

Governance Modifications: Guidance for Proposers

Under Ofgem's Code Governance Review Phase 3 (implemented summer 2016), the way that self-governance can be used has changed. Under the new approach all Modifications would be considered under self-governance, unless the Proposer is able to demonstrate the materiality of their Modification should require the Authority to make its determination. This help sheet seeks to provide areas for Proposers to consider on what may constitute* a 'material effect' as described in the Self-Governance criteria.

In all circumstances, Proposers will be expected to objectively justify their materiality assessment when submitting a Modification Proposal form and must confirm whether they believe the change should be considered under the Self-Governance process.

If the Proposer considers that the change **should not** be considered as Self-Governance, they must provide rationale explaining the assessment. This rationale will be considered by the CUSC Panel when it determines how the Modification Proposal should be progressed.

If no rationale is provided, it will be assumed that the intention is for the change to be considered under the Self-Governance route on the basis that no material impacts have been identified.

Area that the Proposed Modification deals with:	Aspects that are likely to require Authority decision if your proposal covers:
Existing or future electricity customers	<ul style="list-style-type: none">➤ Changes any activity being considered by a Significant Code Review;➤ Changes any process / obligation required for the delivery of Ofgem's Strategic Work Plan (or Strategic Direction);➤ Increases switching timescale; or➤ Materially increases costs that are passed on to consumers, or may be in future.
Competition in Generation, Distribution or Supply of electricity or any commercial activities connected with the Generation, Distribution or Supply of electricity	<ul style="list-style-type: none">➤ Reduces competition, or choice, in the marketplace;➤ Prevents parties competing on equal terms;➤ Significantly increases complexity of processes (where this potentially leads to confusion for consumers);➤ Entails one or more CUSC Parties incurring significant additional cost (e.g. >£100k in any one single financial year); or➤ Introduces different treatment according to class of parties.
The operation of the National Electricity Transmission System	<ul style="list-style-type: none">➤ Has the potential to create stranded regulated assets;➤ Mandates increased investment in network assets or systems; or➤ Creates, modifies or transfers obligations or rights on/or the Transmission and Distribution System Operators.
Security of Supply	<ul style="list-style-type: none">➤ Changes to any activity connected with Electricity Transmission Standard Licence Condition (SLC) Condition B11 'Security arrangements' or Condition

	<p>C17 'Transmission system security standard and quality service'; or</p> <ul style="list-style-type: none"> ➤ Reduces the availability of electricity supply or generation.
Governance of the CUSC	<ul style="list-style-type: none"> ➤ Reduces the rights of industry parties to be engaged in proposed changes to the CUSC; ➤ Changes provisions relating to the constitution or composition of the CUSC Panel and the obligations placed on its members (collectively and individually); ➤ Changes the decision-making capacity of the CUSC Panel in relation to CUSC Modifications; or ➤ Changes any decision-making capacity of the Authority.
<p>Proposers should also remember that modifications likely to introduce any kind of discrimination between classes of parties across the industry normally require Authority direction.</p>	
<p>For Charging Modifications please refer to the guidance provided in Modification area 'existing or future electricity customers' and 'Competition in Generation, Distribution or Supply of electricity or any commercial activities connected with the Generation, Distribution or Supply of electricity'.</p>	

* The items above are not an exhaustive list but are key areas for consideration.

Modifications to be considered under self-governance

In general, unless a specific breach of the Self-Governance Criteria can be identified, the following types of Modifications should be expected to be progressed via the Self-Governance route:

- Rectify internal inconsistencies;
- Remove outdated (or redundant) information;
- Correct typographical errors in the CUSC; or
- Further development / detail existing processes or code arrangements (without introducing new requirements upon code parties which significantly impact business practices or systems).