

**Memorandum of Understanding
Between
The Gas and Electricity Markets Authority
And
The Secretary of State for Energy and Climate Change**

1 Introduction

This Memorandum of Understanding (the "MoU") is between the Gas and Electricity Markets Authority (the "Authority") and the Secretary of State for Energy and Climate Change ("the SoS"). The Authority is supported by the Office of the Gas and Electricity Markets ("Ofgem") and Ofgem E-Serve which is a division of Ofgem. The SoS is supported by the Department for Energy and Climate Change ("DECC").

The purpose of the MoU is to establish a framework for liaison between the Authority and the SoS in connection with any Schemes (see schedule for definition of Schemes). This MoU describes the general working arrangements for communication and co-ordination, with specific details being addressed on a scheme by scheme basis. The MoU framework addresses:

- liaison in respect of the feasibility, development, implementation and closure or any other assistance provided by Ofgem in connection with the Schemes;
- a process for agreeing and providing funding required to deliver those Schemes; and
- a process for early engagement on proposed new schemes or changes to existing Schemes.

The SoS is responsible for the development and implementation of energy and climate change policy, including the design and financing of Schemes to deliver environmental, sustainability and value for money objectives. For schemes where the Authority has or may have a statutory administration responsibility, Ofgem will assist DECC in seeking value for money scheme development and implementation. The Authority is responsible for exercising its own independent judgement in respect of its statutory functions under domestic and EU law.

This MoU provides a general framework and is not intended to be legally binding and nothing in this MoU is intended to in any way replace or affect the legal powers and duties of the SoS or the Authority. However, both parties shall endeavour to comply with the provisions of the MoU.

2 Working Relationship

We will build on the good working relationship that already exists between us by:

- being open, straightforward and constructive in our communications and actions;
- working together at all levels, wherever appropriate;
- enabling early engagement on new scheme design or existing scheme changes;
- respecting each other's views, where different, and ensuring a proper understanding of the reasons for any such differences;
- highlighting areas of interaction and setting out what each expects of the other, recognising that each has distinct governance, responsibilities and decision-making arrangements;

- minimising duplication of activity wherever possible;
- ensuring lessons are learned and an approach of continuous improvement is pursued.

3 Process for the Development and Implementation of Individual Schemes

The SoS's policy is that delivery of new Schemes should be contestable, recognising that the best response may be delivery by the Authority. DECC will accordingly inform Ofgem of any proposed new Scheme to enable the fullest possible early engagement, consistent with that policy, to take place between Ofgem and DECC where Ofgem's experience and expertise may be useful. This will, include, as appropriate, engagement on how to develop legislation. For existing schemes, DECC will endeavour to consult and engage fully with Ofgem in good time and as appropriate on proposed changes to policy design and legislative drafting and invite Ofgem E-Serve's comments with a view to jointly improving scheme design and implementation. Both parties recognise that deadlines will sometimes be tight and will work flexibly and co-operatively to support delivery.

It is expected that individual Schemes undertaken by Ofgem will generally comprise four phases: feasibility; development; implementation and closure. For schemes funded by DECC, the parties shall agree in advance by exchange of letters the scope and funding for each of the feasibility, development and implementation phases. The exchange of letters will be sufficient to allow the Authority to discharge its statutory duties and will also allow the SoS to discharge his accountability for public spending and policy, by understanding the outcomes that the Authority expects to achieve, the costs of achieving those outcomes and how they are comprised, and how information flows will allow a clear view of progress towards those outcomes.

In line with this, for each individual Scheme the parties will agree:

- the roles and responsibilities of DECC and Ofgem, including expectations of what will be done by each party and the nature and purpose of regular meetings;
- scope of activities, key assumptions and dependencies and risk management;
- funding requirements, including any contingencies, and how they are composed;
- what outcomes are expected from that funding and when, and how progress will be assessed and audited, where necessary;
- how unplanned developments will be handled, and the process by which (if a change in approach may be needed) Ofgem will work up options and associated costs in response and agree a way forward with DECC;
- an agreement on information exchange for the purposes of policy development and implementation;
- timing and frequency of lessons learned reports, and review of schemes;
- arrangements for closure of schemes, as appropriate.

The SoS and the Authority will assess whether equivalent information is in place for existing schemes and, where it is not, agree such information in a timely manner.

The Parties will look to drive value for money in design and operation, both of individual schemes and across schemes as a whole.

4 Scheme Funding

In relation to Schemes funded by DECC, DECC will reimburse Ofgem for all costs, expenses and overheads incurred by Ofgem as agreed in advance for each Scheme. DECC will confirm the

availability of funding in sufficient time to enable Ofgem to carry out its activities within the required timescales. Regular financial reporting arrangements will be in accordance with the agreed Ofgem/DECC Finance Guide.

