

Smart Metering Implementation Programme

Smart Energy Code

Consultation document

April 2012

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The consultation can be found on DECC's website:
http://www.decc.gov.uk/en/content/cms/consultations/cons_smip/cons_smip.aspx

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Executive Summary

Introduction

The Government's vision is for every home and smaller business in Great Britain to have smart electricity and gas meters. Domestic consumers will also be offered an In-Home Display which will provide real time information on their energy consumption. The roll-out of smart meters will play an important role in Britain's transition to a low-carbon economy and help us meet some of the long-term challenges we face in ensuring an affordable, secure and sustainable energy supply.

Real time information on their energy consumption will help consumers to control their energy use, save money and reduce emissions. There will be an end to estimated billing and changing suppliers will be smoother and faster, which will be beneficial to many customers. New products and services will be supported in a vibrant, competitive, more efficient market in energy and energy management. Suppliers will have access to accurate data for billing and to improve their customer service. They will also be able to reduce costs, for example by reducing call centre traffic, removing the need for a site visit to read meters and better managing debt. Energy networks will have better information upon which to manage and plan current activities and to move towards smart grids which support sustainable energy supply.

Smart meters will be rolled-out over two implementation phases, the Foundation stage and Mass roll-out stage. During the Foundation stage, which began last year, the Government is working with industry, consumer groups and other stakeholders to ensure all the necessary groundwork is completed for the Mass roll-out stage. The Mass roll-out stage is expected to start in 2014 and be completed in 2019. The Foundation stage is crucial to the successful mass roll-out of smart meters because it provides the opportunity for suppliers and others to learn from early experiences in installing and operating smart meters in practice. Some consumers will receive smart meters during the Foundation stage, as the energy suppliers start up their programmes in preparation for the Mass roll-out stage. The majority of consumers will receive their smart meters during the Mass roll-out stage.

Purpose and scope of this document

The introduction of smart metering requires changes to be made to the legislative and regulatory frameworks for the gas and electricity markets in Great Britain. Key changes include the creation of a new licensable activity (addressed in a draft Prohibition Order recently consulted upon by the Government) providing for a communications service for smart metering in the domestic sector (to be fulfilled by the Data and Communications Company – “the DCC”) and a new industry code – the Smart Energy Code (“the SEC”). The SEC will govern the relationship between the DCC and the users of its services, including energy suppliers, electricity and gas network operators and other parties. It will also set out other detailed provisions relating to smart metering systems that are considered necessary to ensure that the arrangements for smart metering are managed in a consistent and holistic manner across both the gas and electricity sectors where required to deliver the Government's policy objectives for smart metering.

This consultation document describes, and seeks views on, key features of the SEC, and in particular it addresses:

- The overall scope of the matters that will be included in the SEC, and how it fits into the wider regulatory framework for smart metering
- How various participants will become parties to the SEC, the categories in which they will do so, and the rights and obligations that will apply to them

- The high level framework governing the services that are to be provided by the DCC, eligibility of participants to receive those services, and the terms on which they will be provided (including charging, billing, and payment arrangements)
- How the SEC will be governed, administered and modified
- How the SEC will seek to ensure that parties meet their obligations, and that there are appropriate arrangements to deal with breaches, liabilities and disputes where these arise, and
- Other matters important for the robust operation of the SEC, including arrangements for withdrawing from the SEC, and treatment of intellectual property rights and confidential information.

This document reflects the proposed “enduring” arrangements for the SEC for all smart metering systems installed at domestic and small non-domestic¹ premises and enrolled with the DCC. As a result it does not reflect any additional arrangements or variations that may be required to accommodate transitional matters, such as may be required to facilitate communications between the DCC and smart meters being rolled out during the Foundation stage. Instead the document reflects the proposals for the SEC where the form of the arrangements are largely complete and in operation. Further work to address such transitional and other matters are ongoing and the Government will be publishing, over the course of this year, further papers relating to these and other aspects affecting the SEC.

Summary of structure, content and key proposals

This section provides a summary of the content and key Government proposals contained in this document. In relation to these proposals, the Government has asked a series of questions for which responses are invited. These questions are set out in the relevant chapters and are summarised again in Annex 1.

The rollout of smart metering in Great Britain requires the introduction of several new legal documents and defined terms (which appear as proper nouns). Throughout this document, references are made to a number of new terms such as DCC and the Smart Meter Wide Area Network. A glossary of such terms is provided in Annex 3 to assist the reader. However, this document also uses terms in a more general manner. For example “smart meter” is used in a more general sense to refer to the equipment installed at customer premises, including the meter, an In-Home Display and a Communications Hub as the context may require, or may also be used to refer more generally to the concept of smart meters. Similarly, the term “smart metering system” in this document is generally used to refer to the aforementioned equipment working together in the customer’s premises as a “system”, with such equipment being compliant with the requirements of the Smart Metering Equipment Technical Specification (“the SMETS”). Formal definitions of such terms will be adopted when the Government consults upon draft legal text for the SEC.

Part A: Regulatory framework for the SEC

Part A of this document explains the regulatory context for the SEC. Chapter 1 describes how the existing regulatory framework will be amended to deliver the objectives of the Programme. Chapter 2 introduces the SEC, providing a summary of its legal basis, objectives, high level scope and structure.

¹ Smaller non-domestic premises are defined for these purposes as premises with an electricity Profile Class (as defined in the BSC) of 3 or 4 or an annual gas consumption of <732 MWh.

Part B: Participating under the SEC

Chapter 3 considers the different types of parties that might accede to the SEC and proposes a number of distinct “party categories”, with different rights and obligations being applied to each. The Government proposes six SEC Party categories – the DCC, gas supplier, electricity supplier, gas transporter, electricity distributor and Other User of the DCC’s communication services (“Other User”). Other User includes all of the preceding categories (other than the DCC) and other entities such as energy service companies.

Chapter 4 considers the meter services community’s requirements for electronic access to smart metering systems enrolled with the DCC, focusing on three possible options. The Government proposes that the registration of a meter operator² is a deemed nomination by the supplier of that meter operator to undertake certain communications with the DCC on its behalf. This will provide the meter operator with full access to all of the smart metering systems against it is registered. As there is no equivalent registration of meter asset providers³, the Government proposes that their access should be provided via their supplier(s). The Government recognises that this solution will not provide meter asset providers with a mechanism to track their assets – a particular matter of concern to such parties. The Government suggests that the future planned transfer of registration responsibilities to the DCC would be an opportune occasion to consider including meter asset providers requirements in the new systems. In the interim, the Government would look to the wider industry arrangements and the active co-operation of all parties to seek cost-effective solutions.

Chapter 5 discusses and seeks views on the rules and procedures that will apply when parties seek to accede to the SEC. The Government proposes that there should be a simple accession process whereby a party can accede to the SEC subject to the provision of certain basic company, legal and financial information and payment of an application fee. It also highlights that, following accession, further steps (“entry processes” – see below) will need to be undertaken prior to a party taking DCC communication services. This chapter also explains the roles and responsibilities of the SEC Panel and the Code Administrator in managing and making decisions under the accession process, and proposes that accession decisions will be subject to a right of appeal to the Gas and Electricity Markets Authority (“the Authority”). It also proposes that a party should be able to participate in the governance of the SEC following the completion of the accession process, but that SEC Parties that have not taken steps towards becoming active participants six months after accession should be capable of being expelled from the SEC, subject to certain conditions and limitations.

Part C: Using the DCC’s communication services

Chapter 6 considers and seeks views on the entry processes that parties should have to complete prior to receiving the DCC’s communication services. It proposes that parties will need to demonstrate that they meet the necessary security requirements, that they can communicate effectively with the DCC, that they are capable of executing the relevant business processes and have provided any necessary financial security. The chapter includes proposals for establishing the communications link between parties and the DCC. The Government proposes that the DCC (via its Data Services Provider (DSP)) should be responsible for providing an interface to enable service requests and service responses to be transferred between SEC Parties and the DCC.

Chapter 7 proposes and seeks views on the rights of suppliers to request the enrolment of smart metering systems with the DCC. It also sets out the DCC’s obligations to provide a Smart Meter Wide

² In this context “meter operator” is a generic term to describe the functions of electricity Meter Operators and gas Meter Asset Managers (MAMs), but excluding the services of MAMs relating to the provision of meter assets.

³ In this context “meter asset provider” is a generic term for Meter Asset Providers and the services of MAMs relating to the provision of meter assets.

Area Network (SMWAN) that meets the specified technical and functional requirements. Finally, it discusses the rights of suppliers to withdraw smart metering systems from the DCC's communication services and rights to replace devices that comprise part of a smart metering system.

Chapter 8 describes the provision of communication services by the DCC, being core and elective communication services. It seeks views on the terms and conditions associated with core communication service provision, including entitlement to request such services. The Government proposes three types of core communication services – Type A (available to gas suppliers and electricity suppliers when acting in their capacity as registered supplier for the smart metering system), Type B (available to gas transporters and electricity distributors where they are the relevant network operator for the smart metering system) and Type C (available to all SEC Parties). Chapter 8 also describes the process to be followed to define the list of core communication services that will be available under the SEC. It also describes the Government's proposal that future changes to core communication services should be managed under the SEC modification process (itself described later in chapter 14). Chapter 8 also considers the process for requesting elective communication services and the terms and conditions associated with their provision, including whether the details of an elective communication service should be confidential between the DCC and the party receiving it. The Government proposes that certain commercially sensitive terms and conditions associated with elective communication service provision (including the price associated with that service) should remain confidential, unless the party or parties receiving the service consent to such terms being published. It also proposes that the DCC should only be required to offer terms for elective communication service provision from a specified date, and views are sought on what that date should be.

Chapter 9 describes and seeks views on the DCC charging arrangements that will ensure the DCC recovers the revenue that is allowable under the price control licence conditions. It provides an overview of the proposals for a mixture of fixed and explicit (variable) charges consistent with the charging objectives set out in the DCC Licence and highlights how the charging calculations will be adjusted until the roll-out of smart meters has completed. It also includes proposals for how a range of other associated matters should be treated, including the pricing of elective communication services, how the DCC's Key Performance Indicators (KPIs) will impact on the charges faced by users, emergency funding arrangements, the DCC's commercial payment terms (including its invoicing schedule), financial security arrangements, and payment withholding in the event of disputes. Views are sought on the overall approach to DCC charging, as well as on specific proposals such as for a "pay now dispute later" approach and for any bad debt to be socialised across all DCC service users.

Part D: Governance and change control

Chapter 10 provides an overview of the purpose and aims of the SEC governance framework and recognises that a key challenge in developing the SEC is to ensure that the governance arrangements are appropriate for the wide range of parties and matters covered by the SEC. The Government notes that further consideration is required regarding whether the governance arrangements will need to be tailored to reflect aspects of the SEC arrangements such as security requirements, assurance, and governance of the SMETS as policy and proposals in these areas develop. It also highlights that further consideration will be required in relation to any transitional governance arrangements required at the point of commencement of the SEC and in the period immediately thereafter, potentially including some ongoing involvement by the Government.

Chapter 11 describes the Relevant SEC Objectives. These objectives will be set out in the DCC Licence, and any modifications proposed to the SEC will be assessed against these objectives. These are included here by way of context only, and this document does not seek views on the objectives, as the Government is consulting on these separately as part of a parallel consultation on the Draft DCC Licence

and Draft Licence Application Regulations. Any comments on the objectives should be directed to Government as a response to that consultation⁴ and not the SEC consultation.

Chapter 12 proposes that the SEC will establish a panel (the “SEC Panel”) with responsibility for overseeing the day-to-day governance of the SEC. This chapter describes and seeks views on the proposed functions, powers and objectives of the SEC Panel, how it should be constituted and what the key duties of its members should be. This chapter also describes and seeks views on certain other aspects of the operation, administration and proceedings of the SEC Panel. The Government’s starting proposition is that SEC Panel members will be obliged to act independently and impartially and will not be representative of the parties by whom they are appointed (nor of their own employer) when acting as a member of the SEC Panel. However, the Government welcomes views on this approach and will consider this matter further. The Government also invites views on the proposed SEC Panel composition and whether it captures an appropriately wide range of perspectives and expertise necessary for the proper functioning of the SEC Panel. Views are also sought on the extent to which some or all SEC Panel members should be remunerated for performing their duties.

Chapter 13 sets out how the governance and administration of the SEC will be supported by Code Administrator and Secretariat services. The Government is minded to propose that the providers of these services should be appointed by the SEC Panel and contracted with through the DCC. However, the Government is also interested in views on how this compares to an alternative “SECCo” contracting option, and will consider this issue further. Views are sought on what the appropriate funding arrangements, legal structure, ownership and constitutional arrangements would be if the SECCo option was pursued.

Chapter 14 sets out the high level framework for SEC modifications. The SEC will need to evolve in light of market issues and developments. Therefore mechanisms will be needed for parties to propose changes to the SEC (and any associated documents) and for such changes to be assessed, consulted upon, submitted for approval by an appropriate body, and implemented where approved. Key matters are highlighted and where views are sought include the definition of which parties should be entitled to raise SEC modifications, the different processes that will apply to different categories of modification, the functions and powers of the SEC Panel in respect of modifications, the arrangements for implementation of approved modifications and the rights of appeal in relation to modification decisions. The Government proposes that certain identified parties should be able to raise modification proposals, including SEC Parties, the DCC, any appropriate body representing the interests of consumers, any other person or body that may be designated for such purpose by the Authority, and the SEC Panel collectively in limited circumstances. It is also proposed that there will be a process for progressing some modifications on an urgent basis. The Government is minded to propose that the SEC Panel should not be entitled to delegate its power to make a final decision or recommendation on modification proposals (for example to any another industry board or sub-committee). This chapter also proposes that issues that might later lead to a modification can be raised by SEC Parties under a “pre-change process”, and also by non-SEC Parties if they are materially affected by the SEC. Finally, this chapter proposes that there will be an ability for parties to appeal modification decisions in defined circumstances and upon defined grounds.

Chapter 15 proposes that the SEC may place obligations on the SEC Panel and, possibly, SEC Parties with regard to the production, provision and publication of certain information and reports. The Government invites views on the scope and nature of any such reporting obligations, noting that they might include the SEC Panel reporting to SEC Parties and others in respect of the matters falling within its powers and functions, provision of information or reports to the Authority, and provision of data and information by SEC Parties to the SEC Panel, the DCC or the Authority to support relevant audit, review, compliance and reporting obligations.

⁴ DECC, Smart Metering Implementation Programme, *Consultation on the Draft DCC Licence and Licence Application Regulations*, April 2012.

Part E: Assurance and enforcement of obligations and liabilities

Chapter 16 considers the potential requirement for compliance and assurance arrangements to be included in the SEC to provide assurance that key obligations within the SEC will be satisfied. It also considers the appropriate governance of any such arrangements. The Government notes that the appropriate level of compliance/assurance techniques under the SEC requires further detailed consideration. However, it is suggested that such a framework may have advantages, including that it could complement other elements of the regulatory framework (such as licence enforcement) and provide comfort and certainty to SEC Parties that there is an effective and transparent means by which other SEC Parties would be held to account for non-compliance. The Government will continue to consider these issues, both in light of the separate consultations on data access and privacy arrangements, future papers planned on technical and security assurance arrangements, and responses to this consultation document regarding the potential overall nature and scope of a compliance/assurance framework for the SEC. Views are sought on whether there are any particular areas of risk that should be addressed by appropriate compliance/assurance techniques under the SEC.

Chapter 17 considers and seeks views on the extent to which liabilities should arise between the various parties under the SEC and what limitations or exclusions of liability should apply in various circumstances. It sets out reasons why the SEC should limit the extent to which specific SEC liabilities should arise, the means by which these should be enforceable, and the available remedies. In the absence of any such limits, individual SEC Parties could take unlimited direct bilateral enforcement action against each other (including through the courts). This could be considered undesirable, in that it could represent a potentially disproportionate regulatory burden on parties and potentially create a barrier to entry for parties who could not accept unlimited risk or liability. Views are invited on whether there should be caps on liability for specific types of breach between the DCC and other SEC Parties (including security breaches and physical damage) and the appropriate level of any such caps. This chapter also considers whether some particular features of the SEC mean that it might be appropriate for the SEC to provide for certain obligations and liabilities between SEC Parties, potentially including cost recovery arrangements. Views are sought on whether this might be appropriate under any scenarios, for example to deal with the introduction of shared assets at consumer premises and the integrated nature of the smart metering systems and processes.

Chapter 18 considers and seeks views on the dispute resolution provisions that should be included in the SEC. These will define the matters that can be disputed between relevant parties and prescribe the appropriate mechanisms for resolving any such disputes. The Government considers that the SEC should provide an efficient framework for the timely resolution of disputes that is consistent with precedent across the industry and that ensures that the most appropriate person or body resolves each dispute. It is proposed that the SEC will provide for both non-binding and binding procedures for SEC Parties to resolve disputes, with certain types of dispute being reserved for and capable of escalation to the Authority for determination. It is proposed that there should be an obligation on the disputing parties to endeavour to resolve the matter between themselves in good faith prior to escalating the dispute to a more formal and binding procedure. For some specific defined technical disputes an appropriately constituted disputes sub-committee(s) could be established under the SEC Panel to hear these in the first instance. Some specific disputes considered to have particular regulatory and/or competition significance will be reserved for the Authority to determine (including those relating to SEC accession, DCC charges and terms of core and elective service provision).

Chapter 19 considers and seeks views on the appropriate procedures and powers to be included within the SEC to discourage default by a SEC Party, to encourage rectification where there is a default, to mitigate any risk faced by the wider community of SEC Parties as a result of one SEC Party's default and, in some cases, to expel a defaulting party from the SEC. The Government proposes that the SEC will define events of default, including in relation to material breach of code provisions, late payment of amounts due, and financial difficulty or insolvency related events. It is also proposed that the SEC Panel will be responsible for discharging the SEC default provisions and taking action in respect of any

defaulting party. The chapter considers and seeks views on a range of possible steps or sanctions that could be invoked at the discretion of the SEC Panel where an event of default occurs. These include demanding a rectification plan from the defaulting party, suspending one or more rights of the defaulting party (such as the right to receive certain services under the SEC) and expelling the party from the SEC.

Part F: Other Matters

Chapter 20 considers and seeks views on the rules that will apply when a party exits the SEC, either by way of voluntary withdrawal or upon expulsion by the SEC Panel. The Government proposes that the SEC will include procedures and preconditions that will provide for notice and transparency of a party's exit, ensure that the discontinuing party does not have any outstanding material responsibilities or debts under the SEC, and ensure that any regulatory approval that may be required before a party can exit is granted. These provisions will also determine which obligations, rights and liabilities cease or continue after the discontinuing party has exited.

Chapter 21 considers the provisions that should be included in the SEC to govern the ownership and exploitation of any relevant intellectual property. The Government proposes that provisions should be developed to ensure, for example, that the DCC has appropriate access to all intellectual property upon which its service relies, and that the needs of successor DCCs to use the intellectual property are protected.

Chapter 22 proposes that the SEC should place an obligation on all relevant parties (including the DCC, SEC Parties, the SEC Panel and the Code Administrator) to protect and not disclose any information classified as being confidential information. It is proposed that certain defined types of information will be classified as confidential, including any information relating to any specific party to the SEC, where that party has designated that this is confidential information, and any information which would be considered as being obviously confidential by its nature (for example, personal details or commercially sensitive information belonging to SEC Parties). It is also proposed that certain exceptions should apply such that certain types of information will not be classified as confidential (including, for example, the SEC itself and any data required to be published under the SEC).

Chapter 23 proposes that provision should be included within the SEC to address unforeseen events which are beyond the control of the parties to the SEC and which prevent parties from performing their obligations under the SEC. Such "force majeure" type provisions should excuse performance under the SEC. However, the force majeure provisions should not excuse the failures of SEC Parties and/or the DCC to perform their obligations under the SEC for reasons which should be within their control.

Chapter 24 explains that the DCC Licence contains provisions to enable the seamless transfer of its role to a successor DCC Licensee in the event of revocation or expiry of the DCC Licence. The SEC will need to reflect and support the DCC Licence in this respect, most notably by the inclusion of a novation agreement for the SEC.

Impact of additional consultations and policy developments

In addition to this consultation on the SEC, the Government is publishing a number of other documents related to the Programme. These are:

- A consultation on the Draft DCC Licence and Licence Application Regulations
- A consultation on Data Access and Privacy
- A consultation on the consumer engagement strategy supporting the roll-out of smart meters

- The Government's response to the August 2011 consultation on draft licence conditions and technical specifications for the roll-out of gas and electricity smart metering equipment
- The Government's response to the August 2011 Installation Code of Practice consultation, and
- Updated Impact Assessments for the smart meter roll-out for the domestic and non-domestic sectors.

The SEC will form part of an integrated regulatory framework. As such, a number of issues raised in these other consultations will have implications for its scope, content and governance. Where there are issues of relevance discussed in these other consultations, this is flagged in the text of this consultation. Of particular relevance is the consultation on the Draft DCC Licence, as the DCC Licence will set out the scope of the SEC, its objectives and, at a high level, the matters which it must include with respect to its governance and the provision of communication services by the DCC.

The Government also recognises that, as a result of ongoing work within the Programme, policy will continue to develop in relation to a number of matters which will have implications for the detailed content of the SEC, including in relation to:

- Arrangements for the smart metering system Communications Hub, including responsibility for its provision, installation and ongoing maintenance
- Security requirements for the enduring arrangements to apply to smart metering systems, demonstration of compliance with those requirements and ongoing arrangements for security governance
- Requirements relating to the technical characteristics of smart metering systems and demonstration of compliance with those requirements
- Requirements relating to shared equipment comprising parts of smart metering systems at premises
- Circumstances in which smart metering systems must be enrolled with the DCC and the criteria that such smart metering systems need to satisfy for enrolment
- Arrangements for the adoption of pre-existing communications contracts for smart metering systems that are enrolled with the DCC
- Arrangements for the certification, accreditation and assurance of equipment, systems and organisations which may form part of the SEC
- Transitional arrangements that need to be reflected in the SEC, and
- Licence conditions to be included in the supply, gas transportation and electricity distribution licences to oblige licensed parties to become a party to, and comply with, the SEC, and to provide the DCC with access to smart metering systems that are enrolled with it.

The Government will be publishing further papers on these matters, including on any implications for the SEC in due course.

General information about this consultation

How to respond

Your response will most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Responses to this consultation should be sent to dccg@decc.gsi.gov.uk. The consultation closes on **01 June 2012**.

Responses should be clearly marked: Consultation on the Smart Energy Code April 2012. Responses and any enquiries related to the consultation, should be addressed to:

Smart Metering Implementation Programme – Regulation Team
Department of Energy & Climate Change,
3 Whitehall Place, London,
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Tel: 0300 068 5128
Email: smartmetering@decc.gsi.gov.uk
Consultation reference: URN 12D/034

Territorial extent

This consultation applies to the gas and electricity markets in Great Britain. Responsibility for energy markets in Northern Ireland lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

Additional copies

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Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

The Department will summarise all responses and place this summary on its website. This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found at www.bis.gov.uk/files/file47158.pdf. If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator
3 Whitehall Place London
SW1A 2AW
Email: consultation.coordinator@decc.gsi.gov.uk

What happens after the consultation

Responses should be submitted by 1 June 2012.

The Government will consider responses to this consultation and reach conclusions on the matters set out in this document in view of these responses.

The Government will publish its conclusions in a response to this consultation in the summer of 2012. That response will be accompanied by draft legal text for the SEC for those elements of the SEC consulted upon in this document. Views will be invited on that legal text.

As noted above, there is likely to be additional development, consultation and legal drafting for other elements of the SEC, and the Government will set out the timetable and process for this in due course.

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PART A: REGULATORY FRAMEWORK FOR THE SEC

Chapter 1: The smart metering regulatory framework – the Government’s general approach

This chapter sets out, at a high level, how the existing regulatory framework will be amended to deliver the objectives of the Smart Metering Implementation Programme.

1.1 Regulatory instruments

1. The gas and electricity markets in Great Britain operate under rules set out in primary and secondary legislation, in licences overseen and enforced by the Gas and Electricity Markets Authority⁵ (“the Authority”) and in various codes established under those licences (“industry codes”). It will be important for there to be coherence across the whole regulatory framework in order to deliver the objectives of the Smart Metering Implementation Programme (“the Programme”) and enable the anticipated benefits for the energy industry and for consumers to be realised.
2. Primary and secondary legislation is used to set the high-level objectives and the structure of the regulatory framework, with increasing layers of detail being specified in licences and industry codes. The Energy Act 2008 put in place the Government’s powers to amend the existing regulatory framework for the purposes of enabling the roll-out of smart meters.⁶
3. Licence conditions are the primary tool used by the Authority to regulate the energy sector. The Electricity Act 1989 and Gas Act 1986 require parties undertaking certain activities, such as supplying electricity to consumers or operating a gas transportation system, to hold licences granted by the Authority in order to be permitted to carry out such activities (or be exempt from the requirement to have a licence). Such licences also set out the conditions that apply to licensees operating in the gas and electricity markets.
4. The Authority has enforcement powers which enable it to take action if it considers that a licensee is in breach of the conditions of its licence. It can impose a financial penalty of up to 10% of the annual turnover of a licensee in the case of a serious breach of licence conditions. Ultimately, in certain circumstances, the Authority can revoke a licence. Powers to impose new, or change existing, licence conditions generally lie with the Authority, subject to a right of appeal by affected parties to the Competition Commission.

⁵ The Authority has objectives and powers under the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998 and the Enterprise Act 2002. It is the governing body for the Office of Gas and Electricity Markets (Ofgem).

⁶ The Energy Act 2008 gives time-limited powers to the Secretary of State to make changes to licence conditions for the purposes of implementing the Smart Metering Implementation Programme.

5. Some licence conditions provide for the establishment of industry codes that typically set out the detailed day-to-day rules, rights and obligations underpinning the operation of various aspects of the gas and electricity markets. The obligations to maintain and modify each of the industry codes are typically set out in licence conditions and there are also accompanying obligations on all relevant licensees to accede to, and comply with, industry codes as necessary. For example, National Grid Electricity Transmission plc, in its role as the National Electricity Transmission System Operator, has an obligation in its Transmission Licence to have in force the Balancing and Settlement Code (“the BSC”), while all holders of electricity supply and generation licences are required by condition of those licences to accede to, and comply with, the BSC.
6. Industry codes are typically subject to an element of self-governance. They are designed to be evolving documents, with built-in mechanisms for parties to propose changes to improve the arrangements. Typically, material changes need to be approved by the Authority before they can be made. Changes to codes cannot ordinarily be proposed by the Authority itself⁷, although the new Significant Code Review process⁸ enables the Authority to play a leading role in facilitating code changes for complex issues.
7. The high level objectives of industry codes are generally set out in licence conditions. These define the purpose of the codes and guide their future development: proposed modifications are assessed against these objectives. The Authority, in determining whether or not to approve modifications, additionally takes into account its broader statutory obligations.
8. Most industry codes are given contractual force between parties through multilateral contractual documents known as framework agreements. This means that parties can, in certain circumstances, take action against other parties where those parties are not complying with the code. A number of industry codes contain dispute resolution arrangements, for example, providing for disputed matters to be referred to arbitration or, in some instances, to the Authority for resolution.

1.2 Summary of regulatory interventions for smart metering

9. The Government is proposing a new licensable activity (a consultation on the draft Prohibition Order giving effect to this closed on 23 March 2012), new licence obligations for the Data and Communications Company⁹ (“the DCC”) (a consultation on the draft licence is published in parallel with this consultation) and a new industry code – the Smart Energy Code (“the SEC”). Changes to existing licence obligations and industry codes will also be required, to provide a coherent end-to-end regulatory framework for the arrangements for smart metering. The main proposed regulatory interventions are summarised below.

Rolling out smart meters

10. New licence obligations are proposed to require the installation by gas and electricity suppliers of smart metering systems at consumers’ premises. These include a requirement for suppliers to take all reasonable steps to install smart metering systems in every domestic premise and,

⁷ Following the Third Package, the Authority can propose changes to certain codes where these are necessary to comply with or implement regulations or legally binding decisions of the European Commission.

⁸ The Significant Code Review process was announced as part of Ofgem’s Code Governance Review, final proposals for which were published in March 2010.

⁹ The DCC will provide communications services to smart metering systems installed in the domestic sector and, where requested to do so, to the small non-domestic sector.

subject to some exceptions, smaller non-domestic¹⁰ premises by 2019. Such systems must meet certain technical specifications (the “Smart Metering Equipment Technical Specification” or “SMETS”) that apply at the time of installation. These proposed obligations were consulted upon in a document¹¹ (“the Roll-out Consultation”) published in August 2011 and the Government’s response to that consultation (“the Roll-out Response”)¹² is being published alongside this consultation.

11. The SMETS will define the minimum functionality that smart metering systems must be capable of providing but will not usually require that these capabilities are made operational. As the business case for smart metering is predicated on consumers, network operators, suppliers and other relevant parties using a range of smart functionality, the Government is considering whether additional regulatory requirements should be placed on suppliers to ensure that they make certain smart functionality available to other parties. The Government intends to consult on this issue in the coming months.
12. In addition, the Government is proposing obligations on suppliers to provide information on their progress with rolling out smart metering systems. This will be the subject of a consultation later this year.

Protecting the consumer

13. In parallel with this consultation, the Government is consulting separately on a proposed policy framework for smart metering data access and privacy¹³ (“the Data Access and Privacy Consultation”). This includes proposals addressing which parties should be able to access consumers’ energy consumption data, for which purposes, and the choices that consumers should have about this. The Data Access and Privacy Consultation also sets out proposals to ensure that consumers’ interests are protected in transactions where third parties access consumption data via the DCC, including potential measures for inclusion in the SEC.
14. The Government also consulted last summer on a requirement for the industry to develop a new code of practice to govern the installation site visit¹⁴. This will set out, for example, the limitations on sales and marketing activities during the installation visit and the advice given to the consumer about the operation of the new equipment, in particular the In-Home Display which will provide visual information to the customer about their consumption. This code of practice will require the approval of the Authority. The Government’s response to the consultation¹⁵ is being published alongside this consultation.

¹⁰ Smaller non-domestic premises are defined for these purposes as premises with an electricity Profile Class (as defined in the BSC) of 3 or 4 or an annual gas consumption of <732 MWh.

¹¹ DECC, Smart Metering Implementation Programme, *A consultation on draft licence conditions and technical specifications for the roll-out of gas and electricity smart metering equipment*, August 2011.

¹² DECC, Smart Metering Implementation Programme, *Government Response to the Consultation on draft licence conditions and technical specifications for the roll-out of gas and electricity smart metering equipment*, April 2012.

¹³ DECC, Smart Metering Implementation Programme, *Data access and privacy consultation*, April 2012.

¹⁴ DECC, Smart Metering Implementation Programme, *Licence conditions for a Code of Practice for the installation of smart electricity and gas meters: a consultation*, August 2011.

(<http://www.decc.gov.uk/assets/decc/11/consultation/smart-metering-imp-prog/2545-smip-licence-conditions-consultation.pdf>)

¹⁵ DECC, Smart Metering Implementation Programme, *Licence conditions for a code of practice for the installation of smart electricity and gas meters: government response to consultation*, April 2012.

15. Also in parallel with this consultation, the Government is also consulting on its strategy for engaging consumers about smart meters and their potential benefits¹⁶. Again, this includes proposals for potential new licence obligations on suppliers which would oblige them to establish an independent body to carry out consumer engagement activities to build awareness of and support for smart meters and help consumers use the information smart meters provide to reduce their energy use.

Establishing the DCC

16. A key part of the arrangements for smart metering will be the establishment of the DCC. The DCC will carry out a new licensable activity, with its licence being granted following a competitive licence application process.
17. In order to establish the new licensable activity for the DCC, the Government consulted in February this year on a draft of the new Prohibition Order¹⁷. After considering and taking account of responses, the Government aims to lay this statutory instrument before Parliament in the summer. The new licensable activity will prohibit contracting with suppliers to provide a smart metering communications service for smart metering in the domestic sector without a licence. The order will also contain a number of consequential changes to existing legislation and licence conditions.
18. The licence conditions of the new DCC are also the subject of consultation (“the DCC Licence Consultation”)¹⁸ being published alongside this consultation. These will set out the detailed obligations with which the DCC will have to comply. They include, among other things:
 - Obligations to offer to provide communication services to particular parties
 - The principles that will govern how it charges
 - Obligations concerning the way in which the DCC carries on its business and its corporate structure, including restrictions on ownership of the DCC, and
 - The objectives of the SEC, together with high level requirements concerning its contents.
19. To accompany the new licensable activity and the DCC Licence itself, the Government will put in place the competitive process to select the successful DCC applicant and award it the DCC Licence. The framework governing the process of granting both the initial and subsequent awards of the licence will be set out in the Licence Application Regulations. In the first instance, the Secretary of State will operate the application process (with Ofgem participating in an advisory role) to identify the person to whom the DCC Licence should be granted, for a fixed period of time. The Government expects that subsequent application processes will be governed and administered by Ofgem. A draft of the Licence Application Regulations is also being consulted on, as part of the aforementioned consultation on the DCC Licence. Following

¹⁶ DECC, Smart Metering Implementation Programme, *Consultation on the consumer engagement strategy supporting the smart meter roll-out*, April 2012.

¹⁷ DECC, Smart Metering Implementation Programme, *A consultation on a draft Statutory Instrument the Electricity and Gas (Prohibition of Communications Activities) Order 2012*, February 2012. (<http://www.decc.gov.uk/assets/decc/Consultations/Smart%20Metering%20for%20Electricity%20and%20Gas/4345-smart-metering-implementation-programme-a-consult.pdf>)

¹⁸ DECC, Smart Metering Implementation Programme, *Consultation on the Draft DCC Licence and Licence Application Regulations*, April 2012.

consultation, the Government aims to lay this statutory instrument before Parliament in the summer.

20. Formally, two DCC Licences will be granted, one under the Electricity Act 1989 and another under the Gas Act 1986. As part of the Prohibition Order, this legislation will be changed to require the holder of a DCC Licence under either Act also to hold a licence under the other. This is in line with the intention to only appoint a single DCC for both markets.
21. The DCC will be required to procure competitively the communications and data services required for its service users. The Government is in the process of procuring the initial services on behalf of the future DCC licensee, who will be required to sign the contracts upon its appointment.

Chapter 2: Introduction to the Smart Energy Code

This chapter introduces the SEC, providing a summary of its legal basis, objectives, high level scope and structure.

2.1 Introduction

22. As with other areas of the energy market, the arrangements for smart metering will rely on a number of different market participants operating to a set of common standards to ensure effective operation. The SEC will set out the detailed provisions governing the relationship between the DCC (as the licensed provider of smart metering communication services) and the users of its services. It will also set out other detailed provisions relating to smart metering systems that are considered necessary to ensure that the arrangements for smart metering are managed in a consistent and holistic manner where required to deliver the Government's policy objectives for smart metering.
23. The SEC will be a new industry code, established in a similar manner to existing codes such as the BSC and Uniform Network Code. It will be given effect as a multilateral agreement and will include appropriate governance and change control mechanisms to oversee its operation and development.

2.2 The scope of the Smart Energy Code

24. The purpose of the SEC is to facilitate the efficient and effective operation of smart metering and, as such, the scope of matters it will cover will be relatively wide. The principal purpose of the SEC is formally set out in Condition 22 of the Draft DCC Licence, which states that the SEC must include:
 - Terms for the provision of smart meter communication services by the DCC
 - Arrangements to ensure that smart metering systems comply with the SMETS, and
 - Requirements in relation to Communications Hubs.
25. Additionally, amongst other things, Condition 22 states that the SEC must make provision for:
 - Procedures relating to SEC Parties making Smart Metering Systems available for use by other parties (including the DCC) for specified purposes
 - Arrangements, requirements, and procedures providing for the incorporation of Energy Registration Services into the SEC¹⁹

¹⁹ The Government concluded in the Prospectus Response that “*Around two to three years after it is established, DCC will take on the meter point/supplier registration role*”. The Government highlighted that the detailed arrangements for this would be developed later in the work of the Programme. Specific proposals for this element are not contained within this consultation document but will be considered in due course.

