

Company and Code Governance

Q2.1 Do you have any comments on the process for appointing additional RECCo directors?

We agree with the pragmatic approach suggested by Ofgem that the interim RECCo Board should evolve to become the enduring Board which will allow for continuity. However, we are conscious of the need for striking a balance within the Board, which will ensure the various constituents are represented fairly.

We also maintain our stance as outlined in previous Consultation responses, that the Board members must have the appropriate skills and expertise for their role in the retail market, and should not be appointed based on experience in other markets due to the complexities that lie within the energy industry, making it a niche.

If additional directors are sought for the areas of consumer advocacy and digital transformation then the selection process via the nominations committee, should be open minded to recruit directors with outside utility experience.

Q2.2 Do you agree that MEMs should be Party to the REC?

Yes, we agree that MEMs should be party to the REC and we believe that MEMs and other agent roles should be subject to industry accountability via the REC Performance Assurance Board.

Q2.3 Do you agree in principle that the obligations currently placed upon metering agents by the BSC could be integrated with the REC performance assurance framework, subject to certain conditions being met?

Yes, we agree in principle, and whilst it is appreciated that certain industry codes may be the previous natural domain for compliant obligations, a move to industry code consolidation (following 'best in practice' digital principles as previously outlined) should be actively considered and progressed. More specifically, we believe that the BSC should be updated to reflect the integration in the REC via the Retail Code Consolidation SCR. Furthermore, we would welcome clarity on the scope and interaction of Ofgem, REC, other codes and wider Retail Code Consolidation.

Q2.4 Do you agree that the RECCo should be required to develop and maintain a Strategy for the REC, including but not limited to digital transformation of REC processes and data?

Yes, we agree that the strategy should be developed and maintained by the RECCo, and we agree that the strategy should be published and consulted on as part of the annual business planning and budget consultation. This will provide full transparency that the industry is rightly entitled to.

Whilst we acknowledge that RECCo has proactively reported on progress, we believe that this should be codified to ensure some degree of accountability.

Q2.5 Do you agree that RECCo should adopt zero based budgeting from 2021/22?

Yes, we agree with the notion of zero based budgeting and believe this should be the approach adopted. Over the years, experience has seen the previous budget year used as a benchmark for

setting the proceeding year's budget, therefore, a "reset" each year approach would therefore be preferred. There should be clear rationale and justification for budgetary expenditure, and this should be transparent across all REC parties.

Q2.6 Do you agree that future RECCo budgets should be decided upon by the RECCo Board, subject to appeal by REC Parties?

Providing there is sufficient time for the REC parties to review the proposed budget, and there are sufficient safeguards within the process, then the RECCo Board should approve the budget.

We do not believe that the process appeals process is clearly outlined in terms of who a party should direct their appeal to within the Authority. We recommend this information is made transparent. Furthermore, we expect that REC will ensure that the budget is sufficiently itemised, as one of the appeal clauses is that Parties must be precise about what they are appealing.

Regarding Bad Debt, although not specifically consulted on, we are concerned that the plan is to mutualise this, and we believe consideration should be given as to whether anything can be done to mitigate this.

Performance Assurance

Q3.1: Do you agree with the proposed composition of the PAB, as set out in the Terms of Reference published with this document (see Appendix 2).

Yes, we agree with the proposed composition of the PAB.

Whilst the Terms of Reference state that the tenure will be as agreed with the Authority, we recommend that tenure should be for a fixed period of time.

Whilst the drafting is clear on the appointment of Alternates, we seek clarity on whether a Party can have more than one representative on the PAB.

We take this opportunity to also notify Ofgem that there are several grammatical errors in the drafting of both the Terms of Reference and the PAB Schedule which need to be edited to read correctly. For example, paragraph 5.9 of the TOR incorrectly uses the word 'their' instead of 'there'.

Q3.2: Do you agree that any organisation undertaking an activity governed by the REC would be within scope of the performance assurance framework in respect of those activities?

Yes, this is a sensible idea and will ensure that all parties carrying out activities under REC are subject to the same level of accountability.

Regarding the structure of performance assurance frameworks (PAFs), we believe it remains necessary to have separate PAFs in place in each of the respective codes, as this will ensure there is a degree of impartiality in monitoring performance. We believe it would be better to have a mechanism for the PAC, PAB and REC-PAB to work alongside each other and communicate in carrying out their activities, although an assumption should not be made that just because a party is under performing in one area, that they are under performing everywhere, but there is nothing wrong with 'checking for trends' between the parties.

However, if there is a view to have a combined PAF, we believe that a codes mapping exercise should be carried out to fully understand what activities could bridge across PAFs in other codes. There would be greater transparency for parties, and it would be useful to understand any overlap, or 'separate' performance expectations placed on parties where obligations directly or indirectly span different code bodies and PAFs, before any decision is made. Additionally, we would like to have oversight of the relevant expertise required for a combined PAB/PAC; it would defeat the object of having a combined PAF only for it to be split into several other workstreams. We would welcome seeing Ofgem's intended analysis piece on this.

