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Submission to the BEIS / Ofgem Consultation on Reforming the Energy Industry Codes

Submission from the Energy Policy Group, University of Exeter

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Section 1: Introduction

We, the Energy Policy Group, of the University of Exeter welcome this [consultation](#), and its parallel [Impact Assessment](#).

We find the consultation document to be a thorough and honest review of the long standing discussions about the need to reform Codes.

However, before commenting on the specifics of this consultation, it is important to state that the effectiveness of specific measures like Industry Codes reform is dependent on overall system reform. Our research has shown that current GB governance arrangements are not capable of delivering energy system goals. IGov has proposed a series of reforms to deliver an efficient, whole-system energy governance framework, [set out in this briefing](#).

We would have liked to have been able to say unequivocally we support the Model 1 or the Model 2 (Integrated Rule Making Body), as proposed in the Consultation. However, we think there are bigger, whole system issues at play here – as the Consultation itself raises in its Question 14.

EPG's choice depends on bigger, whole system decisions about regulatory (and institutional) reform raised in the [Flexible and Responsive Energy Retail Markets](#) consultation document. This latter Consultation raises the issue of a new, overarching regulatory framework – what it calls a Modular approach to regulation (page 25), as opposed to taking an incremental regulatory change approach (page 20, which we think can only end in failure). We support the Modular approach to reforming the GB regulatory system.

Our decision to support Model 1 or Model 2 in this Codes Reform Consultation depends on other decisions, as yet untaken, related to a modular approach to regulatory reform.

We are clear though, and this will come out in our answers to the Consultation questions in Section 4 below, that we do not support a Model 1 Strategic Body that is related to Codes only. Moreover, we would not support a Strategic Body related to Codes only to be overseen, or be part of Ofgem. We think this would be a backward step.

If modular reforms of the regulatory system are not undertaken, then we would support an IRMB (Model 2) as a preferred next step, albeit as a second best, incremental outcome.

We would then argue that modular regulatory reform should be further discussed. If modular regulatory reform were then implemented, the IRMB Model 2 could then fit into that reasonably easily.

This EPG response is set out in the following way: Section 2 gives our upfront arguments for our decisions. Section 3 gives an overview of the development of the IGov arguments with respect to Codes over time. Section 4 gives replies to the Consultation questions. Section 5 concludes.

Section 2: Model 1, Model 2 or Another?

[IGov](#) has set out a governance framework to deliver an equitable, net zero energy future.

A central aspect of the IGov institutional reforms is the creation of an [Energy Transformation Commission](#), which acts as a parallel partner to the Committee on Climate Change; which gives advice to the Secretary of State; and which acts as the coordinator of the energy system transformation. This coordination covers regulation, technical needs, society's preferences, political realities and so forth.

IGov also argues that an Independent and Integrated System Operator (IISO) should deliver the energy system transformation from a technical point of view. This IISO is different from the current ESO which continues as part of the National Grid Group (NGG) and is therefore not independent, and is only electricity. Our IISO is independent and is joint heat and electricity (i.e. including electricity, the current gas network, new heat networks etc).

This means that the IGov preferred institutional framework can be related to both of the Codes Reform Models, as set out in the figure below (taken from page 20 of the Codes Reform [Consultation](#)).

