



Department for
Energy Security
& Net Zero

ofgem

Making a positive difference
for energy consumers

Energy Code Reform: Government Response to Consultation on Code Manager Licensing and Secondary Legislation

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Introduction

The government's ambitions to decarbonise the electricity system by 2030, lower bills and make Britain a clean energy superpower in its bid to support net zero can only be achieved if the fundamental rules and governing institutions of the energy industry evolve to enable the transformation.

The detailed commercial and technical rules contained in the gas and electricity industry codes play a key role in facilitating the energy system in Great Britain. Overseen by the independent energy regulator, the Office of Gas and Electricity Markets (Ofgem),¹ and governed by industry-led processes, the codes have been successful when dealing with an energy system that was more predictable, with incremental changes over time. However, the governance of the energy codes is no longer compatible with an energy system that is rapidly evolving and becoming increasingly complex and interconnected. To support national priorities and deliver better value for consumers, the Energy Act 2023 made provisions for a new framework for energy code governance, including providing powers for Ofgem to take on a new strategic oversight role and to select and license code managers.

The Department for Energy Security and Net Zero (DESNZ) and Ofgem are working together to implement this programme of reform. This includes developing the secondary legislation and regulatory framework for code managers. This framework will allow Ofgem to implement the new governance arrangements and drive strategic changes across the codes in the interest of consumers and supporting the transition to net zero.

On 11 March 2024, during the last Parliament, DESNZ and Ofgem launched a joint consultation on the proposed standard licence conditions for code managers and the regulations governing Ofgem's selection of code managers. This document serves as the government response to this consultation. It summarises the responses received and sets out the policy proposals we intend to take forward.

Overview of Consultation Proposals

Two key policy areas were covered in the March 2024 consultation:

- **code manager licence:** the proposed high-level content of the code manager licence, and policy proposals in several key areas.
- **code manager selection:** the code manager selection process and proposed regulation content.

¹ Ofgem is the Office of Gas and Electricity Markets, which supports the Gas and Electricity Markets Authority (GEMA), the body established by section 1 of the Utilities Act 2000 to regulate the gas and electricity markets in Great Britain. In this document, Ofgem and GEMA are used interchangeably.

Code Manager Licence

The consultation proposed that licensed code managers will be required to carry out their core regulated business on a **not-for-profit** basis. It proposed that the **performance incentives** of code managers would occur via public reporting on agreed metrics.

Options were consulted on for the administration of code manager funding, namely the approach to **setting budgets and cost recovery methodologies**. It was proposed that code managers set their own budgets ahead of each year and that Ofgem would decide on a code-by-code basis whether to retain existing cost recovery mechanisms or implement new arrangements. On **financial and operational controls**, it was proposed that a code manager licence will contain requirements to have in place adequate resources to carry out the role, and an obligation to provide assurance on resource availability.

To ensure accountability and independence, the consultation proposed licence conditions to address **conflicts of interest** risks, including restrictions on activity and requirements for sufficiently independent directors. Lastly, the enduring role of code managers to **maintain the relevant codes** was consulted on, including licence obligations to have Stakeholder Advisory Forums (SAFs) in place, and to undertake code changes if directed to by Ofgem under its direct code change powers.²

Code Manager Selection

The consultation set out proposals for the **secondary legislation** that would underpin Ofgem's **code manager selection processes**. This included who would be eligible for selection, how Ofgem would determine whether to pursue competitive versus non-competitive selection for each code, and how any non-competitive selection process would work. The consultation proposed considerations regarding Ofgem's choice of **selection route** – speed of delivery and value for money – and that this may lead Ofgem to pursue non-competitive selection in many cases.

Overview of Consultation Process

The consultation period ran from 11 March to 5 May 2024, during which a webinar and Q&A session was held with around 80 key stakeholders and interested parties, including code administrators, code panel members, consumer and advocacy groups, and wider industry participants.

On 24 April 2024, the consultation document was updated to correct an omission. This correction inserted an additional question (Q4.2) to seek views on proposals concerning 'Chapter 4 – Code Manager Funding and Cost Recovery'. Stakeholders were notified of the change through a notification posted on the consultation's GOV.UK page.³

The consultation received 27 written responses. The responses were from a broad range of organisations including, but not limited to, energy suppliers, energy transmission and

² Section 193(5) of the Energy Act 2023.

³ <https://www.gov.uk/government/consultations/energy-code-reform-code-manager-licensing-and-secondary-legislation>

distribution companies, code administrators, code panels, trade association groups, and technical service providers.

The consultation asked for views on 24 questions spanning nine policy areas. Given the large number of comments received, this document focuses on and reports the most common or relevant points for each consultation question, rather than summarising every point made. However, the Government and Ofgem have carefully considered all responses. The evidence and views provided have informed our approach to decisions and next steps.

In most instances we have not used the exact or absolute numbers of respondents when reporting views received to each consultation question. Instead, we have used the following reporting categories:

- “most” is used when referring to more than 50 per cent of those that provided a response to the question
- “many” is used when referring to 21-50 per cent of those that provided a response to the question
- “some” is used when referring to 11-20 per cent of those that provided a response to the question
- “a few” is used when referring to up to 10 per cent of those that provided a response to the question

Consultation Response Forward Look

This is a joint consultation response document from DESNZ and Ofgem, and so the use of “we” or “our” refers to both parties collectively. Where a statement made in this document applies to either organisation individually, this is stated explicitly.

This document is structured into nine policy chapters, which correspond to the chapters in the consultation. These are:

- **chapter 1:** Code Manager Licence
- **chapter 2:** Not-for-profit Requirement
- **chapter 3:** Setting Code Manager Budgets
- **chapter 4:** Code Manager Funding and Cost Recovery
- **chapter 5:** Code Manager Incentives
- **chapter 6:** Conflicts of Interest and Independence
- **chapter 7:** Financial and Operational Controls
- **chapter 8:** Code Maintenance and Modification
- **chapter 9:** Code Manager Selection

Each of these chapters include a summary of the consultation proposal, an overview of the responses and evidence submitted by respondents, our policy decisions and rationale, and next steps where applicable.

Overview of Decision

The key decisions that have been taken as a result of this consultation are summarised below.

Code Manager Licence

On the code manager licence, we intend to proceed with:

Not-for-profit requirement: The licence conditions will require code managers to carry out their core regulated activities on a not-for-profit basis. The licence will allow for recovery of costs with no allowance for a profit margin.

Setting code manager budgets: Code managers will publish and consult on a draft budget, and then set their forecast costs ahead of the forthcoming budget period. We will further consider whether a defined appeal route would be beneficial to the budget scrutiny process.

Code manager funding and cost recovery: Ofgem will decide on a code-by-code basis what mechanisms will be used for code managers to recover their costs through core charges. Code managers will also be required to prepare and adhere to a cost recovery statement to aid transparency and provide a useful tool for parties that expect to pay charges.

Code manager incentives: Code managers will not be subject to any financial incentive mechanisms or revenue at risk. Code managers will be able to modify KPIs in consultation with stakeholders, with the KPIs themselves being placed in the codes rather than the licence.

Conflicts of interest and independence: The licence will prevent code managers from engaging in preferential or discriminatory behaviour, and from becoming a related undertaking of specified parties (including code parties and external service providers). We will require that code managers do not prevent or distort competition, and that code manager boards must have independent directors. It will also be a requirement for the code manager to obtain assurances from its ultimate controllers (such as committing to not cause the licensee to breach its licence).⁴

Financial and operational controls: A package of financial and operational controls will be implemented to address identified risks associated with the financial stability and operational capability of code managers. These controls cover the availability of all necessary resources, indebtedness and transfers of funds, assurance on the financial stability of the licensee, and a prohibition on cross-subsidies.

Code maintenance and modification: The licence will require code managers to have in place and maintain the relevant code. We note that consequential changes to existing licence conditions will be required.

⁴ These are often entities that would have corporate control over the CM (e.g., a parent company).

Code Manager Selection

On code manager selection, the following decisions have been made:

Code manager eligibility: It will be a requirement, set out in regulations, for Ofgem to conduct a conflict-of-interest assessment of prospective code managers as part of its competitive and non-competitive selection processes. Additional eligibility requirements or restrictions will not be included in the regulations.

Code manager selection route: Ofgem will be granted discretion when choosing whether to select code managers via a competitive or non-competitive route.

Code manager selection process: The regulations will require Ofgem to set assessment criteria for licensing code managers on a non-competitive basis. The regulations will also expressly enable Ofgem to create and license a new Special Purpose Vehicle (SPV) via the non-competitive selection process.

Next Steps

In line with the policy commitments stated in chapter 9, the Government will lay secondary legislation to formally establish the code manager selection regime. We aim for this legislation to come into force by the end of 2024. Ofgem intends to further consult on its process for assessing and selecting prospective code managers on either a competitive or non-competitive basis.

We will further refine and develop the draft standard licence conditions for code managers ahead of consulting on the full set of provisions in early 2025. Within this consultation, we will also consult on updating the parameters for appeals to the Competition and Markets Authority (CMA) on Ofgem's code modification decisions.⁵

⁵ The Energy Act 2004 together with the Electricity and Gas Appeals (Designation and Exclusion) Order 2014 set the current legislative framework for energy code modification appeals.

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1. Code Manager Licence

Background

Licences for code managers will follow a similar structure to existing gas and electricity licences, with a set of standard licence conditions which apply to all holders of the code manager licence,⁶ and potentially special conditions which apply to a particular licence holder.

In developing the licence content, we expect that some obligations set out in the licence will have further detail in the relevant code (or potentially in other documents, such as a guidance document referred to in the licence). Further, licence obligations may be a combination of prescriptive and principles-based, depending on the level of detail deemed necessary for the specific section.

Question 1.1 – Proposed high-level content of the code manager licence

To what extent do you agree with the proposed high-level content contained in the licence skeleton? For example, are any of the proposed contents unnecessary or are there any additional areas related to the code manager's role that should be subject to licence rules?

What the consultation said

The consultation set out a code manager licence 'skeleton' with the high-level content proposed. Views were sought on whether there are additional areas that should be considered, or whether stakeholders considered any content to be unnecessary. The sections in green in the table below were the focus of this consultation. The remaining sections will be consulted on, alongside a full set of code manager licence conditions, next year.

⁶ Standard conditions may also be modified for a particular licence holder.

The following licence skeleton was proposed:

Section	Licence condition content
Nature and conduct of the Licensee's business	<p>The relevant business of the licensee (and any general objectives)</p> <p>General controls of the business (inc. risk management, organisational structure and controls, corporate governance, any requirements on board structure/composition as well as any ongoing 'fit and proper' requirements regarding, eg, directors of the code manager)</p> <p>Data handling⁷</p>
Financial and operational controls	<p>Availability of all necessary resources</p> <p>Indebtedness and transfer of funds</p> <p>Assurance of the financial stability of the licensee</p> <p>Prohibition on cross-subsidies</p> <p>Not-for-profit requirement</p>
Arrangements for the Licensee's independence ⁸	<p>Prohibition on engaging in preferential or discriminatory behaviour</p> <p>Requirement to not prevent nor distort competition</p> <p>Sufficiently independent directors</p> <p>Restriction on activity and investment</p> <p>Restriction on the licensee becoming a related undertaking</p> <p>Ultimate controller undertaking</p> <p>Protection of confidential information</p> <p>Compliance obligations⁹</p>

⁷ Ofgem intends to consult on extending the requirement to follow Data Best Practice Guidance to all licensees (see Ofgem's March 2024 Open Letter regarding [Data Best Practice and its future in Codes](#)). We will consider the decisions made in this area as we develop our policy on code manager data handling.

⁸ In addition to the conditions listed, two additional prescriptive conditions (restrictions on directors' affiliations and business separation requirements) were consulted on. A preference on whether to incorporate these conditions in the code manager licence was not included.

⁹ I.e., what is required for the code manager to demonstrate it is complying with independence requirements, e.g., what information it needs to have if the Authority requests, what mechanisms need to be in place etc.)

Funding, charging and financial incentives	Budgets Incentives and any links to revenues Code manager cost recovery methodology Code manager cost recovery statements
Governance, including stakeholder engagement and cooperation	Code maintenance and modification
	Cooperation and cross-code working
Planning, delivery and reporting	Production of a delivery plan consistent with the strategic direction Complying with the delivery plan and reporting on progress Obligations towards Ofgem and the Department ¹⁰ Ease of use of the code
Arrangements for intervention and continuity	Transitional arrangements ¹¹ Management orders for the licensee End of licence term arrangements, intellectual property rights, and code manager of last resort arrangements

What you said

Most respondents broadly agreed with the high-level licence content proposed.

