

UNC Modification	At what stage is this document in the process?
<h1>UNC 0760:</h1> <h2>Introducing the concept of a derogation framework into Uniform Network Code (UNC)</h2>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid green; background-color: #28a745; color: white; padding: 2px; display: flex; align-items: center; justify-content: center;">01 Modification</div> <div style="border: 1px solid #17a2b8; padding: 2px; display: flex; align-items: center; justify-content: center;">02 Workgroup Report</div> <div style="border: 1px solid #ffc107; padding: 2px; display: flex; align-items: center; justify-content: center;">03 Draft Modification Report</div> <div style="border: 1px solid #ffc107; padding: 2px; display: flex; align-items: center; justify-content: center;">04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>This Modification seeks to introduce a framework for derogation as a concept in the Uniform Network Code (UNC), defining when and how these can be requested (Use Cases),, as well as the process around consideration and approval or rejection of derogation requests. Also includes a Use Case for 'Net Zero Innovation' including the parameters, and evidence required.</p>	
	<p>The Proposer recommends that this modification should be:</p> <ul style="list-style-type: none"> considered a material change and not subject to Self-Governance assessed by a Workgroup <p>This Modification will be presented by the Proposer to the Panel on 18 March 2021 The Panel will consider the Proposer's recommendation and determine the appropriate route.</p>
	<p>High Impact:</p> <p>Gas Transporters (including National Transmission System), Shippers, Central Data Service Provider (CDSP), & 3rd parties involved in innovation projects may be consequentially impacted by any derogation requests approved by this framework.</p>
	<p>Medium Impact:</p> <p>None</p>
	<p>Low Impact:</p> <p>Suppliers, end consumers</p>

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Timetable			
The Proposer recommends the following timetable:			
Initial consideration by Workgroup	25 March 2021		
Workgroup Report presented to Panel	16 September 2021		
Draft Modification Report issued for consultation	16 September 2021		
Consultation Close-out for representations	06 October 2021		
Final Modification Report available for Panel	08 October 2021		
Modification Panel decision	15 October 2021		

1 Summary

The Proposer has looked to take the best practices from other energy Codes, and Ofgem's derogation process, and has discussed this proposal with a representative from Ofgem. The Proposer has also sought the opinion of the current Uniform Network Code (UNC) Panel Chair, who chairs many other industry Panels, including ones in the financial sector. The Chair has been able to offer valuable guidance based on her experience as to how derogation works in these other sectors.

What

Currently there is no concept of derogation within the UNC, which means that where, for example, an innovation project need to be trialled there either needs to be a Modification to amend the relevant part of the UNC, which changes this for all on a non-time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed.

The concept of derogations exist within Ofgem's Licence Conditions and other Codes (such as Distribution Connection and Use of System Agreement (DCUSA), Balancing & Settlement Code (BSC) & Supply Point Administration Agreement (SPAA)) and therefore it would seem logical that this principle should also exist within the UNC.

Why

There are different scenarios, where there may be a need for a UNC Party to request a derogation. Currently this concept exists in other codes, with each code having specific cases where a party is eligible to apply. Without the concept of derogation, and a framework that lays out how this works, within UNC, there is no opportunity for derogation for any reason. Creation of the derogation framework should allow for different types of derogation categories 'Use Cases' to be defined as they are required by industry.

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC

The first Use Case, included in this proposal, would be in relation to Net Zero Innovation. Industry Codes are seen by many to prevent or restrict innovation. The process of requesting change can be lengthy and for new concepts, where there is no proof of benefit, it can be almost impossible to get positive decisions in a timely manner, if at all.

A large number of innovation projects and trials relate to facilitating the path to net zero. This is aligned with the Government's 10 Point Plan as well as Licence Conditions in place in RIIO (Revenue=Incentives+Innovation+Outputs) - 2.

Gas Transporters have obligations in the RIIO - 2 Licence amendments and their price control in relation to net zero, and innovation relating to net zero. Currently the innovation projects are hampered by the need to find solutions within the existing Code to allow for trials to take place. This not only restricts the solutions, but causes additional time and cost to the project, whilst not able to trial a complete solution (including changes to Code).

Facilitating innovation projects that further net zero is not only in line with Ofgem's, but also the United Kingdom's, strategic direction.

How

This will be done via two separate, but associated elements within this modification request, both of which we expect to be implemented concurrently.

