

Decision

Retail Energy Code v2.0 and Retail Code Consolidation

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Ofgem is undertaking a Significant Code Review (SCR) to deliver Retail Code Consolidation. In December 2020 we consulted on the changes to industry codes that will enable this. We consulted on drafting for the Retail Energy Code (REC) v2.0, which merges content from the Master Registration Agreement (MRA) and the Supply Point Administration Agreement (SPAA), Green Deal Arrangements Agreement (GDAA) and Smart Meter Installation Code of Practice (SMICoP) and parts of the Balancing and Settlement Code (BSC) content regarding metering agents. In addition, the REC v2.0 will consolidate a number of metering codes of practice and bring the Green Deal provisions into the REC.

In our December consultation we asked questions about our approach to consolidating and updating some retail code provisions. This document addresses the responses to those consultation questions and explains our decisions on those questions.

The December consultation also invited comments on the drafting of REC v2.0 and the consequential changes to other codes. This document does not address these comments; we will set out our response and updates to the REC v2.0 drafting when we raise a change request to introduce REC v2.0.

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Contents

Executive summary	3
1. Introduction	5
Related publications	6
Our decision making process	7
Your feedback	8
2. Retail Energy Code v2.0	9
Section summary	9
What we consulted on	10
Qualification and Maintenance Schedule	11
Prepayment Arrangements Schedule	13
Unbilled Energy (formerly Theft) Code of Practice	14
Transfer of Consumer Data Schedule	16
Metering Arrangements (including Metering Operations, Metering Accreditation, MAMCoP, AMICoP, MOCOPA, ASPCoP)	17
Charging arrangements	22
Next steps	22
3. Consequential Changes to Other Codes	24
Section summary	24
Questions	24
Question 3.1: Do you agree that the proposed text to embed the Cross Code Steering Group will enable the intended improvements to cross code change? If not, please suggest alternative or additional drafting	24
Background	24
Operation of the Cross Code Steering Group	25
Decision-making on cross-code changes	26
4. Next steps	30
Retail Energy Code v2.0	30
Retail Code Consolidation Significant Code Review	30
Statutory consultation	31

Executive summary

We launched the Retail Code Consolidation Significant Code Review (SCR) in November 2019. The purpose of this SCR to rationalise retail energy codes by closing down the electricity Master Registration Agreement (MRA) and the gas Supply Point Administration Agreement (SPAA), plus the Smart Meter Installation Code of Practice (SMICOP) and Green Deal Arrangements Agreement (GDAA). This SCR proposes to move the requirements from these codes that need to be retained into the Retail Energy Code (REC) or another industry code where this is more relevant.

The REC will also bring together gas and electricity metering arrangements, consolidating the Meter Operation Code of Practice Agreement (MOCOPA) and parts of the Balancing and Settlement Code (BSC), together with the metering provisions that sit under the SPAA (Metering Code of Practice, MCoP; formerly Meter Asset Manager Code of Practice, MAMCoP, and Approved Meter Installer Code of Practice, AMICoP).

The REC is being developed in phases; v1.0 was designated¹ by the Authority on 1 February 2019, and came into effect on 28 February 2019. An incremental update in the form of REC v1.1 was implemented on 15 January 2021, primarily to facilitate Energy Theft Consolidation (which occurred on 1 April 2021). Retail Code Consolidation will primarily be realised through REC v2.0, due to be implemented on 1 September 2021.

We consulted in December 2020 on the full legal drafting for REC v2.0, and on a number of key policy questions, the responses to which would inform our approach to certain aspects of REC v2.0.

This decision document sets out our responses to the questions that we asked in December 2020, including confirmation that we intend to split metering governance between the BSC and REC in line with our proposals in December 2020, and an updated proposal to deliver improved cross code change following careful consideration of feedback from stakeholders (both in response to our consultation and through further engagement with industry).

We intend to implement the REC v2.0 via the change process for the REC, which at this time follows the Switching Programme governance framework. This means we will raise a

¹ https://www.ofgem.gov.uk/system/files/docs/2019/02/retail_energy_code_designation.pdf

Change Request under the Switching Programme in mid-June, and look to make a decision in early July. We will address the detailed comments we received on the REC drafting as part of that Change Request; those comments are not covered in this document.

Our December 2020 consultation also included the consequential changes to other codes (BSC, MRA, SPAA, plus the Smart Energy Code (SEC), Distribution and Use of System Agreement (DCUSA), Uniform Network Code (UNC) and Independent Gas Transporters Uniform Network Code (IGTUNC)), and questions on the content of the REC Data Specification. We will raise the Authority-led modifications to the codes from 30 April 2021, and take into account any feedback on the drafting in those modification proposals. As the questions on the REC Data Specification were specific to the content of the REC, feedback on those will be addressed in the Change Request to implement REC v2.0.

1. Introduction

1.1. We launched the Retail Code Consolidation Significant Code Review (SCR) in November 2019.² The purpose of the SCR is to rationalise retail energy codes by closing down the electricity Master Registration Agreement (MRA) and the gas Supply Point Administration Agreement (SPAA). This SCR proposed to move the requirements from these codes into the Retail Energy Code (REC) or another industry code where this is more relevant. The SCR will also facilitate further consolidation by moving the Smart Meter Installation Code of Practice (SMICOP) and Green Deal Arrangements Agreement (GDAA) under the REC. Finally, the REC will bring together gas and electricity metering arrangements, consolidating the Meter Operation Code of Practice Agreement (MOCOPA) and parts of the Balancing and Settlement Code (BSC), together with the metering provisions that sit under the SPAA (Metering Code of Practice, MCoP; formerly Meter Asset Manager Code of Practice, MAMCoP, and Approved Meter Installer Code of Practice, AMICoP).

