



Department for  
Business, Energy  
& Industrial Strategy

# Contracts for Difference for Low Carbon Electricity Generation

Government response to consultation on  
changes to Supply Chain Plans and the CfD  
contract



© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: [BEISContractsforDifference@beis.gov.uk](mailto:BEISContractsforDifference@beis.gov.uk)

---

# Contents

Introduction	5
Context	5
Overview of consultation proposals	5
Engagement with the consultation proposals	6
Next steps	6
Supply Chain Plans	7
Proposal	7
Responses to the consultation	8
Views on proposals and government response	9
Phasing of Floating Offshore Wind	21
Proposal	21
Responses to the consultation	21
Views on proposals and government response	21
Proposed Changes to the CfD Contract	23
Floating Offshore Wind	23
Proposal	23
Responses to the consultation	24
Views on proposals and government response	24
Negative Pricing	27
Proposal	27
Responses to the consultation	27
Views on proposals and government response	28
Coal-to-biomass Conversions	30
Proposal	30
Responses to the consultation	30
Views on proposals and government response	30
Milestone Delivery Date	32
Proposal	32
Responses to the consultation	32
Views on proposals and government response	32

---

Minor and Technical Contract Changes	34
Proposal	34
Responses to the consultation	34
Views on proposals and government response	34

# Introduction

## Context

The Contracts for Difference (CfD) scheme is the government's main mechanism for supporting new, low carbon electricity generation projects. It applies to the United Kingdom but does not currently operate in Northern Ireland. A CfD is a private law contract between a developer of low carbon electricity (referred to in the contracts as a 'Generator') and the Low Carbon Contracts Company (LCCC), a government-owned company (the CfD Counterparty). The generator is paid the difference between the 'strike price' – a price for electricity reflecting the cost of investing in a particular low carbon technology – and the 'reference price' – a cost measure of the average GB market price for electricity. CfDs incentivise investment by giving greater certainty and stability of revenues to electricity generators by reducing their exposure to volatile wholesale prices, whilst protecting consumers from paying for higher support costs when electricity prices are high.

The scheme has been very successful in driving substantial deployment of renewable electricity capacity at scale whilst rapidly reducing costs. The third allocation round, which concluded in September 2019, resulted in contracts being awarded to 5.8 gigawatts (GW) of new renewable projects, bringing to nearly 16GW the amount of capacity currently supported under the scheme. The clearing prices achieved in the third allocation round were well below the administrative strike prices for each of the successful technologies, with the costs of offshore wind falling by around 30% from the previous allocation round in 2017. This is the first time that renewables are expected to come online below current market prices, meaning a better deal for consumers.

The success achieved by the CfD scheme to date represents an important step towards decarbonising the UK's energy system. The government published a response in November 2020<sup>1</sup> outlining decisions taken on changes to the scheme ahead of Allocation Round 4 (AR4), designed to support the increase in ambition needed to deliver the government's 2050 net zero target, while minimising costs to bill payers.

## Overview of consultation proposals

On 24 November 2020, the government published a second consultation on proposed changes to Supply Chain Plans and the CfD contract to implement some of the decisions set out in the government response, published alongside the consultation. The consultation was due to close on 18 January 2021, but the government decided to extend the deadline by 10 days. This was to allow stakeholders time to review a related consultation on the New Supply Chain Plan

---

<sup>1</sup> <https://www.gov.uk/government/consultations/contracts-for-difference-cfd-proposed-amendments-to-the-scheme-2020>

Government response to consultation on changes to Supply Chain Plans and the CfD contract

Questionnaire<sup>2</sup> before responding. The consultation lasted nine weeks in total and closed on 28 January 2021.

The consultation sought views on a number of proposed changes to strengthen our Supply Chain Plan policy and on changes to the CfD contract to give effect to some of the policy decisions on changes to the scheme, as well as several minor and technical adjustments to improve the functioning of the contract. In addition, we invited views on the government's proposal not to extend phasing to floating offshore wind projects.

Drafts of the CfD Agreement and Standard Terms and Conditions were also published alongside the consultation document showing the proposed changes underlined and highlighted in colour.

## Engagement with the consultation proposals

The consultation attracted 53 individual written responses. Of these, 22 were from developers of renewable generating stations and 8 were from trade associations. The consultation also saw a small number of responses from trade unions, devolved and local governments, NGOs, consultancies, technology manufacturers, investors, development agencies, energy councils and individuals.

## Next steps

The Statutory Instrument that will implement some of the decisions outlined in this government response on Supply Chain Plans and phasing of floating offshore wind will be laid in parliament on 12 May.

We recently consulted on a new Supply Chain Plan questionnaire for CfD applicants which ran from 14 January to 11 March 2021. The questionnaire will form the basis of the initial assessment before an allocation round and the ongoing monitoring, review and assessment after CfD signature. We are currently analysing responses and will publish the response to this consultation in due course along with the final Supply Chain Plan guidance for AR4.

As stated in the original consultation document, we will also be consulting in due course on any changes we propose to make to the Standard Terms and Conditions relating to the UK's exit from the EU to reflect the conclusion of the Transition Period.

---

<sup>2</sup> <https://www.gov.uk/government/consultations/contracts-for-difference-cfd-for-low-carbon-electricity-generation-new-supply-chain-plan-questionnaire>

# Supply Chain Plans

The government sought views on proposals to strengthen the Supply Chain Plan process for applicants wishing to enter a Contract for Difference allocation round for projects of 300MW and above and proposed several amendments to the CfD contract to implement the proposed changes. A new draft Supply Chain Plan guidance document was provided that set out the details of the proposed new Supply Chain Plan process. The draft proposals included introducing:

- new powers in legislation for the Secretary of State to assess and pass or fail a Supply Chain Implementation Report,
- a new termination right for the LCCC if a generator failed to provide a Supply Chain Implementation Report certificate to satisfy a new CfD Operational Condition Precedent (OCP)<sup>3</sup>. Views were sought on contract drafting to implement the new OCP.
- the provision of an Updated Supply Chain Plan within one month of the contract Milestone Delivery Date (MDD).

Consultees were also asked whether it would be more appropriate for BEIS or the LCCC (given the private law nature of the CfD) to undertake the monitoring and assessment of the implementation of Supply Chain Plans.

Having taken all responses into account and weighed these against the government's ambitions for renewable supply chains to play a key role in driving economic growth towards net zero, alongside the recent substantial government investments in UK infrastructure, government has decided to implement its proposal for an OCP with the potential consequence of contract termination. However, in recognition of the project and investor risks highlighted by developers and other industry stakeholders, and in response to a suggestion by numerous industry respondents, the assessment of a developer's delivery of its supply chain commitments will be brought forward to shortly after a project's MDD. Regulations will be amended to set out the application and assessment process relating to the delivery of developers' supply chain commitments.

## Proposal

The Prime Minister's recent announcement set out the government's ambition for AR4, alongside a new investment of £160 million to upgrade port and manufacturing infrastructure. This commitment to the green industrial revolution and achieving net zero emissions by 2050

---

<sup>3</sup> An Operational Condition Precedent is a condition within the Contracts for Difference Standard Terms and Conditions which a Generator must satisfy before they can start to receive CfD payments.

## Government response to consultation on changes to Supply Chain Plans and the CfD contract

sends a clear signal to the industry to accelerate new long-term investments in renewable energy and the supply chain and to make the UK a world leader in green energy.

