

## Future System Operator Codes Change Programme (FSO CCP)

**Cross-Code Workgroup (CCWG)**  
**Ofgem Update to Panels**  
**January / February 2024**



OFG1161

### Our reasons for coming to Panel—

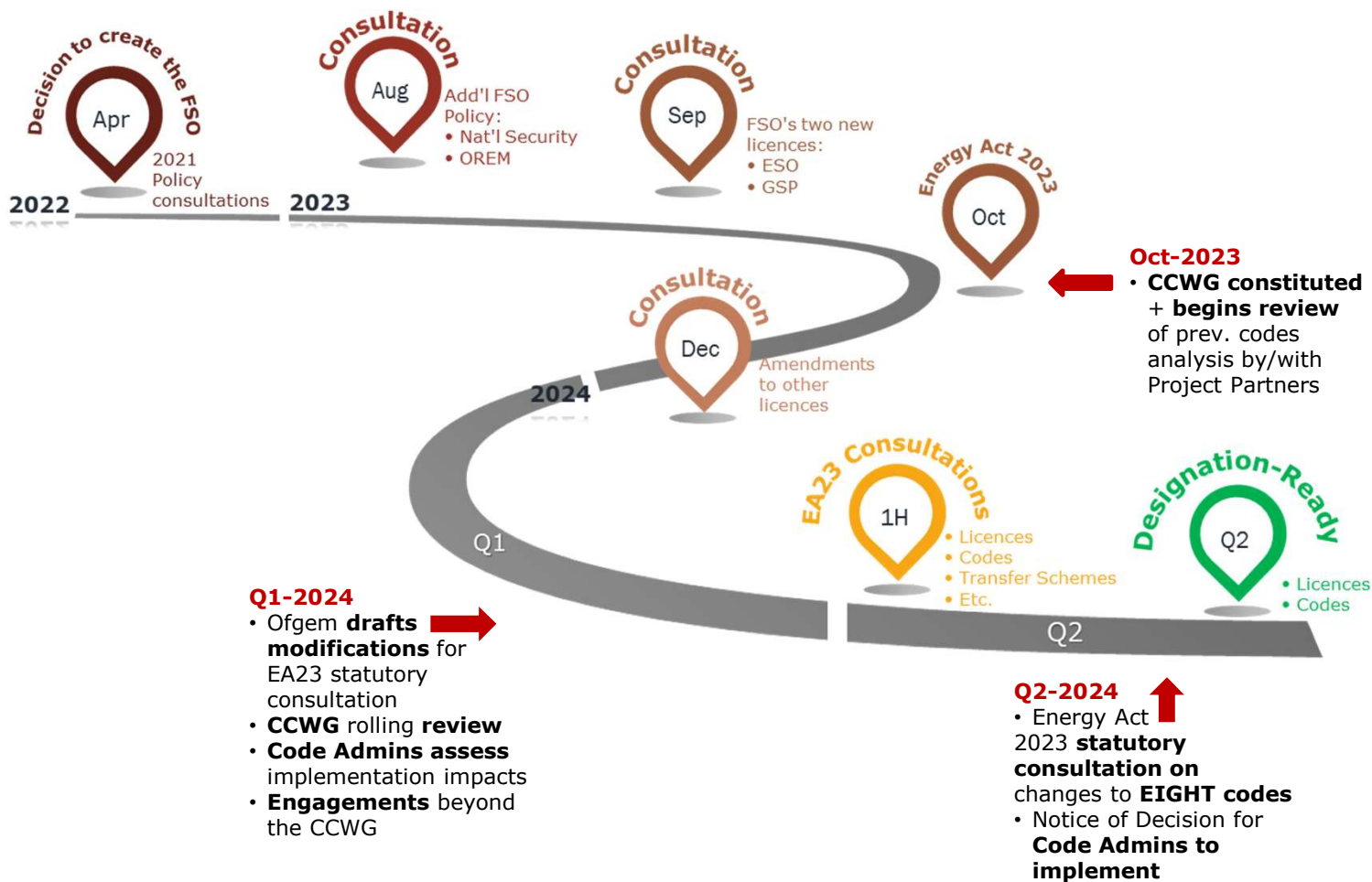
- **PROGRESS / CODE CHANGES:** Share progress and details of code changes the CCWG has worked through so far
- **IMPLEMENTATION IMPACT / READINESS:**
  - Share what is being asked of all code administrators, and by when
  - Discuss 'Horizon Scan' and general readiness
- **CONSULTATION DOCUMENTS:** Give an outline of the modification template, and check we are calibrating correctly to enable good decision making at consultation with straightforward implementation by admins
- **ENGAGEMENT:** Give opportunity for reflections from panels. *Note*, the Energy Act 2023 consultation on the code changes is open to all representations, and while the decision rests with the Relevant Authority under the Act, we are keen to mitigate risks and concerns at the earliest opportunity, and ideally prior to the statutory consultation

### Contents of this pack—

- **CONTEXT:** A refresher on 'the path to the FSO' | The Cross-Code Workgroup (CCWG) | Phases of work
- **CODE CHANGES:** Changes identified to date | Holistic analysis
- **IMPLEMENTATION:** Energy Act 2023 | Consultation template | Request of Code Administrators

Any views expressed in or implied by this document are without prejudice to and shall not limit the discretion of Ofgem or DESNZ in the exercise of existing or future powers in relation to policy, legislation, licences and codes. Equally, views expressed by participants to meetings or workgroups related to this document or the development of code solutions from it will not prejudice or limit any relevant consultation or response to such consultation.