Ofgem will, where practicable, from the earliest opportunity keep DECC informed of significant risks of contingent events and associated risks of financial liabilities (including arising from possible litigation) that may require additional DECC funding, and discuss handling as appropriate. Subject to this, DECC will fund reasonable Ofgem financial liabilities, costs, expenses and overheads arising from such contingent events.

DECC and Ofgem will work together to agree fair, reasonable and transparent methodologies for cost inputs to requirements for individual schemes, such as overheads.

5 Scheme Information

Adequate and timely information exchange between the parties is vital to ensure effective policy and scheme development and delivery. Information will be shared between the parties on matters of common interest, including for the purposes of:

- informing future policy design;
- assessing whether policy intent is being delivered, including scheme user experience;
- understanding the costs of scheme implementation and how those costs are composed and value for money ensured; identifying and addressing any risks or issues that may arise during development or implementation of the schemes.

Information exchange requirements will be agreed in advance on a scheme by scheme basis during feasibility and development phase and will be supported by the relevant processes, systems and data sharing agreements, with specific supporting documentation for each of the schemes. Sufficient funding will be provided for these purposes.

The parties recognise that ad hoc information may be required and this will be provided where practicable with changes to the scheme information requirements being managed through the change management process.

The SoS and the Authority will assess whether equivalent information is in place for existing schemes and, where it is not, agree such information in a timely manner.

6 Managing Changes

Changes to the Schemes or changes impacting on them which necessitate changes to the Scheme will be managed following an agreed change management process. Whenever possible, Ofgem will provide options for the implementation of changes in order to assist DECC decision making. DECC will provide early visibility of policy intent and amended legislation in order for Ofgem to produce these options.

The existing change management process will be enhanced to establish:

- what changes trigger the application of the Change Control Process (whether initiated by the Authority or the Secretary of State) including, but not limited to changes impacting on funding, scope, timing and outcomes;
- the changes required and the impact on the scheme including funding, scope, timing and deliverables using an agreed Change Request Form;

- minimum notice periods for requesting and agreeing a change, and an urgency process for agreeing urgent changes;
- an escalation process where DECC and Ofgem are unable to reach agreement.

7 Coordination and Liaison

We are both committed to co-operation and communication to ensure effective liaison in respect of the Schemes. We will each appoint a Senior Liaison Officer at Director level in both organisations to provide senior ownership of the relationship, and to ensure MOU arrangements are implemented.

The Senior Liaison Officers will also be responsible for ensuring that a) change management and b) financial reporting procedures are kept up to date, and also c) for reviewing the ongoing operation of this MoU on a regular basis.

If any issue arises in connection with the MoU or Schemes that cannot be agreed by the Senior Liaison Officers, the issue should be referred in the first instance to DECC/Ofgem Accounting Officers and if still unresolved then to the Chairman of the Authority and the SoS respectively for determination.

8 Cancellation

In the event of cancellation of any Scheme, subject to ensuring that any statutory obligations or procedures required to effect that cancellation are carried out, the SoS will inform the Authority as soon as it becomes aware of the possibility that a Scheme may be cancelled and in any event provide reasonable notice of the cancellation. Cancellation includes a decision by the SoS to transfer a Scheme to a third party. Cancellation will be treated as a contingent event that may require additional DECC funding.

To the extent permitted by law the Authority may decide not to proceed with a new Scheme or to withdraw from participation in a Scheme in which case the Authority will provide the SoS with reasonable notice of its decision.

9 Other Matters

Each Party will provide the other with advance notice as soon as reasonably practicable where it becomes aware there is a likelihood of significant announcements and developments in respect of the Schemes and liaise in order to align communications effectively.

The parties will liaise and keep each other involved in and informed of any significant issues and developments arising in connection with the Schemes in order to:

- facilitate and inform policy development; and
- address any suspected abuse, misuse, misreporting or other irregularities arising in connection with any of the Schemes.

In the event of any claims or proceedings being brought by any third party in relation to a Scheme, the party to this MoU against whom the claim or action is brought shall be responsible for the conduct of any defence and the other party shall at all times cooperate fully with the defending party in the conduct of the defence.

Signed by the Secretary of State acting by:

Signature



Name SIMON VIRLEY

Position DIRECTOR GENERAL ENERGY MARKETS AND INFRASTRUCTURE

Signed for the Authority acting by:

Signature



Name ALISTAIR BUCHANAN

Position CHIEF EXECUTIVE OFGEM

DATE: 25. 3. 13