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## Consultation on Reforming the Energy Industry Codes

Dear Mithila Manage and David Hall,

We welcome the opportunity to respond to the joint BEIS and Ofgem Reforming Energy Industry Codes consultation on behalf of the National Grid Electricity System Operator (ESO). The views expressed in this response are those of the ESO and are not confidential. The ESO became a legally separate entity within the National Grid Group on 1 April 2019. As the ESO we use our unique perspective and independent position to facilitate market-based solutions which deliver value for consumers. The ESO is the Code Administrator for the Connection and Use of System Code (CUSC), the Grid Code and System Operator - Transmission Owner Code (STC). We also have a similar role related to administering the Security and Quality of Supply Standards (SQSS).

As both the ESO and a code administrator we play a key role in the energy industry codes and we believe a review of the codes which govern our energy system is required. The review gives fresh impetus to code governance reform at a critical time when current codes and code processes are no longer fit for purpose, against the backdrop of an unprecedented volume of change. This period of transformation and significant change expands opportunities to capture value through innovative business models, new technologies and increasingly competitive markets. Key to unlocking these benefits are market arrangements and a regulatory framework that encourage innovation and are suitably flexible in a way that advances market participant and consumers' interests. However, strategic change in the energy sector cannot be delivered efficiently under the current framework and without action, it will continue to be an increasing barrier to innovation, competition and consumer value.

It is our ambition under RII0-2 that by 2025 our codes and code governance will no longer be perceived as a barrier to change and will instead facilitate the rapid change required to deliver the energy transformation efficiently while enabling greater accessibility for all participants and delivering consumer benefits in both the short and long term. As a leading industry voice, the ESO has an active role to play in shaping and helping to create the wider industry governance framework needed to deliver the energy transformation. We will continue to actively engage our stakeholders to inform our views to help positively shape the outcome.

We agree that the four areas of reform identified in the consultation represent the key areas of opportunity to overcome current framework challenges and deliver robust and meaningful, long-term changes to code governance. We are also fully supportive of the desired outcome for an energy code framework that is forward-looking, agile and responsive to change, is easier for participants to engage with and facilitates the inclusive participation of a large and growing number of market participants. Our responses to the consultation questions are provided in the annex to this letter. However, we wish to highlight a number of key points as part of this response and these are set out below.

### Providing strategic direction

At present, code development is ordinarily the outcome of disparate, incremental, and increasingly, tactical change delivered via modifications raised by market participants and is not always sufficiently forward-looking nor linked specifically with Government policy direction. This has made it difficult to evolve the code governance framework at pace to match the changing demands and emerging opportunities for the sector. We believe the creation of a strategic function supported by a strategic direction is the right way forward to help build an industry governance framework that drives innovation and facilitates rapid change, given the scale of the energy transformation challenge. We prefer Model 1 over Model 2 for the reasons described in the annex.

We consider that either Ofgem or a newly created independent body are well-placed to perform the strategic function and fulfil the role of the Strategic Body or Integrated Rule Making Body, but we recognise that for either party to take on this role it would require substantial change, including suitable funding and governance arrangements to allow them to design and implement the correct structure and ensure the right skills, knowledge and capabilities are in place.

### **Empowered and accountable code management**

Existing code administrators play an important role in managing the processes and functions set out within the codes, most notable being the process for code change. However, the current model is unable to effectively facilitate timely changes, given the increasing volume and increasing complexity of code modifications. Aligned with our ambition to become a code manager for our codes, we are of the view that a sufficiently empowered code management function will allow incremental and strategic code change to be delivered quickly and efficiently, with more timely benefit realisation. Where a power to prioritise modifications resides with the code manager the process must still include stakeholder engagement and be transparent to industry and should be underpinned by agreed criteria for prioritisation. We believe that the role of the code manager is fundamental to the transformation of code processes and the alignment of change across the codes, as well as ensuring that the strategic direction is delivered through appropriate changes to codes. We also believe that continued industry engagement in the identification and development of change will be crucial to the codes.

### **Independent decision-making**

We support a move to greater independence of decision-making in respect of making changes to the codes. A strengthened code manager function is the key enabler to rebalance decision-making throughout the change process and enable a code governance framework that is agile and where code change better reflects the commercial interests of a wider range of different market participants and the interests of consumers. We agree with industry having fewer responsibilities in respect of code change and decision-making, but this should be balanced with a continued need to engage stakeholders and draw on industry input and expertise to help shape changes in the sector. For instance, we believe that industry should retain formal powers to raise modifications but there should be more oversight of the change process within the code manager function. In addition, we see a revised role for code panels as an elected group including independent and consumer representatives to advise on and impartially review code change decisions, where the proposed change is complex or contentious, and to challenge the performance of the code management function.

### **Code simplification and consolidation**

We agree that code simplification and, to an extent, consolidation is required to achieve the objective of delivering a future framework that is agile, co-ordinated and accessible for all market participants. As part of our RIIO-2 Business Plan, we have committed to the creation of a fully digitalised whole system Grid Code by 2025 to provide tailored views of this code to customers. We believe significant rationalisation, simplification and harmonisation will be key to the development of this consolidated code. This reduces the complexity of the regime, helps to ensure compliance, and overall reduces barriers to market entry, which should lead to more competition and better consumer value. We would reflect that having fewer codes will be of limited value unless they are first made more concise and less complex. To this point, we believe that simplification of code content is a logical and important first step to create an accessible and agile code system that is considerably easier for market participants to access, understand and navigate than the current codes.

There is a significant challenge associated with the cost, resource and timeframe of completing code simplification and consolidation, under any of the proposed options. We urge BEIS and Ofgem not to underestimate the complexity and scale of this substantial task and to ensure that any proposed consolidation is supported by evidence of expected benefit rather than being undertaken simply to have fewer discreet codes. Development and delivery of simplified, rationalised and consolidated codes will require wide industry collaboration to ensure the right expertise is made available and the right changes are prioritised and implemented. We believe that undertaking to simplify and consolidate the codes under the current framework would be difficult. At the outset there must be consideration of the current rules around change ensure that the right balance continues to be struck between consideration of change and agility to change, and whether they can facilitate the desired level of change. We expect that other changes envisioned under these reforms could contribute to simplification e.g. with an empowered code manager it will be easier to make incremental improvements.

We welcome the opportunity to further discuss the points raised within this response and should you require any further information please contact Sarah York in the first instance at [sarah.york@nationalgrideso.com](mailto:sarah.york@nationalgrideso.com).