One respondent commented that the licence is not in line with the objective of a ‘light touch’ licence, and another commented that it may not be appropriate to have highly prescribed processes contained in the licence when placing them in codes would offer greater flexibility. It was noted by one respondent that the code manager licence should not duplicate requirements that already apply to companies, such as those related to financial accounting. Another respondent stated that interactions with any other relevant licence types should be considered.

Some respondents suggested that specific conditions should be added to the licence, including requiring code managers to act in the interests of consumers; a duty to cooperate with

¹⁰ This may include, for example, requirements to provide Ofgem and the Department with information upon request, and to comply with any directions Ofgem issues.

¹¹ Any generic condition for transitional arrangements that may apply in the early months or years of the licence, if required. Alternatively, such arrangements may be set out in special conditions, particular to an individual licensee.

Authority-led significant code reviews (SCRs); greater focus on stakeholder engagement; and a specific duty to work with industry and other code managers. One respondent stated that there may be a need for conditions relating to handover of the licence where the licensee fails to meet standards of service or ceases to provide or is unable to deliver services. They added that this could include the need to establish and maintain a business handover plan.

Finally, one respondent noted that more detail would be required to fully assess if the proposed licence content meets the requirements of the code manager role.

Our response

We note the suggested additions to the licence, such as duties on consumer interest and cross-code coordination. In our forthcoming consultation on the full set of standard licence conditions, we intend to include proposals on the duties and objectives of code managers. Amongst other things, we will consider whether it is appropriate to include specific duties and/or objectives on consumer interest, cross-code co-operation and engagement with SCRs, or whether these are sufficiently addressed in codes or other licence conditions. We will continue to work on the basis that the skeleton above is a complete overview of the overarching content in the code manager licence (noting that we are developing the detail further) but will keep this under review as we progress policy and consult further.

Our intention is that, where appropriate, the licence will contain high-level obligations, with further detail in the relevant code. We expect that some overarching obligations will be set out in the licence, with further detail in the relevant code (or potentially in other documents, such as a guidance document referred to in the licence), and that licence obligations may be a combination of prescriptive and principles based. Regarding concerns about the level of prescriptiveness in the licence, our aim is to provide consistency between code managers and to ensure that certain principles, such as transparency and impartiality, are adhered to, while providing sufficient flexibility for code managers to implement processes best suited to the needs of the code they manage.

2. Not-for-profit Requirement

Question 2.1 – Not-for-profit requirement

To what extent do you agree with our proposal that the code manager must fulfil its core licensed business on a not-for-profit basis?

What the consultation said

The consultation proposed that code managers will be required to operate on a not-for-profit basis. This would be implemented through the proposed licence condition prohibiting the code manager from making profit on its licensed business, and the proposed budget and charging requirements, which would allow only for recovery of costs without a profit margin. The consultation set out that this will ensure that the code manager is motivated to deliver the best outcomes under the code, rather than being driven by profit-maximisation. The consultation set out the expectation that a significant proportion of code managers' expenditure will be on resources such as staff and IT systems, and that measures taken to reduce costs in these areas would not be desired where it could be at the detriment to the delivery of its functions.

It was further stated that removing a code manager's ability to derive profits from its regulatory functions will strengthen the code manager's accountability in its role. As code managers will be funded by code parties, the consultation set out that they should draw on industry input when making decisions, rather than being influenced by outside shareholders (which may or may not be affiliated with the codes in question).

The proposed not-for-profit requirement would not explicitly rule out commercial entities from becoming a code manager, but they would need to be willing to make any necessary arrangements to operate the licensed business on a not-for-profit basis and comply with the licence conditions.

The consultation also stated that competitive pressures, such as cost efficiency, can still be achieved under a not-for-profit model, for example if code managers subcontract certain functions via competitive procurement. To ensure the code manager's independence and accountability, the consultation stated that there will likely be limitations on subcontracting through licence conditions, with some functions being required to be kept in-house (e.g., recommending code changes to Ofgem, board nomination, and budget setting). This will be addressed in a forthcoming consultation.

What you said

Most respondents agreed that the code manager should fulfil this role on a not-for-profit basis. Many agreed that this would support impartiality and transparency, make it easier to address conflicts of interest and result in decisions that benefit the code rather than being led by commercial interests. Some respondents noted that a not-for-profit model works well for current code administrators.

While welcoming the overall proposal, one respondent suggested that a form of funding incentive could facilitate a drive towards efficiency and good practice. Another stated that for-profit code managers would not guarantee highly efficient organisations. One respondent

stated that code managers will be successful if held to account and incentivised to deliver, and that this could be managed through reputational incentives and through Ofgem's use of enforcement powers.

A few respondents who supported the proposal noted that a not-for-profit model would likely limit the pool of potential code managers.

Some respondents disagreed with the proposed approach. Common reasons cited were that a not-for-profit model would be less likely to encourage value-for-money, efficiency and innovation, and that a not-for-profit model would discourage innovative new entrants from taking on code manager roles.

Some respondents agreed with the proposal to allow subcontracting, including to for-profit enterprises where this would allow advantageous competition and stimulate innovation.

Some respondents specifically welcomed the stated intention to place limits on which activities may be subcontracted and that procurement of services must be carried out on a competitive basis. Another stated that the licence should prevent commercial entities from creating not-for-profit entities to carry out the code manager role, and then sub-contracting work to themselves.

One respondent stated that the not-for-profit proposal was not supported by sufficient evidence that this model would benefit consumers and code parties, nor that it would motivate code managers to deliver the best outcomes. They further stated that the not-for-profit requirement would not, in isolation, drive a code manager to deliver the best outcomes for consumers and code parties, and that other components in the framework do not compensate for the reduction in incentive power associated with the not-for-profit model. The same respondent stated that a not-for-profit model presents significant challenges in relation to performance incentivisation and accountability, and that other measures proposed in the licence do not sufficiently address these challenges. While this respondent agreed with the intention to mitigate the risk of code managers under-spending to the detriment of its functions, they challenged a perceived implication that this is inherently linked to a for-profit model. They pointed to other regulatory frameworks operated by Ofgem elsewhere in the energy sector (such as the RIIO¹² network price controls) which are designed to link profit to the delivery of certain outcomes and achievement of service-based targets.

Our response

Our decision is that the code manager role will be carried out on a not-for-profit basis. This will be implemented through licence requirements, such as budget and charging requirements, and a condition requiring code managers' licensed activity to be carried out on a not-for-profit basis. This would allow only for recovery of costs, without an allowance for a profit margin. Alongside our broader proposals on incentives (see chapter 5), we consider that this requirement will ensure that the code manager is motivated to deliver the best outcomes under the code, rather than being driven by profit-maximisation. We note that most respondents agreed with the proposals, with many of those agreeing that not-for-profit code managers would help ensure that code managers focus on delivering the needs of industry and wider strategic goals, rather than being driven by profit motives. We also note that there are existing not-for-profit models that work well and efficiently, such as many of the existing code bodies.

¹² Revenue = Incentives + Innovation + Outputs.

Although we acknowledge the assertion made by one respondent that the not-for-profit requirement will not, in isolation, drive a code manager to deliver the best outcomes for consumers and code parties, the not-for-profit requirement will not operate in isolation. We consider that good performance and behaviour that best delivers outcomes under the code can be effectively managed through reputational incentives (as discussed in chapter 5), performance monitoring (including transparent reporting on performance) and through the use of Ofgem's enforcement powers. In a future consultation we will also explore and consider other mechanisms available to Ofgem to prevent and address poor performance, such as minimum performance standards in the licence which code managers would be required to meet. We recognise that other regulatory frameworks, including the RII network price controls framework, can successfully incentivise delivery of specified outcomes where opportunity for profit are contingent on delivery of those outcomes. As discussed further in chapter 5, we do not consider that a similar approach would be proportionate given the size of the entities carrying out the code manager role, or the nature of their business.

We note comments from some respondents that the proposed not-for-profit model would be less likely to encourage efficiency and innovation. However, as above, we note that there are existing not-for-profit models in the sector that work well and efficiently. We also consider this concern can be mitigated by, for example, allowing the code manager to carry out competitive procurement for services, where competition could improve quality and performance. We acknowledge the need for greater clarity on the restrictions and requirements that will be in place on procurement of services from third-party providers. We will address this in a forthcoming consultation.

As set out in chapter 3, stakeholders will have the opportunity to scrutinise budgets and to challenge costs, including where they consider that costs have not been efficiently incurred.

We acknowledge concerns raised by one respondent that commercial entities could establish not-for-profit bodies to carry out the code manager role, who in turn sub-contract delivery of services to the commercial entity. We consider this risk to be addressed by the proposed prohibition on code managers being a "related undertaking" (such as a subsidiary) of a company from whom it is procuring services (see chapter 6).

We recognise that the not-for-profit model may limit the interest of commercial entities in taking part in a selection process, which would narrow the potential code manager selection pool. However, we believe that Ofgem will still be able to select suitable not-for-profit code managers, or where necessary, consider the creation of new bodies (see chapter 9).

Question 2.2 – Draft licence conditions policy intent

To what extent do you agree that the draft licence conditions presented in Annex A ('Annual Budget of the Licensee' and 'Restriction on profit') capture the policy intent set out in this proposal? Do you have any other views or comments relating to the licence drafting?

What you said

Most respondents agreed that the draft licence conditions capture the policy intent, with a few noting that the proposals are in line with what is in place for code administrators. One respondent requested that the term "not-for-profit basis" should be defined in the drafting.

Another respondent suggested that the reference to 'External Costs' in clause 1.5 should specify that this relates to service capability that has been approved by Ofgem.

Our response

We note and thank respondents for their input on the drafting. We will continue to develop the detail of the licence to reflect our policy decision above, including any definitions required, and intend to consult on the licence conditions in full in a forthcoming consultation.

3. Setting Code Manager Budgets

Question 3.1 – Preferred option for setting code manager budgets

To what extent do you agree with our preferred option 1 for setting budgets (budgets set by code manager)? Are there additional checks and balances we should consider and why?

What the consultation said

To ensure transparency and accountability across the various codes, and to facilitate benchmarking of costs between code managers, the consultation proposed that the overarching mechanism by which code managers set their budgets would be set out in the licence, meaning that all code managers would be required to follow broadly the same budget-setting process. However, it was recognised that it may be appropriate to include some of the details of the budget-setting process in the relevant code.

Stated options for setting code manager budgets

The consultation set out four possible approaches to how code managers will be required to set their budgets:

- **Option 1: code managers set their budgets ahead of year.** Code managers would be required to publish, and consult on, a draft budget, clearly setting out their forecast costs for the forthcoming year.
- **Option 2: ex-post budget controls.** Code managers would set a budget and spend in line with it during the relevant period. Following the end of the budget period, costs would be reported to Ofgem, who would carry out an assessment and disallow any costs that are not, for example, considered economic and efficiently incurred.
- **Option 3: ex-ante budget controls.** A proposed budget prepared by the code manager would be presented to Ofgem ahead of the relevant budget period. Ofgem would carry out an assessment of the proposal before consulting on a minded-to position on what budget should be allowed, followed by a final determination on allowed costs.
- **Option 4: budgets agreed by Ofgem at selection.** A prospective code manager would propose the revenue it needs during the code manager selection process, with Ofgem agreeing to this if appropriate.

Preferred option

The consultation stated a preference for option 1. The reasons set out for this were that it provides a suitable balance between scrutiny of budgets by industry stakeholders and Ofgem and ensures that controls are not unduly burdensome or restrictive. It also stated that this approach would facilitate stability and predictability of core charges on code parties, since budgets would be agreed ahead of the relevant year, minimising the need for reconciliation at the end of the year. It would also provide flexibility where necessary, since code managers would be able to modify budgets, following consultation with stakeholders.

Ofgem oversight of code manager budgets

The consultation proposed that Ofgem would not have the power to veto a budget, but instead could, within a set period following a budget consultation, direct code managers to revisit some or all of the budget. This would include the ability for Ofgem to direct code managers to provide additional evidence to support their stated costs or to recalculate certain cost categories. It stated that this could occur where Stakeholder Advisory Forum (SAF) or other stakeholder comments have not been sufficiently addressed, or where Ofgem has concerns about the values presented. It also proposed that this could include the ability for Ofgem to require the code manager to provide third-party assurance on the content of some or all of the budget.

The consultation proposed that there would not be an appeal mechanism through which stakeholders could appeal budgets to Ofgem. The view put forward was that the checks and balances proposed will provide an appropriate level of scrutiny, and that introducing a direct appeal route to Ofgem risks disincentivising stakeholders from engaging with the code manager using the proposed budget-setting processes, and potentially delaying issues being resolved.

