



OPR Guidance Consultation

DCC Response

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Table of Contents

1. Introduction	4
1.1. Grace Period – System Performance	4
1.2. Transition period - Customer Engagement and Contract Management	5
2. System Performance (Questions 1 and 2)	5
2.1. TOC data sets and OPR	6
2.2. Interaction of Metrics	8
2.3. Minimum Performance Level and Target Performance Level	8
2.4. Penalty mechanisms	8
2.5. Incentives and Penalties	9
2.6. Dimensioning by meter type and region	9
2.6.1. By meter type	9
2.6.2. By region	9
2.7. Penalty mechanism A and the value of Y	10
2.8. Penalty mechanism B and the value of X	10
2.8.1. Mechanism B	10
2.8.2. Value of X	11
2.9. Failure to report	11
2.10. Appeals process	11
2.10.1. Appeals process for other parts of the DCC incentive regime	12
2.10.2. Appeals during the transition year	12
3. Customer Engagement (Questions 3 and 4)	13
4. Contract Management (Questions 5, 6 and 7)	14
5. Grace period and transition (Questions 8-13)	15
5.1.1. Reporting new OPR metrics during the Grace Period	15
5.1.2. Reporting existing or enhanced metrics during the Grace Period	15
6. Cost, Resource and Regulatory Burden	16
6.1. System Performance	16
6.2. Contract management	16
6.3. Customer Engagement	17

Annex 1 – OPR measures and dimensions18

1. Introduction

Thank you for the opportunity to respond to your consultation on the proposed OPR Guidance and associated documentation.

As you know we support the need to review the OPR regime because the measures we are incentivised to deliver should reflect our customers' priorities. It is important to keep in mind that the OPR is an incentive, rather than a penalty regime, and our performance against it should be measured in that way.

However, we have been clear throughout that the transition to the new OPR regime is as important as the design of the new measures. We need time to understand and implement the detail of the changes and, where relevant, we must be able to back these measures off in our supply chain contracts. Where we are being subject to new incentives, particularly in relation to customer engagement and commercial management, we will be required to measure and report on our activities in a very different way. We need time to put in place the necessary processes to do this effectively.

For all these reasons, we ask for a 12-month grace period for all incentives (including Customer Engagement and Contract Management) to baseline performance, understand the consequences of the proposals and to allow us the ability to make adaptations, including changes to our Service Provider contracts (if necessary), prior to being incentivised. This would mean we would be incentivised under the new arrangements from 1 April 2022, while a transitional scheme would be needed for reporting year 21/22.

DCC's licence requires 100% of our baseline margin must be at risk at all times. Therefore, we ask that Ofgem bases its transitional incentive around an amended version of the Code Performance Measures as they were prior to 25 February 2021 as set out in section 5, while the three new incentives are more fully considered and baselined.

1.1. Grace Period – System Performance

We welcome the proposals to allow a grace period for the system performance measures but believe the **12-month option** is the only viable way forward. We believe this is essential to resolve some fundamental misunderstandings that seem to have arisen about whether and how the new operational metrics defined in the SEC can be translated into OPR measures. During 2021/22 we will provide the additional reporting of ecosystem performance from DCC's Technical Operations Centre (TOC), envisaged by the implementation of SEC mod proposal 122A. This is pending a SEC working group decision on whether or not to proceed to a more robust approach to ecosystem reporting which will incur additional cost.

Ofgem asked us to consider whether TOC reporting data could be used to measure the performance of DCC - i.e. the elements of the system for which DCC is responsible. However, **TOC reporting data cannot be used to measure DCC performance**. As we explain more fully in Section 2 below, TOC data and reporting represent the 'end-to-end' performance of the whole smart metering ecosystem, including performance once SRVs leave the DCC estate and enter our customers' systems. Therefore, it is not representative of DCC's performance on a stand-alone basis and no exclusions or exemptions can be applied to artificially make it representative.

- **The Target Response Times (TRT) in section H13.1 of the SEC are (and always have been) targets for response times for messages within DCC's systems only, based on service levels agreed with our Service Providers.** They do not take account of time outside of DCC's estate,

for instance in the HAN. There is no match between TOC data and reporting and TRT response times within the DCC-owned elements of the system.

- **The new Code Performance Measures look at the performance of the ecosystem as a whole, including the performance of our supply chain.** If we are incentivised against these performance measures in the OPR the DCC will have no choice but to seek multiple wide-ranging contract changes, the costs of which will be passed onto industry, which may vastly outweigh any potential benefits from returning a portion of our Baseline Margin to customers in the form of lower charges. We need time to work with customers to understand their appetite for funding contract changes and to understand which measures it is cost effective to deliver and which they would prioritise.

To be clear, we are not requesting a delay to any reporting obligations against the Code Performance Measures in the SEC. We intend to do this using TOC data. We believe this data is likely to be insightful for our customers, but it will enable further work to take place to improve their performance and the performance of the elements of the ecosystem they interact with.

We request that discussions around SEC mod 122B are used to review the value of the TOC data and to agree any further changes required to the reporting regime – including whether our customers want to pay to put in place more robust and formal reporting arrangements with input from across the supply chain. Either via these discussions, or via another forum such as the SEC Ops Group, we will need to discuss what measures customers would like DCC to be incentivised on and the associated costs.

The grace period of 6 months is insufficient to conclude the above discussions and negotiate and implement any subsequent contract changes.

