

All those with an interest in competition in the market for new connections to electricity distribution networks

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Update on our work to resolve issues in the market for new connections to electricity distribution networks and informal licence consultation

This letter -

1. Consults on a draft of our proposed new licence condition to be inserted into the standard conditions of the distribution licence (see PART 1 – the new licence condition).
2. Explains how we will assess the suitability of the Code of Practice (CoP) that the distribution network operators (DNOs) propose (see PART 2 – the Code of Practice).
3. Details our decisions on the minimum requirements for the CoP (see also PART 2 – the Code of Practice).

Please send us your responses to our consultation on the licence condition **by 9 June 2015** to the connections@ofgem.gov.uk inbox.

Background

In January 2015 we consulted on the details of a remedy to deal with issues we identified through our review of the market for new electricity distribution connections.¹ The regulatory remedy had two parts -

- **A new licence condition** – which would place a duty on DNOs to have in place and comply with an enforceable CoP.
- **A detailed Code of Practice** – to be developed by the DNOs, in consultation with their stakeholders, and approved by us.

In January, we said that if a suitable CoP was not developed in a timely manner we would reconsider the most appropriate way to resolve the issues in the market. Our options include specifying the CoP that must be complied with, or reconsidering the need to consult on making a market investigation reference to the Competition and Markets Authority.

Responses to the January consultation welcomed our proposed remedy and provided detailed comments on the specific questions we consulted on. The full responses are

¹ [See our findings document.](#)

published on our website.² A summary of the responses received and our comments on these is in Annex 1.

[PART 1 - The new licence condition](#)

As explained in our January consultation, we are planning to introduce a new licence condition that would ensure competition in the market for new electricity distribution connections is maximised through -

- The DNO minimising – to the fullest extent reasonably practicable – the scope and cost of its input services.³
- The provision of input services – where they are necessary – by the DNO on an equivalent basis to its competitors and its own connections business.
- The DNO harmonising its input services with those of all other GB DNOs.

The proposed licence condition would require the DNOs to have in place and comply with a CoP designed to meet these objectives. We will make our final decision on implementing the new licence condition once the DNOs have developed and submitted the CoP to us for approval in June.

The January consultation sought views on the proposed structure for the licence condition. We also held an initial licence drafting workshop with the DNOs. We have taken into consideration all comments received on the structure and draft text for the condition from both our January consultation and licence drafting workshop. The key issues raised in the responses are discussed below.

- **Strength of licence drafting.** Some responses suggested changes to the wording and structure of the licence condition, such as changing the best endeavours obligation to a reasonable endeavours obligation. We considered this diluted the strength of the requirements which would be put on the DNOs.

The success of the regulatory remedy relies on a strong CoP where non-compliance can be enforced against DNOs as a breach of their licence. We believe that a best endeavours obligation has the necessary strength required for this licence condition and as such is reflected in the draft text. The courts have regularly interpreted and provided guidance on the scope of the best endeavours obligation. We do not consider that it would impose an unreasonable burden on licensees, while also being a sufficiently strong obligation.

- **Governance and reporting.** Some responses suggested that the governance requirements should not be contained in the licence condition. They said that moving the governance into the CoP would provide greater flexibility for the arrangements and is in line with other industry codes.

We agree that the specific governance requirements should be contained in the CoP. We also consider that for the same reason, the detailed reporting requirements should be contained in the CoP. We understand from the consultation responses that DNOs have already been considering the governance arrangements and will engage with

² [See the consultation responses on our website.](#)

³ The services provided by the licensee that are required to enable another party to provide a connection to the licensee's Distribution System.

stakeholders on developing these. We expect DNOs to work with stakeholders to develop governance and reporting arrangements that meet the objectives outlined in Annex 2 to this letter. **We will assess the suitability of these as part of our assessment of the CoP in June.**

Our responses to all the comments received in January are in Annex 1.

Our initial draft licence condition is in Annex 3. We are consulting on this draft. Please send comments on the draft text for the licence condition to connections@ofgem.gov.uk by **9 June 2015**.

We will hold a meeting to discuss comments received on the licence condition. This will be on the morning of **12 June 2015** at our Millbank office. If you would like to participate, please email connections@ofgem.gov.uk by **22 May 2015**.

