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Dear Ofgem,

Consultation on Reforming the Energy Industry Codes

Thank you for the opportunity to comment on the consultation relating to Reforming the Energy Industry Codes Significant Code Review (SCR).

Electricity North West continues to support the objectives of this SCR and welcomes the ongoing dialogue with BEIS and Ofgem to consider options for improving the existing arrangements, including scope for fundamental reform.

In reviewing the options proposed under this consultation we must consider the impact to our customers and ensure that we are able to develop, maintain and operate a safe, efficient, co-ordinated and economical Distribution System to keep peoples' lives running.

Under the Reforming of the Energy Industry Codes reform our vision would be for:

- Government to lead review of the performance of the current framework on which areas are doing well and which areas could be improved upon to learn lessons for the future framework reform;
- four consolidated codes covering retail energy, electricity networks, gas networks and wholesale energy. With a separate central independent body to oversee Performance Assurance across all the codes appointed by competitive tender;
- Appointment of four Code Managers via competitive tender who are licenced under price control and accountable to Ofgem;
- A separate Strategic Board chaired by BEIS who would set the policy. Ofgem would have a seat on the Board for clarifying the rules. Ofgem would also have an independent role in discharging any appeals brought to them against code modification decisions; and
- Government to provide options on how industry could recover the costs of delivering the reforms outlined under this SCR.

We believe a quick win for this SCR in terms of code consolidation and simplification is for the non retail provisions in the Master Registration Agreement (MRA) and MPAS obligations, in the DNO licence to be transferred to the Distribution Connection and Use of System Agreement (DCUSA); with a view to the DCUSA being consolidated into a Electricity Network Code at a later stage in the SCR process. This transfer could go early under a Reforming the Energy Industry Codes SCR to enable the winding down of the MRA and to align with the proposed choreography of the Switching Programme and Retail Codes Consolidation SCRs in 2021.

The following table gives our detailed responses to your specific questions:

1. Background and scope of the review
<p>1. Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s? Yes/No/Don't know. Please explain. If you disagree, please explain what you consider the outcomes should be.</p>
<p>Yes. We agree with the four desired outcomes for reform.</p> <p>However, any new codes borne out of consolidation would benefit from objectives which reflect this forward looking agenda and which can accommodate an inter-dependent energy system. There is a real opportunity under the current development of the Retail Energy Code (REC) as part of the separate Switching Programme and Retail Codes Consolidation SCRs to revise the REC objectives to include reference to decarbonisation and cross code working with new Networks or Wholesale Codes - which is one option being looked at as part of the reform for this SCR.</p> <p>Furthermore, we request more clarity on the likely end date for implementation before we are confident these outcomes will be completed by the mid-2020s. Experience from other live SCRs would indicate contingency is required in any planning to allow for slippage and interactions between SCRs might add complexity and risk</p>
<p>2. 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.</p>
<p>We have specific comments on each of the 'Challenges' identified by Government under section 1.4 as follows:</p> <p>1) <u>Fragmentation and lack of co-ordination</u> We agree the current framework can be apparently slow to implement change. However, in many cases it is entirely justifiable for a long lead in time from proposal to implementation - given the need to ensure stakeholders are adequately informed through open governance arrangements. For example, certain modifications may have an impact on industry business systems such as IT and can be underestimated at proposal stage with a 6 month lead time being insufficient from being approved until implementation. This can sometimes lead to tension between open and inclusive governance and rapid decision making.</p> <p>2) <u>Lack of incentive for change</u> We disagree that there is a lack of incentive to change by industry. There have been 85 changes proposed under the MRA alone over the last 12 months of which 72 were proposed by industry to better facilitate the MRA objectives. Each proposal is reviewed and/or proposed by DNOs in the context of our wider regulated licence and against an agreed framework and standard technical parameters so we can continue to provide a safe, secure and resilient network to our customers.</p> <p>3) <u>Complexity</u> As proposed under section 5.3 we agree with simplification in terms of translating code requirements into plain English to a certain extent. This could be met through a parallel non binding executive/summary guide as legal text needs to be precise to provide the clarity required for any future regulatory determinations. The performance of the individual code administrators within the current framework is to some extent reported upon via the Code Administrators Performance Survey Findings - we believe lessons can be learnt from what areas are being done well and what areas can be improved upon under a Government lead review which feed into a future framework reform. Our experience is code management efficiencies vary between code administrators and delivery bodies. We agree a more centralised and consistent approach will aid understanding. Please refer to our more detailed response under Q3 and Q21.</p>
<p>3. Do you have additional evidence on the performance of the current framework?</p>
<p>Yes. We recommend Government under a review of the current framework to learn lessons from what performance areas are being done well and what areas can be improved upon.</p> <p>To aid with this review we suggest the following areas by code of innovation and best practice should be transferred over to the future framework reform:</p>