Firstly, to introduce the concept of derogation as a framework within the UNC including the parameters around how this can be applied for, evidence required, restrictions, and decision-making criteria, into the UNC. There will be separate use cases for derogation, with each use case being defined within the UNC, The idea is to allow UNC parties to apply for a derogation, under the relevant Use Case which the derogation request qualifies under, for their organisation.

Derogation requests may be for one, or a combination, of:

- a limited time or specific outcome goal,
- a specific area of code, and or
- a regional exclusion.

Derogations may be applied against the majority of sections of UNC and its related documents, except the following:

- Modification Rules,
- General Terms A (Dispute Process),
- any part of the UNC covered by a live Significant Code Review (SCR),
- any part of the UNC that impacts the ability of Suppliers or end consumers to switch

Secondly, will be to introduce the concept / principle of Use Cases under the derogation framework, with the introduction of Net Zero Innovation being the first Use Case..

2 Governance

Justification for Authority Direction

The Proposer believes that the modification will cause a material change to the UNC governance procedures or modification procedures by introduction of the concept of derogation throughout the UNC. This, under the Self-Governance criteria, as defined in the Gas Transporters Licence Standard Special Condition A11, 'excludes a proposal that, if implemented is likely to have a material affect on the Uniform Network Code governance procedures or the Network Code modification procedures'.

In addition, whilst this modification does not have a material impact on competition or operation of the pipeline system, should this modification be approved then derogations of material impact may be requested for consideration, therefore the Proposer believes this consequential impact supports the proposal that this modification should be sent for Authority Direction.

Requested Next Steps

This modification should:

- be considered a material change and not subject to Self-Governance
- be assessed by a Workgroup

3 Why Change?

Derogation Framework

Currently there is no concept of derogation within the UNC, which means that where, for example, an innovation project needs to be trialled there either needs to be a modification to amend the relevant part of the UNC, which changes this for all on a non time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed, which in turn may hamper the ability for an accurate assessment of the validity of the outcomes.

Derogations already exist as a mechanism within Ofgem's Licence Conditions and other Codes (eg DCUSA, BSC & SPAA) and therefore it would seem logical that this principle should also exist within UNC. The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC.

Derogations may be applied against the majority of sections of UNC and its related documents, except the following:

- Modification Rules, including rules around derogations (once added)
- General Terms A (Dispute Process),
- any part of the UNC covered by a live Significant Code Review (SCR), or
- any part of the UNC that by derogation being granted, would impact the ability of Suppliers or end consumers to switch

Derogations from Licence or HSE requirements are out of remit of this modification, however any UNC derogation approved would be deemed to only be valid where the other relevant derogations have also been granted.

All derogations will need to have supporting evidence provided, as per *Derogation Guidance Document*, further changes to which will fall under Uniform Network Code Committee (UNCC) control.

Below is a brief outline of how the derogation framework would work in code and the guidance document.

Derogation requests would need to be submitted to the Joint Office in accordance with the Innovations Derogations Guidance Document, to be circulated to UNC Panel members. Panel members will discuss the request at the first available UNC Panel, following a period of at least ten [10] Business days after submission to the Joint Office. Derogation requests must be submitted using the derogation application form with all sections completed, along with appropriate accompanying evidence.

Should the submitted evidence meet the minimum criteria as stated in the guidance document, the panel will vote to send the derogation out for industry consultation. The derogation, along with consultation responses will then be brought to the next available UNC Panel.

Panel members have discretion [based on majority] to defer derogation to a future Panel or specifically convened Panel for any application/s with a large volume of supporting documentation, or more complex applications.

Following receipt and discussion of consultation responses, panel have the ability, at their discretion to request additional information, and/or request a new, additional, consultation,

Derogation requests require a [unanimous] Panel vote in support of implementation to be approved.

Interested Parties have the ability to raise an appeal to The Authority within 15 days of the Panel decision. The Authority have the ability to overrule any Panel decision as the outcome of any appeal.

The derogation will take effect from the agreed date (no earlier than 16 days from date of decision), subject to no appeal raised being upheld, or remain outstanding with The Authority.

Should a derogation request not be approved by Panel, the application can only resubmitted if there is a material change to the proposed derogation request or reasons for rejection have been addressed.

Once a derogation has been approved the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, length of derogation, and any other specific conditions (eg location), will be published on the Joint Office website.