1.2. Transition period - Customer Engagement and Contract Management

During our previous discussions with Ofgem on the customer engagement and contract management elements of the new OPR, we had understood that there would be a trial period of 12 months that would allow us to benchmark current performance to make the necessary changes to our internal measurement and reporting regimes in order to comply. We were very disappointed to learn that Ofgem's intention was for this trial period to be the regulatory year 2020/21 – a decision that was taken some 6 months after that year had started.

Given that we have only recently seen the detailed guidance for these elements of the OPR, we would urge Ofgem to delay implementation of the Customer Engagement and Contract Management incentive for a year, so that they take effect from 2022/23. This is not DCC seeking to long grass these elements – we accept they are coming – but they must constitute an incentive rather than a penalty. This will give us time to properly trial the new approach, and for us SECAS and yourselves time to understand how well the baselining exercises have performed, where we need to improve performance, whether any further changes are needed to the incentive and to seek customers' input and acceptance of any costs arising from additional resource or system requirements.

This would also mean that all elements of the new OPR would be introduced at the same time and would be consistent with Ofgem's decision to delay changes to the External Contract Gainshare revenue being put at risk.

As stated in the introduction, we accept that 100% of our baseline margin would still be at risk in RY2021/22, but against a different set of measures.

2. System Performance (Questions 1 and 2)

2.1. TOC data sets and OPR

If Ofgem wishes to incentivise DCC under the OPR against the Code Performance Measures in the SEC, then these must be fully backed out into DCC contracts, as DCC can only drive performance improvements if its Service Providers have also agreed to report against, and accept liability for, these measures. The only alternative would be for DCC to deliver these Fundamental Service Capabilities ourselves, which we are not entitled to do under our Licence. As explained above, we believe a 12-month grace period is essential to agree with our customers whether they want us to be incentivised against these measures, whether they are prepared to pay for them to be backed off in our suppliers contracts and to negotiate changes with our Service Providers.

Given the direction of this consultation and the decision by Ofgem not to grant our derogation request for CPM6 and 6A, we have grave concerns that we will be required to report against, and be held accountable for, the performance of the whole smart metering system without the necessary levers in place in our contracts to deliver against it. To support our fundamental principle that the OPR should not yet be based on the SEC Code Performance Measures and measured using TOC Performance Indicator Report we have included two case studies below.

Case study 1

Physically and mathematically, we believe it is impossible to derive DCC only performance from the performance of the whole ecosystem measured by the TOC. See Diagram 1 below:

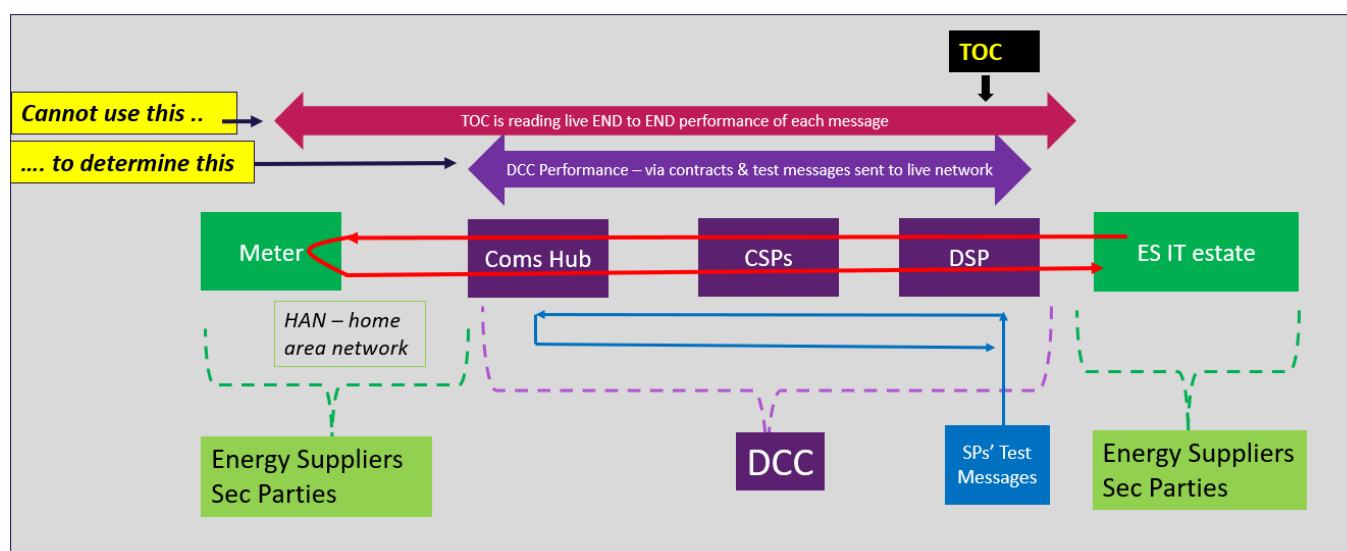


Diagram 1: Journey of an SRV destined for a SMETS 2 meter

The red line shows a 'meter read' message (SRV 4.6.1), which is sent from the Energy Supplier, to the DCC User Interface. The message then travels through the DCC estate and into the HAN, to the meter. An acknowledgement is then sent back through the Comms Hub, through the DCC estate and back to the Energy Supplier. To deliver the requirements of SMP122A, the TOC is observing the time taken for the SRV messages to pass through the DSP to the meter and back again. This journey time is compared to a defined 'Target Response Time.'¹ If it completed the journey within the target time it is reported as a success. If not, it is reported as a failure.