Distribution Code (D code):

- *Being kept informed.* The code administrator is one of the top performers under the Code Administrator Survey Findings 2018 in keeping parties informed. This enables parties to keep up to date with the latest news and changes,

DCUSA:

- *Annual budget consultations.* This improves visibility of budget planning and enables industry to comment on code planning and forecast budgets more accurately.

Smart Energy Code (SEC):

- *Plain English guides to each of the main sections.* This helps overcome barriers to new entrants and others less familiar with the day to day code jargon.
- *Quarterly charging statement and three year budget updates.* This improves visibility of budget planning and enables industry to forecast more accurately.

MRA:

- *Targeted email communications to parties.* Requests for information and other emails are targeted to categories of parties. This enables parties to react and prioritise tasks and reduces amount of unnecessary emails.

Balancing and Settlement Code (BSC):

- *New targeted Performance Assurance Framework based on material risks.* This avoids unnecessary costs to the Code Managers in monitoring and for industry and customers to respond to low risk or immaterial risks.

To aid with this review we suggest lessons can be learnt from the following areas by code and improved upon under a future framework reform:

SEC:

- *Inaccurate reporting of party views:* There have been errors in the accurate reporting of voting outcomes on SEC modifications (for example: SECMP004, SECMP008, SECMP011, and SECMP0062 during 2 separate rounds of consultation) which if not caught by parties could have had a negative impact on final decision making by the various SEC Panels. Smaller industry parties may not have the resource to check accuracy of modification reports.
- *Lack of visibility of cost effectiveness of code modifications:* The average proposed DCC costs for modification proposals where applicable are averaging £1million. Yet there is no visibility in their charging statements to users when this is applied for successful modifications or formal monitoring by the SEC Panel on cost effectiveness for their proposed costs.
- *Untargeted email communications to parties-* Parties currently receive blanket emails from both the code administrator and delivery body which have no relevance to their role under the code. This could result in smaller parties missing important communications on, material changes to key processes which impact them and their customers.
- *Lack of visibility of acting upon stakeholder engagement –* Whilst parties are consulted upon various areas by the delivery bodies such as the annual business plan there is no visibility of how they have acted upon this feedback.

MRA:

- *Lack of visibility of the budgeting process.* There is no code requirement for the three year business plan and budget to be formally consulted upon prior to the MRA Forum voting process.

Consequently, we also propose the following additions to the proposed responsibilities of the Code Manager function under section 4.2:

- *Identifying, proposing and developing changes (analysis, legal drafting etc.), including understanding the impacts (undertaking cost benefit assessment for the code managers change implementation costs which is subject to review by the Strategic Board)*
- *Making decisions on some changes, or making recommendations to the strategic body based on accurate representation of collation and reporting of industry or independent parties views or voting. Any errors or complaints must be reported to the new separate Strategic Board).*
- *Prioritising which changes are progressed*

In parallel we are also proposing the Strategic Function has a formal role in annually reviewing the Code Managers performance. Please refer to our more detailed response to Q21.

