

## Simplification Plan 2016-17

### Plan

**Publication date:** 31 March 2016

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#### Overview:

We keep our work under review, to make sure that the way we regulate continues to be fit for purpose. We are keenly aware that the actions we take and the requirements we apply can create burdens for regulated businesses. Our core purpose remains to protect the interests of existing and future consumers. In pursuing this purpose, we are concerned not to introduce overly-burdensome regulatory requirements, or maintain burdens longer than is necessary.

Since 2008 we have had a legal duty to publish an annual statement on our approach to burdens reduction. We call this statement our Simplification Plan. In this year's Plan, we focus on how we intend to meet new legal duties about regulatory burdens, our work to support innovation and steps we are taking to tackle longstanding issues around burdens arising from the data and information requirements we place on licensees.

## Context

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Ofgem is the Office of Gas and Electricity Markets, which is governed by the Gas and Electricity Markets Authority.

Our priority is to protect and make a positive difference for energy consumers. We promote value for money, security of energy supplies, and sustainability for present and future consumers. We do this through the supervision and development of markets, promotion of effective competition, regulation of networks and delivery of government energy efficiency schemes.

We work with government, consumer bodies, the energy industry, European partners and other stakeholders to ensure that we deliver our duties and focus on areas where we can have most effect. We do this within a legal framework determined by the UK government and European Union. More details about our statutory duties can be found at: <https://www.ofgem.gov.uk//publications-and-updates/powers-and-duties-gema>

The principles of better regulation shape our activities, so that we deliver our functions in ways that are transparent, accountable, proportionate, consistent and targeted only where action is needed. The legislation under which we operate also enables us to take into consideration any other principles which we consider represent best regulatory practice.

## Associated documents

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Strategy

<https://www.ofgem.gov.uk//publications-and-updates/corporate-strategy>

Forward Work Programme 2016-17

<https://www.ofgem.gov.uk/publications-and-updates/draft-forward-work-programme-2016-17>

Simplification Plan 2015-16

<https://www.ofgem.gov.uk/publications-and-updates/simplification-plan-2015-16-0>

Enterprise Bill factsheets and related material

<https://www.gov.uk/government/collections/enterprise-bill>

Cutting Red Tape energy sector review

<https://cutting-red-tape.cabinetoffice.gov.uk/energy/>

Budget 2016

<https://www.gov.uk/government/publications/budget-2016-documents>

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## Executive Summary

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1. Our Simplification Plan this year is strongly focused on getting the basics right. The commitments that we will take forward in 2016-17 include work to address longstanding issues around the data burdens that we place on businesses in the sector. In particular, we will take concerted steps to tackle issues around Information Requests (IRs). Stakeholders have told us, and have told government in the Cutting Red Tape review, that the volume and complexity of IRs, issues around timing of requests and a lack of clarity in the questions asked can cause significant burdens.
2. These concerns are also addressed to DECC and to industry bodies, but we acknowledge that our approach to IRs has to change. That includes making better use of information we already hold. We and DECC have established a working group to look at ways we might streamline data requests and IRs. This group will develop proposals by summer 2016.
3. Allied to this, we have also heard from stakeholders that the way we consult on our work needs to be reconsidered. Stakeholders have told us that they want to be involved as we develop our proposals, but that our use of consultation documents is not necessarily the most engaging or inclusive way to achieve this. We have certain duties to consult and we know that stakeholders expect to have input to our thinking. Clearly, though, there are now more innovative ways to engage than the traditional-format document. We will explore other routes, potentially including more use of digital and workshops.
4. Among our key commitments for 2016-17, we also highlight the scope to develop space for innovation through examining issues and trends in new ways. Horizon scanning has become increasingly essential, as the effects of energy system transformation start to be felt. Our ongoing, significant project on future retail regulation is also aimed at opening space for innovation and providing greater flexibility for domestic suppliers through an enhanced focus on principles rather than rules. While this work has a range of benefits, the Simplification Plan focuses in particular on compliance, in line with our duties to be transparent and target our efforts where they can bring most benefit.
5. The Plan also includes a section on our new statutory duties under the Enterprise Bill, currently before Parliament. We, along with other regulators, will be required to assess and report on the costs to business that our work may add or reduce. These duties align with our strengthened focus on impact assessment and analytical assurance, helping to address stakeholder concerns and also reflecting CMA's proposals in this area.
6. The Plan also includes updates on our 2015-16 commitments and a brief review of other relevant developments, such as the Cutting Red Tape review and our commitments in the Budget 2016.
7. We welcome comments on the Simplification Plan and our better regulation work. Please send your views to Mark Wagstaff [mark.wagstaff@ofgem.gov.uk](mailto:mark.wagstaff@ofgem.gov.uk)

# 1. Update on 2015-16 commitments

## Chapter Summary

This chapter provides updates on the commitments in our 2015-16 Simplification Plan. In the update table, we highlight where there is ongoing work in these areas.