¹ Note: Currently Target Response Time is defined **only for DCC systems** In Annex E of the SEC

As you can see, the TOC capability is reading and reporting the *end to end performance* of each message i.e. the **red doubled-headed arrow** at the top of the diagram. This *end to end performance* includes the time spent in networks, systems and equipment that is the responsibility of Energy Suppliers. **It is not measuring or reporting DCC only system performance.**

It is mathematically impossible to derive the performance of the DCC owned elements of the system from the TOC data sets. In other words, it is impossible to derive the performance represented by the **purple double-headed arrow**, from the information collected by the TOC. We are open to listen to ideas from other parties who may be able to see how this is possible, but we have yet to hear of anything workable.

We believe that the only way to accurately measure the individual SRV performance across the DCC is to ask our Service Providers to test the DCC estate by sending test messages or by measuring live messages if they can (the **blue box and arrow** in Diagram 1). To disaggregate the reporting in this way, and subsequently take on the liability of the new performance targets, will require a contract change with our Service Providers.

For these reasons we strongly believe that even if Ofgem looks to incentivise DCC on the elements of the SEC Code Performance Measures for which it is responsible, we have no way of reporting against them using data from the TOC. It will require additional data and reporting that can only be derived at additional cost through changes to our contracts with our supply chain.

Case Study 2

Initial reporting based on the TOC data sets seems to show that end to end performance is severely impacted by both the type of meter receiving the SRV and the SEC party sending the message. Diagram 2 below shows the performance of a 'meter read' SRV across the whole Smart Meter Ecosystem.

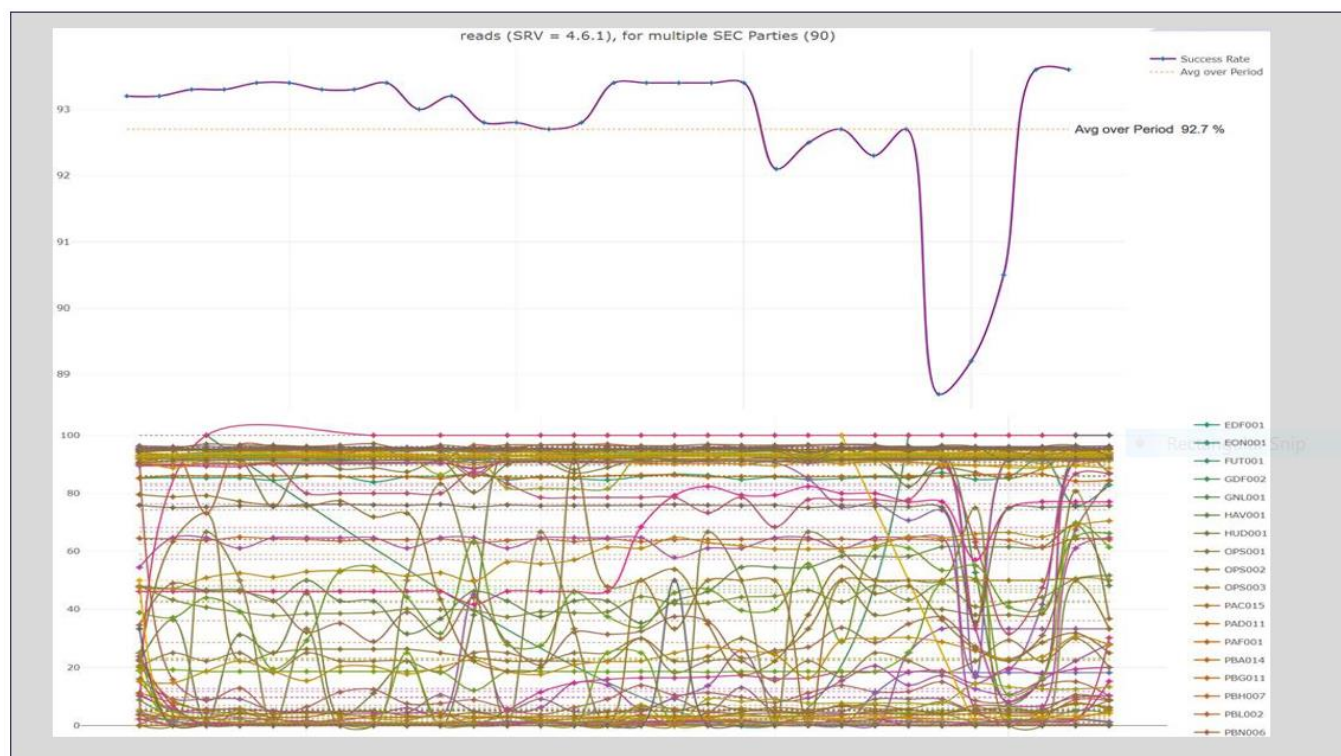


Diagram 2: End to end performance of meter read SRVs

This is a meter read SRV report from TOC data and gives a view of how the SRV performs across the whole ecosystem

The 'dip' is a P1 incident, **but we only know that because our service providers' contracts require them to report incidents. If they were not required to report incidents**, we would not be able to accurately determine which party in the ecosystem was responsible for the dip or whether it was a combination of multiple faults lying with different parties.

TOC reporting on its own, does not illustrate *where* the responsibility for poor performance lies. It can only give a holistic view of the whole smart meter ecosystem. Only by backing additional reporting requirements off in our contracts could we report on DCC's performance versus other parties.

It should also be noted that, at this point, there are no target response times for any other parts of the Smart Meter Ecosystem (e.g. the HAN, or Gas meters which can take up to 30 mins to 'wake-up' and respond to a message). The TRT of 30 seconds, currently used as the de facto baseline for all SRVs is not appropriate for the long term because this is the target time for DCC systems and networks ONLY. Until new TRTs are defined and agreed with industry, for each element in the journey of an SRV, the TOC reports will use the TRTs defined in Annex E of the SEC, which will not give a full view of the health of the ecosystem.

