



Reforming the Energy Industry Codes - response form

The consultation is available at: www.gov.uk/government/consultations/reforming-the-energy-industry-codes

The closing date for responses is: 16 September (23.45)

Please return your completed form to the following email addresses. As this is a joint review, please ensure you respond to **both** email addresses below.

Email to: codereform@beis.gov.uk & industrycodes@ofgem.gov.uk

If you would like to send a hard copy then please send copies to the following. As this is a joint review, please ensure you send copies to **both** postal addresses below.

Write to:

Code Reform - Electricity Systems Team
Department for Business, Energy and Industrial Strategy
Abbey 1, 3rd Floor,
1 Victoria Street
London
SW1H 0ET

Ofgem
Industry Code and Licensing Team
Office of Gas and Electricity Markets
10 South Colonnade
Canary Wharf
London, E14 4PU

BEIS and Ofgem will share with each other all responses that are received.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the

access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☐

Comments:

Questions

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Please select a box from the list of options below that best describes you as a respondent. This allows views to be presented by group type.

	Respondent type
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input checked="" type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Context of response

Sembcorp is an established industrial energy, utilities and services provider to major process businesses based in the Teesside area. On the Wilton International Industrial site (Wilton) Sembcorp owns and operates one of the largest and most efficient combined heat and power (CHP) plants in the United Kingdom. With 200MW of installed capacity, the plant supplies electricity and heat to on-site businesses via the private distribution systems that are owned and operated by Sembcorp. Furthermore, Sembcorp's arrangements with National Grid at Wilton are possibly unique in the UK, as the CHP plant within our own Private Wires Network is directly connected to the National Grid Transmission System.

Customers at Wilton International include chemical and process plants, operated by international conglomerates, who have invested heavily since coming to the UK and have

the desire to invest further. All are dependent on Sembcorp's reliable and secure supply of power and heat to successfully operate their assets; generating vital export revenues for the UK.

Sembcorp, through its wholly-owned subsidiary UK Power Reserve (UKPR), is also the leading provider of secure, flexible, low carbon electricity and services to the UK power market. With a contracted portfolio of over 1GW of decentralised thermal power generation and battery storage assets, Sembcorp helps keep the country's electricity system balanced and resilient. Our fast-ramping and efficient assets are located across England and Wales, improving competition, contributing to security of supply, and delivering better value to consumers. Our assets are, and will continue to be, crucial to the delivery of a flexible energy system in which a greater proportion of energy is delivered by intermittent, low carbon generators.

Question 1 [page 17 in consultation document]

Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments:

Sembcorp largely agrees with the outcomes listed.

However, we do not agree with the statements made with regard to "the commercial interests of different market participant(s)". The purpose of the codes is to keep things running smoothly, compliant to law and ultimately, in the best interests of end consumer & society, not the commercial interests of users. If too much emphasis is placed on this outcome, there is the risk that largest parties, who have the most resources, will end up controlling nature of the change, or attempting to. We would be concerned that this may stall progress and ultimately hurt consumers.

The outcome should instead reflect that there are commercial interests in the sector, but that consumer interest and sound economics are ultimately the key drivers.

Question 2 [page 17 in consultation document]

Do you agree with the problems we have identified (in chapter 1 – Background – and in later chapters), and that they present a persuasive case for reform of the current framework for energy codes?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments:

Sembcorp agree that there is merit in reviewing the energy codes arrangements to ensure they are fit for purpose to meet the challenges across the whole energy system and support decarbonisation ambitions. However, the magnitude of this challenge should not be underestimated. It is important that parties involved in the industry continue to have a stake in the governance processes, else they may face increased risk, which could lead to increased costs.

The codes are lengthy and complex, as the industry itself is complex, and clear rules are needed so that all parties understand what is required and expected of them. We recognise that new parties are entering the industry, with new business models and the codes should evolve to incorporate these. However, this is likely to add complexity and length to the codes rather than reduce them, although streamlining may also be possible.

Question 3 [page 18 in consultation document]

Do you have additional evidence on the performance of the current framework?

Question 4 [page 18 in consultation document]

Do you agree with our proposed scope of reform?

☒ **Yes** ☐ **No** ☐ **Don't know**

Please explain.

Comments:

Yes, Sembcorp agree with the scope, however we do not agree that gas & electricity should be linked. The two fuels have different histories, different physical limitations, but most importantly, different futures. Gas usage will likely have to reduce or fundamentally change to include new technologies (CCS, Biofuels, Methane etc.) in order to meet goals – as detailed in National Grid Future Energy Scenarios analysis – whilst the electricity sector is forecast to grow. We also anticipate an increased link with European counterparts, who have a very different gas situation to that in GB.