The government wants to ensure that the Supply Chain Plan policy continues to be aligned to government priorities so that it effectively advances the low carbon economy to boost productivity, harness innovation, drive regional growth and achieve net zero. The government also wants to consider whether the policy might be better able to encourage the growth of sustainable, efficient supply chains. Building the competitiveness, capability and capacity of supply chains will help keep down costs for consumers, as well as creating competitive businesses, increasing jobs, reducing emissions and boosting exports.

In the November 2020 consultation, government sought views on several proposals:

- Whether the draft Supply Chain Plan Guidance document is clear in setting out what is required.
- Whether the proposed timing for the submission of the Updated Supply Chain Plan and the Supply Chain Implementation Report are appropriate.
- The introduction of new powers in legislation for the Secretary of State to assess and pass or fail a Supply Chain Implementation Report.
- The introduction of a new OCP with the potential consequence of CfD contract termination if a Supply Chain Plan is not Implemented.
- Proposed drafting change to introduce a new OCP into the CfD contract.
- Whether it is more appropriate for BEIS or the LCCC to undertake the monitoring and assessment of the implementation of Supply Chain Plans.
- The extent to which the proposed revised Supply Chain Plan process will support the government's objectives to encourage the growth of sustainable, efficient supply chains and support regional growth, skills, and productivity.

## Responses to the consultation

All 52 respondents to the consultation engaged with the Supply Chain Plan questions, although the number of responses to each question varied. Respondents included trade associations, companies in the energy industry, consultancies, innovative energy organisations, devolved and local governments, non-government organisations, non-profit organisations, and members of the public.

The government consulted separately between mid-January and 11 March 2021 on new proposals for a revised Supply Chain Plan questionnaire for CfD applicants to complete which will form the basis of the initial assessment of developers' supply chain commitments before an allocation round starts. There was a two week overlap between the two consultations to give time for respondents to consider their response to issues raised across both consultations. The government is currently analysing the responses to the consultation on the supply chain plan questionnaire and will respond in due course. Because of this overlap, some of the responses



Government response to consultation on changes to Supply Chain Plans and the CfD contract to the November 2020 consultation are being analysed alongside the response to the consultation on the supply chain plan questionnaire.

The government's decisions on the issues covered by this response are set out in the Policy Response section at the end of this Supply Chain Plan chapter.

## Views on proposals and government response

**Question 1** invited views on whether the Supply Chain Plan guidance document is clear in setting out what is required of applicants to support the drafting and submission of their Supply Chain Plan, Updated Supply Chain Plan and Supply Chain Implementation Report, and information on what could improve the clarity of the guidance if applicable.

There was a total of 29 responses to this question. About a quarter of respondents said that the guidance is clear and provides a helpful framework for applicants while others suggested that it could be more helpful and detailed in places. Most respondents made various suggestions for improvements or identified areas where further clarification or detail would be welcomed. These covered a wide range of topics which centre broadly around the following main themes:

- There should be more advice for developers on how to prepare their Supply Chain Plans and later updates including on issues such as format, expected length and level of detail to be included;
- There is a need for clearer advice on how Supply Chain Plans, Updated Supply Chain Plans and Supply Chain Implementation Reports will be assessed and scored, and the assessment criteria that will be used;
- More clarity is needed on whether developers have to maintain their overall score in the assessment or continue to achieve 'pass marks' in each of the five sections of the questionnaire;
- More information was requested on the type and quantity of evidence that will be acceptable to BEIS to demonstrate compliance;
- Several respondents said that the Guidance should be clearer on how factors outside the developer's control will be considered when judging compliance and that examples of the circumstances that would qualify for relief should be provided. Further, more advice would be helpful on what would be acceptable to BEIS as commensurate alternative outcomes where developers were unable to fulfil their original supply chain plan commitments;
- More information should be included on the ongoing assessment/monitoring process and decision timetable, including clarity on when developers are likely to receive decisions at each stage and how much time will be allowed to rectify any deficiencies in plans;
- Several respondents said that the Guidance should include an arbitration process in the event of disputes.

## Government response to consultation on changes to Supply Chain Plans and the CfD contract

A few respondents commented on the expectation that will be on developers to demonstrate “reasonable endeavours” to deliver commensurate alternative outcomes if they fail to implement part of their supply chain plan commitments. It was suggested that in many cases there will be insufficient time to implement alternative activities given tight project development and CfD timetables. In addition, respondents said that BEIS should be clearer about some of the other terminology used in Annex E.4 of the Guidance, in particular what is meant by the developer having to take “sufficient action” to adhere to commitments or take rectifying action and what constitutes “unjustifiable” reasons for a generator’s non-delivery of its commitments. It was further suggested that the Guidance should be clear about the “reasonable endeavours” that developers must undertake if they are required to make changes to their Supply Chain Plans as they work through their implementation.

Many respondents said that they would also be responding to the separate consultation on the Supply Chain Plan questionnaire and expected to make similar comments to the ones put forward in response to the consultation on the process. Government will therefore consider the responses to this question alongside those received to the consultation on the supply chain plan questionnaire and will publish its final policy in a government response to the later consultation along with the final version of the Supply Chain Plan Guidance for AR4 in due course.

**Questions 2 and 3** invited responses on the proposed timings for the submission of an Updated Supply Chain Plan and Supply Chain Implementation Report. A small number of respondents cross-referred between their answers to these two questions, and this is reflected in the following summary.

There were 28 responses to question 2. Slightly less than one third of these either agreed completely, or said that it was reasonable, that the Updated Supply Chain Plan should be submitted within one month of the contract MDD. A similar number, while agreeing that an Updated Supply Chain Plan should be submitted, suggested that it should be possible for a generator to submit the Updated Supply Chain Plan earlier if all its material supply contracts are in place or to align with generators’ Financial Investment Decisions (FID). Several respondents suggested bringing forward the date for submitting the Updated Supply Chain Plan to allow instead for the Supply Chain Implementation Report to be submitted or assessed at the same time as the contract MDD. A small number of respondents in this group also suggested that the earlier submission of the Updated Supply Chain Plan would allow time for any required remedial action to be undertaken before the Supply Chain Implementation Report is submitted to BEIS for assessment.

Slightly less than one third of responses did not support this proposal, for a variety of reasons. These included practical considerations, such as the MDD coinciding with the start of construction post-FID or that it came too late (18 months) for generators to take any remedial action if their updated plan is deemed not to be on track. One respondent suggested that it should not be necessary for generators to submit an Updated Supply Chain Plan because the regular monitoring proposed by BEIS should be sufficient to keep generators’ supply chain commitments under review, and that any adjustments to supply chain plan commitments could be recorded in an addendum or variation to the generator’s original Supply Chain Plan. It was not possible to determine respondents’ views on this issue in a small number of responses.

Regarding question 3, the consultation proposed that generators must submit a Supply Chain Implementation Report to BEIS for assessment. Generators would have to pass the assessment and submit a certificate to the LCCC to fulfil an OCP before they could start receiving CfD payments. The consultation indicated that generators would be able to submit a Supply Chain Implementation Report at any stage once they considered that they had delivered and could evidence the commitments made in their Supply Chain Plan and Updated Supply Chain Plan. Views were invited on whether the proposed timing for submission of the Supply Chain Implementation Report, whereby the timing would be agreed by both parties through the monitoring process, is appropriate and would ensure a balance between robustness of delivery and project certainty.