Proposed licence content

The consultation proposed that, under option 1, the code manager licence would include requirements to ensure that budgets are open to appropriate scrutiny and that costs remain economic and efficient. These were presented in the draft licence conditions:

1. A requirement for code budgets to be cost-reflective (allowing for contingency to ensure budgets are stable and to cover unexpected events), and for the costs included to be economic and efficient.
2. A requirement to publish, and consult on, a draft budget ahead of the relevant year and invite comments from interested parties, including the SAF. Code managers would be required to take consultation responses into account, and respond appropriately, when finalising their budgets.
3. When publishing draft and final budgets, code managers would be required to set out in a 'work plan' all their forecast costs in a clear and transparent manner. This would include any costs relating to external service providers.
4. For transparency, code managers would be required to publish all consultation responses and an explanation of how those responses have been reflected in revisions to the draft budget.
5. Following the consultation period, Ofgem would have the power to direct code managers to revisit some or all of the budget and to take actions including, but not limited to, providing additional evidence, recalculating certain cost categories and providing third-party assurance on the content of the budget.
6. To allow for budgets to accommodate unexpected costs, code managers would be able to make changes to their budgets within the relevant year. This would include a requirement to consult on the changes and to publish an updated budget.

What you said

Most respondents agreed that option 1 (budgets set by the code manager ahead of the year) was the most appropriate approach. Many of these respondents noted that similar approaches have been used, and work well, elsewhere, for example by central system delivery bodies and a number of the code administrators. A few agreed that alternative approaches would involve a disproportionate resource burden. One respondent expressed agreement that SAFs should be involved in scrutinising budgets.

A few respondents disagreed with the proposal, stating that budgets should be set through price controls with greater Ofgem oversight. One respondent argued that this approach would protect code parties and consumers from excessive and inefficient costs, and that Ofgem would be better placed to benchmark outputs and costs and request additional information where required. This respondent stated that the resource required from Ofgem to do this would be proportionate given the overall costs of code managers, and that Ofgem would have more expertise and experience than code parties with assessing efficient costs and budgets. They commented that because industry lacks Ofgem's information request powers, and code managers may be unable to share certain information with industry, there will be information asymmetry which will impede the ability of industry to scrutinise budgets in detail.

A few respondents stated that further detail was needed on the content of budgets, and that there should be clear guidance issued or detailed rules contained in codes. One respondent sought further clarity on what would happen in the case of overspend by the code manager.

Regarding the ability for code managers to update budgets and work plans mid-period, one respondent suggested that there could be benefit in setting de-minimis requirements on the circumstances that can trigger updates. Another respondent agreed with the principle that changes should be permitted, but cautioned that this should be the exception, rather than the rule.

A few respondents suggested that budgets and work plans should cover more than a single year and that forecasts should cover multiple years.

One respondent stated that the budget consultation process should be open to all, not just to code parties, and that there should be a requirement on code managers to justify why any consultation feedback was not adopted.

There were a number of comments around costs related to external service providers. One respondent stated that consideration needs to be given to cases where goods and services are procured from for-profit providers, although they also noted that this risk has been identified and suitable mitigations proposed. Another respondent questioned what the requirement to transparently publish costs relating to services procured from external providers would mean in practice. They stated that the requirement should be made more explicit, with costs allocated to specific activities, detail of contract levers, and descriptions of procurement processes required to be included in budgets and/or work plans.

Many respondents did not agree with the proposals to not permit budget appeals, with some of those expressing strong disagreement. Some of these were in response to question 3.2. Responses objecting to the absence of an appeal mechanism are further described under question 3.2, below.

Our response

We intend to proceed with option 1, whereby code managers consult with stakeholders and then set their budgets in advance of the relevant period.

We recognise that price control mechanisms would provide stronger Ofgem oversight and would allow benchmarking across codes. However, we consider that price controls would involve a disproportionately high resource-burden on Ofgem given the expected scale of code manager budgets. Furthermore, we consider that ex-post budget controls are incompatible with our proposed not-for-profit model, since there will be no additional funding from which to recover costs that have already been incurred, should the ex-post process identify ineligible costs.

While ex-ante controls could be compatible with a not-for-profit model, we still consider that this approach would place too great an onus on Ofgem to make decisions on the budget. Our approach is that Ofgem should take a less involved approach to budget setting, with industry and other stakeholders taking a more active role in scrutinising budgets. This is the case with most existing code administrators and central system delivery bodies. We consider that the process we set out in the consultation, whereby code managers publish draft budgets and work plans, will facilitate greater industry engagement.

Nonetheless, we acknowledge comments objecting to the absence of an appeal route to Ofgem, as well as suggestions that the proposed power for Ofgem to direct code managers to revisit the budget will be insufficient. We address this in our response to question 3.2, below.

We note the suggestions from respondents that the budget period could be extended to longer than a single year or that code managers could be required to issue forecasts for longer periods. It is possible that longer budget periods could help code parties better forecast their own costs, and that it could facilitate the incorporation of strategic direction statements into code managers' planning. We will therefore consider whether the process could cover longer periods and/or whether the detail of budget timings could be set outside the licence, with the licence not prescribing specific dates.

In relation to costs incurred through procurement of external service providers, we recognise the need for greater clarity on how these should be reflected in budgets and work plans. While we acknowledge that there may be commercial sensitivities that could preclude detailed breakdowns of costs and contractual arrangements, it is important that services are procured fairly and transparently, with appropriate arrangements in place. We will address broader requirements on procurement activity in a future consultation, including how commercially sensitive information and details of contracts may be shared with certain stakeholders.

Regarding who code managers should be required to consult on the budget with, we acknowledge that the licence drafting could have implied that only code parties, Ofgem, Citizens Advice and Consumer Scotland would receive the draft budget and work plan to comment on. Our intention is that the consultation should be open to all and published on the code manager's website.

With respect to the information that budgets must contain, the draft licence condition text (Annex A of the consultation) set out the requirements for what must be presented in budgets and work plans. We will continue to consider whether any additional prescription in the licence drafting would be beneficial and will consult with stakeholders on the full licence drafting in due course.

We agree with the comment that changes to budgets should be the exception rather than the rule, and we would expect prudent budgeting and use of the provision for contingency to minimise the need for changes to be made mid-period. We also consider the requirement to consult with stakeholders on draft budgets and work plans to facilitate prudent budgeting. However, with the proposed not-for-profit and not-for-loss model, it is essential that code managers are able to fully recover their costs, including where unexpected costs arise. In the licence drafting provided in Annex A of the consultation, we proposed that code managers would be required to inform code parties if they became aware that additional spending would be required, and to follow the amendment process. Given the need for code managers to recover costs, including unexpected costs that arise mid-period, we do not consider it beneficial to include a de-minimis requirement on the circumstances that can trigger updates to budgets and work plans.

Question 3.2 – Ofgem oversight of code manager budgets

To what extent do you agree with our approach to Ofgem oversight of code manager budgets? We welcome views on whether it is feasible and desirable to enable Ofgem to require third-party assurance on budgets.

What the consultation said

The consultation proposed that the code manager licence would not include a mechanism for appeals on the content of budgets to be made to Ofgem. It stated that the proposed checks and balances (set out above) would provide an appropriate level of scrutiny, with a clear role for industry stakeholders, including SAFs and Ofgem. It stated that introducing a direct appeal route risks disincentivising stakeholders from engaging with the code manager using the proposed budget-setting processes and could delay issues being resolved. It further stated that where stakeholders have concerns about a budget, this should be addressed through engagement with the code manager and through the normal budget-setting process, and that the backstop provision of an Ofgem direction (to revisit some or all of the budget or to provide third-party assurance on the content of the budget) would be more efficient than an appeal mechanism.

What you said

Budget appeals

While most respondents agreed with the overall approach to Ofgem oversight of code manager budgets and the checks and balances proposed, many respondents disagreed with the proposal to not include an appeal mechanism.

Of those who disagreed with the absence of an appeal mechanism, a common theme was the lack of recourse if the code manager did not take responses to their consultation into account. Some also disagreed with the rationale that including a budget appeal process would disincentivise stakeholders from engaging with the budget-setting process. One respondent argued that the proposed power for Ofgem to direct code managers to revisit the budget would be insufficient. A few respondents also argued that having an appeal mechanism could be less resource-intensive for Ofgem and industry, since the alternative could create an expectation that Ofgem is closely involved in monitoring draft budgets and consultation responses. Conversely, one respondent stated that there are time commitments and costs involved with

appeals, and that appeals run the risk of delaying approval of budgets that have already been consulted on.

One respondent stated that the proposal for Ofgem to direct code managers to revisit the budget late in the process would create uncertainty, whereas a clearly defined appeal route would ensure that disputes on certain expenditure items do not prevent the code manager from continuing to deliver its wider responsibilities.

One respondent stated that Ofgem should be able to veto code manager budgets.

Third-party assurance

There were mixed views on whether it would be feasible or desirable to enable Ofgem to require third-party assurance. Some respondents argued in favour, although a few of these suggested that it should only be used as a last resort. However, slightly more respondents disagreed with the requirement, with comments noting that it would be unnecessary given existing transparency requirements and that it could involve additional costs.

One respondent noted the potential challenges around sharing commercially-sensitive information, such as costs related to procurement of services. They suggested that Ofgem could be provided with these costs confidentially.

Our response

Budget appeals

We acknowledge that, although most respondents agreed with the overall approach to oversight of budgets, there was significant opposition to the proposal to not include a route for stakeholders to appeal code manager budgets to Ofgem. We recognise the need for confidence in the ability of stakeholders to effectively challenge code manager budgets, and for appropriate controls to be in place to guard against excessive or inefficient spending by code managers. Although we still consider the primary mechanism of challenge should be through open and transparent consultation and engagement with stakeholders, we will consider in a forthcoming consultation whether Ofgem oversight should be strengthened, including whether it would be beneficial to introduce a defined appeal route.

We recognise that the design of any appeal processes would need to be carefully considered. It would need to be designed to balance the requirement for appropriate consideration of evidence with the need to limit the impact on the ongoing delivery of services by code managers.

Ofgem power to direct

In light of our intention to revisit Ofgem's oversight of code manager budgets set out above, we will further consider whether the power to direct would be necessary if we decide to introduce an appeal process.

Third-party assurance of budgets

Given our intention to consider further whether Ofgem oversight should be strengthened, and whether a defined appeal route could be introduced, we intend to revisit the broader question of appropriate checks and balances, including the requirement to provide third-party assurance.

Question 3.3 – Draft licence conditions policy intent

To what extent do you agree that the draft code manager licence condition presented in Annex A ('Annual Budget of the Licensee') captures the policy intent set out in this chapter? Do you have any other views or comments relating to the draft licence?

What you said

A majority of respondents expressed general agreement with the drafting of the licence conditions. Some stated their disagreement, and a few did not express a view. There were a number of suggestions for amendments and additions, including adding an 'economic and efficient' requirement and clarifying the 'materiality' requirement to allow changes to budgets. One respondent stated that there should be standardisation of the form of draft and final budgets and work plans across the codes. Another respondent stated that it should be explicitly stated that the code manager's work plan gives regard to the Strategic Direction Statement (SDS). One respondent stated that where the proposed standard licence condition references external service capability, this should include a specific reference to this being the procurement of service capability for which the Authority has granted prior approval.

It was suggested by one respondent that the requirement to consult with code parties should be expanded to all parties, not just those who are party to the relevant code. The same respondent also suggested that the requirement on the code manager to explain how responses to the budget consultation have been addressed should also include a requirement to provide justification for why any proposed changes have not been made.

Some of those who disagreed with the licence drafting expressed concern over what they considered to be tight and unachievable timelines. One respondent stated that in order to meet the deadline for producing draft budgets, the Strategic Direction Statement (SDS) would need to be available with sufficient time to understand the requirements and allow accurate forecasts. A few commented that the proposed licence drafting is unnecessarily detailed and prescriptive, with one suggesting that most of the detail should be in codes.

One respondent suggested that if budgets are not finalised in time, the licence could include provision for continuing with the previous year's budget until a new one is agreed.

Our response

We note comments on the timelines presented in the drafting, in particular the challenges presented by running the budget development and consultation process over December and January. We also note concerns around whether there will be sufficient time for code managers to understand the SDS ahead of forecasting costs. We note that the timings presented in the consultation were indicative and will be refined further as we develop the licence drafting and welcome the input we received on this.