We would be concerned that if all energy sources are dealt with together, there will be great difficulty in fitting these variations within a single framework, particularly when upcoming technology (anaerobic digestion, hydrogen etc.) is considered. However, we note that if kept separate we are likely to have a similar picture to today where separate codes don't interlink properly.

If not, which additional codes or systems do you think should be included/excluded?

Question 5 [page 18 in consultation document]

Are there any codes or systems that we should only apply a limited set of reforms to?

☐ **Yes** ☐ **No** ☒ **Don't know**

Please explain.

Question 6 [page 21 in consultation document]

Do you agree that the four areas for reform are required? Please provide reasons for your position and evidence where possible.

Comments:

Sembcorp do not agree completely with Independent decision-making and Code simplification and consolidation.

Decisions are already made by Ofgem: open governance gives advice and recommendations only. Ofgem are meant to be present for discussions – primarily workgroups and panels – to maintain a level of awareness on the detail of modifications. They should then judge whether the change is in the best interest of the industry and consumer. However, we note that Ofgem's engagement at present is limited, with little in the way of meeting attendance or direction provided. Were Ofgem to engage fully across the codes and modification process then we anticipate that a number of issues – particularly those related to strategic direction – could be reasonably quickly and simply resolved.

We also disagree with the phrase “industry control”. Using BSUOS as an example, industry has proposed (and agreed) on several different options for BSUoS, which Ofgem has disagreed with but then not acted on. In that example, it would seem like the independent decision-making body is not making the decisions.

Sembcorp broadly supports the idea of code simplification and consolidation. However, the codes are legally binding contracts – to re-write all of them will be a tremendous amount of work. Any inconsistencies could have significant real-world consequences and may not be obvious until a few years down the line. BEIS and Ofgem may therefore need to consider designating a responsible party for any inconsistencies that appear as a result of the changes.

Question 7 [page 21 in consultation document]

Do you agree with the two broad models outlined? Please provide reasons for your position and evidence where possible.

and

Question 8 [page 21 in consultation document]

Which model do you believe will best deliver on our desired outcomes? Please explain.

Comments:

Though we see some issue with each of the models, Sembcorp are in support of model 1 – assuming that a Strategic Body and specialised Code Admin would be utilised.

Model 2 has the potential for lack of transparency if the link between the Strategic element and the Code Manager element is not clear. For instance, if policy is very high-level, the

interpretation and implementation of that policy could have little industry scrutiny before it becomes legally binding. Industry has the advantage of spotting undesirable side-effects on smaller areas, or any incentives to “game” the rules. As one body, a strategic body and Code Manager will probably not have that breadth of industry knowledge.

It would seem that the Strategic body and the Code Managers should be accountable to different bodies. The Strategic body should be mostly accountable to BEIS, as it is government policy being interpreted and pushed forward – Government are their main “stakeholder”, although there will be consultation to industry, for horizon scanning purposes and practicality. The Code Manager should be accountable to Ofgem – as the ultimate decision maker and protector of the end consumer. A Code manager will have a significantly closer relationship to Code users than the Strategic body and separating the roles will allow those differences to be fully exploited and keep industry decision-making and governance processes transparent and open to scrutiny.

Depending on the nature of the Code Manager, Model 2 also presents a potential conflict of interest. If the Code Manager also had an active role in the industry, there is the opportunity for them to interpret policy in such a way that benefits their role, prioritise or otherwise push the modification and implement it. If the Strategic body and Code Manager are separate, the first part of that risk is mitigated. There is still the potential for conflict of interest within a Code Manager if they are not independent.

Question 9 [page 21 in consultation document]

Do you agree with the changes to the role of code signatories we are proposing?

Question 10 [page 29 in consultation document]

Do you agree there is a missing strategic function for codes development in the energy sector and that introducing a strategic function with the responsibilities outlined in chapter 3 is the best way to address the lack of strategic direction?

☐ Yes

☐ No

☐ Don't know

Please explain.

Comments:

There has been lack of direction & engagement from Ofgem, including some modifications that were ultimately rejected that could have been dealt with far more efficiently had Ofgem been adequately involved in the process. Furthermore, at present Ofgem rarely engage with code modification meetings – though this could be remedied fairly simply.

We note, however, that they have the “bigger picture” more readily available and maintain closer ties with government to understand policy decisions. If the assumption is that Ofgem will continue to have ultimate end control over decision making, as currently, it would make sense for Ofgem to fulfil the role of the Strategic Body.

Who is best placed to fulfil the strategic function and why?