A total of 29 responses were received to this question. A small number of respondents either agreed with the proposed timing for the submission of the Supply Chain Implementation Report or welcomed the flexibility that allows generators to submit the Implementation Report when they can evidence delivery of their supply chain commitments. Most respondents, all developers and trade bodies, felt that in many cases commitments in supply chain plans would not be fully delivered until shortly before the project has commissioned and the OCP stage reached. This would be too late and would mean that generators could have their Supply Chain Implementation Reports failed after the project had been fully constructed and substantial investment incurred, and without adequate time to rectify any deficiencies in the delivery of their supply chain commitments. It was suggested that the risk that a CfD contract could be removed at such a late stage would undermine the stability and revenue certainty on which investor confidence in the scheme depends.

Other suggestions put forward were for an expedited assessment path for more mature projects, such as projects that had bid unsuccessfully in a previous auction and which had firm supply chain contracting plans in place. Several respondents suggested that Supply Chain Implementation Reports should be assessed earlier in the process, to coincide with the contract MDD. This suggestion is discussed in more detail below in the summary of responses to question 5 on the OCP.

**Question 4** invited views on the introduction of new legal powers for the Secretary of State to assess and pass or fail a Supply Chain Implementation Report. This question attracted 26 responses.

Slightly less than half of the responses (all generators or trade associations) opposed the granting of new powers to the Secretary of State while the remaining half (across all stakeholder categories) were split between those who supported this proposal and those whose views on the specific question were unclear, but who offered various general comments on the policy to pass or fail a Supply Chain Implementation Report. Some of those views relate to other consultation questions and are addressed elsewhere in this government response.

Several respondents supported or welcomed the introduction of new legislative powers for the Secretary of State to pass or fail a supply chain implementation report. These included suppliers, local authorities, trade unions and NGOs. Views put forward included that it was appropriate for the Secretary of State to carry out these functions and that developers should be held accountable for their actions and commitments set out in Supply Chain Plans. It was

Government response to consultation on changes to Supply Chain Plans and the CfD contract

also felt that new powers can provide an important compliance tool and add weight to the monitoring process.

Those who did not support creating new powers for the Secretary of State did so mainly because they disagreed with the principle that the Supply Chain Implementation Report should be subject to a pass/fail test. Several respondents were concerned that the introduction of a pass/fail test at a late stage of the process, when sites are likely to have been constructed and investments fully sunk, poses a significant level of commercial risk and will make it difficult for developers to finance their projects given the large investments that could be lost if a generator's contract is terminated. This theme emerged across answers received to several questions.

Most of the respondents who disagreed with the proposal, and one who agreed, said they would welcome more clarity on what generators will be expected to achieve in order to have their Supply Chain Implementation Report approved. Some felt that the process could be too subjective and create uncertainty for generators about what they needed to do to comply, and that this could undermine investor confidence in the scheme. A few respondents said that guidance should be given on how the government would treat situations where generators are unable to fulfil their supply chain plan commitments due to no fault of the generator. A suggestion was also made that the assessment process should be flexible and recognise that there will be a wide range of options to deliver supply chain benefits.

Most respondents argued that the assessment criteria should be transparent, fair and set out in advance of AR4. There were also suggestions that the assessment process should be simple, timebound and speedy to avoid delaying projects, and that the administrative burden on generators should not be excessive. It was further suggested that if the ultimate decision on whether a Supply Chain Implementation Report has passed or failed is taken at project commissioning stage, it will be vital that generators receive formal feedback at every stage of the process so that they know what they must do to pass their OCP. One respondent proposed having a form of pre-approval prior to a generator taking Financial Investment Decision which a generator would then be legally bound to deliver after their Supply Chain Implementation Plan had been approved.

Several respondents suggested that because a generator could have its CfD contract terminated for non-delivery of supply chain commitments, there should be an appeals process to allow generators to challenge a decision by the Secretary of State to fail a Supply Chain Implementation Report. This view was also put forward in response to other questions. A small number of respondents suggested that an appeals process should be independent of government.

**Question 5** invited views on the proposal to introduce a new OCP with the potential consequence of CfD contract termination if a Supply Chain Implementation Report certificate is not provided to the LCCC before the Longstop Date. Stakeholders were invited to submit views on possible impacts, including on financing arrangements, and evidence where applicable with their responses.

## Government response to consultation on changes to Supply Chain Plans and the CfD contract

Of the 36 respondents who answered this question, 8 supported the introduction of an OCP with the potential consequences of contract termination. These were a mixture of trade unions, local councils, suppliers and other stakeholders. Several welcomed the proposal and a number said that this measure is critical to ensure that developers deliver on their supply chain plan commitments. A number remarked that the Updated Supply Chain Plan stage will give generators an opportunity to assess ongoing progress in coordination with BEIS and should mean they will have sufficient clarity in advance of their delivery being assessed. One respondent, while supporting the OCP in principle, suggested that BEIS should undertake a dedicated study of the current supply chain plan process to determine if it is not sufficient before introducing stricter compliance measures.

A total of 24 respondents (all either developers or trade bodies) either opposed or strongly opposed the introduction of an OCP with contract termination. The following main impacts and concerns were identified (a number of which were made in response to other consultation questions):

- The timing of the assessment of whether a generator has fulfilled its supply chain plan commitments introduces a material risk at commissioning stage when the project has been constructed and significant unrecoverable investment has already taken place. There was a strong view that at best this would be likely to increase the cost of capital, and therefore bids, and at worst, may prevent some projects from securing investment at all. This could result in fewer bidders entering the auction which would reduce competitive pressure and value for money for consumers reflected in higher strike prices. This could also put achievement of the government's target of 40GW of offshore wind by 2030 at risk.
- There was a strongly held view that contract termination as proposed is a disproportionate measure and will likely increase the risk premium attached to developing projects. Contract termination does not acknowledge that the whole range of factors outside a developer's control can impact on delivery and progress of commitments.
- Several industry respondents felt that the pass or fail assessment is binary and too subjective. There is a lack of clarity in the draft Guidance document on the criteria for assessment and reliefs available where circumstances arise which are outside of a developer's control. The process does not allow for the recognition of partial delivery or the associated scaling of an appropriate penalty. A number of respondents suggested that there should be an appeal or dispute arbitration process, with several saying that this should be independent of BEIS.
- Some respondents felt that the current proposal will not support innovation, but rather could result in developers reducing the risk of non-compliance by being less ambitious in their supply chain outlook. This could result in developers delivering the minimum performance required to achieve compliance to minimise risk to their project.

A significant number of industry respondents suggested that in order to reduce investment risk, government should bring forward the point at which delivery of supply chain plan commitments are assessed and approved to around the contractual MDD, i.e. 18 months after contract

signature. There were some variations in the views put forward, with some suggesting that the point of assessment should coincide with the MDD, be slightly before or after, or be made in sufficient time for projects to take Financial Investment Decision which, for many, tends to align with the contractual MDD. Arguing further for this, several respondents said that most of the major supply contracts will be agreed by MDD (pre-FID) and that BEIS will be able to judge by then whether developers have fulfilled their key supply chain commitments.