- Requirements and procedures for the purpose of ensuring data protection and data and systems security in the operation of the SEC arrangements
 - Provision for the governance and administration of the SEC, including the establishment of the SEC Panel, its Secretariat and a Code Administrator, and
 - Arrangements for modifying the SEC after consultation with SEC Parties.
26. The DCC Licence Consultation also notes that Condition 22 may be further updated to include other matters within its scope, subject to the outcome of consultation papers on the contents of the SEC.
27. The SEC will also require the provision of a number of administrative or support services designed to assist DCC service users with advice, problem resolution or queries that they encounter in relation to communication services. Such services will include a service helpdesk and a 'self-service' portal which will be accessible by DCC service users and will contain up-to-date information on the status of the DCC's communication services. The DCC will also be required to provide support to new DCC service users, such as the provision of information and advice on the steps that they need to take to access the DCC's communication services.
28. This document reflects the proposed "enduring" arrangements for the SEC for all smart metering systems installed at domestic and small non-domestic premises and enrolled with the DCC. As a result it does not reflect any additional arrangements or variations that may be required to accommodate transitional matters, such as may be required to facilitate communications between the DCC and smart meters being rolled out during the Foundation stage. Rather the document reflects the proposals for the SEC where the form of the arrangements are largely complete and in operation. Further work to address such transitional and other matters are ongoing and the Government will be publishing, over the course of this year, further papers relating to these and other aspects affecting the SEC.

2.3 Legal basis of the SEC

Framework and accession agreements

29. It is proposed that the SEC will have contractual effect by way of an accompanying framework agreement. This requirement is set out in Condition 22 of the Draft DCC Licence. Each of the original parties who accede to the SEC (including the DCC) when it is first established will sign this framework agreement, and this will become effective on the same day that the SEC becomes legally effective (defined as the "SEC Commencement Date" within the Draft DCC Licence). Each party that accedes to the SEC after this date will sign an accession agreement by which it becomes party to the framework agreement.
30. The framework agreement will give contractual effect to rights and obligations applying between the DCC and other SEC Parties under the SEC, as well as certain rights and obligations applying between those other SEC Parties (although this will be subject to provisions in the SEC governing defaults, dispute resolution, and limitations of liability – all of which are discussed later in this document).

Licence conditions relating to establishing, acceding to and complying with the SEC

31. The rules and arrangements set out in the SEC will be underpinned by a suite of licence conditions in the DCC Licence, gas and electricity supply licences, electricity distribution licences and gas transportation licences.

DCC licence condition relating to the establishment and governance of the SEC

32. Condition 21 of the Draft DCC Licence sets out the requirement for the DCC to take all appropriate steps within its power to ensure that the SEC is maintained as a document in force. Condition 22 sets out the high level objectives of the SEC (discussed in chapter 11) and its principal contents (discussed earlier in this chapter). Condition 23 of the Draft DCC Licence sets out the high level requirements for the change control framework for the SEC. This is known as the “SEC modification process” and is discussed in chapter 14.

Licence conditions to become a party to and comply with the SEC

33. Condition 21 of the Draft DCC Licence states that the DCC will be required to be a party to and comply with the SEC. This is discussed further in the DCC Licence Consultation. The Government intends that a similar condition will be inserted into the licences of electricity suppliers, gas suppliers, electricity distributors and gas transporters requiring them to be a party to and comply with the SEC. The Government will consult upon this in due course.

Other relevant licence conditions relating to the DCC’s services

DCC Licence conditions relating to charging for communication services

34. The DCC Licence (conditions 18 and 19 in the Draft DCC Licence) will also include conditions that set out the objectives it should seek to achieve when calculating charges to recover the revenues that it has been allowed under its licence. The SEC will contain the charging methodology (see chapter 9 for the details) consistent with these objectives, which the DCC must follow in calculating its charges.

DCC licence conditions for the provision of services

35. Condition 17 of the Draft DCC Licence sets out the requirement for the DCC to offer core communication services and elective communication services in accordance with the arrangements specified in the SEC. However, the DCC is not required to offer communication services in relation to metering systems (both smart metering systems and other, non-smart metering systems²⁰) that are not fit to be enrolled with it. While it is the Government’s broad objective that domestic smart metering systems are managed through the DCC, it is not placing obligations on suppliers to enrol metering systems with the DCC at this point and does not intend to apply any future obligations retrospectively. An obligation to enrol smart metering systems with the DCC will be a feature of the regulatory framework for smart metering systems complying with future versions of the SMETS. To facilitate the enrolment of smart metering systems that comply with the initial version of the SMETS²¹, the Government will publish

²⁰ Such metering systems would include Advanced Meters which have minimum requirements (as specified in the licences of electricity and gas suppliers) to record consumption data (hourly for gas and half-hourly for electricity) and be capable of being communicated with remotely, but which may have much greater functionality than this minimum requirement without being classed as “smart”.

²¹ The initial version of the SMETS is intended to deliver key functionalities as set out in the Prospectus Response.

enrolment criteria that set out the requirements for such meters to be managed by the DCC in due course.

36. Condition 17 of the Draft DCC Licence also requires the DCC to, upon request, offer terms for any reconfiguration or modification services that are required in order that metering systems that are not smart metering systems might be capable of enrolment with the DCC. The DCC will be obliged to provide such services if the supplier accepts the terms offered. This would enable suppliers with, for example, Advanced Meters (see footnote 20), to use the DCC's communication service in relation to such metering systems if they so wished.

Licence condition to grant rights to the DCC to access smart metering systems

37. A smart metering system will be the property of a supplier, or a customer (where the customer has chosen to self-install), or a party who has contracted with the supplier to provide a smart metering system. As the smart metering system is not owned by the DCC, where it is enrolled with the DCC, the DCC will need permission to access and use the smart metering system for the specified purposes set out in the SEC. The supplier should, therefore, be required to grant such rights to DCC. How the supplier secures such rights will vary, depending upon who owns the smart metering system. Additionally, where smart metering systems are enrolled with the DCC, suppliers should be prohibited from granting remote access to them to anyone else²² to ensure that the end-to-end smart metering system²³ remains secure. It is therefore proposed that licence obligations should be placed on suppliers to give these arrangements effect and the Government will consult upon such proposals in due course.

2.4 Subsidiary documents to the SEC

38. There is likely to be a set of detailed procedural documents and interface specifications that will set out further detail about the operation of the SEC arrangements. These subsidiary documents will be referred to within the main body of the SEC, and SEC Parties will be obliged to comply with them in giving effect to their principal rights and obligations under the SEC. However these subsidiary documents may be subject to different governance arrangements. For example, under some existing industry codes, changes to such subsidiary documents can be approved by the relevant code panel without reference to the Authority. Further consideration will be given to the matters that might most appropriately be contained in any such subsidiary documents, and the appropriate governance for these, as the detailed development of the SEC proceeds.

Smart metering business processes and data flows

39. The operation of the electricity and gas energy retail market is enabled by sets of business processes and information flows. These procedures are defined and set out in the various industry codes. The introduction of smart metering will introduce new flows and business processes. These will include, for example, processes covering the installation of smart metering systems. Further, the introduction of the DCC will also require the introduction of new business processes. One potential set of subsidiary documents for the SEC are therefore the new business processes and data flows required to support the day-to-day operation of the arrangements under the SEC.

²² However, this will need to exclude circumstances where, for example, a consumer has been provided with a device which collects metered data and passes it to a third party via a broadband link.

²³ The end-to-end smart metering system comprises all components and services from the consumer premises to the DCC User Gateway (see Figure 1 in Chapter 6 for a further explanation).

40. The Programme has worked closely with industry to develop the new data requirements and business processes to facilitate the introduction of smart metering. The Business Process Design Group was established to specify the new processes, activities and information flows and the changes needed to existing arrangements. These business processes are reflected in the relevant sections of this consultation document.
41. A high-level description of the business processes is set out in Annex 2. Detailed descriptions of the business processes are available on request by sending a email to the Business Process Design Team at bpdg@decc.gsi.gov.uk.

PART B: PARTICIPATING UNDER THE SEC

Chapter 3: SEC Party categories

This chapter considers the different types of parties that might accede to the SEC and therefore the various “party categories” that will arise. Different rights and obligations will be applied to each of these party categories.

3.1 SEC Party categories

42. Chapter 2 set out the envisaged scope of the SEC. The proposals in this chapter are based on the currently envisaged SEC provisions that will be in force at the SEC Commencement Date and DCC Go-Live. It is currently envisaged that the SEC provisions in force at the SEC Commencement Date and DCC Go-Live may include:
- Arrangements for suppliers to enrol and withdraw smart metering systems to or from the DCC’s communication services
 - The provision of communication services by the DCC in relation to smart metering systems that are enrolled with it. These services will be available to suppliers, network operators and other organisations seeking remotely to access a consumer’s metered consumption data (for example, an energy service company)
 - The technical requirements for smart metering systems which suppliers must comply with and processes for demonstrating compliance with those requirements, and
 - The security requirements for smart metering systems that are not enrolled with the DCC (“opted-out”), as well as the security requirements for those smart metering systems that are enrolled with the DCC. These would therefore apply to the DCC, suppliers (in relation to opted out meters) and users of the DCC’s communication services.
43. The last two matters in the list above will be the subject of future papers from the Government.
44. The scope of matters set out in the SEC means that the following types of organisation will either want or be obliged to accede to the SEC, and hence the following party categories will exist:
- The DCC
 - Gas supplier
 - Electricity supplier
 - Gas transporter
 - Electricity distributor, and

- Other User of the DCC's communication services ("Other User")
45. The creation of party categories does not of itself impose rights or obligations on parties. Rights and obligations are imposed in other parts of the SEC (as discussed in subsequent chapters of this document).

3.2 Potential requirement for additional party categories

Meter services community

46. Chapter 4 considers proposals to introduce a 'Supplier Nominated Agent' under the SEC and under one option such an agent would accede to and be a party to the SEC. Should that option be adopted then a new party category of 'Supplier Nominated Agent' would be defined to describe an organisation nominated to act on a supplier's behalf, and the rights and obligations of that party would need to be defined.

Value Added Services

47. The DCC Licence Consultation published alongside this consultation refers to the requirement for certain SEC provisions to be imposed upon the recipients of Value Added Services²⁴, for example potential liabilities to other users of the DCC communications services. The most appropriate way of achieving this might be to require recipients of Value Added Services to also be a party to the SEC, although the provision of the Value Added Service itself would be undertaken pursuant to a bilateral contract that exists separately from, and outside of, the SEC. Whether or not the DCC should be required to ensure that Value Added Service recipients accede to the SEC for specific purposes (and whether or not the SEC should provide the rights for Value Added Service recipients to do so) will be considered further as the detail of the SEC is developed, with appropriate party categories being proposed should this be required.

Transfer of meter registration

48. The transfer of Energy Registration Services to the DCC in the future (as described in chapter 2) may give rise to the need for further party categories under the SEC.
49. The Government has stated that following the DCC providing its initial services, Energy Registration Services should be transferred to the DCC. It is expected that the DCC's activities in this regard would be set out under the SEC and responsibilities transferred from existing gas transportation and electricity distribution licensees. Gas shippers may, at this point, need to accede to the SEC so that they can use DCC's Energy Registration Services. However, until further detail is developed, the need for and nature of any new rights for accession will not be known. Any such rights for accession and associated accession arrangements will be developed at a later date, along with the other changes that will be required to the SEC to include within it the DCC's Energy Registration Services.
50. SEC party categories will be kept under review as further detail of the SEC is developed and further consultations are issued. The Government also notes that the future consolidation of industry codes is currently being considered separately by Ofgem, and that this could also give rise to the need for further party categories in the future.

²⁴ Value Added Services are defined in the Draft DCC Licence and, broadly, refer to services provided by the DCC which are not related solely to the supply of energy. Such services are subject to the approval of the Authority.

3.3 Proposals

51. The Government proposes that the SEC that exists at the SEC Commencement Date should be developed on the basis of the following party categories:
- The DCC
 - Gas supplier
 - Electricity supplier
 - Gas transporter
 - Electricity distributor, and
 - Other user of DCC's communication services.
52. The Government also proposes that party categories and accession arrangements for any other parties necessary as a result of the undertaking of Energy Registration Services by the DCC should be developed at a future date in the context of the broader set of changes that will be needed to the SEC to enable the provision of such services by the DCC.

3.4 Consultation questions

Consultation questions: Participation in the SEC

- | | |
|----|--|
| 1. | Please provide any comments that you have on the classification of party categories under the SEC. |
|----|--|

Chapter 4: Involvement of the meter services community

This chapter considers the meter services community's requirements for electronic access to smart metering systems enrolled with the DCC's communication services. It seeks views on the appropriate mechanisms for access that should be set out in the SEC.

4.1 Introduction

53. In this context, the meter services community is a collective term for those organisations which provide meter related services to electricity and gas suppliers; that is: Meter Asset Providers, electricity Meter Operators, and gas Meter Asset Managers.
54. In considering the meter service community's requirements for access to smart metering systems, it is helpful to focus on the specific requirements of those providing the meter assets separately from those otherwise servicing meters. To assist this process:
- The generic term '**meter operator**' is used throughout the remainder of this chapter to describe the function of providing metering services excluding the provision of meters. It therefore includes both the gas Meter Asset Manager and the electricity Meter Operator, but excludes any services relating to the provision of meter assets which gas Meter Asset Managers may perform²⁵
 - The generic term '**meter asset provider**' is used throughout the remainder of this chapter to describe the function of the provision of meters. It, therefore, includes Meter Asset Providers and any provision of meter assets by gas Meter Asset Managers, and
 - The term '**meter party**' is used to include both meter operators and meter asset providers as defined above.
55. The introduction of competition into the provision of metering services separated out the roles and responsibilities of parties operating in the market. Under the supplier hub principle, gas and electricity suppliers were placed at the centre of metering arrangements and handed primary responsibility for meter provision, installation and maintenance.
56. The supplier hub principle is well established and offers certain advantages. In developing proposals for smart metering, the Government is not seeking to challenge this principle and, therefore, to date, the proposed approach has been designed to be consistent with it and the wider industry arrangements. It is recognised that a consequence of this is that it puts the meter services community at arm's length from the SEC and other industry codes. As such, the meter services community must rely upon their individually negotiated commercial arrangements with suppliers to gain the access they require to metering systems, regardless of whether those metering systems are smart or otherwise.

²⁵ In electricity, Meter Asset Providers and Meter Operators are defined as separate officially recognised entities. In gas there is no separately defined Meter Asset Provider role and the only recognised party for communication is the Meter Asset Manager. This is because historically the two roles were undertaken by the same party, although today the two can be separate entities.

57. However, for traditional (non-smart) meters, **meter asset providers** have argued that these commercial arrangements with suppliers have proven inadequate in giving the effective access they require to be able to track the use of their assets. This existing concern, coupled with the far greater investment required in smart metering systems, has led to meter asset providers calling for them to be given direct access to the smart metering systems under the SEC (via the DCC).
58. **Meter operators** have also called for direct access to smart metering systems, as they see it as being necessary for them to efficiently fulfil their anticipated role in relation to such meters, where timely access in operational timeframes is required.
59. The Government would welcome views on this issue of access and on the merits of the options set out to address it. In so doing, the Government presents its preferred solution for consideration.

4.2 Description of the issue

Access Requirements

60. The meter services community performs a range of activities, sometimes on behalf of the supplier and sometimes on behalf of customers with self-installed meters. Meter parties rely upon their individually negotiated commercial arrangements to gain the access they require to metering systems. Meter asset providers and meter operators will each have their own specific requirements for access to smart metering systems, given the different roles they each perform. The Government's understanding of those requirements is detailed below.
61. **Meter asset providers'** primary requirement is to track their asset so as to have an accurate picture of its status. In particular:
- Meter asset providers want to ensure that changes to standing data held within their own asset registers are captured in a timely manner. The most significant item of standing data which meter asset providers require is information on the current supplier, so that a meter asset provider can invoice rental charges to the correct supplier
 - Meter asset providers also require that they are kept informed of any changes to the attributes and functionality of their assets which may impact their warranty. This is likely to include receiving knowledge of the current version of firmware installed on a metering system, as this may affect the functionality and operation of the asset, thereby impacting the warranty
 - Meter asset providers have also said that they require notification of any physical event onsite that results in the disconnection, removal or exchange of their asset from the premises, and
 - In addition, they may want to receive alarms and alerts from a metering system, in order that they can monitor and better understand failure rates and associated issues.
62. **Meter operators'** primary requirement is for direct access to smart metering systems for diagnostic, installation and maintenance purposes. In outline, the meter operators have advised that their requirements are:

- To gain direct access to diagnostic information from smart metering systems (for example the battery status) to help understand its operational status in support of their asset management activities
 - To gain security credentials in their own right for their Hand Held Terminals, so as to be able to use a single terminal for multiple suppliers in order to link to Smart Meter Home Area Networks (SMHANs) in support of their installation and maintenance activities for each of the multiple suppliers they service
 - To gain access to the DCC 'self-service' portal²⁶ to be able to make enquiries about smart metering systems in the DCC inventory²⁷; for example, to enquire what type of existing smart metering system is installed, or to determine if the Communications Hub is working
 - The timely receipt of alarms or fault alerts from a smart metering system so that they can respond, and
 - The ability to update the DCC about actions that they have taken in the event that the DCC is unable to communicate with the smart metering system.
63. In a smart metering environment, both meter operators and meter asset managers have expressed concerns that the activities they perform would be conducted far more efficiently were they able to send messages to and from smart metering systems themselves (i.e. by directly communicating with the DCC), rather than routing such message requests to the DCC through suppliers.
64. In seeking to keep track of their assets across the gas and electricity sectors, meter asset providers have historically faced challenges, most especially on change of supplier. Although a meter asset provider maintains its own record of the supplier that is using its asset when it is installed, it risks losing track of its asset and not receiving the associated rental revenue in the event that a customer switches supplier. Similarly, a meter asset provider may experience difficulties in maintaining the accuracy of the information in its register where the asset is exchanged or removed. To this extent, meter asset providers' commercial arrangements with suppliers have on occasion proven deficient.
65. This issue of the tracking assets has long been on the agenda of the wider industry in both electricity and particularly in gas, where historically there has been less data available to meter asset providers than under the corresponding electricity arrangements. Some specific proposals have emerged, for example via proposed changes to the Supply Point Administration Agreement (SPAA). Indeed, the issue was considered as part of Ofgem's recent Review of Metering Arrangements which set out in its initial findings²⁸ that: "*some respondents considered that the ideal solution would be for the MAP role to be fully recognised within gas industry codes, providing full access to asset tracking data to assist in the recovery of rental fees*". However, Ofgem concluded that it did not consider a review of the gas metering arrangements was necessary at that time, in light of a modification to the Uniform Network Code²⁹ which would make additional information available thereby increasing the certainty over the location of assets.

²⁶ As outlined in chapter 2.

²⁷ A list of installed smart metering system devices that are enrolled with the DCC communication service

²⁸ [Ofgem, Review of Metering Arrangements - Initial Findings and consultation on proposed metering industry remedies, December 2010](#)

²⁹ UNC297: *Extending Rights to Protected Information provisions for Meter Asset Managers / Registered Metering Applicants*, September 2010 (http://epr.ofgem.gov.uk/document_fetch.php?documentid=15274).

Potential impact

66. Despite such initiatives, the tracking of assets remains of reported concern to meter asset providers in both electricity and gas. Although the way a meter asset provider tracks its assets is essentially unchanged under smart metering, the issue may become more important because smart metering systems are more expensive per unit and the entire population of existing meters at domestic and small non-domestic premises (subject to some exceptions) must be replaced in an accelerated timeframe.
67. Many in the meter services community and a number of suppliers have asserted that the issue of tracking the assets of meter asset providers could adversely affect their ability to finance the significant investment in smart metering systems which is required to meet the planned roll-out. In particular:
- Some meter asset providers have expressed concern about the detrimental effect on planned investment in smart metering systems, thereby impacting the roll-out of such systems, and
 - Meter asset providers and some suppliers have expressed concerns regarding the size of the risk premium that may be introduced by meter asset providers not having adequate access to smart metering systems. Ultimately, this risk premium will add to the total cost of smart metering systems which consumers must pay and risks reducing the overall attractiveness of the business case upon which the roll-out is based.

4.3 Options for access to the DCC's services

68. Three possible options for the meter services community to access the relevant data via the DCC have been previously discussed with industry, including representatives of the meter services community. All three options maintain the supplier hub principle, as they require the involvement of the supplier. However, the responsibility of the supplier for the actions of its contracted meter operator might be considered to be less under the third option discussed (Option C). In all three cases, the supplier would retain the right to amend or revoke the access it had given to a meter operator and/or meter asset provider.
69. Although the three options offer possible solutions for giving the meter services community access to smart metering systems via the DCC, they do not address the issue of whether the DCC will possess the information which would be required to meet the meter services community's data requirements. This is an issue in the case of a meter asset provider wanting to track its asset. This is because, as currently specified, the DCC will not hold data matching the meter asset provider to a given asset and its supplier, as the identity of the meter asset provider is not stored within the smart metering system and the DCC does not have access to this information. Therefore, any solution to address the meter asset provider's issue of how it tracks its assets would additionally need to rely upon a change in the wider industry systems and processes.
70. The three options for providing meter parties with access to the DCC's communication services are summarised below.

Option A – All communications via the supplier

71. Under Option A, all communications with the smart metering system would be via the supplier, as it is the supplier's responsibility to provide the information to the meter party. This is in accordance with the supplier hub principle and the existing contractual relationships. Bilateral contracts would govern the sending of requests by the supplier for information from the smart metering systems on behalf of the meter party. Practical effect could be given to this option either by:
- The supplier acting upon the request of its meter parties, or
 - The supplier allowing the meter party to act directly on its behalf in communicating with the DCC by the supplier providing its login security details to the meter party, enabling them to "act as the supplier" with the DCC, subject to appropriate security controls under the SEC.
72. In the case of the supplier authorising a meter party to act directly on its behalf by interacting with the DCC's systems and processes, as far as the DCC would be concerned, the meter party would be seen as the supplier. From the DCC and SEC perspective, the supplier would be the party with which the DCC was interacting. The DCC would know no different.
73. All controls on the access to and use of data and the security of systems would be imposed by the supplier via its bilateral contracts with its meter parties. This would require appropriate confidentially agreements between each supplier and its meter parties to protect data passed on to such parties. These would need to reflect, among other things, the security requirements imposed on the supplier under the SEC, thereby backing-off the relevant provisions in the SEC, and potentially its licence, with which the supplier must comply. The supplier would remain liable under the SEC for all actions performed by its meter operator or meter asset provider.
74. For this option, it is unlikely that specific provision would need to be included within the SEC, but it will be important to ensure that nothing in the SEC would prevent the operation of Option A from being given practical effect, for example ensuring that nothing would prohibit the sharing of usernames and passwords with meter parties whilst maintaining the SEC security provisions.
75. The SEC would govern all communication requests from the supplier to the DCC, but the DCC would have no visibility of the meter party. Option A is, therefore, very simple from the DCC's perspective, as it would be totally outside of the DCC and would not require any material change to their systems or processes. It would offer considerable flexibility to the supplier in deciding what access to delegate. Unlike Option C, and to a lesser extent Option B (both described below), all associated costs with the meter services community's access to the DCC are within each supplier's control, rather than being spread across all users via the DCC.

Option B – Supplier Nominated Agent

76. Option B formalises some of the practices which could occur under Option A, by allowing suppliers to nominate meter parties to undertake certain communications with the DCC on their behalf as their 'nominated agent'. Those meter parties would have no direct contractual relationship with the DCC, as they would not be a SEC Party. Instead, any rights or obligations associated with 'nominated agent' communications under the SEC would remain with the supplier. This would give both the supplier and the meter party direct access to the DCC's communication service. It would be to the responsibility of the supplier in its commercial arrangements with each of its meter parties to restrict that access as it saw fit in relation to the specific smart metering systems for which it is the supplier.

77. The approach proposed for Option B is consistent with that followed under some other industry codes, most notably with the manner in which meter operators participate under the BSC arrangements.
78. Option B would introduce a new type of role to be implemented in the central systems, that of a '**Supplier Nominated Agent**'. The implications of this will need to be understood and assessed, with consideration needing to be given to:
- The specific information (i.e. data messages) a Supplier Nominated Agent is entitled to receive
 - Whether, from a system or process perspective, only a single entity is authorised in relation to any 'write' command for a smart metering system, and
 - Whether, from a system or process perspective, there is any practical limitation on the number of Supplier Nominated Agents allowed per supplier (and/or per smart metering system) and if so, how this would be implemented in the SEC.
79. All controls would be imposed by the supplier via its bilateral contracts with its meter parties. These would need to reflect, among other things, the assurance and security requirements imposed on the supplier under the SEC. It would be the supplier's responsibility to ensure that its nominated agents comply with the controls detailed in its bilateral contracts. It is not expected that the DCC will be required to check the specific arrangements for each meter point to ascertain if the Supplier Nominated Agent has permission from the supplier to execute certain services.
80. From a DCC/SEC perspective, all contractual rights, obligations, and charges would rest with the supplier and not with the Supplier Nominated Agent. It would not, therefore, be possible to levy explicit charges on meter parties under Option B. Nor could SEC obligations be enforced against the Supplier Nominated Agent, as SEC Parties would have no contractual relationship with the agent. Instead, obligations would be enforced against the supplier and that supplier would need to back off those obligations in its bilateral contracts with its meter parties.
81. Although as defined they would not be SEC Parties, it may be appropriate for consideration to be given to whether these nominated agents should be given limited participation rights in SEC governance.

Option C – Nominated Meter Party accedes to the SEC

82. Under Option C, the meter party would have not only the practical ability to communicate with the DCC under the SEC, but also a contractual right under the SEC. In this case, suppliers would nominate meter parties to undertake certain communications with the DCC on their behalf. As in the case of Option B, a number of variants of Option C could be implemented depending upon the way in which the core service access rights are structured.
83. Upon completion of the necessary accession process and entry process, the meter party would be assigned rights and obligations relating to performing defined commands on the meter. This would give rise to a new party category of '**Nominated Meter Party**' under the SEC, which would be liable for the payment of charges applied to that party category. Consideration would need to be given as to whether Nominated Meter Parties should automatically get full participation rights in SEC governance, or whether, by their special nature, their participation rights would be more appropriately restricted.

84. Under Option C, both the supplier and the Nominated Meter Party would have direct access to the DCC's communication service. It would be a matter for the supplier in its commercial arrangements with its meter parties to restrict that access as it saw fit. The DCC would not be a party to any such restrictions on access between a supplier and its Nominated Meter Party. As for Option B, it is not expected that the DCC will be required to check the specific arrangements for each meter point to ascertain if the Nominated Meter Party has permission from the supplier to execute certain services.
85. Nominated Meter Parties would be bound by the SEC under Option C, such that SEC obligations could be enforced directly on these parties. However, as they are unlicensed parties, Ofgem would not be able to take regulatory enforcement action against the meter party. It would, therefore, be important in implementing Option C that Ofgem is able to take enforcement action against the relevant supplier for actions taken by its Nominated Meter Party, as is the case under the supplier hub principle. That is, regardless of the rights and obligations which may apply to the Nominated Meter Party, it is essential that the supplier remains liable under its licence and the industry codes. Thus, the creation of any rights and obligations applying to Nominated Meter Parties should be in addition to, and not instead of, those applying to the supplier. Further, it is noted that although there are other unlicensed parties which can accede to the SEC (for example, energy services companies) they are not acting on behalf of a supplier in the same way as is proposed under Option C, such that responsibilities and associated liabilities are far clearer than is the case under Option C.

4.4 Proposals

86. In developing the above options, the Government has sought to recognise the distinct requirements of both meter operators and meter asset providers while remaining consistent with the wider industry arrangements.
87. In the case of **meter asset providers**, the Government acknowledges the primary requirement of the meter asset providers to track their assets, and it notes the difficulties which meter asset providers report they have in tracking those assets, especially after a change of supplier.
88. It is recognised that any enduring solution would be likely to require comprehensive changes to the change of supplier process and the registration systems. The Government suggests that the planned transfer of registration responsibilities to the DCC some two to three years after the DCC commences operations would be an opportune occasion to consider proposals to include appropriate requirements to allow meter asset providers to better track their assets. It also notes that it would likely prove a cost effective time to include such new system requirements, should they be wanted. However, the Government recognises that this would leave a gap in the intervening period and would welcome evidence on the likely magnitude of the resulting risk which this gap may leave.
89. The Government concludes that the DCC is not well-placed to be able to help to mitigate any resulting risk during this interim period, as the identity of the meter asset provider is not held within the smart metering system. Instead, the Government would look to the wider industry arrangements and the active co-operation of all parties to seek cost-effective measures which can assist meter asset providers in tracking their assets prior to any possible solution being included in the requirements for the DCC's new registration systems, if industry so determines.
90. In relation to the meter asset providers' requirement for access to smart metering systems for warranty purposes, the Government proposes that access via the supplier is the most appropriate route (i.e. Option A). With the cooperation of the supplier, Option A will provide the information required for warranty purposes. This approach recognises the nature of the

information that is required for warranty purposes and that its primary use is after the event. In this respect, the access to smart metering systems is quite different to the operational requirement of meter operators. As such Options B and C are both judged to be unnecessary for warranty purposes. Further, the implementation of either Option B or C for meter asset providers would be incompatible with the solutions proposed for meter operators gaining access to smart metering systems that are described below.

91. **Meter operators** have previously indicated that Option A would not sufficiently address the issues because it does not guarantee them direct and timely access to the smart metering systems, which they require for the effective performance of time-sensitive tasks such as diagnostics, maintenance, responding to alarms or alerts, and installation.
92. The Government proposes that the registration of a meter operator in the existing electricity and gas registration systems is deemed to constitute a nomination by the supplier of that meter operator to give effect to either Option B or Option C. This approach, based as it is upon the existing registration of meter operators in the industry registration systems, has the advantage that it can be readily implemented at low cost, and is the solution that has been assumed for the purposes of business process design. It is worth noting that the Option B approach is the manner in which meter operators currently participate under the BSC arrangements.
93. However, as this approach relies on the deemed registration of a meter operator, it would preclude a meter asset provider, who is separate from the meter operator and meter asset manager, from also being nominated by the supplier to send commands to or from a smart metering system. That is, there is no equivalent option available to meter asset providers.
94. From the DCC's perspective, under this variant of both Options B and C, a meter operator would enjoy full access to all of the smart metering systems against which it is registered and thereby is deemed to be the Supplier Nominated Agent or Nominated Meter Party. Thus, if a supplier wishes to restrict an individual meter operator's access to the DCC system, it must do so through its commercial arrangements with that meter operator. If a meter operator is deregistered for a given asset, it would be deemed to have deregistered as a Nominated Meter Party under the SEC for that asset.
95. The table³⁰ below compares the attributes and features of the three options:

³⁰ If the meter operator is not uniquely identifiable within the DCC's systems, it will not be possible for that meter operator to be given security credentials in its own right for use in its Hand Held Terminals, such that they will have to use the security credentials of their suppliers. This would likely result in each meter operator needing to carry multiple Hand Held Terminals – one for each of its suppliers, which would be inefficient and logistically difficult.

Attribute/Feature	OPTION A: All Communication Via Supplier	OPTION B: Registered Supplier Nominated Agent	OPTION C: Meter operator accedes to SEC
Physical access to DCC services	<i>If given by Supplier</i>	✓	✓
Contractual access under SEC	✗	✗	✓
Meter operator is uniquely identifiable	✗	✓	✓
Access triggered by registration of meter operator	✗	✓	✓
Allows single Hand Held Terminal	✗	✓	✓
Explicit charges levied on meter operator	✗	✗	✓
SEC obligations enforced on meter operator	✗	✗	✓
Regulatory enforcement on SEC Party	✓	✓	<i>Not on meter operator, but on Supplier</i>

96. The table above highlights the concerns expressed by meter operators over what they believe is the inadequacy of Option A for their purposes. It further shows that both Options B and Option C deliver on the key requirements – namely physical access to DCC services, the meter party is uniquely identifiable, access to the DCC services is automatically triggered, and the solution provides for the use of a single Hand Held Terminal on behalf of multiple suppliers. Hence, they both appear solutions likely to prove acceptable to meter operators in meeting their requirements, as has been previously indicated by meter operator representatives.
97. The table also highlights the key differences between Options B and C. However, in practice, these differences will likely prove less than the table suggests, because:
- Although in Option C the meter operator would be responsible for its own actions via obligations under the SEC, the supplier will still retain obligations, thereby ensuring that under both options there remains enforcement under the SEC and wider regulatory enforcement by Ofgem, and
 - Charges levied on suppliers can be allocated to meter operators by suppliers if they see fit, according to their own commercial arrangements, which may prove more flexible and appropriate than any possible DCC solution.
98. It should be noted that the table does not consider the practical implications of implementing these two options and the differences therein. Although the registration of a meter operator being deemed to constitute a nomination by the supplier for SEC purposes is both simple and elegant, the practical implications of a meter operator acceding to the SEC under Option C are far more complex and will need to be considered. Most importantly, any implementation would need to ensure that the supplier hub principle is not compromised. Thus, the supplier must retain obligations. This introduces complexity regarding whether two parties can be responsible for the same obligation and if so, how those obligations would be effectively enforced under the SEC. If not, then what additional obligations (if any) would apply to the Nominated Meter Party over and above those which apply to the supplier? The implications of implementation require further consideration, should there be an appetite to pursue this option further.

99. Given the practical implications and complexity of Option C, and as the key benefits of Option C can be delivered by the simpler Option B, the Government concludes that Option B is its preferred choice. As such, the Government proposes that Option B should be implemented in order to give meter operators the access they require to smart metering equipment.
100. The Government further notes that although the proposed implementation of Option B (or Option C) for meter operators is not an option for meter asset providers gaining access to smart metering equipment, suppliers have the option to implement Option A for meter asset providers alongside either Option B or Option C for meter operators.

4.5 Consultation questions

Consultation questions: Involvement of the Meter Services Community	
2.	Are the requirements of both meter asset providers and meter operators for access to smart metering systems adequately captured in this consultation paper? If not, please provide additional details of the requirements and why they are required.
3.	Do you support the Government's preferred solution to implement a simple variant of Option B whereby the registration of a meter operator in the existing electricity and gas registration systems would be deemed to constitute a nomination by the supplier of that meter operator to act as its agent to perform a specific set of commands?
4.	Should meter operators be given limited participation rights in SEC governance under Options B or C, and if so what rights would be appropriate?
5.	Would you support the tracking of assets being included within the future system requirements for the new registration systems, which are proposed to be provided by the DCC?

4.6 Summary of proposed rights or obligations in the SEC

101. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
Gas and electricity suppliers	Under the proposed Option B, the rights and obligations applicable to suppliers would remain unchanged. Although not an explicit obligation in the SEC, suppliers would be responsible for the actions of Supplier Nominated Agents. Provision that the registration of a MOP/MAM in the existing databases is deemed a registration for SEC purposes.

Party	Right/Obligation
Supplier Nominated Agent (Option B)	Although the Nominated Agent will not accede to the SEC, it may be appropriate for that agent to have limited rights under the SEC (for example in relation to SEC governance).

Chapter 5: Accession to the SEC

This chapter discusses the rules and procedures that will apply when parties seek to accede to the SEC. It outlines the information that acceding parties will have to provide and other requirements that will have to be satisfied.

5.1 Introduction

102. Accession describes the process by which a person becomes a party to the SEC. To develop suitable accession arrangements for the SEC, the Government has sought the views of stakeholders and drawn upon existing practices from other industry codes.
103. As described earlier in this document, electricity supply, gas supply, electricity distributor and gas transportation licensees and the DCC will be required to accede to the SEC. Unlicensed parties who wish to use the DCC's services will also be required to accede to the SEC before they can do so.
104. Separate transitional arrangements may be needed to support the accession of parties and signing of the framework agreement when the SEC first comes into force (the SEC Commencement Date). Any such arrangements will be set out in the separate paper on transitional issues that will follow later this year.

5.2 Objectives of SEC accession process

105. In designing the SEC accession process, a key objective is to avoid creating unnecessary barriers to entry for prospective SEC Parties. However, the Government also considers that an appropriate level of accession requirements is necessary to ensure that only those parties with a legitimate interest in, and intention to actively participate under, the arrangements set out in the SEC are able to accede and remain parties to the SEC.

