

Energy UK's response to Ofgem's Consultation on the implementation of NESO's enduring regulatory framework

Open Consultation

January 2026

About Energy UK

Energy UK is the trade association for the energy industry, representing companies investing billions of pounds to secure our country's current and future energy needs.

From growing start-ups to major electricity generators, grid and infrastructure developers and energy suppliers, our members are driving change across power, heat, transport and flexibility.

We provide a collective voice for the sector working with governments, regulators, charities and other organisations to provide crucial insight that shapes policy, offers solutions and promotes best practice.

Our broad view across the whole system supports evidence-based positions which are not tied to particular technologies, and are focused on delivering strategic benefits for people, businesses and the economy.

We champion initiatives such as our Vulnerability Commitment, which pushes suppliers to go beyond regulation to support customers with additional needs, and TIDE, the industry's drive for greater inclusion and diversity. Through our Young Energy Professionals Forum, we support the development of future leaders.

We are equally committed to our team and are proud to be recognised as a 'Gold' Investors in People employer.

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Executive Summary

Energy UK and its members would like to thank Ofgem for the opportunity to respond to its consultation on the implementation of NESO's enduring regulatory framework. Energy UK agrees to this response being published.

Energy UK broadly welcomes Ofgem's proposals for NESO's enduring regulatory framework but has concerns about gaps in transparency and accountability, which could reduce the effectiveness of the framework in regulating NESO's performance. It is important that these concerns are addressed to support a robust regulatory framework and maintain wider investor confidence in the market.

Energy UK's main concern relates to the proposed approaches to implementing new principles-based requirements on performance-related pay for senior NESO staff. As this mechanism is the principal Ofgem lever for influencing NESO's behaviour, it is important that it is sufficiently robust to maintain strong incentives for compliance with licence obligations.

Energy UK prefers Option 2 because, in addition to providing clearer upfront expectations than the counterfactual, it introduces a process that Ofgem could use to ensure enforceability in cases of non-compliance, unlike Option 1. However, members are concerned about the provision that would allow NESO's performance-related pay decisions to be approved by default if Ofgem does not respond within 30 days of notification. Clearer articulation of the process and criteria Ofgem would use to assess and approve these decisions is important for maintaining stakeholder confidence and the credibility of the regulatory framework. More broadly, Ofgem's commitment to review the framework and make further changes where needed, to balance NESO Board independence with effective regulatory oversight, is welcome.

Energy UK broadly welcomes Ofgem's approach to undertaking a comprehensive review and rewrite of Condition C1 and the NESO LED. In particular, Energy UK supports the introduction of a remediation mechanism, which would provide Ofgem with the ability to challenge NESO's performance on an ongoing basis rather than only at fixed review points, thereby strengthening regulatory effectiveness. However, further clarity on the process and criteria underpinning this mechanism would be welcome.

Finally, Energy UK broadly supports the arrangements set out in the NESO PAGD but consider that there are further opportunities to strengthen transparency. This is important to ensure that both industry and the ICP have the necessary information to assess NESO's performance effectively. Industry should have full visibility of issues raised through the 'open call for evidence' process, matters discussed and actions

agreed at Ofgem's monthly and quarterly bilateral meetings with NESO, and other feedback received by NESO, including through its Stakeholder Survey.

Ongoing Review of NESO governance and regulation

Question 1: Do you have any suggestions on key areas of NESO's regulatory and governance framework which require further review, including any relevant learnings from other sectors? (Please note this feedback will not inform our March decision and will instead be considered as part of our future work planning).

Energy UK suggests that Ofgem should undertake a further review of NESO's scope and prioritisation of its core roles and responsibilities as its remit continues to expand. This would help ensure that NESO's performance in delivering these core functions is appropriately reflected in the assessment process.

It is important that both NESO and industry have a clear understanding of NESO's core roles and responsibilities, to avoid the risk of functions being assigned to it that could be more appropriately delivered by other industry participants. Particularly, clarity on roles and responsibilities between NESO, Ofgem and DESNZ, supported by appropriate governance arrangements, will help to ensure that processes are aligned and to avoid duplication or gaps. For example, there is currently a lack of clarity on how NESO's energy pathways are intended to be used by Ofgem, including how they should inform the development of regulatory frameworks. In that context, Energy UK supports the requirements in paragraph 7.9 of the NESO Licence Expectations Document (LED) about how advice is developed. Where new roles and challenges emerge, consideration should be given to which organisation has the right capabilities and skills to deliver it.

