

RIIO-ED2 Challenge Group

RIIO-ED2 Challenge Group Terms of Reference v1

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Contact: James Veaney

Email: James.Veaney@Ofgem.gov.uk

These are the Terms of Reference (ToR) for the RIIO-ED2 Challenge Group. These ToR may be reviewed and updated from time to time.



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1. Context

- 1.1 To strengthen the voice of consumers in the process of setting price controls for network companies, as part of the RIIO-2 enhanced engagement process, the network companies have established company specific Customer Engagement Groups (“CEGs”) and Ofgem have established the RIIO-2 Challenge Group (“the Group”) to challenge network companies to develop Business Plans that address the needs and preferences of their stakeholders and deliver value for money. This document sets out the Terms of Reference (“ToR”) for the Challenge Group for the next Electricity Distribution price control (“RIIO-ED2”) which will run from 1 April 2023 – 31 March 2028.

2. Objective and scope

Objective

- 2.1 The objective of the Group is to help ensure the delivery of Ofgem’s RIIO-2 Objective (“the RIIO-2 Objective”) by providing effective challenge on behalf of current and future consumers to the network companies and to Ofgem.
- 2.2 The RIIO-2 objective¹ is to ensure that regulated network companies deliver the value for money services that both current and future consumers want and need. In particular, that the price controls:
- i) give due attention to mitigating the impact of networks on the environment; and
 - ii) are designed so that networks play a full role in addressing consumer vulnerability issues.
- 2.3 To do so, the price controls should develop and maintain a reliable, safe and secure network that is flexible in supporting the Net Zero transition.
- 2.4 To achieve the RIIO-2 objective, the Group will, as its primary purpose:
- (1) provide an independent challenge to, and scrutiny of, all draft network company Business Plans in RIIO-ED2 from the perspective of current and future consumers, with a focus on affordability and the protection of consumers in vulnerable circumstances, and on sustainability (including but not limited to impact on the environment and the net-zero transition);
 - (2) participate in the Open Hearings run by Ofgem; and
 - (3) review the Draft Determinations published by Ofgem in summer 2022, and as part of the broader consultation on these, challenge and advise Ofgem on any aspects of these determinations which it considers less than optimal in the light of the RIIO-2 Objective. Ofgem will consider the Group’s views, along with all other relevant considerations, before setting Final Determinations at the end of 2022.
- 2.5 The Group will also engage with and provide challenge to Ofgem’s policy in development from the perspective of the RIIO-2 Objective in relation to Ofgem’s sector methodology decision for ED2.

¹ The RIIO-2 objective is mentioned on page 4 of [RIIO-2 framework decision published by Ofgem in July 2018](#)

Scope

- 2.6 The Group is intended to provide challenge to the network companies on their Business Plans and to Ofgem on their Draft Determinations for RIIO-ED2. It does not have any decision-making powers, nor will it endorse the Business Plans submitted by the companies. The Gas and Electricity Markets Authority (GEMA) will make the final decision on the price controls. Ofgem will consider views raised by the Group, alongside other relevant considerations but is under no obligation to accept them.
- 2.7 In furtherance of its primary purpose, the Group will scrutinise draft and final network company Business Plans. It will provide challenge and feedback to the network companies on a full draft of their Business Plans and prepare a Report for Ofgem setting out the results of that scrutiny and identifying any concerns to which it gives rise and the Group's reasons for those. The Report should, in particular, assist Ofgem in focusing on contentious areas through the Open Hearings that are planned for the spring of 2022. Ofgem may provide guidance to the Group from time to time on what areas the Report should cover (as it will to the CEGs).
- 2.8 In fulfilling its primary purpose, the Group may seek to challenge any aspects of network company Business Plans from the perspective of consistency with the RIIO-2 Objective. Areas for challenge will include: (i) the range and quality of services offered (particularly for consumers in vulnerable circumstances and those that are currently worst-served); (ii) facilitation of whole system and net-zero transition, (iii) sustainability and environmental impacts; (iv) quality of engagement with stakeholders and how this has been reflected in plans; and (v) total expenditure (totex), depreciation, and the cost of capital.
- 2.9 When providing potential challenge to Ofgem's Draft Determinations, the Group may focus on any issue which it considers is relevant to the RIIO-2 Objective. In performing this role, the Group will be mindful of the existing RIIO-ED2 Framework Decision (published in December 2019) and sector methodology decision (published in December 2020); and will operate within the framework of relevant decisions already taken by GEMA.
- 2.10 The Group will develop criteria to evaluate its effectiveness and contribution to the delivery of the RIIO-2 Objective. At the conclusion of its work following its review of Draft Determinations, the Group will participate in an independent review of its work and outputs in order to assist Ofgem in preparing for future price controls.