Several respondents suggested that as an alternative to contract termination, developers should be able to make financial contributions to a supply chain fund in proportion to the level of non-delivery of their supply chain plan commitments. The fund could be used to stimulate the UK supply chain and operate on similar principles to the fund managed by the Offshore Wind Growth Partnership. Proposals varied on whether payments should be voluntary or not or paid in advance to offset potential non-delivery or deviations from original commitment. It was also suggested that the level of scaled payments should be set up front against known commitments and that having pre-defined and visible penalties would reduce investor risk and be priced into project costs. One respondent proposed that the size of contributions should be capped to retain the attractiveness of the mechanism to project finance but set at a level to avoid creating an incentive for developers to buy out of their commitments.

Another alternative proposal put forward by several respondents was that instead of contract termination being the ultimate sanction in all cases, sanctions could be on a sliding scale with remedies proportionate to the degree of non-delivery. It was felt that this would be fairer to generators who fail to deliver on some aspects of their supply chain plan commitments and who should not experience the same consequences as a generator who fails to deliver all or most of their commitments. A small number of respondents suggested that instead of having an OCP and contract termination, BEIS should retain the existing arrangements, based around the provision of a Post Build Report, to exclude developers from a future allocation round if they had failed to implement supply chain plan commitments given in a previous round.

A total of 22 replies were received to **question 6** which invited views on the proposed drafting changes to introduce a new OCP into the CfD contract and whether the existing provisions in the contract to provide extensions to the MDD, Target Commissioning Window (TCW) and Longstop Date are sufficient to cover events or circumstances that may lead to a delay in obtaining a Supply Chain Implementation Report certificate.

A small number of responses explicitly agreed or disagreed with the proposed contract drafting, with those who disagreed doing so mainly because they oppose the introduction of the OCP. Several responses addressed only the second part of the question concerning the MDD, TCW and Longstop Date while most of the responses addressed neither part of the question but used the opportunity to reiterate views on other questions put in the consultation.

Several respondents questioned whether the existing provisions within the CfD to extend contract milestones, such as the MDD and TCW, could be used to address delays in obtaining a Supply Chain Implementation Report certificate, such as contractor insolvency or bankruptcy, or a contractor's failure to deliver on a supply contract. It was felt that the current Force Majeure provisions in the CfD contract would not provide sufficient comfort to developers and

## Government response to consultation on changes to Supply Chain Plans and the CfD contract

lenders, and that new grounds for extending the Force Majeure provisions may be needed, for example, to allow for a supply contract to be retendered, ongoing discussions in relation to the supply chain plan or disputes relating to the Supply Chain Implementation Plan. It was suggested that government should review the relationship between the two mechanisms and provide guidance on the type of circumstances that could trigger deployment of the Force Majeure provisions in this context.

One respondent mentioned that the impact on suppliers and their ability to meet timely manufacturing investment decisions and fulfil orders should be considered when the use of contract extensions is contemplated to avoid impacting manufacturing slots. The same respondent said that original equipment manufacturers (OEMs) will require the flexibility to choose alternative manufacturing facilities if unforeseen events prevent them from fulfilling their original orders. They suggested that OEMs might choose not to invest if the supply chain process prevented them from exercising such flexibility in commercial force majeure situations if doing so would lead to a generator's Supply Chain Implementation Report being rejected.

Government will reflect on these comments in its final policy design, which will be set out in due course in the government response to the consultation on the Supply Chain Plan questionnaire.

**Question 7** invited views on whether it would be more appropriate for BEIS or the LCCC to undertake the monitoring and assessment of the implementation of Supply Chain Plans.

A total of 29 respondents replied to this question. A majority (more than half) said that they would prefer BEIS to undertake these roles. Various reasons were given including that as the originator of the supply chain plan policy, BEIS would be better positioned to undertake monitoring and assessment because of its understanding of the wider policy framework, including of the Industrial Strategy and Offshore Wind Sector Deal. BEIS could also ensure that monitoring and assessment is carried out in a way which is consistent with the policy intentions. Several respondents remarked that it would be appropriate to keep the process with BEIS to maintain political accountability for decisions on whether to approve or reject developers' implementation of their supply chain plan commitments. A few respondents said that it would be important that BEIS is properly resourced to carry out monitoring and assessment.

A small number of respondents favoured the LCCC being given this responsibility either because they wanted no government involvement in the process or that the technical nature of the supply chain plan process was more suited to, and consistent with, the LCCC's existing functions, such as their responsibility for determining compliance with contractual milestones and operational conditions precedent. One respondent suggested that generators would have more clarity on what they must deliver if LCCC were responsible for monitoring and assessment through the CfD contract.

About a third of respondents did not express a preference or were unsure, with several saying that it was more important that the process was transparent than who carried it out. Some respondents said that whoever carried out monitoring and assessment should be adequately resourced and have adequate knowledge of the issues.

**Question 8** invited views on the extent to which the proposed revised Supply Chain Plan process will support the government's objectives to encourage the growth of sustainable, efficient supply chains and support regional growth, skills, and productivity.

A total of 41 responses were received to this question. Responses covered a wide range of issues in addition to offering views on the Supply Chain Plan proposals themselves. Nearly half of all responses supported or strongly supported the objectives of the new supply chain plan process to encourage the growth of sustainable, efficient supply chains and support regional growth, skills, and productivity. Around one third did not think that the changes proposed by the government would deliver the desired results, although most of these agreed with the government's objectives for supply chain plans. The remaining responses neither agreed nor disagreed and expressed a wide range of views, many of which raised issues beyond the specific supply chain plan proposals. There was no discernible pattern in how stakeholders responded except that developers were in the majority of those who did not believe that the supply chain plan proposals would deliver the government's objectives.

Several themes were apparent from the responses which said that the consultation proposals supported the government's objectives. Several respondents said that the measures had the potential to enhance innovation, local skills, infrastructure and drive regional growth and economic regeneration, as well as enhance local communities. Others identified the opportunities that the supply chain plan process can bring to local businesses in terms of job creation.

A number of respondents emphasised the importance that delivering local benefits will have for the communities that will host the projects supported through the scheme. It was suggested that delivering local benefits will be essential to building 'social permission' for the changes that projects will bring because of their construction and operation, and in terms of the national contribution that host communities will play to the delivery of net zero.

Another theme was on early engagement and collaboration. It was hoped that the supply chain plan process would result in early engagement by developers within local and national supply chains and with local authorities and local enterprise councils to maximise local supply chain benefits. Some respondents want to see the process encourage collaboration between developers and operators working in the same region and suggested that the supply chain process could be enhanced to facilitate this. Others said that collaborative and partnership working across industry groups, individual projects and government agencies can help deliver economic benefits. It was suggested that the supply chain plan process could more explicitly encourage collaborative behaviour, while recognising that commercial sensitivities might make this difficult to achieve in practice.

Several respondents recognised that the supply chain plan process can play an important part in delivering the government's desired industrial ambitions. However, they felt that the process alone could not, and should not be expected to, be the only or main driver for improving the competitiveness, capabilities, and capacity of the UK supply chain. It was suggested that individual projects cannot drive the changes in the supply chain that government wants to see, and government and industry need to work together to develop a strategic approach to identify



and address gaps in the UK supply chain. The point was also made that government also needs to place an emphasis on building a globally competitive domestic supply chain to ensure its long-term sustainability.

