

Energy UK response to Ofgem's Energy code reform: implementation consultation

23.04.2024

Submitted via email to industrycodes@ofgem.gov.uk

Consultation documents:

<https://www.ofgem.gov.uk/publications/energy-code-reform-implementation-consultation>

Dear Lisa,

Please find attached Energy UK's response to the [Ofgem consultation on Energy Code Reform](#).

Executive Summary

Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies right through to new, growing suppliers, generators and service providers across energy, transport, heat and technology.

Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources.

The energy sector supports 700,000 jobs in every corner of the country. Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

Some of the most important points in our response are:

- It is vital that the appeal process via the CMA on economic grounds be retained alongside judicial review, and the right to appeal is retained during the transition.
- A Net Zero code objective would be a welcome addition to the existing objectives, but does require careful consideration of interdependencies across the code objectives.
- The Strategic Direction Statement (SDS) should be aligned with the Strategy and Policy Statement (SPS) for energy policy, with progress reported as part of the annual reporting requirement for Ofgem under the SPS.
- Ofgem should establish how it intends to deliver the proposed change processes, including how to resource this work while continuing to progress existing workstreams, and how this work will be aligned with wider work to reform connections processes, to establish the FSO, and to progress critical ongoing code modifications.
- Where codes are consolidated, Ofgem should consider how to ensure that the Stakeholder Advisory Forum (SAF) is able to address both commercial and technical issues, particularly in the consolidation of Grid Code, STC, SQSS and Distribution Codes.

If you have any questions about this response or wish to engage with Energy UK and its members, we would welcome further engagement.

Kind regards,

Charles Wood
Deputy Director
charles.wood@energy-uk.org.uk
+44 (0)20 7024 7636

Tobias Burke
Policy Manager
Tobias.Burke@energy-uk.org.uk

Consultation Questions

Section 2: Designation of codes and central systems

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, Energy UK agrees with his proposal.

It would be welcome to see the approach to SQSS inclusion and the management of that Code to better align with other codes reviewed on a regular basis to ensure the approach is still appropriate.

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, Energy UK broadly agrees with this proposed recommendation, but would welcome further detail.

Sharing further details on how qualifying systems would be managed under the new framework would be helpful for industry. For example, setting out how and when changes to the modification processes would impact changes to qualifying central systems.

Section 3: Code consolidation

Q3. Do you agree with the monetised costs and benefits set out in the accompanying draft impact assessment (ie the quantitative analysis)? Please specify if you think there is any further evidence that we should consider.

While Energy UK broadly agrees with the analysis, we would require further detail of the underlying assumptions and percentages used to estimate costs in order to fully reflect on the accuracy of the analysis.

Q4. Do you agree with the hard-to-monetise costs and benefits set out in the draft impact assessment (ie the qualitative analysis)? Please specify if you think there is any further evidence that we should consider.

While Energy UK does broadly agree with the intended approach, it is important to consider the relevance of and surrounding context for some changes, for example in the consolidation of DCUSA and CUSC.

Some of the benefits stated in the consultation are drawn from the alignment of the approach to system charging and connections and could be seen as misleading, as alignment between Transmission and Distribution are not a matter for code reform. The full realisation of these benefits would be derived from policy intervention via the regulator, and would potentially be subject to government intervention, for example through the ongoing Reform of Electricity Market Arrangements.

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

Energy UK is broadly supportive of the intention to consolidate these codes.

The preferred option would allow rationalisation of terminology and approaches used across the two codes, simplifying engagement across the two.

There is a risk, given the complexity of the CUSC and DCUSA, that consolidation results in a significant and challenging code for industry participants to engage in. To address this risk, it is vital that the approach is well thought out and involve industry participants at all stages of the process. Energy UK would welcome more detail on how CUSC and DCUSA will be consolidated and rationalised, and which parties will lead and otherwise be involved in this process.

Members have raised concerns around the amount of work required to unify these codes, and assigning the same code manager to both codes ahead of unification may be a helpful way to enable these codes to align over the proposed timeline while maintaining full coordination of these codes.

Ofgem should also consider the resource requirements of unifying these codes, as we expect this to be significant at times.