1.2. The Retail Code Consolidation SCR scope also includes making changes to codes to better facilitate cross-code change. We proposed to introduce a Cross Code Steering Group (CCSG), and make changes to the BSC, Uniform Network Code (UNC), Independent Gas Transporters' Uniform Network Code (IGTUNC), Distribution Connection and Use of System Agreement (DCUSA) and Smart Energy Code (SEC) to enable a new approach to cross-code change.

1.3. In December 2020 we consulted on the drafting for REC v2.0 and consequential changes to other codes which would deliver Retail Code Consolidation and improved cross-code change.

1.4. We also asked a range of questions seeking stakeholders' views on specific areas of policy, to inform our way forward for Retail Code Consolidation, including the REC v2.0 drafting and the content of the Authority's SCR modifications to the other codes.

² <https://www.ofgem.gov.uk/publications-and-updates/retail-code-consolidation-scr-launch-statement>

1.5. This document discusses the responses to the policy questions we asked, and sets out our decision on those areas.

1.6. Our December 2020 consultation asked for specific comments on the content of the REC Data Specification, and we also invited detailed comments on the drafting of the REC schedules. As these questions were specific to the content of the REC, they will be addressed in the Change Request to implement REC v2.0. We have published the responses³ we received, but will not discuss these comments further in this document.

1.7. Ofgem intends to implement REC v2.0 in accordance with the REC Change Management Schedule, which means we will raise a Change Request to the Switching Programme in June 2021, which will include our response to the comments submitted on the drafting and set out any other changes we have made to the REC v2.0 drafting since December 2020.

Related publications

1.8. In addition to the December 2020 consultation, the Retail Code Consolidation SCR has developed over time, as set out in the following documents:

- Switching Programme and Retail Code Consolidation: Proposed changes to licences and industry codes (published 17 June 2019)⁴
- Retail Code Consolidation SCR launch statement (published 29 November 2019)⁵
- Switching Programme and Retail Code Consolidation: Proposed licence modifications (published 12 November 2020)⁶

³ <https://www.ofgem.gov.uk/publications-and-updates/retail-energy-code-v20-and-retail-code-consolidation>

⁴ <https://www.ofgem.gov.uk/publications-and-updates/switching-programme-and-retail-code-consolidation-proposed-changes-licences-and-industry-codes>

⁵ <https://www.ofgem.gov.uk/publications-and-updates/retail-code-consolidation-scr-launch-statement>

⁶ <https://www.ofgem.gov.uk/publications-and-updates/switching-programme-and-retail-code-consolidation-proposed-licence-modifications>

- Statutory consultation on proposals to modify licence conditions as a result of Retail Code Consolidation (published 30 April 2021)⁷
- Open letter regarding the Authority’s SCR modification proposals for Retail Code Consolidation (published 30 April 2021)⁸

Our decision making process

1.9. Our latest consultation on the code changes to deliver Retail Code Consolidation was published on 15 December 2020, and closed on 23 February 2021.

1.10. We have published all non-confidential responses on our website. We received thirty-one non-confidential responses, and two confidential or partially confidential responses.

1.11. We have carefully considered all representations made to us in this consultation process, and have further discussed proposals and responses where appropriate with stakeholders at the Regulatory Design User Group for the Switching Programme and in other forums.

1.12. This document sets out our decisions on the questions we asked in the December 2020 consultation.

1.13. We continue to consider the comments on the drafting of REC v2.0 with the Retail Energy Code Company (RECCo), who are leading on the drafting at this stage. We will set out our response to those comments when we raise the Change Request to implement REC v2.0, due in mid-June 2021.

⁷ <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-changes-retail-code-consolidation>

⁸ <https://www.ofgem.gov.uk/publications-and-updates/open-letter-next-steps-retail-code-consolidation-potential-significant-code-reviews>

Your feedback

1.14. We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this report. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall quality of this document?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Are its conclusions balanced?
5. Did it make reasoned recommendations?
6. Any further comments?

Please send any general feedback comments to Stakeholders@ofgem.gov.uk.

2. Retail Energy Code v2.0

Section summary

This section sets out our decision on questions 2.1-2.13 in our December 2020 consultation. These questions covered topics including information security assessments, energy theft investigations and metering code consolidation.

Questions

Question 2.1: Do you agree with our proposed approach to information security and data protection assessment under the REC? In particular, do you agree with the requirement for all REC Service Users to notify the Code Manager of a security breach?

Question 2.2: Do you agree with our proposal to extend entry qualification to new gas MEMs? If not, please explain why.

Question 2.3: Do you agree that the change effected by MAP CP 0338 should apply equally to gas?

Question 2.4: Do you agree that the clarification on the applicability of the schedule to non-domestic suppliers sufficiently gives regard to non-domestic suppliers who do not serve prepayment customers?

Question 2.5: Do you agree that the approach and processes for gas unregistered sites should be standardised, as set out in the Unbilled Energy Code of Practice?

Question 2.6: Do you agree that the REC should make provision for the PAB to consider the case for reconciliation of data held by PPMIPs and CDSP for the purpose of identifying unregistered sites? If so, do you agree that this process should sit in the Unbilled Energy Code of Practice?

(continued over page)

Questions (continued)

Question 2.7: Do you agree with the principle that a consumer should be no worse off by virtue of a theft investigation being undertaken by a network company rather than a supplier?

Question 2.8: Do you agree that the requirements relating to provision of customer contact details should apply equally to non-domestic suppliers, as set out in the Transfer of Consumer Data Schedule?