[PART 2 - The Code of Practice](#)

As we outlined in our January consultation, the DNOs are responsible for developing the CoP. It is crucial that the DNOs produce a strong and robust CoP, which is endorsed by stakeholders, and could be enforced against by us.

The CoP must be thorough, reflect industry best practice, be developed in consultation with industry stakeholders, and must meet minimum requirements (relating to specific issues identified through our market review). These are **decided by this letter** and detailed in Annex 4.

Our final decision on whether to implement this remedy will depend on the quality and suitability of the CoP proposed by the DNOs. If DNOs do not produce a suitable CoP themselves, we will consider other ways to deal with the issues that are limiting effective competition in the market. These may include us specifying the CoP that must be complied with, or reconsidering the need to consult on making a market investigation reference to the Competition and Markets Authority.

This section discusses the progress of the DNOs and sets out how we will determine the suitability of the CoP.

[Drafting progress](#)

In response to the January consultation, the DNOs committed to work together to develop a common CoP in February 2015.⁴

The success of the regulatory remedy relies on a high-quality, fit-for-purpose CoP being produced. We have seen the first consultation draft of the CoP⁵, published by the Energy Networks Association (ENA), but we have not formally responded on it. We are now taking this opportunity to express our concern that this draft does not have clear, specific requirements in each area. **Overall we are concerned that this draft currently may not be strong enough to resolve the issues identified in the market.** Our expectations for the CoP are provided below.

An alternate version of the CoP has been developed by an independent DNO (IDNO) in response to the ENA's consultation. This appears to provide a more suitable structure for the CoP than the version consulted on by the DNOs.

⁴ [The ENA's letter on behalf of the DNOs](#)

⁵ [The ENA's consultation on a draft of the CoP](#)

Taking a decision on the suitability of the CoP

When assessing the CoP proposed by the DNOs, we will consider a number of factors. Our decision will be made 'in the round', informed by these criteria -

- That the CoP is designed to achieve the 'Purpose' of the CoP as proposed in January. The proposed purpose was to ensure that competition in the market is maximised through –
 - The licensee minimising – to the fullest extent reasonably practicable – the scope and cost of its input services.
 - The provision of input services – where they are necessary – by the licensee on an equivalent basis to its competitors and its own connections business.
 - Harmonisation of its input services with those of all other GB DNOs.
- That all the minimum requirements have been met.
- That the CoP covers the end-to-end connections process and best practice established through the competition test process or identified in the market review.
- That the CoP has clear, specific requirements or commitments in each area it covers. It needs to be clear enough to be enforceable against DNOs who don't comply with it.
- That the provisions reflect best practice in the market – not just the range of current approaches used by DNOs. Otherwise we consider, it would serve no purpose. We expect some DNOs will need to change their approaches so that they conform to best practice specified in the CoP.
- Clear evidence that stakeholder feedback has been considered and acted on appropriately.

The minimum requirements

The January consultation proposed minimum requirements that the CoP must satisfy. These reflected some specific issues identified through our review. These requirements were generally supported by stakeholders. Some respondents proposed additional minimum requirements while others suggested alterations to the proposed minimum requirements. Our consideration of respondents' proposals is in Annex 1.

Having carefully considered the responses to our January consultation, we have decided to make some minor alterations to the minimum requirements. We have not included any of the additional requirements suggested by respondents, as we consider those could be dealt with through the detail of the CoP or do not address the specific issues identified in our review. We encourage the DNOs to consider these when developing the CoP to ensure that it is as comprehensive as possible.

We have decided that the final minimum requirements for the CoP are those contained in Annex 4.

Next steps

As we said in January, DNOs must finalise and submit the CoP to us by **1 June 2015**. We will then consider whether the CoP meets the minimum requirements and is 'fit for purpose'. We intend to make our decision **by 30 June 2015**.

In the meantime, we will continue to develop the licence condition in parallel to the CoP. Please send comments on the draft text for the licence condition to connections@ofgem.gov.uk by **9 June 2015**.