Q3.3 Do you agree that at least one of the PAB's priorities should be determined by Citizen's Advice?

Yes, we are comfortable with this suggestion and endorse the focus on consumer outcomes for all RECCo members, but that the priority of Citizen's Advice should be within the remit of REC only.

However, any different priorities from those presented by Citizen's Advice and other RECCo members would need to be fully understood. Furthermore, ring-fencing a priority from Citizen's Advice would not be 'objectionable in its own right', however a holistic picture of the general consensus of priorities must be understood and agreed to, with the opportunity to challenge.

We would also seek clarification on what Citizen's Advice remit would be in relation the REC, for instance, would Citizen's Advice have the capacity to raise Change Proposals?

Q3.4: Do you agree that the PAB should have discretion to escalate liabilities within a defined range if the earlier application of charges does not achieve the desired effect?

We are generally supportive of this idea as this is how it currently works within the BSC and escalating to Ofgem.

However, the Performance Assurance Framework (and stages) should be proportionate to the required performance standard, and its importance regarding 'materiality' of any liability/breach needs to be made clear.

We recommend that different tools and techniques should be used within an effective Performance Assurance Framework rather than an arbitrary escalation if financial penalties are perceived not to work effectively.

We also believe consideration should be given as to whether there can be anything that will identify supplier failure sooner and therefore mitigate associated Supplier of Last Resort costs.

Q3.5: Do you agree that suppliers with serious performance issues should face restrictions on their ability to acquire new customers until those issues are resolved?

Whilst we agree with this in principle that this may be the ultimate sanction for serious breaches or inability to resolve performance issues within a fair and reasonable period, we would welcome some guidance on what is deemed to be a serious performance issue. In addition, we seek clarification on the imposition of these sanctions in terms of who has the remit; the PAB Schedule states that serious systemic non-compliances would be referred back to Ofgem who already has this power.

Furthermore, paragraph 3.65 of the consultation document¹ refers to the UNC's ability to restrict registrations if invoices of over £10,000 are not paid, with paragraph 3.69 suggesting similar abilities for REC to be able to send instructions to the CSS to suspend registrations on instruction of a DNO/IDNO Party (via the DCUSA Panel), replacing the equivalent provision in the MRA. This provides the opportunity to use this not only as a possible remedy for non-payment of REC charges, but also for serious and systemic performance issues. However, we question whether this sanction is disproportionate for non-payment of invoices; is non-payment of invoices deemed to be a serious and systemic performance issue? We also question the proportionality of the invoices at £10,000; is this relative to the number of customers a supplier has in its portfolio?

Change Management

Q4.1: Do you support our proposals regarding the production of preliminary and detailed IA?

Yes, we support these proposals in the majority. However, we emphasise that there should be clear and consistent timelines for industry impact assessment (IAs) for Service Providers and REC parties. Change Management (IA) lessons should be learnt and incorporated into the REC Change Management approach, including views from the Switching CSA. In addition, industry costs should be properly quantified to justify any required industry changes.

One aspect we seek further review on is the need for 40 days for a detailed impact assessment. We believe there should be a degree of fluidity applied to the change management process depending on the change being progressed, as 40 days perhaps may be too long for all detailed IAs and could delay the implementation of industry changes, but we acknowledge the need in some cases for a longer IA window for more technical changes, some of which may carry significant importance.

Additionally, under the current provisions, there is an allowance for Fast Tracked modifications which are used today to correct minor housekeeping changes like typographical errors, and we recommend that these should be continue under REC.

We would be interested in seeing a draft of the change proposal templates to also provide our feedback on as well as an overview of what the change management calendar will look like.

There is no clarity or governance around how the complexities of gas and electricity industries will be reflected and the process would work in raising change proposals (CP). For example can a gas or electricity CP be raised individually; do both need to be raised together; if they are raised together, are they raised on separate CPs. If they are raised together is there flexibility to split them into part A and B once the change has started to progress, if for example electricity can be delivered before gas that maybe contingent on central systems and approval of other codes. This may also prove problematic, if for instance, a party that only supplies electricity raises a CP that excludes gas simply because it is not in their remit, but a change would also be beneficial to gas. Furthermore, as it stands today, gas changes are implemented a day after electricity changes due to the gas day starting at a different time to the electricity day. We seek clarification on whether a decision has been made on whether the times for the gas day and electricity day will be aligned for the implementation of industry changes, and whether or not the number of releases is going to change in the industry calendar.

¹ https://www.ofgem.gov.uk/system/files/docs/2020/10/201001_recv1.1_condoc_final4.pdf

Finally, there is no mention of issue or review groups as part of the Change management process, and we believe that provisions should be made for them, given that under the current provisions, they have proven to be useful as they help to identify potential changes to code.

Q4.2: Do you agree that the Change Panel should be appointed by the RECCo Board, following a process overseen by the nominations committee?