Whilst a derogation is live, any specific Meter Point Reference Numbers (MPRNs) that are included in the trial will have a flag in Data Enquiry Service (DES) to indicate that they are part of an Innovation Trial. For the avoidance of doubt, should a derogation be granted that covers an MPRN, but the MPRN is not actually part of the trial, the flag will not be active.

All derogations are either time or goal bound, and should the derogation result in demonstrated feasibility then a code modification will be required to be raised, and go through standard UNC modification proposal governance to request enduring changes to the UNC. The evidence from the trial should be included as part of the modification proposal justification, to aid industries, UNC Modification Panel and, where applicable, Ofgem's assessment.

Derogation Use Cases will be clearly defined in code and the qualifying parameters defined within the Guidance documents. Should a new Use Case be requested this will require a UNC modification to approve it to be added to code, with UNCC approval of the guidance document amendment to include the relevant parameters. Any approved Use Case will not be deemed live until the relevant parameters have been also been approved by UNCC. It is expected that the proposed changes to the guidance document will be developed in UNC workgroup as part of the workgroup discussions and development of the Use Case modification proposal.

Variations to approved (whether started or not) derogations may be requested by submission of a new derogation request via Joint office clearly showing it is intended to supersede the original derogation. This application should include clear change marking of differences to the already approved derogation, along with explanation and justification of the reason for the variation. It should be noted that an approved derogation does not need to be used in its entirety (eg 4500 MPRNs approved, only 2300 actually using derogation in reality,) and in these instances the proposer does not need to (but retains the option to) request a variation.

For example, a variation would be expected to be requested where evidence is unable to be provided to support a UNC modification proposal until late within the derogation, or the UNC modification proposal is taking longer than originally anticipated. In this case the proposer has the ability to request an extension to the derogation as a variation based on the raising and timeline of the modification proposal.

Net Zero Innovation Use CaseThe Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC.

Currently, Innovation projects need to come up with ways to ensure that they stay within the existing Code framework. However for more challenging items, e.g. net zero, this may not always be possible. This 'restriction' can cause lengthy delays to innovation projects whilst they come up with alternative solutions to ensure Code compliance. The other option available to them is to raise a modification to change existing Code, this is then done without fully knowing whether these changes work to fully facilitate the innovation project's intended outcomes. If any changes needed to be reversed a further new modification would then be required.

Without the concept of derogations within the UNC, multiple innovation projects could be delayed or abandoned as there could be no effective way to trial the benefits without needing Code changes. Gas Transporters have obligations in the RII0 - 2 licence amendments and their price control in relation to net zero, and innovation relating to net zero. Currently the innovation projects are hampered by the need to find solutions within existing code to allow for trials to take place. This not only restricts the solutions, but causes additional time and cost to the project, whilst not able to trial a complete solution (including changes to Code). These potential innovation projects and trials relate to facilitating the path to net zero and could be considered of national importance.

Facilitating Innovation projects that further net zero is not only in line with Ofgem's, but the United Kingdom's strategic direction. With the Prime Minister including in The Ten Point Plan for a Green Industrial Revolution '*Hydrogen: Working along side partners in industry aiming to generate 5GW of low carbon hydrogen production capacity by 2030 Together this will develop resilient supply chains, support jobs and position UK companies at the forefront of an exciting growing global market, as well help things like industrial processes, industrial heat, power, shipping and trucking to make the shift to net zero.*'. His pledge in support of Hydrogen as a green energy '*by a range of measures, including a £240 million net zero Hydrogen Fund*' can only be achieved by industry working together to facilitate the associated innovation projects that would allow targets including a hydrogen heating trials by 2023, and a hydrogen town by the end of the decade, to be met.

Below is a brief outline of how the Net Zero Innovation Use Case would work in code and the guidance document.

Net Zero Innovation derogations will be time, and possibly location, limited in nature to allow for a Net Zero project, trial or demonstration. The nature of these would usually be in relation to Innovation projects that have already been in place for a number of years and have met project related milestones before even considering a trial or demonstration.

The use case will be defined in code with clear qualifying criteria parameters, which will include it being for non-commercial innovation projects (ie, open Intellectual Property)

The evidence threshold will be clearly laid out within the guidance document with clear detail as to the type of evidence required.

4 Code Specific Matters

Reference Documents

All areas of the Uniform Network Code and its related documents.