We will hold a licence drafting meeting to discuss the text of the condition. This will take place on the morning of **12 June 2015** at our Millbank office. If you would like to participate, please email connections@ofgem.gov.uk by **22 May 2015**.

If we decide to accept the CoP as submitted by the DNOs, we will launch the statutory consultation on the licence condition in early July. If the CoP is not of sufficient quality, we will consider other routes to dealing with the issues limiting effective competition in the market.

Milestone	Date
Deadline for DNOs to submit CoP to us	1 June 2015
Deadline for comments on the draft licence text	9 June 2015
Meeting to discuss the draft licence	12 June 2015
Decision on acceptability of CoP and possible statutory consultation on licence condition	June and July 2015
Decision on the licence condition	Late July or early August 2015
Licence condition and CoP 'go live'	September 2015

Yours faithfully,



Andrew Burgess

Associate Partner, Transmission and Distribution Policy

For and on behalf of the Authority

Annex 1 – Responses to our January consultation and our comments

Overview:

On 21st January we published *The findings of our review of the electricity connections market*. In that consultation document, we asked three questions and received 19 responses from interested stakeholders. The questions asked in the consultation were:

1. Please provide your comments on the proposed structure and content of the CoP licence condition.
2. Please provide your comments on the minimum requirements we have proposed for inclusion in the CoP.
3. In addition to the minimum requirements, what else should be included in the CoP?

This Annex summarises the stakeholder responses under each of the three questions asked. We also provide our response to the points raised.

Question 1: Structure and Content of CoP Licence Condition

All respondents supported the overall approach as a means of dealing with the issues identified through the review. Most comments focussed on the need for effective governance arrangements for the CoP as detailed below.

Governance arrangements

A number of respondents, including both DNOs and competitors, expressed views regarding the overarching governance arrangements for the CoP. These included comments on what aspects of the governance and change process should be prescribed in the licence and what aspects should be prescribed within the CoP. Several respondents expressed their views that having all the administrative requirements and processes of the CoP prescribed in the licence would make the change process more difficult.

Several DNOs suggested that the CoP governance should be managed within the scope of existing governance arrangements for other industry codes eg, the Distribution Code. It was argued that this would help to minimise the cost of setting up and maintaining the new arrangements and ensure best practice in terms of open governance.

A number of respondents stated that it was important the CoP existed as a 'living document' and that changes to it can be proposed by a wide range of parties, including customers. They stated this was vital to ensure that all valid change proposals are assessed and not subject to the network operators' discretion. Respondents recommended that the change process be well laid out and open to all stakeholders and should include a mechanism to effectively change any ancillary documents.

However, several respondents also noted that Ofgem would need to manage the risk of speculative and/or numerous change requests by establishing a requirement to justify any changes. There was a suggestion to introduce a requirement for the CoP to be periodically reviewed to ensure that it remains relevant.

Several responses made it clear that it would be crucial that DNOs be required to openly and transparently demonstrate their compliance with the requirements of the CoP. This included a suggestion that licensees provide an annual certification statement assuring compliance rather than providing detailed evidence of processes and procedures that are in place to ensure compliance.

Ofgem response

As explained in part 1 of this letter, we agree with stakeholders that placing the governance arrangements in the COP allows more flexibility than if they were in the licence condition. We support the work by industry to include these arrangements in the CoP. Our expectations for the governance arrangements are outlined in Annex 2 of this letter. We will retain high level provisions for the governance and reporting arrangements in the draft licence condition.

Other

Several DNOs expressed concern about the use of the phrase 'best endeavours' within the licence condition. They consider the obligation that the term places on them is too strong.

SPEN support the introduction of the proposed CoP but say that costs will be incurred in developing the requirements. It stated that these costs are additional to those factored into its RII0-ED1 business plan and that it will seek reasonable recovery of such costs through a mechanism to be agreed with Ofgem.

UKPN commented that reducing all input services to a bare minimum could constitute a barrier to new market entrants who may prefer licensee provision. It also stated that while they support harmonisation of input services across DNOs, the licence condition should not preclude achieving an equivalent outcome but by different routes.