2.2. Interaction of Metrics

DCC is also incentivised against Service Availability. The interaction between this metric and the new metric on SRV response times has not been sufficiently considered. For example, if a single part of the smart metering system like DUIS goes down, it will affect the performance of every SRV - if DUIS is down no SRVs can be sent. DCC could therefore be penalised twice for the same incident. Once because part of the service is unavailable and once because the knock-on impact of that would be that SRVs would not meet their target response time.

Therefore, we propose that Ofgem and DCC use the 12-month Transition Period to work together to ensure that each new OPR metric is standalone; reporting on and measuring different, mutually exclusive, parts of DCC performance.

2.3. Minimum Performance Level and Target Performance Level

It is not clear how the Minimum Service Level and Target Service Level in the new SEC Section H13.1 were determined. We made this point in our response to the SECAS consultation on the Legal Text for SMP122A, but we have yet to see any explanation about how they were derived or why our questions and concerns have been ignored.

If Ofgem intends to use these service levels as the value of the MPL and TPL terms/targets in the amended OPR framework, they must be traceable back to our Service Provider contracts. Without this traceability, DCC has no levers to ensure performance meets these levels.

2.4. Penalty mechanisms

We note that from paragraph 3.45 to paragraph 3.67 of the consultation, the term 'Penalty Mechanism' is used. DCC's licence is based on the principle of incentives to encourage certain behaviours. If Ofgem intends to introduce a Penalty Scheme on top of the Incentive Mechanism, then this would be a fundamental change to our licence. We strongly oppose the principle of imposing a penalty regime over and above (or instead of) an incentive regime and there has been no impact assessment to determine its effectiveness or wider consequences.

2.5. Incentives and Penalties

The fundamental point of an Incentive Mechanism is to encourage DCC to take appropriate action when a certain event or events happen. There should be a simple and clear action in reaction to a drop in performance, and in an operational environment it is extremely important the Operations Teams know what they are expected (incentivised) to do under certain conditions. DCC believe that an incentive should easily and simply be connected to desired actions. We think it would be very useful if Ofgem gave a clear descriptive explanation of what issue is driving 'Penalty Mechanism B'. We assume that this mechanism was developed because Ofgem wants to drive a certain behaviour. However, we do not understand what behaviour it is driving. If it is to improve performance in the North, then we believe it is the wrong mechanism, as discussed in Section 2.8.

In addition, under the current proposals in the Guidance Document, we may be reporting 43 individual metrics (System Availability x 14, Install and Commission x 24, and Prepayment x 4), and this will increase further with the addition of Firmware and (potentially) Change of Supplier in due course. Such a dilution of the incentive means there is a reduced connection between each metric and the impact on the baseline margin. We believe that this is, in fact, blunting the incentive regime, rather than sharpening it.

2.6. Dimensioning by meter type and region

Ofgem has proposed that, in addition to measuring SRVs by their different types, there should also be a further dimensioning of the performance by Meter Type (SMETS1 and SMETS2) and by Region (South, Central and North). For the sake of clarity, we have included a table in Annex 1 that illustrates what we believe each measure will yield, in terms of disaggregated reporting.

In this section we assume that we do not disaggregate by SRV type but further discuss the value of dimensioning the existing CPM1 and CPM2 by meter type and region.

2.6.1. By meter type

Ofgem has suggested further splitting the reporting of metrics into SMETS1 and SMETS2. The journey of an SRV through DCC's System is significantly different for SMETS 1 and SMETS 2. SRVs destined for SMETS 2 meters hit the DCC User Interface and then travel through the DSP and WAN (CSP and Comms Hub): Diagram 1 in Section 2.1 illustrates this journey. Annex E of the SEC confirms that the Target Response Time for this outward and return journey is 30 seconds. Consequently, this is reflected in our contracts as 25 seconds for the CSP and 4 seconds for the DSP.

However, an SRV destined for a SMETS 1 meter has a slightly different journey, in that the SRV travels from the DCC User Interface, through the DSP, to the *gateway* to the SMETS 1 CSP. The Target Response Times for this shorter journey is 16 seconds, as defined in Annex E of the SEC. The time spent in the SMETS 1 SM WAN is *excluded* from the Target Response Times and is not currently reflected in the SMETS 1 provider contracts. Therefore, in addition to negotiating with Service Providers to disaggregate the SRVs, in order to correctly report DCC performance, we will also need to negotiate and agree with industry what value represents a reasonable TRT for the SMETS 1 CSPs. We envisage that the time taken to agree this will not be insignificant.

2.6.2. By region

Ofgem has suggested further dimensioning of reporting by region. If applied to the current CPM1 and 2, this split of reporting would make sense, and we understand that at the heart of this initiative is a desire

to incentivise DCC to do better in the North region. The regional split makes sense because DCC currently has two different contractors covering South and Central (Telefónica) and North (Arqiva), therefore it is conceivable that the different regions will deliver different performance.

However, although the South and Central region are under different contracts, they are operated by one party, and are 'effectively' the same region using the same technology. This causes issues because Ofgem propose to split the regions into 3, and all regions are weighted equally.

