Switching Programme – Blueprint phase

Regulatory Design Workstream: Draft Terms of Reference

1. Objective of the Switching Programme

1.1. Our objective is to: "improve customers' experience of switching, leading to greater engagement in the retail energy market by designing and implementing a new switching process that is reliable, fast and cost-effective. In turn this will build consumer confidence and facilitate competition, delivering better outcomes for consumers". Our ambition is for next-day switching.

1.2. The aim of the Blueprint phase is to define a new set of switching arrangements that will achieve the programme's objective. These arrangements will cover proposals for a Centralised Registration Service (CRS) and changes to existing industry-wide arrangements. In order to develop a Blueprint for the new arrangements we must consider the implications of a large number of inter-related policy and implementation-related issues and optimise the solution such that it is comprehensive and has integrity. The Blueprint will set out the proposed arrangements, supported by an Impact Assessment, together with analysis of the options that were considered and the rationale for the selected approach. The Blueprint will be published for formal consultation and the Blueprint phase will conclude with publication of a decision document which addresses the views of respondents.

1.3. The Blueprint phase is being delivered through four workstreams: Business Process Design, Regulation, Delivery Strategy and Commercial. It will be followed by three further phases of work covering: Detailed Level Specification, Enactment (including procurement of the CRS) and Design, Build and Test.

2. Objective and scope of the Regulatory Design Workstream

2.1. The objective of the Regulatory Design Workstream (RD WS) is to design, assess and document governance arrangements, including licence and industry code provisions, that underpin:
- the functional and non-functional requirements of the Central Registration Service (CRS); and
- fast and reliable next-day switching arrangements that would operate on the CRS.

3. Scope and Deliverables

3.1. The RD WS will identify the changes required to industry codes, licence and any other governance arrangements required to deliver the Switching Programme objective. This will include reviewing and making recommendations for any changes to the structure and governance arrangements for the Smart Energy Code (SEC).

3.2. Building upon the output of the BPD WS, the RD WS will be responsible for documenting the roles, rights and responsibilities of the CRS and other industry parties, whether licensees or non-licensees, who depend upon or have a legitimate interest in the data proposed to be accessed via the CRS. In particular, each transaction and each process 'box' identified within the process model will have associated and traceable rules, this will include:

- Business rules expected to be given effect through licence;
- Business rules expected to be given effect through industry codes;
- Business rules which will not be captured within scope of regulations but are nonetheless expected to be backed off in contract;
- Complementary guidance and explanatory commentary on those rules.

3.3. The RD WS will also work with:

- The Delivery Strategy WS as required on the development regulatory proposals to ensure the timely delivery of the programme, including in particular, the design and implementation phase; and
- The commercial WS to ensure that funding arrangements, together with any performance assurance and incentives regimes and appropriately captured in licence and code.

3.4. In meeting its objective the RD WS will:
- Develop proposals that are consistent with the Target Operating Model (TOM) v2
- Develop proposals that are consistent with the Switching Programme Design Principles
- Develop proposals that are consistent with the Data Protection Act 1998, existing or emerging consumer protection legislation and any other relevant legislation
- Identify and address any identified governance-related risks and issues associated with the business processes design, provide appropriate input into the BPD WS and escalate unresolved issues to Ofgem's Design Authority, with further input from the External Design Advisory Group (EDAG) as appropriate
- Provide advice to the Design Authority, EDAG and other workstreams when requested
- Identify and flag any risks and issues that should be addressed by the Programme Board, with input from the EDAG as appropriate

3.5. For the avoidance of doubt, the scope of regulatory arrangements that the RD WS will examine are described in the following sections of the (TOM) v2:
- Section 2 – Objective and scope
- Section 6 – Summary of current and proposed regulatory framework
- Section 7 – The Central Registration Service (CRS)
- Section 8 – New switching arrangements
- Section 9 – Governance arrangements

3.6. The RD WS will not seek to consolidate remaining elements of industry codes, other than where this is an appropriate means of closing any gaps resulting from the removal or migration of existing provisions.

4. Structure of the RD WS and responsibilities of the RD WS lead

4.1. The RD WS will be led by Ofgem (the 'RD WS lead).

4.2. The RD WS will comprise a Design Team and a User Group.

4.3. The RD WS lead will:
- develop and maintain the RD work plan and be responsible for delivery against that work plan
- lead the Design Team
- chair the User Group
- decide when deliverables can be reviewed by the External Design Advisory Group (EDAG)
- decide when deliverables and issues can be taken to the Ofgem Design Authority

5. Constitution of the RD WS

Constitution and role of the Design Team

5.1. Ofgem will invite parties to become members of the Design Team. Membership of the Design Team will be constituted of representatives from Ofgem and industry.

5.2. The role of the Design Team is to develop and document a set of proposals that would meet the objective of the workstream. These proposals will be reviewed by the User Group and by EDAG and ultimately approved by Ofgem's Design Authority. They will then form part of Design Baseline 1 which, together with the output of the other Blueprint workstreams, will be consulted upon by Ofgem with a decision published at the end of the Blueprint Phase.