Reflecting comments made in response to other consultation questions, several respondents who said that the supply chain plan proposals would not deliver government objectives felt that the additional risks imposed by the new arrangements would lead to increased costs to consumers without necessarily delivering more or better investment. Others suggested that the stricter measures will lead to developers being more risk-averse and putting forward less ambitious and lower quality supply chain proposals. A further concern was that the complexity and uncertainty brought in by the new process could delay project investment decisions, and that developers would need to share additional costs with suppliers, which could create a hurdle for UK market participants.

### **Policy Response:**

As stated in the November 2020 consultation document, the government is committed to strengthening our world-leading UK based supply chain, which will be key in leveraging the economic benefits from our investments in low carbon electricity generation and achieving net zero emissions by 2050. The government indicated then that the current Supply Chain Plan compliance processes are insufficient to deliver our supply chain objectives and invited views on proposals to strengthen those processes to provide greater assurance that developers awarded a CfD contract implement the commitments set out in their Supply Chain Plans.

The government is grateful for the extent to which stakeholders have engaged with this issue in their responses and for the wide range of comments and other ideas for how these objectives could be achieved. Having carefully considered all responses and the alternative compliance options put forward by industry stakeholders, government believes that the introduction of an Operational Condition Precedent with the potential consequence of CfD contract termination remains the most effective means of ensuring that generators deliver on their supply chain commitments, and the government has decided to press ahead with this policy. The government has also decided to amend the Electricity Market Reform (General) Regulations 2014 (the EMR General Regs) to give the Secretary of State the power to assess and approve or reject generators' implementation of their supply chain plan commitments. In addition, the government has decided that BEIS will be responsible for assessing and monitoring the Supply Chain Plan process.

The government acknowledges the concerns expressed, mainly by industry stakeholders, to this approach. We note in particular the concern highlighted by many industry stakeholders that decisions by the Secretary of State on whether generators have fulfilled their supply chain commitments would come too late in the process when significant investments had already taken place and that the consequent risk could adversely affect the bankability of projects. Although the consultation did not stipulate a deadline by when

generators would be expected to evidence delivery of their supply chain plan commitments, the government accepts that in some cases commitments in supply chain plans might not be fully delivered until shortly before the project has commissioned and the OCP stage reached.

To mitigate these concerns and associated investment risks, the government has decided to bring forward the point at which delivery of supply chain plan commitments are assessed to shortly after a generator has fulfilled its contractual Milestone Requirement as mandated under the MDD process within the CfD contract. This responds to a proposal put forward by many industry respondents that delivery of supply chain plan commitments should be assessed at around the MDD stage of project development as this broadly coincides with when generators take final investment decisions and decisions on their main supply chain contract packages.

Under these amended arrangements, generators will be able to apply for a Supply Chain Implementation Statement setting out how they are making a material contribution to the development of supply chains at this earlier stage in the process and receive a decision from the Secretary of State on that basis. This replaces the requirement for generators to submit a Supply Chain Implementation Report, although it serves the same intended purpose, and will bring the terminology for this new stage of the Supply Chain Plan process into line with the existing terminology in the regulations. The Secretary of State will assess generators based on the commitments that they have delivered up to that point and will either issue a Supply Chain Implementation Statement or a refusal and reasons for that refusal. The assessment will also consider generators' plans for delivering any remaining commitments which fall to be delivered at a later stage of project development and implementation. The issue of a Supply Chain Implementation Statement will enable generators to fulfil their OCP at this early stage.

The regulations will also be amended to stipulate that if the Secretary of State has not given a notice to the generator within 60 working days of receiving an application for a Supply Chain Implementation Statement, the application will be deemed to have passed. This is without prejudice to the undertaking given by BEIS in the Draft Supply Chain Plan Guidance to assess an application and issue a decision within 30 working days of receipt.

The government is committed to ensuring that generators deliver on their full range of supply chain plan commitments and will therefore work closely with them to monitor the delivery of commitments which remain to be delivered after a Supply Chain Implementation Statement has been issued. The government is considering how its approach to monitoring, including on whether and when an Updated Supply Chain Plan will be required, may need to be adjusted in light of the amended approach outlined above. In addition, the government is considering whether to retain the current approach, based around the provision of a Post Build Report, which allows the Secretary of State to consider how a developer implemented supply chain plan commitments given in a previous allocation round when assessing a Supply Chain Plan submission in relation to a future round, as an incentive on generators to deliver any post-MDD supply chain commitments.

The government will give its decision on these matters in its response to the separate consultation on the Supply Chain Plan questionnaire. The final Supply Chain Plan Guidance setting out the final process for applications, monitoring and assessment of supply chain plans and delivery of commitments for AR4, will be published alongside that government response. The drafting of the CfD contract will also be amended where necessary to reflect the revised approach outlined above.

Several respondents said that there should be an appeal or dispute arbitration process in the event of disagreements over whether generators have adequately discharged their supply chain plan commitments. Our original consultation proposals said that generators would be able to re-submit a revised Supply Chain Implementation Report for assessment until the CfD Longstop Date if their initial Report was rejected. The amended arrangements do not change this flexibility and generators will have numerous opportunities to re-apply for a Supply Chain Implementation Statement up to the Longstop Date if their initial application is rejected. When viewed alongside the decision to bring forward the assessment of supply chain plan delivery to shortly after the contract MDD, the government believes that an appeals process is unnecessary.

We have also carefully considered proposals by OWIC for a supply chain payment fund as an alternative to contract termination if developers fail or fall short of meeting their supply chain plan commitments. We note the support expressed for this idea by several respondents. However, while this proposal has some merit, there are significant practical challenges around how such a fund might operate and be used to achieve supply chain objectives. In addition, there are concerns that the availability of a payment fund could be viewed as way for developers to 'buy out' of their commitments. The government strongly believes that developers are best placed to make decisions on how to fulfil their supply chain commitments and that responsibility for doing so should rest with developers. The changes we have made to the Supply Chain Plan process, including taking earlier decisions on developers' delivery and allowing time for resubmissions, will enable BEIS and developers to discuss and seek to resolve delivery issues at an early stage. The government therefore believes that a payment fund is unnecessary.

Finally, to ensure that the Supply Chain Plan process plays its full part in driving economic growth as the UK moves towards net zero, the government confirmed in November 2020 its decision to widen the range of criteria that applicants must address in the Supply Chain Plan that they submit for assessment to be eligible to participate in an allocation round. These criteria, which will be included in the amended EMR General Regs, are as follows:

- 1) Increasing productivity, competitiveness and capacity in supply chains;
- 2) Encouraging innovation in supply chains;
- 3) Developing a diverse and skilled workforce and increasing employment opportunities;  
and

- 4) Increasing investment in and finding technical solutions to improving infrastructure that is relevant to the generation, storage, demand or use of electricity.

The government intends to lay draft regulations before Parliament in May to amend the EMR General Regulations. The draft Contracts for Difference (Miscellaneous Amendments) Regulations 2021 and explanatory memorandum will be available on [www.legislation.gov.uk](http://www.legislation.gov.uk) in due course.

# Phasing of Floating Offshore Wind

The consultation sought views on the proposal not to extend phasing to floating offshore wind due to the small project sizes and potentially lower construction risk than traditional fixed bottom offshore wind. Although the majority of responses disagreed with the proposal, commenting that floating wind has higher construction risks than other CfD technologies and the scale of projects is likely to ramp up in the future, the government intends to proceed with the proposal to not extend phasing to floating offshore wind at this time. However, we may review this policy position in the future if, for example, floating offshore wind projects begin reaching sizes where additional flexibility might be warranted.

