the system.

We also encourage Ofgem to keep a close watch on ‘exit and switching’ outcomes (including switching between FSPs and, where relevant, switching of supply tariffs linked to flexibility value), as high switching friction can weaken competition and consumer confidence.

Q20: Do you agree with our proposal to align enforcement under the load control licensing regime with Ofgem’s existing enforcement approach, outlined in the Enforcement guidelines? Please provide reasons for your answer.

Yes, aligning enforcement under the load control licence with Ofgem’s existing enforcement approach should provide clarity, consistency and procedural fairness for market participants.

We also support the use of alternative action tools (where appropriate) to secure timely remediation and redress, particularly in cases involving consumer detriment.
Q21: Do you agree with our proposed enforcement approach for multiple licence holders?
Yes, applying the established approach for multiple-licence holders is sensible and should help avoid inconsistent outcomes. To minimise duplication and ensure holistic consumer outcomes, we encourage Ofgem to adopt coordinated case management where an issue spans both supply and load control activities (for example, bundled propositions or shared customer journeys).
Q22: Are the regulatory requirements for different types of Load Controller sufficiently clear? Please provide reasons for your answer.
Yes, we consider the broad distinction between below and above 300MW Load Controllers, and the interaction between the load control licence and NIS designation, is helpful. However, further clarity would support consistent implementation. Additional guidance may be helpful on how the aggregate load will be calculated and evidenced, and how changes over time (including crossing the 300MW threshold) will be managed.
Q23: Do you agree with the proposed approach to cyber security assessments for load control licence applications? Please provide reasons for your answer.
We broadly support the proposed approach to cyber security assurance, including the requirement for applicants to complete a self-assessment against the relevant Cyber Assessment Framework (CAF) profile, provide a board-level statement of intent to comply with the applicable security and resilience requirements, and evidence engagement with the Cyber Resilience Assessment (CRA) scheme (or a “reasonable equivalent”). Given the increasing prevalence and sophistication of cyber-attacks, and the likelihood that cyber assurance will be a relatively new area for some Small Businesses seeking to enter the market as Flexibility Service Providers (FSPs) and Load Controllers, we consider these expectations to be appropriate and necessary to support consumer and system confidence. To ensure the approach remains proportionate and supports consistent applicant preparation, we encourage DESNZ and Ofgem to provide clearer guidance on (i) the depth and form of evidence expected at application stage, as distinct from the evidence that may reasonably be delivered through time-bound remediation plans post-authorisation, and (ii) the criteria that will be applied in practice to determine what constitutes a “reasonable equivalent” to CRA assurance. Clear signposting of these expectations will reduce unnecessary iteration during the application process, support a more consistent assessment approach, and enable applicants to target investment in cyber security controls efficiently.
Q24: Do you agree with the proposed approach to cyber security monitoring and compliance? Please provide reasons for your answer.
We broadly support the proposed approach to cyber security monitoring and compliance. In particular, the split of responsibilities with the Security Governance Group (SGG) supporting monitoring and compliance for below-300MW load controllers, and Ofgem operating through the NIS framework is a sensible way to align assurance intensity with system risk while maintaining a consistent baseline of cyber resilience expectations. To work effectively in practice, implementation will benefit from clear governance around information-sharing, confidentiality protections, decision rights and escalation (including how assurance findings feed into regulatory action), alongside a risk-based approach to audits/inspections to avoid unnecessary burden while maintaining credible assurance. That said, we reiterate concerns previously raised about the SGG/TGG model being constituted as BSC Panel sub-committees rather than a more open and inclusive governance wrapper. While we recognise the role for committee-based governance during transition, we do not consider it the best enduring operational model. We

also note that Elexon is shortly expected to be awarded the BSC Code Manager licence and will take on (and remain accountable for) many operational decisions rather than the BSC Panel or any of its sub-committees. In that context, we would expect the Terms of Reference and accountability arrangements for the sub-committees to be updated so that, once Code Manager licensing takes effect, they operate in a wholly advisory capacity (or under clearly defined delegated authority from Elexon), with Elexon remaining ultimately accountable for decisions.

More generally, we consider this reinforces the case for moving away from siloed governance “fiefdoms” and towards a more federated approach to cross-programme coordination. As we set out separately on architecture coordination², we favour a segment-led, federated forum model. This would facilitate a transparent, light-touch, focused on interoperability, where scope and collaboration duties are set through licences/codes, and delivery bodies participate on an equal footing, rather than creating a new centralised design authority.

Q25: What would you suggest is a reasonable equivalent of a CRA Audit? Please provide reasons for your answer.

A reasonable equivalent of a Cyber Resilience Audit (CRA) should be any assurance engagement that provides independent, competent and repeatable confidence that a Load Controller’s cyber security controls and maturity have been assessed robustly against the relevant Cyber Assessment Framework (CAF) profile. In practice, this should mean a third-party assessment carried out by a suitably qualified and independent cyber security auditor, covering both governance (e.g. risk management, policies, incident response and oversight) and technical verification (e.g. evidence-based testing such as vulnerability assessment and penetration testing, and a clear process for tracking and closing remediation actions).

We also consider that “equivalence” should be assessed by reference to outcomes, i.e. where applicants propose to rely on alternative accreditations they should be accompanied by an explicit mapping to the relevant CAF profile and evidence of operational effectiveness for the systems in scope of load control, rather than solely a document-based certification.

Q26: Do you agree with the inspection process outlined for the cyber security of below 300MW Load Controllers? Please provide reasons for your answer.

