

Marion Quinn  
Industry Codes & Licencing  
Ofgem  
9 Millbank  
London  
SW1P 3GE

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Dear Marion,

### **Code Governance Review (phase 3)**

Thank you for the invitation to respond to the above document. Good Energy is a fast-growing 100% renewable electricity supply company, offering value for money and award-winning customer service. An AIM-listed PLC, our mission is to support change in the energy market, address climate change and boost energy security.

#### Executive Summary

Whilst we welcome several of the proposals in this consultation, we do not feel it is proposing anything that deals with the fundamental problem of the complexity and incongruous nature of the code environment. We appreciate that Ofgem is awaiting the outcome of the CMA's investigation, but given that the CMA have already flagged that the code environment is a problem, we feel Ofgem could have been more radical in its thinking.

Increasing the visibility of the critical friend element of the CACoP on web sites is a forward step, but we feel code administrators should also set out how they are meeting the principles set out in the code, and for these steps to be practical. For example several codes are now offering pre-panel tele-conference briefings, but the resource implications of dealing with several conference calls a month means few are well attended.

The standardisation of the modification process across the codes is something we strongly support as this means that where an issue is identified with a code, a supplier is more able to raise a change as they will understand the process.

We have answered your specific questions with reference paragraph below, expanding where necessary.

### **Chapter 2**

#### **Q1. Do you agree that Ofgem should have the ability to lead an end-to-end SCR process, including the development of the code change and legal text?**

Whilst we can see merit in having a body lead an end-to-end SCR process, especially where it covers more than one code, we do not believe Ofgem is the right body for this as they are also the instigator and final decision maker of the SCR. Ofgem's is also not bound by the critical friend requirement of the CACoP to support smaller parties and thus the possible unintended consequences of the change on such parties may not be properly assessed.

**Q2. Do you agree it is appropriate to clarify that Ofgem may set timetables for the code change process under an SCR, when the existing industry- led code development route is used?**

We support the view that a timetable should be set out for all code development (SCR or otherwise), but Ofgem should consult to ensure that sufficient time is made available to give the proposed change proper consideration. The timetable should also include the date Ofgem will deliver its decision within the plan. If Ofgem is leading an SCR code change then they should also be timetabled.

**Q3. Do you have any comments on the licence drafting set out in appendix 3?**

We have not considered this as it is not our area of expertise.

**Q4. Should Ofgem be able to directly raise a modification proposal under the standard process (option 2A)?**

Given Ofgem already have powers to direct a party to raise a modification proposal it would seem more transparent if Ofgem was to raise the modification proposal in its own name. Parties would then be free to propose alternatives and to recommend rejection.

**Q5. Do you have any other proposals for changes to the SCR process?**

If Ofgem is to lead on the SCR process, then it should be bound by the critical friend obligations to ensure it fully considers the impact on all parties, not those that are able to resource attendance at meetings. The SCR should also include an Impact Assessment which considers the impact of the proposed SCR on different types and size of parties.

## Chapter 2

**Q1. Do you agree that requiring a positive identification of why Authority consent is needed (rather than why it is not) could result in additional modifications being developed under self-governance?**

We agree this would be an improvement and may lead to more modifications being progressed. However, if this is implemented then Panels must be obligated to consider the impact on individual party type, as well as the impact on the industry as a whole. For example a modification proposal may require a minor change to central systems, but a significant change to individual parties, which will have a disproportionately adverse affect on smaller participants who lack the economies of scale.

**Q2. Do you agree that guidance on the materiality criteria may assist industry in its assessment of whether a modification should be self-governance or require Authority consent?**

We agree that guidance would be helpful, as well as identifying what needs to be considered in the materiality calculation, such as impact on parties. It should also cover when the materiality calculation should be made in the process as the impact/costs may not be apparent until the final assessment stage.