More detail is required regarding the roles and responsibilities of the SAF, including how the group is established in a manner that ensures representation from a broad range of stakeholders, while also retaining the ability to discuss technical change proposals. Details

of how the SAF could establish sub-groups to discuss technical matters and commercial matters where specific expertise is required would be helpful.

It will be critical to the success of reform of this code that it be coordinated and aligned with the electricity technical code at all stages of the consolidation process and further code modifications.

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, Energy UK supports the preferred option to consolidate the Grid Code, STC, SQSS and Distribution Code to deliver a unified electricity technical code.

Consolidating these codes, currently managed under diverging approaches, will be challenging, and as with the electricity commercial code, this will need to be progressed with full engagement with the sector throughout the process.

Some retail members have noted the importance of looking to the consolidation of metering codes (MCOP, MOCOP, and SMICoP) under the Consolidated Metering Code of Practice (CoMCoP) in order to ensure lessons are learned from that change process. There is an ongoing process to address some of the issues caused by the approach taken to consolidation, and it is critical that these issues are avoided in future code consolidation. Energy UK believes that Ofgem should reflect on the lessons learnt from that process and how Ofgem will use this learning as a basis to move forward.

The existing panel process for the SQSS and STC should be updated and reformed to better align with wider code governance in advance of consolidation to smooth the transition and address any misalignment ahead of the change process.

As above, more detail is required regarding how the SAF will be formed in a manner that delivers broad representation in order to ensure commercial and technical issues are delivered with the right expertise, and technical changes are not progressed in isolation.

As above, the Commercial and Technical codes for electricity must be coordinated at all stages.

Ofgem should also consider the resource requirements of unifying these codes, as we expect this to be significant at times, particularly given the complexity of the Grid Code.

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

Yes, Energy UK is supportive of the preferred option to consolidate UNC and IGTUNC to form a unified gas network code.

There may be a benefit to accelerating the intended timeline for delivery of this code consolidation, given the potential immediate efficiencies that could be delivered to industry and the timeline for fundamental shifts in the nature of gas networks across GB as heat decarbonisation accelerates and gas power generation begins the process of decarbonisation using low carbon gas and CCUS .

It will be important to ensure the SAF has the right range of stakeholders, and that the intervening years before this change are used to better coordinate the two existing codes.

Ofgem should also consider the resource requirements of unifying these codes, as we expect this to be significant at times.

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

Yes, Energy UK agrees with the proposal to rationalise the identified code provisions.

These changes, in particular the common contractual framework and code modification processes, should be designed in a way that does not create significant barriers to market entry.

More detail is needed regarding the approach to how interdependencies and areas of cross-over between codes will be addressed under each unified code, and across different codes not being consolidated. Understanding how these issues will be assigned, checked, and monitored to ensure continued relevance and appropriate coordination activities will help to confirm that the pace of change will not result in interdependencies causing cascading delays across codes.

Energy UK eagerly awaits Ofgem's intended consultation on the detailed code consolidation arrangements, which should set out clear details of the intended approach.

Ofgem should consider the resource requirements of unifying these codes, as we expect this to be significant at times. This should include considering the resource available within the Regulator, across energy network companies, and within wider industry.

Section 4: Strategic direction

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

Yes, Energy UK broadly agrees with the proposal to publish the first SDS next year.

It is vital that Ofgem establish the intended purpose and outcomes for this first SDS, as without the consolidated codes or code managers in place to implement the approach, there is an inherent level of uncertainty about what the SDS will achieve. If the first SDS results in more actions falling on industry and existing code administrators, there will likely be a knock-on impact on resource and governance across the sector.

It may be more appropriate to have the first SDS act instead as a type of guidance for how the approach to code consolidation will be aligned with the Ofgem Forward Work Plan and SPS, while also including details of what the future SDS publications will include and deliver.

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

Given that the SDS is intended to be a single document, it will be important to ensure that this does not lead to a high level of detail and lack of transparency about the detailed changes and approach being taken. The SDS process will need to include a focus on:

- How the SDS aligns with wider documents including the Ofgem Forward Work Plan and the SPS.
- Wide engagement with stakeholders across the sector.
- Consideration of the estimated impact of the SDS on existing governance arrangements and industry and code administrator resource.
- Clarity over how the SDS process will be resourced within Ofgem.
- Clearly defining the intended outcomes and actions, and the lead responsible party for delivery of each of these.