1.1. In our Simplification Plan 2015-16 we committed to maintain our focus on work that helps us improve how we regulate and makes good use of resources. These commitments address major aspects of our regulatory framework that will continue to evolve over the next few years. Highlighting these initiatives in the Simplification Plan is a means to signal our enduring commitment that how we deliver is informed by best regulatory practice.

1.2. The table below provides progress updates on these commitments.

Commitments for 2015-16	
Independent suppliers and generators / non-traditional business models / innovative solutions	
Commitment	Progress update
We will explore how to achieve more streamlined coordination in our work with non-traditional and smaller businesses, and innovative business models. We will look for opportunities to simplify our processes where we can, and strengthen access for new entrants	<ul style="list-style-type: none"> <li>▪ In February 2015 we published a discussion paper on supporting transformative change in the energy market<sup>1</sup>. We hosted workshops with new and innovative businesses and published a response document in May. We heard from stakeholders that our regulation needs to be more flexible and agile, and needs to respond better to energy system change. We are building insight from this work into our horizon scanning, detailed in paragraph 2.20.</li> <li>▪ In September 2015 we published a position paper on making the electricity system more flexible, to make</li> </ul>

<sup>1</sup> <https://www.ofgem.gov.uk/publications-and-updates/non-traditional-business-models-supporting-transformative-change-energy-market>

	<p>the most of opportunities offered by, for example, distributed generation<sup>2</sup>. We are progressing this work as part of a broader programme jointly with DECC.</p> <ul style="list-style-type: none"> <li>▪ Also in September, we published next steps on achieving quicker and more efficient connections<sup>3</sup>. We issued an update on this work in February 2016<sup>4</sup> highlighting work by the industry to progress more effective queue management and proposals for trials around distributed generation developments and urban regeneration projects.</li> <li>▪ We have continued to support the independent suppliers forum<sup>5</sup> working with DECC to host a regular exchange of ideas with independent suppliers. For smaller companies, in particular, the forum provides a low-burden route to keep up to date with key initiatives in the sector.</li> </ul>
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**Code governance**

<b>Commitment</b>	<b>Progress update</b>
We will consider whether code governance impacts delivery of change	<ul style="list-style-type: none"> <li>▪ In October 2015 we set out initial proposals in our review of code governance reforms, taking account of responses to our May 2015 open letter<sup>6</sup>. Our reforms are aimed at reducing unnecessary barriers and red tape, to ensure significant code change is delivered more effectively. This includes making changes to the Significant Code Review (SCR) process to provide for a collaborative, Ofgem-led approach.</li> <li>▪ Paragraph 2.25 sets out our further work on code governance reform.</li> </ul>

<sup>2</sup> <https://www.ofgem.gov.uk/publications-and-updates/position-paper-making-electricity-system-more-flexible-and-delivering-benefits-consumers>

<sup>3</sup> <https://www.ofgem.gov.uk/publications-and-updates/quicker-and-more-efficient-connections-next-steps-0>

<sup>4</sup> <https://www.ofgem.gov.uk/publications-and-updates/quicker-and-more-efficient-connections-update-industry-progress>

<sup>5</sup> <https://www.ofgem.gov.uk/electricity/retail-market/forums-seminars-and-working-groups/ofgemdecc-independent-suppliers-forum>

<sup>6</sup> <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-3-initial-proposals>

<b>Future retail regulation</b>	
<b>Commitment</b>	<b>Progress update</b>
We will explore how we might move over time to greater reliance on general principles of behaviour rather than detailed rules.	<ul style="list-style-type: none"> <li>Regulating more through principles and removing unnecessary prescriptive rules represents better regulation. In December 2015<sup>7</sup> we published our initial thinking on reform of the rulebook for the domestic retail market, to make the supply licence shorter, more accessible and clearer about what is expected. This is not about reducing our ability to take tough action when companies fail their customers. Rather, it ensures the onus is firmly on suppliers to meet their customers' needs and expectations.</li> </ul>
<b>Costs and benefits of regulation</b>	
<b>Commitment</b>	<b>Progress update</b>
We will consider ways in which we could be more transparent about the costs and benefits of our regulation as part of work on our KPIs	<ul style="list-style-type: none"> <li>Following our internal transformation programme in 2015 we continue to develop our thinking on assessing the positive impact we deliver for consumers, and on the KPIs we use to hold ourselves to account.</li> <li>Further details on how this work will develop are in paragraph 2.19.</li> </ul>
<b>Ofgem information management</b>	
<b>Commitment</b>	<b>Progress update</b>
We will improve our data management and streamline internal processes to mitigate burdens in particular around Information Requests	<ul style="list-style-type: none"> <li>We recognise that this is a long-standing issue and we regret that we have not made as much progress as we would have wished. Following our internal transformation programme in 2015 we are better equipped to develop solutions, to address stakeholder concerns.</li> <li>Further details on how this work will develop are in</li> </ul>