2.7. Penalty mechanism A and the value of Y

The value of Y is the percentage of margin retained if DCC achieves the Minimum Performance Level (MPL). In our contracts MPL is considered a high-performance target, for example for Service Availability if the range of performance is 1.5% (99.5%-98%). Given that the range is so small we believe that the MPL should be viewed as the bottom end of a range of *high performance*. Therefore, we believe that this should be reflected in the incentive scheme and Y should be set no lower than 70%, as it is for the existing regime.

As discussed above, the volume of metrics we will be required to report against has the effect of reducing the impact of each metric. This is further reduced if the value of Y is set to 50%. For example, with Y set to 50%, one of the Install and Commission SRV metrics makes up only 0.5% of the OPR Baseline Margin at MPL and only 1% at TPL. We are not sure if this is Ofgem's intention.

2.8. Penalty mechanism B and the value of X

We understand the desire to incentivise DCC to place more emphasis on CSP North given the reported issues in this region. Even though ~20% of SMETS2 meters are in the Northern region, Ofgem have weighted this region equally with the South and Central, at 33.3%. We think this is a sufficient incentive to encourage us to focus attention on this region and no further incentive is needed, such as Mechanism B.

2.8.1. Mechanism B

We think Mechanism B has the potential to have a disproportionate effect on the Central and South region, because they are effectively one region. Under Mechanism B we are more incentivised to focus on the Central and South for the following reasons:

1. The biggest estate of SMETS2 meters is in these two regions (~80%), so extremes of performance (either high or low) in these regions impacts the most consumers
2. Central and South are effectively the same region and if performance drops in one there is a parallel drop in the other. It is effectively a double hit on performance. Therefore, we are more likely to focus attention on keeping these regions above the MPL, as a priority.
3. If all 3 regions see a drop in performance to below MPL, we are more likely to focus on raising performance levels in South and Central because this focus would give a double uplift in performance too.

We do not think it is Ofgem's preference to incentivise DCC to focus on the South and Central, so we request that Mechanism B is reconsidered.

2.8.2. Value of X

The value of X is the percentage of performance at which the penalty mechanism stops accelerating and levels out at -16.7% of the available margin: X is the point at which the performance is so low that the penalty stops increasing.

There seems to be no evidence or explanation as to why X is set at 90%. As discussed previously, we think targets should be based on real-world evidence rather than on the mathematical symmetry of a graph. If 90% is the point at which the penalty mechanism stops accelerating, it implies that after this point performance is catastrophic. But we have not seen or carried-out our own analysis to show this is the case for all CPMs.

We would therefore request that Ofgem keep an open mind on this value and that during the OPR Transition Period DCC will initiate further analysis on this and present Ofgem with the findings.

2.9. Failure to report

Paragraph 3.44 of the Draft OPR Guidance defines the penalty if DCC does not report a certain metric during the regulatory period t . Ofgem proposes to set the metric to zero, which has a significant impact on the reported performance, and margin.

It is not clear why this section is included and what scenario Ofgem had in mind when developing it. It does not form part of the main Consultation document. Can Ofgem confirm under which scenario this part of the Guidance would apply. We are not clear if this applies during the Grace Period or at the end of Grace Period. In addition, it is not clear if this applies to dormant measures in the Guidance, such as Change of Supplier or the additional Prepayment SRVs.

More generally, we find this provision duplicative and unnecessary. As all the measures we are required to report against will be in the SEC, the correct route to remedy any potential non-reporting would be through seeking to enforce compliance with that Code, and then with the licence. It is unclear why Ofgem feels this additional provision, particularly one that it has not previously consulted on, nor impact assessed is necessary. We suggest Ofgem removes this concept from the guidance and relies on the already extensive compliance provisions.

2.10. Appeals process

We welcome the introduction of the concept of an Appeals Process for the System Performance metrics. However, we would like to see more detailed guidance on this process as the proposal in the OPR Guidance (para 3.77) does not in fact offer an appeal process, just an opportunity to make representations in our annual price control submission, which DCC can do (and does) anyway.

In terms of system performance metrics that are reported by our Service Providers, there are a number of assurance processes both within DCC and from industry. However, if after the 'exceptions and exclusion process', DCC felt there was either mitigating circumstances or other reasons for a performance drop that was beyond our control then we would, as in previous years, submit this as part of our annual price control submission.

We also assume that the requirement at para 3.77 to seek the SEC Panel's views on a particular matter is separate from, and not intended to replicate, the OPR Exceptional Events process under SEC Sections H13.7 – 13.14. We have used such a process this year to request some leeway for the knock-on effects of Covid-19. This was a positive experience and worked well. However, it is a formal process, with strict

timelines, and does not seem to relate to the more informal 'seeking of views' from the SEC Panel described in para 3.77, we would be grateful for your confirmation that this is the case.

We believe the timing of an appeal is critical and we will be working with the assumption that an appeal can happen as near to occurrence of an issue, affecting performance or milestones, as is practical. In other words, we do not have to wait for our Price Control cycle to make an appeal. At present we have a situation where we are appealing issues during the Price Control cycle that may have occurred very many months ago and memories fade and situations are misremembered. We think it would improve the sense of fairness of the 'downside' regime by which DCC is regulated if we had the opportunity to make our case to SECAS and Ofgem as close to the time the missed milestone or drop in performance occurs.

2.10.1. Appeals process for other parts of the DCC incentive regime

The OPR Guidance document refers to appeals for both Customer Engagement (at para 4.51) and Contract Management (at para 5.19). However, on closer examination, the 'appeal' turns out to be the right to submit a response to Ofgem's annual price control consultation, which DCC can do anyway.