4. Do you agree with our proposed scope reform? Yes/No/Don't know. Please explain. If not, which additional codes or systems do you think should be included/excluded?

Yes. We agree that all codes and delivery body systems should be subject to the same review and that this should include the term (which is currently set at 2025) and continuation of the DCCs licence.

However, we have the following concerns regarding overlaps between the scope of multiple SCRs:

- 1) Transfer of non retail provisions set out in the MRA and other codes into the Retail Energy Code - Ofgem is proposing to wind down the MRA prior to 1 April 2021 in preparation for the go live of the Central Switching Service post 1 April 2021. Decisions are being made now under the Switching Programme and Retail Codes Consolidation SCRs regarding where to transfer non retail provisions contained within the MRA or other codes and the DNOs licence. The following provisions should be within scope of this reform and transferred into the DCUSA in anticipation of a new Networks Code:
 - Metering Point Administration Service (MPAS) governance currently contained within the MRA and DNO licence. We use the non-retail data from MPAS such as the energisation status to enable us to fix faults and ensure our employees, other industry employees, customers and the general public are safe
 - Schedule 23 of DCUSA - Theft of Electricity Code of Practice should remain in the DCUSA as it includes our obligations as a DNO to investigate Theft in Conveyance from a network safety and security perspective.

This transfer could go early under a Reforming the Energy Industry Codes SCR to enable the winding down of the MRA and to align with the proposed choreography of the Switching Programme and Retail Codes Consolidations SCRs.

Whilst this consultation is silent on implementation of this reform we recommend this could be completed in stages with the first stage being the transfer of non retail code provisions contained in the MRA and the DNO licence being transferred to DCUSA. This would enable quick wins as early as 2021 over a potential 5-6 year SCR.

- 2) Inclusion of Data Transfer Network (DTN) within the proposed scope reform - The Switching Programme and Retail Codes Consolidation SCRs August 2018 consultation is proposing that all remaining provisions in the MRA being placed in either the REC or another code. Whilst we recognise that the Data Transfer Catalogue is a schedule of the MRA these parallel SCRs are silent on the Data Transfer Service (DTS) which transmits the DTC data items and for which we are obliged by our licence to provide. We currently discharge this obligation via procuring with other DNOs the Electralinks' Data Transfer Network (DTN). We recommend the Retail Codes Consolidation SCR Autumn consultation clarify what elements of the DTS is within scope of that SCR and refer to any overlap with a Reforming the Energy Industry Codes SCR. Before we could agree to the IT systems connected with the DTN being included in the scope we would first need a complete cost benefit analysis.

5. Are there any codes or systems that we should only apply a limited set of reforms to? Yes/No/Don't know. Please explain.

Yes. The consolidation of the network codes need not be treated the same as the consolidation of other retail and wholesale codes.

As set out in the latest Energy and emissions projections, the Government is predicting by 2030 gas demand will have reduced for the UK based on both high and low growth scenarios. In addition, there is little scope for further consolidation of the existing gas codes into a dual fuel network code.

As such, we recommend the consolidation of the existing network codes should be split by gas and electricity. So rather than a 3 code model it could be a 4 code model with consolidation as follows:

- 1) Retail Energy Code – SEC, REC, retail provisions of MRA, SPAA and registration provisions of UNC/DSC
- 2) Gas Networks Code – non retail provisions of UNC/DSC and iGT UNC
- 3) Electricity Networks Code – non retail provisions of MRA, DCUSA, CUSC, Distribution Code, Grid Code, STC and MOCOPA. With separate schedules on technical and commercial areas.
- 4) Wholesale Energy Code – BSC and UNC

2. Vision & options

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

We agree that the creation of a new separate strategic body, as proposed under Model 1 to steer the strategic direction for the development of codes, should help respond to challenges, such as decarbonisation, in a way that works for customers and the industry.