Yours sincerely

[EMAIL]

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Electricity System Operator

## Responses to specific consultation questions

### 1 Background and Scope

**Q1: Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s? Yes / No / Don't Know – Please explain.**

We agree with the four desired outcomes outlined in the consultation and consider them suitably ambitious and appropriate when viewed against the challenges of existing arrangements. We believe that building an agile, forward-looking energy code framework that is easier for all market participants to access and understand, whilst bringing consumer benefit to the fore of both strategic and incremental code development, is paramount to delivering a more flexible and decarbonised future energy system.

The four desired outcomes are consistent with the ESO's view of the future energy market landscape, as articulated in our [RIIO-2 Ambition](#). We agree that a reformed energy code governance framework should deliver for a large and growing number of market participants and allow strategic code change to be prioritised and delivered quickly and efficiently to further increase innovation and competition, which in turn drives benefit for existing and future consumers.

We consider the mid-2020s to be an appropriate target date for completion of the reformative changes necessary to put in place a robust new governance framework. However, we also acknowledge that the timeframe for reform will of course be dictated by the nature and scale of the change put forward at the end of the consultation and energy code review process. For example, we expect that Model 2 could take longer to implement than Model 1 due to it likely being a more fundamental change from the status quo.

**Q2: Do you agree with the problems we've identified, and that they present a persuasive case for reform of the current framework for energy codes? Yes / No / Don't know – Please explain.**

We agree with the problems identified in the consultation document and agree they present a persuasive case for reform of the current framework for energy codes.

As the ESO and with experience as a Code Administrator, we recognise that the existing framework can be complex, fragmented and poorly co-ordinated which ultimately can lead to incremental and often tactical rather than strategic change, as well as inefficiencies in the development and implementation of change.

Similar problems and criticism appeared as recurrent themes in our own customer and stakeholder insight, which we gathered as part of our Code Change Journey and RIIO-2 engagement, as well as through feedback from bilateral discussions and through the Code Administrators' Performance Survey. We have heard common concerns about the slow pace of change and perceived limited opportunity for smaller participants, newer participants and innovators to fully participate in the code change process.

Over time the cumulative impact of these interlinked problems means that the codes themselves have increasingly become a barrier to the innovation, diverse market participation and strategic change necessary to better facilitate the transition to a low carbon future and unlock significant consumer benefits at pace.

**Q3: Do you have additional evidence on the performance of the current framework?**

In our role as Code Administrator, we undertook an exercise in 2018 to map the journey customers go through when navigating governance processes for the codes that we administer (i.e. CUSC, Grid Code and STC). The exercise sought to identify where improvements could be made, by engaging customers and stakeholders

to understand their experiences and future needs. Key insights from this work strongly align to the challenges outlined the consultation document. For example:

- decisions not being guided by a vision of the future energy system so changes can often be tactical;
- a lack of diversity and a small number of new entrants makes it hard for the change process to be, or be perceived to be, independent;
- consumer benefit is often absent as a key driver of change;
- complex and voluminous codes are difficult to access and understand; and
- small participants face a significant cost, resource and time burden.

We are already addressing some of these concerns through our [ESO Forward Plan 2019-2021](#) but there are many areas where wider reform is required.

As referenced in the consultation document, the ESO presented evidence on how effective open governance has proven to be for charging modifications in CUSC at Ofgem’s stakeholder engagement workshop in February 2019. Analysis of CUSC modifications raised since the charging methodology was open to industry governance (i.e. December 2010) highlighted issues around complexity, resource-intensive engagement and drivers for change in the change process. 117 CUSC modifications were analysed and of this number 58 were charging-related and 59 were non-charging. Key findings were:

- an average of 16 full day workshop meetings per modification;
- up to 2 years from proposal to decision;
- 25 market participants proposed modifications out of 622 CUSC signatories\*; and
- strategic and/or transformational change has been impeded.

Below we provide an indicative overview of the volume of modifications raised annually and the average number of days until Authority decision and implementation for the codes we currently administer. Whilst these metrics are indicative, nevertheless it shows a gradual increase in the number of modifications being raised and the often slow pace to implement change, both of which could likely be improved upon with an empowered code management function in place in the future.

	CUSC			Grid Code			STC		
	Mods raised	Average days to decision	Average days to implementation	Mods raised	Average days to decision	Average days to implementation	Mods raised	Average days to decision	Average days to implementation
2013	10	630.5	283.9	10	601.6	592.9	5	128	142
2014	10	365.3	318.3	6	435.8	459.7	2	136	144
2015	17	690.6	163.5	2	-	-	0	-	-
2016	15	308.6	452.9	6	338	350	6	-	162
2017	13	347.6	234.7	10	398.5	442.9	0	-	-
2018	21	228	315.8	11	287.5	268	7	309.9	233
2019	12	33	86.5	11	-	57.8	4	-	-

**Figure 1: Number of modifications raised since 2013 and the average duration (in days) to decision and implementation.**

Please note that a dash has been inserted where insufficient information is available to calculate the average duration (i.e. not all modifications have yet been concluded).

*\*noting that many of these signatories are ultimately from the same group company so whilst only a limited number of parties eligible to raise code changes do so; these numbers read without this context could imply the situation is worse than it is in practice.*

**Q4: Do you agree with our proposed scope of reform? Yes / No / Don’t know. Please explain. If not, what additional codes or systems do you think should be included/excluded?**

We believe that the codes and systems captured in the consultation document are the key codes and systems for the respective fuels and markets and therefore they should all be in scope of the proposed reforms. However, we would note that the Security and Quality of Supply Standards (SQSS) should also be considered for reform and while we agree the Engineering Standards Review is the appropriate place for this reform to

be considered, we think it is important that robust links are made between the energy codes and engineering standards reviews.

For example, as well as the SQSS being important in ensuring an economic, efficient and co-ordinated design and development of the National Electricity Transmission System, it is also important that it keeps pace with governance change as is being considered by the Energy Codes Review. Whilst the SQSS is different to the energy codes in many aspects, it is also similar in others and so the SQSS can suffer from some of the same issues. Therefore, best practice in relation to energy codes should be considered in respect of the SQSS alongside any improvements or amendments to SQSS identified through the Engineering Standards Review.

We have also separately recommended a review of SQSS in our recently published final technical report into the power outages on Friday 9 August.

Whilst not necessarily needing to be in scope of these reforms, there is a need to be mindful of potential links to other important areas of the market such as those introduced under Electricity Market Reform. For example, changes made in relation to energy codes could in theory complement or conflict with other areas of the market, so a holistic view is required when considering the benefit and risks of these reforms.