As with the System Performance 'appeal process', it would be helpful to understand the policy intent here. If the policy intent is to offer a genuine appeal mechanism then Ofgem needs to propose a process that is fair, impartial, with the right to appeal to an independent decision-making body. The scope of appeal and its outcomes must also be clearly defined, so the appellant (in this case DCC) has legal certainty about the process, requirements, costs and consequences of an appeal.

The precedent for this already exists in the form of appeal to the CMA against licence modifications and decisions on Code modifications. Other licensed energy companies subject to price control, such as holders of transmission or distribution licences, can make an appeal to the CMA for price control decisions affecting them (under section 11C of the Electricity Act 1989/section 23B of the Gas Act 1986). However, as DCC's annual price control is decided *ex-post* by way of directions and determinations pursuant to conditions in DCC's licence, this route is not currently available to DCC.

It may be argued that judicial review offers an appropriate avenue of appeal for DCC. However, this approach is inconsistent with the way other holders of energy licences subject to price control regulation are treated. We also note that it is inconsistent with the way the government chose to implement Article 61(8) of the EU Electricity Directive¹ in 2011. This requires Member States to "ensure that suitable mechanisms exist at national level under which a party affected by a decision of a regulatory authority has a right of appeal to a body independent of the parties involved and of any government". The government transposed the requirements of the EU Electricity Directive into English law by introducing a right of appeal to the CMA under section 11C of the Electricity Act 1989 and section 23B of the Gas Act 1986.² Clearly, the government did not see judicial review alone as 'suitable' at the time.

We fully appreciate this is a wider discussion, but we would like to know what the policy intent is here.

2.10.2. Appeals during the transition year

We would also like to understand if this process will be enabled during the transition period, as we believe it should be. This would enable us to appeal decisions for any existing metrics that are rolled into the transition period.

¹ Directive (EU) 2019/944 of the European Parliament and of the Council.

² Electricity and Gas (Internal Markets) Regulations 2011, SI 2011 No. 2704

3. Customer Engagement (Questions 3 and 4)

Our position on the customer engagement incentive has not changed since Ofgem first set out its high-level proposals in March 2020. We have no issue with being incentivised to perform better in the three areas that Ofgem has identified – we have tried extremely hard to do so over the last 18 months and our customers have recognised this improvement – but we need time to adapt and refocus our activity. We are asking for our 12-month trial period to start in April 2021, rather than April 2020 before Ofgem had even articulated their requirements. The current timeline envisages we will not have any indication of Ofgem's view on what needs to be improved until it consults on the price control in October – 6 months after the commencement of the incentive period and our margin has been put at risk. This is not an incentive; it is a retrospective penalty.

We also continue to have concerns over how likely or possible it will be to ensure that feedback on our customer engagement performance is truly objective and not unfairly influenced by customers' concerns over other issues, including for example broader system performance issues, rather than engagement per se. There is no obvious solution to this issue without changing the proposed framework. We obviously understand SECAS has an important role in assessing our customer engagement, but the assessment of our performance should be based on the views of SEC parties rather than SECAS itself. There is the potential for subjectivity in the assessment of our performance and it needs to be minimised. For example, taking the case of mod 122A where we have gone to great efforts to design additional reporting at minimal cost and our staff have worked extremely hard to do so, we would expect our customers would rate us highly on "doing what our customers want". But because DCC has identified errors and confusion in the development of the modification we anticipate SECAS would not rate us as highly. This would not be fair. Furthermore, the regime must be evidence-based, and Ofgem should avoid giving any weight to unsupported statements.

We also made the point in our previous submissions that our customer engagement activities are much broader than SECAS observes through its various forums. We understand the proposed solution to this will be a survey issued to SEC parties, but there is a large body of evidence to show that surveys are self-selecting whereby a small sample of the most vocal and heavily resourced organisations have the greatest impact. Ofgem's proposals do not adequately resolve this issue. We have proposed that we are given time to develop a strategy and action plan, to get buy-in from the full breadth of our customers, including those who are less vocal through SECAS committees, and to subsequently be rated against this plan and a baselined set of metrics. This appears not to have been taken onboard. We continue to believe this would resolve the subjectivity issue and avoid good customer engagement becoming a competition over who can write the best documents.

Our work of the past 18 months to significantly improve our customer engagement means we are already moving in the right direction, but a 12-month transition period would enable us to conduct a full baseline assessment, develop a suite of meaningful data and metrics and propose an acceptable standard which could be agreed with customers and Ofgem before we start losing margin. This would make it an incentive to continue to improve performance rather than an unmitigable penalty which does not encourage improvements.

During this period, we would also undertake a thorough gap analysis of current engagement against Ofgem's key themes. We are providing customers with greater transparency, collaborating more as programmes develop, and improving how we feedback to them; although we still have further to go to ensure we consistently do this well. Considering how to fill remaining gaps within the context of a baseline and agreed metrics developed alongside Ofgem would ensure we were focusing further effort in the most meaningful areas.

Lastly, our customer engagement strategy is evolving over time to ensure it is fit for purpose and responds to the feedback from our customers. A 12-month trial period would allow us to ensure that any changes we propose are in line with our customers' needs. We would also be able to work closely with SECAS to ensure a common set of areas for measurement and reporting, fully engaging in their trial assessment process this year to secure alignment where possible.

4. Contract Management (Questions 5, 6 and 7)

Our position on the proposed contract management incentive is unchanged from our previous consultation responses. We understand what Ofgem wants to do and although there are many reasons why the NAO framework is not appropriate for an organisation such as DCC, given it was designed for public bodies not private companies, we are not resisting the proposals in substance. We do however believe it is extremely important for Ofgem to introduce the contract management incentive with enough time for DCC to respond to the incentive effect, otherwise it is merely a penalty. This is not least the case because it was only in January 2021 that Ofgem communicated which contracts it wishes to put in scope of the incentive.