Data Services Contract

Knowledge/Skills

Comprehensive understanding of the Uniform Network Code and related documents.

An understanding of the concept of Derogation, within energy or other industries, would be helpful.

5 Solution

Business Rules

Derogation framework

1. Applications for derogations can only be made by valid UNC ~~licenced p~~Parties ~~and relevant persons~~ as defined in UNC ~~Modification Rules (MR)~~General Terms A1.1.2(b)-6.1.1, 6.1.2
2. Applications for derogations must clearly state which Use Case/s the derogation is made under. Derogation requests not submitted under, or meeting criteria of, a Use Case will be rejected.
3. Applications for derogations will only be deemed valid applications when made in accordance with the *Derogation Guidance Document (see appendix 1) as implemented with this modification and published on the Joint Office of Gas Transporters website.*
4. The following areas are out of scope for derogation applications
 - a) Modification Rules
 - b) General Terms A (Dispute Process)
 - c) Live Significant Code Review
 - d) Any part of Code that should a derogation be granted, would impact a supplier's, or end consumer's, ability to switch
 - e) 3rd party documents (eg NExA, NEA etc) cannot be derogation from under this process
5. Derogation requests would need to be submitted to the Joint Office, to be circulated to UNC Panel members. Panel members will discuss the request at the first available UNC Panel, following a period of at least ten [10] days after submission to the Joint Office
6. Initial Panel meeting will be to approve, by Panel majority, the Derogation request to be sent for industry consultation, with a second standard panel meeting to discuss responses received to consultation and vote on approving, by Panels unanimous consensus, the derogation request. The standard consultation period is 15 days, ending no more than 10 days before the scheduled Panel meeting where the Derogation is to be considered, however Panel have the discretion (by majority) to shorten or lengthen either or both of these this on a case by case basis.
 - a. Panel have the ability, to request additional consultation questions to be included on a case by case basis.
 - b. Panel have 'send back' abilities aligned to UNC MR 9.3.1 & 9.3.2 (Consultation) as well as the ability to send for an additional consultation which will defer any vote in relation to support of

implementation until the next Panel, or 1st Panel no less than 5 Business Days after the Joint Office has received the relevant responses as requested by Panel.

7. A representative of the submitting party must be present at each of the relevant Panels to present a summary of the request and answer any questions Panel may have.
8. [Panel members have discretion based on Panel majority to defer the vote to approve derogation to a future Panel (excluding extraordinary Panel) for any applications with a large volume or of supporting nature, or more complex applications.]
9. Derogation requests require a [unanimous] Panel vote in support of implementation to be approved.
10. [The Authority have the ability to overrule any Panel decision within 15 days of Panel decision.]
11. The derogation will take effect from the agreed date (no earlier than 16 days from date of decision), unless overruled by the Authority, or subject to an active appeal to the Authority.
12. Should a derogation request be rejected by Panel, then there is no right of appeal to Panel, nor can the application be resubmitted without it containing material changes.
13. Authority appeal process is aligned with Modification Rules (MR) 13.5 – 13.11

14. Approved derogation requests will only be deemed to be valid once any other required and relevant licence, or mandated body, derogation has also been granted.

14-15. Where a derogation is approved for a stated length, with an unfixed start date, or is dependent on items as per the above business rule, this will be granted with a backstop date. The start date of the actual derogation within this period will be confirmed by the UNC Panel following consultation with the applicant and Code Administrator after the granting of the derogation has occurred. This date will be communication to all relevant parties, including Ofgem, and published on the website no later than 16 working days before it is due to commence.

15-16. Once a derogation request has been rejected or approved the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, length of derogation, and any other specific conditions (eg location), will be published on the Joint Office website no sooner than the business day following the business day in which the notice in Business Rule 15 has been sent.

16-17. A notice of rejection or approval of Derogation, including the information included in Business Rule 14, or where applicable a notice of rejection of Derogation, will be issued to the applying party as soon as practicable.

17-18. An approved Derogation may be used in its entirety, or used in a limited capacity by the application party (eg a derogation may be approved for 4500 meter points, however only 2500 meter points may actually be part of the trial).

18-19. An approved derogation may be varied by submission of a new derogation request via Joint office clearly showing it is intended to supersede the original derogation, along with clear change marking of differences to approved derogation.