Question 2.9: Do you agree with our proposal to extend 'Gas use case 5: Payment of Guaranteed Standard of Performance Payments' to cover voluntary payments?

Question 2.10: What risks (if any) do you foresee in the transfer of processes associated with Commissioning, Complex Sites, Proving and Faults from BSCP514 to the REC Metering Operations schedule?

Question 2.11: Do you agree that requirement to comply with the BSC CoPs should be placed directly on MEMs in the REC? If not, please explain your reasons.

Question 2.12: Do you agree that metering operations rules and processes in the REC could be assured by the BSC, particularly with regard to PARMs reporting and technical assurance audits, until the assurance function can transition to the REC? If not, please explain your reasons.

Question 2.13: Do you agree that the information in the RGMA Baseline relating to exceptions should be out of scope of the mandatory Schedule?

What we consulted on

2.1. This chapter of our consultation discussed the proposed content of REC v2.0. We asked some specific questions to inform our decision on the way forward for certain aspects of Retail Code Consolidation.

2.2. To see the detail of the proposals we consulted on, please refer to the December 2020 consultation document.

Qualification and Maintenance Schedule

2.3. We consulted on a draft of the REC Qualification and Maintenance Schedule, which sets out the processes for market participants to 'qualify' for their specific market role and become a user for each applicable REC Service.

2.4. REC entry assessment is a risk based process, covering a range of activities including an information security and data protection assessment. We proposed that applicants be required to submit their organisation's internal information security and data protection risk assessments, plus evidence that the organisation had completed the relevant up-to-date Information Commissioner's Office (ICO) checklists, and evidence that they have the appropriate information security accreditation, reflective of the risks applicable to the specific organisation. We proposed that the REC would not prescribe a specific accreditation or checklist, and considered that this non-prescriptive approach would ensure that the framework is equally applicable to small and large companies, across the full range of REC Service Users.

2.5. In order to maintain their qualification under the REC, we proposed that Service Users should submit an annual statement of compliance or undertake an External Assessment, depending on the type of user (this would be set out in the REC Service User Categorisation and Assessment Document). We noted that under the Green Deal arrangements parties must already notify the code of any security breach, and proposed that this should be extended to all REC Service Users.

2.6. We asked **question 2.1: Do you agree with our proposed approach to information security and data protection assessment under the REC? In particular, do you agree with the requirement for all REC Service Users to notify the Code Manager of a security breach?**

2.7. We received twenty-three responses to this question. The majority of respondents were supportive of the proposed approach on the whole, subject to some clarificatory questions and suggested amendments. Two respondents in the non-domestic sector did not agree with the approach, and considered that the requirement should only apply to suppliers operating in the domestic market.

2.8. A small number of respondents raised concerns that requiring breaches to be reported to the Code Manager would be duplication with the role of the ICO.⁹ We have considered this, and while we do not intend to duplicate the work or remit of the ICO, we maintain our position that it is appropriate for the Code Manager to be notified of security breaches so that it can take the necessary steps to protect REC Services and/or REC Service Users.

2.9. Around half of respondents suggested there should be some clear thresholds or materiality criteria around the types of breaches that would be reportable to the Code Manager. There was a common feeling that only security breaches within the systems that interact with REC Services should be reportable to the REC Manager, and some suggested that this should be restricted to “material” breaches. One respondent suggested that the REC Code Manager should be required to inform parties of any security breaches within its systems or within REC Services, where this may impact on parties. Both Ofgem and RECCo agree that the REC provisions on security, including the reporting of breaches, should apply to the Code Manager to the same extent as any other Service Provider or Party and that this will appropriately form part of the overall performance assurance framework overseen by the PAB.

2.10. A small number of respondents felt it was inappropriate or inadequate to require REC Service Users to complete ICO checklists, as the checklists were not designed to be compliance tools and are subjective in nature. We agree that the checklists alone would not be an effective mitigation of information security risks, however we consider that requiring parties to complete the relevant ICO checklists could be a useful tool that ensures organisations are aware of the latest ICO guidelines on data protection and information security. We will explore this further with the REC Code Manager, and confirm our position when we raise these changes to the REC in June 2021.

2.11. In our December 2020 consultation we explained that gas Metering Equipment Managers (MEMs) are not currently subject to entry assessment, and we proposed that future qualification requirements should apply equally to all MEMs, including gas MEMs. We asked **question 2.2: Do you agree with our proposal to extend entry qualification to new gas MEMs?**

⁹ Information Commissioner’s Office

2.12. We received thirteen responses to this question, and all respondents supported the proposal. Two respondents said that further information was required regarding *how* MEMs will need to demonstrate compliance with the requirements of the REC. This is being further developed by the Code Manager and informed by discussions with MEMs, and will subsequently form part of the accession process ahead of REC v2.0 going live on 1 September 2021. As we set out in December 2020, existing MEMs operating in the market will be deemed qualified when the REC goes live, to the extent that they hold relevant certificates and/or accreditations issued by the current code bodies in accordance with the prevailing metering Codes of Practice. The existing registers of qualified MEMs will be carried over into the REC, and any MEM appearing on such register(s) will not need to demonstrate compliance or complete entry assessment before REC v2.0. Given the support for this proposal, we will proceed in line with our consultation proposal and extend entry qualification to new gas MEMs. Their existing accreditations and/or certificates will also continue to be recognised for any unexpired period that falls after REC v2.0 go-live.

Prepayment Arrangements Schedule

2.13. In December 2020 we consulted on an updated version of the REC Prepayment Arrangements Schedule. We set out that the schedule is primarily a 'lift and shift' from existing arrangements, but highlighted that a recent change to the current electricity arrangements (MAP CP 0338¹⁰) had not been replicated in gas, and proposed to apply this as a dual fuel change in the REC schedule.