<sup>7</sup> <https://www.ofgem.gov.uk/publications-and-updates/future-retail-market-regulation>

	paragraph 2.1. This issue will also be addressed under outcomes from the Cutting Red Tape review – see paragraph 4.6.
<b>Working with other regulators</b>	
<b>Commitment</b>	<b>Progress update</b>
We will actively seek opportunities to work collaboratively with other regulators and we will embed joint working in our processes wherever possible	<ul style="list-style-type: none"> <li>▪ Through 2015 we have continued to play a leading role in the UK Regulators Network (UKRN). We led work on understanding how affordability pressures across sectors could impact on future bills, in a report published in September 2015<sup>8</sup>. Building on this, we have continued engagement with industry and other regulators on better cross-sectoral provision for consumers in vulnerable circumstances. 2015 also saw the conclusion of the cross-sector infrastructure project, with agreement on a statement of good practice principles for network operators to guide interactions with clients, as part of a package of measures to improve infrastructure interactions<sup>9</sup>.</li> <li>▪ We continue to develop our competition concurrency work with CMA and other regulators through the UK Competition Network (UKCN). This includes developing an updated MOU with CMA.</li> <li>▪ Looking ahead, paragraph 4.9 notes the commitment in Budget 2016 on sharing services with other regulators.</li> </ul>

1.3. These commitments reflect a long-term strategic agenda to adapt our regulation to meet fundamental change in the sector, that will continue into 2016-17 and beyond. In the next section, we focus on how this work will develop in the year ahead. This should be read alongside our Forward Work Programme 2016-17<sup>10</sup>.

<sup>8</sup> [http://www.ukrn.org.uk/?page\\_id=467](http://www.ukrn.org.uk/?page_id=467)

<sup>9</sup> [http://www.ukrn.org.uk/?page\\_id=182](http://www.ukrn.org.uk/?page_id=182)

<sup>10</sup> <https://www.ofgem.gov.uk/publications-and-updates/draft-forward-work-programme-2016-17>

## 2. Key commitments for 2016-17

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### Chapter Summary

In this chapter we focus on our key work for 2016-17 to streamline requirements, reduce burdens and open up space for innovation. In particular, we set out what we intend to do in relation to information and reporting burdens, to make sure we are getting the basics right.

### Information and reporting burdens

- 2.1. Since our Simplification Plan in 2012-13 we have recognised the need to tackle information burdens in the sector. These burdens do not all arise from Ofgem, but we know that we have a significant role in generating reporting requirements and we acknowledge that our approach in this area is not as efficient nor as agile as licensees should rightly expect.
- 2.2. There are multiple issues underlying this, including in relation to internal systems, the role of DECC and industry bodies, how compliance is encouraged and monitored, and how policy is developed. Our December 2015 consultation on future retail regulation acknowledges the supplier costs associated with checking and demonstrating compliance, and the impacts of how we approach monitoring.
- 2.3. Alongside this, we know that supplier systems are under continuous pressure from the need to improve customer service, as well as the changes, large and small, required by us, government and industry bodies. Suppliers have told us that coordination of major change is often not strong enough and that some changes seem to be introduced quickly and without apparent justification. All change creates costs, increases the risk to stability of supplier systems, and could act as a disincentive to innovation. There is a sense that the current profile of change may become unsustainable.
- 2.4. These issues cannot be resolved overnight and they cannot be resolved by Ofgem alone. Paragraph 4.5 summarises relevant next steps from the Cutting Red Tape review and in this section we look at some of the things which we can do to ease information and reporting burdens.

### Information requests

- 2.5. In our Simplification Plan 2012-13 we said that we would look at our information request (IR) processes to review logging and sign-off arrangements. The aim of this was to avoid duplication and make efficient use of information. In this context, an IR is an ad-hoc request for information that

is not available through, for example, routine licence monitoring or the compliance requirements on scheme participants.

- 2.6. Since that initial commitment, we have explored a number of routes to simplify and better coordinate our approach to IRs, recognising that requests can arise at short notice, for example owing to political or market developments. We are not here considering IRs related to enforcement activity, which are case specific.
- 2.7. You told us in response to the call for ideas for this edition of the Simplification Plan that some improvements have been made, in particular on pre-engagement and sharing draft requests in advance. However, there are still issues around bunching of IRs and concerns that a lack of clarity in the questions asked can lead to resource-intensive follow-up discussions. There is also a strong sense, particularly among suppliers, that we do not make best use of the data and information we hold.
- 2.8. We are now taking concerted steps to tackle these issues. At the start of 2016 we restructured the teams in the regulatory part of Ofgem, including putting in place a new Knowledge Management function and raising the focus on compliance strategy. We have also been exploring IT solutions to resolve issues around knowledge sharing including in relation to IRs.
- 2.9. However, there is no quick fix in relation to IRs and we need to be realistic that full resolution may not be possible until 2017. We assure the sector that we are continuing to work on this and remain open to engagement on further ideas to improve the situation.