Comments:

For the reasons briefly outlined above, and in prior questions, we believe Ofgem would be best placed. In terms of alternative options, Sembcorp do not believe National Grid would be suitable for the Strategic role for a number of reasons:

- Their performance as a code administrator has largely been poor (as shown in their ESO performance report and CACOP reviews).
- They already have a number of duties in the industry and do not have the resources to extend out further – this would need to be reviewed as part of the price control, the increased complexity of which makes it's harder to hold NG to account.
- The potential for a conflict of interest, given their other industry roles and the nature of their investment. Policy can be very high level, and there is the potential to interpret policy direction in such a way that NG would require more funding or have a more important role. The role may provide NG with an overly significant proportion of control over the industry.
- It makes no sense to expand the ESO to include gas. \There isn't the expertise and would create odd linkages between the ESO and NGG, weakening the ESO's separation.

Question 11 [page 29 in consultation document]

Do you agree with the objectives and responsibilities envisaged for the strategic function, and are there any additional objectives or responsibilities the strategic function should have?

Comments:

Yes, Sembcorp agree to an extent. The objectives and responsibilities will need to be able to shift with line with policy direction. There should be overarching principles, such as consumer protection & sustainability, but where policy sets particular goals (e.g. uptake of EVs or SMRs), the strategic body must be able to instruct changes in the code quickly, without having to alter their own objectives first.

However, we note that significant care will be needed in this regard. Although this strategic function will be vital in linking with policy, government must recognise that the scope will likely influence investor confidence and market movement. Fairness, impartiality and neutrality will therefore need to be maintained at all times.

Question 12 [page 29 in consultation document]

How may this new function potentially impact the roles and responsibilities of other parts of the framework? Do you foresee any unintended consequences?

Question 13 [page 29 in consultation document]

What are your views on how the strategic direction should be developed and implemented (including the option of establishing a strategy board to aid engagement)?

Comments:

The development and implementation phases should factor in the views of industry. We do not necessarily expect a full consultation on all elements, but an industry advisory board to ensure goals are practical would be of use – though they must have clear role and be listened to.

Question 14 [page 29 in consultation document]

Do you think that the scope of the strategic function should be limited to taking account of the Government's vision for the energy sector and translating it into a plan for the industry codes framework, or are there other areas it should address (for example, impact on vulnerable consumers)?

☐ Yes ☐ No ☐ Don't know

Please explain.

Comments:

Question 15 [page 36 in consultation document]

Do you agree that in addition to the current responsibilities that code administrators have, that the code manager function should also have the following responsibilities?

- a. identifying, proposing and developing changes (analysis, legal drafting etc.), including understanding the impacts;

☒ Yes ☐ No ☐ Don't know

- b. making decisions on some changes, or making recommendations to the strategic body; and

☐ Yes ☐ No ☒ Don't know

- c. prioritising which changes are progressed.

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments:

To expand on the points above.

Point a), This seems reasonable but will require stakeholder input to ensure impacts are accurate.

Point b) recommendations would be better than decisions, otherwise the code manager could raise a modification and approve it – essentially marking their own homework and leaving the process open to abuse.

Point c) the code manager prioritising is acceptable, as long as there are clear criteria and a route for industry parties to raise grievances if they feel a modification has been de-prioritised unfairly

Question 16 [page 36 in consultation document]

What is the best way to ensure coherent end-to-end changes to the codes and related systems? For example, is it through having end-to-end code and system managers?

and

Question 17 [page 36 in consultation document]

Should the approach differ on a case-by case basis (i.e. depending on the code or system in question)?

☐ Yes

☐ No

☐ Don't know

and

Question 18 [page 36 in consultation document]

Do you agree that the code manager function should be accountable to the strategic body and that this should be via a licence or contract?

☐ Yes

☐ No

☐ Don't know

Please explain.

Comments:

Ultimately, yes, the code manager should be accountable to the strategic body but in practice, there needs to be some transparency to industry, with consultations taken seriously. We believe that a licence may be more robust, however it would be difficult to adapt quickly if necessary. Regardless of methodology, either a licence or a contract should be open, to allow industry to question the Code Manager in the event of a disagreement or dispute.

Please note questions 19- 26 only apply in respect of Model 1 (code managers and a strategic body).

Question 19 [page 36 in consultation document]

Are there more effective ways that the code manager function's accountability to the strategic body could be enshrined other than in a licence or contract?

Question 20 [page 36 in consultation document]

Do you agree that we should not consider further a model whereby the code manager function is accountable to industry?

☐ Yes ☐ No ☐ Don't know

Question 21 [page 37 in consultation document]

Do you have views on whether the code manager function should be appointed following a competitive tender process or other competition?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments:

A tender is likely the most suitable process. However, the owner of the tender process must be transparent on the criteria that would be used and should ideally consult with market participants on how to best administer the tender. Sembcorp would be concerned that applicants may oversell themselves and then underperform, to the detriment of the energy vision.

We would also highlight that price should not be the defining factor. The results of Ofgem's surveys on code administrator performance and satisfaction give an indication of those organisations that are (and have been) performing best. This data must be taken into account in the event of a tender in order to ensure that the most appropriate body is selected.

