

Energy code reform: implementation consultation

Citizens Advice response



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advice**

Sam Hughes
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Executive Summary

As the statutory consumer advocate for energy consumers we have engaged in the detailed work of industry codes for many years. They represent a fundamental part of the whole energy system, they govern and facilitate significant changes which affect all end consumers of energy, yet end consumers have virtually no visibility of them.

Ensuring codes, code governance and the parties that interact with them work, overall, in the interests of consumers is essential and we look forward to continuing our role. We therefore agree with the need to reform codes, introduce code managers, and improve governance processes.

We broadly welcome the proposals in this consultation, in particular on how codes are proposed to be consolidated, the intention to revise code objectives, improve code modification processes, and look at common processes for prioritisation.

We also welcome proposals for the Strategic Direction Statement (SDS) though highlight some concerns about engagement fatigue. We agree with the constitution of the Stakeholder Advisory Forum (SAF) and the roles it is intended to play but welcome more detail on how the membership would become appointed and how large the potential pool of members might be. We agree with the proposed transition approach but question how partial consolidation fits within it.

We recommend Ofgem looks more at the appropriateness of derogation powers under code managers and believe it is necessary to identify areas for part-consolidation at an early stage to best enable the phased transition approach.

We welcome the idea of a net zero code objective but this must be a meaningful addition, rather than a 'tick box' exercise. We also agree it is important that code objectives align well with Ofgem's statutory duties. We therefore recommend that implementing a consumer benefit code objective should be a high priority for Ofgem.

Section 2

Q1. Do you agree that we should recommend to the Secretary of State that the 11 industry codes listed (including the SQSS) should be designated as “qualifying documents” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

Yes we agree. It is necessary that all codes are specified to ensure that code manager appointment or selection processes and code consolidation can be undertaken by Ofgem in order to deliver the intent and benefits to consumers and industry of the code reform programme.

Q2. Do you agree that we should recommend to the Secretary of State that the 5 central systems listed (including the Central Switching Service) should be designated as “qualifying central systems” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

Yes we agree. Central systems are a crucial function of industry codes and their interaction with future code managers will be important to having effective and efficient industry codes. Designating them as qualifying central systems will enable Ofgem to use its powers to ensure any necessary changes are made to enable effective and efficient code reform.

Section 3

Q5. Do you agree with our preferred option to consolidate the CUSC and DCUSA to form a unified electricity commercial code?

Yes we agree. At the call for input we stated that consolidating by theme in electricity was our preferred approach.

The creation of a single electricity commercial code may potentially deliver some of the greatest consumer benefits as well as being feasible. There are known distortions created by differing charging methodologies between the transmission and distribution voltages. As we move to a significantly more distributed electricity system for both generation, demand and storage, coherence in the commercial codes will become increasingly important. For

example this could better enable the right price signals for connecting parties which drive efficient siting decisions whether at the transmission or distribution level, reducing overall energy system costs for consumers.

We also agree that from an industry resourcing perspective, it is a more feasible option to consolidate on commercial themes than if commercial and technical were consolidated.

Q6. Do you agree with our preferred option to consolidate the Grid Code, STC, SQSS and Distribution Code to form a unified electricity technical code?

Yes we agree with thematic consolidation of technical codes. We agree with Ofgem that the activity levels among these codes would likely mean that consolidation could deliver efficiency savings as well as delivering a range of other benefits in ensuring technical requirements for planning across the distribution and transmission networks are coherent for an efficient electricity system.

By creating separate technical and commercial codes it is going to be essential that technical codes consider the commercial impacts of technical changes. In fact Ofgem should view this type of effective cross-code working and shared visibility as a key objective, and potential benefit, of code reform and set out this ambition more explicitly.

As an example, GC0154¹ has fairly significant commercial impacts despite being a modification which is primarily technical in nature. Similarly, the SQSS has interactions with the security factor in the TNUoS Transport and Tariff model as highlighted by CMP432² which has highly material commercial impacts.