## Proposal

**Question 9** of this consultation asked for views on the government's proposal to not extend phasing to floating offshore wind projects. The consultation outlined the reasoning behind this proposal, which was that floating offshore wind projects do not face the same construction risks as fixed bottom offshore wind and floating projects are likely to be comparatively small for the foreseeable future, and so the flexibility provided by phasing is not required.

## Responses to the consultation

This proposal received 29 responses from a range of stakeholders. The majority of these were developers and trade associations but a small number were investors, Local Authorities and technology manufacturers.

## Views on proposals and government response

The majority of respondents disagreed with the proposal to not extend phasing to floating offshore wind projects. The main themes raised by respondents were as follows:

- Many respondents claimed that construction risks are still high for floating offshore wind projects and are closer to fixed bottom offshore wind than other CfD technologies. Although the turbines are assembled on land in ports, they still need to be towed to deep waters and mooring lines and cabling installed, which can be subject to harsh weather conditions. The limited availability of storage and assembly space in ports was also mentioned by a small number of respondents, with those suggesting that there is likely to be a bottleneck in assembly of floating turbines, resulting in construction taking place over several seasons.

- Although most respondents agreed that floating offshore wind projects bidding into AR4 are likely to be small, many believe that the scale of projects will ramp up quickly thereafter. The recent ScotWind leasing round was mentioned by a significant number of respondents as evidence of this, with those stating the round had large areas only suitable for floating offshore wind. Many suggested we should ‘future-proof’ our regulations to create long-term stability for the technology.
- A majority of responses suggested having a floor capacity above which floating offshore wind projects could phase. Many suggested 300MW in order to prevent inappropriate use of phasing for small floating offshore wind projects while establishing the precedent for large projects in the future, although a small number suggested allowing small projects to phase in order to encourage the development of the nascent supply chain.

### **Policy response:**

Having considered responses to the consultation, the government intends to follow through with its proposal to not extend phasing to floating offshore wind projects at this time.

As so few floating turbines have been installed to date around the world, there is a limited amount of empirical evidence of significant construction risks facing this technology. Joining turbine to foundation can be carried out in port and there are potential mitigations that can reduce the weather risk during towing and installation, for example by choosing an installation port close to the project site to shorten the time at sea.

Floating offshore wind projects are expected to be small for the foreseeable future. 14MW and 15MW turbines are now available. For a 100MW floating project this means a developer will be installing 6 or 7 turbines. As a developer can choose their own target commissioning date and has a 12-month Target Commissioning Window the government believes that a developer should not need to phase deployment of 6 or 7 turbines in order to manage construction risk.

The government may review this policy position if, for example, floating offshore wind projects begin reaching sizes where additional flexibility might be warranted. If in the future government decides that phasing should be introduced for floating offshore wind then appropriate amendments would be made to the regulations.

# Proposed Changes to the CfD Contract

## Floating Offshore Wind

The government proposed several drafting changes to the CfD contract in relation to floating offshore wind: the Longstop Period and Required Installed Capacity (RIC) to be set at 12 months and 95% respectively; floating offshore wind to be included in the definition of Eligible Low Capacity Facility and floating offshore wind generators to be required to demonstrate their project satisfies the legal requirements for floating offshore wind CfD units via an Operational Conditions Precedent (OCP).

The majority of respondents agreed with the proposal to include floating offshore wind in the definition of Eligible Low Capacity Facility to provide flexibility to a developing technology, but responses were more mixed for the OCP proposal, with many suggesting checks should be carried out at the eligibility stage instead. All respondents disagreed with the Longstop Period and RIC proposals citing construction risk as a reason for the necessity of more flexibility for the technology.

On balance and taking into account the responses received, the government believes the proposals are appropriate for floating offshore wind and has decided to proceed with the drafting amendments to the CfD contract.

## Proposal

The government has decided to introduce floating offshore wind as a distinct eligible technology within the CfD scheme. In order to achieve this, amendments are required in the CfD Agreement and CfD Standard Terms and Conditions. The consultation asked for views from stakeholders on these amendments.

**Question 10** asked for views on the proposed drafting treatment of Floating Offshore Wind in the CfD contract. This included specific mentions of floating offshore wind and a proposed definition.

**Questions 11 and 12** sought views on the government's proposal to set the Longstop Period for floating offshore wind at 12 months and the Required Installed Capacity at 95% of the Installed Capacity Estimate. The Longstop Period is the length of time between the end of the Target Commissioning Window (when the 15 years of contract payments start) and the Longstop Date, by which date the generating station must commission or risk having its contract terminated. All CfD technologies, except for offshore wind, have a Longstop Period of 12 months. The Required Installed Capacity (RIC) is the minimum capacity technologies are required to deliver of the capacity they have contractually agreed to install. All CfD technologies except offshore wind have a RIC of 95%.



**Question 13** asked for views on the government's proposal that floating offshore wind should be included in the definition of Eligible Low Capacity Facility in common with all other forms of wind technology. It applies to projects of certain technologies with an Initial Installed Capacity Estimate of not more than 30MW and is intended to allow smaller projects a degree of flexibility to avoid having their contract terminated for falling short of the RIC by failing to commission a single turbine.

Finally, to qualify for support as a floating offshore wind CfD unit, the unit must be a floating structure situated in offshore waters at least 45 metres in depth and all of the unit's turbines must satisfy these requirements. **Question 14** invited views on the proposed new OCP requiring generators to demonstrate that their project satisfies these legal requirements of floating offshore wind CfD unit and the associated evidence requirements.

## Responses to the consultation

There were 29 responses to the government's proposal on the contract drafting amendments for floating offshore wind, with slightly differing levels of engagement on the individual questions. The majority of responses were received from developers, but a small number were also received from trade associations, consultancies, investors, manufacturers, Local Authorities and energy councils.

## Views on proposals and government response

The majority of responses agreed with the proposed drafting treatment of floating offshore wind in the CfD contract in **Question 10**. Where respondents were opposed to the proposal, the main objection was to the water depth being specified as a requirement for floating offshore wind. These respondents argued that there may be some areas of shallower water that could be suitable for floating offshore wind and developers should be allowed to choose areas that are most economical to the project, regardless of water depth.

All respondents to **Questions 11 and 12** disagreed with the proposal of setting the Longstop Period at 12 months and the RIC at 95% in line with all other CfD technologies. The majority of respondents argued that floating offshore wind experiences high construction risks which are closer to fixed bottom offshore wind than other CfD technologies. Many respondents expressed a desire for fixed bottom and floating offshore wind to be treated the same until more evidence is available to determine the differences.

Responses to **Question 13** on including floating offshore wind in the definition of Eligible Low Capacity Facility were overwhelmingly supportive, with those highlighting the importance of removing the risk of contract termination for early small floating offshore wind projects if one turbine cannot be installed.

**Question 14** which asked for views on the proposed OCP for floating offshore wind had varied responses with slightly more responses agreeing with the proposal than disagreeing. Where respondents were opposed, the main themes are as follows:



- A significant proportion of respondents argued that evidence should be required at the eligibility stage and not as an OCP to prevent projects failing at a stage when it is too late to rectify any compliance issues.
- A small number of respondents suggested that if an OCP is required, only individual turbines that are deemed not to comply should be removed from the CfD rather than terminating the whole contract.
- A few responses disagreed with the 45 metre water depth requirement for floating turbines, with those arguing that projects should be able to choose where to place their turbines to be most economical for the project. The government wishes to point out that it consulted on the water depth requirement in 2020 and announced its final decision in the government response published on 24 November 2020.