Question 22 [page 37 in consultation document]

Do you think the code manager function should be established by the strategic body creating a body or bodies?

☐ Yes ☐ No ☒ Don't know

Please explain.

Comments:

A new body would be clearer and would avoid a conflict of interest, although would be harder to set up initially, including arrangements for appropriately skilled personnel to be involved. Ofgem or the strategic body could carry this out. Again, given Ofgem will probably have the ultimate decision-making ability, it would seem sensible for them to do it.

Funding needs to be transparent and collected from appropriate parties. For instance, funding for a code manager that handles only gas should not be collected from electricity users, but if a code manager handles both gas and electricity a decision will need to be made on how the costs are separated. This must be introduced and made clear from the outset.

If the code managers were established in this way, would we need to consider any alternative approaches to funding or accountability?

☐ Yes ☐ No ☐ Don't know

Question 23 [page 37 in consultation document]

In terms of establishing/choosing the code manager function, do you agree that we should not consider further:

a. requiring an existing licensee to become the code manager; and/or

☐ Yes ☐ No ☒ Don't know

b. requiring a licensee (or group of licensees) to create the code manager?

☐ Yes ☐ No ☒ Don't know

Please explain.

Question 24 [page 37 in consultation document]

What would be the most effective way to ensure the code manager function offers value for money (for example, through price controls or budget scrutiny)? More broadly, what is the right incentive framework to place on the code manager function?

Please explain.

Question 25 [page 37 in consultation document]

Are there any factors that:

a. would stop parties (including code administrators) from becoming a code manager?

☐ Yes ☐ No ☐ Don't know

b. should prevent parties from becoming a code manager (e.g. do you agree that licensees should not be able to exercise control of the code managers)?

☐ Yes ☐ No ☐ Don't know

Question 26 [page 37 in consultation document]

How should the code manager function be funded (for example through licence fees or by parties to the code(s))?

Question 27 [page 44 in consultation document]

Are there any quick wins that could be realised in terms of code consolidation and simplification?

Question 28 [page 44 in consultation document]

How many codes would best deliver on the outcomes we are seeking under these reforms?

Comments:

A single Unified code will appear simpler, as it's one document, but for most parties, there will be large sections that will be non-applicable. As multiple new entrants come into the industry with specialisations and new business models (e.g. a DSR aggregator), it's unlikely that they will want one large document that includes gas shipping and charging.

Dual fuel codes seem old-fashioned, as the challenges faced by the fuels in the future are inherently different. There is also future-proofing to be considered: if hydrogen or local heat networks become significant, the review must consider whether they will have their own separate codes (which will leave us with old versus new), or should they instead be combined into a dual fuel code.

Question 29 [page 44 in consultation document]

Which option (one code manager versus multiple) would best deliver on the outcomes we are seeking under these reforms?

Comments:

The Code Manager needs to have appropriate expertise as a priority. If one code manager can be found that has all the right knowledge, then Sembcorp would be in support of progressing with this option.

If there are multiple Code Managers for different areas of the industry, there is a risk that policy could be interpreted differently for the separate areas, so the lack of whole system thinking the current system displayed currently could continue

Question 30 [page 44 in consultation document]

Which of our consolidation options would best deliver the outcomes we are seeking to achieve? Please provide evidence for your examples.

Comments:

Option C: partially consolidated by industry activity type, partially consolidated by fuel. It makes sense to link retail elements, as the customer experience is often dual fuel. Organised by industry activity type means users will quickly be able to identify which codes are relevant to them (for example, electricity generation), even if not all that code is.

Question 31 [page 44 in consultation document]

Do you agree that the codes should be digitalised?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments:

Yes, but version control will need to be carefully managed. A PDF has a release date, which is consistent for the whole document. Digitised codes can be updated by single section, which is faster, but means working out what the actual applicable code was at a set point in time (for an investigation for example) will be more challenging.

A portal that creates a user's "personalised" code sounds like a reasonable solution but has risks. There would also need to be way to see what the entirety of the code and how it applies to other industry participants – for business development purposes, or simply to gain full understanding of the industry. In terms of modifications, only partial visibility of the code will limit stakeholder input into the change process, potentially creating frustration and lack of transparency.

Question 32 [page 47 in consultation document]

What role should industry have in monitoring code compliance or making decisions on measures needed to address any identified non-compliance?

Question 33 [page 47 in consultation document]

Which of the two models we propose would better facilitate effective monitoring and compliance arrangements?

Please note this question only applies in respect of Model 2 (integrated rule-making body).

Question 34 [page 47 in consultation document]

With Model 2 - integrated rule-making body - should the IRMB have responsibility for imposing measures (where a party is non-compliant with the code) or should this be for another organisation?

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BEIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes

☒ No