5.3 Rights upon accession

106. Accession will allow parties to participate in governance of the SEC before they are in a position to start using the DCC's communication services. This will include, for example, the rights to:
 - Propose and be consulted on modifications to the SEC
 - Nominate candidates and vote in SEC Panel elections
 - Participate in working groups established by the SEC Panel
 - Receive information and reports that all SEC Parties are entitled to receive, and
 - Seek advice and support regarding accessing the DCC's communication services.
107. It should be noted that a SEC Party will not automatically be entitled to start using the DCC's communication services upon accession, but that it will first be necessary to complete certain technical, security and other checks. These "entry process" requirements are discussed further in chapter 6.

5.4 Proposed accession process and party requirements

108. Consistent with arrangements under other existing industry codes, the Government proposes that the SEC accession process should require prospective parties to provide some relatively basic information and to pay an appropriate application fee. This should not create any significant barriers to entry for smaller companies wanting to take steps towards accessing the DCC's services (for example in order to provide energy services to customers), though it is recognised that this may be subject to the level at which the application fee is set (see below).
109. The following activities will be required as part of the SEC accession process:
- Completion of an application form with basic business information, and evidence supporting this (for example the party's name and contact details, and whether they hold any energy licences)
 - Confirmation of their intended party category or categories (see chapter 3)
 - Payment of an administrative fee at a level to be set by the SEC Panel
 - Provision of a signed copy of the accession agreement (see chapter 5), and
 - Potentially, provision of such other information as the SEC Panel may require from all applicants. This might, for example, include evidence that the prospective party is a going concern – such as certain financial accounts or a report from a credit checking agency. However, it is recognised that there may need to be some modification or waiver of such a requirement in the event of the applicant being a start-up enterprise. It is also recognised that other SEC provisions will exist to mitigate any risks posed by new parties, including ongoing financial security requirements (see chapter 9).
110. The Government believes that the SEC accession process should be managed by the Code Administrator (see chapter 13 for description of this entity). The Code Administrator will coordinate the day to day operations of the SEC, under direction from the SEC Panel (see chapter 12 for a description of the SEC Panel's functions), so it is appropriate that management of the accession process forms part of its role.
111. Part of the Code Administrator's role will be to support prospective and new parties to the SEC. The Government's view of the role of the Code Administrator is to be a proactive "function" that supports SEC Parties and prospective parties to the SEC, in particular smaller suppliers and unlicensed parties who may be less familiar with the regulatory framework, to access the DCC's services for the purposes of providing new services themselves to consumers. For example, the Code Administrator could meet with prospective parties to support the accession process, or provide remote support (for example, provision of guidance materials, telephone or email support).
112. Once a prospective party has provided the required accession information, the Code Administrator will make a recommendation to the SEC Panel to accept a party's accession. The Code Administrator may advise that the SEC Panel should not accept a prospective party in certain circumstances (if for example it judges any required evidence supporting information to be insufficient). Under the proposed terms in the Draft DCC Licence, prospective parties will be able to refer to the Authority for determination decisions regarding whether they have fulfilled the necessary requirements to accede to the SEC.
113. Once a prospective party has provided all the information necessary and satisfied all accession requirements, it will sign an accession agreement by which it agrees to be bound by the SEC

framework agreement. Consideration has been given to who would be an appropriate party to countersign the accession agreement on behalf of SEC Parties. One option is for the DCC to countersign this agreement, as the DCC will always be a SEC Party. Under this option the DCC would be obliged to countersign accession agreements following a request from the Code Administrator.

114. The alternative would be to incorporate a company for the purpose of entering into such agreements. The Government considers that it is unnecessary to incorporate a company solely for this purpose but there may be wider considerations that make it attractive to incorporate a company, a “SECCo” to support the governance of the SEC (see chapter 13). The Government considers that it is practical for either the DCC or a SECCo to countersign accession agreements.

5.5 Accession time limit

115. The Government considers it necessary to prevent organisations signing up to the SEC, and participating in the governance of the SEC, without having any intention of becoming an active participant by, for example, receiving core communication services from the DCC or requesting an elective communication service from the DCC (further discussion of these services is set out in chapter 8). This could be achieved by setting a limit on the amount of time that a person can be a party to the SEC and not take or request such services in their relevant party category. This follows the model used in other industry codes. For example, under the BSC, there is provision to expel a party which does not commence trading within six months after accession to the BSC framework agreement.
116. Under this model the SEC Panel would have the ability to expel parties from the SEC if they have not, within six months of accession, either taken core communication services from the DCC or requested an elective or new core communication service from the DCC. Such a rule would only be applied from DCC Go-Live. The SEC Panel would also have the discretion to extend the six month period if a party provides evidence that they are continuing to take steps towards being an active participant under the SEC.
117. It should be noted that this power of the SEC Panel will be subject to the rules regarding expulsion described in chapter 20, including that no licensed party may be expelled without prior approval of the Authority. This would also allow for any situation where a party is obliged by licence conditions to remain as a party to the SEC and be subject to certain ongoing obligations under it, even where certain rights have been suspended – chapter 19 discusses this point further.

5.6 Proposals

118. The Government proposes that:
- There should be a simple accession process whereby a party can accede to the SEC subject to the provision of the relevant information (as discussed above) and payment of an application fee. Following accession, further entry processes would need to be undertaken prior to a party taking the DCC’s communication services
 - Basic company, legal and financial information will need to be provided as part of the SEC accession process and that applicants will be required to prove who they are and indicate the party category (or categories) in which they intend to participate

- An application fee will need to be paid by new parties wishing to accede to the SEC, at a level to be set by the SEC Panel
- The Code Administrator should manage the accession process and make a recommendation to the SEC Panel to accept a party's accession once a prospective party has provided the required information. The Code Administrator may advise that the SEC Panel should not accept a prospective party in certain circumstances, but this will be subject to a right of appeal to the Authority
- Any party should be able to participate in the governance of the SEC following the completion of the accession process, and
- SEC Parties that are not active participants in an operational sense should be capable of being expelled from the SEC, if the SEC Panel deems this appropriate, six months after accession, subject to certain limitations on this power. The SEC Panel would have the discretion to extend the six month period if the party provides evidence that it is continuing to take steps towards becoming an active participant under the SEC.

5.7 Consultation questions

Consultation Questions: Accession to the SEC	
6.	Do you agree with the process proposed for accession and the accession time limit?
7.	Do you agree that once acceded, any SEC Party should be able to participate in the governance of the SEC prior to undertaking any further entry processes?
8.	Do you have any views on the company, legal and financial information that should be provided as part of the SEC accession process?

5.8 Summary of proposed rights or obligations in the SEC

119. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC Panel	<p>Obligation to ensure that the body appointed as the Code Administrator complies with the SEC provisions:</p> <ul style="list-style-type: none"> • Setting out its role in managing the accession process, and • To provide appropriate support to prospective and new parties to the SEC.

Party	Right/Obligation
	<p>Right to stop the accession process for prospective parties in certain circumstances.</p> <p>Right to expel a party within six months of accession, if it has neither taken core communication services from the DCC nor requested an elective communication service from the DCC (subject to certain limitations).</p>
Prospective parties	Right to appeal decisions not to allow accession by the SEC Panel to the Authority for determination.
Acceded SEC Party	Right to request an extension to the six month period and provide evidence that it is continuing to take steps towards becoming an active participant under the SEC.

PART C: USING THE DCC'S COMMUNICATION SERVICES

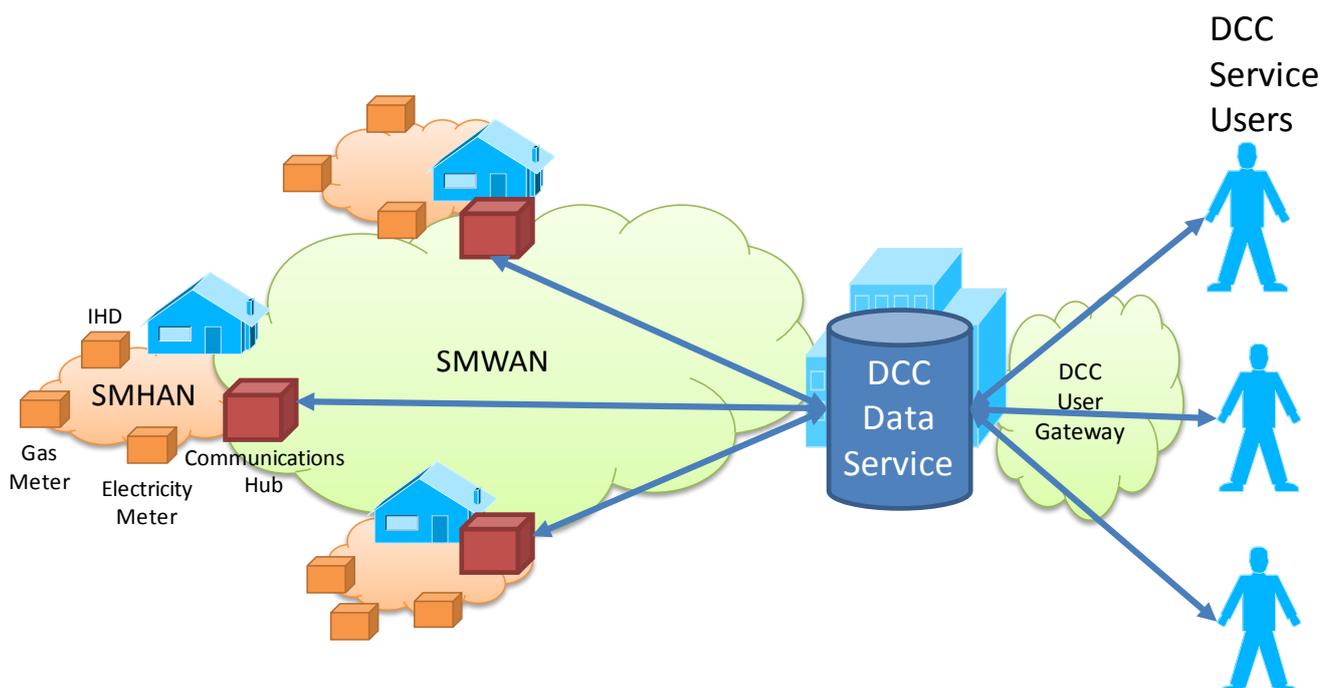
Chapter 6: Preparing to use the DCC

SEC Parties will have to complete a number of steps prior to receiving the DCC's communication services. One of these steps will involve establishing the capability to send requests to or receive communications from the DCC via an electronic communications link. This communication link will also be used to submit information to the DCC associated with smart metering system enrolment or withdrawal. Proposals for this communications link and the other steps that a SEC Party will have to complete prior to receiving communication services ("entry processes") are set out in this chapter.

6.1 Overview

120. Prior to the DCC providing communication services, smart metering systems will need to be enrolled with the DCC. Part of the enrolment process involves connection of the smart metering system to the DCC's Smart Metering Wide Area Network ("SMWAN"). SEC Parties seeking to use the DCC's communication services will also need to establish a means of communication with the DCC. This 'end-to-end smart metering system' is shown in the diagram below.
121. Throughout this chapter the phrase 'DCC Service User' is used to describe a SEC Party that is seeking to use or is using the DCC's communication services.

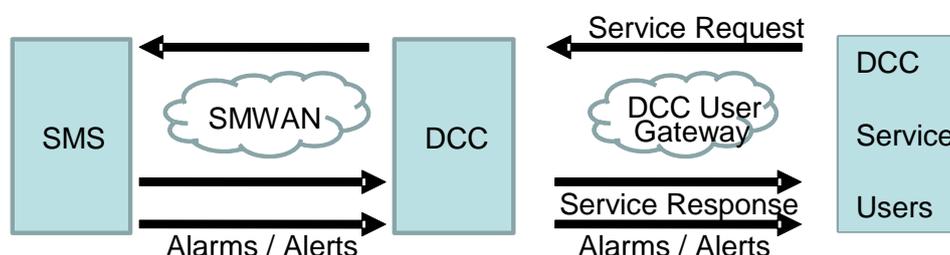
Figure 1 – Overview of the end-to-end smart metering system



6.2 The DCC service user communication link to the DCC ('DCC User Gateway')

122. One of the principal reasons for creating the DCC is the need for smart metering systems to be capable of continued and seamless operation when a customer elects to change supplier. This will, in part, be achieved by defining standard formats for messages exchanged between the DCC and other SEC Parties.
123. SEC Parties, when requesting communication services or seeking to enrol or withdraw smart metering systems, will communicate with the DCC via a series of "service requests" and the DCC will respond via a series of "service responses". Service requests and responses will need to be structured into standard message formats to be directed and sent between the DCC and individual SEC Parties.
124. The "DCC User Gateway" will be used to transfer service requests for onward transmission to smart metering systems and for the return of service responses (for example meter data, alerts and other information) from the DCC to SEC Parties. The DCC User Gateway is separate from the communications network linking the DCC with the smart metering systems in consumer premises (the SMWAN), as shown in the diagram below.

Figure 2 – Context of the DCC User Gateway



125. The Government has considered two options for the creation of the DCC User Gateway:
- Extend the functionality and capacity of one of the existing industry networks (i.e. the Data Transfer Network or the IX Network), aiming wherever possible to re-use existing industry infrastructure. These networks exist to support the transfer of messages associated with change of supplier, settlement and other industry functions in the electricity and gas sectors. There is the potential to extend the scope of one or both of these networks to support the requirements of the DCC User Gateway, or
 - Build a new gateway for smart metering purposes.
126. The solution to implementing these two options would be:
- Under option 1, to mandate the use and amendment of an existing industry network (i.e. the Data Transfer Network or the IX Network), or

- Under option 2, to make the DCC, via its Data Services Provider (DSP)³¹, responsible for evaluating the options for creating the DCC User Gateway with DSP applicants proposing an appropriate solution within their response to the procurement process that the Programme is conducting. Under this option this would be achieved initially through the Programme including this within the scope of the DSP procurement activity that it is currently undertaking.
127. Under both of these options, the SEC would require all SEC Parties to use the DCC User Gateway as the route to send messages to and receive messages from the DCC. This requirement would be captured in a DCC User Gateway interface specification that SEC Parties would be required to comply with. The DCC User Gateway would also need to comply with the relevant requirements of the SEC, including relevant security arrangements.
128. The Government favours the second of the two options, making the DCC responsible. The Government believes that this approach will deliver the most appropriate solution to the industry without constraining the DCC's DSP to a single solution (and thereby prejudging the benefits of alternative solution options), which may be the case under the mandated approach. Giving responsibility to the DCC may result in the use of an existing industry network to provide the DCC User Gateway, should the DCC's DSP decide that this is the most effective solution.
129. The choice of solution for the DCC User Gateway will determine the format that service requests and responses will need to take.
130. The Government's Response to Prospectus Consultation in March 2011³² ("the Prospectus Response") stated that "Consideration has also been given to the capability of smaller suppliers to enhance their existing systems to interface with DCC. To mitigate the impact on these parties, where practicable DCC's systems should allow suppliers to continue to use existing industry data flows. This should permit smaller suppliers to choose a timetable for system enhancements which suits their business, rather than being forced to meet a cross-industry deadline." The Government considers that this enables continuity for existing industry participants and reduces the impact of change.
131. It should be noted that in deciding how this interface should be provided, the Government considers it desirable that DSP applicants should evaluate options having regard to statements in the Prospectus Response and should determine what they consider to be the most appropriate mechanism for the provision of the DCC User Gateway. Accordingly one of the requirements set out for DSP applicants is that, where practicable, DCC's systems should allow suppliers to continue to use existing industry data flows.
132. However, it is recognised that some anticipated SEC Parties might not currently participate in these existing industry arrangements, including, for example, energy service companies. If existing industry arrangements are to be utilised, an additional DCC User Gateway option may be required for these parties which uses an "Open Standard" interface.

6.3 DCC service user entry processes

133. Prior to being able to take communication services, a DCC service user will need to complete a set of entry processes that will demonstrate that it is capable of receiving communication

³¹ The DSP is the company awarded the contract to deliver systems integration, application management and IT hosting services to DCC.

³² DECC, Smart Metering Implementation Programme, *Response to Prospectus Consultation*, March 2011. (http://www.decc.gov.uk/en/content/cms/consultations/smart_mtr_imp/smart_mtr_imp.aspx)

services in compliance with the relevant provisions of the SEC. These entry processes will be specified in the SEC. Such relevant provisions in the SEC might include, for example, demonstrating compliance with applicable security requirements and the provision of any necessary financial security.

134. To ensure that a DCC service user can communicate effectively with the DCC, some form of testing process of that DCC service user's communication link with the DCC User Gateway will need to be undertaken. The detailed form of this process will be developed in due course, and will be completed once the DCC User Gateway has been specified.
135. Additionally, a DCC service user will need to demonstrate that it has the capability to execute the business processes required of it when using the DCC's communications service. Current views of relevant business processes have been set out at the end of each chapter of Part C of this document.

6.4 Proposals

136. The Government proposes that:
- The DCC (via its DSP) should be responsible for providing an interface to enable service requests and service responses to be transferred between SEC Parties and the DCC
 - The DCC User Gateway solution shall offer an "Open Standards" interface
 - The SEC will specify the interface and message format that must be used by SEC Parties in order to be able to send/receive messages to/from the smart metering system via the DCC, and
 - Prior to taking communications services, a SEC Party will need to:
 - Demonstrate that it has met the necessary security requirements
 - Demonstrate that it can communicate effectively with the DCC
 - Demonstrate that it is capable of executing the relevant business processes, and
 - Provide any necessary financial security.

6.5 Consultation questions

Consultation questions: Establishing readiness to receive the DCC's communication services

9.	Do you agree that Government should not mandate a specific solution for the DCC User Gateway and that Data Service Provider (DSP) bidders should be invited to propose the solution which they consider to be the most effective (such proposals could include the option of extending an existing industry network)?
10.	Do you have any other comments on the Government's proposals for the DCC User Gateway?

Consultation questions: Establishing readiness to receive the DCC's communication services

11. Do you agree with the proposed DCC user entry processes?

6.6 Summary of proposed rights or obligations in the SEC

137. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
Gas and electricity suppliers, gas transporters, electricity distributors, Other Users	Obligation to comply with the interface specification and message format prescribed in the SEC for the purposes of being able to send and receive messages to and from the smart metering system via the DCC.
Gas and electricity suppliers, gas transporters, electricity distributors, Other Users	Right to receive communication services conditional upon the satisfaction of obligations to: Demonstrate compliance with the necessary security requirements Successfully establish electronic communications with the DCC Demonstrate capability to execute the necessary business processes, and Provide any necessary financial security.

6.7 Related Business Processes

138. Currently no related business processes have been developed in this area, however the Programme will keep this under review and develop them as required once further details on the DCC User Gateway and DCC Service User entry processes are developed.

Chapter 7: Enrolling, withdrawing and replacing smart metering systems

This chapter sets out the rights of suppliers to request the enrolment of smart metering systems with the DCC. It also discusses the rights of suppliers to withdraw smart metering systems from DCC's communications service and rights to replace components of the smart metering system.

7.1 Rights to enrol smart metering systems with the DCC

139. The SEC will set out the process by which smart metering systems are enrolled with the DCC. Once a smart metering system has been enrolled with the DCC, core communication services will be available in relation to that smart metering system and elective communication services may be requested.
140. As set out in chapter 2, in certain circumstances suppliers will be required to enrol smart metering systems with the DCC. In other circumstances suppliers will have the right to do so (for example in the case of smart metering systems at smaller non-domestic premises). To facilitate this, the SEC will contain the right for suppliers to enrol smart metering systems. However, such a right should be conditional upon the smart metering system satisfying certain technical criteria. The technical criteria that need to be satisfied will be set out in future consultation papers.
141. The process to enrol a smart metering system will comprise two steps: firstly, ensuring that the smart metering system to be enrolled meets the prescribed technical criteria and, secondly, commissioning the system. As discussed in chapter 2, the steps to follow will be set out in business processes, which will comprise subsidiary documents to the SEC, and with which parties enrolling smart metering systems and the DCC will be required to comply.
142. The principal rights and obligations that arise from the smart metering system enrolment process are that:
 - A supplier will be required to notify the DCC in advance of the smart metering system devices that it intends to install
 - A supplier will be required to ensure that a Meter Point Registration Number or Meter Point Administration Number ("MPRN or MPAN") is entered into the gas or electricity smart metering system when installed
 - The DCC will be required to notify the supplier and relevant network operator that a smart metering system can communicate with the DCC, and
 - The DCC will be required to notify other SEC Parties that a smart metering system (by reference to its MPRN/MPAN) has been enrolled with the DCC and is available for communication services.

7.2 Granting rights of access to the smart metering system to the DCC

143. Chapter 2 described the need for, and a proposed licence condition requiring, suppliers to grant rights of access to use their smart metering systems to the DCC in relation to those that are

enrolled with it. This licence obligation needs to be backed up with a contractual right for the DCC under the SEC. The DCC's ability to provide communication services for a smart metering system is dependent upon that system sending and receiving data. The DCC therefore needs the right to interrogate the smart metering system, obtain data from it and send data to it. The DCC will therefore need to be granted such rights by the supplier when the supplier enrolls the smart metering system with the DCC. How the supplier secures such rights will vary depending upon who owns the smart metering system. The Government considers it sensible that this express right for the DCC is set out in the SEC.

7.3 Rights to withdraw smart metering systems

144. If a smart metering system is withdrawn from the DCC, the DCC will no longer be required to provide a communications service in relation to that smart metering system. Suppliers may elect to withdraw smart metering systems because:
- The premises that the smart metering system served no longer exists, or
 - A supplier decides to 'opt out' a smart metering system installed at a small non-domestic premises from the DCC's communication service.
145. Chapter 8 includes discussion of circumstances where, for an electricity smart metering system, both an 'import supplier' and an 'export supplier' might exist. In such circumstances the right to withdraw a smart metering system should rest with the import supplier as it is the import supplier that has the right to enrol such a smart metering system.
146. The SEC will need to set out the process to be followed and the associated rights and obligations when a supplier wishes to withdraw a smart metering systems. This will be captured in a business process document that is subsidiary to the SEC. The principal SEC obligations that arise from this are that:
- The supplier will be required to notify the DCC of its intention to remove a smart metering system and from when it will be removed, and
 - The DCC will be required to notify SEC Parties of the date from which its communication services are no longer available in relation to that smart metering system.

7.4 Rights to replace devices comprising part of a smart metering system

147. Additionally suppliers may, from time to time, need to replace some or all of the devices that comprise part of the smart metering system due to faults, upgrades or asset life expiration.
148. When a device comprising part of the smart metering system is replaced, the DCC will continue to provide communication services to the smart metering system. However the receipt of that message by the smart metering system might be delayed as messages may not be able to reach their destination whilst the replacement is being undertaken. Instead the message would be stored and delivered following completion of the replacement. Depending upon the performance standards (or Key Performance Indicators (KPIs)) that the DCC is subject to in relation to its delivery of communication services, such instances of device replacement might need to be recorded, so that the DCC is not liable for any failure to achieve its KPIs in these circumstances. This matter will be considered further once the list of core communication services and KPIs has been developed.

149. Again, in the case of electricity smart metering systems where there are both import and export suppliers, the right to replace devices should rest with the import supplier, because it is the import supplier that will be responsible for ensuring that the smart metering system complies with the SMETS.
150. It is the Government's understanding that there may also be circumstances where smart metering system replacements are undertaken by a network operator rather than a supplier, specifically in emergency circumstances.
151. In December 2011, Ofgem published a document that concluded its Review of Metering Arrangements, and consulted on some specific further issues. The review looked at various aspects of how the current regulatory framework for traditional metering operates and whether it does so in the interests of consumers. Ofgem concluded that many aspects of the current arrangements were fit-for-purpose, and should not be changed. However, the document also recognised that there may need to be changes to the existing arrangements as a result of the roll-out of smart meters. It specifically invited views on how emergency services should be provided during the transition to smart meters and once the roll-out was complete. This consultation closed in March 2012. These arrangements may in due course lead to consequential changes to other industry rules and codes.
152. The Programme will consider the conclusions of that consultation in the development of the SEC. However, it is the Government's understanding that in such circumstances, the network operator is undertaking a replacement on behalf of the supplier under bilaterally negotiated contractual arrangements that it has in place with the supplier. Consequently, it should be sufficient that rights to replace smart metering systems are granted under the SEC to the supplier, as the network operator would be acting as an 'agent' of the supplier in these circumstances.
153. The SEC will need to set out the process to be followed and the associated rights and obligations when a supplier wishes to replace devices. As before, this will be captured in a business process document that is subsidiary to the SEC, and the SEC will set out the process by which the DCC is informed (and, if required, any obligation to notify the DCC) that a device has been replaced.

7.5 Proposals

154. The Government proposes that the SEC will contain the following:
- A right for suppliers to enrol smart metering systems with the DCC, subject to them meeting certain criteria
 - A requirement on the supplier to notify the DCC in advance (and in a specified format) of the smart metering system devices that it intends to install
 - A requirement on the supplier³³ to ensure that when a smart metering system is installed the correct MPAN or MPRN, as the case may be, is entered into the relevant devices
 - A requirement on the DCC to:

³³ It is recognised that the supplier may discharge this requirement through the activities of a Meter Operator or Meter Asset Manager acting on its behalf. Please refer to chapter 4 for a discussion of these issues.

- Send a confirmation to the supplier and relevant network operator that the smart metering system can communicate with the DCC, and
- Notify SEC Parties that a smart metering system (by reference to its MPAN/MPRN) is available for communication services
- A requirement on the supplier to, as a condition of enrolment, grant to the DCC the right to access its smart metering systems for the purposes envisaged by the SEC
- A right for the supplier to withdraw a smart metering system. In the case of electricity smart metering systems, the right is assigned to the import supplier
- A requirement on the supplier to notify the DCC (in a specified format) of its intention to withdraw a smart metering system
- A requirement on the DCC to notify SEC Parties of the date from which its communication services are no longer available in relation to a smart metering system, and
- A right for the supplier to replace devices comprising part of the smart metering system. In the case of electricity smart metering systems, the right would rest with the import supplier.

7.6 Consultation questions

Consultation questions: enrolling smart metering systems

12.	Do you agree with the proposed rights and obligations relating to smart metering system enrolment set out in this chapter? Please provide your views.
13.	Do you agree that the SEC should require, as a condition of enrolment, that the supplier grants the right to the DCC to access its smart metering system for specified purposes?
14.	Do you agree with the proposed rights and obligations relating to smart metering system withdrawal and replacement of devices?

7.7 Summary of proposed rights or obligations in the SEC

155. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
Gas and electricity suppliers	Right for suppliers to enrol smart metering systems with the DCC, subject to them meeting certain criteria.
Gas and electricity suppliers	Obligation to notify the DCC in advance of the smart metering system devices that it intends to install.
Gas and electricity suppliers	Obligation to ensure that when a smart metering system is installed, the correct MPAN or MPRN, as the case may be, is entered into the metering device.
DCC	<p>Obligation to send a confirmation to the supplier and relevant network operator that the smart metering system can communicate with the DCC.</p> <p>Obligation to notify SEC Parties that a smart metering system (by reference to its MPAN/MPRN) is available for communication services.</p>
Gas and electricity suppliers	Obligation to grant the DCC rights to access any smart metering systems that they enrol for the purposes envisaged by the SEC.
Gas and electricity suppliers	Right for suppliers to withdraw smart metering systems from the DCC's communications network. In the case of electricity smart metering systems this right will be assigned to the import supplier.
Gas or electricity supplier	Obligation to notify the DCC of its intention to do withdraw a smart metering system.
DCC	Obligation to notify SEC Parties that its communication services are no longer available in relation to the relevant smart metering system.
Gas and electricity suppliers	Rights to replace devices comprising part of the smart metering system. In the case of electricity smart metering systems, this right rests with the import supplier.

7.8 Related business processes

156. Where relevant, the business processes that relate to these rights and obligations are:

- 01.01 – Install/Replace Smart Metering System
- 01.02 – Enter Metering System Into DCC Service
- 01.04 – Update inventory details
- 05 – Access and Security
- 03.01 – Remove Metering System from DCC Service
- 03.02 – Decommission Smart Metering Equipment, and
- 03.03 – Disconnect Metering System.

Chapter 8: The DCC's provision of communication services

This chapter sets out a description of the DCC's communication services, being core and elective communication services. The process for developing the list of core communication services that will be available from DCC Go-Live and the entitlement to core communication services are discussed. This chapter also sets out the process for requesting elective communication services and the terms and conditions associated with their provision, including whether the details of an elective communication service should be confidential between the DCC and the party receiving it.

8.1 Background

157. As set out in the DCC Licence Consultation, the DCC will be required to offer specified communication services in accordance with the terms set out in the SEC. These are communications that are solely related to the supply or use of energy, further categorised into 'core' and 'elective' communication services:
- Core, being a pre-specified set of communication services available to be sent to or received from any smart metering system enrolled with the DCC, and
 - Elective, being any other communication services over and above the core that may be requested.
158. Entitlement to core communication services will vary by SEC Party category and according to whether or not the party is the registered supplier or relevant network operator for the smart metering system. SEC Party categories are described earlier in chapter 3.
159. The Draft DCC Licence states that the DCC is not obliged to provide communication services in relation to metering systems that are not fit to be (or not eligible to be) enrolled with it. Chapter 7 explains that certain technical criteria will need to be satisfied in order for a smart metering system to be eligible to be enrolled with the DCC. The technical criteria that need to be satisfied and the process for demonstrating compliance with them will be set out in future consultation papers.
160. As set out in the Draft DCC Licence, if the DCC receives a request from a SEC Party to enrol a metering system that is not eligible to be enrolled then the DCC is required to offer to enter into an agreement with that SEC Party to provide services of any reconfiguration or modification necessary to make that metering system eligible for enrolment. The principles that the DCC would apply in developing charges for such services are discussed in chapter 9.

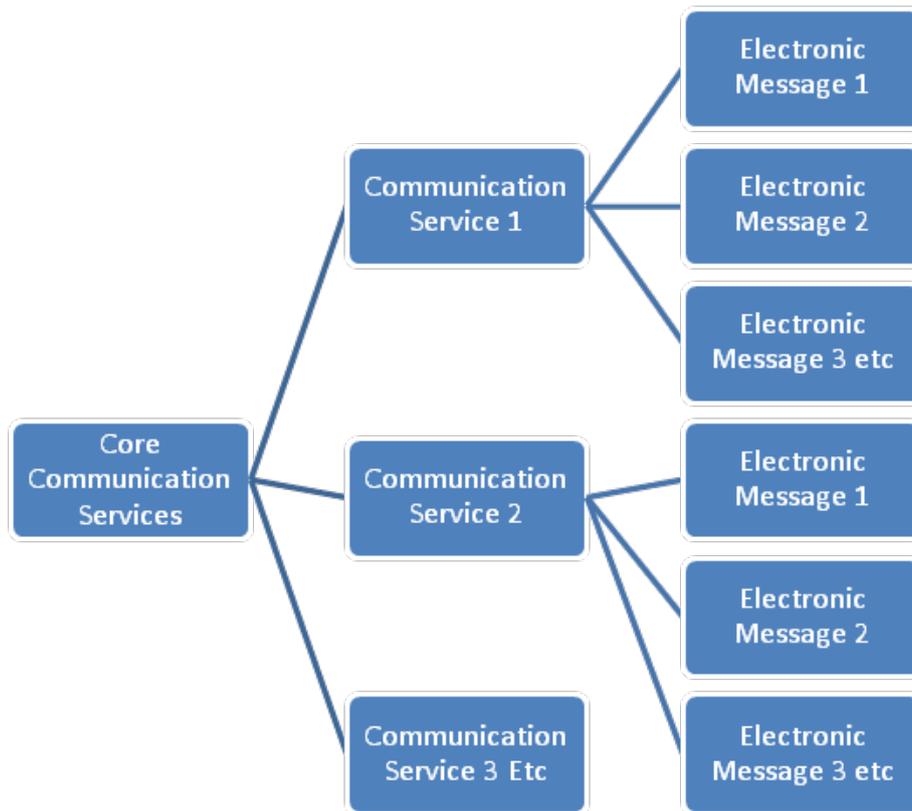
8.2 Core communication services

Characteristics of core communication services

161. Core communication services describe the service of providing a minimum set of communications services that are available to be requested by DCC service users in relation to any smart metering system that has been enrolled with the DCC.

162. A communication service will be defined as a specific type of service (for example, a meter reading) of a particular size (for example, 544 bytes), occurring at a particular frequency (for example, one per day), with a guaranteed response rate (for example, one hour). Each such communication service will be given effect through a series of electronic messages between a smart metering system and the DCC. The relationship between core communication services, communication services and electronic messages is set out below.

Figure 3 – Core Communication Services



163. The DCC will be obliged to provide communication services to prescribed performance standards that will be set out in its licence, as further discussed in the DCC Licence Consultation and chapter 9.
164. Should other metering systems be enrolled with the DCC that are not compliant smart metering systems then the minimum set of communication services that are available in relation to those metering systems will need to be specified at the time. It is not possible to prescribe such a minimum set in advance, as they would depend upon the technical capabilities of the metering system and the costs associated with their provision. Reflecting that such services cannot be defined in advance, the Government's starting position is that services offered to non-compliant meters would initially be treated as elective communication services under the SEC (see below for further information on the characteristics of elective communication services). The Government is interested in views on this initial position.

Eligibility to receive core communication services

165. The SEC will set out the rights that various SEC Parties have to access core communication services. It is currently envisaged that eligibility to receive specified core communication services will vary by SEC Party category and whether or not a party is the registered supplier or relevant network operator for the smart metering system. Some communication services will be available

to the registered gas or electricity supplier only. Some will be available to the relevant distributor or transporter only. Some will be available to all DCC service users. Specifically there are three types of communication services in this regard:

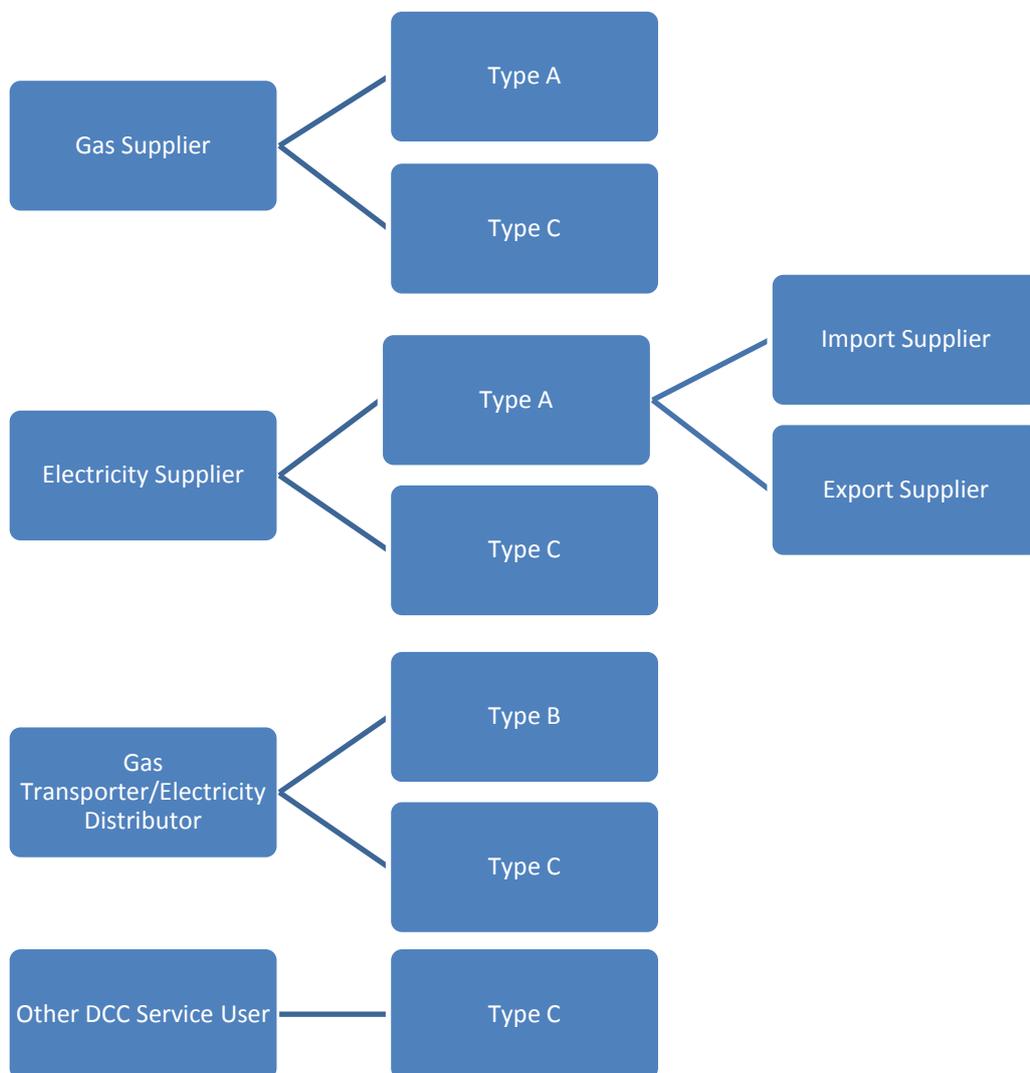
- **Type A** – Communication services that are those which are exclusively available to the registered supplier³⁴ of a smart metering system. Examples of such communication services include the ability to upload tariff data to the meter, the ability to remotely top-up account balances on prepayment meters and the ability to configure a meter to operate in either credit or prepayment mode
- **Type B** – Communication services are those which are exclusively available to the relevant electricity distributor or gas transporter to whose network the smart metering system is connected. An example of such a communication service might include one that is sent to obtain power quality data, and
- **Type C** – Communication services are those available universally to suppliers, network operators and any other DCC service user (for example an energy service company) because they support wider commercial activities, such as the provision of energy efficiency services, the provision of price comparison services, or competing to supply the customer. An example of this type of communication service includes receipt of electricity or gas consumption data for parties that are not the registered supplier, or, in the case of the registered supplier, receipt of consumption data in a more granular form than is considered necessary to support its licensed activity.