¹ [GC0154: Incorporation of interconnector ramping requirements into the Grid Code as per SOGL Article 119](#)

² [CMP 432 - Improve "Locational Onshore Security Factor" for TNUoS Wider Tariffs](#)

Q7. Do you agree with our preferred option to consolidate the UNC and IGTUNC to form a new unified gas network code?

Yes we agree. Consolidating UNC and IGTUNC is likely to be one the least practically challenging consolidations to deliver and would deliver clear efficiencies. In particular it would prevent the duplication of effort and resources where modifications must be raised in both codes separately. The content of the codes is also relatively similar in nature, enabling the rationalisation and simplification of the codes once consolidated.

We also believe that consolidating these codes would best enable the implementation of any changes required by decisions about if and how gas networks are used in the future and their interaction with the wholesale market and operation of the system. Ensuring the wide range of stakeholders can better input to the process under a single unified code will be beneficial to all.

Q8. Do you agree with our proposals to rationalise the identified code provisions as part of any consolidation exercise?

Yes we agree with Ofgem’s proposals to rationalise code provisions. In particular we welcome the proposal to have a single set of code objectives and code modification processes within each consolidated code.

We agree that rationalising or making code compliance provisions more consistent between codes is a necessary part of the process. Compliance with codes is fundamental to an effective and efficient energy system. Suitable performance assurance regimes are similarly important but it is unclear whether this is in scope of Ofgem’s proposals for code compliance. As an example, Ofgem has previously highlighted concerns about poor meter read performance among UNC parties and stated the need for performance to improve which they deemed ‘non-compliance’³.

We would support Ofgem in the aim of improving matters of compliance and performance assurance to ensure code parties are meeting their obligations which underpin an effective and efficient energy system.

We also agree that provisions for derogations may need to be considered as decision making for derogations differs across codes as highlighted by Ofgem. We are not convinced that it is appropriate for decision making powers for

³ [Ofgem decision letter on UNC0840](#)

derogations to be held currently by code panels. We would argue that a derogation from code could be potentially more material in impact than the criteria for self-governance modifications, yet both have decision making powers held by panels.

With the introduction of code managers we assume these powers move to code managers. However, the same issue would still be present. Ofgem should consider whether it is more appropriate for decision making powers to be held by Ofgem for derogations, particularly if seeking consistency.

Section 4

Q9. Do you agree with our proposal to publish the first SDS for all codes next year (before code managers are in place)?

Yes we agree. We agree that publishing the SDS in advance of code managers being selected or appointed would give valuable direction of travel for prospective code managers and nearer term code activity. As Ofgem acknowledges, there will be changes to the ways that Ofgem will work, resource and engage in codes. Producing an SDS at this early stage will be beneficial to enable Ofgem to evolve this new approach.

As the precise timing of appointing the first code manager is also unknown it provides more clarity by having the annual process already in place rather than any risk of timelines for code manager appointment and SDS publishing being unaligned.

We also agree that producing an SDS in advance of code managers would better drive existing code administrators to implement some changes to improve consistency between codes at an earlier stage where possible. We would note, however, that while an SDS would be focussed at code administrators, any changes required to the code may rely on industry as proposers.

Q10. Do you have views on the proposed SDS process?

We agree with Ofgem's proposed SDS process and welcome our inclusion as a stakeholder whose input and priorities would be sought in the process.

Ofgem should consider including those with responsibility for performance assurance at the 'research and understanding' phase. If performance issues

have been identified then inclusion in the SDS may provide useful clarity and pressure for issues to be addressed. Ofgem should maintain an issues log for matters it expects to be addressed and consider using the SDS as a process to assess progress and set further expectations where necessary.

Ofgem should consider whether code modification post-implementation reviews would be relevant to the SDS. Our anticipation is that post-implementation reviews would still be conducted by Ofgem and therefore may be relevant to the SDS depending on timescales.