### **Policy response:**

Taking into account the responses received, the government has decided to proceed with the proposed drafting of floating offshore wind in the CfD contract.

The Longstop Period and Required Installed Capacity will be set at 12 months and 95% respectively for floating offshore wind projects. The government believes there is a limited amount of empirical evidence of significant construction risks that would warrant the Longstop Period and RIC being set at the same level as fixed bottom offshore wind.

The first floating wind projects are likely to be small. Using the 14MW and 15MW turbines which are now available, a 100MW floating project would require installing 6 or 7 turbines. A developer can choose their own target commissioning date, has a 12-month Target Commissioning Window and a 12-month Longstop Period. The Government believes that a developer should not need a longer Longstop Period for a relatively small project. However, in line with the policy response to phasing, we may review this position in the future if, for example, new evidence suggests that floating offshore wind projects are of a size that might require a longer Longstop Period and lower RIC in order to help developers better manage construction risk.

Floating offshore wind will be included in the definition of Eligible Low Capacity Facility to allow smaller floating offshore wind projects flexibility to avoid having their contract terminated for falling short of the RIC by failing to commission a single turbine.

Floating offshore wind generators will be required to demonstrate their turbines satisfy the legal requirements that all turbines are mounted on floating foundations and situated in water depths of 45 metres or more, via an OCP. As outlined in the government response published in November 2020, the government considers that stipulating 45 metre depth for floating projects strikes the right balance to incentivise offshore wind developers to use the shallowest sites for cheaper fixed bottom projects and to enable the use of areas of the seabed which could be suitable for floating offshore wind development.

## Government response to consultation on changes to Supply Chain Plans and the CfD contract

The government is of the view that an OCP is necessary for the LCCC to verify that projects have actually met the requirements in the regulations and we believe this will not be unduly burdensome for generators.

## Negative Pricing

The government proposed drafting changes to the CfD contract to implement the decision to extend the negative pricing rule so that difference payments are not paid to CfD generators when the Intermittent Market Reference Price is negative. The responses received on the proposed drafting changes were all supportive and government has decided to proceed with the changes.

Some respondents reiterated their views previously expressed in response to the March 2020 consultation on the decision to extend the negative pricing rule. As stated in the government response to the consultation on proposed amendments to the scheme published in November 2020, the government considers overall that the new negative pricing rule achieves the right balance between de-risking renewable electricity projects whilst incentivising behaviour which support the needs of the electricity system.

### Proposal

**Question 15** of the consultation asked for views on proposed drafting changes to the CfD contract to implement the government's decision to amend the negative pricing rule.

The current rule limits the extent to which CfD generators are subsidised when day-ahead prices are negative, but generators still receive difference payments when there are less than six consecutive hours of negative pricing. This encourages CfD generators to keep generating during these periods of low demand and also facilitates negative bidding into the balancing mechanism (the within-day market used by the electricity system operator to balance electricity supply and demand for each half-hour period), increasing costs for consumers.

Following consultation, the government decided to extend the existing negative pricing rule so that difference payments are not paid to CfD generators when the Intermittent Market Reference Price is negative. This decision was outlined in a government response published in November 2020.

To implement this change, amendments to the CfD contract were proposed in the consultation to state that generators will not receive top-ups for any periods of negative prices in the reference price market. Amendments were also proposed to definitions in the Standard Terms and Conditions.

### Responses to the consultation

In total, there were 23 responses to this question. The majority of responses were received from renewable generators and trade associations and a small number were also received from consultancies and Local Authorities.

## Views on proposals and government response

Although question 15 asked for views specifically on proposed drafting amendments to the contract, many respondents took the opportunity to provide their views on the decision to implement the extension of the negative pricing rule. The majority of these responses came from developers of renewable assets and disagreed with the policy. Reasons for disagreeing with the policy included a difficulty in forecasting negative pricing which is driven by factors outside the control of generators, greater risk for projects leading to higher strike prices, and a desire for the decision on negative pricing to be delayed until the call for evidence on Enabling a High Renewable, Net Zero Electricity System<sup>4</sup> has been completed, so that changes to the market could be taken into account when amending the negative pricing rule.

The majority of these responses also highlighted the policies of other European countries as effective ways of dealing with periods of negative pricing, such as in France where generators are not paid for negative pricing hours until a certain threshold has been reached, after which they receive compensatory subsidy.

There were 8 responses to the suggested drafting, with all agreeing with the proposals for the amendments.

### **Policy response:**

Having considered the responses we received to this question the government has decided to continue with the proposed drafting amendments to the CfD contract to implement the government's decision to change the negative pricing rule.

We acknowledge that amendments to the negative pricing rule introduces greater risk to CfD projects. However, this is a similar risk that projects without a CfD experience and are expected to manage and the income stabilisation offered by a CfD contract is still significant. It is important that generators are incentivised to respond to signals from the market and to adapt to the needs of the system. Requiring bill payers to continue to pay generators during periods when supply is abundant and demand is low inhibits this incentive.

Market participants that best find alternative uses and revenues for excess power will be impacted less by instances of negative prices and therefore will be more competitive in future CfD auctions, ultimately benefitting consumers. This could be in the form of contracting with storage assets to allow more flexible output or in production of green hydrogen, as suggested by responses to this question. The Department will continue to work with the sector and delivery partners on facilitating these sorts of developments.

---

<sup>4</sup> <https://www.gov.uk/government/consultations/enabling-a-high-renewable-net-zero-electricity-system-call-for-evidence>

Additionally, the Call for Evidence on Enabling a High Renewable, Net Zero Electricity System will provide us with views on how best to evolve schemes and markets to ensure new low carbon generators can continue to deploy at scale.

## Coal-to-biomass Conversions

The government proposed drafting changes to the CfD contract to remove all references to biomass conversions and associated provisions to exclude coal-to-biomass conversions from future CfD allocation rounds. This proposal was unanimously supported and we intend to proceed with the drafting amendments.

### Proposal

**Question 16** of the consultation asked for stakeholder views on proposed drafting changes to the CfD contract, intended to implement the government's decision to exclude coal-to-biomass conversions from future CfD allocation rounds.

### Responses to the consultation

This consultation question received 18 responses. The majority of these were from developers but a small number were from trade associations, NGOs and consultancies.

### Views on proposals and government response

All of the respondents agreed with government's proposed drafting changes to remove all references to coal-to-biomass conversions and associated provisions in the CfD contract, in order to exclude coal-to-biomass conversions from future CfD allocation rounds.

One response raised wider concerns about the sustainability impacts of biomass and included a request to end all existing biomass subsidies.

#### **Policy response:**

In view of the consultation responses received, the government intends to proceed with the proposal to amend the CfD contract to remove all references to coal-to-biomass conversions and associated provisions, in order to exclude coal-to-biomass conversions from future CfD allocation rounds.