166. The Data Access and Privacy Consultation, published alongside this consultation, sets out the circumstances in which a DCC service user must obtain the consent of the consumer to access different types of metered data (on either an ‘opt in’ or an ‘opt out’ basis, depending upon the granularity of data and whether the person requesting the data is the registered supplier).
167. A SEC Party may be eligible to access various types of core communication services. For example, in addition to accessing type A communication services in relation to the smart metering systems for which it is registered, a supplier could wish to access type C communication services for smart metering systems for which it is not registered (because it is marketing to a potential customer that it does not currently supply).
168. There may, in certain circumstances, be more than one registered electricity supplier for an electricity smart metering system at a customer’s premises. For example, at some premises where there is a single electricity smart metering system, on-site micro generation will exist and there may be a different supplier responsible for supplying energy (“the import supplier”) and exporting energy (“the export supplier”).
169. For Type A Communication Services, in the case of both the importing and exporting supplier rights might only be allocated to each of the import and export supplier to access specified meter data for their individual registers.
170. It may therefore be necessary to further delineate type A DCC core communication services for electricity smart metering systems into those that are available to the import supplier and those that are available to the export supplier.

³⁴ Proposals governing the obtaining of the consumer’s consent to access such data are set out in the Data Access and Privacy Consultation.

- 171. There may also be circumstances in which there are several importing suppliers for an electricity smart metering system at a customer’s premises, for example where customer’s consumption is charged at two different rates against two MPANs and by two different suppliers. In such circumstances, the arrangements for smart metering must ensure that the correct rate is applied to the correct meter register. The Government welcomes detailed quantitative information and descriptions of the specific arrangements pertaining to such circumstances from respondents to the consultation.
- 172. In addition, the right to receive core communication services for which a party is eligible will be subject to that party having completed the relevant entry processes required for the purposes of receiving core communication services (as set out in chapter 6).
- 173. The various entitlements to core communication services by SEC Party are set out diagrammatically below.

Figure 4 – Summary of entitlements to core communication services by SEC Party



- 174. There will also be a certain set of communications that the DCC may provide to certain DCC service users upon receipt of messages from a smart metering system. These will not be core

communications that a DCC service user requests, but rather core communications that they are entitled to receive by virtue of their SEC Party category, whether or not they are the registered supplier or relevant network operator. For example, where an alert is issued from a smart metering system this will be routed to the supplier and the relevant network operator by the DCC. The Programme is currently considering whether a DCC service user should be required to 'subscribe' for such alerts and the SEC will set out eligibility by SEC Party category for the receipt of specified alerts.

Process for requesting core communication services

175. Once the process to accede to the SEC and establish a party category has been completed, the party seeking to use the DCC's services will have various "role codes" depending upon their party category. For example a supplier might have role codes of 'supplier X: type A communications' and 'supplier X: type C communications'. Each DCC service user will need to identify their role code within each service request that they send to the DCC. Each time that a core communication service is requested, DCC systems will verify that the party identified in the service request is a SEC Party and is eligible to make the service request in the role code specified within the message (so, in the case of Type A or Type B services, they will check that the SEC Party is the registered supplier or relevant network operator for the smart metering system to which the communication service relates). The DCC may also need to perform checks to ensure that the necessary consents have been provided, as set out in the Data Access and Privacy Consultation.

Development of core communication services under the SEC

176. The September DCC Consultation stated that the core communication services to be available under the SEC at DCC Go-Live would be developed by the Programme. That consultation set out the then current views of stakeholders regarding the type and level of electronic messages that will be required to deliver an assumed set of core communication services (for example, a monthly meter read, a credit top-up to a smart metering system and a change in status of a smart metering system from credit to prepayment mode). It also explained that an understanding would need to be developed of the minimum size, frequency, and expected response times required for all information exchanges, to allow the Programme to undertake meaningful dialogue with potential Communications Service Providers (CSPs)³⁵. Two versions of a message list were developed by the Programme in conjunction with stakeholders and were included in that consultation, setting out target frequencies of messages and minimum frequencies.
177. The Government encouraged consultation respondents, including suppliers and network operators, to scrutinise the list carefully, to identify whether this reflected the messages needed to deliver their minimum core communication service requirements. At the time this was considered important as DCC service users would be required to pay for the provision of these core communication service capabilities regardless of whether such services were actually used (chapter 9 contains more up to date proposals on the recovery of fixed costs and the SEC Parties that would be required to pay for them). Respondents were also asked to consider whether it was appropriate to differentiate service levels (i.e. through the provision of elective communication services) and whether more demanding requirements were anticipated in the longer term.

³⁵ CSPs will be contracted to the DCC to provide communications services that enable the transfer of data and information to and from smart metering systems.

178. Responses were received covering a range of matters including:
- The need to ensure that future plans for smart grids are catered for
 - The intelligent scheduling of core communications so that communication network capacity can be most effectively utilised, and
 - The desirability of charging by data volume to ensure efficient levels of demand.
179. Some respondents provided detailed comments on message requirements, including message sizes, frequency and timing, time periods to which the data relates, and latency requirements. Some respondents considered the messages outlined in the September DCC Consultation to be the minimum for core communication services, whereas others thought there was scope for further reduction, and others thought that some messages needed to be added.
180. In determining the list of core communication services that are available under the SEC from DCC Go-Live, the Programme will specify the minimum set of core communication services required to achieve the Government's objectives in rolling out smart metering systems. The Government is developing a strategy for engaging with the DCC's future users to gather further input and explore this issue and will provide further information in due course. In undertaking this work, the Government will take into account responses to the September DCC Consultation.

Future amendment of core communication services

181. The list of core communication services set down in the SEC will be capable of amendment in the future. Chapter 14 sets out the process by which the SEC may be modified. The Government considers that the list of communication services contained in the SEC should be subject to this standard SEC modification process, because decisions to amend the set of core communication services should ultimately be taken by the Authority, having regard to its principal statutory duties and to whether or not the amendment better meets the Relevant SEC Objectives.
182. Accordingly, if a party wishes to propose that a particular core communication service be withdrawn that an additional one be included or that an existing one be modified or replaced with something else, it will have to raise a SEC modification proposal. In assessing the impact of any such modification proposal, the DCC will discuss the consequences with its service providers, including any impact upon costs of service provision and the timeframe to deliver such changes.

8.3 Elective communication services

Characteristics of elective communication services

183. Elective communication services describe the provision of any communication service to or from a smart metering system that is not available as a core communication service and where the communication service relates solely to the supply or use of energy. Examples may include a more frequent meter read than that which is available as a core communication service, or the provision of communications services in relation to advanced or smart-type meters. As set out in the DCC Licence Consultation, upon receipt of a request for elective communication services, the DCC must:
- Provide, within ten working days, an initial evaluation of the technical feasibility and cost of such service provision, and

- Should the party wish to proceed with the request for elective communication services, within twenty working days offer to enter into an agreement for elective communication service provision.
184. Current thinking is that provision of an elective communication service should not compromise the delivery of the pre-existing core or pre-existing elective communication services. The DCC will have an obligation to make available the specified core communication services set out in the SEC. An offer for elective communication service can therefore only be made in a manner that does not prevent the DCC from continuing to satisfy its pre-existing obligations in relation to core communication service provision. However, once an offer of an elective communication service has been accepted, future amendments to the set of core communication services or future offers of elective communication services will only be capable of being provided by the DCC if they do not impinge upon its ability to honour its prior contractual commitments, specifically any specified core communication services in the SEC or any elective communication services that it has already contracted to provide. To the extent that an elective communication service can only be provided if the set of core communication services changes, the DCC will be required to inform the requesting party that this is the case, and the SEC Party will then be free to pursue an amendment to the list of core communication services through the SEC modification process.
185. As set out earlier, the list of core communication services will be capable of amendment over time. This might include a proposal for a core communication that is currently being provided as an elective communication. To the extent that the SEC is amended to provide a new core communication that is the same as an elective communication that the DCC is already providing bilaterally under the SEC, it may be appropriate for the SEC Party receiving that elective service to have the option of cancelling the contract for its provision at the point at which the equivalent core service becomes available. Alternatively, this might be considered a mandatory requirement rather than an optional entitlement for the SEC party concerned.

Eligibility to request elective communication services

186. As set out in the DCC Licence Consultation, the DCC will have an obligation to offer terms for the provision of elective communication services upon request and in accordance with the process set out in the SEC. Any SEC Party will be entitled to request an elective communication service and the SEC will contain rights for DCC service users to request them.
187. As set out in the DCC Licence Consultation, the DCC will be required to establish and periodically revise its business development objectives and to set them out in a development plan which is made generally available. The plan will cover a period of five years and cover a range of matters which includes: trends and factors likely to affect its future business development; likely opportunities for the DCC to develop infrastructure, systems and processes; and its current loading and utilisation and the availability of spare capacity. The Government expects that the DCC would use this requirement to proactively set out manners in which the smart meter market could develop, including “advertising” capacity for potential elective services to its users. Publication of such information should also assist DCC service users in considering requests for new elective communication services or amendment to the provision of existing core communication services.
188. The Government considers that SEC Parties should be able to request elective communication services on a bilateral basis (for one DCC service user) or a multilateral basis (for more than one DCC service user), as this delivers additional flexibility for DCC service users.

Process for requesting elective communication services

189. The DCC Licence Consultation sets out a proposed timeframe for the provision of an offer of elective communication services as soon as possible, but in any event within twenty working days of having received the request for such services. The SEC will set out the process that the DCC will follow to provide such an offer, which would include:
- The procedure by which a DCC service user can notify the DCC of a request for terms for an elective communication service, including any basic information that must be submitted to the DCC, and
 - Timeframes within which the user must accept the terms if it wishes to proceed with the provision of the elective communication service.

Terms and conditions associated with the provision of elective communication services

190. Contracts for elective communication service provision will be bilateral or multilateral contracts entered into between the DCC and other SEC Parties pursuant to the SEC. The Government considers that there will be certain terms and conditions that apply to the provision of core communication services that should also apply to the provision of elective communication services. Such terms and conditions should be applied to ensure that existing core and elective communication service provision does not suffer as a result of the provision of new elective communication services, and to ensure the overall integrity of the arrangements for smart metering.
191. The SEC will set out the terms and conditions that must apply to elective communication service provision, which are likely to include DCC user entry processes, technical security requirements, data privacy requirements, financial security requirements and dispute arrangements. The requirement will be for these SEC terms and conditions to apply as amended from time to time in accordance with the SEC modification processes.

Transparency of terms and conditions associated with the provision of elective communication services

192. There will be certain terms and conditions associated with the provision of elective communication services that are unique to that elective service and might be considered to be commercially sensitive, for example the nature of the service (type of communication) that is being provided, the performance standards associated with the provision of that service and the price for the service. It is for consideration whether such commercially sensitive information should be transparent to all SEC Parties, or whether it should be confidential between the DCC and the SEC Party or Parties concerned. This matter was raised by the Government in the September DCC Consultation.
193. Respondents' views on this subject were mixed, with some arguing for full disclosure of all information associated with elective communication services provision and others arguing that elective communication service provision should remain confidential. The Government recognises that there are advantages and disadvantages to such information remaining confidential to the DCC and the SEC Party that is receiving the service.
194. The advantage of such information remaining confidential is that it provides the opportunity for innovation in the provision of smart metering system related communications with the associated 'first mover' advantages that go with such innovation. These advantages might be short-lived, as

information emerges as to the new products or services that are being marketed to energy consumers, however they may be real nonetheless.

195. Disadvantages that stakeholders have cited associated with such confidential arrangements might be that other SEC Parties are not aware of the implementation of changes to the DCC's systems that might impact upon their own systems and services, the potential for the provision of such services to compromise end-to-end security of the smart metering system, and the potential for the DCC to 'over-recover' revenues in relation to the provision of such services. However, the Government considers that such disadvantages can be eliminated through:
- Obligations on the DCC to notify SEC Parties of the timing of implementation of changes to its systems
 - A requirement in the SEC that any bilateral or multilateral contract for elective service provision entered into pursuant to the SEC would include within it a requirement to comply with the prevailing SEC security requirements
 - The DCC revenue restriction licence condition setting out allowable revenues in relation to the provision of elective communication services. Such allowable revenues should only relate to the incremental costs associated with such service provision, to ensure that the DCC is not 'over-recovering' revenues. The DCC's charging methodology should ensure that any charges for elective service provision are constructed on a cost reflective basis, including any appropriate contribution to fixed cost recovery that would otherwise have been funded through the DCC's fixed charges levied upon suppliers and network operators (as set out in chapter 9). Consequently, in constructing such charges for elective communication services, if an element of those charges is associated with the recovery of existing fixed costs then the charging methodology would provide for a commensurate reduction in core service charges, and
 - The role of the Authority, in monitoring that the DCC is complying with its revenue restriction condition (including the operation of its 'k' factor³⁶), to ensure that the DCC has not 'over-recovered' revenues in relation to elective service provision.

Timescales for availability of elective communication services

196. A transitional question arises regarding the provision of elective communication services by the DCC. The Government considers that the primary focus of the DCC's early activities should be the enrolment of smart metering systems and the provision of core communication services in relation to them such that the benefits of smart metering, as set out in the impact assessments³⁷ published by the Government, can be delivered in a timely manner. This might also be considered to be a prudently cautious way of introducing the DCC communication services. However, such an approach would suggest that the DCC should not be obliged or permitted to consider requests for the provision of elective communication services before it begins operating any services. The Government is seeking views on whether such an approach is desirable, and if so, from when the DCC should be required to offer terms for elective communication services if requested.

³⁶ The "k" correction factor is an algebraic term within the price control licence conditions that provides an adjustment to the DCC's allowable revenue in a year depending upon whether it over-recovered or under-recovered during the previous year – see the DCC Licence Consultation for further details.

³⁷ DECC, Smart Meter Implementation Programme, *Smart meter roll-out for the domestic sector (GB): Impact Assessment* and *Smart meter roll-out for the non-domestic sector (GB): Impact Assessment*, April 2012,

8.4 Proposals

197. The Government proposes that:

- The DCC should be obliged to make available a specified set of core communication services to prescribed standards in relation to smart metering systems that have been enrolled with the DCC
- Three different types of eligibility to receive core communication services should exist under the SEC at DCC Go-Live in relation to smart metering systems that are enrolled with the DCC, as follows:
 - core communication services that are available only to the gas or electricity supplier registered to the smart metering system, further differentiated, in the case of electricity smart metering systems, by import and export supplier
 - core communication services that are available to the relevant electricity distributor or gas transporter only, and
 - core communication services that are available to all DCC service users

but in each case, subject to the DCC service user obtaining the necessary consents required from the consumer, as set out in the Data Access and Privacy Consultation

- Amendments to the set of core communication services be subject to the generic SEC modification process set out in chapter 14
- The SEC contain rights for DCC service users to request elective communication services
- SEC Parties should be able to request elective communication services from the DCC on either a bilateral or multilateral basis
- The SEC set out mandatory procedures for the provision of an offer of terms for elective communication services by the DCC and timeframes within which an offer of terms must be accepted
- To the extent that an elective service can only be provided if the set of core communication services changes, the DCC be required to inform the requesting party that this is the case
- The DCC be required to apply specified terms and conditions associated with the provision of core communication services also to elective communication service provision, including terms relating to DCC user entry processes, technical security requirements, data privacy requirements, financial security requirements and dispute arrangements
- Certain commercially sensitive terms and conditions associated with elective communication service provision, which might include the type of communication service that is being provided, performance standards associated with the provision of that service and the price associated with that service, be confidential between the DCC and the party or parties receiving the service, unless the party or parties consent to such terms being published by the DCC. However, information on such terms and conditions should be provided to the Authority upon a request to do so pursuant to the DCC's Licence

- Contracts for elective communication services should contain provision for the contract to be cancelled upon the request of the party or parties receiving the service, should the service being provided under it subsequently become a core communication service. An alternative proposal for consideration is that cancellation of the contract could be mandatory in these circumstances
- The SEC set out provisions requiring that the DCC notifies SEC Parties of the timing of the implementation of changes to its systems, and
- The DCC should only be required to offer terms for elective communication service provision from a specified date.

8.5 Consultation questions

Consultation questions: Core and elective communication services	
15.	Do you agree with the three different types of eligibility to receive core communication services that have been proposed?
16.	Are you aware of situations where there are two or more importing suppliers in relation to a single smart metering system and if so, where do such situations exist, how many exist and what metering arrangements have been made?
17.	Do you agree that amendments to the set of core communication services should be subject to the standard SEC modification process?
18.	Do you agree that SEC Parties should be able to request elective communication services from DCC on either a bilateral or multilateral basis?
19.	Do you agree that the following SEC requirements associated with the provision of core communication services should also apply to elective service provision: DCC user entry processes, technical security requirements, data privacy requirements, financial security requirements and dispute arrangements.
20.	Do you agree that the SEC should set out mandatory procedures for the provision of an offer of terms for elective communication services by the DCC and with the mandatory procedures proposed? Do you consider that any additional procedures should apply? What do you consider are the appropriate timescales within which an offer of terms should remain open?
21.	Do you agree that commercially sensitive terms and conditions associated with elective service provision, which might include the type of communication service that is being provided, performance standards associated with the provision of that service and the price associated with that service, should be confidential between the DCC and the party or parties receiving the service unless the party or parties receiving the service consent or unless requested by the Authority pursuant to the DCC Licence?

Consultation questions: Core and elective communication services

22.	Do you agree that the SEC should contain provisions requiring that the DCC notifies SEC Parties of the timing of the implementation of changes to its systems?
23.	Do you agree that the DCC should only be required to offer terms for elective communication services from a specified date, and if so, what do you consider that date should be?

8.6 Summary of proposed rights or obligations in the SEC

198. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC	Obligation to make available a specified set of core communication services in relation to smart metering systems that have been enrolled with the DCC.
Gas or electricity supplier	Right to receive core communication services that are identified as only available to them in relation to the meter points for which they are registered.
gas transporter or electricity distributor	Right to receive core communication services that are identified as only available to them in relation to the meter points that are connected to their network.
Gas and electricity suppliers, gas transporters, electricity distributors, Other Users	Right to receive core communication services that are identified as being available to any DCC service user, but subject to the DCC service user obtaining the necessary consents required from the consumer, as set out in the Data Access and Privacy Consultation.
Gas and electricity suppliers, gas transporters, electricity distributors, Other Users	Right to request elective communication services from the DCC on either a bilateral or multilateral basis.
DCC	Obligation , to the extent that an elective service can only be provided if core service provision changes, to inform the requesting party that this is the case.
DCC	Obligation to include specified terms and conditions associated with the provision of core communication services also in elective communication service contracts. Such specified terms will include

Party	Right/Obligation
	terms relating to DCC user entry processes, technical security requirements, data privacy requirements, financial security requirements and dispute arrangements.
DCC	Obligation to include within contracts for elective communication services provision for the contract to be cancelled upon the request of the party or parties receiving the service, should the service being provided under it subsequently become a core communication service. Alternatively, an obligation to include within the contract a mandatory requirement that the contract is cancelled should the service being provided under it subsequently become a core communication service.
DCC	Obligation to keep specified terms and conditions of elective communications contracts confidential (terms relating to price and the type of service being provided) unless the party or parties consent to such terms being published by the DCC, subject to the right to provide such information to the Authority upon request.
DCC	Obligation to notify SEC parties of the timing of the implementation of changes to its systems.

8.7 Related Business Processes

199. Where relevant, the business processes that relates to these rights and obligations are:

- 02.01 Manage Products
- 02.02 Manage Meter Reads
- 02.03 Manage Payments
- 02.04 Smart Meter Operations
- 02.05 Change of Tenancy
- 04 – Change of supplier, and
- 05 – Access and Security.

Chapter 9: DCC charges

This chapter provides further details for the proposed charging calculations in the 'enduring' regime, including how the following matters are treated:

- The DCC fixed and explicit (variable) charges
- The pricing of elective communication services
- How the DCC's Key Performance Indicators (KPIs) will impact on the charges faced by users
- Emergency funding arrangements
- Adjustments to the charging calculations from the SEC Commencement Date³⁸ until the end of the Mass roll-out stage
- The DCC's commercial payment terms, including its invoicing schedule, and
- Financial security, including which parties are the ultimate creditor and the approach to payment withholding in the event of disputes.

9.1 Introduction

200. As set out in the September DCC Consultation, the DCC's price control licence conditions will set out the maximum amount of revenue that the DCC is allowed to recover.
201. Additionally, the DCC Licence will set out any requirements on the DCC to produce reports relating to its performance under its price control licence conditions. The DCC Licence Consultation covers matters related to the price control licence conditions. The DCC's price control licence conditions will provide adjustments for exceeding or not reaching pre-specified levels against service KPIs, or any other performance metrics. The adjusted level of allowable revenue will flow through to the SEC charging regime but the SEC will not contain any provisions associated with performance.
202. The DCC's Licence will also include conditions that set down the principles that should apply to any charges that the DCC levies to recover the revenues that it has been allowed (as set out in its price control licence conditions) and a requirement to provide a charging methodology consistent with these principles. These charging principles were consulted upon in the September DCC Consultation and Government conclusions on them and the associated draft licence condition can be found in the DCC Licence Consultation. For ease of reference the conditions contained in the Draft DCC Licence that capture these principles are presented here.

³⁸ Expected to be the same as the Licence Commencement Date

Box 9A: Relevant Policy Objectives of the Charging Methodology

- 18.14 The Relevant Policy Objectives of the Charging Methodology consist of the First Relevant Policy Objective and the Second Relevant Policy Objective.
- 18.15 The First Relevant Policy Objective (which may not be modified except with the Secretary of State's consent):
- (a) applies in relation to Smart Metering Systems installed (or to be installed) at Domestic Premises; and
 - (b) requires the Charging Methodology to ensure that Service Charges imposed under or pursuant to the SEC in respect of the operation or provision of Mandatory Business Services (excluding Elective Communication Services) for the purposes of such Smart Metering Systems do not distinguish (whether directly or indirectly) between Energy Consumers at Domestic Premises in different parts of Great Britain.
- 18.16 The Second Relevant Policy Objective is that, subject to compliance with the First Relevant Policy Objective, the Charging Methodology in respect of all of the Mandatory Business Services provided under or pursuant to the SEC must result in Service Charges that:
- (a) facilitate effective competition in the Supply of Energy (or its use) under the Principal Energy Legislation;
 - (b) do not restrict, distort, or prevent competition in Commercial Activities that are connected with the Supply of Energy under that legislation;
 - (c) do not deter the full and timely installation by Energy Suppliers of Smart Metering Systems at Energy Consumers' premises in accordance with their obligations under the Energy Supply Licence; and
 - (d) are non-discriminatory and cost-reflective as far as is reasonably practicable in all the circumstances of the case, having regard to the costs of implementing the Charging Methodology.
- 18.17 The Charging Methodology will achieve the Second Relevant Policy Objective if it is compliant with the provisions of paragraph 18.16 in the round, balancing them as appropriate in each particular case.

Source: DCC Licence Consultation

9.2 Charging methodology

The charging methodology in the SEC

203. The September DCC Consultation outlined that the charging methodology set out in the SEC would detail the approach to the calculation of prices for the various services provided by the

DCC and that a charging statement would be published regularly by the DCC in accordance with this section of the SEC. The majority of respondents supported the desire for the charging methodology to be incorporated within the SEC to avoid unnecessary complexity. A number of points of detail were raised within the September DCC Consultation and these will be considered within the subsequent legal drafting of the SEC. Given the evolving nature of the DCC regime, there will also be the need for the charging methodology to change over time consistent with the development of the DCC.

204. From the DCC Licence Commencement Date until DCC Go-Live, the DCC is expected to only recover its own costs and those of the SEC Panel, Secretariat and Code Administrator, with the DCC service providers expected to internalise and capitalise their costs. At DCC Go-Live, the DCC service providers will begin to charge the DCC for the services they are providing and the charging regime will start to recover these costs.
205. The approach to charging may differ during the Mass roll-out stage compared with the enduring period (i.e. after the Mass roll-out stage). Also, the DCC may introduce further charges for Energy Registration Services once metering registration is migrated to the DCC arrangements (as described in chapter 2).
206. It should be noted that the charging methodology will be subject to the SEC modification process consistent with the rest of the SEC (as discussed in chapter 14) except that it will be judged against the charging objectives rather than the Relevant SEC Objectives.

9.3 Charging calculations – enduring

207. The charging methodology for the period post the Mass roll-out stage will capture the detailed calculations that will underpin the charging statement and these will be developed algebraically during the legal drafting of the SEC. This will specify the fixed and explicit charges to be levied by the DCC.
208. The September DCC Consultation said that the DCC charges would comprise:
- Standing charge: This fixed charge would recover a proportion of the service providers' fixed costs for providing core communication services to each smart metering system, DCC's internal costs and the SEC governance costs, and
 - Volume charge: An explicit variable charge related to the volume of services received, which could be differentiated by time of day and, depending on the technology, by the number of data transfers.
209. There was broad support for the principle of fixed and explicit variable charging by respondents to the September DCC Consultation. There was recognition that the details related to such charges need to be confirmed and an understanding that estimates of cost are important in this regard. A few respondents suggested that the variable charge was unnecessary, and that a simple fixed cost per smart metering system would suffice. Many respondents indicated that they required further details before they could form a final view. Some respondents suggested that a purely variable regime is needed (rather than fixed/variable charging) because the approach envisaged will distort the market for non-core services.
210. The September DCC Consultation also outlined the scope for the recovery of elements of fixed costs within the explicit variable charges. However, there was no consensus regarding the extent that fixed costs should be recovered via volume charges, with many respondents questioning the economic rationale of allocating fixed costs into a variable charge and

highlighting the importance that any allocation is cost reflective; noting also that this would also expose the DCC to volumetric risk.

Fixed and explicit variable charges for core services

211. The charging methodology in the SEC will specify, in detail, the approach for setting the DCC charges via a mixture of fixed and explicit variable charges. DCC fixed charges will be set to recover costs³⁹ (where not recovered via explicit variable charges) based on the number of smart metering systems enrolled across users as a class. Explicit charges will be included where such metrics (for example records of monthly data volumes) are available and where it is prudent to do so. For example, an explicit variable charge is envisaged to reflect the key communication data volume drivers faced by the DCC; there will also be explicit variable charges related to other elements of activity, for example a SEC application fee or a monthly membership fee.
212. It should be noted that the DCC charges related to core services to domestic premises will be uniform across Great Britain (that is, they will not vary by location), whereas DCC charges related to core services to non-domestic premises will differ by location to the extent that the underlying costs vary consistent with the charging principles.
213. DCC fixed charges will be set to recover those costs considered to be the DCC's fixed costs relating to the provision of core services (charges without an explicit cost driver) from suppliers and network operators in proportion to their share of the number of smart metering systems enrolled with the DCC. Explicit variable charges will be levied for specific core communication services taken by users and will solely recover the variable costs associated with those services based on data volumes, as this is the current expectation of the cost drivers the DCC is likely to face. This approach limits the DCC's volumetric risk and reduces the need for over/under recovery in future periods, contributing to the financial sustainability of the DCC. Explicit variable charges will be levied across all DCC service users (suppliers, network operators and others) to the extent practicable in order to recover costs based on the relevant drivers.
214. The DCC will set prices in advance each year to give pricing certainty for users with over/under recovery addressed within the subsequent pricing period. A shorter period for adjustment of three or six months was considered and whilst it would reduce the impact on the DCC of cash flow risk, it was considered on balance to be more problematic for users in terms of their own business activities.
215. The DCC's price control licence conditions will require the DCC to forecast the total allowable costs for the year ahead based on the envisaged service provider costs to be passed through and the expected internal costs of the DCC (which includes the expected SEC governance costs). The estimate of the total costs will also include any under/over recovery from previous charging years. There may also be an adjustment for any expected gain share associated with the provision of value added services by the DCC. The DCC's estimate of total allowable revenue consistent with the price control licence conditions is the starting point for the charging methodology, and the charging methodology will not need to deal with any assessment of such costs.
216. The charging methodology will determine the DCC fixed costs by taking the DCC's estimate of allowable revenue and subtracting other expected income. This will reflect the expected income from elective communication services to the extent that they cover elements of the DCC costs

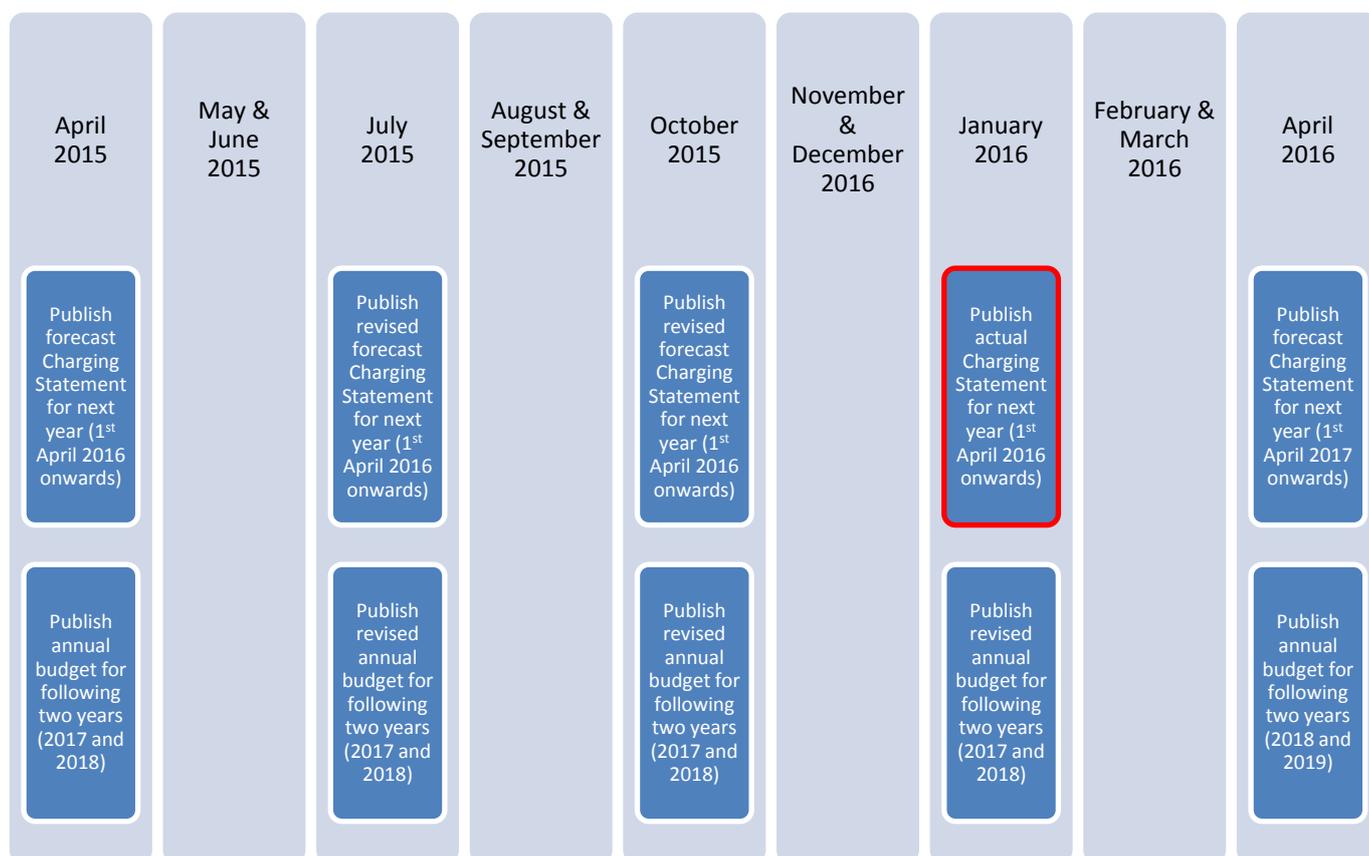
³⁹ It is proposed that this includes the costs of the DCC both operational services as well as enabling services, i.e. those activities that it must carry out to offer operational services to users. Examples include running a helpdesk.

because elective communication services will be priced cost reflectively (including recovery of fixed costs where appropriate). It will also reflect the envisaged income from the explicit charges, for example variable data charges and monthly membership fees or application or opt-out fees.

217. The DCC will calculate the number of smart metering systems that have been enrolled previously and estimate those expected to be enrolled in the DCC for the relevant period. The DCC will then split the estimate of DCC fixed costs (previously determined) into five (possibly unequal) pots (electricity suppliers (import suppliers); electricity suppliers (export suppliers); gas suppliers; electricity distributors and gas transporters) based on the key “drivers” for the DCC services, that is the relevant proportions of electronic message types for each class of participant to provide a cost reflective allocation of fixed costs. These pots are then divided between the parties in each such grouping based on the number of smart metering systems enrolled in the DCC previously plus those forecast to be enrolled in the DCC (to limit the scope for over recovery) in the current charging period (that is related to market share). This produces two monthly prices per gas smart metering system enrolled, and three monthly prices per electricity smart metering system enrolled. The charging methodology within the SEC will provide a flexible framework for these relative pot allocations so that they will be subject to variation over time as the DCC’s services evolve.
218. The exact detail regarding these relative allocations are expected to be based on the size, volume and latency of electronic messages available for a particular SEC Party category. That is if there are very few electronic messages for gas transporters then gas transporters would bear a small proportion of the fixed costs. Detail in this area needs to be developed further as the procurement exercise provides detailed insight into the cost drivers.
219. There would also be explicit variable charges based on the key cost drivers, and the present expectation is that this would be based on the aggregate data sent and data received for each user to reflect the costs the DCC faces. These prices would also be firm for each year, charged per GB of data. The nature of this explicit variable charge is based on an assumption that the key volumetric driver for the DCC’s costs is data volumes and thus may need to be amended once further details regarding the DCC’s service providers are known. Another possible explicit charge would be a charge to reflect the system changes needed to make certain metering systems eligible for enrolment (as discussed in chapter 8). However, presently there is not enough detail of the DCC activities to confirm what explicit variable charges should be included.
220. Parties in the Other User of the DCC’s services category (for example energy service companies) would see only these explicit variable charging elements for core services (for example, ad-hoc meter reads where the consumer consents). This is because many of the fixed costs are directly related to the duties of suppliers and network operators. It is considered that such an approach would help promote competition in supply and energy efficiency services and reduce the risk that customers will pay elements of fixed costs twice. There is uncertainty regarding the volumes of these services, which would make it impractical to allocate fixed costs to this category of user. However, on an enduring basis this approach will be capable of amendment, through the SEC modification process.
221. In order to deliver this charging regime, the DCC will need to estimate its costs as well as estimate the number of smart metering systems expected to be installed in the current year plus those forecast to be enrolled in the year ahead. The pricing methodology will set prices to recover the DCC’s estimate of allowable costs in advance on an annual basis to give pricing certainty for users, noting that the DCC may need to manage the scope for over/under recovery within this process. DCC service users require a degree of transparency of charging to allow the prediction of charges in future years. Therefore an annual reporting schedule is envisaged and Figure 5 below illustrates how this could work. Within this approach it is expected that the DCC will update its forecasts every three months. The precise detail regarding the timescales will be

confirmed during the legal drafting phase of the SEC and will also be informed by future stages of the procurement exercise but the working assumption is that the charging period would run from 1 April until the following 31 March.