Relationships with other groups and Ofgem

- 2.11 For the avoidance of doubt, the Group is not a substitute for wider stakeholder engagement and consultations that Ofgem and the network companies must conduct for the price controls.
- 2.12 The Group has a distinct purpose, as described in para 2.1 of this document, separate from any working groups Ofgem or network companies may establish to seek views from wider stakeholders and the CEGs.
- 2.13 The Group is independent of Ofgem. No action or recommendation on the part of the Group will under any circumstances be construed as a commitment on the part of Ofgem to take such action or adopt such recommendation. Any input from the Group will be one of many considered by Ofgem.

- 2.14 Where needed, the Group (via its Chair), may be invited to discuss its views at a number of meetings, including with GEMA (the Ofgem Board), Ofgem price control staff meetings, and at the Open Hearings.
- 2.15 The Group will have the opportunity to meet periodically the Chairs of the CEGs, established by the network companies for RIIO-2. The Chair of the Group will be invited to attend the periodic meetings Ofgem will conduct with the Chairs of the CEGs.
- 2.16 The Group will seek to liaise regularly and work constructively with and to avoid duplication of the work of the CEGs. However, this will not constrain the Group from raising or examining an issue from the perspective of the RIIO-2 Objective.
- 2.17 The Group will be accountable, to the extent appropriate taking account of its independent status and in accordance with these ToR, to the Senior Responsible Officer (SRO) of the RIIO-2 price controls.

3. Membership and Individual Roles

Membership

- 3.1 The Group will operate initially until final determinations at the end of 2022. Ofgem may renew the Group's remit thereafter, as appropriate. Members of the Group will sign contracts and confidentiality agreements with Ofgem, including to prevent the disclosure of any commercial or market-sensitive information, as appropriate.
- 3.2 Membership of the Group comprises:
 - an independent Chair
 - representatives from Sustainability First, Citizens Advice and the National Infrastructure Commission
 - independent members from various disciplines (regulatory finance and economics, banking, commercial, academia, consumer representatives, legal, innovators).
- 3.3 The current membership of the Group is set out in Table 1 below. The organisational representatives have been invited on to the Group by Ofgem, and the individual members have been recruited through an open and transparent process.

Table 1 – Membership of the Group

Position	Name
Chair	Roger Witcomb
Deputy Chair	Clare Potter
Representative	Sustainability First
Representative	Citizens Advice
Representative	National Infrastructure Commission
Member	Goran Strbac
Member	Robert Hull
Member	Ulrich Kaltenbronn
Member	Joanna Hubbard
Member	Rosamund Blomfield-Smith
Member	Helen Parker
Member	Vacant ²

- 3.4 An Ofgem representative will attend the Group’s meetings.
- 3.5 Where appropriate, the Group may invite internal or external experts to specific meetings and seek views from these parties outside of the meetings. The names of any such experts and nature of any advice provided by them will be declared in the Report prepared by the Group.

Role of the Chair

- 3.6 The Chair will normally chair all of the meetings of the Group; act as its representative in external meetings with other parties (including with the Chairs of the company specific Customer Engagement Groups); and be the principal point of contact between Ofgem and the Group.
- 3.7 The Chair will decide the agenda of Group meetings; organise and direct the Group’s deliberations; request from Ofgem any technical assistance or advice that the Group needs; and lead the Group in its engagement with network companies on their Business Plans.

Role of the Deputy Chair

- 3.8 The Deputy Chair will deputise for the Chair when he/she is unavailable.