Yes, the process outlined appears reasonable, provided inspections are used in a targeted, risk-based manner and do not become a default requirement for lower-risk operators. We support aligning inspection powers with the NIS framework and the ability for Ofgem to appoint (or require the appointment of) an independent auditor. To preserve proportionality and confidence, Ofgem should be transparent about triggers for inspections, protect commercially sensitive information, and ensure inspection findings are integrated with the SGG’s assurance and remediation processes.

Q27: Do you agree with our proposed approach to licence modifications? Please provide reasons for your answer.

Yes. RECCo supports aligning the process for modifying standard conditions of the Load Control Licence with established practice in other Ofgem licence regimes, including appropriate consultation, transparency and clear decision-making.

Given this is a nascent market, it will be important to strike an appropriate balance between the benefits of iteratively strengthening protections and the need for regulatory stability for new and emerging business models. Where modifications are proposed, Ofgem should provide adequate notice and clear, proportionate implementation timelines to enable orderly delivery, avoid unnecessary rework and mitigate the risk of unintended consumer impacts.

² [“RECCo-Response: Architecture-Coordination”](#) RECCo, December 2025.

We also consider it preferable to design the Load Control Licence with the “end state” in mind from the outset, rather than relying on incremental strengthening of consumer protections only once evidence of harm has emerged. In practice, that means building proportionality directly into the regime by disapplying (or otherwise staging the application of) those standard conditions that are not necessary for a small-scale FSP/Load Controller to operate safely and fairly, while retaining a core baseline of protections and safety-critical obligations. A clear, threshold-based approach - linked to the scale and risk of the licensable activity - would provide greater certainty for market entrants and consumers, reduce the likelihood of avoidable regulatory churn, and avoid a reactive cycle of post-harm remediation through subsequent licence modification.

We also support Ofgem’s proposed use of derogations as the primary mechanism to address justified circumstances where applying a standard condition in full would be disproportionate or duplicative (for example, where equivalent obligations already apply under another licence). Properly governed derogations can provide a more flexible and timely means of tailoring obligations than pursuing licence modifications, while retaining the benefits of a standardised framework and avoiding unnecessary deviation from the baseline standard conditions.

Q28: Do you agree with our proposed process for the transfer of a load control licence? Please provide reasons for your answer.

Yes, replicating the supply-licence transfer process is appropriate to ensure the incoming entity is properly assessed and to maintain consistent standards.

Q29: Do you agree with our proposed approach to extending/restricting a licence? Please provide reasons for your answer.

Yes, aligning extension / restriction processes with existing licence frameworks should promote consistency and fairness. For extensions (e.g. adding Load Controller activity), it is appropriate that applicants provide additional evidence relevant to the new risks (notably cyber security and system impacts). For restrictions, Ofgem should ensure consumer impacts are assessed and that there are suitable arrangements to manage an orderly change for affected customers and counterparties.

Q30: Do you agree with our proposed approach to revocation of the load control licence, including our proposal to include a revocation item on the basis of failure to comply with the NIS regulations? Please provide reasons for your answer.

We are broadly supportive of Ofgem’s proposed approach to licence revocation, including the proposal to include a revocation ground linked to serious / persistent non-compliance with the NIS regime (e.g. failure to comply with an Enforcement Notice or failure to pay/comply with a financial penalty issued under the NIS Regulations) for Load Controllers above the 300MW threshold. This is an appropriate “backstop” to protect consumers and the system where a licensee has demonstrably failed to address material cyber security shortcomings through the NIS enforcement process, and it supports a consistent baseline of accountability across the sector. We note Ofgem’s position that this is intended as a last resort.

However, we also note Ofgem’s acknowledgement that this represents a departure from the approach applied to existing licensees and therefore appears to raise the bar for this new licence category relative to other established licence types. Ofgem and Government should consider whether an equivalent approach to linking revocation to serious cyber enforcement outcomes should be applied more consistently across other licence categories where cyber risk can be similarly material, rather than strengthening the revocation toolkit only for new market roles.

Given that compliance with the NIS Regulations is determined through the NIS framework (with DESNZ Secretary of State acting jointly with Ofgem as competent authority for energy, and DSIT coordinating NIS policy cross-sector), it will be important to ensure there is no scope for materially divergent conclusions on a licensee’s NIS

compliance status when considering revocation. We therefore suggest the revocation trigger should be tightly anchored to formal NIS enforcement outcomes (and associated appeal/representation processes), with clear governance and information-sharing to ensure Ofgem's licensing decisions are aligned with the competent authority's conclusions under NIS.

Finally, we note Ofgem's consultation recognises that the Cyber Security and Resilience (Network and Information Systems) Bill is expected to amend the NIS framework and bring large load controllers into NIS scope (subject to parliamentary passage). Ofgem's guidance and any operational approach to this revocation ground should therefore be kept under review to remain aligned with NIS reforms as they are implemented.

Q31: Do you agree with our proposed approach to cost recovery for the load control licensing regime? Please provide reasons for your answer.

RECCo broadly supports the intention to align cost recovery with established approaches in the energy sector, including a licence application fee and recovery of ongoing administration costs through existing mechanisms. To support proportionality and the Growth Duty, Ofgem should maintain transparency on the cost base and to keep under review whether a greater share of costs should be recovered more directly from load control licensees as the market matures. Any move in that direction should be designed to avoid creating undue barriers to entry and could be informed by banding or other scale-based approaches.