We agree that code managers should set out how they will deliver the SDS following the input and engagement of stakeholders. There is some risk that stakeholders who have already engaged with Ofgem in the earliest stages of SDS development, and then subsequently in consultation, could then also be called upon by code managers in setting delivery plans. This could cause some stakeholder fatigue, particularly when the process will take place annually. On the other hand it may mean stakeholders are involved in detail throughout the process providing better quality input and ability to monitor the progress and outcomes of code managers and the SDS overall. It is nevertheless an issue Ofgem should be mindful of, particularly given the proposals for budget setting under its consultation on code manager licences which, taken together, will require similar parties to engage in these multiple steps on an annual basis.

We would encourage Ofgem to be as specific as it can be in its SDS, particularly where prioritisation is concerned. There is some risk that if language is not suitably specific then a range of interpretations could be made by stakeholders, code managers, and others who may propose modifications, which could undermine the main benefits of having an SDS.

We welcome Ofgem's willingness to specify the parameters of required modifications in an SDS where possible. We believe that where Ofgem can do this, under a code manager regime, the resources of industry can be used in a more focussed way and prevent time being spent on modifications or parameters which are unacceptable to Ofgem. This should result in faster end-to-end modification governance processes without loss of quality, and enable faster decision making by Ofgem.

We welcome the proposal for annual reporting and ongoing monitoring as well as potentially fuller evaluations. We would welcome standardisation in the

performance indicators used and how annual reports are compiled by code managers in order to effectively enable assessments of the delivery of the SDS and cross-comparisons to be made. As we have seen in the operation of price controls, any reputational incentives often rely heavily on the ease with which stakeholders can engage with the information and reporting, make comparisons and draw conclusions. Establishing this arrangement up front makes this process easier for every party involved.

Q11. Do you agree with our proposal that a principles-based standard condition for gas and electricity licensees would support the development and delivery of code modifications related to the SDS?

Yes we agree that obligations in standard licences and in codes would be beneficial in ensuring delivery of the SDS is supported effectively by industry as well as by the code manager. This also minimises any risks if SDS priorities and consumer interests do not align with industry's commercial interests.

Section 5

Q12. Do you agree with our preferred option for how a Stakeholder Advisory Forum should be constituted?

We agree with Ofgem's preference for option 3 with a fixed membership who are required to act impartially. We believe this is the best option for meeting the outcomes that code reform is intended to deliver.

We believe that a fixed membership will support institutional and expert knowledge being retained. We also agree that it is necessary to build flexibility into SAF membership to ensure that SAFs can bring in members who have the appropriate knowledge as needed to inform discussions, and that industry and stakeholder resources are used in the most effective and efficient way.

We do question how a fixed membership or the wider pool of members become appointed. It is relatively common for elections to be held to appoint industry members to panels currently and we imagine this could be an option for SAFs. Alternatives would most likely require either code managers or Ofgem to appoint members which may be unnecessary and risk being less transparent. That being said, there will need to be processes to address where members are not acting impartially that may require code manager or Ofgem involvement.

We would support the pool of additional members being large enough to ensure a range of stakeholders can be involved in SAFs as needed. Ensuring these opportunities are known to industry parties, particularly smaller ones, will be an important role of code managers.

We support the requirement for members to act impartially. We believe this supports one of the premises of code reform which is to address the potential use of codes and code governance processes for commercial gain, an issue highlighted by the CMA⁴. As impartial memberships are already common among some codes such as CUSC and BSC we see this as an evolution for other codes.

We are satisfied that other groups such as issue groups and working groups, consultations, and confidential submissions to Ofgem, represent suitable opportunities for explicit commercial interest and perspectives to feed into the overall process.

It will remain essential that commercial perspectives and principles are key to the SAF. Impartiality requirements should ensure these contributions are constructive to effective governance and not limited only to the interests of the company or sector that the member is employed by. It will be a crucial role for the code manager and the SAF Chairs to ensure that, as far as is practicable, members act and adhere to this requirement to ensure it is meaningful in practice. It may be necessary to have processes to remove members where the requirement is not being met.