### **Supply licence monitoring**

- 2.10. Energy is an essential service and we have statutory duties to protect the interests of consumers and ensure they are treated fairly. This includes making sure that consumers in vulnerable circumstances have the help and protection they need. To do this, we monitor company performance and maintain oversight of developments in the sector.
- 2.11. We understand, though, that monitoring, whether by ad-hoc IRs or through routine reporting creates burdens on businesses, often with implications for IT systems and ways of working. A change to monitoring requirements may reduce burdens in the longer term, but can have short term costs.
- 2.12. Reviewing monitoring requirements for the supply licence forms part of our work on future retail regulation. Relying more on principles means an increased focus on monitoring and engagement. We intend this to be proportionate and to use early engagement where possible, potentially to head off non-compliance before a problem arises.

- 2.13. We will also look at ways to streamline reporting requirements with DECC, as committed in the Cutting Red Tape review. For more information see paragraph 4.6.

### **Compliance support**

- 2.14. The onus is on companies to understand and meet the needs of their customers. We intend to develop structured ways to engage with companies and enable open and constructive conversations, to help the industry understand what it needs to do to meet customers' needs and satisfy our requirements.
- 2.15. We have heard companies say, through the Cutting Red Tape review and elsewhere, that Ofgem does not offer advice or that guidance is hedged around with legal disclaimers. We recognise these perceptions and the costs which companies might incur where they do not have a clear view of regulatory requirements. For smaller companies this can be especially burdensome.
- 2.16. Ultimately, company boards are responsible for compliance and must take a mature view of their activities. Equally, where there is potential for consumer detriment we must consider enforcement action. That is a duty. However, we want to engage with the industry in good faith and will do more to support achievement of compliance.

### **Impact assessment and our performance**

- 2.17. Our Impact Assessment guidance<sup>11</sup> was last reviewed in 2013, following extensive stakeholder engagement. We remain confident in the broad approach of the guidance, but we recognise that we could do more to make available the analysis we undertake. This is important to achieve our strategic aim to be a trusted and authoritative source of information. We also acknowledge that the guidance should be updated, for example to reflect new statutory duties to assess and report on costs to business (see paragraph 3.8).
- 2.18. Developing our capability in this area is consistent with CMA's proposed remedies following the Market Investigation Reference<sup>12</sup>. CMA recommends that we should build expertise across different areas of the energy market, to feed into the annual State of the Market report.
- 2.19. We have also committed to put in place a methodology to quantify the impact of our interventions on consumers and the costs of our regulation to

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<sup>11</sup> <https://www.ofgem.gov.uk/publications-and-updates/impact-assessment-guidance>

<sup>12</sup> <https://www.gov.uk/government/news/cma-sets-out-energy-market-changes>

businesses. We will take forward development of this during 2016-17. We will support this with work to further develop the robustness of our modelling and ensure that the indicators we use are coherent and consistent.

## Horizon scanning and innovation

- 2.20. We are closely engaged with diversification in the sector and have undertaken considerable work with new and innovative business models, to understand where our regulatory framework might risk inhibiting the products and services that could deliver transformative change for consumers.
- 2.21. Building on this, we will undertake further horizon scanning work to inform the future shape of our regulation. As a first step, we issued a call for engagement on 23 March 2016 to reach out to those with knowledge and insight to offer<sup>13</sup>. In addition, we will consult in spring 2016 on our approach to providing spaces for innovation, along with our overview report on innovation and regulation produced in response to the commitment in government's Competition Plan<sup>14</sup>.
- 2.22. Innovation is not only about new business models. We believe there is potential for innovative developments throughout the sector. We expect that future retail regulation will open space for innovation within the existing regulatory framework, in activities where prescriptive rules are removed or reduced.
- 2.23. Our work on flexibility and electricity storage will continue, where we aim to clarify the role of aggregators and the implications of this for industry arrangements. We want to see DNOs, as established sector bodies, take a more active management role to network challenges. Through initiatives such as these, we will enable space for innovation throughout the sector.
- 2.24. We are also reviewing the governance of the Network Innovation Competitions (NICs) and the benefits of projects funded through the Low Carbon Network Fund (LCNF). This will help us understand how best to target our resources.

## Code governance reform

- 2.25. Recent years have shown a growing impetus towards code governance reform. The table at para 1.2 includes an update on our reforms, aimed at reducing unnecessary barriers and red tape. These focus on changes to the SCR process and increased use of the self-governance route.