UKPN made a further comment about what they view as a potential conflict of interest in the licence condition. On the one hand a DNO is obliged to minimise the scope of its input services while on the other it must harmonise the input services with other DNOs. It questioned what would happen should one DNO be unable to harmonise one of its input services as the others could potentially be in breach of their obligations. They recommended Ofgem prioritise which of the two is more important.

NPg commented that it will be important for Ofgem to be able to grant derogations from specific requirements/terms in the CoP if it is to be identical for all DNOs.

SSEPD point out that the term 'input services' is misleading as it believes it risks driving the DNOs to minimise the service they provide rather than simply minimising the non-contestable element. As such it believes a more explicit reference to the non-contestable element of the service is required.

SSEPD is also raised concerns that the drive toward harmonisation could stifle the development of best practice as a result of licensees being held to the lowest common denominator. As such it recommends that the wording of the license should not preclude the inclusion of best practise examples in the CoP.

LightSource commented that the licence condition should set out how a DNO may be penalised if they are found to not have been using best endeavours to comply with the CoP.

Ofgem response

Since receiving responses to our consultation we have refined the structure and developed draft text for the licence condition (Annex 3).

Some of the responses we received made reference to the best endeavours obligation to comply with the purpose of the licence condition. The success of the regulatory remedy relies on a strong CoP where non-compliance can be enforced against DNOs as a breach of their licence. We believe that a best endeavours obligation has the necessary strength required for this licence condition and as such is reflected in the draft text. The courts have regularly interpreted and provided guidance on the scope of the best endeavours

obligation. We do not consider that it would impose an unreasonable burden on licensees, while also being a sufficiently strong obligation.

Some comments referenced the potential for a negative impact of the remedy on competition. We are keen that the regulatory remedy does not have a negative impact on the level of service that DNOs provide in the market and that it does not stifle innovation. We welcome these comments and have acted on them through the definition of input services in the licence condition.

One respondent suggested that harmonisation may stifle uptake of best practice if licensees are held by the need to be in line with the lowest common denominator. The purpose of the CoP is for DNOs to harmonise their approaches to ensure that best practice is taken up across the market. We expect some DNOs will need to change their practices and as such, we have not modified the draft text of the licence condition.

Some comments refer to the cost of implementing the requirements of the CoP. In response to these comments we note that -

- The CoP does not go above or beyond the outputs that we expected DNOs to already be delivering as part of RIIO-ED1.
- The DPCR5 competition test introduced an incentive on DNOs for them to improve their processes and remove barriers to effective competition. Through this some DNOs have already taken some of the steps that will be covered by the CoP.
- Where DNOs have not passed the competition test, they have been allowed to earn a regulated margin above the cost of contestable connection works since 2010.

Question 2: Proposed Minimum Requirements

All respondents considered the six minimum requirements to be appropriate. Some respondents proposed some minor amendments and clarifications to the wording -

- Adding a reference to 'approved designer organisations' under the design approval minimum requirement to allow for whole ICP organisations, rather than just an individual designer, to gain approved status.
- Rewording the inspection minimum requirement to clarify that DNOs must have in place an inspection and audit regime which is consistent for all connections connected to the licensee's distribution network.
- Amending the accepting non-contestable quote requirement to clarify DNOs cannot reissue quotes for non-contestable works solely because the customer chooses an independent for the contestable parts.

These changes are reflected in our final minimum requirements outlined in our decision letter (see Annex 4). We also received some more substantive comments. These are outlined below alongside our response.

Accreditation

UKPN would like it clarified that where DNOs require accreditation/assessment, they do so only where the ICP is carrying out live LV works/final HV connections that are contestable. Other works on electrical assets that will be subsequently operated and maintained by the DNO but are yet to be connected require only that the ICP secure the appropriate NERS accreditation.

NPg recommend the continued use of the current 'dual' system of a national accreditation routine, plus licensee-specific 'top-ups', as they note that a fully national scheme could raise barriers to entry.

UCCG are concerned about the wording which allows a judgement to be made in respect of “unnecessary requirements”. They said most DNOs have justified retaining barriers to competition through multiple accreditations by using the fact that they have particular “Distribution Safety Rules”. UCCG do not believe that this is a reasonable position.