2.14. We asked **question 2.3: Do you agree that the change effected by MAP CP 0338 should apply equally to gas?** The thirteen respondents to this question supported this proposal. Following the publication of the consultation, SPAA SCP511¹¹ was raised and approved, giving effect to this change in the current gas arrangements. Therefore, no further Ofgem decision is needed and SPAA SCP511 will be reflected in the REC drafting.

2.15. In December 2020 we clarified in the schedule that while it would be mandatory for non-domestic suppliers, the provisions only apply where a customer has a prepayment meter (or smart meter operating in prepayment mode). Where a non-domestic supplier does not have any prepayment customers, they will not be required to comply with the

¹⁰ <https://www.mrasco.com/changes/change-tracker/application-of-utrn-process-for-smets1-meters-enrolled-in-dcc/>

¹¹ <https://www.spaa.co.uk/change/application-of-utrn-process-for-smets1-meters-enrolled-in-dcc/>

requirements of the schedule. We asked **question 2.4: Do you agree that the clarification on the applicability of the schedule to non-domestic suppliers sufficiently gives regard to non-domestic suppliers who do not serve prepayment customers?**

2.16. Eleven respondents answered this question, and all but one agreed that the clarification was appropriate and sufficient. Some respondents noted that there is a small market for non-domestic prepayment metering, and that sometimes a non-domestic contract serves a premises which is also occupied by domestic consumers. Respondents cited these examples as particular justifications for not exempting non-domestic suppliers from the schedule entirely. One non-domestic supplier felt the clarification should go further and explicitly exempt non-domestic suppliers where they accidentally acquire a prepayment customer, for example as a result of an erroneous transfer. The intent of the drafting is that the Schedule applies where a supplier has a contract to supply a customer using a prepayment meter or prepayment functionality, and so an erroneous transfer involving a prepayment meter would not require a supplier to contract with a PPMIP¹², for example, because by definition an erroneous transfer does not involve a valid contract to supply the customer. We will consider further whether additional clarification to this point is needed, and confirm our final position in June 2021 when we raise the Change Request to implement REC v2.0.

Unbilled Energy (formerly Theft) Code of Practice

2.17. We proposed creating a consolidated Unbilled Energy Code of Practice (CoP), bringing together the current Theft CoPs in SPAA and DCUSA, and the electricity Unregistered Sites procedures. We considered that this would appropriately recognise that in the course of a theft investigation it may be determined that the unbilled energy consumption was a result of a data error rather than theft, and that the CoPs relate to conduct of investigations at the stages before any conclusions have been drawn as to whether or not theft has occurred. We noted that there are currently no standard procedures relating to unregistered sites in gas, and proposed that the Unbilled Energy CoP should be dual fuel to ensure there is a standard approach so that consumers are treated fairly, irrespective of which network they happen to be connected to.

¹² Prepayment Meter Infrastructure Providers

2.18. We asked **question 2.5: Do you agree that the approach and processes for gas unregistered sites should be standardised, as set out in the Unbilled Energy Code of Practice?**

2.19. There was broad support for creating dual fuel Unbilled Energy CoP across the nineteen responses to this question, although several respondents identified that there are physical differences in the way that gas and electricity may be stolen, so the operational procedures relating to how theft is investigated may appropriately be different for each fuel. The draft REC Unbilled Energy CoP was published on the DCUSA and SPAA websites for parties to review, due to the fact that the existing documents relating to theft investigations are not in the public domain. We highlighted that the Unbilled Energy CoP was an early draft and had not yet been put in the REC “house style”. Some respondents gave helpful suggestions on how to make the document easier to use, for example by placing the best practice guidelines in a separate document outside of the main schedule, so that the schedule could focus on the obligations on parties.

2.20. We therefore intend to proceed with the proposal in our consultation, and implement a standardised process for unregistered gas sites in the Unbilled Energy CoP. We continue to consider the detailed feedback that stakeholders submitted regarding the content of the Unbilled Energy CoP, and will respond to those comments when we publish the updated REC v2.0 drafting in June 2021.

2.21. Appendix 12 of the draft Unbilled Energy CoP included a provision for the REC Performance Assurance Board (PAB) to direct a reconciliation of data held by PPMIPs and the CDSP¹³ to help identify unregistered sites, drawing on the intent of SPAA CP473: Release of Shipperless and Unregistered data by the PPMIP. We asked **question 2.6: Do you agree that the REC should make provision for the PAB to consider the case for reconciliation of data held by PPMIPs and CDSP for the purpose of identifying unregistered sites? If so, do you agree that this process should sit in the Unbilled Energy Code of Practice?**

2.22. Sixteen respondents commented on this question, and all were supportive of the proposal for the PAB’s remit to include consideration of a reconciliation of data held by PPMIPs and the CDSP. Some respondents highlighted that while this reconciliation may help

¹³ Central Data Service Provider (gas)

to identify unregistered sites, further work was needed to specify how this would work in practice. One respondent expressed concern that the PAB could undertake this without further consideration of the costs or input from industry into the process design.

2.23. Our assessment of the responses is that there is merit in making provision for the PAB to consider the case for instructing a reconciliation of the data held by PPMIPs and the CDSP. We consider that the PAB would be required to give due consideration to the costs and benefits of such an activity, and as with any process that required input from parties or other market participants, we would expect the PAB to consult parties as appropriate.