## Context



### The Future System Operator—

- A new, independent, impartial, expert body
- A public corporation, DESNZ as shareholder
- To be designated by the Secretary of State DESNZ under new powers in Energy Act 2023
- To hold two new licences – Electricity System Operator (ESO), Gas System Planner (GSP)
- Undertake existing roles and responsibilities of NGESO Ltd
- Undertake several new roles and responsibilities across electricity and gas
  - Advisory
  - Gas planning & markets
  - Energy Resilience
- Take a whole energy system approach when operating, planning and developing the network

**CCWG** constituted in October-2023, following the August-2023 Call for Volunteers

- Members span all impacted codes and relevant constituencies
- Members offer policy-to-codes and administration expertise to support Day 1 FSO

Constituency	CCWG Member	Organisation	CODE							
			BSC	CUSC	Grid Code	STC	SQSS	D Code	DCUSA	UNC
Chair	Chris Welby	Independent								
<i>Project Partners</i>										
NG ESO	Rob Wilson	NG ESO								
NGT	Phil Lucas	NGT								
Elxon	Lawrence Jones	Elxon								
Elxon	Nicholas Brown	Elxon								
<i>Electricity</i>										
Transmission owner / operator	Richard Woodward	NGET								
Transmission owner / operator	Suzanne Law	SSEN Transmission								
Generator	Garth Graham	SSE								
DNO	Alan Creighton	Northern Powergrid								
DNO	Steve Quinn	NGED								
<i>Gas</i>										
Service provider	Dave Turpin	Xoserve								
Transporter / DNO	David Mitchell	SGN								
<i>Cross-sector</i>										
Suppliers / Shippers	Gareth Evans	ICoSS Group								
<i>Code Administrators</i>										
BSC	Lawrence Jones	Elxon								
CUSC, Grid Code, STC, SQSS	Sarah Carter	NG ESO								
D Code	Chris McCann	ENA								
D Code	Mark Dunk	ENA								
DCUSA	Dylan Townsend	Electralink								
UNC	<i>TBC from the JO</i>	JO								

**Scope and tenure of workgroup is up to FSO Day 1.**

*Optional to cover three (3) years of EA23 provisions to modify codes. Revised terms would need to be agreed.*

## CCWG cohorts have had different areas of focus (WHAT), at each phase (WHEN)

Phase	CCWG: Constituency Reps	CCWG: Code Admin Reps	CCWG: Ofgem (SRO) / DESNZ
<b>1</b> (Oct-2023 to end Feb- 2024, est.)	<ul style="list-style-type: none"> <li>Develop / Approve '<b>business rules</b>' for changes and <b>provisional legal text</b></li> <li>At-risk work, as some licence conditions and policy are still to be consulted on</li> </ul>	<ul style="list-style-type: none"> <li><u>First half</u>: Note process, progress and timings</li> <li><u>Latter half</u>: Consider impacts, discuss <b>optimal re-baselining window(s)</b> vs. <b>Horizon Scan of notable modifications currently in the pipeline</b></li> </ul>	<ul style="list-style-type: none"> <li>Validation and Assurance</li> <li><b>Forward plan packages</b> for CCWG</li> <li>Prepare provisional statutory documents and materials for Panels (<b>targeting late January / February panels</b>)</li> </ul>
<b>2</b> (Mar-2024, est.)	<ul style="list-style-type: none"> <li><b>Review</b> &amp; Mop-Up</li> <li>Respond to <b>issues and amendments raised</b> by Code Admin Reps or SRO (incl. DESNZ)</li> </ul>	<ul style="list-style-type: none"> <li>Re-<b>Baselining</b></li> <li>Consequential changes to associated or auxiliary documents</li> <li>Final impacts and <b>implementation window(s)</b></li> </ul>	<ul style="list-style-type: none"> <li>Assurance (consolidated)</li> <li>Bridge wider FSO project's <b>outputs from related statutory consultations</b> – as final inputs to CCWG</li> </ul>
<b>3</b> (2H-2024, est.)		<ul style="list-style-type: none"> <li>"Distribute", i.e., <b>bring to the attention of industry</b></li> </ul>	<ul style="list-style-type: none"> <li>Statutory consultation on all code changes. The <b>Relevant Authority</b> publishes notices per Energy Act 2023</li> <li>Feedback comes to the Relevant Authority via contact details in the consultation document</li> </ul>
<b>4</b> (2H-2024, est.)		<ul style="list-style-type: none"> <li>Final implementation</li> </ul>	<ul style="list-style-type: none"> <li>Decision notices per Energy Act 2023</li> </ul>