**Q5: Are there any codes or systems that we should only apply a limited set of reforms to?  
Yes / No / Don't know. Please explain.**

Our general view is that the energy codes review itself should endeavour to answer this question and for us to try to answer with any firmness at this stage would be pre-emptive. However, we would suggest that all codes and systems should be considered fully as part of the review and if it is subsequently concluded that a more limited set of reforms for a particular code is appropriate then proceed to do so, but limitations should not be applied before the nature and scope of the reforms are known.

We note that BEIS and Ofgem should remain mindful of the potential impact of other codes, such as the SQSS and, in future, the Retail Energy Code. As stated in answer to Q4, while the SQSS is less instrumental in delivering strategic priorities than the in-scope codes and systems, there is potential for consequential impacts of reforms applied to network-related codes e.g. the Grid Code.

## 2 Vision and Options

**Q6: Do you agree that the four areas for reform are required? Please provide reasons for your position and evidence where possible.**

In our view the four areas of reform are required and should work effectively to achieve the desired outcomes of the energy codes review. We support the concept of a strategic function and a strategic direction. We can see benefits in a new function setting the direction for strategic change and implementing a delivery plan to provide clear signals to industry about the future direction of code development. Providing a clear strategic direction will better enable industry and code managers to plan their costs, resources and commercial considerations to drive and support strategic change. Moreover, having a long-term strategic direction is an important mechanism for embedding and promoting the interests of consumers as a core driver for change, or at least more than tends to be the case at present.

We agree that empowered and accountable code management and code simplification and (to an extent) consolidation are required as part of a package of reform. These areas have already gained some traction among industry stakeholders and existing code administrators, and it is generally acknowledged that they will play a key role in addressing the problems of the existing industry code arrangements. In our view, an empowered code manager function will create further value for consumers by directly addressing some of the current issues with the energy codes, for example prioritisation and efficient delivery of strategic change. In addition, the function will bring a co-ordinated view of the challenges and priorities across codes to better manage and deliver change that delivers specifically against Government policy objectives, facilitates market development and/or ensures significant consumer benefit.

We support the move to achieve greater independence of decision making in identifying and developing code changes. There is clear benefit in rebalancing decision-making away from industry control to a strengthened code manager function as this will help to speed up the change process and ensure that the right incentives drive code development in line with the strategic direction and overall consumers will benefit. We also recognise and support a need to continue to draw on significant industry input and expertise to help develop code modifications and to engage stakeholders in shaping the sector for the purpose of transparency and industry buy-in to future change.

Rationalisation and simplification of code content and processes will make it easier for any market participant to understand which rules apply to them and to understand what they mean in practice, while some code consolidation has potential to reduce fragmentation and make co-ordinated change easier to achieve. We see these as key reform measures with potential to deliver benefits for improved accessibility and diverse participant inclusion and would in turn complement and support the other proposed areas for reform to deliver on the wider objective of making possible strategic and timely change via a process that is responsive and that works for a large and growing number of market participants.

**Q7: Do you agree with the two broad models outlined? Please provide reasons for your position and evidence where possible.**

We consider the two broad models presented in the consultation to both be plausible options but in our view Model 1 is preferred. The suitable accountability of the strategic function to another party (i.e. to Parliament, Government or another appropriate body such as Ofgem) will vary depending on who is in the role.

We observe that creating a new governance model will change the way the codes are managed and delivered, and any newly created roles are fulfilled, which can create a risk to the delivery of BAU activities and in flight/future code change. The introduction of a strategic function under Model 1 represents minimum change from the status quo both for the party becoming the Strategic Body, the code manager(s) and other industry stakeholders than under Model 2. Model 1 would likely minimise cost, disruption and risk as transitional arrangements and new entities and structures are put in place. In contrast, Model 2 is a more fundamental change to the current industry model than Model 1 and would involve more challenging

implementation and governance arrangements to transition from current arrangements. As such, we believe the organisation who becomes the strategic function, and the wider industry, can transition more quickly to the structure proposed under Model 1, with the same level of value for consumers.

In addition, there is a variation of Model 1 which could also be possible with the Strategic Body being more akin to the previous concept of a Consultative Board and undertaking a more guiding and advisory role with the code managers, although we are unsure whether this model would deliver on the desired outcomes.

**Q8: Which model do you believe will best deliver on our desired outcomes? Please explain.**

We believe that either model can deliver on the desired outcomes. However, we consider that Model 1 can do so in a much more efficient and timely way than Model 2 as it requires less fundamental reform to establish the Strategic Body and code manager functions. Model 1 would provide clarity of roles and responsibilities better than Model 2, with the Strategic Body as a separate organisation from the code manager(s); this would in turn make it simpler for industry to engage with the strategic and code management functions. In contrast, having the strategic function and code manager function in one single organisation, as proposed in Model 2, has the potential to be more complex and less transparent. Under Model 2 there would also be less constructive tension between the two roles and this could result in less challenge and review on change development and decision-making than under Model 1.

**Q9: Do you agree with the changes to the role of code signatories we are proposing?**

We broadly agree with the proposed changes to the role of code signatories. As such, we consider that the code manager(s) should not be accountable to industry when it comes to codes and caveat this saying that it remains crucial for industry to still have opportunities to engage in and influence the change process and content of the codes, especially as in many cases much of the content relates to a commercial contract between code parties. It is also crucial that the industry can continue to have a reasonable expectation of code manager performance e.g. in respect of being a critical friend, providing a certain level of engagement on change being developed and customer service.

If the code manager function has responsibility for prioritising whether and how proposed changes are progressed, and the focus will be on changes that link to the strategic priorities, this impacts current Open Governance arrangements. With some decision-making power transferred to the code manager(s), it will be critical that industry stakeholders are still brought in to the change process to feed in their expertise and views and to ensure they feel engaged with the change process. Stakeholder engagement should take place throughout the development of a strategic delivery plan and the rule change process to build stakeholder awareness and provide an opportunity for meaningful input to inform development and decision-making, whilst ensuring transparency and industry support for changes brought forward by the code manager. In addition, there is a view that the current process reduces the potential for legal challenge as industry has at its disposal appropriate mechanisms to influence change and clear routes to challenge decisions without frequent recourse to Judicial Review or the CMA. The codes, notably the DCUSA and CUSC, are akin to multi-lateral commercial contracts and, as such, it is important that industry retains the ability to influence change and appeal code manager decisions at a 'local level' i.e. Ofgem or, if not Ofgem, the Strategic Body.