Alongside clear roles and responsibilities, the framework should establish clear service standards, accountability and escalation mechanisms. This would not only provide clarity on NESO's core responsibilities, but also on the standards it is expected to meet and the recourse available where those standards are not achieved.

For example, some members highlight issues during the Connections Reform process, with insufficient engagement from NESO and multiple open queries, some of which remained unresolved for over two months despite their commercial importance. Given that comparable levels of non-responsiveness by a licensed supplier or generator would likely raise regulatory concerns, it is important that equivalent expectations of responsiveness and accountability apply to NESO, particularly on matters of commercial or system importance.

There needs to be a more transparent and formalised NESO complaints and escalation process in place, with defined response times and clear routes for resolution. Members note that NESO's reliance on automated inboxes or personal contacts is not sufficient for an organisation with such a significant influence over investment timelines and outcomes as poor communication channels can cause significant commercial delays. Clear performance standards and escalation mechanisms would help ensure that

NESO's governance framework remains proportionate, accountable and fit-for-purpose as its role continues to expand.

Energy UK would support further work to set out the responsibilities and frameworks surrounding the NESO's role in delivering connections reforms under both the Connections Action Plan and the End-to-end Review of Connections Processes. In particular, alignment of the proposed improvements tabled in the most recent consultation on the End-to-end Review with the governance of the NESO would be welcome. Enhanced transparency, clearer performance expectations, and stronger accountability for timely delivery should be reflected in the NESO's governance and performance metrics surrounding reformed connections processes. This should include a reflection on how NESO and Transmission Operators (TOs) will be held to account for the timely delivery of RIIO outputs and key connection timelines.

Finally, Energy UK members suggest that Ofgem should reinstate the requirement for NESO to consult on its Business Plans, in order to support transparency and stakeholder confidence.

Changes to the ESO Licence and GSP Licence

Question 2: Do you have any comments on our proposed licence changes including any specific drafting suggestions?

Members note that Condition A1 does not include definitions for several capitalised terms used elsewhere in the licence, such as 'Potential Conflict Party', 'Operational Services Agreement', 'Transitional Services Agreement' and 'Independence Statement'. Ofgem should review the terminology across the licences to ensure that any missing definitions are captured within Condition A1.

Additionally, Condition C7.6 grants NESO the power to undertake a resilience assessment "where the licensee considers this would be beneficial for the resilience of the system". As currently drafted, this provides NESO with broad discretion without clear parameters on when the power should be exercised. Energy UK would welcome further clarity on the circumstances in which NESO may use this power to ensure it is applied in a proportionate and effective manner, with due regard to the potential impact on industry. Any such assessment should also be conducted at sufficient arm's length to ensure that NESO's own performance can be appropriately scrutinised.

Finally, members note that the dates in Condition C17 should be updated to reflect the latest timelines for the Centralised Strategic Network Plan (CSNP) Methodology and the first iteration of the Plan. This applies in particular to Conditions C17.10, C17.13, C17.16 and C17.18.

Please also see Energy UK's response to Question 5 below in relation to Conditions C1.8 and C1.36.

Question 3: Do you have any views on the proposed options and approaches to implementing new principles-based requirements on performance-related pay for senior NESO staff?

As highlighted in this consultation, and in the Energy UK response to the May 2025 Consultation, it is important that the outcomes of Ofgem's annual performance assessments are clearly reflected in the NESO Board's decisions on performance-related pay for senior NESO staff. Energy UK agrees with Ofgem's assessment that, as a not-for-profit body, NESO has no inherent financial incentive to reflect regulatory outcomes in staff remuneration. It is therefore essential that this principles-based approach, as one of Ofgem's primary levers for influencing NESO's behaviour, is sufficiently robust to maintain strong incentives for compliance with licence obligations.

While Energy UK notes that Ofgem's initial focus was only on setting out principles-based and transparency requirements, which Option 1 appears to deliver through Parts A and C of Conditions F7/F5, we welcome Ofgem's consideration of the further Options 2 and 3.

