



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: [Click here to enter text.](#)

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)

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: We agree with the desired outcomes that have been published, however as with any change the costs, risks and benefits must be well understood and provide for a likely overall positive outcome.

If you disagree, please explain what you consider the outcomes should be.

Comments: [Click here to enter text.](#)

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:

We are supportive of a review of the energy codes. We are not convinced however that the problems identified are necessarily linked to the desired outcomes.

- On 'Fragmentation and lack of co-ordination', we agree that there is significant variation between the codes in how they are administered and there would be benefits in standardising an approach to managing all codes in the same manner and facilitating better cross code coordination.
- On 'Lack of incentive for change', we agree that most change is industry led and usually reactive to a developing scenario so increased strategic proactive change may allow the industry to adapt more quickly to a desired outcome, however the change cycle itself needs to take into account the time required to undertake adequate refinement by industry experts and adequate time to implement by parties. If we get this wrong, additional or unnecessary costs will be passed onto the bill payer.
- On 'Complexity', we agree that codes are complicated, what this review should seek to understand is how much of the complexity is required for these documents to effectively function as codes and what can be simplified. We are very supportive of standardisation across the codes, increased 'critical friend' support from code administrators and increased guidance documentation. We are concerned that large scale change to the number of codes and administrators may not resolve the stated issue and have the undesirable impact of reducing the knowledge and experience currently retained by code administrators / managers.

Question 3 [page 18 in consultation document]

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

Comments: No.

Question 4 [page 18 in consultation document]

Do you agree with our proposed scope of reform?

☒ Yes

☐ No

☐ Don't know

Please explain.

Comments: We are supportive of the proposed scope. For a complete review, which we believe is required and would support, ancillary, subsidiary and code guidance should be in scope. Additionally, identifying and addressing 'grey areas' and inconsistencies within and between the existing codes would be positive.

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

Comments: [Click here to enter text.](#)

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.

Comments: Not at this stage. As the programme develops perhaps this could be revisited.

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:

We are in part agreement:

Providing strategic direction - We agree that at a high level a strategic direction could be positive and allow the industry time to proactively consider change, rather than in a reactive manner with events outside of the industry creating the prompt, however the time and resource needed to achieve this would need to be taken into account. It is difficult to imagine how a strategic direction could be translated into actual code change given how high level a strategic direction is (by definition) and how detailed code changes often are, further insight here would be valuable to form a view. Increased attendance and input by Ofgem or BEIS at relevant workgroups may be one suggestion to promote a strategic view in the interim.

Where a new body could potentially provide a valuable service is to:

1. Understand and disseminate a strategic view of future change that may impact upon industry codes.

2. Provide a regular forum where these strategic views could be discussed by industry parties and existing code administrators / managers.
3. Host and facilitate cross code working groups as part of a pre-change process for specific strategic change. This could potentially replace existing code pre-change processes as part of a standardisation of codes.
4. Support party sponsors in drafting (cross) code strategic change.

Empowered and accountable code management – We do not generally support this approach, however we would be in favour of code administrators making proactive suggestions to the boards and panels of the codes where a beneficial change is identified..

Independent decision-making - We do not support the concept that change should be approved or recommended for approval by non-code parties, that do not fund the change; as such - code managers should have no powers to approve change. This would create a risk of increased implementation costs for parties that would be passed onto the majority of end customers and also creates a risk / disincentive for any party that is seeking to enter the market, which may reduce opportunity for innovation. Ultimately GEMA is the independently appointed and accountable decision making body, we do not see the benefit in devolving this power to a 3rd party.

It is not clear how controls could be put in place to ensure the right decisions would be made by code managers given the variety of funding models for the existing codes. Licencing is one option, however this would be complex, time consuming and costly – this approach would need to stack up against the perceived benefits.

Code simplification and consolidation – We see this as areas of reform contributing the most to the desired outcomes. We would be supportive of reviewing and where possible standardising:

- Legal structures of the codes;
- Terminology (cross industry);
- Governance Processes (including the change process);
- Funding arrangements;
- Code objectives (where applicable);
- Approach to reduced complexity, guidance and ‘critical friend’ support for parties and non-parties.