Yes, we agree with the appointment by RECCo via the nominations committee, which will be more dynamic than the current elections process. We agree with the drafting under 2.3 of the Terms of Reference², that one member should be nominated by Parties who are Gas Suppliers and/or Electricity Suppliers. In addition, we support the notion to appoint individuals on a temporary basis depending on the change being progressed.

Further to paragraph 4.25 of the consultation document³, we question whether any guarantee can be given to the statement that the Change Panel will act independently rather than in the interests of particular constituencies; it is natural for an individual to make a decision based on where their vested interests lie, which is a risk and emphasises the need for fair representation.

Q4.3: Do you agree that the REC should encourage shorter and more frequent Change Panels, to be held remotely where possible?

We remain impartial on this subject. The overarching principle is that the change management process should be consultative and transparent. Therefore, we do not believe that it will be easy to pre-empt the duration of a Change Panel meeting, as this will heavily depend on the change(s) being progressed.

There are pros and cons to holding shorter and remote meetings; ultimately criteria need to be created to measure the effectiveness of any such change panel meeting(s) (regardless of duration, or location). If this effectiveness criteria exists, then meetings may evolve as required to meet the needs of REC party members, whilst maintaining the required standards and input into the Change Management process.

In addition, scheduling more frequent meetings runs the risk of there being too many meetings, and with the industry calendar the way it is, it may result in meeting clashes; communication between other code bodies will be essential to avoid this happening, which should in turn facilitate better working relationships between the code bodies.

We await further clarity on these points, including what the REC will do to prioritise changes across the various codes, especially where the same resource may be needed.

Q4.4: Do you agree with the proposed categorisation of REC documents and associated change paths?

Yes, we agree with the proposed categorisation in principle, as we welcome effective change management performed in an efficient and controlled manner.

² https://www.ofgem.gov.uk/system/files/docs/2020/10/change_panel_terms_of_reference_0.pdf

³ https://www.ofgem.gov.uk/system/files/docs/2020/10/201001_recv1.1_condoc_final4.pdf

However, as the overriding principle is consultation and transparency, it is unclear how members outside a Category 2 technical group could contribute towards any such Category 2 change. We suggest that there should be the mechanism for non-technical member parties to be part of this process as desired, even if on an ad-hoc basis, depending upon the change being progressed.

Q4.5 Do you agree that code administrators and managers should be able to raise any changes identified as necessary by the CCSG?

Yes, we agree. We believe that this could perhaps improve the working relationships between the existing code administrators to meet CACoP principle 13. However, there should be an expectation of code administrators to retain independence and rely more on industry parties to drive forward the changes.

Theft Arrangements

Q 5.1: Do you agree that we should extend the valid reasons for an objection to include ongoing and time-bound theft investigations, and subject to monitoring by the PAB? Do you have any suggestions for the period of time during which it should be possible to maintain investigations as a reason for an objection and what should trigger the start of that period of time?

Yes, we agree with the principle of being able to object to a CoS request due to an ongoing investigation and believe this is a sensible idea to implement. However, under the current arrangements we are mandated to provide an objection reason to the customer when a CoS is objected to, but in an ongoing theft case we would not want to alert a possible energy thief that they are under investigation. A Supplier may need 6 months to fully investigate a case from lead/tip-off through desktop evaluation and site visits, and in some cases it may take longer. However, the timings of cases can vary and as such the arrangements should allow a flexible window. With the new switching arrangements there will be shortened change of supply timeframes, which may pose a challenge to detect any theft (in a potential relative short amount of time). We therefore suggest that the TIG could be tasked to look at common scenarios and define a common timeframe.

Regarding performance assurance monitoring, we recommend that the PAB should allow for a 90 day SLA window in line with the Category C investigation period.

Q5.2: Do you consider that the RECCo should be required to periodically review the effectiveness of the incentive scheme(s)?

Yes, we believe that the RECCo should periodically review the scheme, most likely on an annual basis to ensure that targets are challenging and realistic to incentivise Supplier performance.

Q5.3: To what extent, if any, do you consider that the Theft Target should be reduced pending the replacement of the Theft Risk Assessment Service?

We strongly believe that the Theft Targets should be reduced as they were originally set unrealistically high for an emerging scheme. Additionally, the leads provided to us to investigate via the TRAS have not been as successful as our own leads. Therefore, we do not believe that the

existing TRAS Service has proven to have delivered value for money (review conducted by BDO) and should therefore be superseded with a new approach under REC.

The split of domestic and commercial theft should also be taken into consideration. Whilst the volumes or energy are typically small for domestic sites, they make up the majority of cases.

Q5.4: Do you agree that the RECCo should procure a theft methodology, and use that to assess the effectiveness of a Theft Reduction Strategy, which it should also develop?

Yes, we agree a theft methodology is needed and that the RECCo should set out a sustainable long-term scheme for the detection and reduction of theft. We also believe consideration should be given to setting detection targets for Distributors and Transporters whilst the provisions are currently being drafted.