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<sup>13</sup> <https://www.ofgem.gov.uk/publications-and-updates/open-letter-call-engagement-insights-future-regulation>

<sup>14</sup> <https://www.gov.uk/government/publications/a-better-deal-boosting-competition-to-bring-down-bills-for-families-and-firms>

- 2.26. Alongside the evidence for change that we have gathered, the Cutting Red Tape review heard from businesses that the complexity of the codes leads to significant burdens. Businesses told government that code processes suffer from outdated ways of working, while new entrants considered that some elements of the codes favour, in particular, more established companies.
- 2.27. CMA also found that the codes give rise to an adverse effect on competition. CMA has proposed a number of remedies in this area, including that Ofgem should publish a strategic direction for code development. Remedies that Ofgem should have power to modify codes in some circumstances and should licence the provision of code administration were included among this year's Budget announcements (see the table at paragraph 4.9).

## Stakeholder engagement

- 2.28. We have heard from stakeholders, in particular smaller businesses, that they want to be involved in our policy development processes, but find some of our present products (such as consultation documents) can be difficult to deal with. We recognise that our approach to consultation has to evolve.
- 2.29. In recent years, we have worked to put in place more collaborative arrangements, including better pre-consultation engagement with companies affected by our proposals and an increased use of workshops and other events. Going forward, we want to make more use of digital platforms for engagement and give more consideration, for example, to live streaming our events, as we did with our innovation event in February 2016<sup>15</sup>.

## Social and environmental scheme delivery

- 2.30. E-Serve's delivery of government environmental and social schemes provides value for money for consumers and the industry. Year on year, we continue to achieve delivery excellence, simplifying and automating processes, and reducing administration costs. Our Operational Excellence Programme has reduced transaction costs, cut overall spending and driven up service quality across the schemes we administer.
- 2.31. We have also worked hard to improve the clean energy performance information we publish, introducing website publication libraries for each of the schemes to help users search for documents, and interactive charts to make scheme data more accessible.
- 2.32. In 2016-17 the Programme will provide a sharper focus on cross-scheme opportunities as well as sharing best-practice. We understand that engaging with more than one scheme can sometimes give rise to challenges, so we will

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<sup>15</sup> <https://www.youtube.com/watch?v=7IG3u1Uhui8>

continue to simplify processes and provide easy to understand guidance to applicants. Another development for 2016-17 will be an online map tool, providing easy access to regional and constituency level information on metrics as diverse as technology type installed, installed capacity and energy efficiency measures installed.

- 2.33. We want to ensure that we are doing all we can to uphold the high standard of customer service that scheme applicants expect and we'll use our newly launched customer insight tool to help measure and improve our performance. We will continue to work closely with DECC to identify opportunities for flexibility and innovation, within the requirements which govern the schemes. We'll also work with them to ensure that changes to the schemes are aligned with existing practices, to enable them to be implemented quickly.

### **Work with other regulators**

- 2.34. We remain fully committed to UKRN. Our involvement will strengthen in 2016-17, as our Chairman took over leadership of the Regulatory Chairs group in January and our CEO is chair of the CEOs group from April. Delivery of UKRN's objectives through 2016-17 will be driven by our senior leaders. We will also continue to lead work on approaches to consumer vulnerability across sectors, including on better signposting of support services. In addition, we will lead the standing group on cost of capital.
- 2.35. An important area of engagement with other UK regulators is in relation to the Budget commitment on the potential for sharing services (see paragraph 4.9 below). We will work closely with others on the business case for and feasibility of sharing, to ensure that any moves in this area achieve good value for consumers.
- 2.36. We continue to engage with CMA and other concurrent regulators through the UK Competition Network (UKCN). We look forward to working with CMA, to respond to Budget commitments on the operation of competition concurrency arrangements (see the table in paragraph 4.9 below).
- 2.37. We will continue to influence European energy policy through our membership of, and central role within, the European regulatory bodies: the Agency for the Cooperation of Energy Regulators (ACER) and the Council of European Energy Regulators (CEER).

## 3. New statutory duties

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### Chapter Summary

This chapter summarises new statutory duties which we will shortly have, to assess and report burdens on business. More information about these duties is available on the BIS section of gov.uk

### Business Impact Target

#### Assessment of burdens

- 3.1. The government has committed to reduce £10bn of regulatory burdens on business over the lifetime of this Parliament<sup>16</sup> and has brought forward legislation (in the Enterprise Bill<sup>17</sup>) to extend requirements around burdens reduction to regulators such as Ofgem. This commitment is known as the Business Impact Target (BIT).
- 3.2. We support government's aims in this area. Our Strategy recognises that Parliament should ensure our powers and duties continue to be effective. Regulation has to adapt, to meet changes in the wider context, which is why we already have a statutory duty to keep our activities under review and to publish an annual Simplification Plan.
- 3.3. As noted in paragraph 2.17, we are reviewing our analytical approach and Impact Assessment guidance, to ensure we continue to deliver robust, evidence-based regulation. While our principal duty focuses our work on the interests of consumers, we recognise that we need to do more to understand and address the costs of regulation to business.
- 3.4. We are building capability and putting arrangements in place, to make sure we can meet our new statutory duties, once the requirements in the Enterprise Bill become law. However, our analytical focus is wider than meeting these specific duties. Throughout our work, we want to develop better visibility on costs and impacts, so that stakeholders can be confident that our decisions are informed, data-driven and delivered at the best possible value.