We announced in November 2020 that we would make the changes required to exclude new coal-to-biomass conversion projects from future CfD allocation rounds. Government has always been clear that coal-to-biomass conversions were supported as a transitional rather than long-term technology in the decarbonisation of UK electricity generation and as such, all support for biomass conversions under the CfD and Renewables Obligation (RO) ends in 2027. However, we have no plans to remove support for biomass generating stations that are already supported under the RO and the CfD, either biomass conversions or other types of biomass technologies. Such generators undertook their investments in establishing their stations under these schemes and have a statutory right to their existing support, as set out in the schemes' implementing legislation.

As outlined in the government's Energy White Paper published in December 2020, biomass has a key role to play in achieving net zero and we plan to publish a cross government Biomass Strategy in 2022 that will look at how biomass should be sourced and used sustainably across the economy to best contribute to our climate targets.

## Milestone Delivery Date

The government proposed drafting amendments to the CfD contract to implement its decision to extend the Milestone Delivery Date from 12 to 18 months. The responses to this proposal were overwhelmingly supportive and we have decided to proceed with the amendments to the CfD contract.

### Proposal

**Question 17** of the consultation asked for views on a proposed drafting change to extend the Milestone Delivery Date (MDD) in the CfD contract to 18 months.

The MDD is the deadline by which generators awarded a CfD must demonstrate delivery progress, by providing evidence either of (i) spend of 10% of total pre-commissioning costs, or (ii) project commitments. Government has decided to extend the MDD from 12 months to 18 months following contract signature for all projects and proposed an amendment to implement this change in the CfD contract.

### Responses to the consultation

We received 30 responses to this proposal from a range of stakeholders. The majority were from developers, but we also received a small number from trade associations, Local Authorities, investors, consultancies, Trade Unions and manufacturers.

### Views on proposals and government response

There was widespread support for the proposed drafting amendments.

In addition, many stakeholders took the opportunity to reiterate their views on the decision to extend the MDD to 18 months. Of those responses, the vast majority supported the decision, highlighting the benefits to floating offshore wind, which is likely to face uncertainty in the first few years of deployment, and for other technologies to allow greater time for finalising project designs and to find solutions to any problems that arise.

A small number of respondents were opposed to the decision, expressing concerns around procurement cycles, believing the extension could delay supply chain development, although some acknowledged that Supply Chain Plan policies would be best placed to address the impact of this. Some respondents argued that extending the MDD could increase the risk and cost of projects as a longer time between contract signing and MDD could lead to more uncertainty and delays.

A few responses believed it would be important to show flexibility to projects facing delays for unforeseeable or uncontrollable reasons and to ensure the Force Majeure provisions are not impacted by this change.



A small number of respondents argued for a longer extension of the MDD, with one specifying 24 months, to better align with timescales for large complex projects and remote island wind.

**Policy response:**

Taking into account the widespread support for the proposed drafting amendments, the government has decided to make these changes to the CfD contract to implement the decision extend the MDD from 12 to 18 months.

As outlined in the prior government response published in November 2020, the government believes 18 months will better align with project timelines, whilst still providing a suitable indicator of progress towards project delivery.

The existing Force Majeure provisions in the contract are unaffected by the amendment to the MDD and the contract already includes safeguards for unavoidable delays, such as delays to grid connections.

## Minor and Technical Contract Changes

The government proposed several technical and minor drafting amendments to the CfD contract to clarify the scope of confidential information in certain respects. The responses to this proposal were overwhelmingly supportive and we have decided to proceed with the amendments to the CfD contract as proposed, with one adjustment to correct a typographical error.

### Proposal

The Standard Terms and Conditions require the LCCC to keep all “Generator Confidential Information” as confidential and to release it only with the prior written consent of the Generator, except for certain categories of information and circumstances specified in the contract. **Question 18** asked for stakeholder views on several proposed minor changes to the contract to clarify the scope of confidential information in certain respects.

### Responses to the consultation

We received 14 responses to the proposed contract changes, mostly from developers, although we also received a small number from Local Authorities, consultancies and trade associations.

### Views on proposals and government response

All responses to the proposals were supportive. In addition, several respondents suggested additional changes to the contract.

One respondent identified a possible typographical error in Condition 72.8 in the Standard Terms and Conditions and suggested that the words in bold in the following passage should be reinserted into the contract: “the Generator shall keep all CfD Counterparty Confidential Information confidential and shall not disclose CfD Counterparty Confidential Information without the prior written consent of the CfD Counterparty, **other than as permitted by Condition 72.10**, or to fulfil the Generator Permitted Purpose.” The government agrees that the words in bold were inadvertently omitted from the consultation draft and that they are intended to be part of the revised Condition 72.8. These words will be inserted into the final version of the CfD Standard Terms and Conditions for AR4.

A respondent was concerned about the proposed extension to clause 74.8 to include the obligation on the LCCC to proactively release information under Regulation 4(1)(a) of The Environmental Information Regulations 2014 (EIRs). They pointed out that the publication of Generator Confidential Information could materially damage a Generator’s legitimate commercial interests and suggested that the drafting should include a requirement on the LCCC to consult with the Generator before the publication of any Generator Confidential Information.

Schedule 1, Part B of the Standard Terms and Conditions places an obligation on Generators that use a Market Supply Agreement to supply the LCCC with an executed copy of the Agreement and to certify that it is correct and up to date. This is an Operational Condition Precedent on the Generator. A Market Supply Agreement is an agreement between the Generator and another party for the purchase of electricity generated by the CfD facility. One respondent mentioned that it can be difficult to obtain the agreement of customers to share the full market supply agreement with the LCCC for reasons of commercial confidentiality. While noting that in their experience the LCCC have been satisfied to receive a redacted copy of the market supply agreement, they have suggested amending the contract to clarify that redacted Market Supply Agreements are acceptable to the LCCC in order to fulfil this OCP.

One respondent requested amendments to be made to Clause 69 on Force Majeure relief, or a separate ability, to extend the Target Commissioning Window (TCW) when a contracted supplier becomes insolvent and effects the Generator's ability to meet the Milestone Delivery Date.

**Policy response:**

Taking into account the support for the proposed minor and technical drafting amendments, the government has decided to make these changes to the CfD contract.

The proposed extension to Condition 74.8 reflects the current legal obligation on the LCCC to disclose information under the EIRs and Freedom of Information Act. The government does not believe that the suggested amendment to Condition 74.8 is necessary as Condition 74.1(B) of the Standard Terms and Conditions already places an obligation on the LCCC to either consult with the Generator and take its views into account or draw any obligation to disclose information under the EIRs to the attention of the Generator, prior to any disclosure, as the circumstances require.

The government believes that amendments to the contract to clarify that redacted Market Supply Agreements are acceptable to the LCCC are unnecessary as the LCCC already take a practical approach to accepting redacted Agreements. Furthermore, it is essential for the LCCC to obtain enough information from the Agreement to verify it is correct and up to date and by making the amendment proposed by the respondent, there would be a risk that it would limit the LCCC's ability to reject Agreements that were too redacted for this purpose.

The government believes the suggested amendment to the provisions on Force Majeure relief are unnecessary as the current Force Majeure provisions in the contract are already adequate for events or circumstances of the type suggested by the respondent.

---

This publication is available from: [www.gov.uk/government/consultations/contracts-for-difference-cfd-changes-to-supply-chain-plans-and-the-cfd-contract](https://www.gov.uk/government/consultations/contracts-for-difference-cfd-changes-to-supply-chain-plans-and-the-cfd-contract)

If you need a version of this document in a more accessible format, please email [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.