Regarding the suggestion that budgets and work plans should be standardised across codes, we do not consider it necessary to prescribe this level of detail in the licence. In principle, we consider it preferable for code managers to have the scope to develop their own processes in a manner that they consider will best achieve the overarching requirements in the licence. However, we recognise that some consistency and standardisation would be beneficial to code parties, and we expect this is something that could be further considered as code managers commence their roles.

We also acknowledge comments that there could be some ambiguity around the requirement for amendments to be made in response to 'material' changes to budgets and will consider how further clarity could be provided on this when consulting on the full set of licence conditions.

4. Code Manager Funding and Cost Recovery

Question 4.1 – Code-by-code decision on cost recovery mechanisms

To what extent do you agree with our proposal that Ofgem should decide on a code-by-code basis whether to maintain existing cost recovery mechanisms or to introduce new arrangements?

What the consultation said

There were four options presented for how code managers could recover their costs through core charges:

- **Option 1:** Retain existing code administrator cost recovery mechanisms
- **Option 2:** Ofgem develops a new cost recovery methodology for each code
- **Option 3:** Recover from smallest monopoly cohort that is a party to the code
- **Option 4 (preferred):** Ofgem decides on a code-by-code basis (between options 1 to 3 above)

The consultation stated that option 4 (“Ofgem decides on a code-by-code basis”) was considered to be a proportionate approach that provides flexibility. This would allow Ofgem to carry out an assessment of existing cost recovery arrangements and to decide which approach would be most appropriate for each code. The consultation stated that, when deciding whether the existing cost recovery mechanism would be maintained, Ofgem would consider factors including whether:

- the incumbent code body is being appointed as code manager
- consolidation with another code is planned
- there is an existing cost recovery methodology and if it is clearly set out
- the existing approach is transparent and balances cost-reflectivity with proportionality

The consultation stated that, while option 4 would potentially involve different cost recovery approaches across the codes, it is unlikely that distinct licence conditions would be required. The consultation proposed that the licence contains high-level requirements including (but not limited to) the areas set out below.

Compliance with a cost recovery methodology

The consultation proposed requiring the code manager to comply with a cost recovery methodology set out in the relevant code, except where Ofgem consents otherwise. This would ensure charges to funding parties are in line with a codified methodology, which is transparent

and subject to open governance. Enabling Authority consent to the code manager not complying with the methodology will provide some flexibility for extraordinary circumstances.

Cost recovery statements

The consultation proposed requiring the code manager to prepare, and comply with, a cost recovery statement that aligns with the cost recovery methodology. It also proposed a number of requirements intended to aid transparency and provide a useful tool for parties that expect to pay charges.

What you said

Most respondents agreed with the preferred option 4 (decide on a code-by-code basis). Of these respondents, most noted that it was the most pragmatic and efficient approach, allowing changes to existing approaches where beneficial and required. One respondent disagreed and argued that existing approaches should be retained for all code managers. A few agreed with the proposed approach but stated that retaining existing approaches should be the default option. One respondent noted that an alternative approach could be for all centralised code costs to be recovered through the National Energy System Operator (NESO)¹³. Some respondents stated their preference for code manager costs being treated as a “pass-through” cost for funding parties subject to price controls.

A concern raised by some respondents was the risk of retaining or creating inconsistencies between approaches taken across codes. They stated that the aim should be to standardise as much as possible across the codes. Conversely, a few respondents commented that inconsistencies between codes may not be a concern, due to the differing nature of codes and code parties.

A few respondents commented that any new methodologies need to be consulted on with stakeholders, and that clarity is needed on the process for deciding which approach is adopted. A few respondents requested more clarity on the difference between optional and core charges.

Our response

We intend to proceed with option 4: Ofgem deciding, code-by-code, whether to maintain existing code administrator funding arrangements or to design a new framework. We consider this approach to be proportionate and resource-efficient, allowing for sufficient flexibility where required, for example where codes are being consolidated.

While we acknowledge the concern raised by a few respondents that this approach could result in inconsistencies between codes, we consider it important to retain flexibility to ensure the right approach for each individual code. Ofgem expects to assess each methodology against the same criteria, which should promote some level of consistency across the code managers.

¹³ Formally the National Grid Electricity System Operator (NGESO). For further information, see the [NESO press release](#) (13 September 2024), and the [decision publication](#) (13 September 2024) to transfer the NGESO into public ownership and the licensing and designation of NESO.

Although subject to further consultation by Ofgem, it is likely that licensed network companies will contribute to funding code managers. Ofgem will consider whether any contribution to code manager costs should be treated as pass-through costs for network companies.

Question 4.2 – Requirement to comply with cost recovery methodology and produce a cost recovery statement

To what extent do you agree with our proposals regarding code managers recovering costs, including that they should be required to comply with a charging [cost recovery¹⁴] methodology set out in the code and that they would be required to produce an annual cost recovery statement to allow for parties who expect to pay charges to be able to make a reasonable estimate of the amount they will be charged?

What you said

Most respondents agreed with the proposed drafting. Of those, most stated that the cost recovery statement will help code parties plan for upcoming charges, and many noted that both the methodology and statement would support costs being legitimate and transparent. Some provided mixed responses, with one respondent noting that the time and resources expended by code managers on the cost recovery statement needs to be proportionate. One respondent disagreed with Ofgem being able to exempt code managers from providing notice of changes to core charges.

One respondent stated that it would be better to place the cost recovery methodology in the licence, rather than in the code.

Some respondents stated that they thought charging objectives should be incorporated. A few stated that these should sit in the licence, whereas a few argued that they should be part of the cost recovery statement. One respondent noted that objectives and review requirements similar to those in other licences are unlikely to be needed for code managers.

Our response

We intend to proceed with the proposal that code managers must comply with a cost recovery methodology set out in the relevant code. This aligns with precedent for other licensed monopolies and will ensure that charges to funding parties comply with a clear, transparent methodology which is subject to open governance.

We will also proceed with the requirement, set out in the licence, for code managers to prepare, and comply with, a cost recovery statement that is in line with the cost recovery methodology. This will include a requirement for Ofgem to approve the form of the first statement and to approve any material changes. The intent is that the statement must be presented in a form that will allow parties to make a reasonable estimate of the charges payable.

¹⁴ References to the code manager 'charging' methodology in the original consultation have been updated to 'cost recovery' methodology in this consultation response to more clearly and accurately describe the policy area.

We note comments from a few respondents that charging objectives should be incorporated into the licence. While we have not proposed the inclusion of charging objectives at this stage, at a later date we will consider whether it would be appropriate to include them.

Regarding Ofgem exempting code managers from providing notice of changes to core charges, we consider it prudent to retain some flexibility around the requirement to provide notice in urgent circumstances, allowing for the possibility of exemptions or a reduced notice period. This could be, for example, where imminent unexpected costs arise or there is a shortfall due to extraordinary external circumstances.

Question 4.3 – Draft licence conditions policy intent

To what extent do you agree that the draft licence conditions presented in Annex A ('Code Manager Cost Recovery Methodology' and 'Code Manager Cost Recovery Statement') capture the policy intent set out in this chapter? Do you have any other views or comments relating to the draft licence condition?

What you said

Most respondents agreed that the draft licence conditions captured the policy intent. One respondent disagreed with the drafting of condition 2.3,¹⁵ stating that it suggests a passive role for the Authority, and that instead the Authority should have the ability to direct that the methodology is maintained or changed in certain circumstances.

A few respondents provided mixed views, agreeing overall but providing suggestions for changes to some parts of the drafting. One respondent suggested aligning publication of the cost recovery statement with the draft budget. Some mentioned that they hoped a future consultation would explore these conditions more in detail.

Our response

We note and thank respondents for their input on the drafting. We do not consider that there is a need for the Authority to have a specific power to direct the code manager to make changes to the cost recovery methodology. However, as we develop our policy approach to the “obligations towards Ofgem and the Department” licence condition (see the skeleton in chapter 1 above), we will consider whether Ofgem should have general powers to direct the code manager to review or consider whether changes are needed to sections of the code.

We will consult again on the licence drafting next year, including the timelines for publication of the cost recovery statements and draft budgets.

¹⁵ “The Licensee, except where the Authority consents otherwise, must comply with the provisions of the Code Manager Cost Recovery Methodology set out in the Relevant Code”

5. Code Manager Incentives

Question 5.1 – Performance incentives in the code manager licence

To what extent do you agree with our proposal that the code manager licence will not include provision for financial performance incentives?

What the consultation said

The consultation presented two possible approaches to incentivising good performance by code managers.

- **Option 1: no financial incentive mechanism or revenue at risk.** Performance would be measured against KPIs (or other metrics), which could include customer surveys, but there would be no financial margin linked to performance. The approach would be based on reputational incentives, with code managers required to report publicly and transparently on their performance.
- **Option 2: financial incentives with revenue at risk.** Code managers would be able to opt to include 'revenue at risk', which would be released or withheld depending on the outcome of the performance assessment process. This revenue could only be used for permitted purposes, such as providing performance bonuses for staff or improving facilities.

Preferred option

The consultation proposed that option 1 (no financial incentive mechanism or revenue at risk) was considered to be the most appropriate approach to incentivising high standards of performance, under the proposed not-for-profit model. It proposed that performance incentives will be reputational, without revenue at risk. It stated that, while the Department recognises that financial performance incentives arguably create stronger incentives, public reporting would be an effective and proportionate approach for code managers. This is supported by comments received from stakeholders in workshops and in response to Ofgem's December 2022 call for input,¹⁶ as well as observations that code administrators are concerned with public and industry perception of their performance.

Under this approach, code managers would be required by the licence to report, publicly and transparently, on their performance against a set of performance measures set out in the relevant code. These measures could include KPIs and more qualitative measures such as customer surveys.

Setting and modifying key performance indicators

Regarding how KPIs are set and maintained, the consultation stated that Ofgem could incorporate an initial set of performance metrics into the relevant code. Alternatively, the code manager could develop the initial set of metrics, through consultation with stakeholders and Ofgem, and then propose a code modification to incorporate the metrics in the code. The

¹⁶ [Energy Code Governance Reform | Ofgem](#)

consultation further stated that metrics could be modified and added to over time, through the normal code modification process, but that code managers would be required to ensure that the performance metrics continued to meet requirements or objectives set out in the licence.

What you said

Most respondents agreed with the consultation proposal that there will be no licence provision for financial performance incentives, with the majority of these agreeing that this is the most appropriate approach under a not-for-profit model. There was also agreement from some respondents that non-financial incentives would ensure the right behaviours and outputs are prioritised by code managers and avoid a 'box-ticking' approach to performance. A few respondents expressed specific support for the proposal that code managers would have the ability to include financial performance incentives for staff within their own budgets, subject to the proposed budget-setting processes.

While agreeing with the proposed approach, some respondents suggested that the licence could allow for financial incentives to be introduced later, if necessary.

Some respondents requested further clarity on what other tools Ofgem will have available to address poor performance by code managers, such as the circumstances under which enforcement action could be taken, and what this would entail.

Regarding how performance should be measured, a few respondents offered suggestions, including regular customer satisfaction surveys and defined roles for SAFs and code parties in assessing performance. One suggested that performance information should be collated centrally to aid comparison, as Ofgem currently does with energy supplier performance. However, a few respondents advised against benchmarking across codes, pointing to different circumstances and requirements.

One respondent suggested that levels of stakeholder engagement should be measured, and another suggested that this is included as a KPI.

Transparency in certain areas was highlighted. One respondent asked that staff bonuses are included in the budget to allow scrutiny. A few emphasised the importance of code manager KPIs, enshrined in the licence, which are measurable, regularly reviewed and developed through engagement with code parties.

A few respondents who disagreed with the proposal not to include financial incentives commented that reputational incentives are unlikely to drive high performance and that a lack of financial incentives could result in inefficiencies. One respondent proposed the introduction of competition through a 'zero sum' system where higher-performing code managers receive financial rewards funded by penalties on their lower-performing counterparts.

Our response

We agree with the majority of respondents that financial incentives would not be appropriate for the not-for-profit code manager model. As a result of this, and in addition to the reasons set out in the 'What the consultation said' section above, we intend to proceed with the view that non-financial performance incentives are more proportionate and appropriate for the not-for-profit model.