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<sup>16</sup> The Government's target is for a saving of £10bn to business and voluntary or community bodies from qualifying measures that come into force or cease to be in force during this Parliament.

<sup>17</sup> <http://services.parliament.uk/bills/2015-16/enterprise.html>

## Scope of the BIT

- 3.5. Not all of our functions are within scope of the BIT. Government has decided that certain regulatory provisions qualify to be in scope, and so are known as Qualifying Regulatory Provisions (QRPs). All provisions that do not fall into the excluded categories set out in the Written Ministerial Statement laid in Parliament on 3 March 2016<sup>18</sup> are QRPs. Provisions to which the excluded categories apply are non-qualifying (NQRPs).
- 3.6. We believe that significant areas of our work are NQRPs as they seem to fall within the excluded categories set out by government. In particular, network regulation, enforcement casework, and measures that promote competition (where these result in increased burdens on business) look to be excluded. Our current thinking is that QRPs are more likely to arise in activities where, for example, a wholly competition-based solution may not meet regulatory aims.
- 3.7. Whether or not an activity is a QRP should not affect our decision making. The purpose of the framework is to assist government and regulators in taking steps towards the BIT commitment and to provide transparency around the impacts of regulation on business. Under our new analytical arrangements we will, in any case, challenge ourselves on costs to business.

## Reporting duties

- 3.8. As part of the BIT framework, we will be required to publish a detailed list of QRPs and a summary of NQRPs for each annual reporting period, to feed into the government's annual report on the BIT. These requirements are retrospective to May 2015. Our first report will be published by a deadline established through the Enterprise Bill and is likely to be in June 2017. If this is the case, we will move the Simplification Plan 2017-18 to June 2017 in order to include the required report.

## Verification: role of the Regulatory Policy Committee

- 3.9. For each QRP since 8 May 2015 we must calculate what is known as the BIT score and submit this to the Regulatory Policy Committee (RPC)<sup>19</sup> for verification. This score is the contribution to the BIT for each QRP in relation to its Equivalent Annual Net Direct Cost to Business (EANDCB).<sup>20</sup>

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<sup>18</sup> <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2016-03-03/HLWS561/>

<sup>19</sup> <https://www.gov.uk/government/organisations/regulatory-policy-committee>

<sup>20</sup> The EANDCB is an estimate of the average annual net direct costs to business in each year that the measure is in force. It is calculated as the present value of the net direct cost to business divided by the sum of the discount factors appropriate for the length of time the

- 3.10. As part of preparing for the BIT requirements, we need to consider at what stage of policy development we will generally seek RPC verification, how we might group smaller measures, and our anticipated timetable for submitting scores for verification. Government departments typically need to submit information to RPC ahead of decision making. Regulators will have more flexibility and can submit scores to RPC after implementation of a qualifying provision. We will continue to engage with RPC as we develop our approach.

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measure is in force. The discount rate used is determined by the HMT Green Book.

## 4. Working with government

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### Chapter Summary

This chapter brings together work we are doing with government, to help us reduce and remove burdens on business, and regulate more effectively. More information about the Cutting Red Tape series of reviews is on the Cutting Red Tape section of gov.uk. The full set of Budget 2016 documents can be found on the HM Treasury section of gov.uk.

### Ofgem / DECC engagement

- 4.1. Through 2016 we will continue to engage with DECC on a wide range of energy policy and regulatory matters. Of particular relevance to this Simplification Plan, we will engage with DECC on the development of the Strategy & Policy Statement (SPS), which will set out the government's strategic priorities for the energy sector and the policy outcomes which we need to achieve in relation to those priorities.
- 4.2. We will also work with DECC to take forward remedies proposed by CMA following the Market Investigation Reference, and commitments made through the Cutting Red Tape in energy review and in Budget 2016.

### Cutting Red Tape Review

#### Review findings

- 4.3. The Cutting Red Tape (CRT) review in energy ran from July to September 2015. This is one of a series of thematic reviews, managed by Cabinet Office, looking at burdens on business across various sectors. Stakeholder views were collected via the CRT website, by email and Twitter, and through a series of face to face interviews.
- 4.4. Stakeholders identified burdens arising from data reporting (to Ofgem, DECC and industry bodies), EU rules including the REMIT regime, the length of the supply licence, code governance, and the regulatory position of electricity storage. Cabinet Office also picked up a number of very specific issues in relation to the schemes delivered by E-Serve.