While we are supportive of ensuring a suitably wide range of views and expertise can be part of SAFs, we believe the use of paid independent roles should be restricted to the role of chairpersons except in very limited circumstances. It would only be appropriate where certain expertise cannot otherwise be available or replicated by other members of the SAF. We believe this should be treated on a case by case basis after other industry and consumer positions have been filled. It is important that members are motivated by efficient and

⁴ The Competition and Market Authority's (CMA) 2016 Energy Market Investigation found that the current system of energy code governance was having an adverse effect on competition, stemming from, among other things, conflicting interests, lack of incentives to carry out policy changes, and Ofgem's limited ability to influence the code change process. - CMA, [Energy Market Investigation: Final report](#) (June 2016)

effective code governance and that remuneration does not risk creating alternative incentives (or the perception of alternative incentives).

We support the removal of membership votes in SAFs. Apart from their effect on code appeals, in practice, we do not think votes currently add significant value to the governance process over and above the assessments carried out against code objectives which reveal preferences. Updated and consistent code objectives across codes would also further support detailed discussions at SAF to reveal support or otherwise for modifications to best enable the code manager or Ofgem to make decisions.

Given the significant technical and commercial changes likely to be required in codes to meet net zero we are unconvinced by arguments that removing voting will impact the incentive of industry parties to attend SAFs and think this risk is low. We also believe that the inclusion of a vote becomes more challenging under the fixed but flexible membership model where the number and balance of voting members could potentially vary between modifications.

At this stage we do not have strong views about whether SAFs should be chaired independently or by the code manager themselves. There are benefits from having a Chair who understands the codes extremely well as we would expect from a code manager but may be more difficult to achieve with independent chairs (though not impossible). It is also ultimately the code manager whose licence conditions will require them to ensure an effective SAF. However, we see significant value in the SAF being involved in scrutinising and holding the code manager to account on its processes, performance, and on budgetary issues. For these discussions it may not be appropriate for the Chair to be an employee of the code manager due to conflicts of interest.

One of the concerns expressed about the creation of SAF is about whether it narrows the scope and opportunities for parties to participate in codes. We would encourage Ofgem to set out not just the parameters of the SAF but also where it sits in the overall codes landscape.

In our view the SAF only replaces voting panels but does not affect other groups or the need to have them. For example we see the following as being important but think consistency across codes is also needed:

- **Sub-committees** - such as contracting committees

- **Working groups** - where the detailed development of code modifications takes place as a collaborative effort between code managers and any interested parties
- **Issue groups** - these groups are typically open forums for any party, but particularly those who are code parties to raise and discuss issues, for system operators to provide updates, and where pre-modification discussions often take place. Such a group has been created in REC and appears to replicate standing groups like the transmission charging methodologies forum (TCMF) in CUSC.

For clarity, the respective roles of issue groups and working groups would benefit from consistency and simplicity across codes and will require development as part of the discussion on code governance processes.

As examples, our understanding is that in REC the issues group⁵ is a relatively open forum for discussion of any topic, while the TCMF (CUSC)⁶ is focussed on specific topics but remains an open forum. The distribution group under UNC⁷, which can be attended by any party but is intended for distribution networks, performs this same role as an open forum but also acts as a standing working group for code modification development and therefore merges the role of 'working group' and 'issue group'. Working groups under CUSC are established and closed down for each modification, rather than using standing working groups.

The ongoing need for these groups seems clear and would ensure that there are suitably open forums to ensure any party who is not a SAF member has routes to input to the overall code governance regime (issue group), in addition to consultation processes. It also enables the detailed development of code modifications to take place with industry's input (working groups). To evolve and improve consistency Ofgem should explore whether there is greater merit in having fewer groups which are each used for multiple purposes or from having a greater number of groups which each perform a single role.

⁵ "The RIG is a REC forum established for the discussion of industry issues which may be outside of the remit of other REC Committees"

⁶ "Transmission Charging Methodologies Forum (TCMF) established under the Connection and Use of System Code (CUSC) to provide a regular forum for discussion on the development of charging methodologies".

⁷ "The Distribution Workgroup debates and develops modifications and related matters that primarily impact upon the Distribution Networks."

Q13. What are your views on i) a requirement to assess the greenhouse gas impact of code modifications with updated guidance, or, ii) introducing a 'net zero' code objective?