We continue to see a role for code panels but as an elected group including independent and consumer representatives in a role to advise on and impartially review code change decisions, where the proposed change is complex and/or contentious, as well as to challenge and review the performance of the code management function. It is important that independence and diversity of panel members remains an objective when electing or appointing panel members. We think all panel members should be remunerated for their time and expertise in support of the code manager and the wider governance arrangements to ensure equitable treatment for panel members.

### 3 Providing strategic direction

**Q10: Do you agree there is a missing strategic function for codes development in the energy sector and that introducing a strategic function with the responsibilities outlined in chapter 3 is the best way to address the lack of strategic direction? Yes / No / Don't know – Please explain.**

**Who is best placed to fulfil the strategic function and why?**

We agree that a strategic function is missing and introducing one is an effective way to address the lack of strategic direction, if it is appropriately designed, funded and governed.

At present, there is no single overarching strategic plan related to energy codes for addressing the challenges and capturing the opportunities for the energy sector of the transition to a flexible, low carbon system. Introducing a strategic function to provide a clear strategic direction and accountability for outcomes will assist Government, Ofgem and industry to make more informed decisions and adapt more quickly to change, at a time when the sector faces many uncertainties and drivers of change.

The strategic function should endeavour to understand the impact on the sector of policies both inside and outside of the energy market, such as emissions reduction policies, and to observe developments in other sectors and highlight any issues to help promote integrated and consistent policy outcomes where possible. For instance, the current system is arguably missing strategic direction in respect of electric vehicles (EVs) where the Electric Vehicle Energy Taskforce, formed at the request of Government, is progressing and open governance is resulting in some EV-related code modifications, but there is no overarching strategic direction or programme in respect of the energy codes and future changes related to the expected mass take up of EVs in future.

While the strategic direction for the development of codes should be set in line with established policy decisions made by Government, we consider that it is important to also feed in a 'bottom up' view of what industry and consumers want, and need, when setting the strategic direction and delivery plan. We discuss this point further in response to Q11 and Q12.

We consider that either Ofgem or a newly created independent body are well-placed to perform the strategic function and fulfil the role of the Strategic Body or Integrated Rule Making Body, but we recognise that for either party to take on this role it would require substantial change, including suitable funding and governance arrangements to allow them to design and implement the correct structure and ensure the right skills, knowledge and capabilities are in place.

**Q11: Do you agree with the objectives and responsibilities envisaged for the strategic function, and are there any additional objectives or responsibilities the strategic function should have?**

We broadly agree with the objectives and responsibilities envisaged for the strategic function; they align to the stated purpose of the strategic function and the outcomes it is expected to facilitate. The objectives and responsibilities are comprehensive in scope and should ensure that the interests of competition and consumers are always positioned as the key drivers of future code development and strategic change.

We suggest that the strategic function may benefit from having responsibility to undertake a periodic review (e.g. annually) of the performance of code governance arrangements and the strategic direction process. Additionally, consideration might also be given to the strategic function (and code managers) having the power to place certain requests upon market participants such as the provision of data in the event of a Request for Information. We understand that this relationship between the code manager and industry is currently being considered as part of the Retail Energy Code and it could possibly help to inform the equivalent relationship between the Strategic Body and the code manager(s).



In relation to decision-making and the approval of significant modifications we suggest that the remit of the code manager(s) and the Strategic Body and Ofgem (should Ofgem not be the Strategic Body) need to be reviewed to ensure the appropriate decision-making and appeals routes are put in place. If Ofgem was not the Strategic Body then it is worth considering whether some decision-making should remain with Ofgem, based on recommendations from the Strategic Body e.g. for more significant and fundamental changes.

If the role of code signatories changes in line with the current proposals, then we would again emphasise the importance of actively engaging with stakeholders and seeking out those parties who do not ordinarily engage to ensure an appropriate level of engagement with industry throughout the code change process.

**Q12: How may this new function potentially impact the role and responsibilities of other parts of the frameworks. Do you foresee any unintended consequences?**

We see there is potential for impacts to all market participants in terms of significant process and structural changes and higher-level accountabilities; this impact will be greater under Model 2 than under Model 1. However, having clearly defined roles and responsibilities in place should make it easier to signpost market participants when they are seeking guidance and support in relation to specific topics.

Existing code administrators could be affected if there are either fewer or more of them in the future, while market participants ability to raise changes may in some cases be reprioritised if proposed modifications do not sufficiently link to / facilitate the priorities set out in the strategic direction.

We foresee an unintended consequence should there be too much top-down control over the future direction of the codes as this could prove to stifle innovation and bottom-up change, driven by market participants. Thus, it is important to retain scope for incremental change to be incorporated alongside strategic change, and whilst the code manager should be ultimately accountable to the strategic function there needs to be flexibility for them to remain independent and autonomous in the day-to-day delivery of their responsibilities, including being a critical friend in accordance with CACoP. This point also applies to the Strategic Body, which should be autonomous and independent in their role to deliver upon the agreed strategic direction.

The potential for unintended consequences is also in part linked to the breadth and scope of the strategic function's responsibility. As noted in our response to Q10, the focus of the strategic function needs to be wider than the energy codes. Government policy on energy might itself extend further than just energy and touch upon or impact issues related to data protection and transport, for example. There may also be a need for consideration of other linked elements which are not directly in scope for the strategic function, such as any conflict or commonality between energy codes and the Capacity Market Rules and Regulations, etc.

**Q13: What are your views on how the strategic direction should be developed and implemented (including the option of establishing a strategy board to aid engagement)?**

In our view, it would be preferable for the strategic direction to be communicated in a formal publication from Government that provides clarity and specific information to the strategic function and therefore minimises any potential for ambiguity and/or misinterpretation. However, we note that there is a balance to be struck and would suggest that the formal document provided to the strategic function, which details the strategic direction, should not be overly prescriptive; it should focus on the desired outcome rather than the solution and steps to getting to that outcome.

We would also highlight that reaching net zero emissions by 2050 is broader than energy so the strategic function should therefore also monitor and take in to account policy developments external of the energy sector when supporting the setting of the strategic direction. If so, this suggests that the formal publication, whilst being specifically related to the development of the energy codes, will need to be mindful of developments in other sectors.

We believe that code signatories and market participants should have meaningful input in the formation of the strategic direction, so we are supportive of a collaborative and transparent approach to the development of it that includes appropriate consultation with stakeholders and we believe this is important to ensure the resultant set of strategic priorities deliver on the important/necessary policy and wider market development changes. On this point, we feel that it is important to have a formal consultation period for the strategic direction (i.e. similar to the Ofgem Forward Plan) so that stakeholders have equal opportunity to engage in a transparent process. Wider engagement should also take place outside of the formal consultation period.