Energy UK does not support Option 1 because, although it would provide greater upfront clarity on key expectations than the counterfactual, it does not materially improve enforceability. In particular, Option 1 does not appear to set out any process that Ofgem could rely on in the event of non-compliance with the principles-based requirements. There is a risk for senior pay awards to diverge from Ofgem's interpretation of performance principles, potentially rewarding leadership despite poor consumer or system outcomes. Furthermore, there is a significant risk of "prolonged and complex" legal or enforcement actions as the only means to remedy material misalignments after they occur.

To ensure enforceability, Ofgem should introduce stronger measures such as those proposed under Options 2 and 3, while noting that we have specific concerns with each of them.

With regard to Option 2, the inclusion of an additional step in the annual process gives Ofgem a time-limited ability to check before final pay decisions are made, acting as a 'backstop' to identify and stop misaligned interpretations of NESO's provisional performance-related pay decisions. However, Part B of Condition F7/F5 in the NESO licences provides that NESO may proceed with awarding performance-related pay either where Ofgem has confirmed in writing that it is satisfied with the decisions, or where Ofgem has not responded within 30 days of notification. Energy UK does not support the inclusion of the latter "deemed consent" mechanism, as it risks allowing

insufficiently scrutinised decisions to proceed by default, thereby weakening the effectiveness of the provisions in securing compliance.

Additionally, the provisions set out in Part B do not appear to specify the process or criteria Ofgem would use to determine whether it is satisfied with NESO's provisional performance-related pay decisions. Providing greater visibility on how these determinations are made would be important for maintaining stakeholder confidence and the credibility of NESO's regulatory framework.

Energy UK acknowledges Ofgem's assessment that Option 3 is not preferable at this stage. The consultation states that although it does provide the greatest certainty that senior pay is directly linked to specific, Ofgem-prescribed regulatory outcomes, it would also be the most restrictive on NESO's flexibility and discretion in determining how best to set itself up for success. However, it is difficult to effectively assess whether Option 3 would in fact unduly constrain flexibility and discretion, given the limited detail provided in the consultation and associated documents, particularly when compared with the draft text included for Option 2.

Given the lack of sufficient detail for Option 3, Energy UK considers Option 2 to be the most appropriate approach to implement at this stage, subject to Ofgem addressing the concerns outlined above. Energy UK also welcomes Ofgem's intention to keep the framework under review and to introduce further changes if the chosen approach does not strike an appropriate balance between NESO Board independence and effective regulatory oversight.

More broadly, paragraph F7.10 in Part C requires NESO to publish a Remuneration Policy on its website, with paragraph F7.12 setting out the minimum reporting requirements. We support these provisions and stress the importance of ensuring that the Remuneration Policy includes transparent and sufficiently detailed information, setting out the methodology on how performance is taken into account. Ofgem should provide clarity on the process it would follow where NESO falls short of meeting these requirements.

Condition C1 and the NESO Licence Expectations Document (NESO LED)

Question 4: Do you have any comments on the approach we have taken to review and update Condition C1 and the NESO LED?

Energy UK welcomes Ofgem's approach to undertaking a comprehensive review and rewrite of Condition C1 and the NESO LED.

The increased focus on transparency in NESO's activities and actions through the introduction of newer, consolidated expectations relating to stakeholder engagement,

evidence-based decision-making and the implementation of industry-facing processes is welcome. As set out in the Energy UK response to the May 2025 consultation, transparency is critical to securing high-quality industry engagement and achieving balanced and robust outcomes. In this context, members note the importance of establishing clear expectations for NESO's consultation timeframes to ensure that engagement is not just a formality, but a meaningful opportunity for the industry.

NESO should also be monitored to ensure that engagement goes beyond a tick-box approach focused on information dissemination, and instead involves active, ongoing engagement with industry experts through discussion and challenge throughout the delivery of its objectives.

Energy UK agrees with Ofgem's assessment of the benefits of retaining the NESO LED to further elaborate on the requirements set out in Condition C1. As set out in the draft NESO LED published alongside this consultation, the document provides non-exhaustive examples of the actions NESO is expected to take to meet the Condition C1 requirements, and which Ofgem will refer to when undertaking investigations and determining enforcement action in cases of non-compliance. Ofgem should therefore ensure that this guidance is kept under review and updated over time, so that the lessons learnt from previous instances of non-compliance are effectively incorporated and help prevent recurrence.