## **Proposed Code Changes**

## CCWG is supporting delivery of two main areas of change: **Institutional** and **New Roles**

### Institutional Changes

*Changes required for coherency and functioning codes at Day 1*

#### Group 1 (references & definitions)

- **Update 'the Act'**
  - EA89, GA86 etc. have been updated by the Energy Act 2023
- **(New?) defined term for new Company**
  - 'the Company', NETSO, NGESO → [ ??? ]
- **Update (new) defined term:**
  - company details of new Co.
  - licence(s) of new Co.
- **Transitional:** 2019 separation of NGESO from NGET; the FSO?
- **Update licence references**, derivatives, conditions and paragraph references:
  - 'NGESO Transmission Licence' is now 'ISOP ESO Licence',
  - C17 is now E7, etcetera.

#### Group 2 (porting NGESO → FSO)

- **Panel membership and voting rights**

#### Group 3 (anomalies & legacy)

- BETTA transition references
- Seven Year Statement references
- Typographical errors

### New Roles Changes

*FSO is required by licence; and Under EA23 other parties required to support the FSO's new roles through information provision*

#### Advisory

Transparency, though EA23 powers sufficient for Day 1

#### Office of Resilience & Energy Management (OREM) – includes **National Security direction to FSO**

Establish the exception to code compliance requirements

#### Gas Planning

- Joint obligations: FSO with NGT
- Options Assessment process
- Interactions other code parties

#### Gas Markets

### The CCWG—

- **Ensures these areas of change are reflected in the GB energy codes**, where necessary
- **Considers** where:
  - More detail could be added to a **process**
  - Greater **transparency** would be beneficial
  - **Information exchange** is required, either from or to other code parties
  - Actions are required from **other code parties**
- Provides expert views on a **default position for the FSO Day 1** (a minimum viable solution)
- Considers how codes could **evolve as roles are established** (3-year sunset for EA23 modification provisions)

Later slides look more closely at CCWG analysis of **areas** above



**For some areas of change the Relevant Authority will provide full legal text to Admins, for others it will provide the 'rule' for categories of change, but not all occurrences**

Change	BSC	CUSC	Grid Code	STC	SQSS	D Code	DCUSA	UNC	Provided to Admins for Day 1 Implementation
<b>Institutional</b>									
<b>Group 1 (references &amp; definitions)</b>									
• Update 'the Act'	X	X	X	X	X	X	X	X	Business Rule
• (New?) defined term for new Company	O	O	O	O	X	X	X	X	Business Rule
• Update (new) defined term, with new Co. registered name and number, and its new licences	X	X	X	X	X	X	X	X	Business Rule
• Update licence references, conditions, paragraph references, etc.	X	X	X	X	X	X	X	X	Business Rule
• (Transitional) defined term for NGESO – post 2019 legal separation and prior to the designation of the FSO	O	X	O	O	O	O	O	O	Legal Text
<b>Group 2 (porting NGESO → FSO)</b>									
• Panel membership and voting rights	O	O	O	O	O	O	O	X	Business Rule
<b>Group 3 (anomalies &amp; legacy) – optional for Day 1, but coherent with FSO policy and using EA23 powers</b>									
• BETTA transition references, as removed from new licences	X	X	X	X	O	O	O	O	Business Rule
• Seven Year Statement references, superseded by ETYS	O	X	X	X	O	O	O	O	Business Rule
• Typographical errors	O	X	O	O	O	O	O	O	Business Rule
OREM: <b>National Security direction</b>	X	X	X	X	X	X	X	X	Legal Text
<b>Advisory</b>	X	X	X	X	X	X	X	X	Legal Text
<b>Gas Roles</b> (Planning & Markets)	O	O	O	O	O	O	O	X	TBD

**Rules will need to be converted to change marked legal text & put on current baseline**  
**Many changes are 'find / replace'** , e.g., "holder of ISOP ESO licence granted, or treated as granted, pursuant to section 6(1)(da) of the Act" vs. Transmission Licence

## There are options for how we refer to the FSO in and across all codes

- **All industry electricity codes refer to NGESO Ltd using a defined term** with the definition referring to (a) the registered Company name and number, and (b) holder of the Transmission Licence through which the SO conditions apply.
  - The CUSC, Grid Code and STC, use the defined term '**The Company**'. Under CM090 the STC adopted this term in April 2023.
  - The BSC and DCUSA use National Electricity Transmission System Operator (**NETSO**).
  - The Distribution Code and SQSS use **NGESO**.
  - The UNC does not currently refer to NGESO or anything similar.
- **At the establishment of the FSO, all industry codes will continue to use a defined term to refer to the new entity**, including (a) the new registered Company details, and (b) holder of ESO and GSP licences
- **There are options for the defined term**, ideally for Day 1, but implementable in the period afterwards