There may be merit in exploring the option of establishing a cross-industry strategic panel or board, within the strategic function, to aid engagement and decision-making, but first more work is required to understand the potential remit, responsibilities and composition of such a panel/board. It would be important to strike the right balance in terms of representation from relevant bodies and SMEs and to ensure transparency around the work and outputs of the panel/board. The panel/board would also help to mitigate concerns about a single entity holding too much power over decision-making. For example, this panel/board could have some responsibility in respect of challenging the strategic function on delivery of their roles and responsibilities.

**Q14: Do you think the scope of the strategic function should be limited to taking account of the Government's vision for the energy sector and translating it into a plan for the industry codes framework, or are there other areas it should address (e.g. impact on vulnerable customers)? Yes / No / Don't know. Please explain.**

We believe that the strategic function should be concerned primarily with translating the Government's vision for the sector through the strategic direction into a delivery plan for the energy codes. However, the energy sector does not operate in isolation, so it would be sensible, when setting the strategic direction for the strategic function to be aware of and take in to account developments and policies in other sectors which may have cross-sector impacts and/or interdependencies. Areas not specific to the energy sector that the strategic function should be mindful of include, but are not limited to:

- The impact of change on vulnerable customers;
- Industrial Strategy;
- Clean Air and Clean Growth;
- Zero net carbon emission targets; and/or
- Electric Vehicle Energy Taskforce.

The strategic function will also need to be clear what other policy areas and changes should be taken in to account when delivering the strategic direction so, for example, if there was an impact to vulnerable customers to be considered in the development and delivery of change then this should be stipulated clearly within the accountabilities of the strategic function as proposed under Section 3 of the consultation. It is also important for the strategic function to remain mindful of these broader areas to ensure that the energy system itself, and the associated code framework, does not in any way block or impede the success of other policy changes and outcomes. This is also important to ensure the strategic function is correctly resourced.

#### 4 Empowered and accountable code management and independent decision making

**Q15: Do you agree that in addition to the current responsibilities that code administrators have, that the code manager function should also have the following responsibilities?**

- a. identifying, proposing and developing changes (analysis, legal drafting etc.), including understanding the impacts;**
- b. making decisions on some changes, or making recommendations to the strategic body; and**
- c. prioritising which changes are progressed.**

**Yes / No / Don't Know. Please explain.**

We agree with the additional code manager responsibilities identified as these cover the key elements that differentiate an empowered code manager from the existing code administrator function. We note that these responsibilities broadly align with the potential characteristics of a code manager developed and tested as part of our RIIO-2 stakeholder engagement on the role a code manager. Under RIIO-2 we will seek to become a code manager for our existing codes, as part of an ambitious code transformation programme. As a code manager, we want to create further value for consumers by addressing some of the current issues with the energy codes, as identified in the consultation document, and we believe this can be achieved in the following ways:

- more explicit powers to prioritise incremental code change, rather than the Panel making such decisions, and with powers to raise incremental and strategic code changes;
- more explicit powers in respect of the change process e.g. to set timescales on a case-by-case basis, more control over Working Groups and report content;
- greater emphasis on engagement with wider stakeholders outside of the Working Group process to counter-balance the additional powers;
- more ownership of the actual code content i.e. proactive projects relating to codes to rationalise, harmonise and simplify content, and to streamline the code change process;
- smarter use of technology (e.g. code digitisation/digitalisation to tailor online information to customer groups), improved information management and communication channels and a more user-friendly and accessible website; and
- better user guidance and supporting documentation as self-serve, but a service-focused and well-resourced team available as a critical friend where stakeholders so require.

The power to raise changes and to prioritise modifications is important if the code manager is to proactively drive code development, deliver on the strategic direction and maximise consumer benefit. We believe that greater empowerment to make decisions is necessary if the code manager is to oversee an agile and responsive code governance framework and facilitate change more effectively than the present system. For example, the code manager will be best placed to prioritise change in the first instance, based on their independent assessment of the strategic relevance of the modification and the expected market and consumer benefits. We note that consideration would need to be given to how the code manager would assess consumer benefit when prioritising change. It is expected that the code manager role includes analysis to support code modifications, with the focus being on assessing and driving consumer benefit, and this activity is appropriately funded in line with agreed funding arrangements. In respect of decision making, further thinking and clarity is also required on the potential circumstances and criteria used to determine whether the decision on proposed code change should be delegated, or not, to another body (i.e. the Strategic Body or Ofgem) or industry.

As an example of how prioritisation can work, we would highlight the current approach used in the CUSC and Grid Code, which was introduced to help ensure key changes were being driven forward. The move to prioritisation was against a backdrop of increasing numbers of new CUSC and Grid Code modifications being proposed - e.g. 17 CUSC modifications were proposed in 2015, rising to 21 in 2018; 2 Grid Code modifications were proposed in 2015, increasing to 11 in 2018. It was recognised (and still is) that the growing volume of modifications across both codes places a significant resource burden on industry parties

who wish to participate in the change process and attend Work Groups for example. Decisions on priorities are facilitated and agreed by the respective Panels for each code. In reaching a determination, the panel considers the complexity, importance and urgency of each modification on its own merits; this approach is covered in the governance rules of the respective codes. Prioritisation and evaluation of all modifications is a standing agenda item at each panel meeting. The process is designed to be agile and to provide industry with transparency on the decisions made by the Panel.

Whilst supportive of the need to engage industry in the change process, we believe that Work Groups, as currently codified, are no longer the most effective or efficient means of bringing industry expertise and views in to the process. In our capacity as code administrator we have experienced recent issues with Work Group quoracy, where the minimum number of industry participants required by governance cannot be reached and Work Group meetings are subsequently deferred until quoracy can be met. There are potentially more agile ways to achieve the same outcome as having Work Groups in the current system. For example, an 'on-call' group of experts made available to the Code Manager to offer advice and expert input to support with more complex or contentious modifications; we understand this arrangement is currently being considered as part of the development of the Retail Energy Code.

Finally, we would also reflect on the lessons learned from our Code Administrator 'Customer Code Change Journey' and the actions we have since taken to deliver on our [Code Administration Improvement Plan](#), which forms part of the overall ESO Forward Plan 2019-2021. The improvements have focused on providing all market participants with accessible and easy to understand guidance related to the governance process and modifications, and are an indicator of some of the benefits that a future code manager can deliver, such as:

- a code manager approach to facilitating code change - acting as a critical friend, providing legal text and modelling support;
- support to new entrants and smaller market participants - providing FAQs, webinars on the governance process and a regular improvements newsletter;
- provision of strategic input on the prioritisation of future changes within codes;
- deliver an efficient code change process with robust reports for the Authority; and
- a modification tracker and horizon scanning to provide a transparent view of potential code changes across CUSC, Grid Code and STC.