**Q3. Do you agree that any potential guidance is something that panels and code administrators should develop, based on experience to date of using self governance?**

We would support this proposal, and agree that uniformity across the codes should be established. The guidance should also be put out to consultation with the industry before being adopted. Ofgem will also have to play a part to ensure it is comfortable with the level of materiality.

**Q4. Do you have any other proposals that may improve the self-governance processes under the code?**

We believe that more use of issues groups where the industry looks at the defect/enhancement that needs to be addressed before a modification is raised. This would result in stronger, more robust modifications being developed, and by addressing some of the possible unintended consequences in the initial proposal, stop counter modifications being proposed or several alternatives having to be worked through. Whilst the CACoP principle 5 supports the use of a pre-modification process it is used too sparingly. We believe that Ofgem should consider a higher materiality threshold if a modification has been developed through an issues group rather than an individual party to encourage such cooperative development of modifications.

### Chapter 3

**Q1. Do you agree that updating the guidance in CACoP and ensuring best practice across all codes would enhance the role of the Critical Friend?**

We would be supportive of improvements to the Critical Friend role via updated guidance in the CACoP. However we feel all code administrators must address the resource intensity of having multiple codes operating independently of each other. Otherwise parties' ability to engage with the Critical Friend function will be limited.

**Q2. Please provide your suggestions as to how the Critical Friend role could be better advertised and what information each code administrator should include on its website?**

The key to better visibility of the Critical Friend role is for code administrators to provide parties with a named individual with whom parties can build up a working relationship. This should be similar to Ofgem's independent supplier champion role where a named champion is available to take queries and direct them to the relevant people in the organisation.

Key information on the website would be the identity of the Critical Friend representative(s) and their contact details, and what critical friend support is available to parties and how to access it.

**Q3. Could a self-governance process be introduced for the CACoP?**

This would depend on how the self governance arrangements were set up. Clearly, the solution to smaller parties limited resource to manage its interactions is not to have another code and code administrator to deal with. That said it should be possible for code administrators to make improvements to CACoP that will benefit all parties.

**Q4. How often should the CACoP be reviewed?**

If a form of self governance was introduced then the CACoP would be under continuous review and this should be the case. Set reviews will only reflect the issues at the time of the review. If a fixed time review is felt necessary then an annual review would seem sensible.

**Q5. Do you agree that greater visibility of the CACoP can be achieved by having clear links available on all code websites to a dedicated CACoP page?**

We believe this would increase the visibility of the code. The link would ideally be on the home page of the code, or at the very least somewhere prominent and neither the link nor the dedicated page should be in a password protected area of the website, as infrequent visitors to the websites may not remember it or even have a login id.

**Q6. How could the quantitative metrics be improved?**

We have no views on this.

**Q7. Should a single body send out one qualitative survey across all codes? If so who would be best placed to undertake this role?**

Answering eleven different qualitative questionnaires is time consuming and often avoided by parties unless they have significant interaction with a particular code. So a single questionnaire would be far more efficient and allow code administrators to assess their work in comparison with their peers. We would propose that the survey is done by an independent party on behalf of all the code administrators, perhaps with one of the administrators, such as SECAS (as they cover both gas and electricity) agreeing to be the contracted party on behalf of the codes.

**Q8. Do you agree that the modification process and template should be standardised across all codes?**

We strongly support this proposal. Standardisation will allow parties to better engage with the modification process as they will only have to learn how one process works. This could also assist smaller parties in raising modification proposals as well as responding to others.

At the very least, all modifications should include a front summary sheet as used by Elexon so that parties can quickly assess whether the proposed modification is likely to affect them.

**Q9. Is it appropriate that all panel chairs be completely independent of industry?**

We believe it is appropriate for all panel chairs to be independent of any signatory to the relevant code, but not necessarily independent of the industry. It may actually be beneficial for the chair to have industry knowledge in order to properly understand the issues under discussion.