Code	Defined Term Status Quo	Option 1(a) Minimum	Option 1(b) Minimum	Option 2 Intermediate	Option 3 Maximum
CUSC	The Company	The Company	The Company	The Company	ISOP
Grid Code	The Company	The Company	The Company	The Company	ISOP
STC	The Company	The Company	The Company	The Company	ISOP
SQSS	NG ESO	NETSO	ESO / ISOP	ISOP	ISOP
D Code	NG ESO	NETSO	ESO / ISOP	ISOP	ISOP
DCUSA	NETSO	NETSO	NETSO	ISOP	ISOP
BSC	NETSO	NETSO	NETSO	NETSO	ISOP
UNC	n/a	ISOP	ESO / ISOP	ISOP	ISOP

### CCWG discussions considered–

- **Implementation capacity across code administrators** in delivering the changes for Day 1 vs. existing pipeline
- Representations on **implementation risks**, the **volume of consequential work**, system safety and reliability
- The **recency of the existing defined term**, 'the Company' as adopted by the STC; NETSO as adopted by the BSC at legal separation of NGESO from NGET in 2019
- **Clarity for stakeholders**, where for example the Distribution Code and DCUSA share a similar set of stakeholders, and alignment would be preferred
- Presentational **opportunities to harmonise the defined term across all codes** – selecting a term that best represented the FSO with a low likelihood of future change
- **Coherence with Energy Code Reform**
- The **principles** set out in 1.40 to 1.45 of the August Call for Volunteers, prioritising "delivery within the project timeline", while also aspiring to deliver modifications coherent with the transition to the FSO

## Emerging preference is for Option 2 / Intermediate

## As a new, independent, impartial, expert body – there is a case for the FSO to have full membership and voting rights, uniform across all codes

- The **current panel membership and voting** arrangements are such that NGESO Ltd (the Company, NETSO, NGESO)
  - is a **voting member** of each of the panels that it is the licensee for and administers, that is the **CUSC, Grid Code** and **STC**;
  - is a **voting member** of the **SQSS** and **Distribution Code** panels;
  - maintains the **right to membership of the DCUSA** panel;
  - is a **non-voting member** of the **BSC** panel;
  - is **not a member of the REC or SEC** panels; and
  - is **not a member of the UNC** panel.
- To discharge its duties under the Gas Planner Licence, the **FSO is proposed to accede and become a party to the UNC** at designation, with the right to raise modification proposals.
- There will be **no change to non-membership of the REC or SEC** panels.

Code Panel	NGESO's current arrangements		Option 1		Option 2	
	Membership	Voting	Membership	Voting	Membership	Voting
CUSC	Yes	Yes	Yes	Yes	Yes	Yes
Grid Code	Yes	Yes	Yes	Yes	Yes	Yes
STC	Yes	Yes	Yes	Yes	Yes	Yes
SQSS	Yes	Yes	Yes	Yes	Yes	Yes
D Code	Yes	Yes	Yes	Yes	Yes	Yes
DCUSA	Yes*	No	Yes*	No	Yes*	No
BSC	Yes	Yes**	Yes	Yes**	Yes	Yes**
UNC	No	No	Yes	No	Yes	Yes

### CCWG discussions considered–

- The minimum change**, i.e., implement **only the current** membership and voting arrangements of NGESO in the FSO + establish the **new arrangements in the UNC** (short of voting)
- Coherence of extending voting** rights across all codes **with FSO policy** establishing an independent and non-commercial body 'as a trusted and expert body at the centre of the gas and electricity systems'. This would **include voting rights in both the BSC and the UNC**
- Policy justification** to permit extension of rights of the FSO on Day 1, where already exists for NGESO Ltd
- For the UNC, the **balance between shippers and transporters** where the FSO has a vote

**Emerging preference is for Option 1 / Minimum**

**EA89 s.7(3)(a) and GA86 s.8** – “Without prejudice to the generality of paragraph (a) of subsection (1) [ *A licence may include such conditions as appear to the grantor to be requisite or expedient having regard to the duties ...*], *conditions included* in a licence by virtue of that paragraph] *may require the licence holder to comply with any direction given* by the [ Authority or Secretary of State] *as to such matters as are specified in the licence or are of a description so specified;*”