**Q16: What is the best way to ensure coherent end-to-end changes to the codes and related systems? For example, is it through having end-to-end code and system managers?**

There are benefits and drawbacks to each of the potential options for ensuring coherent end-to-end changes to the codes and related systems. We think that having flexibility in how end-to-end changes are made is possibly the best approach. Therefore, have end-to-end code and system managers where it makes sense to do so and have separate functions if this is shown to be beneficial. Each code and system should be considered on a case-by-case basis and the flexibility to have an end-to-end code and system manager (or not as the case may be) should be retained in the future governance arrangements.

**Q17: Should the approach differ on a case-by-case basis (i.e. depending on the code or system in question)? Yes / No / Don't know. Please explain.**

Please see our response to Q16.

**Q18: Do you agree that the code manager function should be accountable to the strategic body and that this should be via a licence or contract? Yes / No / Don't know. Please explain.**

Under Model 1 we consider it appropriate for both the Strategic Body and code manager(s) to be licenced by Ofgem. The Strategic Body licence should include a responsibility to oversee the code manager(s) and deliver the strategic direction, whilst the code manager(s) licence should give reference to their accountability to the Strategic Body and to furthering the delivery of the strategic direction. In a scenario where the Strategic Body is Ofgem then it may be appropriate that the Strategic Body is accountable to but independent from Government, with the code managers being licenced by Ofgem. Under Model 2, if the IRMB is a newly created independent body we consider that it should be licenced by Ofgem, with the option to sub-contract for the code management function. Alternatively, if Ofgem were to fulfil the IRMB role then we believe it should be accountable to but independent from Government.

**Q19: Are there more effective ways that the code manager function's accountability to the strategic body could be enshrined other than in a licence or contract? Please explain.**

Noting our views provided in response to Q18, we do not have any alternative suggestions on how the code manager function's accountability to the Strategic Body could be enshrined other than in a licence or contract.

**Q20: Do you agree that we should not consider further a model whereby the code manager function is accountable to industry? Yes / No / Don't know. Please explain.**

We agree that further consideration of this model is not necessarily warranted, based on the rationale provided in the consultation document. Making the code manager function accountable to the industry would appear counter-intuitive, given the drive to move towards more strategic change driven by Government priorities and increased independence of decision making throughout the change process. That said, it is not unreasonable - potentially via CACoP - to establish a set of industry expectations or service level principles for how the code manager(s) should conduct its work and which would enable industry to still hold them to account for delivery of core obligations such as proactive engagement and acting as a critical friend, etc.

**Q21: Do you have views on whether the code manager function should be appointed following a competitive tender process or other competition? Yes / No / Don't know. Please explain.**

We think a competitive tender process to appoint the code manager function could possibly have some benefits, but more detailed thinking is first required to understand the potential value of such an approach would deliver as there are also risks associated with these proposals and so we have some concerns. First, we would ask for further clarity on what a competitive tendering model, or other competition, might look like to help inform our views. For example, it would be helpful to know the proposed duration of the contract or licence period as this will have cost and system implications i.e. transitioning between tenure periods where an incumbent is unsuccessful. We suggest that careful consideration needs to be given to how the tender process itself would be facilitated. A robust criteria and assessment process would be required, with transparency around the criteria and how it is fairly applied.

If the code manager function is appointed via a competitive tender process, then we would caution against cost being the key driver for a successful bid. Lowest cost is not necessarily the right thing for this function since expertise, knowledge and skills are needed to fulfil the role. We believe that competition should not be solely about driving down cost but rather should be about adding expertise and value, meaning greater weight should be given to a bidders' ability to drive innovation, consumer benefit etc. The code manager(s) has an

opportunity to add significant value to the industry compared to their direct costs. We consider the ESO continues to be the best placed to be a code manager for our existing codes because our expertise in this area allows us to add significant value at a reasonable cost.

We would also caution that how best to appoint the code manager(s) is partly contingent on what the future number and structure of the codes will look like (i.e. approach to consolidation). It may be more prudent to run a tender process for codes where the Code Administrators are not currently 'transitioning' to the role of the code manager for the codes they administer in the current governance framework. However, should the code structure be subject to significant change, there may be different skills sets required to undertake the code manager role, meaning different parties to now may be best placed to take the role and a competitive process would be preferable to ensure appointing the most suitable party for a consolidated code.

**Q22: Do you think the code manager function should be established by the strategic body creating a body or bodies? Yes / No / Don't know. Please explain. If the code managers were established in this way, would we need to consider any alternative approaches to funding or accountability? Yes / No / Don't know. Please explain.**

As our preferred approach (as per our response to Q18) is generally licenced code management, we feel that if competition in code management were to be progressed it would be prudent for Ofgem to retain accountability for tendering and appointing the code manager(s). An alternative option would be for Ofgem to create or designate a body to become the code manager(s) based on demonstration of suitable skills and experience, for example.

**Q23: In terms of establishing/choosing the code manager function, do you agree that we should not consider further:**

- a. requiring an existing licensee to become the code manager; and/or
- b. requiring a licensee (or group of licensees) to create the code manager?

**Yes / No / Don't know. Please explain.**

In response to a) we partly agree since the existing pool of code administrators provide a range of suitably experienced and skilled organisations to bid for a code manager role if competition were to be progressed. However, as there are already licenced code administrators (e.g. ESO) those parties should not be prohibited from continuing to be a code administrator due to them being licenced. With appropriate controls in place it could be possible for a licensee which is not currently performing a code administration role to do so in future, but this would require further consideration in respect of governance.

In response to b) we agree as these arrangements would dilute accountability for the code manager(s) and it is, therefore, preferable that the code manager is accountable to the Strategic Board, and/or Ofgem via a licence, rather than to a group of other licensees.

**Q24: What would be the most effective way to ensure the code manager function offers value for money (e.g. through price controls or budget scrutiny)? More broadly, what is the right incentive framework to place on the code manager function? Please explain.**

We believe that both price controls and budget scrutiny can provide a suitable route to ensure value for money so long as there is a good balance between scrutiny and sufficient flexibility. Such controls can set a clear framework for funding activities and include a strong incentives framework to drive the right behaviours

and outcomes to deliver for consumers. We note that code administration at present is characterised by inconsistent approaches to funding arrangements.