We support the intention to deliver code governance improvements under current arrangements as a low regrets action. We also see this is easing the transition of code governance to the new regime under code managers.

We are supportive, in principle, of a code objective that relates to net zero or greenhouse gas emissions.

We do not see the two options presented by Ofgem as mutually exclusive and believe that introducing an explicit code objective regarding the delivery of net zero as well as updating guidance on how modifications should be assessed for their greenhouse gas emissions would be beneficial.

We agree that a new objective would better align with Ofgem's statutory duty. However, it is essential that the objective is extremely clear in the language that is used to drive the most objective assessments against it. There is a risk of introducing a code objective with ambiguous language that means that virtually any improvement or changes to code could be justified as better meeting a net zero code objective and would therefore not add any meaningful value.

As a principle for all code objectives it must be meaningful. It must therefore be worded in such a way to ensure that it is not a tick box exercise and that it provides valuable information to Ofgem or code managers for making decisions.

In particular for a net zero objective it must also be written in such a way that there are plausible scenarios where a modification can be reasonably and objectively assessed as negative for the objective. In the gas codes for example, clarity in a net zero objective will be needed to prevent recurring debates about the benefits, or otherwise, of alternatives to natural unabated gas for furthering net zero.

Code objective alignment

We agree that code objectives should be aligned where it makes sense to do so ahead of appointing code managers. More importantly we believe code objectives should be suitably specific and would not see value in making objectives consistent if it meant making the language less specific.

Consumer code objective

New principles have been introduced to CACoP recently⁸, adding additional requirements to assess the impact of a modification on net zero and separately on consumers. We note that a new net zero code objective is under consideration here but not a code objective relating to consumers.

We agree with Ofgem that code objectives should align to Ofgem's statutory duties. We would therefore recommend introducing a code objective to assess the impact of modifications on consumers as a priority. At present code objectives could be considered to, in effect, act as a proxy for consumer interest. More explicit consideration of consumer interest is intended by requirements introduced by CACoP including both 'Consumer Benefit Areas' and the new CACoP principle.

We believe that consumer interest could be better embedded into code governance processes on a consistent basis across all codes and believe that changes to code objectives provide an ideal opportunity to embed Ofgem's statutory duty - the interests of current and future consumers - into code objectives. The Consumer Benefit Areas are sometimes used only as a statement of opinion by modification proposers, rather than being used as a point of assessment by working groups or panels, and in some cases seem absent from modifications entirely.

It is our expectation that Ofgem will need to require code managers, through licencing, to ensure that decisions, processes, and recommendations to Ofgem are reflective of the interests of consumers overall, even where this may involve trade-offs.

Adding the interests of consumers as a new code objective could better support code managers to consistently embed this focus into their culture, processes, workgroups, SAFs, consultations and decision making.

Q14. Do you agree with our proposal to extend and harmonise the ability of code panels to prioritise the assessment of code modification proposals?

Yes we agree and believe it would be beneficial and pave the way ahead of code managers being appointed.

⁸ Ofgem, [Approval of Code Administration Code of Practice Version 6.0](#)

Generally speaking we have seen positive outcomes delivered by prioritisation in, for example, the CUSC. The main issues we have experienced with prioritisation is if too many modifications are deemed low priority which can save up a larger quantity of work for a later point in time. In some instances smaller parties modifications, which may be lower materiality, can be delayed and do risk disengagement.

However, on balance, we believe the benefits of prioritisation outweigh the risks and will ensure industry resources are focussed on areas that deliver the greatest benefit to consumers.

We agree with other stakeholders that criteria should not preclude 'quick wins' from being able to be prioritised even if they are not material. Modifications like this can often take relatively little time to progress, particularly where they have unanimous support. In these instances pre-modification work in forums like issue groups can be important in understanding how contentious a modification is or how much development is required.

This may mean that alongside principled criteria like materiality it may be beneficial to include practical criteria such as anticipated resource demand and timescales.