The process of engagement surrounding the drafting, updating, and publication of the SDS should be codified and should go beyond formal consultation, with direct engagement with a wide range of energy stakeholders to ensure shared understanding and an effective feedback process. This should also include a process for challenge if the plan is at any stage seen to have failed to be delivered to the intended timelines or with the intended outcomes.

It should be noted that the DESNZ consultation proposing to introduce code manager licenses is clear that there is no process defined for the SDS at this stage, and with code managers also not yet appointed, it will be difficult for the SDS to be delivered effectively. Any limitations should be clearly set out in the first SDS to show where further detail will be added once processes are further progressed.

The process of prioritisation throughout the transition must be open to ensure that industry is able to input into the decision-making process and maintain prioritisation of codes suggested by industry and widely recognised as critical changes. There is a risk that if industry is not involved in this process, these industry-proposed modifications will be sent to the bottom of the list of priorities.

It is welcome to see the reference in point 4.3 of the consultation document to the SPS, noting the importance of alignment of the SDS and SPS, and would also welcome alignment with the Ofgem Forward Work Plan. Industry would welcome consideration of how

publications, consultations, and wider processes across the reporting frameworks for these documents are coordinated in order to simplify industry engagement. It is broadly expected that the consolidation process will result in a higher level of input required from the wider industry until consolidation and rationalisation have been delivered.

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?

Energy UK agrees in principle to establishing a method by which industry can be held to account for participation in the development and delivery of code modifications, but there remain concerns around the potential impact on resources both for code administrators and wider industry participants.

Energy UK member views differ on whether a standard condition or other measure would be best in delivering accountability around industry participation. While some are supportive of a standard condition, others suggest that the code manager should raise a modification at the beginning of each year setting out what information and datasets it considers will be needed from code parties in order to deliver against the current SDS and develop the next SDS. The latter group note concerns that the introduction of a standard license condition could expose code parties to a potentially limitless obligation to provide code managers with any data, information, or support that the code manager deems necessary for any specific code modification.

If a principles-based standard condition for licensees is delivered, there are important considerations Ofgem must take into account.

It is important that the wording of the condition is clear that industry is not expected to support every modification proposed by code administrators, and retain the ability to challenge and oppose code modifications proposed by the administrator. More information is needed regarding how the standard license condition would be applied to non-licensed parties as proposed in section 4.27 of the consultation.

Ofgem should also consider how to establish the condition so that it only applies once the code administrator and consolidated or rationalised code is in place. The application of the condition during the transitional phase could create confusion and complexity, and as such this should be implemented with both an appropriate mechanism for implementation and a clear timeline for code reform implementation.

It will be important to establish resources and guidance surrounding codes and processes to ensure that all licensees are able to effectively engage without needing the decades of experience many companies and individuals currently hold.

As above, lessons should be learned from the consolidation of technical codes within the REC, particularly in the level of engagement with a wide range of stakeholders. This licence condition may go some way to addressing that potential challenge, but this should be monitored at all stages of the process to ensure code modifications have support and engagement from a wide range of industry participants throughout the process.

Section 5: Code governance arrangements

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

Energy UK members' views differ on the best option for this approach, many supporting the preferred option, but with some preferring Option 2. There is a common desire for transparency and clarity over both the implementation and selection processes and the operation of the SAF.

There is consensus that the Stakeholder Advisory Forum must be transparent and empower industry experts to add value in the delivery of changes that directly impact them.

There have been some concerns with existing code panels that these are dominated by network representatives and, as such, a more open approach that ensures a wide range of stakeholders are able to fully engage in the process is welcome. There are wider concerns about the lack of transparency seen in current code panels and work groups, where open elections and clear criteria for who is appointed, as well as publication of all SAF and any sub-groups' documents would aid in giving more industry participation. However, the panels play a hugely significant role in providing a check on both the power of code managers and on the outputs of work groups, the membership of which is largely self-selecting.

More detail is needed regarding how the SAF members and chair would be selected, including the share of dedicated representatives appointed from each part of the sector, and how often this formal voting process would be repeated to ensure the right mix of views are represented.

The functional operation of the SAF is another element where additional clarity would be welcome, with a need for clearly defined roles and responsibilities. For example, defining the process of establishing new sub-groups given the wide range of responsibilities each SAF is expected to fulfil. It should further be clarified who the SAF is advising and what power the SAF has over the operation of the Code and the actions of the Code Manager.