### National Security Policy Context

- The powers in the Energy Act 1976 require an “actual or threatened emergency affecting fuel or electricity supplies”
- A National Security direction as set out in conditions B4 of the ISOP’s ESO and GSP licences is **designed to support emerging scenarios which do not yet meet the emergency qualification of EA76**
- The proposed powers for the Secretary of State to issue National Security directions in the ISOP’s licences **will not override national security or any other requirements existing in other legislation**. In a situation where EA76 powers are in use, then the National Security direction is unlikely to be required, and unlikely to be running contrary to other similar legislation
- The NS **direction is only to the ISOP to act or refrain from acting**
- The ISOP acting under NS direction **is not intended to grant the ISOP any new powers to then direct others**

### CCWG discussions considered–

- **Examples where the obligation to comply with the codes is superseded** to cover certain scenarios,
  - **Example 1** – Grid Code General Conditions section GC.3 UNFORESEEN CIRCUMSTANCES  
GC.3.1 *If circumstances arise which the provisions of the Grid Code have not foreseen, The Company shall, to the extent reasonably practicable in the circumstances, consult promptly and in good faith all affected Users in an effort to reach agreement as to what should be done. If agreement between The Company and those Users as to what should be done cannot be reached in the time available, The Company shall determine what is to be done. Wherever The Company makes a determination, it shall do so having regard, wherever possible, to the views expressed by Users and, in any event, to what is reasonable in all the circumstances. Each User shall comply with all instructions given to it by The Company following such a determination provided that the instructions are consistent with the then current technical parameters of the particular User’s System registered under the Grid Code. The Company shall promptly refer all such unforeseen circumstances and any such determination to the Panel for consideration in accordance with GC.4.2(e).*
  - **Example 2** – Grid Code General Conditions section GC.9 EMERGENCY SITUATIONS  
*Users should note that the provisions of the Grid Code may be suspended, in whole or in part, during a Security Period, as more particularly provided in the Fuel Security Code, or pursuant to any directions given and/or orders made by the Secretary of State under section 96 of the Act or under the Energy Act 1976.*

### Where the below points are also under consideration by DESNZ–

- How GB codes may be qualified to **permit the ISOP to share**, where reasonable, that it is being directed under the NS provision
- If / whether GB codes should provide any **guidance as to how non-directed code parties might best act or refrain from acting** to avoid interfering with the ISOP’s compliance with any NS directions issued by the SoS to the ISOP
- To whom non-directed code parties will have **recourse for any impacts**

## Proposed to introduce a 'boilerplate' clause to each of the GB codes with which the FSO will be required to comply, to highlight the existence of such a national security provision to users. Clause must align with the licence condition, without extension

### Condition B4 Compliance with directions related to national security

4. A direction under paragraph 3 may require the licensee to:

- (a) **take actions or refrain from taking actions** as specified in the direction; and/or
- (b) **provide information specified in the direction to the Secretary of State.**

5. The Secretary of State may amend or revoke any direction issued to the licensee under this condition.

6. The licensee is **not required to comply with any obligation** in this licence (or the Gas System Planner Licence), where and **to the extent that compliance with that obligation would be inconsistent with the requirement to comply with a direction** issued in accordance with paragraph 3, for the period set out in the direction.

7. The licensee **must inform the Secretary of State of the conflict identified in paragraph 6 between the obligations** as soon as reasonably practicable after the conflict is identified.

(Example drawn from the Grid Code – other codes would be similar in style and content. Placement in each code to be agreed.)

#### GC.17 **DIRECTIONS RELATED TO NATIONAL SECURITY**

- GC.17.1 The **Secretary of State** may issue a direction to **The Company** as referred to in Condition B4 of **The Company's ESO Licence** where there is a risk relating to national security that may detrimentally impact the resilience, safety or security of the energy system, or the continuity of essential services.
- GC.17.2 **The Company** must comply with any such direction that has been issued by the **Secretary of State. Users** should note that **The Company** is not required to comply with any other obligation in the **ESO licence** (or the **Gas System Planner Licence**), where and to the extent that compliance with that obligation would be inconsistent with the requirement to comply with such a direction. This includes the requirement set out in Condition E3 of **The Company's ESO licence** to comply with this **Grid Code**, for the period set out in the direction.
- GC.17.3 **The Company** is required to inform the **Secretary of State** of any such conflict as identified in GC.17.2 as soon as reasonably practicable after the conflict is identified. **[ Consider analysis of User impacts ]**
- GC.17.4 **[ Consider discretion for FSO to inform Users impacted by any non-compliance of the FSO with the code ]**
- GC.17.5 The **Secretary of State** may at any time amend or revoke any direction issued to **The Company** as referred to in this section GC.17.

## Proposed to introduce a 'boilerplate' clause to each of the GB codes with which the FSO will be required to comply, to highlight the existence of this role

### Advisory and Information Request Policy Context

- The following text draws together details from the ESO licence and Energy Act 2023 and sets out for Users what their expectations will be where the FSO in fulfilment of an advisory request finds it necessary to request information from them in turn.
- The basis for this is as part of the broader obligation under the Energy Act 2023 section 171 in which the FSO may by notice request from a relevant party such information as the FSO reasonably requires in connection with the exercise of any of its functions. The drafting reflects this broader requirement.