UCCG also state that it is essential that the Accreditation section is expanded to include G39/2 – or that a section is added as a separate requirement. In line with the requirements set out in the proposed CoP for Accreditation, DNOs must allow for a common and fully transferable training and authorisation for work covered under ENA engineering recommendation G39/2 (or latest issue thereof).

Ofgem response

Regarding the comments on clarification, the dual system and G39/2, we’d expect the details to be captured in the CoP and addressed through by the DNOs subsequent consultations on the content of the CoP.

In response to the concerns regarding unnecessary requirements; we expect DNOs to allow for a common or fully transferable accreditation and authorisation for work on their networks. We acknowledge that there may be a limited number of circumstances where additional requirements are necessary. Details and justification of any circumstance that places an additional requirement on an individual to become accredited on one DNO’s network, having already been accredited elsewhere, will need to be provided in the CoP.

Point of connection

UKPN notes that in some circumstances, the DNOs will need to validate the proposed Point of Connection (PoC) in order to ensure the future integrity of the network.

NPg note that they already have in place a system of self-determination and provide equitable access to network information. They request that the drafting of the CoP (1), ensures appropriate safeguards for DUoS-paying customers and (2), has due regard to their obligation to develop and maintain an efficient, economical and coordinated network. They also note that it is important that the process properly incorporates Interactivity (ie, caters for multiple customers applying for capacity at or about the same location where such capacity is limited).

Ofgem response

We expect competitors to be able to determine their own PoC for the majority of straightforward connections. Circumstances in which a DNO must still validate the PoC must be clearly identified in the CoP with sufficient clarity and justification. The CoP should also provide detail as to how any validation process would avoid impacting upon competition.

Design approval

ENWL and WPD proposed that in addition to recognising individuals as approved designers, there may be merit in also recognising individual organisations (ie IDNOs and ICPs) as approved designers.

WPD consider that there should be some auditing of the designs by DNOs, contrary to what is stated in the minimum criteria, as design approvals are such a key part of the process and as a way to ensure standards are maintained.

UCCG believe that the Design Approvals section needs further strengthening to ensure that the mechanism by which designers are approved is transparent, publicised and equitable and that for simple works (such as single connections of lighting columns) “design approvals” – if required at all in these instances - can be set at a suitably simple level without onerous fees for such approvals.

MCCG point out that so long as a competitor retains NERS accreditation for design, there should be no need for DNO’s to approve simple HV and LV network design submissions. For the second provision under the Design Approval minimum requirement, they comment that the competence referred to should be determined through independent assessment (at a company or individual level) or previous performance and experience of the competitor.

Ofgem response

We acknowledge that it may be more efficient for whole organisations to become approved designers (eg lower admin costs) and have updated the minimum requirement to that effect. Our final minimum requirements state that designs produced by an approved design organisation do not require approval by the DNO’s staff. The minimum requirement changes as follows -

- DNOs have common mechanisms to allow independents’ staff to become an approved designer or to become an approved design organisation.
- Designs produced by an approved designer or approved design organisation do not require approval by the DNO’s staff.

Any circumstance where additional auditing is required must be clearly detailed in the CoP and clarity provided on why approval by an approved designer or organisation isn’t sufficient.

Link boxes

NPg state that before they can subscribe to meeting this requirement, it is important that Ofgem ensure that the common charging methodology does not require them to pass the charges relating to installing link boxes onto IDNOs in any circumstances. Once this change has been made, DNOs would still have to install link boxes at IDNO boundaries as this is a requirement of the licence (‘A point of isolation between distinct networks is a requirement of the Distribution Code’). NPg is not aware that these costs have been funded as part of the ED1 price control. NPg state that at a minimum, Ofgem should consider any consequential adjustments to cost allowances at the ED1 mid-period review.

Ofgem response

This comment doesn’t specifically relate to the content of the minimum requirements. We note that if the requirements of the Distribution Code and charging methodology prevent DNOs from meeting this minimum requirement then they have the ability to raise a modification through the DCUSA open governance process.

Inspection

ENWL and UKPN recommended a clarification to this minimum requirement to make it clear that it related to connections connected to the licensee’s network.