#### Next steps

- 4.5. Several of the review next steps focus on work we are currently undertaking, such as future retail regulation and our emerging approach to horizon scanning. The review report also notes existing initiatives such as 'Licence Lite'.
- 4.6. Stakeholders told Cabinet Office that data reporting is too frequent, overlapping and can be too onerous. In response to this, we and DECC have formed a working group to look at data requests and IRs issued by our respective organisations. This working group will develop a more streamlined and, where possible, shared approach by summer 2016.

## Innovation and regulation

- 4.7. In 'Fixing the foundations: creating a more prosperous nation' (the Productivity Plan)<sup>21</sup> published in July 2015 government committed departments to work with regulators to publish overview reports on innovation and regulation. These reports will set out how legislation and regulation could adapt to emerging technologies and disruptive business models.
- 4.8. We have undertaken important work on innovation across our activities including the Network Innovation Competitions, work on flexibility, engagement with non-traditional business models, process improvement and automation in E-Serve scheme delivery, 'Licence Lite', and the opportunities to innovate enabled through Future Retail Regulation. We intend to publish our report 'Ofgem: Innovation and Regulation' later in the spring.

## Budget 2016: our commitments

- 4.9. Budget 2016 sets out a number of commitments in relation to our work. These are listed below. Some of these are referenced in other parts of this document and in our FWP. We will develop our approach to take forward these commitments over the next few months.

1.243 The government welcomes the National Infrastructure Commission's energy study 'Smart Power' as an opportunity to transform the future of the UK's electricity sector, saving consumers up to £8 billion a year. The government will implement the commission's recommendations, and will work with Ofgem to remove regulatory and policy barriers, positioning the UK to become a world leader in flexibility and smart technologies, including electricity storage.

1.244 The government will allocate at least £50 million for innovation in energy storage, demand-side response and other smart technologies over the next five years to help new technologies and business models access the market. Ofgem will

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<sup>21</sup> <https://www.gov.uk/government/publications/fixing-the-foundations-creating-a-more-prosperous-nation>

<p>consult later this year on the future of the £100 million Network Innovation Competition to maximise the delivery of genuinely innovative projects and technologies.</p>
<p>1.257 The government is committed to robust but focused economic regulation. The UK's system of independent economic regulation is widely regarded as one of the best in the world. Building on this, Budget 2016 announces that the government will:</p> <ul style="list-style-type: none"> <li>• streamline regulators. E-Serve will be split off from Ofgem to ensure Ofgem can focus on its core functions of economic regulation and promoting competition. DECC are committed to consolidating their delivery providers and will set out the future of consumer-facing functions, including those currently undertaken by E-Serve, at Autumn Statement 2016. The government will continue to consider whether economic regulators' functions can be further streamlined</li> <li>• strengthen competition and innovation, including by legislating to give Ofgem more power to make sure the system of industry codes supports competition and by enhancing the role of the Competition and Markets Authority in the regulated sectors. The government will continue to look at further changes</li> <li>• drive efficiency, by working with economic regulators to review the business case for co-locating and sharing back office functions across regulators, reporting by summer 2016</li> </ul>
<p>2.338 NIC energy study – Following the National Infrastructure Commission's report Smart Power:</p> <ul style="list-style-type: none"> <li>• the government will allocate at least £50 million for innovation in energy storage, demand-side response and other smart technologies over the next 5 years</li> <li>• Ofgem will consult on opening up the £100 million Network Innovation Competition to better enable innovation by non-licensed companies from 2017</li> <li>• the government has increased its ambition for greater electricity interconnection by 80%, now supporting at least an additional 9GW of interconnection</li> </ul>
<p>2.347 Ofgem E-Serve – To ensure that Ofgem can focus on its core functions of economic regulation and promoting effective competition in the energy market, Ofgem's E-Serve functions will be split off from Ofgem.</p>
<p>2.348 Energy delivery landscape – The Department of Energy &amp; Climate Change will take steps to improve the customer experience and coherence of its consumer policy delivery. DECC are committed to consolidating their delivery providers and will set out the future of consumer facing functions including those currently undertaken by E-Serve at Autumn Statement 2016.</p>
<p>2.349 Ofgem's statutory duties – The government intends to amend the statutory duties of Ofgem to ensure that wherever appropriate it considers competition levers first. This work will take into account the conclusions of the Competition and Markets Authority (CMA)'s Energy Market Investigation.</p>
<p>2.350 Role of the Competition and Markets Authority – The Competition and Markets Authority (CMA) will:</p> <ul style="list-style-type: none"> <li>• enhance its Annual Concurrency Report on the operation of the concurrency</li> </ul>