(Example drawn from the Grid Code – other codes would be similar in style and content. Placement in each code to be agreed.)

#### GC.18 **ADVISORY AND INFORMATION REQUESTS**

GC.18.1 **The Company** is required to provide advice to the **Authority** or to a Minister of the Crown when requested in accordance with section 171 of the **Energy Act 2023** and section D1 of the **ESO Licence**.

GC.18.2 The Company may by notice request from Users such information as it reasonably requires in connection with the exercise of any of its functions, as set out in section 172 of the **Energy Act 2023**. Where this is the case it will do so by the issue of an **Information Request Notice**. The purposes of this may include to assist in the fulfilment of an advisory request.

GC.18.3 **The Company** is required by section D2 of the **ESO Licence** to prepare, submit for approval by the Authority and publish on its website an **Information Request Statement** that sets out further detail on the process the licensee expects to follow when requesting information from other parties.

The **Information Request Statement** must include, but need not be limited to, the following matters:

(a) the process **The Company** expects to follow when issuing an **Information Request Notice**, including any further detail around the expected engagement between **The Company** and recipient of an **Information Request Notice**; and

(b) the details to be included in an **Information Request Notice** issued by **The Company**.

GC.18.4 **The Company** must, unless the **Authority** otherwise consents, maintain for a period of 6 years and provide to the **Authority** where required a record of information requests as detailed in section D2 of the ESO licence including:

(a) a copy of the **Information Request Notice**;

(b) any subsequent variations to the original information requested;

(c) the recipient's response(s) to the notice, including any refusal or challenges to the notice or requested information;

(d) the time taken for the recipient to provide the requested information;

(e) the manner and form the information was provided in; and

(f) the information provided in response to the notice, and whether such information complied, in The Company's view, with the **Information Request Notice**.

**Energy Act 2023 information request powers are sufficient for Day 1, but transparency is important for code signatories, especially as the role 'beds in'**

## Code Administrator's recommendations will be considered for placement in code

Code	Section	Comment
CUSC	Section 6 – General Provisions (add new sub-sections to the end)	This is a catch-all section of the CUSC and includes provisions for Force Majeure, the Fuel Security code and the requirements for CUSC parties to comply as applicable with the Grid Code
Grid Code	General Conditions (add new sub-sections to the end)	This is a catch-all section of the Grid Code and is already used to detail arrangements for the Fuel Security Code and also 'unforeseen circumstances' leading to arrangements in the Grid Code not covering a particular situation
STC	Section G – General Provisions	This section contains those provisions that are generic to the code. It includes Force Majeure, Data Protection and Derogations
SQSS	Section 1 - Introduction	Include explanation of how National Security Instruction may overwrite requirements. Can't see a situation where an Advisory request needs to be covered.
BSC	Section H - General	This section includes provisions relating to the ownership, use and disclosure of data; and the limitation of liability of Parties under the Code
Distribution Code	DISTRIBUTION GENERAL CONDITIONS (DGC)	Sets out DGC3 UNFORESEEN CIRCUMSTANCES and DGC6 DATA AND NOTICES
DCUSA	SECTION 3 GENERAL LEGAL PROVISIONS	Includes provisions relating to force majeure, derogations and further information provision
UNC	GENERAL TERMS SECTION B – GENERAL	Includes provisions relating to force majeure, derogations and communications.

**Principles:** Prominence for code parties; Alignment with sections in the respective code; Consequential effects / volumetric impact of potential (re)numbering



**A mapping will show the CCWG has considered all new licence obligations, new roles and identified where code changes are necessary for Day 1, beyond Day 1 or not at all**

**Example: 'Licence-To-Code'**

Licence	Condition	Title	Obligation	Role	Code Requirement	Code Progress	Codes impacted
ESO and GSP	B4.6	Compliance with directions related to national security	'The licensee is not required to comply with any obligation in this licence (or the Gas System Planner Licence), where and to the extent that compliance with that obligation would be inconsistent with the requirement to comply with a direction issued in accordance with paragraph 3, for the period set out in the direction.'	OREM	Yes	Boiler plate clause drafted to allow the FSO to act in a way that may not be compliant with codes.	All codes which FSO are obliged to comply with
GSP	C4(5)	Licensee's assessment of gas supply security	The licensee must, as soon as is reasonably practicable after the provision of the Gas Supply Security Assessment to the Authority and the Secretary of State, publish a version of the Gas Supply Security Assessment on its website.	Markets	No	There is no code requirement here as this obligation (and action to discharge) rests solely with the FSO.	N/A

**Example: 'New Roles-To-Code'**

Activity	Licence, Code or Other?	Description / Our Preference	Code Change Requirements
The FSO will have an obligation to track responses to Advisory requests.	Licence	The FSO will track requests, responses and associated formal correspondence.	As long as not requirement on users in this, no codification necessary.
Process for HMG / GEMA to request advice / information / analysis from FSO	Other: "ISOP Advice Process Document"	The ISOP Advice process document is likely to outline the key touchpoints of the Advisory process and the associated tri-partite Governance forums.	As long as there is not a requirement on users for this, no codification necessary.
Information request power	Licence + "ISOP Information Request Statement"	Wider than Advisory, but the process document developed in collaboration with DESNZ and Ofgem will need to meet the needs of the Advisory function.	Stakeholders will want to have requirements codified for transparency and so they can plan to fulfil them. This can't be done efficiently for unknown requests but would be sensible if requests had a certain cadence or repetition. Beyond Day 1 development.