NPg propose that the CoP allows the continuation of a dual approach, such as the one they currently use. Inspections are taken by an enhanced audit team (internal) alongside inspections carried out by an external organisation on a sample of new connections works undertaken by both NPg and ICPs.

Banks Renewables is pleased to see the requirement for an inspection process and that it is being applied consistently to both ICP and DNO connections.

MCCG supported the proposal and noted the CoP should require DNOs to demonstrate that competitors are not subject to any increased level of quality assurance audits than could be reasonably expected of the DNO's own connections business.

Ofgem response

We agree ENWL and UKPN's proposal clarifies the minimum requirements and have updated it as follows -

- DNOs have in place an inspection and audit regime which is consistent for all connections ~~they will adopt~~ connected to the licensee's distribution network (both for where they have been responsible for the work or where an independent has undertaken the work).

In response to the other comments, we'd expect the detail and level of clarity to be captured in the CoP and addressed through subsequent consultations.

Accepting non-contestable quotes

ENWL and UKPN highlighted a typographical error in this minimum requirement.

LightSource feel that all quotes issued by DNOs should be convertible quotes but that when determining the minimum cost scheme they should not automatically use their in-house rates for the contestable elements.

MCCG comment that the current draft of the CoP they have seen shows that the DNO will have the option of offering a convertible quote OR a S16⁶ and a competition in connections quote in the same envelope to the applicant. MCCG would prefer to see a single convertible quotation as they believe that the customer will be more likely to opt to use the DNO's competitor as this option is implicit within the convertible quote which is not that the case for a S16 offer.

Ofgem response

We have corrected the typographical error in this minimum requirement. The minimum requirement changes as follows:

- This means that when the customer accepts the non-contestable services offered by the DNO but chooses to use an independent for the contestable part of the connections, the DNO cannot reissue the quote for the non-contestable services.

We consider best practice is the provision of one convertible quote. However, we have not changed the minimum requirement as we currently consider receiving two offers in the same envelope is sufficient to provide a customer with an equal choice when considering which quote to accept. This may be something that is revised in future versions of the CoP.

⁶ A section 16 quote is a connection offer made directly to the customer under section 16 of the Electricity Act 1989.

Question 3: Suggestions for additional provisions

Stakeholder responses contained a number of suggestions for additional provisions to the CoP. A summary of the suggestions we received is below -

NPg noted that the CoP should explicitly recognise the need for the DNOs, IDNOs and ICPs to work together effectively in ensuring the end customer experience is not affected.

DNOs noted that the timescales for delivering the minimum requirements are challenging. As a result, there was a recommendation from SSEPD that any additions should be put forward through the governance process for modifications once the CoP goes live.

GTC and **MCCG** suggested that the CoP should contain a commitment to providing call handling and emergency response (noting that one DNO has demonstrated this as best practice for several years).

GTC believe a range of additional areas need to be considered and incorporated into the CoP. These included a commitment to a quality standard and the need for the NERS accreditation scheme to be bolstered to remove the ability of DNOs to impact on any delivery timescales.

MCCG and **POC** highlighted the CoP needs to have a commitment from DNOs that all areas that are deemed barriers to competition are removed. They also noted that the CoP should consider the issues of contestability of disconnections on brown field sites, diversions and service alterations.

Ecotricity believe that accreditation, authorisation, inspection and approval should be managed by an external third party. They believe this would ensure DNO and Independents' personnel have equal opportunities for accreditation and they would be working to a single external standard. They recommend the third party should also take on design approval accreditation and the DNOs' inspection/audit process. It could also manage the Point of Connection self-determination regime.

E.ON would like to see a provision which allows a competitive service provider to be able to manage the whole connection process, including the non-contestable element. Although the non-contestable work cannot be carried out by the competitive provider, they believe the service to the customer would be improved if the whole process is managed by one party.

Banks Renewables questioned whether the CoP should include a requirement for allowing access to the DNO network specification requirements that have to be met to ensure adoption. **UCCG** stated that DNOs should be required to ensure that information on compliance with the CoP and any relevant additional information is publicised to customers and ICPs and put into the public domain.