Role of the Members

- 3.9 The Group will have two types of Members: organisational representatives, and individual experts.
- 3.10 The three organisational representatives on the Group (from the National Infrastructure Commission, Sustainability First and Citizens Advice) will draw on their expertise to reflect and represent the views of their organisations. However, the Group is independent of these organisations, and their organisations are not bound in any way to endorse the views or deliberations of the Group.
- 3.11 The Group does not have formal regional or devolved representation. Citizens Advice – in accordance with its statutory mandate - will ensure that the views of consumers in England, Scotland and Wales are fully represented at the Group and regional issues (where relevant) are given full consideration.

² We are currently in the process of filling this position.

- 3.12 Individual experts will provide disciplinary expertise to the Group, contributing their own views as individuals and not seeking to represent any particular constituency other than the interests of existing and future consumers.
- 3.13 Members must inform the Chair and Ofgem in advance if they are unable to attend the meetings.
- 3.14 Members should ensure that their contribution enables the Group to function in a cohesive and collaborative manner, and each Member gets the opportunity to participate fully.
- 3.15 Members may be asked by the Chair to represent the Group in meetings, including the Open Hearings.

4. The Report

- 4.1 The primary output of the Group will be an independent Report covering each network company's Business Plan. This Report will be published on Ofgem's website.
- 4.2 The Group will consider the information provided in the draft and final Business Plans and reflect this in the Report.
- 4.3 The Group will:
 - agree a workplan with Ofgem by 26 February 2021 setting out the key milestones and deliverables. The workplan will set out which deliverables require Ofgem input and specify what that input is including timescales
 - agree a schedule of work with Ofgem by 30 September 2021 to agree the format, presentation, and timescales for drafting of the Report, ensuring there is sufficient time for the network companies to fact check the document and request redactions, if required.
- 4.4 The Report will present the Group's recommendations, identifying specific areas or issues where, in the opinion of the Group, the network company's plans are weak or not well justified. The Report should identify any issues which the Group considers Ofgem should take into account in making its determination and set out (with reasons) the questions or concerns it believes should be interrogated further in the Open Hearings.
- 4.5 The Report produced by the Group will be addressed to the SRO of the RIIO-ED2 price controls.

5. The role of Ofgem in the provision of Secretariat and technical support

- 5.1 Ofgem will provide administrative and secretarial support to the Group. Secretarial support will include organising meetings, circulating any relevant documentation, and taking notes of the meetings.
- 5.2 In order to facilitate open and constructive debate, meetings will be held under the Chatham House Rules. Whilst the outcomes of the meetings of the Group will be recorded as necessary in summary; views will not be attributed to specific individuals or organisations and the summary will not be published.

- 5.3 Ofgem will also provide administrative support for the Group including maintaining a register of Members' interests, working with the Chair to manage the Group members to ensure their charges do not exceed the cap, and providing administrative assistance in connection with production of documents including the Report.
- 5.4 The administrative support will also include, where necessary and appropriate:
- attending Group meetings to act as a point of contact between the Group and Ofgem's policy teams
 - co-ordinating technical assistance where it can be provided
 - coordinating input from Ofgem staff on relevant policy developments to inform the deliberations of the Group.
- 5.5 The Group will not have a separate budget.
- 5.6 Materials presented by Ofgem at the meetings will be for the purpose of stimulating discussion only. These materials do not represent the views of Ofgem/ GEMA, unless stated otherwise by Ofgem.
- 5.7 There will be a webpage on the Ofgem website dedicated to the Group. Biographies of the members, the Group's Terms of Reference, the forward work programme and the final Report from the Group will be made available on this website.

6. Conduct of Group

- 6.1 In carrying out the work of the Group, the Chair, Deputy Chair and the Members will observe the highest standards of integrity and independence and comply with the Principles established by the Committee on Standards in Public Life.
- 6.2 The Chair, Deputy Chair and the Members will be required to disclose in the register of Members' interest any financial or other interest or circumstance which could give rise to a conflict of interest (actual or potential). At the beginning of any meeting, Members will disclose any new or previously undisclosed relevant interest. Members may recuse themselves from a meeting or part of a meeting on their own initiative or at the request of the Chair, if any actual or potential conflict of interest arises.
- 6.3 A Member may be removed from the Group by the Chair, in consultation with the Deputy Chair and Ofgem, if they have committed a serious breach of the standards of conduct laid down in the Terms of Reference.