The appointment of independent chairs would also be appropriate, as these have been a helpful element in the more effective work groups seen in a range of Ofgem and industry workstreams in recent years, aiding in ensuring that all views are considered.

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?

Yes, Energy UK agrees with the proposal to introduce a 'net zero' code objective.

Net Zero is the most significant underlying factor in the ongoing transition of arrangements and technical make-up of the energy system, and as such must be reflected in the approach to future code modifications.

As with the SPS, we would welcome additional detail of how decisions should be made where multiple code objectives could come into conflict, for example where Net Zero technically conflicts with competition if certain technologies are given preferential treatment.

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, Energy UK broadly agrees with this proposal. However, the proposals as they stand may not address the fundamental issue of coordination across the existing and future codes for consequential and interdependent / interacting modifications. As part of the process, modifications should be considered by Ofgem and the code managers to ensure that interdependencies are identified and addressed.

There should also be a framework to ensure that industry is able to challenge de-prioritisation of code modification proposals, to avoid adverse impacts for the sector, for net zero, or for consumers from the delay to delivery.

This may require a framework for regular and consistent engagement between code managers administrators once these are appointed. Code managers will need to be appropriately resourced (in terms of staff and expertise) to be able to triage changes in prioritisation quickly and effectively. Prioritisation criteria should also allow for 'quick wins' in order to avoid the risk that prioritising significant strategic changes results in a lack of progress to address existing issues that would be simple to resolve.

Section 6: Transition

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

Yes, Energy UK broadly agrees with the proposal to adopt a phased approach.

Throughout this process, it is vital that Ofgem monitor any potential gaps in the transition, for example where existing panels are retired but a SAF is yet to be formed leaving no appeals process in place. Energy UK would welcome further detail of the risks identified and intended mitigation actions being taken forward by Ofgem throughout the process.

The phased approach should mitigate concerns about resource requirements, both for Ofgem and for the industry, while also progressing actions at the pace required to meet the intended 2030 timeline.

It is important that the codes are also coordinated based on fuel type, with the two electricity codes proposed inexorably linked.

Greater visibility surrounding the intended approach from Ofgem in terms of how this work will be progressed alongside the many existing change processes already in progress. This includes setting out the intended approach in Ofgem's workplans and in annual reports to Parliament following SPS implementation.

Engaging with a wide range of stakeholders throughout the process will be critical to successful implementation, and this should go beyond consultation processes to include bilateral conversations and wider engagement events to encourage and enable open dialogue throughout the process.

Q16. Do you identify any strategic or operational considerations that might inform the transition sequence?

More detail would be welcome regarding how existing and future code modifications will be strategically prioritised during the change process to ensure that critical changes like MHHS, the establishment of the FSO, and connection reforms are progressed at pace. Any additional detail of which code changes will be 'frozen' to enable the transition would be welcome.

There should also be consideration of how to ensure that code modifications being delayed does not cause a cascading impact on other interdependent changes across different codes.

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

Energy UK broadly agrees with the proposed sequencing.

Consolidating gas network codes is widely seen as sensible and welcome change, with plenty of complexity but clear benefits.

We would welcome additional clarity over the intended timelines for implementation, both in order to ensure businesses can prepare for the change ahead of time, and so that industry can hold Ofgem and Code Managers to account for implementation.

There may be a future case for consolidation of other codes, for example those relevant to energy retail, and as such Ofgem should clarify if there will be points at which the process can be reviewed to consider if other codes could be consolidated or further rationalised.

Q18. Do you have any other comments on how Ofgem should approach the implementation and transition process?

Consistent and transparent stakeholder engagement will be required in order to keep the whole sector focussed on delivering the best possible outcomes at pace. The SDS should be used as an annual opportunity to talk to a wide range of stakeholders, alongside engagement on the wider SPS. This should go beyond consultation documents, and should include at least one in person session each year.

Energy UK has helped to coordinate industry-wide discussions on specific topics before, and wherever this is helpful would be able to do so again.

Industry is keen to see this change process implemented at pace, much like Ofgem, and as such it is critical that open dialogue between the regulator and industry participants is established immediately to enable continued change while keeping industry abreast of the current and future changes being made.