We acknowledge the comments received from some respondents that reputational incentives may provide somewhat weaker incentives than financial incentives, but we consider that they can still provide effective motivation to deliver good performance. We note the code manager role will have some parallels with the role of the National Energy System Operator (NESO), in that our primary performance concern will be driving positive outcomes under the code (and in turn consumers), and that financial incentives against individual numeric targets may not be the best way of achieving this. For the NESO, over the last decade Ofgem has moved away from regulatory schemes that place too much reliance on numeric targets with cost incentives. This is after finding these to be an ineffective way of driving positive consumer outcomes for an organisation with the characteristics of the NESO.¹⁷ Similarly, for the code manager there are risks under an overly mechanistic, target-based approach, such as:

- disproportionate short-term bias
- a perverse incentive to cut costs over providing overall best outcomes under the code
- a perverse incentive to prioritise narrow outputs over the best overall outcomes

We acknowledge the request for greater clarity on the tools Ofgem will have available for addressing poor performance, in addition to the performance incentives proposed. As noted in the consultation, we will explore and consider other mechanisms available to Ofgem. For example, we will consider whether it would be appropriate to include a set of minimum performance standards in the licence, where a failure to meet such standards could allow Ofgem to consider enforcement action in line with published enforcement guidelines. We do not consider the proposed 'zero-sum' approach advocated by one respondent would be appropriate for not-for-profit code managers, as penalties levied on lower-performing (but not necessarily poorly-performing) code managers would be recovered from code parties (and, ultimately, consumers) and redistributed to other code managers. While we recognise that benchmarking of performance between code managers could have some benefits, we consider tying this to financial rewards to be excessive. We also recognise that benchmarking could be challenging, and potentially counterproductive, due to differences between the codes.

We agree with the comments made by a few respondents on the need for transparency in how performance is measured. As set out in the draft licence condition presented in the annex to the consultation, code managers will be required to describe the methodology they employed to assess performance against KPIs. However, we do not consider it appropriate for KPIs to be enshrined in the code manager licence, as this would not offer the flexibility we consider necessary to reflect differing needs and priorities across the codes (see our response to question 5.2, below).

¹⁷ See the [National Energy System Operator licences statutory consultation: joint DESNZ / Ofgem response](#) and, e.g., [Ofgem's Policy decision on the Electricity System Operator regulatory and incentives framework from April 2018 | Ofgem](#) and [RIIO-2 methodology for the Electricity System Operator – decision and further consultation | Ofgem](#).

Question 5.2 – Facilitating changes to key performance indicators (KPIs)

To what extent do you agree with our proposal that the licence would allow code managers to modify KPIs in consultation with stakeholders, and report against these?

What the consultation said

The consultation stated that it is not the intention to specify performance metrics in the code manager licence. It stated that this approach could involve Ofgem incorporating an initial set of performance metrics into the relevant code, or allowing code managers to develop the initial set of metrics, through consultation with stakeholders and Ofgem, and then propose a code modification to incorporate the metrics in the code.

The consultation stated that this would allow performance metrics to be modified and added to over time, through the normal code modification process, but that code managers would be required to ensure that those metrics met requirements or objectives set out in the licence.

It also noted that proposals do not prevent code managers from including, in their budget, provision for staff bonuses or internal performance incentives. These would be subject to the normal budget scrutiny process set out in Chapter 3 and it would be expected that any performance bonuses for senior executives would take into account the outcome of public reporting on performance.

What you said

Most respondents agreed that the code manager should be able to modify the KPIs they report against, in consultation with stakeholders. A few of those who agreed with the overall proposal cautioned that the process would need to include appropriate governance to avoid frequent changes, which could make it challenging to measure performance over time. One respondent suggested that this risk could be mitigated by Ofgem taking a role in the modification process, with suitable governance arrangements in place. A few respondents suggested that at least some KPIs should be common across codes.

A few respondents suggested further measures to aid transparency and oversight. One stated that KPIs should have minimum tolerances built in, with a requirement to report to Ofgem on mitigations where performance falls below this threshold. Another considered that KPIs should include agreed targets and evidence that are fixed, in advance of the reporting year. In terms of transparency around executive bonuses, one respondent suggested that code managers could be required to consult on the service levels required to trigger any such bonuses.

The effectiveness and quality of the service delivered was another theme, with regular KPI reporting and reviews raised by some as a key component in assuring this. One respondent supported monthly KPI reports, and another suggested a balanced scorecard for reporting. A few respondents asserted that service levels and delivery of obligations should be included in performance reviews. One respondent stated that code managers should be incentivised to go beyond just increasing the speed of code modifications, and that incentives should ensure that their work adds real value.

Some respondents disagreed with the proposals. One stated that setting of KPIs should be carried out by an independent body, such as Ofgem, not via code managers proposing and overseeing the process. Another stated that common baseline metrics should be set out in the licence, although they also acknowledged that there could be benefits to having supplementary metrics in the code. A third referenced their response to 5.1, in which they stated that they do not agree with an absence of financial performance incentives as there will be no tangible incentive for code managers to promote good performance and innovation.

Our response

We consider that placing KPIs in the codes, rather than in licences, will provide the flexibility necessary to meet the differing needs of the various codes, as well as being easier to modify over time. The content of performance measures will therefore not be included in code manager licences. Instead, our intention is that the licence will require code managers to ensure that there are appropriate performance metrics set out in the code, against which their performance will be assessed. Code managers will be able to facilitate changes to these performance metrics, but we do not intend that code managers could make these changes unilaterally, without input from code parties and/or Ofgem, for example through the usual code modification process.

We acknowledge comments from some respondents that there should be oversight by an independent body, such as Ofgem, of changes to KPIs. As noted above, we consider that this is achieved by the proposal, for example through Ofgem's role in the code modification process.

We do not currently intend to specify in the licence any core metrics that must be contained in the code. Ofgem will consider whether it would be beneficial to add an initial set of metrics to the code, in advance of licence grant, as part of its implementation approach.

Question 5.3 – Draft licence conditions policy intent

To what extent do you agree that the draft code manager licence condition presented in Annex A ('Code Manager Performance Incentives') captures the policy intent set out in this chapter? Do you have any other views or comments relating to the draft licence condition?

What you said

Most respondents agreed that the proposed licence conditions capture the policy intent. Suggested changes included that the performance report could be standardised, there could be more regular reporting periods, and that there should be a requirement to make underlying data available. One respondent stated that there should be a monthly reporting requirement and an obligation to review KPIs every two years. One respondent who otherwise agreed with the proposals suggested that there should be sufficient flexibility to allow the use of existing reporting processes.

Among those who disagreed, some similar comments were received to those for questions 5.1 and 5.2, including that any changes should be overseen by an independent body and that certain measures should be embedded in the licence, with minimum standards. Conversely, one respondent stated that the licence drafting is not sufficiently 'light-touch'. The same

respondent stated that the requirement should be for code managers to publish KPIs and to publish their performance against them.

There were also a number of requests for clarification in the drafting, including on the meaning of “thorough evaluation”, and “all reasonable steps” as set out in the proposed draft. One respondent noted that “service levels” is not defined. It was also suggested that the proposed timescales for producing Code Manager Performance Reports may need to be aligned with, for example, budget periods to allow financial performance metrics to be included.

Our response

We consider that placing KPIs in the licence would not allow for sufficient flexibility to allow performance monitoring to reflect the different needs of the codes. We have decided to proceed with the approach of placing the overall principles and core requirements of performance incentives in the licence, with a requirement to include performance metrics in the relevant code. Code managers can consider how best to meet the requirements set out in their licence, and we would expect them to engage with code parties (and, where beneficial, collaborate with each other) on this.

We acknowledge comments on the need to ensure that the timescales for producing Code Manager Performance Reports align with related timelines such as budgeting periods. We note that these are indicative at this stage and will be reviewed ahead of further consultation.

6. Conflicts of Interest and Independence

Question 6.1 – Proposed package of conflict-of-interest code manager licence conditions

To what extent do you agree that the proposed package of conditions should be included in the code manager licence, to manage potential conflicts of interest?

What the consultation said

The consultation proposed that the code manager licence would include conditions designed to mitigate risks of bias and conflicts of interest and promote accountability and independence in the code managers.

It identified the key risks of bias and conflicts of interest as:

- the code manager unduly preferring itself or an affiliate¹⁸ when prioritising or making decisions and/or recommendations about code modifications, or other decisions outside the modification process
- the code manager providing advice or services to an affiliate or code party that gives them, or the code manager itself, an undue advantage

To address these risks, it was proposed that the following requirements are incorporated as standard licence conditions in the code manager licence:

- **Prohibition on engaging in preferential or discriminatory behaviour.** This licence condition would prohibit preferential or discriminatory behaviour by the code manager when performing its licensed activities.
- **Not prevent nor distort competition.** This would apply to all the code manager's licensed activities, and concerns competition in licensed activities and for markets governed by the relevant code.
- **Sufficiently independent directors.** The consultation proposed requiring code managers to have independent representation on their board. Independence would be defined as independent from the code manager, its affiliates, any external service providers, and parties of the relevant code. Independent directors must not have been employed by, or held investments in, relevant companies over the past 12 months. The consultation outlined the expectation that a minimum of two or 20% of directors would be required to meet these independence requirements, but also outlined plans to consider if a higher percentage would be preferable, e.g. 50%, as broader board composition requirements and policy on how decisions under the code will be made is developed.

¹⁸ This means in relation to any person, any Holding Company of that person, any Subsidiary of that person, or any Subsidiary of a Holding Company of that person.

- **Restriction on activity and investments (with possibility of exceptions).** This condition would restrict code managers from performing any activities, or holding any investments, apart from what is required to fulfil the duties set out in the licence.
- **Restriction on the licensee becoming a related undertaking (with possibility of exceptions).** This condition would prevent the code manager from being or becoming a related undertaking¹⁹ of a code party or an external service provider (e.g., a party contracted by the code manager to support it in delivering its duties). It would also prevent the code manager from being, or becoming, a related undertaking of any person with the ability to exert material influence over a code party or external service provider.
- **Ultimate controller undertaking.** This condition would require the code manager to obtain a legally enforceable undertaking from any ultimate controller (e.g., a parent company), where applicable, stating that they will not undertake any action that might cause the licensee to breach its licence or fail to discharge any of its functions.

To maintain some flexibility, the consultation proposed routes for Ofgem to make exceptions to the requirement to comply with some of the licence conditions. This is addressed under question 6.3.

What you said

Most respondents agreed with the proposed package of standard licence conditions. Many of these responses noted the particular importance of conflicts of interest being mitigated, and some commented on the package being proportionate and sensible.

While no respondents fully disagreed with the proposals, many gave mixed responses. Some respondents stated that some aspects of the proposals were too prescriptive. A few commented more generally on the benefits of a principles-based approach, such as flexibility.

One respondent noted that the best code manager candidates may fail on one of three elements proposed, namely independence, not-for-profit, and expertise, suggesting that both the licence drafting and the availability of exceptions would be important to ensure that good candidates are not excluded from consideration.

There were several proposals for additional conditions, definitions and things to consider. This included expanding the definition of 'external service provider' to cover parties closely associated with the code manager's operation of code processes, such as central service bodies, and to consider conflicts of interest in relation to prioritising between core services and other services.

Some respondents also noted the importance of considering a broader board structure, with one supporting a minimum of 50% independent directors, and one supporting up to 50% independence. One respondent expressed support for a consumer duty licence condition, and requiring a consumer duty board member to embed this. One respondent stated that there should be an explicit prohibition of any not-for-profit Special Purpose Vehicles (SPVs) created by for-profit entities granting future contracts to those for-profit entities. A few respondents

¹⁹ Related undertaking means, in relation to any person, any undertaking in which that person has a participating interest as defined in section 421A of the Financial Services and Markets Act 2000.

noted the importance of considering the impact of conditions during the transition period from code administrators to code managers.

Our response

We intend to proceed with the proposal to introduce this package of conditions in the code manager licence, but we will further consider what proportion of the board should be required to be 'sufficiently independent' (see our response to question 6.2 below). We believe this approach is proportionate and addresses key concerns of conflicts of interest and note that there was broad support from respondents to the proposed package.

We have considered comments relating to the level of prescriptiveness that is appropriate in the licence drafting, and we continue to believe that the drafting for the licence conditions set out in the annex to the consultation adopts broadly the right approach. We will continue to consider the level of prescription necessary and appropriate in the licence and intend to consult on a full set of licence conditions next year.

The suggestion to expand the definition of external service providers ties in with the broader consideration of what affiliations the code manager can have and the ability for Ofgem to disapply certain conditions by exception. It is important that the licence strikes the right balance between ensuring impartiality but also flexibility in cases where it is evident that there are no risks arising from a potential conflict of interest (or where they could be managed in another way). We will carefully consider whether Ofgem should have the ability to disapply any additional licence provisions by exception, as part of our future consultation. We agree that it is important to ensure appropriate transition arrangements are in place, and sufficient flexibility for the right code managers to be appointed. Please see chapter 9 for more details on the code manager selection process.