As we have highlighted in our response to Q21., funding arrangements under a price control would need to recognise the core responsibilities of the code manager beyond simply delivering outputs at the lowest cost.

We are of the view that any parties undertaking the role of code management should face either comparable price control arrangements or (more likely) be driven by similar principles to those arrangements e.g. efficient cost pass-through with margin and incentives underpinned by a licence. It is important to recognise that the activity of code management requires an appropriate balance of risk and rewards; this consideration will be equally relevant to any other party undertaking this role in the future.

Incentives are an important element of the regulatory framework, driving behaviours and performance to deliver additional benefit for consumers. We agree that an incentive framework should be in place for the code manager function to encourage the party to take appropriate risks and innovate to deliver benefits beyond the baseline.

It is important that the incentives framework sets out clear and aligned performance expectations and evaluation criteria to give greater certainty and to allow understanding of what excellent performance looks like. Incentives should be tailored to the type of activity. We would therefore suggest that a combination of shorter-term, mechanistic incentives and longer-term, principles-based incentives should be matched by the potential upside and downside of the incentives. Short-term mechanistic incentives are better suited to a symmetrical incentive with upside and downside. For medium or long-term activities, we propose that an upside only incentive is more appropriate, as the existence of a penalty may drive risk averse behaviour and have an overall detrimental effect on consumers. We note that these are proposals that Ofgem outlined in its recent consultation of potential changes to the ESO incentive scheme for RIIO-2.

It would be beneficial to have further clarity on what kinds of behaviours and improvements in performance BEIS and Ofgem are looking to encourage. Nonetheless, we would suggest a principles-based incentive framework, linked to the key roles envisaged for the code manager(s). Indicative options for the principles might include: (1) prioritise strategic code change, taking in to account consumer impacts and benefits for market developments; and (2) drive overall efficiency and transparency in the change process, ensuring stakeholders are sufficiently engaged.

We also note some broader observations and important points for further consideration when developing the incentive framework:

- incentives should have a clear success criterion;
- they should be focused on areas where the code manager can deliver the most additional benefits for consumers; and
- the funding model and incentives framework have a combined effect in driving behaviours. As such, they should be developed in parallel to ensure an overall coherent framework.

We are currently responding to Ofgem's August RIIO-2 consultation on the design of the ESO's incentive scheme. Our response will be submitted on 25<sup>th</sup> September 2019 and will contain further detail on our view of an appropriate incentives framework for the ESO.

**Q25: Are there any factors that:**

- a. would stop parties (incl. code administrators) from becoming a code manager?**
- b. should prevent parties from becoming a code manager (e.g. do you agree that licensees should not be able to exercise control of the code managers)?**

We believe that the following factors may prevent parties, inclusive of existing code administrators, from becoming a code manager:

- a lack of depth and breadth in knowledge and capability;
- licence change, or at least code change, will likely be required to facilitate the transition;
- inappropriate funding and governance arrangements which do not adequately support an effective transition to the role; and
- gaps and/or limited knowledge of the code(s) and associated governance arrangements would impact the Code Manager's ability to identify, assess and prioritise both incremental and strategic change that delivers value for industry and consumers; the code manager(s) would be expected to have substantial knowledge to build confidence and trust in their decisions.

**Q26: How should the code manager function be funded (e.g. through licence fees or by parties to the code(s) )?**

We broadly favour the code manager function being funded by parties to the code(s), but caution that further consideration will be needed to explore and determine the practicalities of such an arrangement. For example, how would costs be apportioned amongst code parties and would there be additional charges (e.g. fees to net off the code manager costs for non-code parties when they are raising changes). In addition, for any future dual fuel codes there will need to be careful consideration of funding arrangements for the code manager function in respect of which costs are attributed to gas and which are attributed to electricity. For example, it would not seem appropriate to potentially recover code manager(s) costs solely from one fuel when the 'service' is also provided to the other one.



## 5 Code consolidation and simplification

### **Q27: Are there any quick wins that could be realised in terms of code consolidation and simplification?**

We acknowledge that to fully rationalise and simplify codes, and thereafter consolidate them, even to a limited extent, is a substantial task. However, there will be many quick wins that can be realised sooner and more easily, without recourse to legislative or licence change, nor resource intensive workgroups, but there are still barriers to some of the (what might be considered) quick wins. This was demonstrated in our recent [thought piece](#) publication, where we achieved a 76 per cent reduction in the length of CUSC Sections 6.31 to 6.34. This was done by writing in plain language, removing unnecessary duplication of information and, where appropriate, documenting information outside of the code in associated, subsidiary documents. However, the effort required to make those changes under current arrangements, when compared to the expected benefits, means that such changes are unlikely to be cost-effective.

We believe however that quick wins can be realised if this approach is applied to non-contentious sections of the codes; this would require working with industry stakeholders to understand their current code and governance framework pain points and then identify potential targeted modifications to reform content. Notwithstanding that quick wins are possible, we also recognise that raising the necessary change may prove not to make the best use of industry resource and time when assessed against the anticipated benefit(s) and existing volumes of change, especially if holistic reform of code arrangements is on the horizon.

Furthermore, we are minded that simplifying content related to commercial arrangements (e.g. charging) and/or critical operability requirements would be a lengthier process and would likely deliver a 'light-touch' result since detailed content, to an appropriate level, remains important in these areas to provide certainty to participants on their obligations and to avoid any potential legal challenge.

In terms of consolidation, whilst not a quick win we consider that a first deliverable could be to create a fully digitalised whole system Grid Code (i.e. combine the Grid Code and Distribution Code), applicable to any party connecting to the system. This would achieve process efficiencies by cutting down on overlap, reducing the number of panels, improving coordination, and would make navigation of the code easier, with content being tailored to each code user through digitalisation.

### **Q28: How many codes would best deliver on the outcomes we are seeking under these reforms?**

We broadly agree that consolidation (to an extent) of the codes is important to the achievement of an agile and co-ordinated governance framework. However, we would observe that consolidation of codes in isolation is not enough to deliver a streamlined code system and a more efficient change process and, as such, should be a follow-on exercise to the rationalisation, harmonisation and simplification of code content. Having codes that are more concise and less complex offers a good starting point to further consolidate.

In our view, determining the best process to achieve consolidation and being clear about the desired output and benefits is more salient, at this stage, than determining the number of codes. There is potential to consolidate and structure the codes in a variety of configurations, depending, for example, on how you choose to categorise and map codes (i.e. by fuel type, technical and commercial codes), the desired benefits over baseline and other 'environmental' factors, such as the impact of a single or multiple code managers on the code structure. Furthermore, when potential future models are developed it is important that the prudence of creating dual fuel codes is fully considered against the different challenges and idiosyncrasies of the gas and electricity market and commodities.