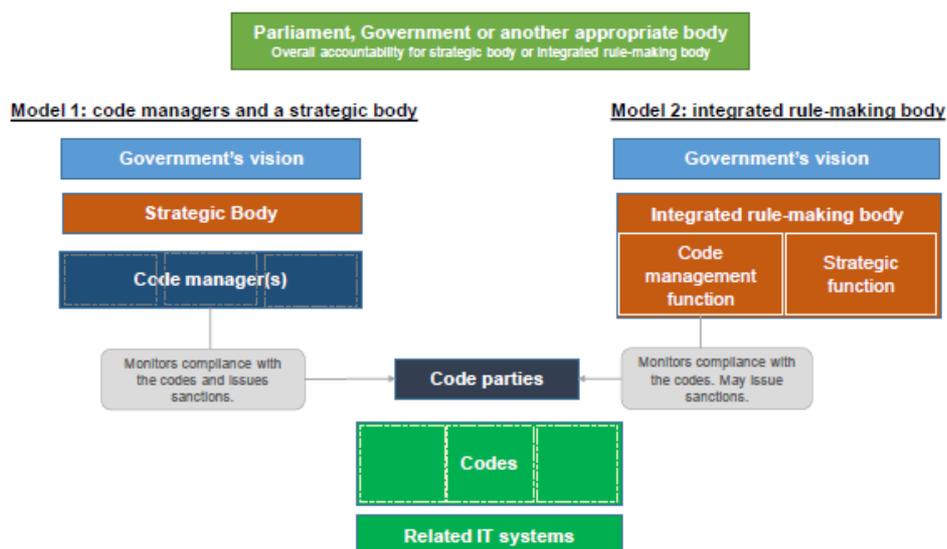


Figure 1: Governance models - Model 1: code manager function and a strategic body and Model 2: Integrated rule-making body.

The IGov framework argues for an Energy Transformation Commission (ETC), as shown in Figure 2 below. The Strategic Body in Model 1 of the Consultation could be an ETC, providing it was energy system wide and not just Codes (Consultation Q14), and not just about strategy.

At the same time, the IGov framework also argues that the Code Manager function is related to an Independent and Integrated System Operator, effectively the Integrated Rule Making Body (IRMB) of Model 2.

In effect therefore IGov would argue for a coordinating, whole energy system transformation body combined with an IRMB within the system operator function (as shown below in Figure 2).

We are clear though we do not support a Strategic Body that is related to codes only (i.e. the Model 1 of the Codes Consultation). Moreover, we would not support a Strategic Body related to codes to be overseen, or part of, Ofgem. We think this would be a backward step.

If modular reforms of the regulatory system are not undertaken, then we would support an IRMB (Model 2) as a preferred next step for codes, albeit as a second best, incremental outcome.

We would then argue that modular regulatory reform should be further discussed. If modular regulatory reform were then implemented, the IRMB could then fit into that reasonably easily.

The Modular regulatory reform we would support is set out in Figure 2 below, taken from our IGov report on [enabling the transformation of the energy system](#).