Finally, we note that the "Restrictions on the Licensee becoming a related undertaking" condition addresses the concerns regarding contracts being granted to the for-profit parent company of a code manager SPV, since this prohibits these entities having a "participating interest"²⁰ in the code manager.

Question 6.2 – Restrictions on directors' affiliations and business separation requirements

To what extent do you think it is necessary to include additional prescription relating to:

- ***Restrictions on directors' affiliations; and/or***
- ***Business separation requirements?***

²⁰ As defined in section 421A of the Financial Services and Markets Act 2000, which includes securing shares for exercising control or influence.

What the consultation said

In addition to the licence conditions in the proposed package set out above, views were sought on potentially adding two further conditions²¹:

- **Restrictions on directors' affiliations (with possibility of exceptions).** This licence condition would prevent all code manager directors from having investments in, being employed by, or being a director of a code party or an external service provider.
- **Business separation requirements.** This licence condition would introduce further prescription on the separation between the code manager and an affiliate (for example a parent company), including restricting access to offices and IT systems and ensuring staff, accounts, audits, reports and information management are kept sufficiently separate.

What you said

There were a range of responses to this question, with many respondents not putting forward a clear view on the potential inclusion of these conditions.

Restrictions on directors' affiliations

More respondents were against including a condition placing restrictions on directors' affiliations than in favour. Many said that it would restrict valuable industry experience on the code manager board. Arguments in favour included that it would strengthen the independence of the code manager and promote consistency across the code managers. Some respondents proposed that, should a condition restricting directors' affiliation be introduced, a principles-based approach would be preferable.

Business separation requirements

More respondents supported than opposed having prescriptive business separation requirements, although many respondents did not provide a clear view.

Those in favour argued that business separation requirements would provide greater reassurance around impartiality and independence. Those against thought it could be overly burdensome and introduce inefficiencies. Some respondents requested more clarity on what the condition would entail. Some respondents stated that they thought Ofgem should have the ability to introduce business separation requirements on a case-by-case basis.

Our response

Restrictions on directors' affiliations (and, sufficiently independent directors)

We agree that taking a prescriptive approach in the licence could be unduly restrictive and risk losing relevant industry expertise on the code manager board. Therefore, we will not proceed with a restriction on director affiliations for all board members. However, to ensure that a balance of independence is maintained, we are minded to require that at least 50% of directors are sufficiently independent. We will consult further on whether this should be prescribed in the licence, or another document such as the relevant code. In line with the objective to have independent code managers, and in light of our intention to not proceed with a wider restriction

²¹ We did not provide draft licence conditions for these.

on director affiliation, we consider it is appropriate to ensure that, at a minimum, the board does not have a majority of directors affiliated with code parties. We also note that a 50% independence requirement would prevent the board having a majority composed of executive directors. We believe this would help to ensure a balanced board (with no one constituency having a majority) and note this would align with the arrangements in place for the NESO, and more broadly with corporate governance best practice. For example, we note that under the UK corporate governance code at least half of the board should be ‘independent’.²²

Industry and consumer representation in code governance processes is being considered in Ofgem’s work developing the SAF constitution. However, we are not minded to include a prescriptive requirement in the licence for a “consumer duty representative” on the code manager board. We note the benefits of diverse knowledge and experience on the board, and as part of the licence condition on sufficiently independent directors we require them to have sufficient skills and expertise. However, we are not convinced additional prescription in the licence is the most appropriate mechanism to achieve this. We agree that the board should have consumer expertise and note that having one or more directors with consumer experience could potentially be a requirement in the code, and/or board nomination terms of reference.

Business separation requirements

While we recognise that introducing business separation requirements could provide further reassurance of impartiality and independence in the code manager, we agree with respondents who flagged the risk of it potentially being overly burdensome and inefficient. This could be, for example, through requiring that the code manager and an affiliate have separate offices or IT systems. We agree with comments from some respondents that the need for business separation, and its impact, may vary depending on the code manager candidate, and we agree with respondents who proposed that the condition could be introduced on a case-by-case basis. We consider that the standard licence conditions for code managers should not contain business separation requirements, but Ofgem may consider whether such provisions are required in a special condition on case-by-case basis.

Question 6.3 – Licence conditions with potential exceptions

To what extent do you agree with our proposals that the licence conditions listed below should include the possibility of exemptions? Are there any other proposed conditions that you think should include the possibility of exemptions?

- ***Restrictions on activity and investments***
- ***Restriction on the licensee becoming a related undertaking***
- ***Restrictions on directors’ affiliations***

²² Set out in provision 11 of the UK Corporate Governance Code. We note that consideration of what constitutes ‘independence’ in the context of code management would include independent of code parties.

What the consultation said

To maintain some flexibility to the proposed package of licence conditions, the consultation proposed routes for Ofgem to make exceptions to certain licence conditions. This may be appropriate in scenarios where, for example, Ofgem considers there is a benefit in maintaining existing code body arrangements, and that this does not cause unacceptable risk.

What you said

Most respondents agreed with the proposals to provide Ofgem with flexibility to provide exceptions. Some respondents stated that they should only be used in very limited circumstances, whereas a few suggested more flexible licence conditions in the first place. Some respondents noted that exceptions should be open to stakeholder input and/or that it should follow a transparent process. One respondent thought there should be specific exceptions for the code manager to also take on the role of a central system delivery body.

Our response

We intend to proceed with introducing the ability for Ofgem to disapply certain licence conditions by exception. We anticipate such exceptions may only be made where Ofgem is satisfied that this would not entail an unacceptable risk of conflict of interest.

Question 6.4 – Draft licence conditions policy intent

To what extent do you agree that the draft licence conditions presented in Annex A ('Conflicts of interest') capture the policy intent set out in this chapter? Do you have any other views or comments relating to the draft licence condition?

What you said

Most respondents agreed that the drafting of the licence conditions captured the policy intent. Some provided a mixed response, with a few commenting on the level of prescriptiveness and suggesting a more principles-based approach.

A few clarifications were requested, for example one respondent sought clarity on how ultimate controller undertakings would apply in certain instances and if the sufficiently independent director condition would capture affiliation with the previous code administrator, should they transition to code manager, and if so how this would apply during a transition period.

A few respondents expressed concern over the drafting of the condition to “not prevent nor distort competition”²³ and stated that the current definition might cast too wide a net. Conversely, one respondent noted the importance of the condition capturing relevant non-licensed parties and activities as well.

²³ The Licensee must at all times undertake its licensed activity in a way that is best calculated to ensure that it does not restrict, prevent, or distort competition: [...] b) in the provision of, or in any of the markets for, commercial activities that are connected with the markets that are wholly or in part governed by the Relevant Code under the Principal Energy Legislation.

One respondent specifically requested clarification on “restrictions on investment” and its implications on interest-earning accounts.

Our response

We note and thank respondents for their input on the drafting. We will continue to draft and develop the licence to reflect the policy intent.

The definition of “ultimate controller undertaking”, set out in the annex to the consultation, intends to clarify in what circumstances this applies.

In the drafting for the condition on sufficiently independent directors, we stated that a sufficiently independent director must not: “have held a position that could be deemed to cause an unacceptable conflict of interest in their role as a sufficiently independent director”, and we provided specific examples of this. This is intended to capture affiliations with a previous code administrator, where this would cause unacceptable levels of conflicts of interest.

We note the concern around the drafting of the proposed condition on not preventing nor distorting competition potentially being interpreted too widely. The intent of the drafting is to expressly prohibit code managers from distorting competition in markets or activities that are covered by the relevant code, in undertaking their functions as code manager. While we do not intend this licence provision to have a broader scope, we note that relevant competition law would still apply. We intend to continue refining the drafting where needed to ensure it delivers our intent.

Regarding the comment on “restrictions on investments” and clarity on its implications on interest-earning accounts, we do not intend to restrict interest-earning accounts and will revisit the licence drafting to ensure it achieves the intent.

7. Financial and Operational Controls

Question 7.1 – Financial and operational controls

To what extent do you agree with the proposed requirements on financial and operational controls? Do you have any views on the options presented for obtaining assurance on financial stability of the code manager?

What the consultation said

The consultation proposed that the code manager licence will include conditions intended to address risks associated with the financial stability and operational capability of code managers. It stated that these conditions would protect code parties in their exposure to financial risk under their funding obligations to the code manager in the code. It acknowledged that the code manager role differs in financial scale compared to other licensed activities, but stated that it could be considered appropriate to include controls and requirements designed to ensure that code managers remain financially stable and able to carry out their licensed activities, and that code parties are protected from exposure to financial risk.

The following standard licence conditions were proposed:

- availability of all necessary resources
- indebtedness and transfers of funds
- assurance on the financial stability of the licensee
- prohibition on cross-subsidy

Availability of all necessary resources

This condition would impose a general requirement on the code manager to act in a manner designed to ensure that it has available the appropriate resources and operational capability to enable it to properly, and efficiently, carry out the code manager role. The consultation proposed that this would be supported by a requirement to provide, each year, a certificate of adequacy stating whether the code manager considers that it has sufficient financial and operational resources to carry out its functions.

Indebtedness and transfer of funds

Code managers would be prevented from entering into indebtedness, guarantees or obligations, except in accordance with certain requirements.

Assurance on the financial stability of the licensee

Two possible approaches were proposed to address the financial stability of the code manager, and the consultation asked for views on how this could be best achieved. The less prescriptive approach would be to place a requirement for the licensee to have in place suitable financial controls. The more prescriptive approach would require the code manager to put in place assurances such as agreeing to report against financial KPIs and/or providing

evidence of internal financial controls. The consultation did not propose that the licence would specify the form of assurance to be provided.

Prohibition on cross-subsidies

This condition would prevent the code manager from receiving, or transferring, cross-subsidy from or to a parent company or affiliate.

What you said

Most respondents agreed with the overall proposals on financial and operational controls, citing the need to ensure that code managers are equipped to carry out the role and to avoid disruption. A few respondents expressed particular support for the prohibition on cross-subsidies and restrictions on indebtedness. However, one respondent stated that a not-for-profit/not-for-loss model should ensure that the code manager never takes on any debt. Another recommended greater flexibility in contingency arrangements for indebtedness, especially around the requirement for Ofgem to approve within-year budget changes, to ensure that unforeseen circumstances can be dealt with quickly.

Assurance on financial stability

Of the two approaches to obtaining assurance on financial stability, many respondents supported the more prescriptive approach, whereby licensees are required to provide information on their financial controls to Ofgem each year. This approach received more favourable comments than the less prescriptive, principles-based approach. A few respondents did support the less prescriptive approach, with one noting that the likely scale of the organisations carrying out the role, combined with the not-for-profit requirement and other assurance requirements, mean greater prescription would likely not be necessary. Another respondent stated that additional detail is not required beyond what would be expected of a prudent limited company.

One respondent advocated for a hybrid approach between the principles-based and prescriptive approaches. They noted that a principles-based approach more clearly represents an enduring obligation rather than 'point-in-time' assurance and would therefore be easier to enforce against, for example where we considered that ongoing prudent monitoring was not taking place. They suggested that the prescriptive approach could provide better assurance of financial stability at licence commencement.

Availability of all necessary resources

Many respondents expressed support for the proposal to require code managers to provide a certificate of adequacy. One respondent commented that this should also encompass expertise, not just financial and operational capability. Regarding staff resources, one respondent cautioned that although the controls should ensure appropriate resources are in place, the controls should also guard against excessive staffing levels.

One respondent argued that availability of resources would be sufficiently covered by budgeting processes and standard accounting practice, and that a requirement for a certificate of adequacy would be unnecessary.

One respondent argued that the proposed restrictions, combined with the not-for-profit model and conflicts-of-interest provisions, will make the code manager role unattractive to new, innovative firms.

Our response

On the requirement for providing assurance on financial stability, we consider that the more prescriptive approach will provide a greater level of assurance as well as a more consistent standard of assurance across codes, and welcome the support provided for this option. While we recognise that the scale of the organisations carrying out the role will likely be limited, we consider that financial instability leading to an inability for code managers to carry out the role could cause significant disruption. Requiring code managers to have in place measures that are approved by Ofgem would provide additional assurance to industry that code managers are able to carry out the role.

We also intend to proceed with the requirement for code managers to submit to Ofgem, each year, a certificate of adequacy stating whether they have in place sufficient financial and operational resources to carry out the role. While we acknowledge that the proposed budgeting requirements play a crucial role in providing assurance, we consider that the additional assurance provided by the certificate of adequacy is beneficial and not unduly burdensome. We also consider that this would allow Ofgem, and industry stakeholders, to receive early warning of any possible issues with an organisation's ability to carry out the role.