We believe the interaction between distribution and transmission also needs to be considered and would highlight our RIIO-2 Ambition to create a fully digitalised whole system Grid Code by 2025 which will be a single principles-based code for distribution and transmission.

Finally, we feel it is important to remain cognisant of the scale of the task and, therefore, the industry resource and time that it will take to assess, develop and deliver consolidation. Bringing codes together, in whatever configuration, will be a lengthy process and will require a suitably resourced team of people with the right level of expertise and knowledge. A strategic function and an empowered code management function would be essential to ensuring a successful outcome from such significant change programmes.

**Q29: Which option (one code manager versus multiple) would best deliver on the outcomes we are seeking under these reforms?**

We believe that having multiple code managers, but ultimately fewer codes than the current position is prudent for the following reasons:

- this option retains the ability to benchmark code manager performance;
- it creates opportunities to share best practice in code management;
- having more than one code manager would provide a better fit in terms of knowledge and skills (i.e. relevant expertise) and would likely reduce the cost and time required to upskill on a large scale;
- if competition is implemented, it is conducive to running a competitive tender process to appoint the first and then subsequent code managers; and
- apportioning the function across multiple code managers could better mitigate the risks associated with an otherwise sizeable task for a single entity (i.e. only one code manager carries the risk of a single point of failure).

We understand the concern raised that multiple code managers could result in inconsistencies and inefficiencies between the codes, but feel that this may be mitigated by, for example, a robust cost recovery and incentives framework, underpinned by a licence, that drives consistent behaviours in accordance with the same baseline principles, applicable to all code managers.

**Q30: Which of our consolidation options would best deliver the outcomes we are seeking to achieve? Please provide evidence for your examples?**

We consider that Option C would best deliver the outcomes the energy codes review is seeking to achieve. A structured incremental approach to code consolidation feels more achievable and easier to manage, compared with the 'big-bang' approach that Option 1 (or even likely Option 2) would require.

In our view, the end number of codes achieved via consolidation is the less important driver. The focus should be on making code content and processes as concise and harmonised as possible to ensure the codes remain legally robust and continue to give confidence to market participants.

**Q31: Do you agree that the codes should be digitalised? Yes / No / Don't know. Please explain.**

We broadly agree on the basis that digitalisation would positively transform market participants' experience of interacting with the codes. For example, it would:

- allow for greater flexibility in how information is published and made available;
- contain rationalised and simplified content that is simple to understand and navigate, which in turn delivers cost savings through reduced resource and time spent retrieving information;

- enable faster access to relevant content that ultimately supports participants' business activities and informed-decision making;
- provide information tailored to code user profile;
- help to make the code change process and implementation more efficient;
- support inclusive participation by a large and growing diverse range of market participants; and
- facilitate efficient information management (i.e. maintain and update content in line with code changes etc).

As a point to note in respect of a digital strategy and transformation, we feel it is important to first make a clear distinction between digitisation (i.e. converting information from a physical format into a digital one) and digitalisation (i.e. leveraging digitised information/technology to improve processes). We believe that all codes should be digitised and made available online to enable easier access for all market participants.

Digitalisation is a longer and more complex process and many considerations would need to be thought about when planning and undertaking it. For instance, consideration of the development of IS systems and the cost and time of undertaking and maintaining such a programme across all codes versus the benefit it will deliver to market participants and the code change process. In our view, the cost and time of digitalising the STC would, for example, most likely exceed the potential benefits since the number of participants who engage with the code (i.e. onshore/offshore TOs) is relatively small compared with other codes, such as the Grid Code.

We note our ambition to work with all stakeholders to create a fully digitalised whole system Grid Code which is principles-based, simple to understand and navigate, by 2025. This will be a single code for distribution and transmission, with a focus on providing minimum standards to allow safe and secure operation of the electricity systems. We will leverage the latest data technologies to provide customer specific, tailored views of the Grid Code. This reduces the complexity of the regime, helps to ensure compliance, and overall reduces barriers to market entry, which should lead to more competition and better consumer value.

In our view, the expected costs/time of implementing a digitalised whole system Grid Code are balanced against the expected benefits, which include:

- a more user friendly, inclusive and tailored experience which works efficiently for the diverse needs of our customers;
- an easier to understand code that will provide efficiencies in the pace of how important decisions are taken throughout the connection journey;
- the provision of more targeted and tailored information as and when customers require it; and
- future amendments to the code will be automatically updated, improving visibility of updates and impacts for customers.

## 6 Monitoring and compliance

**Q32: What role should industry have in monitoring code compliance or making decisions on measures needed to address any identified non-compliance?**

We believe that industry plays an important role in monitoring code compliance through existing structures and in future an empowered code manager will also play an important role. It will be important to consider where industry can continue to support monitoring and compliance even if decisions related to compliance ultimately become the responsibility of an empowered code manager in future. For example, industry parties have responsibilities in respect of code compliance and one party not performing their obligations can in many cases adversely affect other parties (e.g. in respect of non-payment of charges) so industry parties will likely continue to have an interest in and knowledge of compliance. Therefore, it is likely industry can continue to support the empowered code manager in any of their monitoring and compliance obligations in future. For example, through a Performance Assurance Board, or similar, as is referenced in the consultation in respect of the current arrangements in the Balancing and Settlement Code (BSC). The arrangements in respect of monitoring and compliance are likely to continue to be different for each code considering the different content of each of the codes. Therefore, there should be flexibility in respect of how this function is undertaken so long as the aims can be demonstrated e.g. risk management, transparent process, proportionate deterrents, etc.

**Q33: Which of the two models we propose would better facilitate effective monitoring and compliance arrangements? Please explain.**

In respect of effective monitoring and compliance we do not believe there is a material difference between Model 1 and Model 2 so long as the roles and responsibilities (including decision making and escalation) are clear under both models.

**Q34: With Model 2 – integrated rule-making body – should the IRMB have responsibility for imposing measures (where a party is non-compliant with the code) or should this be for another organisation? Please explain.**

Under Model 2, we consider that it would be sensible for the IRMB to be accountable for imposing measures related to non-compliance in respect of the code, with Ofgem continuing to be responsible for issues related to non-compliance with Licence, but that the IRMB through its code management function should be able to continue to be supported by industry in such decision-making.

For example, through a Performance Assurance Board, or similar, again as it referenced in the consultation in respect of the current arrangements in the BSC.