**Summary mappings expected to be annexed to consultation**



## Implementation

## **Ofgem and or DESNZ are using bespoke processes to deliver licences and industry code changes based on stated policy aims within the parameters of Energy Act 2023**

Per section 169(1) and (3) of the Energy Bill, a Relevant Authority may modify a "Relevant Document"

*"in preparation for the designation of a person (as the FSO) under section 162(1), or in connection with or in consequence of the designation of a person under that provision."*

This power to modify Relevant Documents is subject to a three-year sunset period following first designation of the FSO (under section 169(6)).

169(7):

"relevant authority" means the Secretary of State or GEMA;  
"relevant document" means a document maintained in accordance with the conditions of a relevant licence.

**Ofgem and or DESNZ may modify codes for the transition to the FSO, and for a 3-year period following the FSO's creation**

### **Energy Act 2023 sets the:**

- **legislative framework** of the FSO, roles, functions, duties
- **powers** which Ofgem and or DESNZ will use to enable the transition to the FSO, and for a 3-year 'sunset' period following its creation
- **boundaries** governing activities for which powers will be used

### **Energy Act 2023 enables** Ofgem and or DESNZ to:

- **modify licences and codes**, outside standard processes under s.11A EA89 / s.23 GA86 or codes provisions
- **provide guidance and instruction to industry parties** on what assistance will be required and following which timeline
- **streamline the process** and **promote coordination**, choreograph when changes take effect, rather than the solution

### **Implementation and choreography of activities**

- **expect the Relevant Authority to**
  - publish notices about proposed modifications (licences/codes),
  - consider representations about those modifications,
  - publish notices about modification decisions (licences/codes),
  - make changes directly to licences
  - direct that changes are made to codes
- **expect modification effective date** to be **aligned to an event**

## Ambition is to “follow the spirit of standard modification proposals”

To capture areas industry is used to seeing, harmonised across all codes

### 170 Procedure relating to modifications under section 169

- (1) Before making a modification under section 169, a relevant authority must—
  - (a) publish a notice about the proposed modification;
  - (b) send a copy of the notice to the persons listed in subsection (2); and
  - (c) consider any representations made within the period specified in the notice about the proposed modification or the date from which it would take effect.
- (2) The persons mentioned in subsection (1)(b) are—
  - (a) each relevant licence holder;
  - (b) the GEMA (where the relevant authority is the Secretary of State) or the Secretary of State (where the relevant authority is the GEMA);
  - (c) the National Association of Citizens Advice Bureaux;
  - (d) the Scottish Association of Citizens Advice Bureaux;
  - (e) Consumer Scotland;
  - (f) the General Consumer Council for Northern Ireland, unless the relevant authority does not consider it appropriate for the Council to be sent a copy of the notice in a particular case;
  - (g) where the proposed modification relates to a licence for the purposes of section 5 of the Gas Act 1986, the Health and Safety Executive;
  - (h) such other persons as the relevant authority considers appropriate.
- (3) A notice under subsection (1) must—
  - (a) state that the relevant authority proposes to make a modification;
  - (b) set out the proposed modification and its effect;
  - (c) specify the date from which the relevant authority proposes that the modification will have effect;
  - (d) state the reasons why the relevant authority proposes to make the modification.
- (4) If, after complying with subsections (1) to (3) in relation to a modification, the relevant authority decides to make the modification, it must publish a notice about the decision.
- (5) A notice under subsection (4) must—
  - (a) state that the relevant authority has decided to make the modification;
  - (b) set out the modification and its effect;
  - (c) specify the date from which the modification has effect;
  - (d) state how the relevant authority has taken account of any representations made in the period specified in the notice under subsection (1);
  - (e) state the reason for any differences between the modification set out in the notice and the proposed modification.
- (6) A notice under this section about a modification or decision must be published in such manner as the relevant authority considers appropriate for bringing it to the attention of those likely to be affected by the making of the modification or decision.