<p>We do not agree with the creation of a new strategic function which would be bundled in with the code management organisation as an Integrated Rule Making Body (IRM) as set out under Model 2. Please refer to our response to Q8 for more detail on our reasons for preferring Model 1.</p> <p>We welcome the Government's intent as outlined under section 2.3 for engagement with industry participants to remain vital to any new Governance model. We also welcome Governments intent that the new strategic body would need to work closely with industry and for example consult on their strategic direction and decisions. The Strategic Body's decisions may be material regarding networks outcomes they delivers so Ofgem's price control arrangements for ED2 need to be mindful of this bodies decisions in case funding licence changes are required.</p> <p>Please refer to our response to Q10 for our recommendations on amendments to the responsibilities of the Strategic Function regarding industry engagement.</p>
<p>7. Do you agree with the two broad models outlined? Please provide reasons for your position and evidence where possible. – further detail can be found on each model in the chapters that follow.</p>
<p>The two broad models outlined seem a reasonable starting point and we don't have any other specific models to suggest, but do believe variants of these models might be worth consideration. We think a cost benefit analysis which analyses the costs of the current framework against the proposed models would help inform a decision of which model is preferable,</p> <p>Section 4 of the impact assessment acknowledges <i>"costs of the current code administration system is uncertain. Some code administrators also carry out delivery functions as well as other business aspects, making it difficult to isolate the costs of code administration."</i></p> <p>The lack of visibility on the true costs is an issue we recommend is included with the responsibilities of the new independent Strategic Function and which gives even more weight to the argument for introducing Model 1 over Model 2.</p> <p>Please refer to our response to Q8 regarding which model we prefer.</p>
<p>8. Which model do you believe will best deliver on our desired outcomes? Please explain. NB: – further detail can be found on each model in the chapters that follow.</p>
<p>We believe Model 1 - a Code Manager function and separate strategic body will best deliver your desired outcomes as it provides separation between the Strategic Function and the Code Manager role and facilitates open and auditable accountability between the parties.</p> <p>We also request that any further modelling provides more clarity and a cost benefit impact assessment for inclusion of 'Related IT systems' (as referenced in Figure 1) within the scope.</p>
<p>9. Do you agree with the changes to the role of code signatories we are proposing?</p>
<p>No. We do not agree with the proposed roles and responsibilities of different parties following the reform under Table 4 in the following areas:</p> <ul style="list-style-type: none"> • <u>Accountability</u>: Code signatories having no ability to challenge the Code Managers. We recommend Code Managers should have accountability to both Code signatories (for the technical and implementation decisions) and the Strategic Body (for their strategy and performance). • <u>Prioritising modifications</u>: The Code Manager should not be solely responsible for Prioritising modifications. We recommend the Strategic Body and/or the Code Panel should have responsibility to prioritise modifications working with the Code Managers. • <u>Approval of modifications</u>: Code Managers being able to both propose and solely approve the majority of modifications. We recommend Code signatories and Code Managers should have a joint role in approving modifications which are non housekeeping changes. This approach would lower successful implementation of the changes and increase risk of non compliance as the industry are the technical experts and accountable for the implementation for industrial processes and procedures set out in the codes. It could also increase the number of appeals on change modifications decisions. Code Managers could have sole responsibility for approving housekeeping changes. • <u>Role of the Economic Regulator</u>: The Economic Regulator having no responsibilities regarding modifications in any category. For both Tables 3 and 4 there is a missing horizontal responsibility category of "Appeal mods". We recommend Code signatories should still have an ability to appeal

modifications and the Economic Regulator should still have a role for making the final decision on modifications which are appealable unless the Economic Regulator is appointed as the new Strategic Body and that role would fall to the Strategic Body.

Regarding Table 3 we disagree that currently code administrators only have a role of organising the modification process. Currently code administrators organise, propose, develop and do have some influence in prioritising modifications such as under the SEC and MRA

3. Providing strategic direction

10. Do you agree there is a missing strategic function for codes development in the energy sector and 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. Who is best placed to fulfil the strategic function and why?