Ofgem response

A number of these suggestions, while sensible, fall outside the scope of the minimum requirements as they do not address the issues identified during our review. However we encourage the DNOs to consider these when developing the CoP to ensure that it is as comprehensive as possible.

Annex 2 – Guidance for the Code of Practice governance, resolution process and reporting requirements

In response to stakeholder feedback (as outlined in Annex 1), we consider that the governance requirements and reporting requirements should be contained in the CoP. We also now consider that there is need for a resolution process to be included in the CoP.

We understand that DNOs have already been considering the governance arrangements. We expect DNOs to work with stakeholders to develop arrangements.

We will assess the suitability of these arrangements as part of our assessment of the CoP in June. To help DNOs develop the CoP, we outline some key questions we will consider when assessing the proposed governance arrangements below.

Governance

The CoP will need to be a 'living document' which can be adapted to reflect changes in the market and best practice. So there needs to be governance arrangements that allow it to be modified.

In the January consultation, we specified that the governance arrangements would sit in the licence condition and we proposed some high-level objectives for the governance arrangements.

In response to stakeholder feedback (as outlined in Annex 1), we now consider that the specific governance requirements should be contained in the CoP. We understand that DNOs have already been considering how the governance arrangements could work.

We outline the areas we will consider when assessing the governance arrangements below:

- Do the governance arrangements for the CoP align with governance principles and processes already established across other industry codes and codes of practice?
- Do the governance arrangements assess proposed changes to the CoP against the relevant objectives of the CoP?
- Does the governance process ensure that a wide range of parties (eg IDNOs and ICPs), not just DNOs, are able to propose and assess changes to the CoP?
- Does the governance process allow changes to the CoP to be made in a timely manner? Is the governance process too burdensome for those parties operating in the electricity distribution connection market?
- Does the governance process ensure that all representations about the proposed modification are properly considered as part of the decision making process? Does the governance processes ensure that the proposed modification is thoroughly evaluated by a wide range of parties?
- Do the governance arrangements specify appropriate criteria to identify modifications that could be subject to "self-governance"? Do the proposed governance arrangements ensure that any "self-governance" modifications are reviewed and decided upon by a fair balance of DNOs and independent representatives (that reflect a range of views from across the market)?
- Do the governance arrangements ensure that any party is able to appeal to the Authority the approval or rejection of a modification proposal? Are the proposed grounds for appealing modification proposals appropriate? Do the governance arrangements ensure that where an appeal has been raised, that modification proposal shall be treated in accordance with any decision made by the Authority?
- Do the governance arrangements provide a mechanism to amend them where the Authority has reviewed the governance arrangements and determined that changes are required?

Reporting process

In the January consultation we stated that the licence condition would introduce a reporting requirement on DNOs. In response to our consultation, stakeholders highlighted the importance of DNOs demonstrating compliance with the CoP and the inflexibility of placing reporting requirements into the licence condition; we now consider that the reporting requirements should be located in the CoP. We outline our expectations below.

We consider that the CoP should introduce reporting requirements on DNOs. The reporting requirements should give independents and customers assurance that DNOs provide the same level of service to independents that they provide to their own connections business. The reporting requirements and the frequency of reporting should be decided in conjunction with stakeholders.

Dispute resolution process

In the January consultation, we did not specify that the CoP should include a dispute resolution process; however our ongoing engagement with stakeholders has highlighted the importance of a mechanism for resolving disagreements between independents and DNOs. This would not affect the ability of parties to raise issues of alleged non-compliance with competition law or licence obligations directly with us. We outline our expectations for the resolution process in the CoP below.

We consider that the CoP should include a clear escalation process for any party that considers that a DNO is not meeting its obligations under the CoP. Ultimately, if parties cannot resolve the issue through the resolution escalation process; the issue could be raised with the Authority for review.

Annex 3 – Draft text for the new licence condition

Condition XX. Competition in Connections Code of Practice

Part A: Duties

1.1 The licensee must:

- (a) have and maintain an Competition in Connections Code of Practice that is designed to facilitate the achievement of the Relevant Objectives set out in paragraph 1.2; and
- (b) use best endeavours to manage and operate its Distribution Business in a manner that secures the achievement of the Relevant Objectives set out in paragraph 1.2.