2.24. Following concerns raised with us by the Citizens Advice Service Extra Help Unit regarding apparent disparities in consumer protections where a network investigates unbilled energy rather than a supplier, we proposed to introduce a principle that backbilling restrictions should apply where theft cannot be proven. The intent of this was to ensure that a consumer would not be worse off by virtue of an investigation being conducted by a network rather than a supplier. **We asked question 2.7: Do you agree with the principle that a consumer should be no worse off by virtue of a theft investigation being undertaken by a network company rather than a supplier?**

2.25. We recognise there is a potential risk of consumer detriment where, following a network's theft investigation, there is no evidence that the consumer has *illegally* taken a supply of energy but the network is still in dispute with the consumer over recovery of the value of the energy supplied. We also recognise, as noted above, that there are currently no standard procedures relating to unregistered sites in gas. Our preference remains that there should be a standard, dual fuel approach that ensures consumers are treated fairly, irrespective of which network they happen to be connected to or which entity is investigating the loss. We will continue to develop our thinking on this and issue a decision in due course.

Transfer of Consumer Data Schedule

2.26. We consulted on the REC Transfer of Consumer Data Schedule, which covers the high level rules regarding the legal basis for sharing Priority Services Register (PSR) data and consumer contact details, and when data should be shared between parties.

2.27. We asked **question 2.8: Do you agree that the requirements relating to provision of customer contact details should apply equally to non-domestic suppliers, as set out in the Transfer of Consumer Data Schedule?** We received

nineteen responses to this question, and while the overall response was positive, responses from the non-domestic sector expressed concern about the proposal.

2.28. Three respondents based in the non-domestic sector considered that it was not appropriate to extend the requirement to share the contact details of large non-domestic customers. The reasons for this included that the information is likely to relate to a head office rather than a specific site so is not relevant for the network operator's purposes; the requirement to share non-domestic contact details would require system development work; and a suggestion that the data collection exercise required to fulfil this new obligation should be impact assessed.

2.29. We have previously confirmed that we do not intend to make changes at Retail Code Consolidation that require substantive systems changes for code parties, particularly for suppliers in the wake of the Covid-19 pandemic. On the basis of the responses from suppliers most impacted by this proposal, we have decided not to extend the requirements relating to customer contact details at this time. Given the support from network parties, we recommend that this is considered further by the REC Code Manager and interested parties once the REC Change Management process is live.

2.30. We also asked **question 2.9: Do you agree with our proposal to extend 'Gas use case 5: Payment of Guaranteed Standard of Performance Payments' to cover voluntary payments?** The eighteen respondents to this question supported the proposal, and we therefore confirm that this use case will be extended in line with our consultation proposal.

Metering Arrangements (including Metering Operations, Metering Accreditation, MAMCoP, AMICoP, MOCOPA, ASPCoP)

2.31. In December 2020 we restated our overarching policy intent with regard to metering code consolidation, which is to harmonise gas and electricity metering provisions within the REC, providing a single set of obligations directly on Metering Equipment Managers (MEMs) with a robust performance assurance framework that holds MEMs directly to account.

2.32. We identified that previous publications had set out the policy intent at a high level, and we had worked with Elexon and RECCo to define and analyse the options for handling the lower level of detail regarding the split between metering provisions in the BSC and the

REC. We identified three overarching options around how to draw the line between what should be in REC and what should be in BSC:

- Option 1 Functional split – with operational processes associated with meter asset data updates and agent appointment transferring to the REC and meter technical CoP and associated controls retained in the BSC.
- Option 2 Meter type split – with provisions associated with advanced, complex and CVA (Central Volume Allocation) metering retained in the BSC, and provisions associated with smart / traditional metering transferred to the REC.
- Option 3 Market split - provisions associated with metering systems registered in MPAS/SMRS (ie Supplier Volume Allocation, SVA) transferred to the REC and provisions associated with metering systems registered in CMRS¹⁴ (ie CVA) retained in the BSC.

2.33. Following analysis of these options, we set out that option 3 was our preferred approach. We asked **question 2.10: What risks (if any) do you foresee in the transfer of processes associated with Commissioning, Complex Sites, Proving and Faults from BSCP514 to the REC Metering Operations schedule?** We received eighteen responses to this question, and the vast majority of respondents expressed support for the proposed approach (option 3) and did not identify significant risks.

2.34. Several respondents highlighted the need to ensure the REC and its governance groups (eg the PAB) have sufficient expertise, or access to technical experts, to understand and engage with issues relating to metering. We agree, and while we note that the REC governance groups are currently being finalised, we welcome confirmation from RECCo that all governance groups will be supported with appropriate technical and subject-matter experts as required.

2.35. Respondents also identified the need to ensure that all code drafting remains aligned following the transfer of any provisions from one code to another. Ofgem has worked with Elexon and RECCo to carefully define the scope of which requirements are moving between codes. A preliminary gap-analysis has suggested that the REC drafting adequately captures

¹⁴ Central Meter Registration Service

the scope of roles and responsibilities that will be migrating from the BSC, though we remain open to the further development of the REC Metering Operations Schedule or other provisions if the need arises. We are also reassured by the extent of collaboration that has been exhibited by Elexon and RECCo in the development of these arrangements, which we believe will mitigate any risk that may arise from this transition between codes.

2.36. Elexon favoured an approach akin to Option 2 above, with advanced metering remaining in the BSC and smart and traditional metering moving to the REC. We have considered this further and remain of the view that a meter-type split would result in significant duplication across the two codes, particularly around operational processes, requiring ongoing efforts to keep the two codes aligned. In our view this would not be consistent with our overall approach to retail code consolidation, which is to reduce and remove duplication between codes.