19-20. At the end of the derogation period/milestone the proposer must issue a statement to the Code Administrator confirming that they have now reverted back to standard UNC, including any system changes. This should be submitted on (or before) the date the derogation ends. [Should this not be received it will be assumed that the party is in breach of code].

1. Use Cases, are defined in UNC, with additional information provided in the guidance documents
2. Removal. Updating of (UNC text), or addition of Use Cases needs to be requested via UNC standard modification process. (for the avoidance of doubt, changes to additional text in the Guidance Document is required to follow the standard UNCC process for Code Related Documents)

Net Zero Innovation Use Case

1. A derogation request may only be submitted where is related to a project, trial or demonstration that is directly relating to net zero, as defined in the Gas Transporters Licence Special Condition 1.1 ~~non-commercial research~~, as defined by Imperial College London, and in accordance with the required evidence and parameters as stated in the Derogations Guidance Document

4.

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6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This modification proposal itself does not impact the current SCR. The modification proposal, should it be implemented, excludes any areas of Code relating to any live SCR from being included in a derogation request.

Consumer Impacts

Derogation allows for temporary changes to specific parts of code under set parameters, this should cause less impact to the market, and therefore consumers, than a full modification change that affects all parties, allowing for more controlled and monitored temporary change.

In relation to the Net Zero Innovation Use Case, facilitating innovation should benefit end consumers of all types, as innovation projects are in general about either improving the end consumer experience, or at least facilitating this through the supply chain. Innovation directly relating to net zero, has long term benefits for not only industry as a whole and the end consumer, but also the environment.

Allowing derogation for Gas Transporter or Shipper net zero innovation projects would also facilitate improvements that could then be built upon by the Supplier and rest of the energy supply chain, which should result in further improvements for the end consumer.

Cross Code Impacts

Whilst this Modification does not directly impact any other Codes, derogation requests received may impact areas of Code that the Independent Gas Transporters (IGT) UNC points to, and/or derogations may be more effective if they do not have additional constraints of needing to specifically exclude IGT sites, therefore the IGT UNC may wish to consider a similar, aligned Modification, to allow derogation within the IGT UNC.

For information: IGT Modification IGT154 has been raised and is expected to follow similar timelines to this Modification proposal. The initial drafting states that where a derogation is approved in the UNC this will also apply to any IGT where relevant.

Should this Modification be implemented, applications for derogation may need to be made across multiple Codes for the same project, any Cross Code impact across these derogation requests should be noted and managed on a case by case basis, and the proposer would be expected to identify these in their application.

EU Code Impacts

Whilst we do not believe that this proposal impacts any EU energy code, individual derogation requests raised, should this Modification be implemented, might. Any impacts would need to be identified by the proposer and stated in the derogation request.

Central Systems Impacts

Whilst this Modification itself does not have a direct impact on the CDSP, any individual derogations requested following the implementation of this Modification may have consequential impacts.

The CDSP may need to create a process for parties to enquire and receive information about the potential system impacts of any derogation request they are wishing to submit, as well as the CDSPs capability to facilitate required changes. The impact of each derogation request will depend on the area of Code and ultimately whether the derogation request is approved or not.

There is the potential ability for a flag to be utilised at MRPN level to indicate if a site is currently subject to a derogation applying.

Joint Office Impacts

Creation and maintenance of page and register on the www.gasgovernance.co.uk website.

Administration of applications and decisions, including critical friend role.

Creation of new processes and documentation.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:

Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	Positive
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive

g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

None

Currently under UNC there is no ability to allow derogations from sections of Code, which often restricts, for example, innovation projects and related trials. A large number of innovation projects relate to working towards net zero, which Gas Transporters have specific Licence Conditions under RIIO2 to deliver. This Modification helps facilitate this and furthers Relevant Objective c) *efficient discharge of the licensee's obligations*.

This mechanism will allow parties to apply for derogations making non-compliance visible. It will allow the impacts on other parties to be known and considered, as well as the actions the applying party is taking to mitigate these. Therefore, by ensuring these are considered, and by adding transparency, this furthers f) *promotion of efficiency in the implementation and administration of the Code*.

8 Implementation

It is proposed that this Modification is implemented at the earliest opportunity upon the direction of the Authority.

9 Legal Text

Text Commentary

To be provided

Text

To be provided

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Agree that Authority Direction should apply;
- Refer this proposal to a Workgroup for assessment.