5.3. On a day-to-day basis, members of the Design Team will be assigned work packages by the RD WS lead.

5.4. Design Team members will:
- Develop and document their allocated work packages with the support and input of other Design Team members and other subject matter experts as appropriate
- Present proposals to the User Group for its review when agreed by the WS lead(s).
- Take into account the views of the User Group and further develop/refine the work package
- Agree with the RD WS lead when a work package is sufficiently developed to be sent to EDAG
- Present proposals to EDAG for its review
- Take into account the views of EDAG and further develop/refine the work package (with User Group as necessary)
- Agree with the RD WS lead when a work package is sufficiently developed to be sent to the Ofgem Design Authority
- Present proposals to the Ofgem Design Authority for its approval

- Take into account the views of the Ofgem Design Authority and further develop/refine the work package (taking into account any further input from the Design Team, User Group or EDAG) until it has been approved by the Ofgem Design Authority.

5.5. The Design Team is expected to have approximately 6 to 10 members. Members will provide a dedicated resource that will undertake tasks as requested by the RD WS lead. The RD WS lead will agree the roles and responsibilities with each member of the Design Team.

5.6. During the Blueprint phase, and up to the agreement of the Design Baseline 1 by the Ofgem Design Authority, the Design Team is expected to meet on a weekly basis and spend the remainder of the time developing its allocated work packages.

Constitution and role of the User Group

5.7. Membership of the User Group will be constituted of representatives from Ofgem, the industry, consumer representatives and other subject matter experts as appropriate.

5.8. The role of the User Group is to:
- Review the RD Work Plan
- Review the RD Terms of Reference
- Review work packages presented by the Design Team
- Provide guidance to help develop and finalise the work packages, consistent with the TOM v2, the Switching Programme Design Principles and the objective of the RD WS.
- Identify links and dependencies between individual work packages and with other parts of the Switching Programme
- Identify and propose mitigations for risks and issues

5.9. It is anticipated that the User Group will meet monthly. The frequency of meetings may change depending on the work requirements.

5.10. The RD WS lead will set out the schedule of meetings in advance with a description of the topics that will be covered in those sessions. Where possible, User Group members will attend all meetings to provide consistency. However, this may not be possible for all members. The RD WS lead will therefore attempt to group issues so that User Group members can focus their attendance on the sessions which are most relevant to their expertise.

5.11. A named alternate for each member shall be identified to ensure that meetings can take place where members are not able to attend. Alternates shall only attend when the member is not able to attend.

6. Rules of Participation

6.1. Participants in the Design Team and User Group must have the relevant skills and experience to participate in the development of the deliverables set out these Terms of Reference.

6.2. Any discussion in meetings and views expressed or implied in such discussion or associated documents are without prejudice to, and shall not limit the discretion of the programme team with regard to decisions made by the Design Authority and the Gas and Electricity Markets Authority (GEMA). Equally, views expressed by participants during meetings will not be treated as the formal position of the organisation they are representing and will in no way prejudice consultation responses.

6.3. It is the responsibility of members to ensure their compliance with competition law while participating within this workstream.

6.4. Where a participant (or its affiliate) identifies that it wishes to participate in any competitive tender exercises associated with the switching programme this must be declared as soon as practicable to the RD WS lead. Ofgem will then review whether the participant should continue to participate in the workstream, taking account the views of relevant parties and any mitigating strategies.

6.5. The RD WS lead will have the discretion to invite parties to attend any meeting to provide additional expertise and knowledge after consulting workstream members. These invited parties will be subject to Sections 6.4 and 6.5 of these terms of reference.

6.6. Membership of the group is at the discretion of the RD WS lead. The seniority, skills and experience of the member should reflect the importance and complexity of the issues being addressed.

6.7. RD WS Design Team and User group members shall cease to be a member if they:
- Fail to constructively contribute to the workstream work programme, or
- There are other circumstances that, in the view of the RD WS lead, would mean that the continued participation of the members would be to the detriment of the achievement of the objective of the workstream.

7. Transparency

7.1. The schedule of meeting dates, agendas, minutes and papers for the meetings will be published[1], in a timely manner, on Huddle, and if applicable, on the Ofgem website.[2]

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[1] Before deciding whether to publish any information relating to the affairs of a particular licence holder or business, Ofgem is required to consider whether it is appropriate to redact any information on the basis that the information would or might, in our opinion, seriously and prejudicially harm the interests of that person ("confidential information"). In order to enable Ofgem to conduct this assessment (in the event that the possibility of publishing information is considered), workstream members should indicate whether they consider any information to be confidential. Where appropriate, we may seek further representations from licence holders at a later stage in respect of any specific information Ofgem is proposing to publish for any other purposes.

[2] https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/smarter-markets-programme/switching-programme

8.   Administration

8.1. Ofgem will provide secretariat and legal support to the RD WS.

8.2. Meetings will be held at Ofgem's offices at Millbank, London unless otherwise notified.

9.   Amending these terms of reference

9.1. The terms of reference for the RD WS and membership of the Design Team and User Group may be reviewed at any time by the RD WS lead to ensure that they remain appropriate for the requirements of the Switching Programme.

9.2. Members of the RD Design Team, User Group and EDAG may request that the RD WS lead undertakes a review of these terms of reference and WS membership.

10.   Background

10.1.   The Switching Programme has established four workstreams of which the RD WS is one. The others are the Business Process Design Workstream, the Commercial Workstream and the Delivery Strategy Workstream. Terms of reference for these workstreams have been published on the Ofgem website.