Figure 5 - Example Reporting Schedule



Pricing elective services

222. The September DCC Consultation set out that the charging principles for core communication services would apply to any elective communication services. That is they would reflect the actual costs incurred in providing the services taking into account the existing data and communications infrastructure.
223. The charges to all DCC service users for elective communication services will be required to provide a contribution to common fixed costs and be consistent with the charges for core communication services. It is envisaged that there will be a need for these to be “take or pay” once ordered, for example if the DCC needs to make investments to support the elective service.
224. The September DCC Consultation set out that whilst the DCC should be obligated to provide an initial quote for development work related to elective services (including services for non-smart metering systems), the DCC would charge for further detailed investigation and design work required irrespective of whether any elective service is subsequently procured. The September DCC Consultation also considered whether the DCC should be obliged to refund a proportion of these charges to the ‘first comer’ if similar work is required by additional users (‘second comers’). These proposals were widely supported by respondents. There is a range of detailed implementation matters to be considered in this area and the Government expects to explore these within the subsequent legal drafting of the SEC.

225. The charging for elective services will need to be consistent with charging principles to ensure that the appropriate DCC costs are recovered via cost reflective charges which may be a mixture of fixed and explicit charges. The exact terms of charging will differ according to the elective service being agreed with the DCC user and would be reflected in the bilateral contract.

Impact of Key Performance Indicators (KPIs) on charging

226. There will be KPIs in the DCC Licence to measure the level of service delivered by the DCC. These are expected to impact on the level of allowable costs included within the DCC's price control licence conditions over time. Where the level of service provided by the DCC does not meet the expected level of performance, there are expected to be reductions in the level of costs to be paid by the DCC to its service providers. These reductions in cost will lead to a subsequent reduction in the overall level of DCC prices via the charging regime.
227. This is justifiable in circumstances where the reduction of services impacts equitably across DCC service users. Whereas, when the reduction of performance impacts on only one user (or a subset of users), there may be merit in targeting the reduction in prices towards the user(s) that were impacted by the service failure. However, at this stage, it is not possible to determine the extent or practicality of such targeted reductions as the details of the KPIs to be included in the price control licence conditions are not yet determined.
228. In any event, it is proposed that a user's remedy in the event of DCC service failure will be a reduction in charges, and not compensation for economic loss that a user may suffer as a result of such failure. As set out above, the reduced charges may flow from general reductions in DCC charges or targeted reductions in the charges payable by specific users.

Emergency funding

229. Within the context of the SEC, there may be the need for the DCC to secure further payments from users in excess of those due under the current charging statement in extreme circumstances. Clearly, it is not possible to foresee every single financial circumstance that may apply to the DCC including changes in the allowable costs it may face, and it could be that the DCC requires additional funds to ensure its financial viability. As such it would appear prudent to provide the scope for a safety net arrangement via an emergency within-year change to the charging statement at short notice. This requirement is not unique and exists already in other industry codes⁴⁰. This would not be something solely in the gift of the DCC; rather it is expected that the Authority would be able to sanction a change in the charging statement in extreme circumstances if the need arises.

9.4 Adjustments to the charging regime

Charging from DCC Licence award until DCC Go-Live

230. From the DCC Licence Commencement Date until DCC Go-Live the price control licence conditions will provide for the recovery of the DCC's own costs and SEC governance costs incurred by the SEC Panel, but no service provider costs will be charged before DCC Go-Live even though they will be providing elements of service (for example testing and trailing).

⁴⁰ See paragraph 6.6.1 (Emergency Funding) of BSC Section D - BSC Cost Recovery and Participation Charges - http://www.elexon.co.uk/ELEXON%20Documents/section_d_v17.0.pdf.

231. In response to the September DCC Consultation there were no objections to the approach that CSPs' costs should only be recovered from DCC Go-Live. Furthermore, there was no consensus regarding the treatment of the DSP (i.e. whether it should be allowed to recover fixed costs evenly over its contract or where it should be treated in the same way as the CSPs). The Government recognises that allowing the DSP to recover costs evenly would result in higher charges prior to DCC Go-Live and therefore expects that both DSP and CSPs' costs will only be recovered from DCC Go-Live. This matter will be confirmed during the subsequent phase of the procurement activities.
232. During this period it is expected that there will be no communication services being provided by the DCC. Thus the enduring mix of charges per smart metering system and explicit charges based on smart metering systems enrolled in the DCC and volumes of data transfer would not be implementable in this period.
233. The September DCC Consultation also asked whether network operators should be charged for a share of costs during this period. Network operators responded to indicate that they should not be charged before DCC Go-Live, noting that they would seek to recover these costs via their charges; some concern was expressed that this may not be transparent. A small number of respondents considered that if network operators were receiving services then they should be charged, and that the absence of charges for network operators creates a moral hazard in that these firms will be engaging with the DCC during this period but not exposed to the costs in any way. Therefore, it is proposed that the DCC costs will be recovered based on the total number of smart metering systems mandated to be enrolled with the DCC, giving a reflection of the broad market share across both suppliers and network operators.

Charging during Mass roll-out stage

234. Following DCC Go-Live and during the Mass roll-out stage, the explicit charges will be recovered by the DCC consistent with the enduring regime, based for example on volumes of communications. However, the charging of fixed costs based on meters enrolled raises further issues for consideration.
235. The September DCC Consultation proposed that the charging metric for fixed costs will be based on forecast roll-out and actual smart metering systems installed in previous years during the Mass roll-out stage. In considering roll-out, it should be recognised that the important event for the DCC is not the installation of the smart metering system at the premise (which is clearly the Government's focus but not recorded by the DCC) but the enrolment of the smart metering system with the DCC. Therefore this section refers to smart metering systems enrolled for the purposes of charging. In this context, it should be noted that the charging principles set out in the DCC Licence require that charges should not be an influencing factor on suppliers' business decisions in relation to roll-out.
236. Charging based on prior enrolment and planned enrolment will provide useful information and indeed financial contributions to enable the DCC (and its service providers) to develop plans to build up the necessary capacity in an economically efficient manner. They will not aim for 100% capacity from day one. It also allows the procurement team to profile costs consistent with the overall enrolment forecasts, with the DSP and CSPs financing the costs during this period. It is expected that all suppliers will be required to make 'firm' forecasts for procurement planning purposes. The service provider solution and costs (including appropriate financing charges) will be profiled to meet this forecast such that the magnitude of the DCC fixed charges per smart metering system in each year will be broadly similar across each year of the Mass roll-out stage. It should also be noted that there is a range of uncertainty around the possible roll-out trajectories at present and thus this matter requires further consideration during the future stages of development.

237. Almost all respondents to the September DCC Consultation, with two exceptions, supported the proposed option of charging based on roll-out forecast plus actual smart metering systems enrolled. The reasons given were that this would be cost reflective and easier to manage than actual enrolments and would place an incentive on suppliers to provide more accurate plans, thereby incurring the most efficient costs. One respondent supported charging based on market share as they considered that it would be fairer as it recognises the overall benefit of DCC services provided to users. They also considered that the charging based on planned roll-out would penalise those that enrol early, and that the roll-out plans were not intended for charging purposes. Another respondent did not support the roll-out option because it considered that this would be difficult to manage, however they did not offer an alternative arrangement.
238. The majority of respondents supported the DCC charging suppliers directly for the additional costs arising from them exceeding their roll-out plans. A small number of respondents preferred additional cost to be spread across all users as a way of incentivising early roll-out. However, this latter option has the disadvantage of encouraging suppliers to underestimate, whereas accurate forecasts are more likely to lead to the DCC incurring costs efficiently. Determining the actual additional costs in the circumstances where a roll-out plan is exceeded would present a range of practical problems.
239. The September DCC Consultation also considered whether network operators should be charged during this period in line with their market share rather than against smart metering systems enrolled. There was no majority view between charging network operators based on their market share or charging them based on the roll-out forecast or actual smart metering systems enrolled in their region. Most network operator respondents were not in favour of charging on a market share basis and proposed that suppliers should bear the costs during roll-out, as they did not consider benefits would accrue to network operators until the majority of the roll-out was complete.
240. The Government recognises that roll-out is supplier led and thus the charging regime should be constructed so that it is not an influencing factor on suppliers' business decisions in relation to roll-out. At the same time, it will be important to obtain accurate forecasts to ensure efficient implementation by the DCC and its service providers. Furthermore, where meters are enrolled in the DCC, benefits will accrue - for example the reduction of physical meter reads.
241. In summary, the Government considers that the profiling of service provider costs (in line with the envisaged roll-out profile) will ensure that there is no disincentive for early roll-out. Therefore, the Government proposes that charging during the Mass roll-out stage will be based on prior enrolment and planned enrolment of smart metering systems with the DCC. However, the Government plans to review and confirm the arrangements once further details related to roll-out, specifically including the financing of costs by service providers, are made available, to test the assumption that the charging regime will not provide a disincentive for early roll-out.

9.5 Commercial terms

242. The DCC will be responsible for invoicing DCC service users for the range of services provided and therefore the SEC will need to include a range of standard commercial and contractual details related to the payments owed to the DCC and to the management of bad debt. The SEC will also include the arrangements for invoicing, for example frequency and timings, and will set out that invoices will attract VAT at the applicable rate. It will also need to detail the payment arrangements, for example electronic payments into a bank nominated by the DCC. The SEC will also include a provision for interest to be applied to late payments.

Invoice Schedule

243. The scheduling of invoicing is also an important feature within the credit regime. It is proposed, as a key element of the commercial model for the DCC, that it should not bear significant financing risk or costs regarding the service provider costs. As such, the September DCC Consultation proposed that the DCC will only pay service providers once funds have been provided by DCC service users, i.e. in arrears.
244. Furthermore, the DCC could mitigate its cash flow risk and reduce the working capital requirement by invoicing in advance with a subsequent reconciliation invoice which would also reduce the credit management activities. However, the subsequent reconciliation invoice effectively doubles the invoice validation activity for all DCC service users and therefore ex-post invoicing is considered preferable.
245. The Government proposes that the DCC invoices its service users promptly in arrears each month based on actual data and then subsequently pays the DCC service providers once it has collected the necessary funds. This will provide a lower financial risk profile for the DCC.

Financial Security / Ultimate Creditor

246. The DCC will be expected to manage the bad debt risk resulting from the invoices it issues and will require DCC service users to provide financial security at a level consistent with the envisaged exposure in order to limit the risk of any unsecured bad debt. The detailed financial security management regime that the DCC will adopt will be set out in the SEC and is expected to be consistent with the established regimes that apply in other industry codes. It is proposed that the DCC will also have SEC obligations to manage the risk of bad debt in order to protect creditors, and the DCC would have performance incentives related to the management of debt within its licence. Furthermore, it is important to note in this context that failure to pay will be one of the default events (as discussed in chapter 19).
247. Whilst the SEC financial security management regime will seek to protect creditors from the risk of bad debt under the SEC, it is nonetheless important to clearly specify within the SEC the ultimate creditor(s) should a debt arise. There are three choices for the allocation of debt in relation to any failure by a DCC user to pay for core or elective communication services⁴¹ on the basis that the financial security management regime is not sufficient in the event of failure:
- Socialised amongst service providers as a class
 - Borne by the DCC directly, or
 - Socialised amongst DCC service users as a class.
248. Whilst all three options are possible, the allocation of debt risk entirely against the DCC (for core and elective communication services) would be inconsistent with the risk/reward balance envisaged for the DCC, and thus the Government is minded to reject this option. The appetite for the service providers to bear such bad debt could be explored within the procurement process, but it is expected that service providers would object strongly to holding this risk without a detailed understanding of how they would be free to manage such debt risk within the SEC arrangements, for example, to assess potential unlicensed users of DCC services. They would

⁴¹ NB – the creditor for any Value Added Service would be determined within the overall Authority approval process on a case by case basis.

also be likely to apply a risk premium. Given that service providers would not be SEC Parties, facilitating such an arrangement would be problematic and is thus rejected.

249. Instead, the Government proposes that the SEC specifies that bad debt related to failure to pay for core and elective communication services would be socialised across DCC service users collectively. It will be important to ensure that the DCC is still incentivised to pursue recovery of the bad debt and therefore the DCC would be expected to have SEC obligations to manage the risk of bad debt in order to protect creditors. This would be captured within the DCC performance incentive arrangements within the price control licence conditions. Thus the DCC would be expected to bear some risk in relation to its own costs associated with bad debt.
250. In order to socialise this bad debt across DCC service users, the DCC could carry forward the amount as an under-recovery to be included implicitly in the future charging period. This carry forward would increase the costs that are allowable under the price control licence conditions. This would require the DCC to finance the costs within the current year and expose the DCC to a further risk that it would need to manage via an increase in working capital. The alternative would be to provide for an explicit charge for the recovery of bad debt within the charging methodology such that the debt is fully funded within the relevant charging period, thus reducing the impact on the DCC. Given the desire to limit the DCC risk profile, it is envisaged that any bad debt will be recovered within the relevant charging period via an explicit charge.
251. There are a range of possible options to implement the socialising of such debt, but an allocation based on the extent of total contribution to DCC charges across the preceding 12 months would be usual. This arrangement is analogous to other existing industry codes such as the BSC,⁴² which includes provision for the recovery of bad debt by the BSCCo via an explicit charge.

Payment Withholding

252. The SEC will need to ensure that the DCC is always able to meet the sums owed to the DCC service providers as they become due. The DCC will have significant regular outgoings to meet obligations with respect to DCC service providers. Therefore there could be a significant shortfall if DCC service users chose to withhold payment due to any contractual dispute. Given the risk/reward balance envisaged for the DCC, it is not expected that the DCC would be in a position to bear such risks, which would therefore fall on the ultimate creditors within the SEC, i.e. DCC service users collectively. This risk can be mitigated by provisions⁴³ in the SEC to provide a contractual requirement for DCC service users to pay invoices as due even if there are outstanding disputes with the DCC.
253. The Government proposes that DCC service users will be required to pay invoices as due even if there are outstanding disputes with the DCC (a “pay now, dispute later” arrangement). The risk will be further mitigated by provisions allowing the DCC to immediately call on the financial security cover of any user failing to settle an invoice when due.

⁴² See BSC Section D - BSC Cost Recovery and Participation Charges - http://www.elexon.co.uk/ELEXON%20Documents/section_d_v17.0.pdf.

⁴³ Similar provisions apply in other codes for example, Section 19.6.2 of the Distribution Connection and Use of System Agreement (DCUSA) (<http://www.dcusa.co.uk/Public/DCUSADocuments.aspx?s=c>) and Paragraph 6.3.1 of BSC Section D - BSC Cost Recovery and Participation Charges - http://www.elexon.co.uk/ELEXON%20Documents/section_d_v17.0.pdf.

9.6 Summary of proposed rights or obligations in the SEC

254. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
Gas and electricity suppliers, gas transporters, electricity distributors, Other Users	<p>Will be liable to pay DCC invoices with a “pay now, dispute later” principle.</p> <p>Will be responsible for un-secured bad debt.</p>
DCC	<p>Will be required to calculate charges and issue invoices.</p> <p>Will be responsible for the financial security management regime.</p> <p>Will be allowed to call upon financial security in the event that a DCC service user fails to settle an invoice.</p> <p>Will be required for publish forecasts of future charges.</p>

9.7 Consultation questions

Consultation questions: DCC charges	
24.	Do you think that the proposed approach for DCC charging is reasonable?
25.	Do you consider that the “pay now dispute later” approach is consistent with the envisaged DCC regime? If you disagree please set out the reasons for your preferred approach.
26.	Do you accept that bad debt should be socialised explicitly within the current charging period across all DCC service users? If you disagree please set out the reasons for your preferred approach.

9.8 Related Business Processes

255. Where relevant, the business processes that relates to these rights and obligations are:

- 06.05.04 – Charging.

PART D: GOVERNANCE AND CHANGE CONTROL

Chapter 10: Purpose and aims of the SEC governance framework

A key challenge in developing the SEC is to ensure that the governance arrangements are appropriate for the wide range of parties and matters that it will cover. This chapter sets out the overall purpose and aims of the framework for SEC governance.

10.1 DCC Licence requirements for SEC governance

256. The governance framework for the SEC will be established at a high level in the DCC Licence, with further detail set out in the code itself. The DCC Licence will set out the relevant objectives that the SEC (and future changes to it) must be designed to achieve. It will also establish the requirements for modifying the SEC, including the remit of the Authority and the SEC Panel (the body that oversees the day to day governance of the code).

10.2 Scope and aims of governance arrangements in the SEC

257. The SEC will set out the remit, composition and proceedings of the SEC Panel. It also outlines the role of the Code Administrator and Secretariat in supporting code governance. A detailed modification process will be set out in the SEC, which will determine which parties can raise, comment on, assess, recommend and approve changes and determine the arrangements for implementing approved changes. The Prospectus set out the principles of good governance which the regulatory regime needs to comply with. These are to:

- Promote inclusive, accessible and effective consultation
- Be governed by processes that are transparent and easily understood
- Be administered in an independent and objective manner
- Provide rigorous, high-quality analysis of any case for change
- Be cost effective
- Contain rules and processes that are sufficiently flexible to allow for efficient change management, and
- Be delivered in a manner that results in a proportionate regulatory burden.

258. The governance framework also needs to take into account the specific characteristics of the SEC, particularly:

- The objectives of the Programme and the role the SEC has in facilitating their achievement
- The scope and complexity of arrangements covered, spanning the gas and electricity sectors and the need for 'same but different' arrangements for the sectors where necessary
- The number and diversity of parties who it is anticipated will sign up to the code. A large number of different organisations will be parties to the SEC, spanning large and small companies, licensed and unlicensed parties and organisations with a range of interests
- The potential need for different governance arrangements to apply at different stages (for example during the Mass Roll-out stage when there may be a greater level of Government involvement), and
- The potential need for tailored governance arrangements covering matters as diverse as security, data privacy and wider consumer interests, technical design standards, and DCC service provision, whilst avoiding fragmentation of governance processes.

10.3 Further consideration

259. Further consideration is required regarding whether the governance arrangements described in the following chapters will need to be tailored to reflect aspects of the arrangements set out in the SEC such as security requirements, assurance, and governance of the SMETS. These matters will be considered in papers on these subjects later this year.
260. Further consideration is also required in relation to the transitional governance arrangements required on the SEC Commencement Date and the period immediately thereafter, which may involve considerable ongoing change. While some transitional governance issues are highlighted in this document, further detail will be set out later this year.
261. Chapter 4 sets out options for involvement of the meter service community in the SEC. Under one of these options, Nominated Meter Parties would accede to the SEC. In these circumstances further consideration would be needed regarding Nominated Meter Parties' rights to participate in SEC governance (for example, whether they would be entitled to propose modifications).

Chapter 11: The Relevant SEC Objectives

This chapter describes the Relevant SEC Objectives. These will be set out in the DCC Licence and will direct what the contents of the code must be designed to achieve. Any modifications proposed to the code will be assessed against these objectives.

11.1 The proposed Relevant SEC Objectives

262. The Government consulted on what the proposed Relevant SEC Objectives should cover in the September DCC Consultation. The DCC Licence Consultation summarises stakeholder responses, proposes a refined set of objectives (set out in the Box below) and sets out the rationale for these. It also asks further questions regarding how consumer interests and interoperability are addressed in the objectives.
263. In addition to the Relevant SEC Objectives there is a separate set of objectives against which changes to the charging methodology will be assessed. These are also contained within the DCC Licence. Further to this, the SEC Panel will be subject to certain objectives when conducting its business. These are set out in chapter 12.

Box 11A: Relevant SEC Objectives proposed in the DCC Licence Consultation

The first Relevant SEC Objective is to facilitate the efficient provision, installation, and operation of Smart Metering Equipment at Energy Consumers' premises within Great Britain.

The second Relevant SEC Objective is to enable the Licensee to comply at all times with the General Objectives of the Licensee, and to efficiently discharge the other obligations imposed upon it by this Licence.

The third Relevant SEC Objective is to facilitate effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy under the Principal Energy Legislation.

The fourth Relevant SEC Objective is to facilitate such innovation in the design and operation of Energy Networks as will best contribute to the delivery of a secure and sustainable Supply of Energy under the Principal Energy Legislation.

The fifth Relevant SEC Objective is to ensure the protection of data and the security of data and systems in the operation of the SEC.

The sixth Relevant SEC Objective is to facilitate the efficient and transparent administration and implementation of the SEC.

The Smart Energy Code achieves the Relevant SEC Objectives if it achieves them in the round, balancing them as appropriate in each particular case and with due regard for Energy Consumers' interests

Chapter 12: The SEC Panel

The SEC will establish a panel (the “SEC Panel”) with responsibility for overseeing the day-to-day governance of the code. This chapter describes the proposed functions, powers and objectives of the SEC Panel. It proposes how it should be constituted and what the key duties of its members should be, including consideration of whether panel members should act independently or as direct representatives of particular constituencies. Finally, this chapter describes certain other aspects of the operation, administration and proceedings of the SEC Panel.

12.1 The functions and powers of the SEC Panel

264. The functions and powers of the SEC Panel will be set out explicitly in the SEC. The Government has considered the scope and nature of the SEC, reviewed comparable provisions in existing industry codes and discussed these matters with relevant stakeholder groups. In view of these considerations, it is proposed that the SEC Panel should have the following functions and powers:

Box 12A: Proposed functions and powers of the SEC Panel

- A. Appointing and overseeing the performance of the Code Administrator and Secretariat functions
- B. Implementing (or supervising the implementation of) the SEC accession process
- C. Implementing (or supervising the implementation of) the SEC modification process
- D. Taking steps to ensure that the SEC is given effect in accordance with its terms
- E. Deciding any matter which, under any provision of the SEC, is referred to the SEC Panel for decision
- F. Taking steps to ensure compliance by SEC Parties with the provisions of the SEC, including deciding on the expulsion or suspension of the rights of any SEC Party
- G. Establishing arrangements for the resolution of disputes under the SEC
- H. Establishing sub-committees and working groups, and delegating powers, functions and responsibilities to any such sub-committees and working groups
- I. Developing, consulting upon and publishing a three-year panel business plan
- J. Publishing an annual report covering progress against business plan and providing or arranging for the provision of other reports and other information to SEC Parties and the Authority
- K. Securing the compliance of any SEC Party with any requirement to provide information about the operation of any of the arrangements set out in the SEC on the request of the Authority, and/or publishing such information
- L. Periodically reviewing the SEC and operations under it in order to evaluate whether these continue to meet the Relevant SEC Objectives, and undertaking a review of such parts of the SEC as the Authority may specify
- M. Establishing joint working arrangements with other relevant industry panels and committees, and
- N. Arranging for third parties to undertake certain actions and appointing and removing professional advisors (or directing other relevant bodies to do so) as required to facilitate the full and proper discharge of the panel’s functions.

265. Many of these responsibilities are straightforward and necessary aspects of good code governance. It is worth noting that the purpose of powers I and L (to set out a three-year business plan and review the operation of the SEC from time to time) is to ensure that the panel carries out its duties in a proactive fashion, considering medium term challenges to the objectives of the SEC as well as any immediate concerns raised by parties.
266. The Draft DCC Licence (being published for consultation alongside this document) mandates that the SEC should include provision for information about the operation of any of the SEC Arrangements (as defined in the DCC Licence) to be supplied on request to the Authority or to be published by the SEC Panel. Power K reflects this.
267. Power F (ensuring compliance and imposing sanctions upon parties), will be constrained by defined breach and default provisions, which will give the panel a set list of available sanctions and place appropriate conditions on the exercise of these (for example, expulsion of licensed parties would not be possible without the approval of the Authority). These powers are discussed further in chapter 19.
268. The powers and duties set out in Box 12A are intended to be sufficiently wide as to allow for any specific responsibilities that may fall to the panel in relation to particular aspects of the arrangements set out in the SEC (for example any panel duties in relation to security, or data access and privacy arrangements). Similarly, these functions and powers should enable the panel to discharge any role and obligations that it has in relation to any compliance or assurance regime (as discussed in chapter 16) and under the SEC disputes arrangement (as discussed in chapter 18). It is envisaged that the panel will have an active role in both of these areas, for example establishing relevant committees to implement these arrangements and hearing referrals or appeals from these bodies.
269. Given the broad range of duties that can fall on a panel such as this, it is important that it has the power to delegate consideration of matters to working groups and sub-committees more generally, and also to arrange for third parties to support it in the discharge of its duties (reflected in power N above). Some existing codes prescribe the delegation of particular powers and functions to designated sub-committees from the start, and include provisions regarding the composition and operation of those committees. In other cases this has evolved over time as a panel decides what matters it is appropriate to delegate and the appropriate terms of reference under which such delegation is made.
270. Prescribing the delegation of particular activities within the SEC from the outset has the advantage of focusing the activities of the SEC Panel and ensuring that panel and sub-committee members are established with the right level of resources and skills to carry out these activities in a full and timely manner. However, it is also important to allow the code governance arrangements sufficient flexibility to evolve over time.
271. Further consideration will be given to the need for the SEC to establish certain standing committees (for example to discharge functions in relation to assurance or disputes arrangements as the detail of these develops). In any event it is proposed that the SEC Panel will have the ability to establish such other committees as it requires over time. The extent to which the panel can delegate its responsibilities in relation to the SEC modification process (including making recommendations on modification proposals) is considered further in chapter 14 of this consultation.

12.2 Objectives of the SEC Panel

272. In discharging the various powers and functions ascribed to the SEC Panel (as set out above), it will be important that the panel acts appropriately and in the best interests of the arrangements

set out in the SEC and participants as a whole. It is therefore proposed that the SEC will also require the panel to act in a manner designed to achieve the following objectives:

Box 12B: Proposed objectives of the SEC Panel

- That the SEC is given effect fully and promptly and in accordance with its terms
- That the SEC is given effect in a manner that facilitates the achievement of the Relevant SEC Objectives (as set out in the DCC Licence)
- That the SEC is given effect in a fair manner and without undue discrimination between any parties or classes of party, and
- That the panel conducts its business in a transparent and open fashion.

12.3 The make-up of the SEC Panel – independent or representative

273. A key design issue in how the SEC Panel should be established is the question of whether, in discharging its functions and powers, members of the panel are expected to act:
- As direct representatives of the interests of particular parties or classes of party, such as any constituency that elected or appointed them to the panel (this model is used in six of the existing industry codes), or
 - Entirely independently of any such interests, instead acting impartially, in the wider interests of the arrangements set out in the SEC and in accordance with a predefined set of duties and objectives (this model is used in three of the existing industry codes).
274. Under either of these models it will be possible for panel members to be nominated, elected or appointed from within different party constituencies or by particular bodies. The panel composition and appointment arrangements are discussed further in the next chapter of this consultation. Some key considerations in deciding on whether the panel should be primarily representative or independent in nature include:
- A fully representative panel would arguably give SEC Parties a more direct voice in the oversight and decision-making under the SEC
 - However, other provisions of the SEC are likely to offer parties significant opportunity to influence the arrangements set out in the SEC, including the ability to raise modification proposals, be consulted upon and make representations to the panel on particular matters, and to participate in discussions at working groups and committees
 - An independent panel may be a more effective forum for decision-making, as all members will be acting for a common purpose – the proper implementation of the SEC – rather than representing particular interests, which might lead to deadlock more often, and
 - Furthermore, there is a strong argument that an independent panel is better suited to discharging the functions, powers and objectives proposed for the SEC Panel, particularly where this involves taking decisions and actions in respect of individual SEC Parties (for example in relation to sanctions or disputes) and given the proposal that the panel should always act in a fair and non-discriminatory fashion.
275. The Government's initial position is that SEC Panel members should act independently and impartially and not in a representative capacity. However, the Government welcomes views on this approach and will consider this matter further.

12.4 SEC Panel composition and appointment

Panel size and composition

276. In defining the composition of the SEC Panel, it is the Government's objective to ensure that the panel:
- Is of such a size that allows for efficient decision-making (the starting point being that a small to medium sized panel is preferable for such group dynamics, with most codes having between seven and fifteen members), and
 - Has sufficiently wide, balanced and expert membership to ensure the quality of decisions (including that these take into account the diverse perspectives of all relevant parties with an interest in the SEC).
277. The SEC will provide for a panel chair to be appointed and to have specific roles and duties prescribed in the code. Proposals for the appointment and independence of the chair are set out later in this chapter (see "Panel elections and appointment" below).
278. The Government has previously stated that the composition of the SEC Panel should include both signatories to the SEC and other key stakeholders, including members who can reflect the interests of consumers. The benefits of smart metering will be shared across different segments of the energy industry and consumers. It is therefore important to avoid the creation of 'voting groups' who can unduly influence or effectively block any decision. But it is also important that the SEC Panel composition recognises the role and stake that particular parties will have in delivering smart metering, and the expertise required by panel members to discharge their duties effectively.
279. In view of this, and drawing on the SEC Party categories (as set out in chapter 3), it is reasonable that the SEC Panel should include members with a gas supplier and electricity supplier perspective, a gas transporter perspective, an electricity distributor perspective, a DCC perspective and an "Other User of DCC communication services" perspective.
280. Within each of the SEC Party categories there is likely to be a significant level of diversity. For example, within the supplier categories it may be necessary to recognise that smaller suppliers will have a different set of issues and priorities to larger suppliers. One way of addressing this would be to ensure that there is at least one member of the panel with an understanding of smaller supplier issues. Smaller suppliers could be defined as those serving 250,000 customers or less. This is consistent with the definition used to distinguish smaller suppliers under the Carbon Emissions Reduction Target (CERT) and the Community Energy Saving Programme (CESP).
281. It is difficult to predict exactly what types of organisation will accede to the SEC as an other user of DCC communication services. This is unlikely to be a homogeneous group with a fully shared set of issues or interests in the arrangements set out in the SEC. One way of addressing this would be to allow the panel chair discretion, after consultation with other panel members, to appoint a panel member with an understanding of the interests of any DCC service users that are not already reflected in the make-up of the panel.
282. The Government has already stated that there will be consumer members on the SEC Panel. To ensure that the consumer perspective is given sufficient voice and weight, the Government is considering whether there should be more than one consumer member. It is recognised that this comes with challenges. For example, the focus of panel discussions on technical industry matters might provide a barrier to participation for consumer members. To mitigate this, the

Code Administrator (see chapter 13), will need to ensure that consumer representatives are given the appropriate level of support, in line with the Code Administration Code of Practice.

Voting and non-voting members

283. The Government proposes that all of the SEC Panel members appointed to reflect the perspectives of gas and electricity suppliers, electricity distributors, gas transporters, Other Users and consumers (as described above) will be “voting members” of the panel, and therefore entitled to vote on any matters put before the panel for decision (including making recommendations on modification proposals). It is proposed that the panel chair will also be a voting member, but will only be entitled to exercise a casting vote, that is where any matter being voted upon has resulted in deadlock after all other voting panel member votes have been cast (or abstentions made).
284. It may also be appropriate for the SEC Panel to include certain additional non-voting members. For example, the DCC clearly needs to take an active role in the code governance arrangements, in particular providing information and evidence to inform the panel’s understanding of operational issues and the impact of modification proposals on its services. It will also be able to raise modification proposals (see Chapter 14). However, it is for consideration whether the DCC should have a seat on the panel in a non-voting capacity in relation to some or all panel matters. This might be comparable to arrangements under the BSC, where National Grid (as the Transmission Licensee) does not vote on modification business of the BSC Panel but is entitled to vote on other matters. In line with existing codes it will also be appropriate to have an Authority appointed attendee at the panel who will be entitled to speak, but not to vote. The Government also needs to consider whether provision needs to be made for a representative from the Government to attend panel meetings in a similar capacity, at least while it has a continued involvement in the delivery of the roll-out programme.
285. The Government recognises that there are many different ways of constructing the membership of the SEC Panel, and proposes the composition in Box 12C below in order to invite views on how this could be improved based on the discussion points set out above. Further consideration will be given to this in light of any comments received.

Box 12C: Proposed composition of the SEC Panel

Voting panel members	4 x large supplier (possibly 2 electricity and 2 gas) 1 x small supplier 1 x gas transporter 1 x electricity distributor 2 x other users of DCC communication services Up to 2 consumer representative members 1 x SEC Panel chair’s discretionary appointee 1 x SEC Panel chair (casting vote only)
Non/restricted voting panel members	1 x DCC appointee
Other non-voting panel attendees	1 x Authority appointee 1 x Government appointee (possibly)

Box 12C: Proposed composition of the SEC Panel

Total	16 members in total (13 with full voting rights)
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Independence, appointment and term of office of the panel chair

286. It is proposed that, regardless of whether the SEC Panel overall is an independent or representative one, the panel chair should always be independent. This is consistent with the findings of Ofgem's Code Governance Review, which recommended that there were significant benefits in having an independent chair for industry codes.⁴⁴
287. On an enduring basis the chair will be appointed by the Authority, in consultation with panel members. This is also consistent with some existing industry codes and the recommendations of the Code Governance Review. It is for further consideration whether the Government should appoint the initial panel chair, as part of transitional governance arrangements.
288. Consistent with the proposed three year business planning cycle for the SEC Panel, it is considered appropriate that the tenure of the panel chair should be three years. It is for consideration whether, and if so how often, this period should be capable of extension.

SEC Panel elections and appointments

289. The SEC will need to set out how panel members are appointed and the terms of their appointment. It will also set out arrangements for when panel members resign. Panel members can be appointed or elected to their posts and there are a number of ways of doing this. The term of office for panel members under existing codes tends to be one or two years.
290. For panel members with an industry perspective it may be appropriate for nominations to come from relevant SEC Parties. It will also be important to allow for relevant SEC Parties to have a say in who is appointed. Panel members being appointed to the Gas or electricity supplier, gas transporter or electricity distributor seats could be elected in one of the following ways:
- One vote per SEC Party
 - One vote per corporate group, or
 - SEC Party vote weighted by market share (this could, for example, be based on all meters or just smart meters).
291. Allowing one vote per party potentially gives unfair weight to those organisations that have acceded to the SEC in many different capacities and/or as many individual entities within the same corporate group. One vote per corporate group ensures that every corporate group that falls within a participation category collectively has one vote each. Having a party vote by market share gives those with a greater market share a greater vote, and potentially risks setting the outcome of the vote in the interests of particular participants every time.
292. The Government does not at this stage know how diverse the 'other users' category will be. It is therefore difficult to envisage a market share vote being appropriate for this category. However, one vote per corporate group or one vote per party appear feasible options.

⁴⁴ See here for more detail: <http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Pages/GCR.aspx>

293. As the Government is considering including up to two consumer representatives there needs to be some further consideration as to how they might be appointed. In line with other codes it would be appropriate for Consumer Focus (or any relevant successor organisation) to nominate one representative for the consumer seats. The Authority could be given the right to nominate one further consumer member.
294. The chair could invite nominations for the panel member he or she has the discretion to appoint and consult on the final appointment with other panel members. The Authority, the DCC and the Government would be responsible for nominating their own attendees. The Chair will be able to appoint a deputy from amongst the panel members.
295. There will need to be transitional arrangements for an initial panel to be in place at the SEC Commencement Date. Following this the standard panel election and appointment process would take place under the auspices of the SEC. The Government has discussed options for this arrangement with stakeholder groups and will address this further as part of the future paper on transitional issues.

Proceedings of the SEC Panel

296. The SEC will set out the detail of how the SEC Panel will function, including provisions in relation to:
- How (and how often) meetings are to be convened
 - Attendance at meetings, and
 - Decision making.

Meetings

297. The SEC will specify that the panel should meet at regular intervals, and that this should at least be monthly (although it will be possible to cancel meetings where there is no business to be conducted). There will also be a process to allow special meetings to be convened outside of the normal meeting timetable, should there be any urgent business to be conducted (including, for example, any urgent modification proposals).
298. There will be procedures included to ensure that all interested parties are given reasonable notice of the dates and agendas of all panel meetings. Decisions will generally only be taken in relation to matters that have been notified in advance, although there may be an ability for the panel to waive this requirement in the event of an urgent matter. It is expected that panel agendas, papers and minutes will generally be made available to all SEC Parties in the interests of transparency. However, there will also need to be provision for certain matters to be dealt with by the panel in a confidential manner where appropriate.