**Q10. Is it appropriate that all panel members are required to be impartial, i.e. not to represent the interest of their company?**

Whilst this would be the preferred outcome, achieving it is difficult given that panel members are remunerated for time spent on panels by their employing company, and their view on the issues is coloured by their experience with that company. Indeed some panel members are elected to represent the views of similar parties (e.g. large supplier, network operator etc). Therefore, they will inevitably act in line with their own business if it is the view of their electorate.

If Panel members were remunerated, then independent representatives could stand for election and elected on merit. This would certainly help fill seats reserved for smaller suppliers on many panels which are currently vacant.

**Q11. Should DCUSA and SPAA voting be undertaken by Panel, rather than all parties?**

We believe this is the most efficient way to proceed. It would also mean that ensuring smaller suppliers views are properly represented by the panel than relying on them to vote.

**Q12. Should code administrators provide a chair for workgroups?**

The role of a chair is to act impartially and ensure all parties receive an equal hearing. In some cases the code administrators will not be impartial as they may have a view on the change, want to act as a critical friend for parties unable to attend, or maybe defend their analysis if it comes under criticism from workgroup members. We are therefore of the view that chairs of workgroups should also be independent appointees.

**Q13. Would including a consumer impacts section on each change proposal form help to ensure consumer interests are discussed and published?**

We would support this and also propose that a competition impact section is also included to ensure that any proposal does not unintentionally hinder competition.

**Q14. Do you agree with the housekeeping changes we have proposed?**

We are supportive of these proposals.

## Chapter 5

**Q1. Should all 'material' charging modifications proceed through pre-modification processes and demonstrate some initial evidence against the relevant charging objective prior to being formally raised?**

We believe that it would be more helpful if the issue in question was discussed prior to a modification being raised. This should result in a more considered modification being put forward that has a higher chance of being adopted. Pre-modifications meetings which just consider whether a modification meets relevant objectives, rather than whether it robustly addresses the defect it seeks to address seems to have little value.

**Q2. Could the current pre-modification processes for charging code changes be applied more effectively in line with CACoP 5 & 6?**

We believe that using a pre-modification process to develop a modification would be a good thing. Using the process to vet a proposed modification against the objectives serves little value. We support moving in line with CACoP 5 & 6, although these need to be changed so that a party does not have to raise a modification to get into pre-modification process.

**Q3. Should panels develop forward work plans for charging modifications in line with agreed priority area(s) to provide a more robust approach to managing modifications?**

We would support planning for known changes, but this should not restrict the raising of modifications because they are not considered a priority area when the plan was developed. We are also unclear as to how the "priority areas" would be agreed and by whom.

**Q4. Do you agree that charging modifications which are 'not material' (in line with self governance criteria) should be progressed through the self-governance route?**

We would support this proposal as it would be more efficient.

**Q5. Do you agree that bringing all current charging methodologies forum under DCUSA governance could help to improve stakeholder engagement and increase the consistency of processes for charging modifications?**

We would support any measure that simplifies the governance arrangements.

**Q6. Do you agree that having a panel sponsor would help the DCUSA Panel better understand the origins of charging modifications and the DCUSA Panel would be more accountable for, and engaged with, efficiently progressing them?**

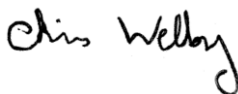
If members of the DCUSA Panel have difficulty engaging with charging modifications, then it is likely that many parties will have similar issues and will therefore not engage in the consultation process. It is up to the working group to ensure the Panel are able to understand the issue and proposed change without the intervention of a Panel sponsor.

**Q7. Please set out any other proposals you may have for improving the governance for charging methodologies under open governance arrangements?**

Charging methodologies are particularly complex and little understood outside a handful of experts in the industry. It is important that the code administrator in their critical friend role sets out in plain language, they change proposed and the consequences of the change for parties.

I hope you find this response useful. If you have any questions or require clarification, please do not hesitate to contact me.

Kind regards,



Chris Welby

Policy & Regulatory Affairs Director