2.37. Elexon also outlined their view that the BSC is best placed to manage settlement risks, whereas the REC will manage consumer billing-related risks, noting their view that the data used for settlement will in future differ from data used to support billing, and therefore the management of the settlement risk may fall outside of the scope of the REC PAB. We note that, since our December 2020 consultation, Elexon have engaged with the Interim REC PAB to discuss settlement risk and the transition of MEM assurance to the REC. We welcome the ongoing engagement between Elexon and RECCo, and in particular support having a member of the BSC PAB on the REC PAB and Metering Committees, to ensure ongoing communication on settlement risks where appropriate.

2.38. Having carefully considered the responses to this question, we have decided to implement metering code consolidation in line with the proposals in our consultation. We have engaged with Elexon and RECCo to ensure that the required changes to the BSC and REC are developed to support this position.

2.39. We also asked **question 2.11: Do you agree that the requirement to comply with the BSC CoPs should be placed directly on MEMs in the REC? If not, please explain your reasons.** Nineteen respondents answered this question, and the vast majority were supportive. In general, respondents recognised the value in making MEMs directly accountable for compliance with the CoPs.

2.40. Two respondents expressed concerns that placing new obligations on MEMs, and the related potential liabilities under the performance assurance framework, could result in increased costs for consumers. One respondent highlighted that, at the time of the

publication of the December 2020 consultation, there was no detail available as to the scale or nature of Performance Charges that may be applied under the REC. We note that the REC Code Manager has published a consultation on the Performance Assurance Framework, which closes on 14 May 2021.¹⁵ This consultation includes a proposal to set Performance Charges to zero for the first year of operation. While we accept that liabilities for poor performance would impose new costs on MEMs, we remain of the view that it is preferable (where possible) to directly hold accountable those parties responsible for operational processes.

2.41. One respondent expressed concern that the obligations in the CoPs require compliance from parties other than the MEMs, and it would therefore not be appropriate to place accountability for compliance with the CoPs *solely* on MEMs. We agree, and as above, it is our preference to ensure that the party responsible for delivering a particular obligation is also the party held accountable. A key principle of the REC performance assurance framework is that it will investigate and address the root cause of issues, rather than focus unduly on the area where a symptom may manifest. We do not intend to make MEMs accountable for the behaviour of suppliers or network operators; the intent is for each party to be accountable for its own compliance. To this end, we will proceed in placing a requirement to comply with the BSC CoPs directly on MEM Parties to the REC.

2.42. As we noted in the consultation, BSC Issue 93¹⁶ is currently open and reviewing the BSC metering CoPs. We support the progression of this review, and will not seek to move or amend the CoPs at this time. Should it be appropriate, we will work with BSCCo and RECCo to take forward any conclusions of the Issue Group in due course.

2.43. In December 2020 we noted that there would be a necessary lead-time to set up new performance assurance techniques and reporting functionality under the REC, and that this was unlikely to be achievable by REC v2.0 go-live on 1 September 2021. We therefore proposed that RECCo and BSCCo worked together to develop a transition approach to performance assurance. We asked **question 2.12: Do you agree that metering operations rules and processes in the REC could be assured by the BSC, particularly with regard to PARMs reporting and technical assurance audits, until the assurance function can transition to the REC? If not, please explain your**

¹⁵ The consultation is available here: <https://www.retailenergycode.co.uk/code-manager/>

¹⁶ <https://www.elexon.co.uk/smg-issue/issue-93/>

reasons. There were seventeen responses to this question, and overall there was overwhelming support for a transition period with regard to assurance, with respondents recognising that this was preferable to moving to an assurance function that was not yet fully functional.

2.44. Some respondents identified that performance assurance is not the only activity that may require a degree of 'transition', for example qualification processes will also need coordination for handover from one code to the other.

2.45. Given the overwhelming support for this proposal, we have agreed with Elexon and RECCo that a transition period for performance assurance is the most appropriate way forward, in line with our consultation proposal, and we welcome Elexon's ongoing engagement with RECCo and the REC Code Manager to develop a transition plan. We expect that the aim should be for the transition period to complete by April 2022, although we consider it would be inappropriate to prescribe a timeline at this stage. We encourage RECCo to ensure communication with parties on the plan and progress against the plan is timely and transparent.

2.46. With regard to gas metering arrangements, we explained that the Metering Operations Schedule will cover the RGMA¹⁷ Baseline and SPAA Schedule 22. We noted that the processes relating to exceptions are not mandated in the current RGMA Baseline, and asked **question 2.13: Do you agree that the information in the RGMA Baseline relating to exceptions should be out of scope of the mandatory Schedule?** Of the eleven responses to this question, all but one were supportive.

2.47. One respondent was concerned that the exceptions processes should not be lost following the transition to REC v2.0. We agree, and remain of our previously stated view that, although these processes will not form part of the mandatory schedule, they should be reviewed by the Code Manager and any relevant information should be retained in lower level guidance.

¹⁷ Retail Gas Meter Arrangements

Charging arrangements

2.48. In December 2020 we set out that where services were transitioning from an existing code over to the REC, RECCo would charge for services on the same basis as they are currently charged for. This means, for example, that DNOs would continue to contribute one third of the cost of ECOES¹⁸, and MEMs would not pay for access to ECOES.

2.49. This remains our position and RECCo have confirmed that this will be reflected in its own Charging Methodology proposals, which it will consult upon in May, in readiness to replace legacy charging arrangements which will expire at Retail Code Consolidation. For the avoidance of doubt, there will be no change to the overall RECCo budget for 2021/22 agreed earlier this year. Going forward, it is expected that RECCo will consider and consult upon any changes to the Charging Methodology on an annual basis, to the extent such changes form part of its proposed budget and cost-recovery mechanism for the following financial year. Changes to the methodology may otherwise be proposed and progressed in accordance with the REC Change Management process, which includes consultation with impacted parties.