Criteria should also consider circumstances where the ideal implementation date is tied to external factors such as tariff publication timelines. There is a balance to strike between prioritising effectively but also the risk that implementation is delayed disproportionately because the windows of opportunity to implement changes are periodic - i.e. annually for some tariffs.

We also strongly agree that criteria should reflect the SDS, which will better enable the SDS to be impactful ahead of code managers being appointed.

New modification process

Although Ofgem has not asked a specific question on this topic we want to express our support for improving consistency, effectiveness, efficiency and quality of scrutiny in the code modification process by reviewing the existing arrangements.

We believe Ofgem's suggestion to standardise the end-to-end modification process across all codes is preferable. Variations should be an exception rather than being further embedded into arrangements. We strongly agree that a standardised process would also better enable code manager performance to be monitored.

There are many areas for improvement in the code modification process which we look forward to discussing with Ofgem and industry.

As an example of how differences in governance have material impacts, the role of working groups and the way in which modification alternatives/variations are developed differ vastly.

In some codes working groups appear to be a forum for developing, refining and improving modifications to find the *optimal* solution. However, this can be reliant on the willingness of proposers to adopt changes and this can vary. However, we have also seen working groups play a narrower scrutiny role of a proposer's solution without further development of the solution or exploration of alternatives.

Similarly, where a proposer does not wish to adopt suggestions, the barrier and burden for creating alternatives to the original solution can often be unnecessarily high. This can prevent alternatives from coming forward altogether as it relies on parties having either the incentive or resources to propose them. In some instances incentives to propose alternatives will be overtly commercial.

In practice this can mean that rather than Ofgem receiving the *best* solution to an issue, they will instead receive the proposer's *preferred* solution. And where alternatives are provided it can mean Ofgem does not receive a suitably broad 'menu' of appropriate solutions but options that instead favour commercial interests which impacts Ofgem's decision making.

This can lead to sub-optimal changes being implemented if they are nevertheless an improvement on the status quo. It also means time and resources are wasted on modifications which are rejected when better solutions could have been developed in the same process.

In the case of CMP361⁹ and the subsequent modifications related to implementing the recommendations of the second BSUoS Taskforce, we have seen Ofgem faced with multiple final modification reports with solutions which do not reflect a suitably broad menu of options, even when Ofgem has set out its expectations. In our view these processes have narrowed Ofgem's choices, led to sub-optimal solutions having to be implemented, and led to an unnecessarily protracted and resource intensive process which is yet to be resolved.

We believe governance must be reformed to ensure the best solutions are developed and that objectively beneficial options or alternatives are available to Ofgem, without relying on the incentives of industry to do so.

Section 6

Q15. Do you agree with our proposal to adopt a phased approach to transitioning codes to the new governance model?

Yes we agree. The alternative approaches would either be implausibly difficult to achieve due to the volume and complexity of work or risk taking too long. A phased approach appears to strike an appropriate balance.

Q17. What are your views on our proposed transition sequencing?

We broadly agree with the transition proposals as described by Ofgem.

We recognise that BSC and REC as codes which are not being consolidated should be among the easiest to transition and there should be benefits in being able to act early and with fewer challenges, and particularly in delivering benefits from REMA.

We do think consideration should be given to whether the consolidated gas code transition could be run alongside or overlapping with phase 1 (BSC and REC). Given the existing interaction and similarities of the two gas codes, they should be simpler to consolidate compared to other codes.

⁹ Ofgem, [CMP361 and CMP362 Decision](#)

We agree with sequencing the electricity commercial code ahead of the technical codes, though the major benefits of commercial consolidation may not necessarily be delivered until any such attempts to deliver coherence across the transmission and distribution levels are underway.

One area which is less clear is how the transition sequence works for areas of part consolidation. For example, under the sequence proposed if it was appropriate for a part of either of the gas codes (phase 2) to move into REC (phase 1) it is not clear if this should take place under phase 1 or phase 2?

It may be necessary to understand the most significant areas of part-consolidation at an early stage as this could affect sequencing, particularly if removing or adding part of a code ahead of schedule, in effect, kickstarts its transition process.

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