**Addressees** (Code Admins “Distribute”, i.e., bring to the attention of industry)

### EA23 Consultation Notice(s)

#### What the Act says to include:

- The proposed modification
- Effect of the modification
- Reasons to make the modification

#### Expect to also see:

- Provisional legal text included to enable the effect of the proposed changes to be seen
- Summary CCWG discussions on the issue
- Summary CCWG recommendations
- Relevant Authority’s decision (only in the decision notice, after consultation close)

### Representations

- Directly to contact in EA23 consultation document

#### Expected **Date** / Actual Effective **Date**

- **TBD**, but expect to reflect implementation **constraints highlighted by the CCWG**. Similar to retail code consolidation, **date linked to a Secretary of State event**

## Implementation: Request of Code Administrators in readiness for EA23 Consultation

Consultation – FSO Codes Change Programme – Modification Proposal – [ CODE\_ACRONYM ]

FSO Codes Change Programme – Modification Proposal – [ CODE_FULLNAME ] .....	2
Executive Summary .....	6
Structure of this document .....	8
Package XX: Institutional .....	10
Background .....	10
The Modification Proposal (Group 1 – References and definitions) .....	11
A. Definition of 'the Act' .....	11
B. Defined term for the new Company across all codes .....	11
C. Definition of [ the defined term ] for the new Company .....	14
D. References to the FSO's two new licence categories; and References to the new licences' structure and provisions .....	15
E. Transitional defined term for NGESO post 2019 legal separation and prior to the designation of the FSO – (CUSC ONLY?) .....	16
CCWG Report (for internal – to the CCWG – use only) .....	18
The Modification Proposal (Group 2 – applying existing NGESO arrangements to the FSO) .....	20
F. Panel membership and voting rights .....	20
CCWG Report (for internal – to the CCWG – use only) .....	22
The Modification Proposal (Group 3 – Anomalies and legacy) .....	24
G. Removal of references to Seven Year Statement .....	24
H. Removal of references to British Electricity Trading and Transmission Arrangements (BETTA) ..	24
I. Correction of reference to Average Cold Spell (ACS) demand .....	25
J. Typographical errors and corrections .....	25
Package XX: National Security Direction to the FSO .....	27
Background .....	27
The Modification Proposal .....	28
CCWG vote (to be redacted for all external audiences) .....	30
Package XX: Advisory .....	31
Background .....	31
The Modification Proposal .....	31
CCWG vote (to be redacted for all external audiences) .....	31
Package XX: Gas roles .....	32
Appendix 1 – Glossary .....	33
Appendix 2 – Change Map .....	35
Appendix 3 – Questions .....	36
Your response, data and confidentiality .....	36
Appendix 4 – Privacy notice .....	37
Personal data .....	37
Annex 1 – Provisional Legal Text – CODE_ACRONYM .....	39
Package XX: Institutional .....	39
Package XX: National Security .....	39
Package XX: Advisory .....	39
Package XX: Gas Roles .....	39
Package XX: OREM .....	39
Annex 2 – Mapping FSO licence conditions to Code change requirement .....	41

### Request of each Code Administrator—

#### (1) Prior to EA23 Consultation | **Provide planning input for FSO Project**

- Requirements for readiness and compliance with modifications
- Systems and user impact (expect no/low), but we seek assurance
- Enablers or Blockers to the implementation window—'Notice of Decision' publication date to 'Effective Date'; Scenario planning

#### (2) Prior to EA23 Consultation | **Convert rules to change marked legal text and put on current baseline**

- As close to consultation, as reasonable
- Consequential analysis; changes to auxiliary or associated documents
- Baseline change marked legal text, to be published as annex to the EA23 consultation

#### (3) At EA23 Notice of Decision and for Notice of Day 1 | **Implement changes**

### (ON LEFT) work in progress modification template for each code

- 'Thematic' grouping of modifications (as earlier slides)
  - Business rules
  - Options considered / recommended
- Representations: summary of CCWG and Industry
- Reasons for Decision by the Relevant Authority
- Annexes
  - Provisional Legal text
  - Mapping 'Licence-To-Code' / 'Roles-To-Code'
  - Baselined change marked legal text (*from Code Administrators*)

## Next Steps

- **Draft** EA23 statutory consultation
- **CCWG** rolling **review** of modifications
- **Code Admins assess** implementation impacts
- **Finalise Stage 1 Gas / UNC** modifications
- Continue **evidencing work**
- Continue **engagements** at panels

## ENGAGEMENTS

Date	<ul style="list-style-type: none"> <li>• Progress on business rules</li> <li>• Progress on code changes</li> <li>• Who, What and When</li> </ul>
SQSS	24-Jan-2024
Grid Code	25-Jan-2024
CUSC	26-Jan-2024
STC	31-Jan-2024
DCode	01-Feb-2024
CACoP	02-Feb-2024
BSC	08-Feb-2024
UNC	15-Feb-2024
DCUSA	21-Feb-2024
<b>Papers</b>	<ul style="list-style-type: none"> <li>• Standard pack for all, gas excepted</li> </ul>

**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](http://www.ofgem.gov.uk)