1.2 The Relevant Objectives are to:

- (a) facilitate competition in the market for new electricity distribution connections through:
 - i. minimising, to the fullest extent reasonably practicable, the scope and cost of its Input Services;
 - ii. where they are necessary, providing Input Services on an equivalent basis to its competitors and to those parts of its own business that operate in the market;
 - iii. harmonising, to the fullest extent reasonably practicable, the licensee's Input Services with those provided by all other Distribution Service Providers.
- (b) not distort, prevent or restrict competition in the market for new electricity distribution connections; and
- (c) facilitate compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

1.3. In providing any Input Services, the licensee must comply with the Competition in Connections Code of Practice.

1.4 The Competition in Connections Code of Practice must be approved by the Authority. Modifications to the Competition in Connections Code of Practice shall have no effect unless modified in accordance with procedures specified in the Competition in Connections Code of Practice.

1.5 The licensee must keep the Competition in Connections Code of Practice under review, and where necessary, modify it to better meet the requirements under paragraph 1.2.

1.6 The Competition in Connections Code of Practice must contain provisions for the governance arrangements of the Competition in Connections Code of Practice.

1.7 The licensee must:

- (a) give or send a copy of the Competition in Connections Code of Practice to any person who requests it; and
- (b) ensure that a copy of the Competition in Connections Code of Practice (as from time to time modified) is publicly available on its Website.

Part B: Compliance and Reporting

1.8 The Authority may (after consulting with the licensee and, where appropriate, any other materially affected party) issue a direction requiring the licensee to demonstrate compliance with this licence condition and the Competition in Connections Code of Practice, in a manner specified by the Authority.

Part C: Derogations

1.9 The Authority may (after consulting the licensee and, where appropriate, any other materially affected party) issue a direction ('a derogation') to the licensee that relieves it of its obligations under this condition to such extent, for such period of time, and subject to such conditions as may be specified in the direction.

Part D: Definitions

1.10 For the purposes of this condition:

Input Services	means any services provided by the licensee that are required to enable another party to provide a connection to the licensee's Distribution System.
Competition in Connections Code of Practice	means the document described in Part A.

Annex 4 – The minimum requirements for the CoP

The final minimum requirements for the CoP are as follows -

1. Accreditation

- DNOs must allow for a common or fully transferable accreditation and authorisation for work on their networks. Once an individual has been certified as competent on one DNO's network, they should not have to face any unnecessary requirement to be accredited again elsewhere.
- The charges to get accredited must be cost-reflective and opportunities to be accredited must be available on a sufficiently frequent basis.
- These accreditations could be administered by the DNO, or an independent third party could provide all accreditation for the industry.

2. Point of connection

- DNOs must have a common self-determination regime which allows competitors to identify their own point of connection to the network (where they want and are able to). This will allow competitors to determine their own point of connection for the majority of straightforward connections.
- To enable this self-determination, DNOs must provide competitors with equitable access to network information to allow them to determine the point of connection accurately.
- There will be some cases, defined in the CoP, where self-determination will not be possible. These must be kept to a minimum and there must be clear explanation given for why this is the case.

3. Design approval

- DNOs have common mechanisms to allow independents' staff to become an approved designer or to become an approved design organisation.
- Designs produced by an approved designer or approved design organisation do not require approval by the DNO's staff.

4. Link boxes

- The party which requires a link box on the boundary between two networks, based on its obligations and its assessment of risk, must fund it.

5. Inspection

- DNOs have in place an inspection and audit regime which is consistent for all connections connected to the licensee's distribution network (both for where they have been responsible for the work or where an independent has undertaken the work).
- The criteria used to dictate the frequency of inspection and reporting on the volume of inspections conducted (across both their business and their competitors) must be publicised.
- This inspection regime could be administered by the DNO or an independent third party.

6. Accepting non-contestable quotes

- DNOs must provide fully 'convertible quotes' for all contestable connection offers.
- This means that when the customer accepts the non-contestable services offered by the DNO but chooses to use an independent for the contestable part of the connections, the DNO cannot reissue the quote for the non-contestable services.