Question 5: Do you have any specific drafting suggestions for the requirements within Condition C1 and the associated guidance in the NESO LED?

Energy UK members note that NESO's licences and the NESO LED refer only to a Zero Carbon Energy System and do not reference economic growth. Given the Government's focus on economic growth, and Ofgem's duty to support it, growth should be reflected as a consideration alongside decarbonisation in the relevant parts of these documents. This would require Ofgem to provide guidance on how NESO should factor economic growth and wider societal value into its analysis and decision-making.

In addition, NESO can maximise its value by providing impartial and independent advice, for example, on the likelihood of the Government meeting certain targets. NESO should be empowered through appropriate governance arrangements to form its own evidence-based views and, where necessary, to challenge Government policy and analysis, including by clearly identifying trade-offs between competing priorities such as affordability and net zero. We suggest that Section F includes further detail to strengthen NESO's role as an independent adviser, with explicit reference to identifying trade-offs between policy objectives and drawing on a broad range of data and evidence.

With regard to condition C1.8, the LED states that "where existing rule or requirements prevent the sharing of data that could be necessary for whole system efficiency, we expect NESO to consider proposing changes to those rules". Members note that this

could have implications for existing confidentiality and data protection obligations under industry codes such as the System Operator Transmission Owner Code (STC). We therefore suggest softening the wording to clarify that this expectation does not override existing legal or code-based obligations, unless Ofgem provides a specific direction, to avoid unintended consequences.

Conditions C1.8 and C1.36 set out requirements on NESO regarding the provision of data to Transmission Owners (TOs), Licensed Distributors and Ofgem. Separately, Condition C17.20 requires NESO to report to Ofgem on the “quality and timeliness” of data submitted by TOs. However, TOs’ ability to provide timely and high-quality inputs to the CSNP process is intrinsically linked to the quality and appropriateness of the overall methodology and CSNP timelines, as well as timely inputs from NESO. Members note that, based on the current draft methodology, this is not the case. Ofgem should therefore consider introducing equivalent requirements on NESO in Conditions C1.8 and C1.36 in relation to accuracy and timeliness of its own data provision, to ensure that NESO enables stakeholders to meet their obligations. This could be supported through the LED, with further detail on what constitutes timely and high-quality data.

In relation to C17.20, members suggest that Ofgem should also require NESO to report on its own performance in providing timely and accurate data. In addition, there should be a mechanism for relevant TOs to review NESO’s assessment of its timeliness and accuracy before submission to Ofgem, so that any inaccuracies or disagreements can be addressed in advance.

With regard to Condition C1.23, the cross-border Transmission System Operator (TSO) Working Arrangements under the EU–UK Trade and Cooperation Agreement have now been agreed and implementation is underway. NESO has a key role in ensuring that these arrangements operate effectively for all UK TSOs. Members therefore consider that the NESO LED should include explicit reference to NESO’s responsibility for establishing effective UK coordination to interface with EU coordination processes.

Condition C1.30 sets out requirements for NESO to take a transparent and coordinated approach to system planning. The effective delivery of strategic plans is critical to unlocking investment, supporting supply chain growth and enabling decarbonisation of the energy system. It is therefore essential that NESO adopts a collaborative and transparent approach, underpinned by appropriate governance arrangements that ensure timely, high-quality outputs. As such, members propose a small number of amendments to the LED (shown in bold) to better reflect the importance of these actions.

- In paragraph 6.1 of the LED: “We also expect to see evidence that governance arrangements, **including roles, responsibilities and members** across these

planning processes are **clearly defined**, coherent and where necessary, coordinated or aligned.”

- In paragraph 6.2 of the LED: “...of the whole energy system are transparent, coordinated and **enable quality outputs that will** support...”

Conditions C1.31 and C1.32 apply different standards – ‘best endeavours’ and ‘all reasonable steps’. Energy UK would welcome clarification from Ofgem on the rationale for using different standards where both conditions relate to connections to the electricity system.

Additionally, in relation to Condition C1.31, members suggest that the LED should include a requirement for NESO to respond to queries on connection offers in a timely manner. This could be supported by a reporting requirement on response times or by introducing a defined timeframe that NESO would be expected to meet.

