ofgem Making a positive difference for energy consumers

Ofgem update

Code modification decision timings
Code governance

Ofgem Codes Team
April 2021

OFG1161

Purpose of these slides

A: Code modification decisions

We have reviewed our Key Performance Indicator (KPI) in making code modification decisions and intend to adopt a new approach for a trial period.

B: Code governance

We welcome the different initiatives we have seen across codes already, and set out areas in these slides where there may be scope for the industry to deliver proportionate, beneficial change ahead of more fundamental reform.

A: Code modification decisions

The Authority makes decisions on code modifications where there is a material impact.

The assessment of materiality is conducted against a criteria set out in relevant licence conditions.

In making decisions we have adopted a self-imposed key performance indicator (KPI). We report our performance against this KPI in our annual report.

Our current KPI for making code modification decisions is to issue 90%:

- of our decisions within 25 working days (after we receive the Final Modification Report (FMR) or the closing date of our IA/consultation), and
- where relevant, to issue an IA or consultation 3 months after we receive the FMR.

Overall we don't think the KPI is providing the benefits around transparency in our decision making approach, or providing the certainty to industry that it could.

We are trialling an alternative approach.

A: Our changes

We propose to take a new approach where each modification is assessed and an expected decision date set.

The expected decision date will be based on the importance, urgency and impact of the modification – taking into account our strategic priorities.

We'll publish these dates on our website. If they are missed we'll aim to provide a new date.

We expect to continue publishing our performance on making code modification decisions, with more granular detail.

Our intention is that this new process will:

- Give more transparency on when we will aim to make decisions.
- Still allow our performance to be visible by continuing to report on decisions.

We plan to do this from April for a six month trial period.

Where we are:

In 2019 we issued a joint consultation with BEIS on Reforming the Energy Industry Codes. This consulted on options for a fundamentally different approach to the governance of the industry codes.

We received 66 responses to this and a summary of these was published on 14 December 2020. The full set of responses has also been published on our website.

At the same time, government published an energy white paper. The white paper includes a commitment to ensure that the institutional arrangements governing the energy system are fit for purpose for the long term.

The white paper also includes a commitment to consult in 2021 on organisational functions including code governance.

Industry Initiatives:

Code Administrators and industry are already taking forward changes to make existing arrangements work better and we support change that delivers positive improvements to the existing governance arrangements.

The next few slides recognise this work and gives our thoughts on these.

Code Modernisation

We see code modernisation encompassing a range of actions, including:

- rationalisation
- equality and diversity actions
- digital transformation

Code Rationalisation	Comments
• In the 2019 consultation with BEIS we said that the complexity and length of the codes could act as a barrier alongside the resources needed to engage in the process. • We believe there is scope for code rationalisation to take place which will not impact the effect or meaning of the codes. • We don't expect this would be of significant scale or materially impact the effect or meaning of the codes. • However, removing unnecessary and redundant content could help codes be clearer and more accessible.	• One possible way forward is Code Administrators exploring this task, working closely with their panels and code parties to identify proportionate proposals industry could raise. • If taken forward on this basis we'd expect, for example, these changes would not be material and may follow a self-governance (SG) or fast track SG governance path.

Equality and diversity	Comments

• In March 2019, we published our Diversity and Inclusion Strategy setting out our ambitions to build a diverse and inclusive workforce and to make our workplace culture more inclusive.
• As part of this strategy, we committed to working with other organisations across the sector to improve diversity and inclusion.
	• We know that that diversity and inclusion is something industry and Code Administrators are taking steps to improve.
	• We encourage this work which includes initiatives to:
	  ○ remove gendered language in codes.
	  ○ ensure websites, publications and content aim to meet the latest accessibility standards, where possible, and are written in plain English.
	• We know too that seeking a wide range of views is also something Code Administrators and panels are mindful of, and we support this and encourage exploring activities to consider if, for example, there are opportunities to improve representation at decision making forums.

Digital transformation	Comments
• In the 2019 consultation, we noted that a number of Code Administrators were reviewing future plans to enhance code access on their websites.	• We know that improving access to code documents through digitisation is something that many Code Administrators and panels have taken forward or are working on. • We agree that digitisation of the code documents could bring benefits to code parties by creating easily navigable and more intuitive sets of rules for parties to engage with and understand their obligations under the industry codes. • In doing this we encourage industry to look at the work being done to create an Ofgem Data Best Practice Guidance document. We have also published Digitalisation Strategy and Action Plan principles that refer to transparency and a consumer-centric approach to digitalisation activities. • We also see benefits in identifying opportunities for cross-code collaboration, including using either the CACoP Forum or the new Digital and Data Service Providers Forum to share best practice.

Cross code working

Improved cross-code working	Comments
• We approved the addition of Principle 13 (Code Administrators will ensure cross-code coordination to progress changes efficiently where modifications impact multiple codes) to CACoP in 2015. We have seen examples of effective cross-code working that have allowed modifications to progress smoothly. • Respondents to our Code Administrators Survey in 2019 commented that cross-code working is not always working effectively. • We agree, and like respondents believe that cross-code impacts are not always taken into account as modifications go through the change process.	• We encourage Code Administrators to ensure the issue of cross-code interactions is consistently discussed with proposers and at work groups. • Where cross-code interactions are identified we expect Code Administrators to raise this at the earliest opportunity, either through the CACoP Forum or directly with the relevant Code Administrators, and to then follow the steps set out in Principle 13, where practicable. • We encourage Code Administrator(s), where necessary, to fully engage with, and commit appropriate resource to, the new Cross Code Steering Group, being introduced under the Retail Energy Code (REC).

Next steps

We are working with BEIS on the issues set out in our July 2019 consultation and expect to consult further this year.

The reforms set out in our consultation propose significant change to the existing regulatory framework for gas and electricity markets. To achieve the aims set out we expect that implementation of reforms will take a number of years, and that the delivery of some elements may need to be staged.

We encourage Code Administrators and industry to continue to consider improvements to existing governance arrangements ahead of any future fundamental reform.

ofgem Making a positive difference for energy consumers

Ofgem is the Office of Gas and Electricity Markets. We are a non-ministerial government department and an independent National Regulatory Authority, recognised by EU Directives. Our role is to protect consumers now and in the future by working to deliver a greener, fairer energy system.

We do this by:

- **working with Government, industry and consumer groups to deliver a net zero economy at the lowest cost to consumers.**
- **stamping out sharp and bad practice, ensuring fair treatment for all consumers, especially the vulnerable.**
- **enabling competition and innovation, which drives down prices and results in new products and services for consumers.**

www.ofgem.gov.uk