Next steps

2.50. In this chapter we have set out our decisions on the specific policy proposals that we asked questions in relation to, and where we sought feedback from stakeholders to inform the way forward.

2.51. With regard to the Unbilled Energy Code of Practice, we will continue to develop our thinking regarding consumer protection, for example where a consumer has not been charged for energy through no fault of their own. We will issue a decision on this in due course.

2.52. We continue to work with RECCo to review and address the detailed comments provided by stakeholders on the drafting of the REC Schedules, including the Schedules that have not been directly mentioned here.

¹⁸ The Electricity Central Online Enquiry Service

2.53. We will provide further information on our response to those comments when we raise the Change Request to implement REC v2.0, in accordance with the REC change process.

3. Consequential Changes to Other Codes

Section summary

In December 2020 we set out our proposals for the operation of the Cross Code Steering Group (CCSG), and changes to the BSC, UNC, IGT UNC, SEC and DCUSA to facilitate improved cross-code change. In this chapter we summarise responses and explain our amended proposal and next steps for implementation of this.

We also published draft consequential changes to codes as a result of the introduction of REC v2.0 and closure of the MRA and SPAA. We will address comments received on that drafting in the Authority-led modification proposals for each code, rather than in this document.

Questions

Question 3.1: Do you agree that the proposed text to embed the Cross Code Steering Group will enable the intended improvements to cross code change? If not, please suggest alternative or additional drafting.

Background

3.1. The Retail Code Consolidation SCR scope, as described in the launch statement¹⁹, includes “the necessary changes to other codes to facilitate better cross-code change management”. Our REC v1.1 consultation²⁰ set out further detail on the proposals to establish a Cross Code Steering Group, and to make provision for code administrators to be able to raise consequential changes (rather than being reliant on a Party to that particular code). In December 2020, we consulted on what those “necessary changes” to codes might be, including proposed generic drafting to be added to codes to place the necessary obligations on codes to engage with the CCSG and set out the modification-raising and decision making rights required to give effect to improved cross-code change management.

¹⁹ <https://www.ofgem.gov.uk/publications-and-updates/retail-code-consolidation-scr-launch-statement>

²⁰ <https://www.ofgem.gov.uk/publications-and-updates/retail-energy-code-proposals-version-11>

3.2. Overall stakeholders have been highly supportive of the intent to improve cross-code change management. However, some aspects of the design have drawn concerns, and these areas are the focus of this chapter.

Operation of the Cross Code Steering Group

3.3. In December 2020 we asked question **3.1: Do you agree that the proposed text to embed the Cross Code Steering Group will enable the intended improvements to cross code change? If not, please suggest alternative or additional drafting.** We received twenty-three responses to this question, and the vast majority of respondents supported the proposals overall. Where concerns were raised, they centred on a few key themes, which are discussed below.

Who can raise consequential changes

3.4. A small number of respondents continued to express concern about changes being raised by organisations who were not familiar with the intricacies of a given code, for example the REC Code Manager being able to raise changes to the BSC or UNC. We have considered this concern. We remain of our previously stated view, that it is appropriate that the REC Code Manager can raise changes to other codes, given that any person (including code administrators) can raise a change to the REC. The REC Code Manager role was developed in part to better facilitate this type of activity, and it is appropriately empowered and resourced to deliver this role; it is therefore best placed to raise certain consequential changes. However, in each case we would expect that the CCSG should consider and agree which of its members should raise the required consequential mods, taking into account issues such as any required technical knowledge or expertise.

Who can attend the CCSG

3.5. Some respondents suggested that particular parties should have automatic rights to attend meetings of the CCSG. In particular, it was suggested that system providers, such as the DCC with regard to smart metering systems, should be able to attend CCSG to advise on whether consequential system changes are required as a result of a given change. Another suggestion was that the proposer of the lead change should be able to attend any discussions related to their proposal. We can see merit in both of these suggestions and consider that they can be addressed through the CCSG Terms of Reference.

Developing cross code changes

3.6. Several respondents commented on the process for cross-code changes. Some suggested that there should be set principles for determining which change is the lead change, to mitigate any risk that a particular code is, or is not, designated as the lead code due to a perceived differences in the likelihood of changes being approved. We also received suggested broader principles for the development of cross code changes.

3.7. Regarding the process for progressing change proposals, a minority of respondents expressed concerns about the proposal to tie the timelines for consequential changes to the timeline agreed under the lead code. Some respondents suggested the lead code might not have sufficient understanding of the complexity of consequential changes, so would set inappropriate timelines for development of the change proposal.

3.8. We have considered the proposals in this area. We expect the REC Code Manager to develop lower level guidance on the workings of the CCSG, which could include guidance on determining the lead code. While we recognise there could be conflict in the speed of development of changes across multiple codes, we expect code parties and members of the CCSG to engage constructively and openly in discussions of timelines for development of proposals and any associated impact assessment, and lead codes should take into account the complexity, resource requirements and modification processes of other codes.

Decision-making on cross-code changes

3.9. We proposed that where a modification is identified as having cross-code impacts, the relevant changes should be grouped into a single package. One modification within the package would be designated as the **lead** modification, and other necessary changes would be **consequential** changes.

3.10. In the REC v1.1 consultation we had proposed that a cross-code change package would be approved on a “One-Fail-All-Fail” basis, meaning that all mods must be approved in order for the lead change to be approved. However, having considered this further we were concerned that this could stymie change by effectively giving consequentially-impacted codes a right of veto on the lead change.

3.11. In December 2020 we consulted on an adjusted model, where consequential changes would be voted on and the outcome of the vote would be a recommendation to the lead code panel. The lead panel would then consider the final reports and

recommendations, and decide on the whole package in the round. This means that a consequential change could be 'rejected' by the consequential code, but approved by the lead code as part of the cross-code change package.