Condition C1.33 refers to “whole system benefits”, but this term is not defined in either the licence or the LED. It is therefore unclear what factors are to be considered. Energy UK would welcome clarification of the definition, and of the factors NESO should take into account when planning and optimising outages in both the short and long term to deliver whole system benefits.

Finally, Condition C1.39 requires NESO to ‘use reasonable endeavours to ensure that any processes or platforms that NESO is responsible for which are used by external parties are robust and operationally ready’. The LED expands on this by requiring NESO to carry out testing and validation but does not address interoperability with other systems. As a result, NESO could deliver a system that is technically robust in isolation but incompatible with the asset management systems used by industry parties. Energy UK, therefore, suggests amending the LED to include an expectation that NESO coordinates with affected external parties, including Transmission Owners, during the testing and validation phase to ensure adequate interoperability.

Question 6: Do you agree with our proposed requirements in relation to a Notice of Remediation?

Energy UK supports the introduction of the proposed requirements relating to a Notice of Remediation, as these should provide Ofgem with stronger levers to promote transparency and accountability in NESO’s activities.

Energy UK would also reiterate the position noted in previous consultation responses that a shift to outcome-based regulation should not result in a move towards light-touch regulation. It remains important that Ofgem maintains robust enforcement mechanisms to hold NESO to the highest standards of performance. However, further clarity on the process and criteria Ofgem would use to determine when a Notice of Remediation

should be issued, including the circumstances that would trigger such a notice, the issue(s) raised with NESO and any outcomes and actions agreed, would be welcome.

NESO Performance Arrangements Governance Document (NESO PAGD)

Question 7: Do you have any comments on our proposed changes to the NESO PAGD?

Performance assessment process

Energy UK broadly supports the process set out in the NESO PAGD but considers that there are gaps in how it would operate in practice, particularly in relation to transparency to stakeholders.

In this context, Energy UK welcomes Ofgem's intention to maintain an 'open call for evidence' policy but note that neither the consultation nor the NESO PAGD sets out how this process will be managed. Further clarity would therefore be welcome. Ofgem should ensure that industry, including the ICP, has visibility of all issues and concerns raised through this mechanism, complemented by clear and transparent reporting from NESO on how such feedback is being addressed, to support confidence in the assessment process.

More generally, transparency for industry should also extend to Ofgem's ongoing monthly and quarterly engagement with NESO, including clear visibility of the matters discussed and any outcomes or actions agreed. For example, visibility could be provided through setting a requirement for the minutes of the performance meetings between Ofgem and NESO to be published. Energy UK would also welcome further clarification on the interaction between different management activities, such as the 'open call for evidence' policy and the Notice of Remediation.

Finally, Ofgem's performance assessment should take into account whether NESO has met the timelines for its Major Deliverables. Following the completion of this assessment, members also consider that Ofgem should formally consult with stakeholders on its conclusions.

Performance assessment methodology

Some Energy UK members raised concerns that the introduction of a four-tier performance scale could obscure, rather than clarify, the grading framework. While intended to provide greater precision in assessing NESO's performance, the additional granularity risks reducing clarity around the relative weighting of grades and introducing greater subjectivity. This could in turn limit Ofgem's ability to assess performance effectively against the criteria.

Question 8: Do you have any comments on the way we've implemented the Independent Challenge Panel (ICP) arrangements in the NESO PAGD?

Energy UK broadly agrees with the arrangements set out in the NESO PAGD for the implementation of the ICP but considers that gaps in transparency could undermine the ICP's ability to undertake a robust and objective assessment of NESO's performance.

In particular, Paragraph 4.27 of the draft NESO PAGD indicates that NESO is only expected to provide a verbal summary of the most recent Stakeholder Survey results, the main themes of stakeholder feedback collected during the performance year, and the actions taken in response. To support objective scrutiny, the ICP should have access to the underlying data, subject to appropriate safeguards for commercially sensitive information, rather than relying solely on NESO's presentation of this information.

As set out in response to Question 7, the ICP should also have visibility of the matters discussed, and any outcomes or actions agreed through the monthly and quarterly engagement between Ofgem and NESO.

NESO Financial Handbook

Question 9: Do you have any comments on our proposed changes to the NESO Financial Handbook?

N/A