Yes. We agree there is a missing strategic function. A Government body in conjunction with the regulator is best placed to fulfil the strategic function, this would facilitate flexible regulation and flexible adaptation of code modification. It is not appropriate for the Electricity System Operator to fulfil this function as there is a potential for conflict of interest and an independent body is required to fulfil this role.

We also recommend that this Strategic Function undertake an annual review of performance to build on the Code Administrators Performance Survey and performance review we recommend Government undertake in a response to Q2 and 3. This will encourage a clear and consistent framework from Code Managers across all codes whether retail, network or wholesale.

11. 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?

We propose the following amendments to the proposed list of responsibilities for the strategic function as set out under section 3.3:

- *taking account of the Government's policy direction and wider market developments and translating this into a programme of necessary changes to industry codes (including the publication of a plan on a regular basis in consultation with stakeholder).*
- *overseeing the code manager function, including the responsibility for appointing code managers and accountability for their performance and ability to challenge their cost effectiveness with code signatories; and*
- *approval of all significant modifications with code signatories, and a route of appeal for decisions made solely by the code manager function (under Model 1).*
- *taking forward cross-cutting and complex code change programmes (similar to current SCRs) in consultation with code signatories, including the ability to propose modifications;*
- *keeping under review the scope of reforms to consolidate the industry codes in consultation with code signatories.*

We also propose the following being added to the responsibilities proposed for the strategic function under section 3.3:

- *operating under a clear and open decision making process; and*
- *proactively and innovatively engage with and act on learning's from stakeholder engagement*

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

This new function should create a more consistent approach and transparency of costs across retail, network and wholesale codes following consolidation. We also recommend this function requires best practice to be developed, shared and implemented across the various Code Managers.

13. 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)?

We agree that the organisation fulfilling the strategic function should publish a plan on a regular basis for consultation with stakeholders. We have proposed this is added to the proposed list of

responsibilities for the strategic function set out under section 3.3.

We agree that industry, Code Managers and the organisation with the strategic function would all have a role in delivering changes to the energy codes in line with this strategic direction.

We recommend BEIS chair the Strategic Board to help ensure consistency. The Strategic Board if established should ensure that views are taken into account and evidence considered and good decisions are made which are ultimately appealable to Ofgem.

Regarding areas for future work on the strategic function set out under Table 6 we recommend industry, as the bodies responsible for delivering the Government's energy strategy, have some formal role in engaging with the Strategic Board.

14. 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.

We recommend the strategic function should consider all aspects of government energy strategy and review it against the requirements of the energy industry in delivering it.

4. Empowered and accountable code management & independent decisions making

15. 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; b. making decisions on some changes, or making recommendations to the strategic body; and c. prioritising which changes are progressed. Yes/No/Don't know. Please explain.

Some code administrators already have responsibilities to identify propose and develop changes under certain codes such as for the MRA and BSC. We agree this principle should be consistently applied and adopted across all codes.

We do not agree with the proposal that the industry has fewer responsibilities in respect of making changes to the codes which are non housekeeping. This approach would lower successful implementation of the changes and increase risk of non compliance as the industry are the technical experts and accountable for the implementation for industrial processes and procedures set out in the codes. It could also increase the number of appeals on change modifications decisions. We do not agree that Code Managers should have the following responsibilities set out under Table 4:

- sole responsibility for approving modifications for non housekeeping changes. Code signatories as a Panel member should have joint responsibility for approving modifications.
- sole responsibility for prioritising modifications. Code signatories and the Strategic Body should have joint responsibility for prioritising modifications.
- are only accountable to the Strategic Body. We recommend Code Managers should have accountability to both Code signatories (for the technical and implementation decisions) and the Strategic Body (for their strategy and performance).

We strongly disagree that the growth of the Code Manager function could result as set out under 4.2 that "*industry no longer have any formal powers to raise modifications or take decisions on whether to change a code*". Industry parties have the goals and needs of the stakeholders in mind and make decisions to achieve good outcomes for their customers.