Quorum and attendance at meetings

299. The panel will only be entitled to conduct its business if there is a specified quorum present at the meeting. It is proposed that SEC Panel quorum will be achieved if more than 50% of the panel members (or their alternates) are present, including through remote attendance.
300. In the interests of transparency, it is proposed that any SEC Party will be entitled to attend SEC Panel meetings (although such representatives will only be entitled to speak at the invitation of the chair). This open session approach would not apply in the case of any part of a panel meeting where confidential matters are being discussed. Other (non-SEC) parties will also be able to attend a panel meeting at the invitation of the panel chair.

Decision making

301. Any matter to be decided by the panel will be put to a vote where requested by the panel chair or any panel member. It is proposed that each voting member of the panel will be entitled to cast one vote and that all decisions will be decided by a simple majority of the votes cast. It is also proposed that the panel chair will not ordinarily vote, but will have a casting vote where there is a deadlock on any matter.

Panel member remuneration and protections

302. It is necessary to determine the extent to which some or all SEC Panel members should be remunerated for performing their panel duties. The Government has identified two options:

- **Option 1** – panel members are only reimbursed for reasonable costs and expenses incurred in attending panel meetings (for example, travel and accommodation), or
- **Option 2** – panel members receive payment (and potentially benefits) for acting as a panel member, over and above their reasonable costs and expenses.

303. The Government would welcome your views on these options, and in particular which of these options would be most aligned with each of the options for the panel to be either an independent or a representative body as a whole.

304. The panel chair would be entitled to such remuneration and benefits as are determined by the Authority when the appointment is made. All panel members will be indemnified under the SEC in respect of all liabilities that they might incur when acting properly in that capacity.

12.5 Proposals

305. The Government proposes that:

- A panel (the “SEC Panel”) is established under the SEC with the functions, powers and objectives set out in Boxes 12A and 12B above
- The SEC Panel should have the power to constitute working groups and sub-committees and to delegate powers and functions to these bodies to enable it to discharge its duties efficiently and effectively
- The precise responsibilities of the SEC Panel will be refined as other detailed aspects of the arrangements set out in the SEC are developed (including governance arrangements in relation to the SMETS, security, assurance, disputes, privacy and data access). As part of this the Government will consider whether it is appropriate to prescribe the delegation of particular powers and functions to dedicated sub-committees and any other necessary provisions to govern the operation of these
- Under enduring arrangements, the SEC Panel chair is appointed as an independent chair, by the Authority, on a three year term.
- All SEC Panel members with party category perspectives are voted for on the basis of one vote per corporate group for each relevant party category, and
- All such SEC Panel members should be appointed on a one or two year term, with a mechanism in place for ensuring that not all members change at the same time. Where

appropriate provision should be made for SEC Panel members to be re-appointed for successive terms.

306. The Government is minded to propose that:

- SEC panel members will be obliged to act independently and impartially and will not be representative of the parties by whom they are appointed (nor of their own employer) when acting as a SEC Panel member. However, the Government welcomes your views on this approach and will consider this matter further

307. The Government invites views on:

- The SEC Panel composition set out in Box C above, and whether this captures an appropriately wide range of perspectives and expertise necessary for the proper functioning of the SEC Panel, and
- The extent to which some or all SEC Panel members should be remunerated for performing their panel duties.

12.6 Consultation questions

Consultation questions: The SEC Panel	
27.	Do you agree with the proposed functions, powers and objectives of the SEC Panel, as set out in Boxes 12A and 12B?
28.	Do you think that a fully independent panel is the appropriate model for the SEC? Please give reasons for your answer.
29.	Do you agree that the proposed SEC Panel composition set out in Box 12C is appropriate? Please give reasons for your answer, Alternative proposals for the panel composition are welcome.
30.	Do you agree with the proposed division of voting and non-voting members, and in particular do you believe that the DCC should be a non-voting member in respect of any or all aspects of panel business?
31.	Do you agree that the proposals for the independence, appointment and term of office of the panel chair are appropriate? Please give reasons for your answer.
32.	Do you agree with the proposed arrangements for panel member elections and appointments?
33.	Do you agree with the proposed rules in respect of proceedings and decision making at SEC Panel meetings?
34.	Which of the two options for remuneration of panel members do you prefer, and why? In particular which of these options do you believe would be most aligned with each of the options for the panel to be either an independent or a representative body as a whole?

12.7 Summary of proposed rights or obligations in the SEC

308. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC panel members	<p>Obligation to discharge prescribed panel objectives, powers and functions</p> <p>Right to receive expenses and/or remuneration for acting as a panel member</p> <p>Right to receive indemnity</p>
Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	<p>Right to nominate and elect panel members within relevant party category</p>
SEC Panel chair	<p>Right to appoint a voting member of the panel to reflect the interests of any group of DCC service users which are not already reflected in the membership of the panel</p>
Consumer Focus	<p>Right to appoint 1 voting consumer panel members</p>
Authority	<p>Right to appoint 1 voting consumer panel member</p> <p>Right to appoint a non-voting panel attendee</p>
The Government / DCC	<p>Right to appoint a non-voting panel attendee</p>
Code Administrator	<p>Obligation to implement relevant arrangements for panel proceedings (meeting notices, publication of papers and minutes, etc.)</p>

Chapter 13: Code Administrator and Secretariat

The governance and administration of the SEC will be supported by Code Administrator and Secretariat services. The persons who will provide these services will be appointed by the SEC Panel.

13.1 Introduction

309. The Draft DCC Licence specifies that the SEC must include:
- arrangements for the establishment and funding of a Secretariat to service the SEC Panel, and
 - arrangements for the establishment and funding of a Code Administrator to advise and assist the SEC Panel (including, in particular, its consumer representative members), SEC Parties, and other interested persons with respect to the policy and administration of the SEC.
310. The Secretariat and Code Administrator roles are functionally distinct but may be carried out by the same entity (and so may be appointed and procured together or separately). The Secretariat will act as clerk to the SEC Panel. It will facilitate SEC Panel meetings and related operations and provide facilities, resources and services (including those required by the panel and panel committees) required for the proper, effective and efficient implementation of the SEC Panel's functions. The Code Administrator will manage the day-to-day governance of the SEC, acting as critical friend to parties and advisor to the panel. It will manage and coordinate specified code modification processes, consistent with the Code Administration Code of Practice. It will also coordinate specified SEC procedures on behalf of the SEC Panel such as accession to and expulsion from the SEC.

13.2 Arrangements for procurement of, and contracting with, the Code Administrator & Secretariat

311. In the Prospectus Response the Government stated that the SEC Panel will independently procure the Secretariat services and that the costs of these services would be recovered through the DCC's charging arrangements. This was proposed to mitigate concerns expressed by stakeholders that the SEC administrative and governance functions should be undertaken independently from the DCC.
312. The Prospectus Response also stated a preference against the establishment of corporate vehicle (a "SECCo") to act as a contracting entity on behalf of the SEC Panel, suggesting this would add further complication to SEC governance arrangements and an additional company to the energy industry.
313. Rather than establishing a SECCo, the SEC could oblige the DCC to contract with any service provider from which the panel wishes to procure Secretariat or Code Administrator services or to discharge the panel's other functions, as the SEC Panel will not be a legal entity in its own right. The Government has discussed this arrangement with stakeholders and concluded that it is practical.

314. However, without a SECCo the DCC will have to contract with a range of service providers on behalf of the panel, potentially including security experts or other auditors appointed independently to review the DCC's operations on the panel's behalf. Even though these service providers would be appointed and directed by the SEC Panel, it is conceivable that the service providers might find the DCC's involvement as the contracting entity confusing, and even perhaps be influenced by the DCC's involvement. Additionally, a number of stakeholders have expressed a preference for a SECCo model and pointed out that it works for existing codes.
315. Taking these issues into account, the Government is open to considering the SECCo option further, providing that it does not require more complex or burdensome arrangements than the DCC contracting model set out above. The Government would need to consider the funding arrangements for a SECCo further, but one option would be for this entity to be funded by the DCC, with these costs then passed through to DCC service users under the DCC's charging arrangements. The alternative would be for the SECCo to recover costs directly from parties.
316. The Government would also need to establish an appropriate legal structure and constitutional arrangements for the SECCo. Some existing codes are served by a limited liability company owned by the parties to the code. An alternative option would be to establish a company limited by guarantee. In either case the Government would need to establish the most appropriate constitutional arrangements, including for the involvement of SEC Parties in the ownership and/or membership structure.
317. For example, under a limited liability company model it would be necessary to determine which parties would be entitled to hold a share in the SECCo, the basis on which that shareholding would be allocated, the extent to which that shareholding could be transferred, and what rights shareholders would have. Under the MRA, for example, all MRA Parties are allocated a single share in MRASCo upon accession. This model could be adopted for the SECCo, although this may potentially be complex to administer. Simpler alternatives may exist, for example the shareholding could be held by a subset of SEC Parties (for example all licensed parties). Under any option it would be possible to define the constitution of SECCo in such a way that the shareholders could not unduly influence its management or activities to the prejudice of any SEC Parties who were not also shareholders or members.
318. Under any contracting model the activities and costs of the Secretariat and Administrator will need to be transparent and controlled. This could be managed from the outset by the SEC Panel consulting with parties on the scope of services to be provided by the Code Administrator and Secretariat and the contracting principles used for their appointment. On an ongoing basis the three year business plan and annual reporting functions of the panel could also address these matters.
319. Transitional arrangements may need to be put in place to enable SEC administration and to provide secretariat support to the SEC Panel at the SEC Commencement Date. The Government is considering how this could work alongside other transitional governance arrangements.

13.3 Proposals

320. The Government is minded to propose that:
- The Secretariat and Code Administrator services should be appointed by the SEC Panel and contracted with through the DCC.

However the Government is interested in views on how this compares to an alternative SECCo contracting option, and will consider this issue further.

13.4 Consultation questions

Consultation questions: Code Administrator & Secretariat	
35.	Do you think the Code Administrator and Secretariat chosen by the SEC Panel should be contracted through the DCC or through a SECCo?
36.	If a SECCo was established what should its funding arrangements, legal structure, ownership and constitutional arrangements be?

13.5 Summary of proposed rights or obligations in the SEC

321. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
Secretariat	<p>Obligation to act as clerk to the panel</p> <p>Obligation to facilitate panel meetings and related operations</p> <p>Obligation to provide facilities, resources and services (including those required by the panel and panel committees) required for the proper, effective and efficient implementation of the SEC.</p>
Code Administrator	<p>Obligation to manage and coordinate relevant SEC modification process</p> <p>Obligation to coordinate other panel procedures (for example, accession, default, expulsion, etc.)</p> <p>Obligation to act in accordance with the Code Administration Code of Practice</p>
SEC Panel	Right to decide on identity of SEC Secretariat and Administrator
DCC (Or SECCo)	Obligation to procure SEC Secretariat and Administrator as directed by SEC Panel (and on such terms as directed by panel)

Chapter 14: Modification process

The SEC will need to evolve in light of market issues and developments. There will therefore be mechanisms for parties to propose changes to the SEC (and any associated documents) and for such changes to be assessed, consulted upon, submitted for approval by an appropriate body, and implemented where approved.

This chapter sets out the high level framework for modifying the SEC. Key matters highlighted include:

- The definition of which parties should be entitled to raise SEC modification proposals
- The different processes that will apply to different categories of modification proposal
- The functions and powers of the SEC Panel, including the scope of responsibility for making final recommendations and/or decisions on modification proposals and whether this should be delegated
- The arrangements for implementation of approved modifications, and
- Rights of appeal in relation to modification decisions.

14.1 Introduction

322. The Draft DCC Licence (which is being consulted upon alongside this consultation) sets out arrangements for establishing an effective and transparent change control framework for the SEC. It describes the modification arrangements that the SEC must contain and certain key requirements that those arrangements must reflect, including that:

- Any proposal to modify the SEC must have as its purpose the better achievement of the Relevant SEC Objectives
- Modification proposals can be raised by certain defined parties
- There must be proper evaluation of all proposals and consultation with a wide range of interested parties
- Certain categories of modification must be approved by the Authority, while others may not require Authority approval, and
- The Secretary of State should have power, up to and including 31 October 2018 to direct the SEC Panel not to make a modification of the SEC in limited circumstances.

323. The following proposals address some key issues regarding how these high level licence requirements will be implemented in the more detailed modification arrangements that will be contained within the SEC. These are informed by the findings and conclusions of the Code

Governance Review and the guidance set out in the Code Administration Code of Practice.⁴⁵ The proposals also draw on the Government's recent discussions with stakeholders at forums established by the Programme, as well as separate discussions with a number of the central bodies involved in administering the change processes for existing industry codes.

14.2 Parties entitled to raise SEC modification proposals

324. The Draft DCC Licence specifies that the SEC should set out who is entitled to submit proposals to modify the SEC, and that this should include:
- The DCC
 - Any other SEC Party
 - Any appropriate body representing the interests of consumers, including any consumer body that is entitled to nominate a consumer member to sit on the SEC Panel (see chapter 12), and
 - Any other person or body that may be designated for such purpose by the Authority.
325. In addition it is proposed that the Authority will have the power to direct that a modification proposal is raised in respect of particular policy considerations (if any, and to be defined in the SEC)⁴⁶ or following a Significant Code Review process. If respondents have views on this proposal, then comments are invited through the DCC Licence Consultation issued alongside this consultation.
326. The Government considers that the SEC should also include a right for the panel (as a collective body) to raise modification proposals in certain limited circumstances, for example upon a recommendation to do so made by the Code Administrator or a standing panel sub-committee where a particular type of defect in the SEC has come to their attention while discharging their functions. Further consideration will be given to the circumstances in which this might be appropriate, and views would be welcome on this matter.
327. The SEC could also set out certain limitations to the type and scope of modification proposals that can be raised in relation to certain sections of the code by certain parties. However, in respect of the SEC's enduring arrangements, the Government has not identified any particular sections of the code that should be treated in this way so far. Allowing persons entitled to submit modification proposals in respect of any section of the code is considered to be the most simple and transparent approach, and there will be sufficient checks in the modification process to mitigate the risk of any inappropriate, frivolous or vexatious proposals being raised (for example a requirement that all proposals must better facilitate the SEC objectives and requirements for proper assessment and consultation).

⁴⁵ The Code Administration Code of Practice was established as a consequence of the Code Governance Review with the aim to "facilitate convergence and transparency in code modification processes and to help protect the interests of small market participants and consumers". It is available at:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=328&refer=Licensing/IndCodes/CGR>

⁴⁶ For example, following the Third Package, the Authority can propose changes to certain codes where these are necessary to comply with or implement the European regulation/legally binding decisions of the Commission.

14.3 Standard SEC modification process

Standard alternative progression paths

328. Consistent with the requirements of the DCC Licence and the findings of the Code Governance Review, the Government proposes that the SEC will include three main progression paths for SEC modification proposals. There will need to be criteria and decision-making mechanisms to determine which of these paths a modification proposal should follow in each case. The three progression paths are:
- **Authority approval** – this process will apply where the proposed modification is judged to be “material” in nature
 - **Self-governance** – this process will apply where the proposed modification is judged not to be material, in which case the panel will be entitled to make the final decision on whether the proposal should be approved, and
 - **Authority directed** – this process will apply where the Authority directs that a modification proposal should be raised (including following a SCR undertaken by the Authority).
329. Upon receipt of a valid modification proposal, the panel will make a series of decisions which will determine the path of the modification proposal and other details of how it will be progressed. Firstly, the panel will establish whether the proposal is sufficiently clear to allow full assessment or whether it needs further development. The panel will also make the initial decision on whether a modification is material and should therefore follow the “Authority approval” path, or non-material and can therefore be subject to panel approval under the “self-governance” path. However, any decision to self-govern will be subject to a veto by the Authority, in the event that the Authority considers the proposal to be material. The SEC will set out the detailed rules and procedures around the exercise of these processes and decisions.
330. Possible criteria that the SEC panel would apply to judge whether a proposal is non-material and so to determine which path should be followed have been discussed with stakeholders and are presented in the table below. These reflect or build on criteria in existing industry codes in relation to consumer impact, energy supply impact, ‘systems’ impact, and governance arrangements. They also refer back to the Relevant SEC Objectives, and address the breadth of matters covered by, and the parties who are likely to be involved in, the SEC.

Possible self-governance criteria for SEC modification proposals
Unlikely to have a material effect on existing or future consumers
Unlikely to have a material effect on competition in the supply of gas, electricity and energy services
Unlikely to have a material effect on the operation of the DCC or arrangements set out in the SEC
Unlikely to have a material effect on the environment, data access and privacy, security of energy supply and security of the end-to-end smart metering system
Unlikely to have a material effect on the SEC governance and/or modification arrangements

Possible self-governance criteria for SEC modification proposals

Unlikely to discriminate between different classes of SEC Parties

Standard assessment process

331. The panel will set the terms of reference for the assessment of each modification, together with a timetable for that assessment. This will culminate in the production of a comprehensive assessment report. The DCC Licence and the SEC will stipulate the detailed matters that must be included in the assessment report, as these will be required to ensure that a robust decision can be taken in consideration of all relevant information and views.
332. The panel will have the power to establish an industry working group specifically to assess the proposal (and may also retain some working groups on a standing basis to consider modification proposals that address similar areas and where consistent expertise would be valuable). The panel will also establish whether any joint working with other industry document owners is appropriate in each case.
333. The objective of the assessment process will be to achieve the full and impartial development and assessment of the modification. The Code Administrator will be responsible for compiling the assessment report, ensuring all views of the working group and consultees are captured and given equal weight.
334. In line with the Code Administration Code of Practice the modification proposer will retain ownership of that proposal through the assessment process. If alternative solutions are put forward, the Code Administrator will incorporate these within the assessment report. A single document will be compiled by the Code Administrator covering the original proposal and all alternatives, although only the proposers of both the original and each alternative will be entitled to alter their proposal.
335. A key issue to consider at this stage of the process is whether any particular information must be provided to support the assessment and by whom it must be provided. For example, it will be important to understand the operational and cost impact of any changes to central data and communication systems. Without this information it will be difficult for the panel or the Authority to consider the proposal against the Relevant SEC Objectives. The Government believes the DCC will need to be obliged to assess the operational and cost impact of modification proposals on the central data and communications systems, where there is believed to be a potential impact
336. Additionally, the DCC Licence requires that every modification report must include an assessment of the quantifiable impact (if it is likely to be material) of the modification proposal on greenhouse gas emissions, and the appropriate treatment of carbon costs.
337. Once the panel has received the assessment report it will then consider whether further development and assessment is necessary or if the proposal can be issued for consultation. The SEC will set out the process for consultation, recognising the importance of parties being able to provide views and evidence on modification proposals. The Code Administrator will manage the consultation process, engaging with parties and ensuring that small market participants are aware of relevant consultations.

14.4 Potential non-standard modification arrangements

338. The SEC may include the ability for certain modification proposals to be progressed in a different manner from the standard paths and assessment processes described above.

Urgent modifications

339. In some cases modification proposals may need to be progressed on an urgent basis. The Authority has set out criteria that it applies in considering whether a modification should be processed as urgent under other codes, and it is anticipated that the same or similar criteria would apply in respect of the SEC. These are that the modification is “linked to an imminent issue or a current issue that if not urgently addressed may cause:

- A significant commercial impact on parties, consumers or other stakeholder(s), or
- A significant impact on the safety and security of the electricity and/or gas systems, or
- A party to be in breach of any relevant legal requirements.

340. Other criteria may need to be applied when determining urgent modification proposals under the SEC. For example, the above criteria do not make provision for a significant impact on the safety and security of the end-to-end smart metering system. The SEC will set out the procedures that will apply when a decision on urgency of a proposal is to be taken, and the consequences of a proposal being given urgent status. This will include a process for setting the timetable and process for progression of an urgent modification that will allow for deviation from the standard assessment requirements.

341. The Government would welcome views on who should decide whether a modification proposal should be considered urgent and determine its timetable. The Authority makes this decision for six of the existing industry codes, whereas code executive committees determine the timetable for another two of the existing industry codes.

Potential special provisions for particular elements of the SEC

342. The SEC may specify that a special modification process or decision-making arrangements should apply in respect of a limited number of areas of the SEC. For example, it is for consideration whether changes proposed to SEC security standards may need to be progressed in a different manner or on a more rapid timetable than for other aspects of the SEC, although it might be considered that the provisions for making urgent modification proposals set out above may suffice. Special provisions may also apply to the SMETS if these are brought under the governance of the SEC. The governance of the SMETS and security issues will be covered in more detail in future papers on these issues.

343. Chapter 2 notes that there are likely to be a number of other procedural documents that will set out further detail about the day-to-day operation of the arrangements set out in the SEC. These subsidiary documents may be subject to different modification arrangements. For example, under some existing industry codes, these subsidiary documents have a separate change process, overseen by working groups. Further consideration will be given to which matters might most appropriately be contained in any such subsidiary documents, and the appropriate governance for these, as the detailed development of the SEC proceeds.

344. The Government anticipates that the provisions allowing modification of the SEC will be put into effect as soon as the governance arrangements are in place to allow it. However there may be periods where the modification process will need to be suspended or partially suspended during periods of testing and trialling or during major SEC implementation events (for example in the

period building up to DCC Go-Live). In practice it is likely that modification proposals could still be proposed and assessed during these periods; however, changes will not be allowed except at the discretion of the Secretary of State. These matters will be further considered alongside other transitional governance arrangements.

14.5 Pre-change process

345. Some industry codes include an optional step before modification proposals are formally raised – a ‘pre-change process’ which allows for any interested party to raise an issue to be recorded and discussed at an appropriate industry forum. The purpose of this process is to assist in framing the issue and defining possible modification proposals. It is proposed that the SEC should include such an arrangement. Where appropriate it would be productive for the DCC to be involved in any industry forums established for this purpose, particularly if the issues being raised relate to the DCC’s systems or services.
346. In principle this pre-change process could allow for issues to be raised by non-SEC Parties if they are materially affected by the SEC. This could include other code administrators, persons involved in some aspect of smart metering but who do not require DCC services and so do not accede to the SEC, other regulators, or consumer groups. The Code Administrator could act as gatekeeper and facilitator of issues being raised in this way, referring issues to the SEC Panel or the Authority as appropriate where a judgement is needed on whether a non-SEC Party is likely to be materially affected by the SEC.
347. The Government considers that this arrangement provides appropriate protections for the governance arrangements because the gatekeeper function is provided by the independent Code Administrator. Under the alternative option, only SEC Parties and those entitled to submit modification proposals could be allowed to raise issues for discussion. In this case non-SEC Parties would have to find a sponsor entitled to raise an issue on their behalf. This would effectively mean that code parties rather than the Code Administrator would be judging whether issues raised by non-parties are appropriate for consideration under the SEC.

14.6 Panel role in the modification arrangements & potential delegation of certain functions and powers

348. Under the standard modification process described above, and the panel functions and powers (described in chapter 12), it is anticipated that the SEC Panel will retain responsibility for all key decisions regarding modification proposals, including directing the process and making final decisions or recommendations as relevant. This is without prejudice to the panel’s ability to use working groups to undertake the bulk of assessment work in relation to proposals and the requirement that all interested parties should be consulted and invited to provide assessments of the modification proposal (to which the panel must have due regard in making its decisions or recommendations).
349. However, under some industry codes, the relevant code panel delegates authority for implementing aspects of the modification process to another body, typically a sub-committee or working group created by the panel for that purpose, or even opens the decisions to a party vote. This can include delegating authority for making decisions on how proposals should be progressed as well as final decisions (where this is within the panel’s powers) or final recommendations to the Authority on whether a proposal should be approved or rejected.
350. There are variations on how this model could work in practice. For example, the sub-group could have an established membership of appointed or elected representatives. Alternatively it could be open for any SEC Party to attend. The final recommendation or decision on modification

could be made by the members of the subgroup or could be subject to a vote by the wider community of SEC Parties.

351. Full delegation of authority to consider modification proposals in this way would significantly narrow the role of the panel in the governance of the SEC. While it could be argued that such a model might increase the voice that SEC Parties would have in the final modification decision, there is a risk that the interests of small market participants and consumers may not be represented. If all parties were to have a vote, a mechanism would have to be designed that balances the vote of suppliers (large and small), electricity distributors, gas transporters, and Other Users appropriately.
352. With these considerations in mind the Government is minded to propose that the panel should not be entitled to delegate its power to make a final decision or recommendation on modification proposals.

14.7 Implementation

353. Once it is satisfied that a modification has been sufficiently analysed, developed, and consulted upon, the panel will decide whether to recommend that the modification be implemented. The panel decision or recommendation to the Authority on each proposed modification will include the proposed implementation date of the change if approved. It is envisaged that the Authority, when approving a modification, will also approve the proposed implementation date. If this differs from the panel's recommendation, the panel will need to define its implementation plan accordingly.
354. The SEC will set out responsibilities for implementation. The approach proposed for the SEC is that:
- The panel will determine the actions required and set a timetable for completion of those actions, consistent with the approved implementation date
 - It will be a duty of the panel to ensure that those actions are undertaken in line with the timetable
 - The Code Administrator, the DCC and each other party to the SEC will have an obligation to co-operate with the panel to the extent required to ensure that the actions and timetable are achieved, and
 - There will be a process to enable the timetable and implementation date to be varied by the panel in the event that a change in circumstances means that the original timetable is no longer achievable. Such variation may require Authority approval in some cases.

14.8 Appeals

Appeal of self-governance modification decisions

355. Where a modification proposal has been progressed under the self-governance route, and has therefore been decided upon by the SEC Panel, the SEC will provide for that decision to be appealed to the Authority on defined grounds.
356. It is proposed that any SEC Party, as well as a designated consumer representative body (for example Consumer Focus or any relevant successor body) will be entitled to raise an appeal. In line with other industry codes, the grounds for appeal are likely to include that:

- The appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of the modification, or
- The modification may not better facilitate the achievement of the Relevant SEC Objectives in the round, or
- In the case of a panel decision to reject the proposal, the modification may better facilitate the achievement of at least one of the Relevant SEC Objectives, and
- The appeal is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

357. In the event such an appeal, it will be open to the Authority to either make a decision on whether the modification should be approved or rejected, or send the matter back to the SEC Panel for further consideration.

Appeal of Authority modification decisions

358. It is anticipated that, as is the case for other industry codes, a decision of the Authority to approve or reject a modification will be subject to appeal to the Competition Commission under the Electricity and Gas Appeals (Designation and Exclusion) Order 2005. Such an appeal can generally only be made where, in making its decision, the Authority has not accepted the recommendation of the relevant panel.

359. The SEC will also include procedures for the panel to review and amend the arrangements for the implementation of any modification that is subject to such an appeal or other relevant challenge (for example judicial review).

14.9 Proposals

360. The Government proposes that:

- Modification proposals can be submitted by certain identified parties, including SEC Parties, the DCC, any appropriate body representing the interests of consumers, any other person or body that may be designated for such purpose by the Authority (by reference to particular policy considerations and limited to certain defined parts of the SEC specified for that purpose or following a SCR), and the SEC Panel collectively in defined circumstances
- The panel will make the initial decision on whether a modification is material and should therefore follow the “Authority approval” path, or non-material and can therefore be subject to panel approval under the “self-governance” path. However, any decision to self-govern will be subject to a veto by the Authority, in the event that the Authority considers the proposal to be material
- The DCC must assess the operational and cost impact of modification proposals on the central data and communications systems where there is a potential impact on them, and provide any such analysis to the SEC Panel, Code Administrator or relevant modification working group upon request
- There will be a process for progressing some modification proposals on an urgent basis in defined circumstances

- Issues that might later lead to a modification can be raised by SEC Parties under a defined pre-change process, and also by non-SEC Parties if they are materially affected by the SEC
- The SEC Panel will be responsible for overseeing the implementation of approved modifications, and other parties (including the DCC, Code Administrator and SEC Parties) will be obliged to take all necessary steps to implement approved changes in line with the approved timetable, and
- There will be an ability for parties to appeal modification decisions in defined circumstances and grounds.

361. The Government is minded to propose that:

- The SEC Panel should not be entitled to delegate its power to make a final decision or recommendation on modification proposals.

14.10 Consultation questions

Consultation questions: Modification process	
37.	Do you have any views on the proposals regarding which parties should be entitled to raise SEC modification proposals?
38.	Do you have any comments on the proposed standard progression paths for different categories of modification?
39.	Do you have any comments on proposed criteria that the panel would apply to judge whether a proposal is non-material and so to determine which path should be followed?
40.	Do you think it is for the panel or for the Authority to decide whether a modification proposal should be considered urgent and determine its timetable?
41.	Do you have any views on whether any non-standard modification rules and procedures should apply to any particular parts of the SEC?
42.	Do you agree with the proposal that responsibility for making final decisions or recommendations on SEC modification proposals should always rest with the SEC Panel and that this power should not be capable of delegation?
43.	Are there any further matters relating to the modification process which you would like to comment on?

14.11 Summary of proposed rights or obligations in the SEC

362. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC Panel	<p>Right to raise modification proposals in limited defined circumstances</p> <p>Right to decide on appropriate path for progression of modification proposals</p> <p>Right to establish working groups for purposes of assessment of modification proposals</p> <p>Right to direct the terms of reference, process and timetable for assessment of modification proposals</p> <p>Right to make final decision (for self governance modification proposals) or final recommendation to the Authority on modification proposals</p> <p>Right to propose timetable for implementation of approved modifications and ensure compliance with this timetable</p>
Authority	<p>Power to direct that modification proposals are raised in limited defined circumstances</p> <p>Power to direct that a modification proposal is raised following a Significant Code Review</p> <p>Power to veto panel decision to treat modification as a self-governance modification</p> <p>Power to determine urgent status of modification proposals</p> <p>Power to approve or reject any modification proposal submitted to the Authority</p> <p>Power to designate additional persons or bodies entitled to raise modification proposals</p> <p>Power to uphold, quash or resubmit panel self-governance modification decision upon appeal</p>
DCC / Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	<p>Right to raise Modification Proposals and retain ownership of that proposal through the assessment of the modification process</p> <p>Right to appeal self-governance modification decision of panel to Authority</p> <p>Obligation to comply with actions and timetable for implementation of approved modifications</p> <p>Right to raise issues under pre-change process</p> <p>Right to provide views and evidence on the costs and benefits of modification proposals</p>
Consumer Focus	<p>Right to raise Modification Proposals and retain ownership of that proposal through the assessment of the modification process</p> <p>Right to appeal self-governance modification decision of panel to Authority</p> <p>Right to raise issues under pre-change process</p> <p>Right to provide views and evidence on the costs and benefits of modification proposals</p>

Party	Right/Obligation
Any person or body that may be designated for such purpose by the Authority	Right to raise Modification Proposals
Other persons or bodies	Right to raise issues under pre-change process
DCC	Obligation to assess implications and costs of modification proposals upon request by panel/Code Administrator/relevant modification working group
Code Administrator	<p>Obligation to consider how to address issues raised by other persons or bodies under the pre-change process</p> <p>Obligation to compile the assessment report, ensuring all views of working groups and consultees are captured and given equal weight</p> <p>Obligation to issue modification proposals for consultation</p>

14.12 Related business processes

363. Where relevant, the business processes that relate to these rights and obligations are:

- 06.12 Change Management
- 06.14 Release information, and
- 06.15 Knowledge management /education.

Chapter 15: Reporting

The SEC may place certain obligations on the SEC Panel and, possibly, SEC Parties with regard to the production, provision and publication of certain information and reports.

15.1 Introduction

364. The purpose of any reporting obligations in the SEC would be to ensure that there is an appropriate level of transparency regarding the operation of the SEC for all interested parties. The DCC Licence specifies that the contents of the SEC must include provision for information about the operation of the SEC Arrangements (as defined in the DCC Licence) to be supplied on request to the Authority or to be published by it or by the SEC Panel.
365. It should be noted that the DCC Licence will also include certain reporting and transparency provisions, such as those obliging the DCC to:
- Furnish regular reports on its (and its service providers') service performance, including to the SEC Panel
 - Consult SEC Parties on certain documents and publish these on its website (for example, the DCC's "Internal Control Document" and "Risk Management Strategy"), and
 - Publish "Regulatory Accounts".
366. Any additional SEC reporting provisions should therefore be developed in such a way as to complement this broader reporting framework.

15.2 Potential SEC reporting requirements

367. The SEC may include reporting obligations in relation to:
- The Panel reporting to SEC Parties and others in respect of the matters falling within its powers and functions
 - Provision of information or reports to the Authority, and
 - Provision of data and information by SEC Parties to the panel, the DCC or the Authority to support relevant audit, review, compliance and reporting obligations.
368. Reporting in each of these areas could be required on either a regular or ad-hoc basis, depending on the nature and circumstances of the information to be provided.

Panel Reporting

369. The SEC Panel will report annually on progress against the SEC business plan and arrange for the provision of other reports and information to SEC Parties and the Authority. The scope of this reporting obligation on the panel could include information in relation to the:
- Operation of the arrangements set out in the SEC and the implementation of the SEC
 - Implementation of the SEC modification process

- Performance of the Code Administrator
- Budgets for activities within the panel's functions, including expenditure by the Code Administrator and Secretariat
- Activities of any panel committees, including for example any established to oversee any technical or security related aspects of the SEC, and
- SEC compliance, assurance, defaults and disputes related activities.

370. The panel will also receive regular information and reports from its committees and, possibly, from the DCC throughout the year, relating to aspects of the implementation and performance of the arrangements set out in the SEC. The SEC may therefore direct the extent to which any such information should be published more widely. This could include, for example:

- Reports or audits undertaken by any independent security assessment resource established under the relevant SEC security governance arrangements, and
- Reports or audits undertaken in relation to consumer consents for the purposes of the relevant privacy and data access arrangements.

Provision of information and reports to the Authority (or other relevant body)

371. The SEC will include obligations on the SEC Panel to comply with standing or occasional information requests by the Authority, in which event the panel would have to:

- Collect (or instruct the Code Administrator to do so on its behalf) and provide to the Authority all such relevant information as the Authority may specify
- Procure (or instruct the Code Administrator to do so on its behalf) any relevant information from the Code Administrator or other relevant agent/service provider (for example, any independent security auditor or privacy/access auditor) who holds the information, and
- Provide or procure such analysis of the relevant information as the Authority requests.

372. It is also for further consideration whether the panel should be required to compile and provide any particular reports to assist with transitional arrangements, for example upon request by the Government.

Provision of data and information by parties

373. It is for consideration whether the SEC will need to place any form of obligation on SEC Parties to comply with certain information requests, where the information or data held by those parties is required in order for the DCC, SEC Panel or other relevant body to fulfil any obligations, for example those in respect of:

- Any audit of the DCC (as provided for in the DCC Licence)
- Any review of the DCC's quality of service by a reviewer appointed by the Authority (as provided for in the DCC Licence)
- Compliance reporting by the DCC (as provided for in the DCC Licence)
- Panel reporting (as discussed above), and

- Provision of information to the Authority upon request (as discussed above).

15.3 Proposals

374. The Government proposes that:

- The SEC will place obligations on the SEC Panel and, possibly, SEC Parties with regard to the production, provision and publication of certain information and reports, and
- Further consideration is required to develop more detailed proposals in this area.

15.4 Consultation questions

Consultation questions: Reporting

44. Do you agree that that the SEC should place certain obligations on the SEC Panel and, possibly, SEC Parties with regard to the production, provision and publication of certain information and reports? If so, what do you believe these should be?

15.5 Summary of rights or obligations in the SEC

375. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC Panel	Obligation to provide information and reports to SEC Parties, the Authority and other interested parties as specified in the SEC
Authority	Right to request information or reports from the panel
Code Administrator	Obligation to comply with directions from panel to produce, procure and/or analyse data, information or reports
DCC / Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	Obligation to comply with information requests where necessary in order for the DCC, SEC Panel or other relevant body to comply with reporting obligations

15.6 Related business processes

376. Where relevant, the business processes that relate to these rights and obligations are:

- 06.15 Knowledge management /education, and
- 06.16 Performance Management and Reporting.

PART E: ASSURANCE AND ENFORCEMENT OF OBLIGATIONS AND LIABILITIES

Chapter 16: Compliance and assurance

This chapter considers the potential requirement for compliance and assurance arrangements to be included in the SEC to provide confidence that key obligations under the SEC are being complied with. It also considers the appropriate governance approach for any such arrangements.