Despite this consultation, it is still unclear which contracts are actually within scope – in one of the published documents, the top three most expensive SMETS1 contracts are within scope, but Ofgem also says contracts subject to Baseline Margin Project Performance Adjustment (BMPPA) Schemes are not in scope. SMETS1 migration and enrolment is subject to BMPPA Schemes so Ofgem needs to urgently clarify which contracts are in scope, and which are not, before we consider spending money to assess our performance on them.

We have already undertaken work to compare ourselves against the NAO framework, principally at the operational level – in other words internally - but we do not consider it economic and efficient to compare ourselves against the whole framework, and identify changes in how we manage our contracts, until Ofgem clarifies exactly what is in scope. We do not believe it is fair or reasonable to call April 2020 to March 2021 a baselining period when the detail of this element of the OPR is still so unclear. It essentially means as soon as 1 April 2021 comes around, we will be incentivised to do things we have had no notice to act upon. We want to deliver against the new regime, but we cannot support a set of proposals that are retrospective in nature, are unclear or contradictory, and by consequence penal.

There is a long history of reviews of government contract management, and in each case, government has allowed several years for Departments to adapt and demonstrate progress. It took Government four years from the publication of the NAO report in 2014 on Transforming Government's Contract Management to implement 'some improvements' and it is still recognised as one of Government's biggest weaknesses. We would ask Ofgem to afford us a similar grace period, albeit of only 12-months¹, to receive, digest and act upon any findings.

It is clear from the above, during which multiple changes to standards and frameworks were introduced, that it takes several years to deliver wide-ranging contract management improvements. We are not asking for several years, we are asking for one year to see, review and develop plans in response to the auditor's findings.

In the next 12 months we plan to develop our Commercial Strategy out to 2024 in partnership with our external stakeholders (e.g. Ofgem, BEIS, SECAS, Suppliers and other key stakeholders) and internal stakeholders (Board and ExCo) to produce a publicly available document which will sit alongside, and

¹ Incentivisation should start from 1 April 2022, as per our position on the customer engagement incentive.

align to, our already published Business Strategy and our Procurement Strategy. In parallel we will develop, with input from key stakeholders, an internal Roadmap of specific changes that will need to be made by the DCC to deliver the strategy. This Roadmap will include changes required by the NAO Framework. This will build on the gap analysis derived from an internal review against the NAO Framework and we propose should be verified as part of the 2021 external audit. Finally, we will develop a set of plans as to how and when to deliver the strategy and the roadmap, which expect to start delivering in the second half of financial year 2021/22.

We believe it is absolutely key that DCC is given time to develop these plans to ensure that what we aim to deliver is aligned to our stakeholder needs and is planned and resourced appropriately so that it complements, rather than impinges on, the day-to-day work of the contract management team.

Despite the most recent iteration of the NAO framework having been in place for four years, the NAO accepts that public bodies are still seen as performing below expectations on commercial capability. We therefore think that it is unfair that the OPR regime requires DCC to be perfect across all 21 questions to retain full margin. We do not think it is likely for any organisation to be capable of demonstrating this without time to adjust. Over the next 12 months, the scoring system should be reviewed and amended to be a fair and achievable incentive. Given the likelihood no organisation will ever be capable of achieving full marks across all 21 questions, Ofgem should consider whether its expectations are reasonable.

5. Grace period and transition (Questions 8-13)

The Smart Meter Communication licence requires 100% of DCC's baseline margin to be at risk on an ongoing basis. Although we believe there are a lot of issues that still need to be thought through in the new OPR regime, we expect our margin to be at risk during the 12-month transition period while the outstanding questions are addressed and DCC puts the necessary contract and system changes in place.

5.1.1. Reporting new OPR metrics during the Grace Period

During the transition year 21/22 DCC should be obliged to collect performance data against the new regime (as far as we can) for submission with the RY21/22 Price Control documentation, although our margin should not be at risk against these measures.

5.1.2. Reporting existing or enhanced metrics during the Grace Period

There are several options for a 12-month transitional incentive regime from 1 April 2021. Ofgem's suggestion is to roll-over all except the WAN coverage milestone of the current OPR regime, as BMAX has now been met across all CSPs. This may not be what customers want and does not align well with Ofgem's focus on system availability and SRV performance. For example, the current OPR measure on Comms Hub delivery is an incentive on a mature and reliable service. Customers may not think this is particularly relevant anymore.

One option may be to focus more on the existing measures on system availability and SRV performance, and if the transitional incentive scheme is consistent with our contracts, additional granularity in these two areas could be provided. For example:

- **Availability** – we could report availability across each of the five DCC interfaces individually based on our existing contracts. As four of the five interfaces are not regional and none of them are meter-specific, Ofgem would be losing very little relative to the proposed Code Performance Measure 6 in SEC mod 122A.

- **Core service requests** – we could break down the current reporting into the individual Code Performance Measures 1 and 2 – i.e. one set of reporting on aggregate on-demand service request performance and another set on aggregate future-dated service request performance.

Ofgem could weight these categories in different ways - for example it could weight the two equally at 50% each. It could break them down further, and weight each interface at 10%, summing to 50%. It could also break down the core service requests and weight them equally at 25%.