This would allow both new and experienced parties to more easily navigate, engage with, understand and comply with the industry codes. This does not necessarily require fewer codes or fewer code managers, indeed we see the experience and knowledge of the existing code managers as being an asset to the industry that should be promoted. We would suggest an iterative approach to implementing this simplification so that quick wins could be established early on but without creating

an excessive and costly burden on industry parties and administrators.

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.

Comments:

We understand the models proposed, however we would suggest the role of the 'Strategic Body' is limited to:

- Coordinating iterative cross code standardisation and simplification (as described above);
- Identifying and coordinating change across different codes where parallel change is required;
- Providing a cross code pre-change forum to discuss how strategic changes could be implemented across the codes;
- Drafting strategic code change that has been through a pre-change process that a sponsor party could take forward.

Question 8 [page 21 in consultation document]

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

Comments: Model 1 is the better model. Model 2 may see a conflict of interest between administrative and strategic functions. Also there is no cross code function, which is the main benefit of this new body in our view.

Question 9 [page 21 in consultation document]

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

Comments: As above, we do not support that code signatories will lose the ability to approve self-governance modifications and make recommendations to GEMA on non-self-governance modifications. Further to the reasons given in question 6 it is unlikely that parties will continue to provide expertise at change forums if this suggestion is implemented.

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: We agree a strategic function would support both development of the industry and enable longer term planning, however the suggestions we make in response to question 6 would be our preference in achieving this aim.

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

Comments: The function would need to be clear before a final view on this could be provided, however an independent body would be our initial preference.

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: No – see our response to question 6/7.

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?

Comments: Yes, there is a risk of industry knowledge and experience decreasing in availability for the various change forums that exist and the cost of implementing change could increase. Additionally, the codes are contracts between parties that have a commercial impact on those parties – it is hard to conceive that licencing requires these codes to be signed by parties that would have no ability to influence its content. There are also contracts with non-industry 3rd parties, that have a direct impact on the code legal text, which must also be considered. For example, the MRA and SPAA maintain an agreement with Experian for certain services – how could this be negotiated efficiently if the parties that are responsible for paying for the service did not have a decision making role?

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: See response to question 6.

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: If the model we suggest in response to question 6 and 7 is adopted, a wider remit could be considered, but generally our preference is to keep licencing and code regulation separate to avoid dual requirements being implemented.

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: We support that code administrators should support and facilitate change, however decision making should remain with the code panels.

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?

Comments: The new function should provide for a cross code pre change forum to ensure changes are well developed before they are raised.

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

Please explain.

Comments: No, we are in favour of consistency across the codes.

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: See response to question 6/7.

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?

Comments: no comment.

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

Please explain.

Comments: This would depend on the function, however the proposed model will take far too much decision making ability away from the code parties themselves.

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: When the role is clear, we should be able to provide a view on this point.

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: [Click here to enter text.](#)

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

Please explain.

Comments: [Click here to enter text.](#)

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.

Comments: [Click here to enter text.](#)

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.

Comments: Simplicity is key, introducing a new body with wide remit would be difficult to performance manage.

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

Please explain.

Comments: [Click here to enter text.](#)

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)?

Please explain.

Comments: Options should be considered once the new role and function is clear but given the end consumer will pay for this service, it should be whatever the most efficient option is, allocated across parties by meter point volume.

Question 27 [page 44 in consultation document]

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

Comments: As per responses to question 6 and 7, standardisation of codes could be iterative and started quickly.

Question 28 [page 44 in consultation document]

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

Comments: We would suggest that change to the baseline structure should be assessed against risks, costs and perceived benefits. Our initial view is that code mergers are complex and should be avoided unless there is a clear benefit, option C is closest to this.

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: No change given the risk of losing experience and expertise.

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.

Question 31 [page 44 in consultation document]

Do you agree that the codes should be digitalised?

☒ Yes

☐ No

☐ Don't know

Please explain.

Comments: This should be iterative to avoid disruption.

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?

Comments: no comment

Question 33 [page 47 in consultation document]

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

Please explain.

Comments: no comment

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?

Please explain.

Comments: Compliance activities should be managed by Code Panels and then escalated to Ofgem where required.

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

We would suggest that implementation timescales should be carefully considered given the significant volume of industry code impacting change that is scheduled for the next five years e.g. Switching, Retail Energy Code, Market Wide Half Hourly Settlements.

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