In response to a comment that financial controls should safeguard against excessive staff levels, we consider the proposed budgeting processes provide opportunity for stakeholders to challenge costs that they consider are not economically and efficiently incurred. We do not consider that the financial controls conditions are the appropriate place to address this.

While we recognise that the not-for-profit model will reduce the likelihood of a code manager incurring debt, we consider that there remains a risk that debt incurred outside of 'permitted purposes' could jeopardise the financial stability of the licensee and risk debt being borne by industry. We therefore intend to proceed with the restrictions proposed.

We welcome the support provided by stakeholders on the proposed restrictions on cross-subsidy and intend to proceed with this requirement.

We acknowledge the comment from one respondent that the extent of the proposed controls might disincentivise some companies from taking on the code manager role. We do not consider that the proposed financial and operational controls, alongside the not-for-profit requirement and conflicts-of-interest provisions, present a significant barrier to organisations taking on the role. While we do not intend to stifle innovation, this needs to be balanced with the need to provide assurance to industry that code managers are equipped to carry out their strategic role and are acting in the best interests of industry and consumers. This is further discussed in chapter 2 ('not-for-profit requirement') and chapter 6 ('conflicts of interest and independence').

Question 7.2 – Draft licence conditions policy intent

To what extent do you agree that the draft licence conditions presented in Annex A ('Financial and operational controls') captures the policy intent set out in this chapter? Do you have any other views or comments relating to the draft licence condition?

What you said

Most respondents agreed that the draft licence conditions capture the policy intent. There were no responses entirely in disagreement with the proposed drafting.

One respondent stated that there should be further restrictions on what elements may be provided by third-party providers, limiting the elements that can be supplied by a third party, with any contractual agreements subject to proportionate scrutiny from a select group of industry participants.

A few respondents recommended that additional elements should be added to the certificate of adequacy. One suggested that the certificate of adequacy should include a statement confirming that there is appropriate ringfencing of resources from other activities. Another stated that where licensees provide a certificate of adequacy in which they identify potential issues, there should be a requirement to set out greater detail on the concerns and what actions are being taken to remedy them.

One respondent recommended that the prohibition on cross-subsidy should be expanded to include other codes managed by the same code manager, to provide clear separation where code managers manage multiple codes.

One respondent pointed out that the proposed approval date for the certificate, 30th April, is shortly after the start of the financial year. They advised changing this date to the end of the previous financial year, to align with budget setting.

One respondent queried whether certificates of adequacy could be impacted by Ofgem overruling a code manager's budget, presumably as this could undermine the board's view of whether sufficient resources would be available for the forthcoming budget period.

Our response

We note and thank respondents for their input on the drafting. We will consider this further as we develop the detail of the policy and the licence drafting.

Regarding restrictions on which activities may be outsourced to third-party providers, as set out in chapter 2, we intend to address this, including any appropriate restrictions, in a forthcoming consultation. We also intend to address how appropriate scrutiny of contracts with third-party providers is ensured, given likely commercial sensitivity.

In response to comments from a few stakeholders that where licensees identify potential issues in their certificate of adequacy there could be benefit in requiring greater detail on proposed mitigations, we will consider this ahead of consulting on the full licence drafting. Where issues are identified in a certificate of adequacy, we would expect this to prompt discussions between Ofgem and the licensee on those issues. However, we do not consider that the certificate of adequacy is the appropriate mechanism for providing assurance on

ringfencing of resources from other activities, and note that the proposed restrictions on activity and investments (see chapter 6) are intended to prevent code managers carrying out activities other than those necessary to carry out their licensed activity (unless otherwise authorised by the Authority).

We note that one respondent recommended that the prohibition on cross-subsidy should be expanded to include other codes managed by the same code manager. This was our intent and we will ensure the licence drafting reflects this. We note the comment on the risk that certificates of adequacy could be undermined by budgets being overruled by Ofgem. We do not intend that Ofgem would have the power to “overrule” a budget, but in chapter 3 of this response we stated our intention to consider Ofgem’s oversight of budgets, including whether to include an appeal process. We recognise that this could have an impact on certificates of adequacy, for example if there was uncertainty as to the outcome of an appeal. In considering Ofgem’s oversight of budgets, and the budget process more broadly, we will consider the interaction with assurance on availability of resources. This may include further refinement of the wording of certificates of adequacy, and we intend to consult further on this drafting in due course.

8. Code Maintenance and Modification

Question 8.1 – Code maintenance requirements

To what extent do you agree with our proposal to require code managers, in their licence, to have in place and maintain the relevant code?

What the consultation said

The gas and electricity industry codes are maintained in accordance with conditions contained in relevant licences. These licence conditions are referred to as the ‘code owner’ conditions.

The consultation proposed that the code owner conditions would be removed from existing licences and instead the obligation to have in place and maintain the relevant code would be a standard licence condition in the code manager licence.

The consultation also proposed other licence obligations related to the maintenance and modification of the code should be included in this code owner condition, and that a consultation on the full licence content would follow in due course.

Stakeholder Advisory Forum (SAF)

To ensure that SAFs are created and maintained by the code manager, the consultation proposed to include a licence obligation to have a SAF in place and to include key elements of its role.

Consumer advocates

The consultation proposed to include (similar to existing arrangements in respect of panels)²⁴ an obligation in the code manager licence that groups representing the consumer voice should be members of the relevant SAFs.

Direct code changes

Section 192 of the Energy Act 2023 (the ‘Act’) provides Ofgem with the power to modify designated codes directly under defined circumstances. In using this power, Ofgem must follow a process set out in the Act. A licence obligation was proposed, which would require the code manager to amend the published version of the relevant code in line with any notice by Ofgem under section 193(5) of the Act.

What you said

Most respondents agreed with the proposal to require code managers, in their licence, to have in place and maintain the relevant code.

Many respondents commented that consideration should be given to how the existing code owner licensees continue to play an appropriate role in the code modification process,

²⁴ In respect of Citizens Advice and Consumer Scotland.

highlighting network licensee's obligations to deliver a safe and reliable network. One respondent said if current code owners are required to retain licence obligations in respect of codes, these could be linked to legislative requirements. These requirements could then be cross-referenced in the code manager licence with an obligation to support current code owners to fulfil those legislative requirements. One respondent suggested that priorities on safety, reliability and security of the network should be included in the code manager licence to ensure they shape the management of code modifications.

Some respondents agreed with our proposal to include an obligation in the licence to ensure SAFs are created and maintained by the code manager. Some also supported the role of consumer advocates in codes. There was also support for the proposal to require code managers to amend the published version of the relevant code in line with any Ofgem notice under the Act section 193(5). No respondent objected to these proposals.

Many respondents provided views or asked questions on the role and membership of SAFs and the wider governance framework. These included that the code manager must ensure it engages effectively with wider stakeholders.

Our response

We intend to proceed with the approach proposed in our consultation to include an obligation to have in place and maintain the relevant code in the code manager licence.

Ofgem will further consider what consequential changes may be needed to current code owner licences, to ensure they continue to play an appropriate role in the modification process, taking into account obligations in respect of network operation and security.

In making a decision or recommendation to Ofgem on a code modification, the code manager will undertake an assessment against the code's relevant objectives. The existing code objectives differ across the codes but can include discharging the obligations imposed upon current code owners under its licence or obligations in respect of security and quality of supply. We will consult on how to reflect the code objectives in the code manager licence in due course.

We also note comments in support of the additional obligations we proposed related to SAFs, consumer advocates and direct code changes made by Ofgem. Ofgem is developing in more detail the role of the SAF and the modification process. Further proposals are planned for inclusion in future consultations.

Question 8.2 – Draft licence conditions policy intent

To what extent do you agree on the initial drafting proposed for the 'Code maintenance and modification' standard licence condition presented in Annex A?

What you said

Most respondents agreed with the initial drafting for the proposed 'Code maintenance and modification' standard licence condition. Many respondents stated they may comment on the drafting once it is further developed.

A respondent commented on the proposed obligation on the code manager to comply with any direction of the Authority to provide information about the operation of the relevant code. This respondent considered this obligation to be very wide ranging, suggesting it is usually limited in other licences. A few responses suggested that being too prescriptive in drafting the licence condition might result in a lack of flexibility and could block or delay necessary change.

Our response

We note and thank those respondents who commented on the licence drafting and will consider this further as we develop the detail of the policy and drafting.

In response to a stakeholder's comment on the Authority's ability to direct the code manager, we intend that the Authority should be able to obtain information on the operation of a code and that the code manager should be required to provide this. We will consider how best to reflect this as we develop the licence.

As set out earlier in this document, licence obligations may be a combination of prescriptive and principles-based, depending on the level of detail deemed necessary. For these provisions, we have sought to provide clarity by being specific on what a code manager would be required to do in relation to the maintenance and modification of the code.

9. Code Manager Selection

Background

The Energy Act 2023 (the 'Act') includes provision for the selection and licensing of code managers by the Authority.²⁵ Section 187(1) of the Act empowers the Authority to select code managers via one of two mechanisms: a non-competitive process, in accordance with regulations made under section 188 by the Secretary of State; or a competitive process, in accordance with regulations made under section 189 by the Authority. The Act also empowers the Secretary of State to make regulations in connection with other elements of the selection process, such as regulations to inform the Authority's choice between competitive and non-competitive selection under section 187(2) or to establish requirements that must be met by a person for them to be selected as code manager under section 187(3).

The consultation set out proposals for the design of regulations, and associated processes, under sections 187 and 188 of the Act. The overall objective of these proposals was to establish a code manager selection regime that could deliver the following outcomes:

- considers a candidate's ability to meet the requirements of the role and enables Ofgem to identify a viable candidate, in a way that ensures a positive outcome for both industry and consumers
- accords sufficient flexibility to Ofgem in its decision-making, including how to select code managers and who to select, without imposing unnecessary process constraints or restrictions
- is underpinned by the principles of objectivity and transparency, including the publication of clear and objective criteria prior to running a selection process and ensuring appropriate consultation with stakeholders

Question 9.1 – Code manager eligibility

To what extent do you agree with the proposal not to place additional restrictions or eligibility requirements on who can be selected as a code manager in regulations, aside from a mandatory assessment of conflict of interest?

What the consultation said

The consultation considered how the code manager selection regulations and associated processes could be designed to address conflict-of-interest risks. Several potential high-risk characteristics were identified that could increase the risk of conflicts of interest occurring where:

²⁵ Ofgem is the Office of Gas and Electricity Markets, which supports the Gas and Electricity Markets Authority (the Authority), the body established by section 1 of the Utilities Act 2000 to regulate the gas and electricity markets in Great Britain. In this document, Ofgem and the Authority are used interchangeably.

- code managers have a profit motive for themselves and/or their related companies
- a body may make profit through a subsidiary appointed as a code manager
- the code manager is controlled by, or controls, a code party
- the code manager provides an advisory role on a commercial basis to code parties

The consultation proposed that regulations made under section 187(3) of the Act would require Ofgem to assess conflicts of interest as part of its competitive and non-competitive selection processes. Where a conflict of interest existed and Ofgem was not satisfied that the conflict was manageable, or the prospective code manager was unwilling to implement mitigations, the regulations would prevent a licence from being granted to that body.

The consultation concluded that adding more prescriptive detail to regulations, such as establishing eligibility criteria or excluding persons of a specific description from selection, would not be necessary. It proposed that any conflict of interest associated with candidate eligibility could be dealt with sufficiently by Ofgem's assessment of a candidate's ability to comply with relevant licence conditions.

What you said

Most respondents agreed that the overriding objective when considering a candidate's eligibility to be a code manager, and one which should therefore be enshrined in regulations, is the prevention of conflicts of interest. Most respondents agreed that the Department should not place any additional restrictions or eligibility requirements in regulations. Views put forward by stakeholders in support of our regulatory proposals noted the following:

- Less prescriptive eligibility criteria in regulations will give Ofgem the flexibility to select from a wide range of prospective code managers who have expressed their interest. It was noted that in a net zero environment, with emerging technologies and challenges, retaining a flexible approach and not being too prescriptive may be advantageous.
- The proposed conflicts-of-interest assessment should be supported by Ofgem's evaluation of the candidate's ability to comply with the standard licence conditions. Together, these may provide a suitable framework for the ongoing management of any potential risks arising after the code manager has been appointed.

One respondent suggested that code manager eligibility should also be determined by financial viability and compliance with licence conditions. Another said that, in the case of existing code administrators, historical poor performance should affect their eligibility for the code manager role. Most respondents emphasised that Ofgem's conflict-of-interest assessment process must be thorough and the decision-making process transparent. A few respondents also requested further information around what Ofgem would consider a conflict of interest. A few respondents suggested that there should be a chance for stakeholders to raise concerns and participate in the conflicts-of-interest assessment process, to ensure the most appropriate organisation is appointed as code manager.