16.1 Compliance and assurance in the context of the SEC

377. The arrangements for smart metering will comprise a complex set of interdependent equipment, systems, processes and data. In order to ensure that these arrangements are operationally effective and secure, the SEC will establish common rules, procedures and standards to which all relevant parties must adhere. To mitigate and manage the risk of non-compliances (and any resulting operational failures or security threats) it will also be appropriate to include mechanisms to monitor and enforce these standards. The SEC may therefore require a framework to ensure that SEC Parties' actions, systems and processes are robust (and this may also extend to any agents acting on their behalf).
378. Other industry codes, for example the BSC, already include a "performance assurance framework", comprising a range of techniques to give the confidence to code parties that they are each complying with their code obligations and that their equipment and systems pose no significant threats either to the central services or to other parties.
379. It might be appropriate for the SEC to provide for some similar, but appropriately tailored, form of ongoing compliance/assurance regime for smart metering. Detailed proposals for ongoing assurance within the SEC will be developed in light of the future papers on technical and security requirements and assurance.
380. The Government is also consulting separately on the appropriate framework for smart metering data access and privacy. There are some proposals in the Data Access and Privacy Consultation that would suggest that there may be some level of assurance activities required in the SEC. For example, the consultation discusses whether the SEC Panel could have an obligation to appoint an independent auditor to check compliance with data access requirements (suppliers would also be subject to separate regulatory scrutiny on equivalent licence obligations by the Authority). The consultation also recognises that the framework for data access and privacy needs to remain flexible to accommodate future changes (for example in relation to rules on settlement and theft, or developments in the time-of-use market). An appropriately governed and adaptable risk-based assurance regime could be a key component in providing confidence to stakeholders that SEC Parties are adhering to the data access and privacy regime.

381. In addition to these areas, there may be other obligations on the DCC and/or other SEC Parties where it would be appropriate for the SEC to include defined rules and mechanisms to prevent, detect and remedy key risks and non-compliances, such as where:

- The introduction of shared assets at consumers' premises gives rise to significant commercial and/or operational issues between parties
- The complexity of the smart metering and communications equipment increases the likelihood of issues arising, in particular in relation to installed equipment, or
- The integrated nature of the arrangements for smart metering, including multiple parties accessing and using shared data and communication services, creates possibilities for the actions of one party to impact the interests of another.

16.2 Assurance techniques

382. There are a number of assurance techniques that could be applied under the SEC, including:

- Entry and qualification processes for parties acceding to the SEC and seeking to use the DCC's systems and services
- Testing, certification and/or accreditation of equipment and systems against defined standards
- Monitoring, reporting, peer comparison and audit approaches, which could reveal whether parties are operating appropriately
- A disputes process to determine and settle defined matters arising between parties where a non-compliance is identified
- Sanctions on relevant parties for certain material non-compliances detected by the assurance approaches, including suspension of services and, in extreme cases, expulsion from the SEC (see chapter 19 for further details), and
- Liquidated damages to be applied in the event of a breach by a SEC Party in defined circumstances.

16.3 Potential benefits of assurance arrangements

383. A central compliance/assurance approach under the SEC could have the following advantages:

- It would offer a mechanism under the SEC to address day-to-day issues and non-compliances that, while of operational importance to SEC Parties, may not of themselves be considered a sufficiently serious matter to be the subject of licence enforcement action. The Authority would continue to have enforcement powers in relation to licensed parties' activities under the SEC that it could use, if appropriate, where issues arise that, for example, have wider system impacts. But it should also be recognised that licence enforcement is only likely to be invoked in the most serious circumstances, can only be applied to licensed parties (rather than all SEC parties) and does not allow for any compensation between affected parties. A contractual compliance regime under the SEC may therefore be an effective approach in many cases

- It would allow the community of SEC Parties to proactively manage the risks of non-compliances. A key objective of any processes for, and governance of, any such compliance/assurance framework would be to scale and/or refocus the assurance activities to meet the risks and issues perceived by parties to be of greatest concern at any point in time (for example, through relevant code governance, oversight and modification process). This is necessary as the nature, likelihood and impact of risks will evolve as the arrangements for smart metering mature and change over time
- It could extend a degree of oversight and compliance to parties who are not subject to the licensing regime. For example, it could ensure that supplier agents (such as meter operators) meet required standards for the purposes of the SEC, even though they are typically unlicensed and may not accede as parties to the SEC in their own right (see the discussion of options for involvement of the meter services community in chapter 4). Obligations could be placed on suppliers and other relevant parties to appoint duly qualified agents, and to ensure that those agents participate within the assurance regime. This would ensure that there is no differential treatment of licensed and unlicensed parties under the SEC, and
- A similar consideration might apply in relation to unlicensed SEC Parties (for example energy service companies) who will not be subject to regulation under licence, but who could be brought under a compliance regime (and resulting sanctions) upon signing the SEC to access the DCC's services.

16.4 Potential limitations and issues

384. The Government recognises that there would be limits on the steps and sanctions that could be imposed on parties under the SEC under a compliance/assurance framework. For example, it is unlawful to impose penalties under a contract (although liquidated damages which are a reasonable reflection of genuine loss are permissible). In addition, it would not be possible to expel licensed parties from the SEC without prior regulatory approval.
385. The Government also recognises the potential for a significant time and cost overhead to operate such a framework (for the SEC Panel, committees, any central assurance administrator and/or service providers and for all parties that would need to participate).

16.5 Assurance governance and administration

386. If a compliance/assurance framework is to be included within the SEC, it will be necessary to define the appropriate governance arrangements, processes and resources for oversight and administration of the regime. While different areas of risk within the arrangements set out in the SEC may require different individual assurance approaches, it would seem sensible to have an overarching governance framework to coordinate, prioritise and review the compliance/assurance activities as a whole, and to ensure that the overall framework remains responsive to evolving risks and issues, and the needs of all relevant stakeholders.
387. This could, for instance, be achieved by placing responsibilities on some combination of the SEC Panel, one or more standing panel committees, the DCC, the Code Administrator, and/or one or more independent assurance service providers (appointed by the SEC Panel or the DCC or the Code Administrator as appropriate).

16.6 Next steps

388. The appropriate level of compliance/assurance techniques under the SEC requires further detailed consideration. However, if designed appropriately, such a framework could complement other elements of the regulatory framework (such as licence enforcement) and provide comfort and certainty to SEC Parties that there is an effective, flexible and transparent means by which other SEC Parties would be held to account for non-compliance.
389. The Government will continue to consider these issues, both in light of the Data Access and Privacy Consultation, future papers on technical and security matters and in the light of responses to the questions below about the potential overall nature and scope of a compliance/assurance framework for the SEC.

16.7 Consultation questions

Consultation questions: Compliance and assurance

- | | |
|-----|---|
| 45. | Are there any particular areas of risk that you believe should be addressed by appropriate compliance/assurance techniques under the SEC? |
| 46. | Do you have any views on the most appropriate governance arrangements for any compliance/assurance framework under the SEC? |

16.8 Summary of proposed rights or obligations in the SEC

390. The table below summarises the key rights and obligations of the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC, but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC Panel	Obligation to implement and oversee a performance assurance framework as set out in the SEC
DCC	Obligation to implement elements of a performance assurance framework as set out in the SEC
Code Administrator	Obligation to implement elements of performance assurance framework as set out in the SEC
SEC Parties	Obligation to comply with assurance arrangements

Chapter 17: Liability provisions

The arrangements set out in the SEC will introduce new commercial and operational interactions and relationships between the DCC and users of the DCC's services, as well as between SEC Parties other than the DCC. This chapter considers the extent to which any liabilities should arise between these various parties under the SEC and what limitations or exclusions of liability should apply in various circumstances.

17.1 Introduction

391. There are a number of reasons why the SEC should limit the extent to which specific SEC obligations and liabilities should arise between individual SEC Parties, the means by which these should be enforceable, and the available remedies in the event of non-compliance. In the absence of any such limits, individual SEC Parties could take direct bilateral enforcement action against each other (including through the courts) to enforce contractual obligations and/or seek potentially unlimited damages. This could be considered undesirable, in that it could:

- Represent a potentially disproportionate regulatory burden on parties by exposing them to a significant threat of legal action under an arrangement to which they have been compelled by law to become party
- Create a barrier to entry for parties who wish to voluntarily accede to the SEC but who cannot accept unlimited risk or liability, and
- Be a less efficient and transparent process for addressing code breaches than some form of centralised compliance arrangements (see chapter 16).

17.2 Treatment of liabilities under other industry codes

392. The approach under other industry codes is considered to be a useful starting point for developing the SEC liability framework. For the most part, the existing industry codes follow a similar basic model, generally excluding liability between parties for all code obligations other than where a specific remedy is explicitly provided for (for example via a defined disputes mechanism or liquidated damages). Typical features are that:

- Each party waives its rights to claim against one another in tort (i.e. outside of the contract)
- Each party is expressly given the right to claim against another but is subject to a defined cap and restricted to certain types of liability - usually limited to physical damage to property only
- Economic losses are generally excluded, as are any losses related to reputational damage or loss of custom
- The limitation to physical damage and exclusion of economic losses is on the basis that each individual party is best placed to manage (and insure) its own risk position
- In some codes, the parties waive their rights to claim in tort against certain other categories of person, in return for a right to claim in contract (subject to a cap) against a central party in limited circumstances, and

- Some codes include an “assurance framework” to give the parties confidence that other parties are complying with their code obligations.

393. It should be noted that certain liabilities cannot be excluded at law (for example, those arising in relation to fraud, death or personal injury).

394. The following sections provide an overview of the potential treatment of various key liabilities that might arise under the arrangements set out in the SEC.

17.3 Treatment of obligations and liabilities between the DCC and DCC service users

Liability arising in relation to DCC service provision

395. The DCC will be obliged to provide a service to each user, and a liability will ordinarily arise in contract if the DCC fails to provide that service. The Government’s current thinking on this type of liability is that the user will only be entitled to some recompense if the DCC fails to achieve an agreed service level (for example, delivering 99% of commands to read the meter within a specified time frame), and that the liability in the event of such a failure will be for the DCC to give a pre-determined reduction in the overall level of allowed revenue in accordance with the provisions of the DCC’s price control licence conditions.

Payment liability

396. Each user will be obliged to pay for the service provided by the DCC, and this payment obligation will not be subject to any limits on liability. The events and consequences of a payment default by a user are discussed further in chapter 19.

Assurance liability

397. The DCC may have some role in undertaking assurance of smart metering systems and related processes. DCC service users could suffer a liability as a result of relying upon this assurance if the DCC does not properly fulfil this role. This issue will be considered further as part of the Programme’s work on assurance more generally, including the arguments for and against creating any liability for the DCC in relation to its service users in this scenario.

Data liability

398. The DCC and each user will have obligations concerning data protection. For the most part, misuse of a consumer’s data will harm the consumer rather than a user. It is likely that data protection legislation will apply in any such instances, and that no monetary liability will arise under the SEC. In theory the DCC might be able to misuse consumer data, but this could give rise to grounds for sanctions under the DCC Licence (and possibly the Data Protection Act), which as an initial position is considered likely to be sufficient deterrent.

Security liability

399. The DCC and each user may have obligations concerning system security and any data corruption resulting from a breach of those obligations. The SEC will therefore need to address the extent to which any liability may arise in this regard. The Government is minded to propose an appropriate financial cap on liability in these circumstances and views are sought on the appropriate level of such a cap.

400. Liability between users (as opposed to between the DCC and users) in the event of security breaches is discussed later in this chapter. It should also be noted that the Government will separately consider security requirements and assurance, and this may include further consideration of liabilities and sanctions that may apply in the event of any failure by the DCC or users to comply.

Physical damage liability

401. It is proposed that the DCC should be liable for any physical damage caused by the DCC to the physical property of a user (and vice versa). Views are invited on whether any cap should also apply in relation to any such liabilities.

Exclusion of all other liabilities

402. It is proposed that all other potential DCC-user liabilities not already covered above will be explicitly excluded under the terms of the SEC. However the Government will keep this under review as the development of the SEC progresses and provide for additional liabilities if appropriate.

17.4 Treatment of obligations and liabilities between DCC service users

Introduction

403. One of the principal purposes of the SEC is to govern the commercial and operational relationship between the DCC and users of its communication services. It follows that obligations (and any related liabilities) will typically arise between an individual user and the DCC. These DCC-to- service user obligations will not be enforceable by (or infer any other right upon) any third party (including any other user).
404. There may also be some situations where the actions of one SEC Party (excluding the DCC) can have an impact on another SEC Party, conferring some loss or benefit on that other party. For example:
- The action (or failure to act) of one SEC Party may place it in breach of its obligations under the code and lead to another SEC Party suffering a direct loss or other material disadvantage, and
 - Situations may also arise where there is no breach of the code by any party but where, in the normal course of events, a rule or feature of the arrangements set out in the SEC leads to one party benefitting from the investment, assets or action of another (for example in respect to the use of shared equipment at consumers' premises).
405. In both these types of situation, the disadvantaged user may wish to seek some redress or compensation. It is therefore necessary to develop proposals as to whether, and if so how, the SEC should address any such matters between DCC service users.

Rationale for addressing matters between SEC Parties

406. The arrangements set out in the SEC will have some particular features which mean that it might be appropriate for the SEC to provide for some form of mitigation and/or resolution of matters between SEC Parties. These features include, for example:
- The introduction of shared assets at consumer premises

- Increased cost and complexity of the smart metering and communications equipment relative to existing arrangements, and
- An integrated set of smart metering systems and related processes, including multiple parties using shared services.

Potential matters between SEC Parties

407. Some specific risks and scenarios that could potentially give rise to the need for an obligation or liability between SEC Parties include where:

- One supplier relies upon shared communications equipment installed by another supplier (where both are supplying at the same premises or upon change of supplier)
- A subsequent supplier relies upon the meter installed by another supplier
- An export supplier (for example for the purposes of any feed in tariff) relies upon the meter installed by the import supplier
- There are difficult installation issues (for example at multiple occupancy premises), leading to questions around which party should bear any additional installation and/or equipment costs
- One supplier's agents physically damage the equipment of another supplier (for example, the electricity supplier's agents may damage the equipment of the gas supplier)
- One user introduces a security breach (such as a virus) into the end-to-end smart metering system that causes damage or disruption to other DCC service users, or
- One party suffers due to a data loss caused by the actions of another party (for example, gas mirror data held on the Communications Hub is lost due to action of the electricity supplier).

Options for addressing matters between SEC Parties

408. Where matters between SEC Parties arise, such as under the various scenarios described above, there are four broad options for the treatment of these under the arrangements set out in the SEC. These are described below. It is important to note that these options are not necessarily mutually exclusive, and it may be considered appropriate to apply some combination of these approaches across the range of matters that might arise between parties. There are a number of legal, regulatory, commercial and operational considerations that need to be balanced in deciding upon the best approach in each case.

Option 1: Exclusion of liability

409. Before including any explicit party-to-party obligations, liabilities or remedies in the SEC, it is important to consider whether these matters might better be:

- Left to the market participants to manage outside of the SEC, or
- Addressed through other elements of the regulatory architecture.

410. It is also important to recognise that some of the risks and scenarios described earlier, where the actions of one user can impact another, are not new. A decision to treat matters between

participants any differently than today would need to be based, amongst other things, on a view that more can go wrong (and with more severe consequences for affected parties) under smart metering than is the case under the current metering arrangements.

411. Other elements of the legal, regulatory and commercial framework may mitigate or eliminate the need for certain obligations to be enforceable between parties under the SEC, for example:
- Legislation (for example the application of the Data Protection Act to address consumer data issues)
 - Licences (for example, the Authority may choose to exercise powers to take enforcement action against parties who do not comply with any obligations in relation to the SMETS), and
 - Industry commercial arrangements.

Option 2: Direct enforceability between SEC Parties

412. The SEC could include contractual obligations and liabilities that are directly enforceable between SEC Parties. It would be appropriate to define certain exclusions, limitations and procedures to govern the precise means and extent to which any such obligations and liabilities would be enforceable. For example, other codes typically allow parties to seek redress in the event of physical damage to property caused by another party, but generally exclude other liabilities.
413. There are a number of limits on procedures and remedies between parties that could be specified within the SEC. These could include:
- Limitation of liability for certain matters
 - SEC Parties not being entitled to take action against each other, other than through the mechanisms prescribed in the SEC. Parties could be obliged to follow a defined escalation process – for example, disputes, then SEC Panel appeal, then arbitration (which could be made final and binding), and
 - Other statutory or common law procedures being excluded by mutual consent of parties under the code.
414. An example of how this limited liability approach could work in practice is the scenario where a breach of the SEC system security provisions by one party impacts another party (for example as a result of a virus from one user's system affecting the system of another user). One approach in such a scenario is to make each party liable for all the potential losses. However, even large parties may not have sufficient funds to cover such losses. The other extreme is to say that each party must bear the risk of other users defaulting, but such arrangements are unlikely to deliver effective incentives to perform.
415. The middle ground would be to say that the person that introduces the virus is liable up to a cap, on the basis that individual parties must manage the risk above that level. Such a party-to-party liability may, however, raise questions about credit worthiness of SEC Parties. For example, is a smaller party able to meet the potential liability of introducing a virus, even if that liability is capped? This credit exposure could be managed by stating that each party waives its rights in this regard against all other parties, in exchange for a right to bring a claim against the DCC subject to a cap. The DCC could still claim against the responsible party, and this approach would ensure that some funds are available to compensate parties (which the DCC would

socialise, through its charging arrangements, in the event that it could not recover the costs from the responsible party).

Option 3: Enforce obligations through an compliance/assurance framework

416. The SEC could include defined rules and mechanisms within the SEC to prevent, detect and remedy party non-compliances, including those where impacts would arise between parties. This would effectively comprise a form of compliance/performance assurance framework as is seen in some other industry codes. The inclusion of such a framework could mitigate many of the risks between parties, and would enable most or all directly enforceable obligations and liabilities between parties to be excluded (to the full extent permissible by law).
417. The potential requirement for a compliance/assurance framework, and associated issues, is discussed in chapter 16.

Option 4: Cost recovery arrangements

418. There may be limited circumstances where it is appropriate for the SEC to enable one party to recover costs or charges from another. For instance, where there is shared equipment (for example two suppliers using the same Communications Hub) at the consumer premises, it is for consideration whether the SEC should create and govern a contractual relationship between the relevant parties, and/or facilitate payment to the supplier installing and maintaining the equipment from any other party operating at the same premises.
419. If enabling cost recovery between parties is deemed desirable, it will also be necessary to determine the manner in which any such charges are to be determined (for example whether it is negotiated or administered), and how the resulting payments are to be made (for example whether bilaterally between the parties or cleared through the DCC charging arrangements).
420. The extent of any cost recovery arrangements between parties will be in part dependent on the determined responsibilities for ownership, installation and maintenance of smart metering systems (including the Communications Hub). These issues, and the question of any appropriate cost recovery arrangements will be further considered in separate future papers.

17.5 Treatment of nominated third party agents

421. There may be circumstances where a DCC service user can nominate a third party agent (who is not a SEC Party) to act on its behalf to exercise rights or discharge obligations under the code.
422. However, for the purposes of defining rights and obligations between SEC Parties, such an arrangement will be largely irrelevant, as the primary right or obligation will always fall on the relevant SEC Party and no direct contractual relationship will ever exist between one SEC Party's agent and any other party or party agent under the SEC. Indeed, the creation of any such third party rights will be expressly excluded by the SEC.
423. This will not restrict any separate commercial arrangements that may exist between these parties outside of the code, including any struck in relation to SEC related matters

17.6 Next steps

424. The Government will continue to consider the appropriate treatment of liabilities and related matters between SEC Parties and between the DCC and DCC service users in light of responses to the questions set out below.

17.7 Consultation questions

Consultation questions: Liabilities between the DCC and DCC service users	
47.	Do you have views on the options for the creation and enforcement of liabilities between the DCC and service users described in this chapter?
48.	Do you agree that there should be a cap on liability for specific types of breach between the DCC and service users (including security breaches and physical damage). If so, what do you believe the appropriate level of these caps to be?
49.	Are there any other specific types of liability between the DCC and service users that should be addressed in the SEC? If so, how should these be treated?
Consultation questions: Obligations and liabilities between SEC Parties	
50.	Do you have views on the options for the creation and enforcement of obligations and liabilities between SEC Parties (excluding the DCC) described in this chapter?
51.	In your view, do any of the potential matters between parties described in this chapter (or any other such matters that you are aware of) merit the inclusion of obligations or liabilities that are directly enforceable between parties under the SEC?
52.	Do you agree that it would generally be preferable to enforce party obligations “centrally”, for example through an appropriate compliance or assurance framework under the SEC?
53.	Are there any scenarios where you believe that it would be appropriate to allow for cost recovery between parties under the SEC? If so, what form should these arrangements take?

17.8 Summary of proposed rights or obligations in the SEC

425. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC / Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	Right to claim against other parties but subject to defined limits and caps as specified in the SEC
Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	Right to recover costs from other SEC Parties (other than the DCC) to the extent and in the manner specifically permitted by the SEC

Chapter 18: Dispute resolution

This chapter considers the dispute resolution provisions that could be included in the SEC. These would define the matters that can be disputed between relevant parties, and prescribe the appropriate mechanisms for resolving any such disputes.

18.1 Introduction

426. Disputes could arise between parties to the code in a variety of circumstances. These might, for example, be commercial, technical or financial in nature. It is good practice for commercial agreements to specify how any disputes arising should be resolved, and such arrangements are found in existing industry codes.
427. The value, complexity and frequency of disputes under the SEC may vary significantly according to type. It may therefore be appropriate to specify different dispute resolution approaches for different types of dispute.
428. The Government considers that the SEC should provide an efficient framework for the timely resolution of disputes that is consistent with precedent across the industry and that ensures the most appropriate person or body resolves each dispute.

18.2 Potential dispute types under the SEC

429. The broad categories of dispute that might arise under the SEC include:
- Commercial disputes, for example disputes arising between the DCC and users in relation to the provision of core and elective communication services or other services
 - Technical disputes, for example any disputes requiring a judgement to be made as to whether a party's systems, equipment or processes are compliant with relevant technical requirements. This could include any dispute in relation to compliance with the SMETS, technical interoperability provisions or technical security requirements under the SEC, and
 - Financial disputes, for example disputes in relation to calculation, allocation and billing of DCC charges or security cover.

18.3 Alternative available dispute resolution mechanisms

430. Existing industry codes and agreements provide for disputes to be resolved through a range of procedures, as discussed below.

Non-binding procedures

431. Non-binding procedures encourage the disputing parties to resolve the matter between themselves without the need to invoke more formal (and potentially costly and time consuming) procedures involving third parties or authorities. These non-binding procedures include:
- **Good faith negotiation and internal escalation** – The parties involved are required to meet and try to resolve the issue among themselves within a certain period before

the dispute is escalated. Variants of this are found in codes including the DCUSA and MRA, and

- **Mediation** – A process in which a neutral person helps the parties reach a negotiated settlement. This is included as a step in the UNC, for example.

Binding procedures

432. Where any non-binding procedure does not lead to resolution, a dispute is typically escalated to a defined binding procedure. Binding procedures found in existing codes include:

- **A panel and/or disputes sub-committee constituted under the code** – Under some codes a dedicated disputes sub-committee is established to resolve disputes. The members of such a sub-committee could be suitably expert individuals drawn from code parties. This approach could either apply for all general contractual disputes (such as under the MRA) or be limited to certain defined types of dispute (as is the case under the BSC Trading Disputes process). These bodies will typically have specified constitutions, rules and procedures to ensure that they operate in a robust, fair and consistent manner
- **Court determination** – The default position for contractual disputes is that they are resolved through litigation in the courts. A judge would determine the disputes in an open (not confidential) court, based on legal arguments and expert witness evidence put forward by each party. The judgment at first instance may be capable of being appealed
- **Arbitration** – A process whereby an impartial third party (arbitrator) is appointed to resolve a dispute and the parties agree to be bound by the decision of the arbitrator. Arbitration tends to follow a similar format to a court hearing, but arbitration is usually a quicker process, is conducted on a confidential basis, and does not normally allow for rights of appeal. The arbitrator may be appointed by the panel of the relevant industry code, chosen by the Authority or chosen and agreed by the parties that are in dispute. The BSC, DCUSA & CUSC are all examples of codes that use arbitration. Most electricity disputes go to the Electricity Arbitration Association (EAA), which maintains a list of qualified, independent arbitrators and neutrals that have experience within the electricity industry
- **Expert determination** – This process involves appointing an independent third party who acts as an expert rather than as an arbitrator to decide a dispute. The expert's decision is binding on the disputing parties. Expert determination is particularly useful for technical issues, where an expert would be well placed to assess and determine the issue. Expert determination can be used instead of arbitration where the parties involved agree. This approach is used, for example, under the UNC and the System Operator-Transmission Owner Code (STC) , and
- **Authority determination** – Some industry codes refer certain defined disputes to the Authority. The Authority's determination is final and binding in these cases. However, this route should arguably be limited to disputes with significant competition impact or regulatory significance. It may not always be the most appropriate use of Ofgem's resources to become involved in dispute resolution where there may be more appropriate and timely alternative procedures available, particularly in the case of detailed individual commercial or technical disputes.

433. It should be noted that the above dispute resolution routes need not be mutually exclusive. It may be appropriate to allow for escalation from one procedure to another. For example, under the BSC, Trading Disputes can be escalated from the Trading Disputes Committee (a sub-

committee of the BSC Panel) to the BSC Panel and then on to arbitration by the EAA if still unresolved.

18.4 Proposed disputes framework for the SEC

434. A possible framework for resolving the various categories of dispute that might arise under the SEC is set out below. The Government proposes that:
- For all SEC disputes, there should be an obligation on the disputing parties to endeavour to resolve the matter between themselves in good faith prior to escalating the dispute to a more formal and binding procedure. Further consideration will be given to any time limits or other provisions to apply, and
 - For some specific defined technical disputes (for example those relating to questions of compliance with the SMETS, interoperability obligations and security requirements) an appropriately constituted disputes sub-committee could be established under the SEC Panel to hear these in the first instance. Following the determination of any such sub-committee, a disputing party will be able to escalate the dispute to the SEC Panel and then on to arbitration or determination, which will be final and binding. Recognising the differing expertise that may be required to resolve different types of technical disputes, it may be necessary to have more than one such sub-committee under the SEC. It will be the SEC Panel's role to constitute these bodies and appoint suitably qualified individuals. The SEC may set out certain rules and obligations to guide the panel and any disputes committees in these matters.
435. Some specific disputes considered to have particular regulatory and/or competition significance will be reserved for the Authority to determine. It is anticipated that these could include:
- Disputes regarding accession to the SEC (on the basis that it is considered important for the development of energy services that parties can accede to the SEC and receive services from the DCC. This would be consistent with various other codes)
 - Disputes between the DCC and any SEC Party in relation to whether the DCC's charges for core and elective services comply with the provisions of its charging methodology or statement (on the basis that this is potentially a competition issue and closely tied in to the Authority's role in regulating the DCC), and
 - Disputes between the DCC and SEC Parties regarding the terms (or variation of terms) for core and elective services, or where the DCC refuses to offer terms (on the basis that this is considered to be an important regulatory obligation on the DCC, which if not fulfilled adequately could impact on the development of new services).
436. For disputes defined as being referable to the Authority for determination, it will still be expected that the parties should endeavour to resolve the matter between themselves in good faith prior to escalation. The Authority may also have the option of redirecting a dispute to arbitration or expert determination where it considers this to be more appropriate.
437. All other general contractual disputes under the SEC (that is those not falling within the defined technical disputes categories or those reserved for determination by the Authority as described above) should be resolved using good faith or mediation in the first instance, followed by referral to final and binding arbitration. Further consideration will be given to whether it is appropriate for the SEC to specify a specific arbitration body (such as the EAA) or to leave this to the discretion of the SEC Panel and/or disputing parties.
438. The Government believes that this framework has the following particular advantages:

- The inclusion of one or more appropriately constituted dispute sub-committees under the SEC to deal with certain technical disputes in the first instance will allow for appropriate industry expertise to be harnessed, at low cost, and will allow for a degree of industry self governance, and
- Reserving disputes with significant competition or regulatory impact to determination by the Authority will protect the integrity of the regulatory framework and the interests of consumers.

439. These proposals require further development and assessment ahead of inclusion in the draft SEC for further consultation. In particular it will be necessary to develop

- Detailed definitions of the types of dispute that will be subject to each of the resolution procedures suggested above, and
- Detailed procedural rules around disputes (including those in relation to the panel and any disputes sub-committees).

18.5 Proposals

440. The Government proposes that:

- The SEC will provide for both non-binding and binding procedures for SEC Parties to resolve disputes arising under the SEC, and
- Certain reserved dispute types will be capable of escalation to the Authority for determination.

18.6 Consultation questions

Consultation questions: Disputes	
54.	What types of dispute do you believe might arise under the SEC?
55.	Do you agree with the proposed framework for resolving various different categories of dispute, as outlined in this chapter?

18.7 Summary of proposed rights or obligations in the SEC

441. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC / Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	Right to raise dispute in accordance with relevant dispute provisions Obligation to seek to resolve disputes via good faith negotiation and/or mediation prior to invoking binding SEC dispute mechanisms Obligation to comply with any final and binding resolution under binding SEC dispute procedures Right to escalate disputes in accordance with defined SEC dispute procedures, including to the Authority in defined circumstances
SEC Panel	Obligation to establish certain arrangements for resolution of disputes Right to determine certain escalated dispute matters

Chapter 19: Suspension of rights and expulsion in the event of default

This chapter considers the appropriate procedures and powers to be included within the SEC to discourage default by a party, to encourage rectification where there is a default, to mitigate any risk faced by the wider community of SEC Parties as a result of one party's default and, in extreme cases, to expel a defaulting party from the code.

19.1 Introduction

442. Many commercial agreements (including existing industry codes) include “default” provisions. These define the circumstances under which a party will be considered to be in material breach of the contract (events of default) and the consequences of any such default. In standard contractual arrangements, an event of default can give rise to a right for the non-defaulting party to take action against the defaulting party, including to sue for damages and/or to terminate the agreement.
443. Restrictions on the ability of a SEC Party to sue another SEC Party for damages are discussed in chapter 17 of this document. Unilateral termination of the SEC is not an option available to parties, as the code is a multilateral agreement and regulatory instrument.
444. Notwithstanding these restrictions, it may be appropriate to include certain default procedures and powers within the SEC to discourage breach, encourage rectification where there is a default, to mitigate any risk faced by the wider community of SEC Parties as a result of one party's default and, in extreme cases, to manage the defaulting party out of the code altogether.
445. Unregulated bilateral contracts often include procedural requirements in respect of termination rights, such as the need for one party to declare that an occurrence constitutes an event of default and a grace period after a default occurs to allow the defaulting party to remedy that default. In the case of regulated multilateral codes (as the SEC will be), the right to declare default and take action against a defaulting party is often conferred on an appropriate single body (typically a code panel) which then acts on behalf of all the other code parties. Rules are often included in the codes to govern the steps which this body can take in relation to a default, and the manner in which it must discharge these.
446. The most appropriate body to act on behalf of the non-defaulting SEC Parties in the event of a default by another SEC Party is considered to be the SEC Panel, and the proposals below are drafted accordingly. This is also reflected in the list of potential powers and functions for the SEC Panel set out in chapter 12.

19.2 Possible events of default for the purposes of suspension or expulsion

447. There are three events of default that may be considered appropriate for the SEC to address in this context (and which are commonly found in contracts, including other codes). These are:
- Material breach of code provisions
 - Late payment of amounts due, and

- Events related to financial difficulty or insolvency.

448. The nature of these three events of default, and hence the rationale for including them in the SEC default provisions, is that they all represent situations where, left unchecked, the default would have the potential to have serious financial or operational implications for other SEC Parties.

Material breach

449. This would occur where, for example:

- The defaulting party is in material breach of any of the terms or conditions of the SEC (for example those relating to the SMETS or security provisions) and the breach is incapable of remedy, or
- The defaulting party is in material breach, the breach is capable of remedy, the SEC Panel has given notice to the party, and the party has neither: remedied the breach within a defined period (for example, 30 days); nor provided a rectification plan to the SEC Panel that details the steps to be taken, and the associated timetable, to remedy the breach (which has been approved by the panel).

Payment default

450. This would occur where, for example, the defaulting party has not paid in full any DCC charges or other amount required under the SEC when due, the DCC has given notice requiring payment, and the charges or other amount remain unpaid by the (for example) tenth working day following the date of the notice issued by the DCC.

Financial difficulties

451. This would occur where, for example:

- The defaulting party has failed to remedy a shortfall in credit provision under any financial security arrangements within the SEC (for example, these may be included to limit bad debt exposure under the SEC; this is discussed further in chapter 9). Credit default could be an early signal of financial difficulty and therefore it may be appropriate to treat this as an event of default in its own right, and so to take steps to resolve the matter before any actual payment default occurs, or
- The defaulting party passes a resolution for its winding-up, or a court makes an order for the winding-up or dissolution of the party; an administration order is made in relation to the defaulting party or a receiver is appointed; the party makes an arrangement with its creditors or makes an application to a court for protection from its creditors; or the party is unable to pay its debts within the meaning of the Insolvency Act.

19.3 Actions upon a default

452. Existing industry codes typically provide for a range of steps or sanctions that can be invoked at the discretion of the relevant body (for example the code panel) where an event of default occurs. These include, for example:

- Demanding a rectification plan from the defaulting party

- Notifying each other code party of the default
- Suspending one or more rights of the defaulting party, such as:
 - the right to receive certain services under the code
 - the right to take certain actions under the SEC, and
 - the right to participate in governance of the SEC (for example, to vote in any SEC Panel elections), and
- Expelling the party from the code.

453. It is for consideration whether similar steps should be included in the SEC. For example, a defaulting SEC Party could be prevented from receiving certain DCC services for as long as the default persisted. However, careful consideration is required to ensure that this does not have any unintended consequences, such as a negative impact on the end consumer. Such a step could perhaps be limited to elective communication services only or perhaps a limited class of core communication services, so as to preserve the core functionality required to meet consumer needs.

454. Expulsion would be invoked in cases where it was clear that there was no benefit in keeping a party within the code, for example for the purposes of enforcement of debts. The SEC Panel will be expected to use its judgement in each individual case. Where a SEC Party is subject to a licence condition by virtue of which it is required to be a party to the SEC, the SEC Panel would not be entitled to expel that party without the prior approval of the Authority. Further detail on the procedure for expulsion of a party is set out in the following chapter of this document.

19.4 Procedure for dealing with defaults

455. The SEC could contain certain procedural rules around the default process, for example to ensure that the panel process is transparent and that there is a right for the defaulting party to make representations, and to provide for a right of appeal for the defaulting party.

456. Chapter 16 of this document explores whether there may be advantages to having some form of central compliance/assurance framework under the SEC to prevent, detect and remedy certain non-compliances. It would be expected that the default process would sit alongside and complement this framework. For example, any rectification approach required under the compliance/assurance process would be exhausted before a party would be considered to be in breach for the purposes of the default provisions in relation to the same non-compliance.

19.5 Proposals

457. The Government proposes that:

- The SEC will define events of default, including in relation to breach of material code provisions, late payment of amounts due and events related to financial difficulty or insolvency
- The SEC Panel will be responsible for discharging the SEC default provisions, and
- The SEC will define the detailed procedures for dealing with defaults, including the steps that the SEC Panel can take in relation to an event of default.

19.6 Consultation questions

Consultation questions: Default

- | | |
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| 56. | Do you have any views on the suggested framework for dealing with defaults under the SEC, including the events, consequences and procedures described? In particular, do you agree with the proposed role for the SEC Panel and have any view on what SEC rights or services it would be appropriate to suspend in the event of a default? |
|-----|--|

19.7 Summary of proposed rights or obligations in the SEC

458. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC Panel	<p>Right to take defined actions, potentially including suspension of specified rights of a party upon a relevant event of default by that party.</p> <p>Right to expel a defaulting party from the SEC in defined circumstances</p>

19.8 Related business processes

459. Where relevant, the business processes that relate to these rights and obligations are:
- 06.05 Managing Operations.

PART F: OTHER MATTERS

Chapter 20: Ceasing to be a party to the SEC

This chapter considers the rules and procedures that will apply when a party exits the SEC, either by way of voluntary withdrawal or upon expulsion by the SEC Panel.