6. Cost, Resource and Regulatory Burden

Ofgem has included an impact assessment in the Guidance Consultation. An impact assessment usually takes the form of a very high-level business case and includes monetary estimates of both the benefits and the costs. This allows Ofgem, DCC and other SEC parties to demonstrate that the new proposals are addressing real issues with DCC's networks or systems and that the benefits outweigh the costs. Ofgem did not conduct an Impact Assessment prior to its decision to implement the substantive provisions of the OPR regime in October 2020.

6.1. System Performance

We have not seen any quantified costs and benefits of Ofgem's OPR proposals. The Impact Assessment came after a decision had already been made on the framework and changes had been made to DCC's licence. DCC has, however, costed options both for providing reporting against the performance measures in the SEC using TOC data, as well as the costs of contract changes to deliver this reporting in a more robust and sustainable way. Understandably, the SEC working group did not want to pay the ~£12m to change the reporting requirements in our contracts to meet SEC mod 122B requirements, and we believe they want to see the outputs of the TOC reporting before determining next steps. However, because the legal text that was implemented includes the full scope of 122B, either: a.) the SEC must change, b.) OPR must change or c.) DCC's contracts must change.

We have been given a clear steer from the SEC working group not to change our contracts to back out the new Code Performance Measures – both for reporting and performance. This means that either the SEC or OPR must change until we can reach agreement with customers and Ofgem on what we can back out in our contracts.

6.2. Contract management

We agree with Ofgem's position that BMPPA Scheme-related activities should not be incentivised under OPR, but as mentioned above, we are confused about whether SMETS1 contracts will be included or not.

An audit is an extremely intrusive process. The proposed cyclical timing clashes with the price control process. We would also ask Ofgem to reconsider the burden of auditing us on an annual basis. We are also unclear whether once an aspect of our legacy contracts (as defined in the licence) has been audited one year, whether the unchanged provision will be assessed again the following year. If so, this would appear not to have much real value to our customers.

We expect the follow resource and cost burdens as a result of this new incentive measure:

- Working with the auditor to deliver the relevant materials, response to questions, interview requests and to respond to Ofgem consultation process – 2-3 FTEs
- Production and dissemination of a new contract management strategy – 1-2 FTE

- Delivering change required to deliver the highest level of performance – 2-5 FTEs

The above are extremely rough estimates, and ideally, we would not spend significant sums of customers' money before we see the findings of the first audit. However, if we are to be incentivised from 1 April 2021, Ofgem will leave us with no choice but to recruit additional staff and pass these costs through to customers. It would be much more sensible for Ofgem to delay incentivisation until 1 April 2022 for us to see and act on the first audit with time to respond and improve.

6.3. Customer Engagement

As with the contract management incentive, the customer engagement assessment process itself alone constitutes regulatory burden which has to be accounted for. All incentive schemes are designed to stimulate change. Change typically costs the party to whom the incentive scheme applies. We anticipate costs will be imposed on DCC in the following areas because of the customer engagement incentive:

- Running the annual assessment and submission process – 1-2 FTE
- Overhauling our existing strategy and processes – 1-2 FTE
- Delivering change required to perform in accordance with the highest level of performance – 2-3 FTE

We will not know for certain whether the above estimates of FTE costs are realistic until there is an acceptable baseline. When that information has been produced, we will then need to refine our resource estimates and recruit. At present, it is impossible to predict whether, where and how we need to change, and therefore the costs of doing so. Consequently, we have not and will not spend a significant amount of customers' money until we are satisfied that it is economic and efficient to do so. Recruiting staff has a lead time, so it is entirely implausible to start an incentive scheme on 1 April, but to only give us an indicative view of our performance six months later in October, before a decision is actually made the following February.

Annex 1 – OPR measures and dimensions

				Single combined measure	Disaggregation			
					SMETS 1	SMETS 2		
							C	S
SUM1	Service Availability							
	SA1	DCC User Interface		✓	-	-	-	-
	SA2	Registration Data Interface		✓	-	-	-	-
	SA3	SMIKI Repository Interface		✓	-	-	-	-
	SA4	SMIKI Services Interface		✓	-	-	-	-
	SA5	Self Service Interface		✓	-	-	-	-
SUM2	Firmware (CPM 6B)							
	SMP122B dormant	Send images to device	SRV 11.1	-	-	✓	✓	✓
SDM1	Install & Commission							
	IC1	Update HAN Device Log	SRV 8.11	-	-	✓	✓	✓
	IC2	Update Supplier Certificates	SRV 6.21	-	-	✓	✓	✓
	IC3	Commission Device	SRV 8.1.1	-	-	✓	✓	✓
	IC4	Join Service	SRV 8.7.2	-	-	✓	✓	✓
	IC5	Set Device Configuration	SRV 6.20	-	-	✓	✓	✓
	IC6	Update Import Tariff	SRV 1.1.1	-	-	✓	✓	✓
	IC7	Update Device Configuration	SRV 6.8	-	-	✓	✓	✓
	IC8	Status Update Install Success	SRV 8.14.1	-	-	✓	✓	✓
SDM2	Prepay							
	PP1- dormant	update mode	SRV 1.6	-	✓	✓	✓	✓
	PP2- dormant	update config	SRV 2.1	-	✓	✓	✓	✓
	PP3	top-up device	SRV 2.2	-	✓	✓	✓	✓
SDM3	Change of Supplier							
	CS1- dormant	Update Security Credentials	SRV 6.3	-	✓	✓	✓	✓
	CS2- dormant	Update Import Tariff	SRV 1.1.1	-	✓	✓	✓	✓
	CS3- dormant	Update Device Configuration	SRV 6.8	-	✓	✓	✓	✓