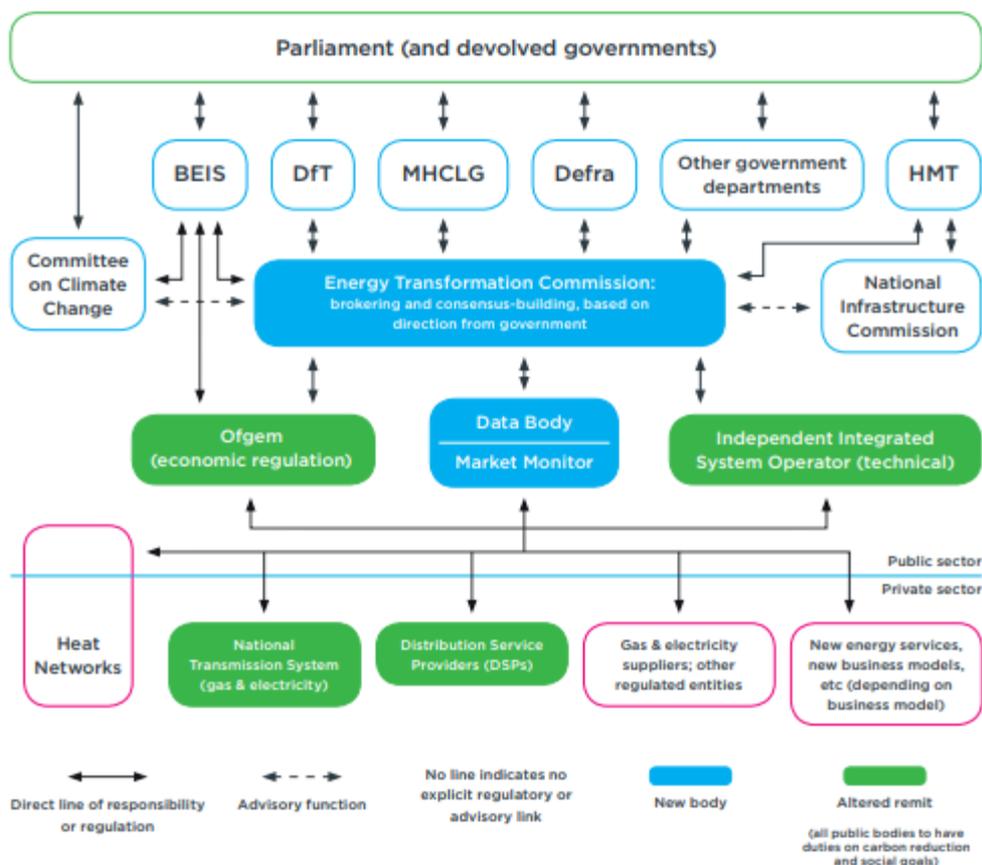


Figure 2: GB energy governance: proposed new institutions and responsibilities

Section 3: Development of IGov’s Code Reform Arguments

IGov’s [submission](#) to the 2014 CMA’s Energy Market Investigation argued that, in addition to the four Theories of Harm (TOH) put forward by the CMA, a 5th TOH should be added OR the CMA’s 4 TOH should be seen as secondary to the TOH put forward by IGov. We argued that the current regulatory framework was not fit for purpose and should be reformed. One of our key points was that our code system did not allow innovation or change.

Since then IGov has inputted to the various consultations related to the CMA or codes (and these submissions and our wider research are brought together in our [Codes Primer](#)), this includes our most [recent insights](#) put forward at the BEIS & Ofgem Energy Code Review Workshops early in 2019.

We see codes reform as an essential building block for enabling a low carbon energy system transformation that is secure and equitable. As the Consultation makes clear, there were good reasons for the original idea of having self-regulation of codes. However, as the Consultation also makes clear, the codes process has transformed over time into something which undermines change.

IGov’s key requirement for codes reform is the end to self-regulation of codes. This is the essential part of the GB governance framework that IGov is arguing for, and set out in this IGov key findings document [blog](#).

This key findings document has the links to 4 key conclusions of IGov work (an overview document of [IGov](#); an explanation of the Energy Transformation Commission ([ETC](#)); a 5 blog series on [market design](#) changes which need to be integrated and coordinated with wider energy system institutional change; and [local governance](#) requirements.

Section 4: Answers to Consultation Questions

Background Q1-5

We agree with your background questions. We agree with your scope, but raise the issue that codes are an essential building block of the GB energy governance framework and therefore should fit seamlessly with wider regulatory reforms and issues.

Vision and Option Q6-9

We agree with your four areas of reform. Our discussion of Models 1 and 2 is in Section 2 above.

Providing Strategic Direction Q10-14

As said in Section 2 above, we support the need for a new body to coordinate the energy system transformation, and we have called this body an Energy Transformation Commission (ETC). One of the ETC's roles would be strategy.

We do not think that this body should be within Ofgem or the ESO, as it now is. We see value in a new wider coordinating body (the ETC), but with a reformed system operator body working to it which would include responsibility for codes (and in effect would be the IRMB).

Empowered and Accountable Code Management Q15-18

We think that the new body should have end to end system managers. As a non-technical set of people, we understand there are all sorts of codes which build up to many 1000 pages. The issue for us is not how many codes managers there are, and how those codes can be reduced down into fewer codes, but more about the function and efficiency of changing those codes to enable energy system change.

It makes sense to us that there is one code manager which has expertise of all codes, which works to the technical system change body (in IGov terms the IISO), which in turn works to the SoS, who has taken advice from the CCC and ETC.

We can see that in creating one manager, there may be practical difficulties of bringing expertise together from the different Code Administrators around the country – and because of that it may be easier to have more than one Code Manager.

Therefore, the key issue is to end self-regulation. The power has to lie with a Code Manager, which is in turn, finally, held to account by the Government Vision.

Code Simplification and Consolidation Q27-31

See above. It is clear that the codes as we understand them now are too long and too unwieldy – and they need to be shortened and more accessible. In addition, self-regulation has to end.

Monitoring and Compliance Q32-34

As said above, our preference is modular regulatory reform. In the absence of that, our preference is Model 2, the IRMB. They should have power to ensure compliance, and they themselves – in our preferred world – would be working to the ETC.

Section 5: Conclusions

The EPG welcomes this consultation.

We think the evidence is very strong that the current codes system undermines GB energy system innovation – as this Consultation has set out.

Because of this we hope that the Government will make a clear and firm step towards a Codes Reform which sets codes as the building blocks of an agile, equitable and sustainable energy system. This means ending self-regulation and setting up a new governance process.

We would hope this Code Reform to be undertaken as part of modular regulatory reform, as set out in the Flexible and Responsive Energy Retail Markets Consultation.