3.12. The December 2020 proposal was supported by many respondents, but there were significant concerns raised by a small number of respondents. Those concerns centred on two key issues:

- A concern that a code panel could make decisions that impact infrastructure or systems provided under another code, without fully understanding the impact of those decisions; and
- A concern that code panels could make decisions that directly impact organisations who are not party to, and therefore not represented on, that code (for example a decision of the REC Change Panel regarding a UNC mod which would impact gas shippers).

3.13. We discussed our proposal further with the Regulatory Design User Group (RDUG), where members emphasised these concerns. We have carefully considered a number of alternative options, and propose the following adjusted model (note, the terminology in this explanation may not match exactly with the legal drafting; we have sought to explain the process here using plain language).

Ofgem decision on cross code change processes

3.14. We propose that each modification within a cross code change package should be voted on by the relevant panel, whose recommendations and/or decisions must continue to be based upon their own assessment of whether the proposed change would better facilitate the relevant objectives of that particular code. However, implementation of each change in the package would be conditional on the approval of all modifications within the package, and this conditionality should be clearly set out in the change proposal.

3.15. Where all changes within a package are self governance modifications:

- a) If every code votes to approve their respective modification, then the whole package is approved and all modifications can be implemented.

- b) If the **lead** change is approved by its respective code, but one or more **consequential** changes are rejected, the lead code panel can choose to refer the decision on all changes in the package (lead and consequential) to the Authority within 30 days of the vote on the lead change. This 30 day window allows for any self-governance appeal routes to close before the panel must decide whether to refer the package to the Authority.
- c) If the **lead** change is rejected by its respective code, then none of the **consequential** changes can be implemented regardless of whether they are or would have been approved by their respective codes (subject to any appeal of the decision of the lead code).
- d) If all changes within a package are approved, but one of the modifications is subsequently successfully appealed, the other related changes should not be implemented or their implementation should be reversed.

3.16. Where a cross-code change package consists of a mixture of self-governance and Authority decision modifications, we consider that the lead change should always be one of the changes that requires an Authority decision. This means that if any of the consequential changes are rejected, they can be referred to the Authority for decision at the same time as the decision on the lead change.

3.17. As noted above regarding the operation of the CCSG, we consider that much of the conventions around designating a **lead** change can be set out in the terms of reference or working practices of the CCSG. As the CCSG will be a sub-committee under the REC, the REC will include an obligation that the CCSG operates in accordance with the CCSG Terms of Reference. Following discussion with the REC Code Manager, we have also decided that the CCSG Terms of Reference document should be a *Category 2* document under the REC, meaning that changes to the terms of reference must go through the formal REC change process. We consider this is appropriate and proportionate, taking into consideration that the CCSG Terms of Reference will impact a broad range of codes and code parties. This also means that any interested person (including parties to other codes) could propose changes to the operation of the CCSG, for consideration in accordance with the REC Change Management Schedule.

3.18. We have provided generic base text to the code bodies, and will submit the legal drafting to embed the cross-code change process in each code as part of the Authority-led

SCR modification proposals that will be submitted between 30 April 2021 and 21 May 2021, as per our open letter on the Retail Code Consolidation SCR.²¹

²¹ <https://www.ofgem.gov.uk/publications-and-updates/open-letter-regarding-significant-code-review-modifications-retail-code-consolidation>

4. Next steps

4.1. Our intention is that Retail Code Consolidation should be on 1 September 2021. Below we have summarised the steps that we intend to take to ensure that all the relevant code and licence changes can come into force on that date.

Retail Energy Code v2.0

4.2. The vast majority of the changes that implement Retail Code Consolidation will be delivered through the REC v2.0.

4.3. The REC v2.0 will be delivered in accordance with the Change Management Schedule to the REC. Changes to the REC are currently progressed through the Switching Programme governance processes, which means Ofgem will raise a Change Request (CR) under the Switching Programme to implement REC v2 and this will be subject to approval by the Chair of the Regulatory Group under the Switching Programme.

4.4. Ofgem proposes to raise the required CR on 18 June 2021, and make a decision by 2 July 2021.

Retail Code Consolidation Significant Code Review

4.5. From 30 April 2021, Ofgem will submit the Authority-raised modification proposals to the MRA, SPAA, BSC, UNC, IGT UNC, DCUSA and SEC required to implement Retail Code Consolidation.

4.6. Further information on the Retail Code Consolidation SCR modifications, including a consolidated timetable for progression of the modification proposals, can be found in our open letter, published 30 April 2021.²²

²² <https://www.ofgem.gov.uk/publications-and-updates/open-letter-regarding-significant-code-review-modifications-retail-code-consolidation>

Statutory consultation

4.7. We published a statutory consultation on the changes to electricity and gas supply, distribution and the smart meter communications licences required to reflect Retail Code Consolidation on 30 April 2021.²³

4.8. We invite stakeholders to submit representations by no later than 5pm on 1 June 2021. Responses should be sent to switching.programme@ofgem.gov.uk.

4.9. This deadline reflects that we must publish a decision on the proposals in the consultation by early July, in order for proposed licence changes, if made, to have effect in time for 1 September 2021, the planned date of Retail Code Consolidation.

4.10. We anticipate reviewing all responses and making a decision by 2 July 2021, with the finalised licence modifications, if made, coming into effect 1 September 2021 (following the mandatory 56 day standstill period).

4.11. Ofgem will launch a second statutory consultation on the licence changes required to deliver the new switching arrangements, in December 2021.

²³ <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-changes-retail-code-consolidation>