<p>arrangements between the CMA and the sectoral regulators to improve competition in the regulated sectors. In future, the report will cover new regulations put in place during the year which might significantly affect competition and innovation. It will also propose areas where changes to regulation might allow competition and innovation to work better</p> <ul style="list-style-type: none"><li>• include an estimate of the impact of its contribution to competition enforcement cases led by sector regulators in its published performance monitoring benefit to cost ratios</li></ul>
<p>2.351 Reducing regulatory burdens – Ofwat will work with the water and sewerage industry to simplify and streamline water companies’ licences in order to reduce regulation and facilitate deregulatory changes in future. Ofgem and DECC will review energy supply licence conditions to ensure they are as clear as possible, provide appropriate protections for consumers and do not act as a barrier to new companies entering the market, expanding or innovating.</p>
<p>2.352 Energy code reform – The government intends to legislate to license industry code administrators and give Ofgem more power to set strategic direction and intervene to deliver essential changes to codes quickly and ensure that customers get a better deal. This work will take into account the conclusions of the Competition and Markets Authority (CMA)’s Energy Market Investigation.</p>
<p>2.353 Innovation spaces in energy – Ofgem will consult in spring 2016 on providing innovation spaces for experimentation, giving more regulatory certainty for innovative approaches and products to be trialled within the existing regulatory framework.</p>
<p>2.354 Co-location and sharing back office functions – The government will work with economic regulators to review the business case and implementation issues around co-locating and sharing back office functions across regulators, reporting by summer 2016.</p>

## 5. Summary of consultation responses

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### Chapter Summary

This chapter gives a brief summary of the main issues raised by stakeholders in their response to our open letter, and our views on those issues. The consultation responses are on our website.

### Responses received

- 5.1. We issued an open letter on possible content for this Simplification Plan on 17 December 2015 and collected views until 11 February 2016. We had 14 responses to the letter:

<i>Respondent type</i>	<i>Number</i>
Licensees	8
Energy sector trade body	1
Energy sector (others)	4
Consumer representative body	1

- 5.2. The emphasis on responses from industry is unsurprising, as the Simplification Plan is essentially about regulatory burdens and so the greatest interest tends to be shown by those that burdens most immediately affect.
- 5.3. However, as part of our wider consideration of how we consult, we want to look more closely at what we might do to make engagement with the Simplification Plan more relevant to a wider range of stakeholders. This could include moving to a more digitally-focused approach, perhaps supported with more ongoing engagement through the year on issues around regulatory burden.

### Key issues raised

- 5.4. Summary of key issues raised and our views:
- Many of those who responded took the opportunity to reiterate comments about Future Retail Regulation, made in responses to the FRR or FWP consultations. As well as calls for principles to be clear and straightforward, some respondents highlighted the need for compliance support, to avoid misunderstanding. A concern was also raised that use of principles could, in effect, transfer complexity from the licence to suppliers' own processes.
    - *Our views:* The Future Retail Regulation consultation sets out our initial thoughts on the role of compliance in the move to a

more principles-based approach. Achieving clarity of the rulebook is one of the key aims of reform and we are required, through our legislation, to act in ways that are proportionate. Our priority areas for the move to principles will be set out as soon as possible following the initial consultation.

- Some respondents thought that we should make greater use of impact assessment in our work, with quality assurance to ensure consistency in analysis.
  - *Our views:* Following our internal transformation programme in 2015, we have reorganised with the establishment of new analytical assurance teams to drive forward a stronger focus on peer review of our assessments. This is also consistent with the CMA's proposed remedy relating to our analytical expertise. In addition, we are building capability to meet our new duties to assess and report costs to business under the BIT.
  
- As in previous years, many respondents expressed concerns about burdens arising from Information Requests and data requirements. While some noted progress in this area, licensees generally felt more should be done to tackle the volume and timing of requests. There were also concerns about lack of clarity in requests leading to additional resource burdens. On routine monitoring requirements, respondents questioned whether Ofgem has a clear view of the range of information being collected, and whether everything collected is used. In particular, whether reporting set up for a specific purpose is revisited.
  - *Our views:* We agree with respondents that this is an area where we must improve. Previous attempts to deal with this issue have not been as effective as we had hoped. We have now put in place a new Knowledge Management function and an early task will be to identify an enduring solution to issues around coordination of Information Requests. As noted in para 4.6 above we are also working with DECC to deliver commitments on data burden in response to the Cutting Red Tape review.
  
- Engaging with stakeholders on our proposals is an important part of how we gather evidence to inform our decisions. Stakeholders have told us that they welcome involvement in our policy development. However, some have noted that our approach to consultation can become burdensome, especially where a number of documents are issued at the same time, or where documents are, perhaps, not as proportionate as they could be. As one respondent told us, documents can run 'to several tens of pages to discuss the removal of just a few clauses from the licence'.
  - *Our views:* We welcome opportunities to engage with stakeholders and we understand that engagement has to be undertaken in ways that work effectively for all concerned. As we say in paragraph 2.29, for some time we have been developing our engagement beyond the traditional consultation document approach. We will be looking to use more digital engagement, alongside other platforms, to help achieve



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inclusive and low burden interactions with stakeholders. We are aware that our documents can sometimes be lengthy and may not always be as clear as they should be. We will consider what more we might do, to make sure we meet our duty to be proportionate.