Rather, in order to encourage other non traditional code parties to become more involved; the Code Manager should have a new responsibility to work with a wider range of different market players. The Code Manager could be responsible for working with these non traditional code parties to raise modification proposals which fit with the strategic plan and direction and consequentially have a greater chance of success for approval and make them aware of the right to appeal. The Code Manager could also encourage these parties to become involved in targeted innovative stakeholder engagement sessions.

Please refer to our detailed response to Q9 regarding if we agree with the changes to the role of code signatories you are proposing.

16. 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?
No. We do not agree that the strategic function should have any powers in simplifying and streamlining industry IT systems. Rather, we recommend the Strategic Function should maintain a holistic market-wide perspective with the Code Manager to understand better the impact of changes to codes and the industry related IT systems as part of any cost benefit impact assessments for future SCRs or significant changes.
17. 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.
Yes the approach should differ dependent on the code. For example, it could be appropriate to have both a Code Manager and separate delivery body for management of the Performance Assurance Framework across all codes consolidated. The justification for this should be a conclusion of a more in-depth cost impact assessment.
18. 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.
The Code Manager should be accountable to both the Strategic Body and code signatories. We recommend this is best delivered via a contract and there is consistency between Code Managers. Consequently, we recommend the term and continuation of the DCC licence become in scope for this review.
19. Are there more effective ways that a code manager function's accountability to the strategic body could be enshrined other than in a licence or contract? Please explain.
No. We are not aware of any more effective ways.
20. Do you agree that we should not consider further a model whereby code managers are accountable to industry? Yes/No/Don't know. Please explain.
No. Code Managers should be accountable to industry. As the bodies responsible for delivering the Governments energy strategy, it is appropriate for industry to be able to challenge and scrutinise the performance of Code Managers charged with managing the rules of codes that govern industry's ability to delivery. Open governance must be maintained so transparency is preserved and the best outcomes for customers are achieved.
21. 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.
<p>Yes. We recommend the Code Manager function should be appointed by a competitive tender process. This process should set criteria which draws the best from each of the existing code models but also learns lessons to avoid making the same mistakes. And those contractors appointed by tender would be awarded a licence under price control by Ofgem.</p> <p>An independent chair for any code panels has an important role to play and should be appointed by the strategic function on a two yearly cycle with no individual having more than 4 years in post</p> <p>We recommend Government conduct a review of the performance from existing codes and code administrator and delivery body models to determine what success will look like under the new framework for example in incentivising cost effectiveness. Please refer to our more detailed responses to Q2 and 3.</p>
22. 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. 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.
The Strategic Body should be responsible for establishing the Code Manager function which would support providing a level of independence from industry.

Similar to how Ofgem established the REC Company (RECCo). Industry should be responsible under licence for maintaining the relevant codes applicable to the objectives of that code and their core business. Similar to suppliers being solely responsible for maintaining the REC and funding the RECCo. This could be replicated for DNOs and iDNOs being solely responsible for maintaining an Electricity Network Code (ENC) and funding an ENCCo. With the GTs and iGTs for a Gas Network Code (GNC) and funding a GNCCo.

We would welcome more detail from Government on how industry could recover the costs of delivering the reforms outlined under this SCR such as for a new ENC. We believe Ofgem could enable use of uncertainty mechanisms (which are currently in use under RIIO ED1) for cost recovery under the RIIO ED2 price controls and build known costs of supporting the changes into ED2.

23. 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 b. requiring a licensee (or group of licensees) to create the code manager? Yes/No/Don't know. Please explain.

No. We recommend licensees should maintain the code and fund the associated Code Manager where applicable. Please refer to our detailed response to Q22. We also recommend the term and continuation of the DCC licence is within scope of this reform.

24. 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.

The most effective way to ensure the Code Manager function offers value for money is through both price control and budget scrutiny. The performance of the Code Manager function should be linked to efficiency and certainty of costs to both industry and customers and improvements for the end customers experience aligned with delivering the strategic body aims and outcomes. The number of modifications completed or parties undergoing sanctions should not be used as an incentive metric as this could only encourage the undertaking of increased costs, quick, and potentially less effective or unnecessary modifications or immaterial escalation of non compliance.