A few respondents expressed views on licence restrictions and what would be considered a conflict of interest, particularly with regard to the holding of other energy licences (in a capacity other than code management). For example, one respondent suggested that code managers should be prohibited from holding other energy licences. Some respondents also noted that

where code managers are commercially focused, for-profit entities, it may become a significant driver for potential conflicts of interest.

Our response

The Department intends to make regulations under sections 187(3) and 188 of the Act that will require Ofgem to assess potential conflicts of interest as part of its competitive and non-competitive code manager selection processes. Where Ofgem is not satisfied that the candidate would not, if selected, have a financial or other interest likely to prejudice the discharge of its code manager functions, the regulations would prevent Ofgem from selecting that candidate as code manager, unless Ofgem decides that a potential conflict of interest is manageable.

Beyond this, the Department does not intend to specify any additional eligibility or exclusionary criteria in secondary legislation – such as provisions relating to financial viability or ability to perform the role – as these will be addressed via Ofgem’s candidate assessment process.

We note stakeholders’ request for further detail on how Ofgem’s conflict-of-interest assessment will work in practice – including how a conflict of interest will be defined and stakeholders adequately consulted. Any assessment of whether a potential conflict of interest is manageable would need to take account of relevant licence conditions, as set out above, and Ofgem intends to consult on how it will assess candidates in a forthcoming consultation. We have set out a comprehensive package of measures to effectively preclude or manage conflicts of interest in the draft licence conditions above, including the prohibition on the ability of code managers to derive a profit from their core regulatory functions.

We note the points made regarding prospective code managers’ other activities, including the holding of other licences. The licence condition restricting the activities and investments of the code manager (see chapter 6) would prevent the code manager from conducting any activities apart from what is required to fulfil their duties under its licence – with Ofgem being able to make exceptions only where it is satisfied it would not lead to a conflict of interest.

Question 9.2 – Ofgem’s choice of selection route

To what extent do you agree with the proposal to consider speed of delivery and value for money when deciding how to select code managers? Do you have any views on our proposed preference for non-competitive selection?

What the consultation said

The consultation proposed that regulations should allow Ofgem to use its discretion over whether to select a code manager on a competitive or non-competitive basis. It set out reasons for not placing criteria for this decision in regulations, as giving Ofgem the flexibility to choose a selection route that is effective and efficient could deliver benefits for industry and consumers, in line with the overall aims of code reform. However, when making this decision, the consultation proposed that Ofgem be guided by considerations of speed of delivery and value for money. It illustrated how Ofgem might choose to select a code manager for consolidated

and unconsolidated codes,²⁶ considering implementation timelines and associated costs for all entities involved. In instances where Ofgem requires further information to determine its choice of route, the consultation proposed that it seek expressions of interest from prospective code managers.

For these reasons, alongside the proposal to make code management a not-for-profit activity, the consultation concluded that, in many cases, the non-competitive selection route may be preferable. In addition, it proposed to provide Ofgem with the flexibility to switch from one selection route to the other where necessary.

What you said

Most respondents agreed with the proposal that Ofgem should consider speed of delivery and value for money when determining how to select a code manager, noting this could expedite the benefits of code reform and minimise potential disruption to ongoing business for code parties. A few respondents noted that achieving stability for industry as promptly as possible was particularly important for codes where industry change programmes, such as the market-wide half-hourly settlement programme and the smart meter rollout, are underway.

Many commented that while they agreed with speed of delivery and value for money in principle, ultimately the foremost consideration was ensuring the “right” code manager was appointed – with many citing the importance of expertise and experience as critical to achieving this. Some respondents underlined the need for clarity on Ofgem’s selection process and candidate assessment to ensure this.

Most respondents agreed that non-competitive selection would best achieve the proposed considerations, particularly as running a tender would be a lengthier process. Some also agreed that a competition may attract limited interest, given the proposed not-for-profit requirements placed on code managers by the licence and the technical expertise required for the role. A few remarked that Ofgem should nevertheless justify and seek industry input on its choice of selection route.

Some disagreed with non-competitive selection as the preferred approach, as they felt that quality of outcomes, and the ability of the code manager to perform the function well, would be better assessed by a competitive process. One respondent added that if an entity is selected through the non-competitive process, then ensuring a code manager model which allows for the selection of service providers via a competitive process could be beneficial by allowing revenue-based incentives for certain services, with the cost efficiencies that could bring.

Some agreed that the non-competitive selection of an incumbent code administrator or body could be appropriate, as these bodies could possess the relevant industry knowledge and expertise for the role. A few noted that this may be more appropriate in instances where codes have not been consolidated – but that approaches for consolidated codes may need further consideration. A few expressly welcomed the proposal to use an expression of interest for consolidated codes to support Ofgem’s decision-making process.

²⁶ Ofgem’s recent decision on code consolidation is set out in this decision document [Implementation of energy code reform: decision | Ofgem](#).

Overall, a flexible approach to the selection regulations was welcomed by many, with some respondents specifically agreeing with the proposal to offer Ofgem flexibility in its choice of route.

Our response

The Department intends to make regulations under section 187(2) of the Act that will allow Ofgem to use its discretion when deciding whether to select code managers on a competitive or non-competitive basis. We agree that Ofgem's decision should be transparent, so the regulations will require Ofgem to publish its decision and reasons for the decision. The regulations will also enable Ofgem to establish criteria by which it will make its selection route decision, either in relation to a particular code or to all codes generally, with any such criteria required to be published by Ofgem ahead of time.

In line with the consultation proposals and stakeholder responses, we believe that the considerations of value for money and speed of delivery are appropriate to apply to Ofgem's decisions on selection route. However, we anticipate that flexibility in the application of these considerations is beneficial, therefore they will not be included in the regulations. We agree with respondents that quality of outcomes is crucial. When Ofgem conducts its code manager selection processes, all candidates will be assessed against relevant licensing criteria – and Ofgem intends to consult on these in due course. In circumstances where the outcomes of a competition would likely be the same or similar to a non-competitive selection (for example, where there is already a potentially suitable body in place), then we expect that the non-competitive process would be in the best interests of industry and consumers. However, Ofgem could consider pursuing competitive selection where multiple eligible bodies might exist, in addition to considering the benefits that competitive procurement of services by code managers might provide.

The Department intends for the regulations to provide Ofgem with the option to issue and assess an Expression of Interest before making its determination on which selection route. This could enable Ofgem to determine the number of interested and eligible bodies for the role where this is not otherwise clear. Ofgem intends to consult further on its selection process, including the Expression of Interest process, in due course.

Finally, the Department intends for the regulations to allow Ofgem to change the basis of its selection where it considers that it is no longer appropriate to proceed with selection on the previously determined basis.

Question 9.3 – Non-competitive selection process

To what extent do you agree with the proposed process and criteria for appointing a code manager on a non-competitive basis?

What the consultation said

The consultation proposed that regulations made in connection with section 188 of the Act should enable Ofgem to select and license either an existing body or a new Special Purpose Vehicle (SPV), formed by Ofgem, through a non-competitive process. Ofgem would be required to undertake a conflicts-of-interest assessment in respect of any candidate (see above).

It also proposed that Ofgem's non-competitive selection process should include an assessment of a candidate against three criteria: its ability to comply with standard conditions of the code manager licence; its availability of resources to fulfil the obligations of the role; and its suitability to hold a licence. The consultation proposed that these criteria would not be included in the regulations. It also proposed that stakeholders would be consulted on a 'minded-to' decision to grant each code manager licence, once Ofgem had completed its candidate assessment process.

What you said

Most respondents agreed with the proposed process and criteria for appointing code managers via a non-competitive process. Most respondents that agreed with the proposals did so raising no further comments. Of those that commented, some respondents said that the proposed process could be a pragmatic and cost-efficient approach, provided there was sufficient transparency around the process and that the candidate assessment was fully robust.

A few respondents explicitly stated that speed of transition should not be prioritised over high levels of assurance and evidence for compliance with the licence conditions. One respondent acknowledged that a reasonable period between the code manager selection notification and the formal undertaking of the role may be required for the code manager to make the necessary changes (in relation to governance or other areas) to meet the criteria to become licensed. A few respondents noted that the standard licence conditions are not yet finalised and therefore it may be difficult to make a thorough assessment before these are in place.

Many respondents requested more detail and clarification around the non-competitive selection process. Questions were raised in line with the following common themes of:

- the timing of decision making and how decisions will be communicated
- how Ofgem will ensure conflicts-of-interest compliance
- how Ofgem will assess a candidate's suitability to deliver to high quality standards

Our response

The Department intends to make regulations under section 188 of the Act that will provide for Ofgem to appoint a body on a non-competitive basis and provide for the selection and licensing of a new Special Purpose Vehicle (SPV) specifically for the code manager role. Before appointing an existing body on a non-competitive basis, Ofgem will be required to determine and publish the criteria that it would apply to its selection, and to undertake a conflict-of-interest assessment for all potential candidates as part of this process.²⁷

We agree that any code manager selection process should be sufficiently transparent and robust. Accordingly, the Department will include provisions in the regulations that will require Ofgem to publish a notice of proposed licence grant (a 'minded-to' decision) and to consider any stakeholder representations made within the notice period. The regulations will also require the publication of a subsequent notice of licence grant.²⁸

²⁷ In accordance with section 188(3) of the Energy Act 2023.

²⁸ This process will be in line with requirements set out in section 8 of both the Electricity and Gas (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) Regulations 2019 (Publication of a Notice of Application).

We note the requests for further clarification around some elements of this process and the concerns that some stakeholders raised around how Ofgem may assess the quality of a potential code manager, including any potential conflicts of interest. Further detail on the process Ofgem proposes to follow when appointing a code manager on a non-competitive basis will be set out by Ofgem in a forthcoming consultation.

In addition to the above, the Department has also decided to make provision for the non-competitive selection of a code manager of last resort, where a reason to revoke an existing licence occurs, and Ofgem considers it could not select a replacement code manager quickly enough via the regular selection process to avoid potential harm. To ensure that the code manager of last resort could commence its functions promptly, Ofgem would not be required to publish a notice of proposed licence grant prior to selection and would also have the flexibility to modify any published selection criteria or candidate assessment processes, if necessary under the circumstances.

Question 9.4 – Granting code manager licences as enduring or time-limited

Do you have any views on whether code manager licences should be granted on an enduring versus time-limited basis?

What the consultation said

The consultation outlined the merits and risks of Ofgem granting code manager licences on a time-limited versus enduring basis. It suggested that an enduring basis would provide certainty, stability and long-term strategy, whereas a time-limited basis would enable more regular reviews of competition in the market, which could ultimately benefit consumers. It noted that it is common for Ofgem to grant licences on an enduring basis, and Ofgem can revoke the licence in circumstances specified in the licence. A preference for either option was not identified in the consultation.

What you said

Support for enduring versus time-limited (or ‘fixed-term’) licences was fairly evenly split, with a small majority of respondents expressing a preference for enduring licences. However, many respondents stated their support for fixed-term licences. A few respondents stated that it would depend on the selection route.

Some respondents stated that enduring licences would provide greater certainty and stability. Some respondents added that they would allow for development of longer-term strategy such as delivering changes to facilitate net-zero. A few respondents also stated that enduring licences would help with knowledge retention.

Some respondents supported enduring licences but commented on the importance of strong performance management and assessment. Some stated that Ofgem must have the ability to revoke licences where there is poor performance.

Other respondents stated that fixed-term licences would create stronger incentives to perform well and implement improvements. There were a number of suggestions for licence duration, ranging from five to ten years.

A few respondents suggested that those licensees appointed on a non-competitive basis should have licences granted on an enduring basis, while those granted on a competitive basis should be time limited. A further suggestion was that decisions on whether to grant enduring or time-limited licences should be taken on a code-by-code basis.

A few respondents did not express a preference, noting that there are merits to both approaches.

Our response

We welcome the comments received on this question. We broadly agree with the advantages and disadvantages summarised above. The duration of licences is unlikely to be set out in regulations. The duration of any licence granted is intended to be set out by Ofgem within the licence itself upon grant. Ofgem will consult on this further as necessary as it proceeds to implement the licensing regime, and in the context of the overarching approach to code manager selection.

This government response is available from: www.gov.uk/government/consultations/energy-code-reform-code-manager-licensing-and-secondary-legislation

If you need a version of this document in a more accessible format, please email alt.formats@energysecurity.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.