20.1 Introduction

460. There will need to be rules and procedures included in the SEC to ensure that when a party (a “discontinuing party”) leaves the code, either voluntarily or having been expelled, this takes place in an orderly manner. Specifically, such provisions are designed to achieve the following:

- That all interested parties have sufficient notice and transparency of a discontinuing party’s exit
- That the discontinuing party does not have any outstanding material responsibilities or debts under the code that have not been fully discharged
- That any regulatory approval that may required before a party can exit is granted, and
- That there is clarity about which obligations, rights and liabilities cease or continue after the discontinuing party has exited.

20.2 Voluntary withdrawal rules and procedures

461. When a party chooses to withdraw from the SEC, there will be certain procedures and preconditions to be fulfilled before the withdrawal is effective.

462. As with other industry codes, there will be a process for a party to submit a formal withdrawal notice to the Code Administrator. A minimum period will then apply before the withdrawal of that party will become effective (for example, this is 28 days under the BSC, and 30 working days under the MRA). There will also be a set of preconditions to be fulfilled before a party’s withdrawal can have effect. These will include that:

- All sums accrued and payable by the party under the SEC have been paid
- The withdrawing party is no longer responsible for any domestic smart metering systems enrolled with the DCC, and
- the party is not subject to a licence condition that means it must be a party to and/or comply with the SEC.

20.3 Expulsion rules and procedures

463. As discussed in chapter 19, the SEC Panel will have the power to expel a party from the SEC in circumstances including where the party has defaulted on payments, become insolvent or is in

breach of some other material provision of the code. This power will be subject to certain procedural steps as described in chapter 20.

20.4 General rights, obligations and liabilities upon exit from the SEC

464. There will be certain exit provisions in the SEC that will apply equally in the event of withdrawal or expulsion. These include that:
- The Code Administrator will be obliged to notify various interested parties (including each other SEC Party, the SEC Panel, the DCC and the Authority) of the withdrawal or expulsion of a party, where possible in advance of the relevant exit date
 - The discontinuing party will be released from its obligations and liabilities under the SEC, subject to certain saving provisions (see below)
 - Each other SEC Party will be released from its obligations and liabilities to the discontinuing party under the SEC, subject to certain saving provisions, and
 - Any authorisations made by or in favour of the discontinuing party (for example those authorising any party to act on the party's behalf for any purpose under the SEC) will cease to be effective.
465. Notwithstanding the above, all outstanding rights and liabilities of the party (and other parties as relevant) that existed as at the date of withdrawal or expulsion will continue beyond that date. This means, for example, that an expelled party could still be pursued for any outstanding debts due under the SEC even after having been expelled for being in payment default or any other reason. Certain specific obligations may also continue to be binding (for example any obligations relating to confidentiality of data or information).

20.5 Proposals

466. The Government proposes that:
- The SEC will set out the procedures and preconditions that will apply when a party is ceasing to be a party to the SEC, either voluntarily or having been expelled
 - These procedures and preconditions will provide for notice and transparency of a party's exit, ensure that the discontinuing party does not have any outstanding material responsibilities or debts under the code, and ensure that any regulatory approval that may be required before a party can exit is granted, and
 - These provisions will also determine which obligations, rights and liabilities cease or continue after the discontinuing party has exited.

20.6 Consultation questions

Consultation questions: Ceasing to be a party to the SEC

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| 57. | Do you agree with the proposed rules and procedures governing withdrawal and expulsion from the SEC described in this chapter? |
|-----|--|

20.7 Summary of Rights/Obligations in the SEC

467. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
SEC Panel	Right to expel a SEC Party upon a relevant event of default by that SEC Party (subject to any required regulatory approval in the event of a licensed party)
Gas supplier / Electricity supplier / gas transporter / electricity distributor / Other user of DCC communication services	Right to elect to withdraw voluntarily from the SEC, subject to fulfilling all relevant preconditions

Chapter 21: Intellectual property rights

This chapter considers the provisions that should be included in the SEC to govern the ownership and exploitation of relevant intellectual property.

21.1 Introduction

468. Provisions will be developed to ensure that the DCC has appropriate access to all intellectual property (IP) upon which its service relies, such that:
- IP does not adversely impact on the existing and future integration of services
 - Future competition in the provision of DCC services is not damaged, and
 - The needs of successor DCCs and external service providers⁴⁷ to use the IP are protected.
469. The IP provisions will primarily be detailed in the DCC Licence and in the contracts between the DCC and its service providers. These IP provisions will be drafted to make it clear who has the rights of ownership to the different types of intellectual property which will be used or developed during the course of delivering the services and what intellectual property licences are being granted.
470. In addition, there will need to be limited IP provisions in the SEC relating to the use of SEC materials⁴⁸.

21.2 DCC Licence Obligations

471. It is proposed in the Draft DCC Licence (upon which Government is currently also consulting) that obligations will seek to ensure that the intellectual property rights in and title to the SEC will:
- As between the DCC and all other SEC Parties, be owned by the DCC
 - Vest in the DCC upon their creation or acquisition
 - Be capable of novation to a successor DCC on expiry of the DCC Licence and business handover, and
 - Be licensed by the DCC for the use of all SEC parties and external service providers.

21.3 SEC Materials

⁴⁷ External service providers are defined in the Draft DCC Licence as being a “person (other than an employee of the Licensee) from whom the Licensee procures Relevant Service Capability for the purpose of providing Mandatory Business Services under or pursuant to the SEC.”

⁴⁸ SEC materials are any and all documents, materials, reports, charts and tables, diagrams, specifications, and other works, ideas, inventions, designs, or proposals (in whatever form) arising out of or in connection with the designation, administration, operation, and development of the SEC.

472. Government proposes that similar provisions should be included in the SEC to underpin and reinforce the proposed obligations in the DCC Licence relating to intellectual property. In particular, it is proposed that the SEC should contain provision to ensure:
- The title and rights to any intellectual property arising from or created by the designation, administration, operation and/or development of the SEC (including the submission of a modification) shall vest with the DCC in respect of the content of the associated SEC materials, and
 - SEC materials are made available for the use of SEC parties and, as appropriate, external service providers.

21.4 Consultation questions

Consultation questions: Intellectual property rights

58. In addition to the proposals above relating to the suggested intellectual property provisions to be included in the SEC, are there any other intellectual property provisions which should be considered for inclusion within the SEC?

21.5 Summary of proposed rights or obligations in the SEC

473. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC	Title and rights to any intellectual property arising from or created by the designation, administration, operation and/or development of the SEC should vest with the DCC.
All other SEC Parties	<p>Right to use SEC materials.</p> <p>Obligation to vest with the DCC the title and rights to all intellectual property which they have created or contributed to the creation of during the operation and development of the SEC (including IP created by any modification proposal which they submit).</p>

Chapter 22: Confidentiality

This chapter considers the provisions that will be included in the SEC to govern the classification and protection of confidential information.

22.1 Introduction

474. It will be important for the assurance and confidence of all parties acceding to the SEC that the code clearly defines what will be classified as confidential information (and equally, what types of information shall not be) and for the SEC to establish an appropriate framework of obligations and protections around any such confidential information.

22.2 Classification of confidential information

475. It is proposed that the following types of information will be classified as confidential information and treated accordingly under the SEC:

- Any information relating to any specific party to the SEC, where that party has designated in writing to the DCC or other SEC Party to which it has released that information, that this is confidential information, and
- Any information which would be considered as being obviously confidential by its nature; for example, personal details or commercially sensitive information belonging to SEC parties, and which is disclosed in connection with the SEC or the disclosing party's activities in connection with the SEC (even when it has not been designated as such in writing, as above).

22.3 Exclusions from confidential information classification

476. It is proposed that the following types of information should not be classified as confidential information under the SEC:

- The SEC itself – as this is a key element of the smart metering regulatory framework and needs to be in the public domain to ensure public scrutiny of the arrangements and to provide confidence in the arrangements
- Any data required to be published in accordance with the SEC which needs to be freely published, and
- Information which would otherwise have been classified as confidential information but which is effectively already in the possession of the recipient. This may occur where at the time of disclosure the information is already within the public domain, or where it was lawfully within the possession of the recipient party prior to it being disclosed.

22.4 Non-disclosure obligation and exceptions

477. It is proposed that:

- The SEC should place an obligation on all relevant parties (including the DCC, SEC parties the SEC Panel and the Code Administrator) to protect and treat as confidential and not disclose any information classified as being confidential information

- Confidentiality obligations under the SEC should continue to apply to any party that has withdrawn or been expelled from the SEC, in respect of any confidential information which came into its possession while it was a party
- The SEC should make explicit provision for information which is to be excluded from being classified as confidential
- The SEC should make provision to allow for the permitted disclosure of what would otherwise be confidential information in certain other circumstances. For example, this might include permitting the disclosure of confidential information to a lending or other financial institution to the extent that the disclosure of such information is reasonably required for the purposes of the provision or arrangement of finance, and provided that the person to whom the confidential information is disclosed is bound by equivalent confidentiality provisions to safeguard SEC confidentiality, and
- Similarly, permitted disclosure under the SEC of confidential information should be allowed where it is required by law, or by the regulations of any recognised stock exchange on which the share capital of the recipient party is or is proposed to be listed or dealt in.

22.5 Consultation questions

Consultation questions: Confidentiality	
59.	What information should be classified as confidential under the SEC?
60.	How should a balance be struck between transparency and data publication under the SEC, whilst maintaining confidentiality?

22.6 Summary of proposed rights or obligations in the SEC

478. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC	<p>Obligation to publish information, some of which might otherwise be confidential, as defined in the SEC reporting requirements.</p> <p>Obligation to comply with the confidentiality provisions of the SEC – including to protect and treat as confidential all such information provided by SEC Parties.</p> <p>Obligation to designate and clearly mark all confidential documents as such.</p> <p>Right to freely use and distribute the SEC.</p> <p>Right to freely use and distribute any data publicly reported under the SEC.</p>

Party	Right/Obligation
All other SEC Parties	<p>Right to designate in writing that certain information should be classified as being confidential information</p> <p>Obligation to comply with the confidentiality provisions of the SEC.</p> <p>Obligation to designate and clearly mark all confidential documents as such.</p> <p>Right to freely use and distribute the SEC.</p> <p>Right to freely use and distribute any data publicly reported under the SEC.</p>

Chapter 23: Unforeseen events

Provision should be included within the SEC for the clear definition of unforeseen events which are beyond the control of the parties to the SEC and which prevent parties from performing their obligations under the SEC.

23.1 Force majeure

479. Typically, force majeure events are defined as natural disasters or other "acts of God", war, or the failure of third parties to perform their obligations to the contracting party and which could not have been reasonably foreseen and protected against. In these circumstances it is often deemed not to be reasonable or appropriate for the normal contractual provisions to apply and instead special provisions or contingencies apply.
480. It is proposed that force majeure provisions should be included in the SEC and these provisions should excuse performance under the SEC. However, the force majeure provisions should not excuse the failures of SEC parties and/or external service providers to perform their obligations under the SEC for reasons which should be within their control.
481. To assist in determining what is and what is not a force majeure event and the remedies therein, it is proposed that the SEC should contain a non-exhaustive but detailed list of specific examples of unforeseen events or acts. These events will likely include weather-related natural disasters, industrial action, war, revolution, terrorism, riot, public demonstration, material vandalism, and other significant events that are clearly outside the control of the DCC and/or other SEC parties.
482. The SEC should also make provision for specific clauses of the SEC not to apply when defined force majeure events occur.
483. The force majeure provisions in the SEC should recognise that that the DCC service provider contracts will be drafted with the stated intent that the definition of force majeure should be very narrow, therefore requiring the service provider to provide the contracted services to the best of their ability in extreme circumstances. In this respect, it is expected that the disaster recovery and business continuity provisions in the service provider contracts⁴⁹ will cover the majority of issues that service providers may face, thereby constraining the relief for force majeure. Equivalent obligations should therefore be placed upon the DCC under the SEC.
484. The force majeure provisions should include an agreed process for invoking the force majeure provisions and reference the contingency and business continuity arrangements (see below), such that the ongoing provision of the DCC services is safeguarded. This agreed process will need to define who can call a force majeure event, detail the role of the SEC Panel and/or Authority (if any) in confirming the force majeure event, and outline a timetable both for invoking the event and for its cessation.

⁴⁹ These will detail processes and facilities to support the continued delivery of services in the event of disaster events and other problems with the primary service provision arrangements.

23.2 Contingencies and business continuity

485. As is the case for any responsible business providing a business critical service, the DCC will need to establish business continuity plans designed to ensure that it can continue to provide a service to its users under extreme circumstances.
486. Wherever possible, it is proposed that the SEC should define a set of contingency business process arrangements and associated service levels/obligations which will apply in the event of a major service failure, be that for reasons of force majeure being called under the SEC or other, non-force majeure events. These contingency business process arrangements will likely include details of how such arrangements are to be triggered, who pays, whether parties are compensated for actions taken, which SEC rights and obligations are modified and/or suspended, the associated timelines during which the contingency arrangements will apply, and how the contingency arrangements are switched off. To that extent, it will be important to consider how the DCC could be affected during a range of major service failures and, where both practical and appropriate, to define the contingency arrangements which will apply in such events.
487. It will also be necessary for the SEC to specify the role of the DCC under a range of contingency arrangements, where there would be a change to its normal operations. In such circumstances some of the obligations on the DCC may be suspended and other obligations may apply specifically to the operation of those contingency arrangements.

23.3 Consultation questions

Consultation questions: Unforeseen events

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| 61. | Please detail those events which you believe would warrant the force majeure provisions being exercised and indicate who should declare a force majeure event. |
| 62. | Please provide your thoughts on the proposal that the SEC should define a set of contingency business process arrangements and associated service levels/obligations which will apply in the event of a major service failure. |

23.4 Summary of proposed rights or obligations in the SEC

488. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC	<p>Obligation to develop, maintain, and apply agreed contingency and business continuity arrangements</p> <p>Obligation to manage the application of the force majeure provisions</p>

Party	Right/Obligation
	Right to be excused liability for a failure to perform, which was unavoidable even after the exercise of due care by that party, in the event of a force majeure event being declared
All other SEC Parties	Right to be excused liability for a failure to perform, which was unavoidable even after the exercise of due care by that party, in the event of a force majeure event being declared.

Chapter 24: Transfer of the DCC Licence

The DCC Licence contains provisions regarding the seamless transfer of its business to a successor DCC in the event of revocation or expiry of the Licence. The SEC will need to reflect and support the DCC Licence in this respect, most notably by the inclusion of a novation agreement for the SEC.

24.1 DCC Licence Obligations

489. As the DCC licence is only granted for a fixed term, the regulatory arrangements must make provision for the transfer of the DCC Licence. It is proposed that this will be achieved primarily through a DCC Licence condition⁵⁰ which imposes duties on the DCC designed to ensure that the authorised business will be transferred without disruption and in an orderly manner to a successor DCC in the event of a revocation or expiry of the DCC Licence.
490. To support delivery of these duties, it is proposed that the DCC will be required to put in place and maintain a Business Handover Plan (defined under the DCC Licence), approved by the Authority. It is further proposed that the Business Handover Plan must contain provision for the novation to a successor DCC of the DCC's interest in:
- The external service provider contracts, and
 - The SEC (and all bilateral agreements for services under or pursuant to it).
491. In the draft of the DCC Licence which is currently being consulted upon, a deed of novation for external service provider contracts is included as a draft schedule. However, no similar novation agreement for the SEC is proposed in the Draft DCC Licence, as it is proposed that this provision is more appropriately included within the SEC itself.

24.2 SEC Obligations

492. It is proposed that the SEC will need to include a schedule containing the novation agreement for the DCC's interest in the SEC (and including any elective communication services entered into pursuant to the SEC). The form of this novation agreement will likely follow a similar approach to the service provider contract novation agreement detailed in the Draft DCC Licence. It will be drafted so that SEC Parties other than the DCC will appoint the DCC (or, if there is one, the SECCo) as their agent to enter into the novation agreement.
493. The novation agreement for the SEC would contain provision for ensuring that the existing DCC retains liabilities and obligations in respect of any accrued or unperformed breach, act or omission prior to the date of DCC transfer.
494. The novation agreement would also need to contain provision to protect the successor DCC from assuming responsibility at any time for unperformed obligations, liabilities, and consequence of breach which occurred prior to the date of DCC transfer.

⁵⁰ Condition 42 of the Draft DCC Licence published alongside this consultation.

24.3 Consultation questions

Consultation questions: Transfer of the DCC Licence

63. Please provide your comments on the proposals outlined for the DCC transfer and whether there are any other specific provisions that you suggest need to be covered within the SEC, in addition to the proposed novation agreement for the SEC.

24.4 Summary of proposed rights or obligations in the SEC

495. The table below summarises the key rights and obligations on the DCC and various SEC Parties that would be included in the SEC in respect of the proposals described in this chapter. Where relevant this table also captures other related requirements, functions or powers that will fall to others who are involved in the governance and administration of the SEC but who will not themselves be SEC Parties (such as the Authority, SEC Panel and Code Administrator).

Party	Right/Obligation
DCC	Obligation to execute the novation agreement for the SEC.
Successor DCC	Obligation to execute the novation agreement for the SEC.
All Other SEC Parties	Obligation to appoint the DCC (or, if there is one, the SECCo) as their agent to enter into the novation agreement for the SEC.

ANNEX 1: SUMMARY OF CONSULTATION QUESTIONS

Chapter 3

Consultation questions: Participation in the SEC

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| 1. | Please provide any comments that you have on the classification of party categories under the SEC. |
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Chapter 4

Consultation questions: Involvement of the Meter Services Community

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| 2. | Are the requirements of both meter asset providers and meter operators for access to smart metering systems adequately captured in this consultation paper?

If not, please provide additional details of the requirements and why they are required. |
| 3. | Do you support the Government's preferred solution to implement a simple variant of Option B whereby the registration of a meter operator in the existing electricity and gas registration systems would be deemed to constitute a nomination by the supplier of that meter operator to act as its agent to perform a specific set of commands? |
| 4. | Should meter operators be given limited participation rights in SEC governance under Options B or C, and if so what rights would be appropriate? |
| 5. | Would you support the tracking of assets being included within the future system requirements for the new registration systems, which are proposed to be provided by the DCC? |

Chapter 5

Consultation Questions: Accession to the SEC

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| 6. | Do you agree with the process proposed for accession and the accession time limit? |
| 7. | Do you agree that once acceded, any SEC Party should be able to participate in the governance of the SEC prior to undertaking any further entry processes? |

Consultation Questions: Accession to the SEC

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| 8. | Do you have any views on the company, legal and financial information that should be provided as part of the SEC accession process? |
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Chapter 6**Consultation questions: Establishing readiness to receive the DCC's communication services**

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| 9. | Do you agree that Government should not mandate a specific solution for the DCC User Gateway and that Data Service Provider (DSP) bidders should be invited to propose the solution which they consider to be the most effective (such proposals could include the option of extending an existing industry network)? |
| 10. | Do you have any other comments on the Government's proposals for the DCC User Gateway? |
| 11. | Do you agree with the proposed DCC user entry processes? |

Chapter 7**Consultation questions: enrolling smart metering systems**

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| 12. | Do you agree with the proposed rights and obligations relating to smart metering system enrolment set out in this chapter? Please provide your views. |
| 13. | Do you agree that the SEC should require, as a condition of enrolment, that the supplier grants the right to the DCC to access its smart metering system for specified purposes? |
| 14. | Do you agree with the proposed rights and obligations relating to smart metering system withdrawal and replacement of devices? |

Chapter 8**Consultation questions: Core and elective communication services**

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| 15. | Do you agree with the three different types of eligibility to receive core communication services that have been proposed? |
| 16. | Are you aware of situations where there are two or more importing suppliers in relation to a single |

Consultation questions: Core and elective communication services

	smart metering system and if so, where do such situations exist, how many exist and what metering arrangements have been made?
17.	Do you agree that amendments to the set of core communication services should be subject to the standard SEC modification process?
18.	Do you agree that SEC Parties should be able to request elective communication services from DCC on either a bilateral or multilateral basis?
19.	Do you agree that the following SEC requirements associated with the provision of core communication services should also apply to elective service provision: DCC user entry processes, technical security requirements, data privacy requirements, financial security requirements and dispute arrangements.
20.	Do you agree that the SEC should set out mandatory procedures for the provision of an offer of terms for elective communication services by the DCC and with the mandatory procedures proposed? Do you consider that any additional procedures should apply? What do you consider are the appropriate timescales within which an offer of terms should remain open?
21.	Do you agree that commercially sensitive terms and conditions associated with elective service provision, which might include the type of communication service that is being provided, performance standards associated with the provision of that service and the price associated with that service, should be confidential between the DCC and the party or parties receiving the service unless the party or parties receiving the service consent or unless requested by the Authority pursuant to the DCC Licence?
22.	Do you agree that the SEC should contain provisions requiring that the DCC notifies SEC Parties of the timing of the implementation of changes to its systems?
23.	Do you agree that the DCC should only be required to offer terms for elective communication services from a specified date, and if so, what do you consider that date should be?

Chapter 9

Consultation questions: DCC charges

24.	Do you think that the proposed approach for DCC charging is reasonable?
25.	Do you consider that the “pay now dispute later” approach is consistent with the envisaged DCC regime? If you disagree please set out the reasons for your preferred approach.

Consultation questions: DCC charges

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| 26. | Do you accept that bad debt should be socialised explicitly within the current charging period across all DCC service users? If you disagree please set out the reasons for your preferred approach. |
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Chapter 12**Consultation questions: The SEC Panel**

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| 27. | Do you agree with the proposed functions, powers and objectives of the SEC Panel, as set out in Boxes 12A and 12B? |
| 28. | Do you think that a fully independent panel is the appropriate model for the SEC? Please give reasons for your answer. |
| 29. | Do you agree that the proposed SEC Panel composition set out in Box 12C is appropriate? Please give reasons for your answer, Alternative proposals for the panel composition are welcome. |
| 30. | Do you agree with the proposed division of voting and non-voting members, and in particular do you believe that the DCC should be a non-voting member in respect of any or all aspects of panel business? |
| 31. | Do you agree that the proposals for the independence, appointment and term of office of the panel chair are appropriate? Please give reasons for your answer. |
| 32. | Do you agree with the proposed arrangements for panel member elections and appointments? |
| 33. | Do you agree with the proposed rules in respect of proceedings and decision making at SEC Panel meetings? |
| 34. | Which of the two options for remuneration of panel members do you prefer, and why? In particular which of these options do you believe would be most aligned with each of the options for the panel to be either an independent or a representative body as a whole? |

Chapter 13**Consultation questions: Code Administrator & Secretariat**

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| 35. | Do you think the Code Administrator and Secretariat chosen by the SEC Panel should be contracted through the DCC or through a SECCo? |
| 36. | If a SECCo was established what should its funding arrangements, legal structure, ownership and constitutional arrangements be? |

Chapter 14

Consultation questions: Modification process

37.	Do you have any views on the proposals regarding which parties should be entitled to raise SEC modification proposals?
38.	Do you have any comments on the proposed standard progression paths for different categories of modification?
39.	Do you have any comments on proposed criteria that the panel would apply to judge whether a proposal is non-material and so to determine which path should be followed?
40.	Do you think it is for the panel or for the Authority to decide whether a modification proposal should be considered urgent and determine its timetable?
41.	Do you have any views on whether any non-standard modification rules and procedures should apply to any particular parts of the SEC?
42.	Do you agree with the proposal that responsibility for making final decisions or recommendations on SEC modification proposals should always rest with the SEC Panel and that this power should not be capable of delegation?
43.	Are there any further matters relating to the modification process which you would like to comment on?

Chapter 15

Consultation questions: Reporting

44.	Do you agree that that the SEC should place certain obligations on the SEC Panel and, possibly, SEC Parties with regard to the production, provision and publication of certain information and reports? If so, what do you believe these should be?
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Chapter 16

Consultation questions: Compliance and assurance

45.	Are there any particular areas of risk that you believe should be addressed by appropriate compliance/assurance techniques under the SEC?
46.	Do you have any views on the most appropriate governance arrangements for any compliance/assurance framework under the SEC?

Chapter 17

Consultation questions: Liabilities between the DCC and DCC service users

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| 47. | Do you have views on the options for the creation and enforcement of liabilities between the DCC and service users described in this chapter? |
| 48. | Do you agree that there should be a cap on liability for specific types of breach between the DCC and service users (including security breaches and physical damage). If so, what do you believe the appropriate level of these caps to be? |
| 49. | Are there any other specific types of liability between the DCC and service users that should be addressed in the SEC? If so, how should these be treated? |

Consultation questions: Obligations and liabilities between SEC Parties

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| 50. | Do you have views on the options for the creation and enforcement of obligations and liabilities between SEC Parties (excluding the DCC) described in this chapter? |
| 51. | In your view, do any of the potential matters between parties described in this chapter (or any other such matters that you are aware of) merit the inclusion of obligations or liabilities that are directly enforceable between parties under the SEC? |
| 52. | Do you agree that it would generally be preferable to enforce party obligations “centrally”, for example through an appropriate compliance or assurance framework under the SEC? |
| 53. | Are there any scenarios where you believe that it would be appropriate to allow for cost recovery between parties under the SEC? If so, what form should these arrangements take? |

Chapter 18

Consultation questions: Disputes

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| 54. | What types of dispute do you believe might arise under the SEC? |
| 55. | Do you agree with the proposed framework for resolving various different categories of dispute, as outlined in this chapter? |

Chapter 19

Consultation questions: Default

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| 56. | Do you have any views on the suggested framework for dealing with defaults under the SEC, including the events, consequences and procedures described? In particular, do you agree with the proposed role for the SEC Panel and have any view on what SEC rights or services it would be appropriate to suspend in the event of a default? |
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Chapter 20

Consultation questions: Ceasing to be a party to the SEC

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| 57. | Do you agree with the proposed rules and procedures governing withdrawal and expulsion from the SEC described in this chapter? |
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Chapter 21

Consultation questions: Intellectual property rights

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| 58. | In addition to the proposals above relating to the suggested intellectual property provisions to be included in the SEC, are there any other intellectual property provisions which should be considered for inclusion within the SEC? |
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Chapter 22

Consultation questions: Confidentiality

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|-----|---|
| 59. | What information should be classified as confidential under the SEC? |
| 60. | How should a balance be struck between transparency and data publication under the SEC, whilst maintaining confidentiality? |

Chapter 23

Consultation questions: Unforeseen events

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|-----|--|
| 61. | Please detail those events which you believe would warrant the force majeure provisions being exercised and indicate who should declare a force majeure event. |
| 62. | Please provide your thoughts on the proposal that the SEC should define a set of contingency business process arrangements and associated service levels/obligations which will apply in the event of a major service failure. |

Chapter 24

Consultation questions: Transfer of the DCC Licence

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| 63. | Please provide your comments on the proposals outlined for the DCC transfer and whether there are any other specific provisions that you suggest need to be covered within the SEC, in addition to the proposed novation agreement for the SEC. |
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ANNEX 2: SMART METERING BUSINESS PROCESSES

Introduction

The operation of the electricity and gas energy retail market is enabled by sets of business processes and information flows. These procedures are defined and set out in the various industry codes.

The introduction of smart metering will introduce new flows and business processes. These will include processes covering the installation of smart metering equipment. Further, the introduction of the DCC will also require the introduction of new business processes.

The Programme has worked closely with industry to develop the new data requirements and business processes to facilitate the introduction of smart metering. The Business Process Design Group was established to specify the new processes, activities and information flows, and the changes needed to existing arrangements. Work on the business processes will continue as the detail of the SEC is developed further.

SEC parties will be obliged to comply with the relevant business processes in performing their obligations under the SEC. The business processes will form subsidiary documents to the SEC and may be capable of change following the agreement of the SEC panel. Contained in this annex is an overview of the business processes that have been developed to date.

The detail of the business processes is available on request, by sending an email to the Business Process Design Team at bpdg@decc.gsi.gov.uk.

Installation of the smart metering system

BPM 01.01, 01.02

Prior to installation, the registered energy supplier will need establish whether communication network coverage is available at the site where it wishes to install smart metering systems. The supplier will also inform the DCC of the smart metering system that is to be installed so that the DCC can “look up” the devices on its inventory of certified devices⁵¹.

At the point of installation, the smart metering system will send a message to the DCC so that a secure communication link may be established. Once the link is established the metering system is enrolled with the DCC.

Other metering systems that are capable of remote communication may also be enrolled into DCC services. In these circumstances, the DCC will undertake any necessary investigations to assess changes required to make such metering systems fit to be enrolled and will offer terms for the provision of such modification or reconfiguration services.

⁵¹ This presumes that there is an established industry certification process.

Operation of the Smart Metering System

BPM: 02

The operation of the smart metering system will involve the management of service requests sent by DCC service users (and service responses) and management of data initiated by the smart metering system.

Prepare and execute a product update

BPM: 02.01

The DCC service user will prepare and send a service request for a product update. For example, these include (but are not limited to) tariff updates, firmware updates or operating mode of the smart metering system. The DCC will validate then execute these service requests. On successful delivery to the smart metering system, the DCC will circulate the service response data to the appropriate DCC service user.

Manage meter readings

BPM: 02.02

The DCC service user may provide the DCC with a service request of a schedule for meter reads to be taken. The DCC will execute the read request at the scheduled time and will maintain this schedule until notified by the user to remove the schedule.

Prepayment activities

BPM: 02.03

Prepayment customers will have the ability to get their suppliers to remotely top-up their prepayment smart metering system or have the ability to input locally the relevant information to add a credit to the prepayment smart metering system.

Where the supplier receives a request to top up the smart metering system it will send a service request to the DCC that will then generate a Unique Transaction Reference Number (UTRN). The UTRN is issued to the registered supplier for their records and is sent to the prepayment smart meter to update the consumer's credit on the meter.

In addition, a process allows the consumer to add credit to their prepayment meter locally. In this scenario, the DCC would respond to a message generated by the smart metering system by sending the necessary data to the registered supplier.

Alerts and Alarms

BPM: 02.04

These will be generated by the smart metering system and sent by the DCC to the relevant DCC service user and be logged by the DCC so that it is registered within the events management process. Alerts and alarms are configurable items on the energy smart metering system.

Change of tenancy (CoT)

BPM: 02.05

This process is initiated by the registered supplier. The DCC is informed of the CoT date that will act as a trigger for the DCC to block access to the previous tenant's data.

Change of supplier

BPM: 04

This process is initiated by the incoming registered supplier that sends a notification message to the DCC. The DCC validates that the new registered supplier is linked to the relevant meter point. Once validation is successful, the DCC will execute service requests as requested on behalf of the new registered supplier.

Removal of DCC services

BPM: 03.01, 03.03

This activity is initiated by a command from the registered supplier to withdraw a smart metering system. This process may occur when a smart metering system is being opted out of DCC services or when the metering point is being removed.

Decommissioning

BPM: 03.01

At the request of the registered supplier, decommissioning involves the removal of one or more smart metering device(s) from a customer premises. The registered supplier will notify the DCC of the change to the smart metering system. DCC will update its inventory.

Access and Security

BPM: 05

Before the DCC executes a service request, it validates the data to ensure that the party requesting the service is entitled to do so and that the service request is in the correct format. In addition, the DCC will ensure that the response received from the smart metering system is only circulated to parties entitled to receive that data.

Manage access control

BPM: 05.01 to 05.05A

Access control is managed by the DCC to ensure that only eligible parties are able to send or receive data from the smart metering system. When a message is received by the DCC, it will authenticate and authorise the request prior to sending it to the smart metering system.

Manage circulation control

BPM: 05.06, 05.07

Circulation control is managed by the DCC to ensure that any message being received into the DCC from a smart metering system is valid and correctly communicated to the relevant DCC service user(s). Messages from the smart metering system are authenticated by the DCC prior to being circulated to the DCC service users.

Manage message translation

BPM: 05.08 to 05.11

Any outgoing message is translated into the correct format for the smart metering system and is encrypted to ensure security compliance. Similarly, any incoming message is translated and decrypted into a format that is readable by the DCC.

DCC Service Management

BPM: 06

DCC service management processes ensure that the DCC services and network are functioning appropriately. The business models set out processes to ensure that the DCC is made aware of, and manages, identified problems and that DCC service users are kept informed. The DCC will manage a help/knowledge desk to assist with service user queries.

ANNEX 3: GLOSSARY

The following defined terms are used a number of times in this document and are capitalised throughout to indicate that they should be read as having the meanings set out below. It should be noted that while a number of the definitions below may appear formal (particularly where they are derived from definitions contained in proposed legal documents such as the Draft DCC Licence) they are not intended as full legal definitions and should not be read as such. A number of other capitalised terms appear in the document, but where these have been defined and used in a single chapter, and their meaning is therefore clear in context, they have not been included in the list below.

The Authority	See Gas and Electricity Markets Authority below.
Code Administrator	An organisation that will be appointed by the SEC Panel to advise and assist the SEC Panel, SEC Parties, and other interested persons in connection with the SEC and in relation to matters that will be specified in the SEC.
Communications Hub	A device or set of devices located at the customer's premises which will have the capability to communicate with the SMHAN and the SMWAN. These devices will be delivered as a part of the smart metering roll-out.
DCC Go-Live	The date at which the DCC starts providing communication services, as defined under the DCC Licence.
DCC Licence	A licence that is granted, or treated as granted, under section 7 or 7A of the Gas Act 1986 or under section 6 of the Electricity Act 1989. The DCC licence is the subject of a separate consultation in parallel with this consultation.
Foundation stage	The period prior to the start of the Mass roll-out phase.
Gas and Electricity Markets Authority	The Gas and Electricity Markets Authority that is established under section 1 of the Utilities Act 2000.
In-Home Display	A device in a consumer's home which provides information on a consumer's energy consumption.
Mass roll-out stage	The period between DCC Go-Live and the fulfilment of the roll-out obligation as specified in the roll-out licence conditions.
Nominated Meter Party	For the purposes of this consultation document, this refers to any SEC Party that would participate under the SEC in the potential additional SEC Party category of Nominated Meter Party, were Option C to be adopted as discussed in chapter 4 of this document.

Open Standard

The European Union definition of an open standard (taken from “European Interoperability Framework for pan-European eGovernment Services”) is:

- the standard is adopted and will be maintained by a not-for-profit organisation, and its ongoing development occurs on the basis of an open decision-making procedure available to all interested parties (consensus or majority decision etc)
- the standard has been published and the standard specification document is available either freely or at a nominal charge. It must be permissible to all to copy, distribute and use it for no fee or at a nominal fee
- the intellectual property of the standard is made irrevocably available on a royalty-free basis, and
- there are no constraints on the re-use of the standard.

Other User of the DCC’s communication services (“Other User”)

For the purposes of this consultation document, this refers to any SEC Party that participates under the SEC in the SEC Party category of Other User as explained in chapter 3 of this document.

Relevant SEC Objectives

The objectives that the Smart Energy Code (“the SEC”) is designed to achieve, as listed in Part C of Condition 22 of the DCC Licence (The Smart Energy Code). These are set out in chapter 11 of this document.

SEC Commencement Date

The date on which the Smart Energy Code has effect (and, except where the Secretary of State otherwise directs, will be the same as the date that the DCC Licence comes into effect).

SEC Panel

The panel that will be established under the SEC to oversee the governance and administration of the SEC, with prescribed powers and functions, as described in chapter 12 of this document.

SEC Party

A person who has acceded to the SEC. This will include the DCC and every holder of an energy licence who is required by a condition of that licence to be a party to and comply with the SEC. It may also include unlicensed parties. The SEC accession requirements and procedures are described in chapter 5 of this document.

Secretariat

An organisation to be appointed by the SEC Panel to service the panel in connection with such matters of governance and administration as are specified in the SEC, including the maintenance of a conformed and duly certified copy of the SEC as from time to time modified.

Smart Meter Home Area Network (SMHAN)	A short-range network that is present within the proximity of the consumer's premises and which connects the components of a smart metering system.
Smart Meter Wide Area Network (SMWAN)	The wide area network that will enable connectivity of the DCC to the Communications Hub.
Smart Metering Equipment Technical Specification (“the SMETS”)	The document designated by the Secretary of State to describe the minimum capabilities of equipment installed to satisfy the roll-out licence conditions placed on suppliers.
Supplier Nominated Agent	For the purposes of this consultation document, this refers to any party that may be nominated by a supplier to act as its agent under the SEC, as explained in chapter 4 of this document.

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