25. Are there any factors that: a. would stop parties (including code administrators) from becoming a code manager 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).

A price controlled licence awarded by Ofgem would incentivise outperformance and creating a level playing field. We recommend a separate central independent body manages the Performance Assurance Framework to create impartiality from those managing the code and those parties who are obliged by the licence to comply and subject to sanctions if non compliant.

Further extension of the DCC existing licence should be frozen until such time as Government can conduct a cost effectiveness review and consult with existing stakeholders before make any decisions regarding the DCCs role in the reforms described under this consultation. We have concerns with the lack of transparency, failure to hit deadlines, poor stakeholder engagement and cost effectiveness demonstrated by the DCC in delivering its existing contracts under the Smart Energy Code and new role as the Central Switching Service.

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

The Code Manager should be funded by the Industry party category responsible for delivery of those arrangements under licence. For example, Suppliers being responsible for maintaining the Retail Energy Code and funding the RECCo.

Please refer to our more detailed response under Q22.

5. Code simplification & consolidation

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

Yes a quick win is for the non retail provisions in the MRA and MPAS obligations in the DNO licence to

be transferred to DCUSA. With a view to DCUSA being consolidated into an Electricity Network Code. This transfer could go early under a Reforming the Energy Industry Codes SCR to enable the winding down of the MRA and to align with the proposed choreography of the Switching Programme and Retail Codes Consolidation SCRs in 2021.

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

We recommend a combination of Option B and Option C whereby the following four codes best deliver the outcomes:

- 1) Retail Energy Code
- 2) Electricity Network Code
- 3) Gas Network Code
- 4) Wholesale Energy Code

This would enable the desired outcome for code implication which would make it easier for parties to navigate whilst retaining the necessary split by gas and electricity of technical expertise for management of the network codes.

Please refer to our detailed response under Q5.

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

We recommend Option B whereby different Code Managers per code. Consequently, we would recommend four Code Managers to enable comparative regulation and allow for an independent body to undertake the Performance Assurance role. This would best be delivered under Model 1 on the outcomes you are seeking.

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

We recommend a combination of Option B and Option C.

Please refer to our response to Q 28.

31. Do you agree that the codes should be digitalised? Yes/No/Don't know. Please explain.

Yes. We agree the codes need to be digitalised. Given how society is increasingly geared to a digital platform and that the latest versions of the codes can be made available as soon as they have been agreed and authorised it is essential that the codes are digitalised.

We also recommend a search function be established whereby code signatories can search by category. For example an Electricity Data Retail Agent (which is a role discharged by DNOs) under the REC is able to find all obligations references which are assigned to them under that role digitally.

6. Monitoring and compliance

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

The role of self-monitoring in terms of compliance should be explored more under this reform.

The Code Manager could have powers to escalate further to the Strategy Board - for cases where the party undergoing performance assurance is flagged as high risk as a new entrant or on a process which is identified as material. This would ensure targeted performance assurance and avoid unnecessary costs to industry and customers for areas which are low risk or immaterial.

We would seek further clarity from Government on what becomes of financial penalties imposed by the Code Manager on those parties where they are found to be non compliant.

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

We recommend Model 1 would better facilitate effective monitoring and compliance arrangements. Model 1 would provide a broader range of expertise and allow comparison in order to ensure consistency in the approach to monitoring and compliance.

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

We do not agree with Model 2. As per our response to Q32 irrespective of who is responsible we recommend the role of self-monitoring in terms of compliance should be explored more under this reform.

I hope these comments are helpful. Please do not hesitate to contact me or Catherine Duggan (07775 547624) if you want to discuss any aspect of this response.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Paul Auckland', is centered below the 'Yours sincerely' text. The signature is fluid and cursive.

Paul Auckland

Head of Economic Regulation