

**UNC Governance Workgroup 0800 Minutes**  
**Introducing the concept of a derogation framework into Uniform**  
**Network Code (UNC) (Authority Direction)**  
**Tuesday 01 March 2022**  
**via Microsoft Teams**

<b>Attendees</b>		
Yvonne Reid-Healy (Chair)	(YRH)	Joint Office
Maitrayee Bhowmick-Jewkes (Secretary)	(MBJ)	Joint Office
Clare Manning	(CM)	EON
Darren Lond	(DL)	National Grid
Harry Brazier	(HBr)	Ofgem
Heather Ward	(HW)	Energy Assets
Mark Field	(MF)	Sembcorp
Sally Hardman	(SH)	SGN
Steve Mulinganie	(SM)	Gazprom Energy
Tracey Saunders	(TS)	Northern Gas Networks

Copies of all papers are available at: <https://www.gasgovernance.co.uk/0800/010322>

The Workgroup Report is due to be presented at the UNC Modification Panel by 17 March 2022

## 1.0 Outline of Modification

Tracey Saunders (TS) introduced the Modification, explaining that it has been updated further to the pre-modification discussions at the last Governance Workgroup and further to detailed discussions with Ofgem to ensure it is developed in line with Ofgem's views.

TS noted that Ofgem want all derogations that goes to them for a decision to not be rejected as this will improve the timeline and allow Ofgem to consider multiple derogation requests at the same, i.e., related derogations from different Industry Codes.

### Modification 0800:

TS carried out a walkthrough of the change marked text of the Amended Modification. Any amendments from the discussion were captured by the Proposer (TS).

Key points arising from discussions are captured below:

- Steve Mulinganie (SM) asked for clarity on whether all or only UNC derogations would need to submit supporting evidence. TS confirmed this was relevant for all derogations.
- TS explained that UNC Modification Panel discussions were necessary to taken onboard the combined industry knowledge and expertise of Panel Members before a derogation is submitted to Ofgem and a clarificatory note had been amended to reflect this.
- SM suggested a quality assurance check on the amended Modification should be carried out, which TS accepted.
- Heather Ward (HW) asked when an application for derogation was approved, would relate changes in other Industry Codes need to be reviewed. TS explained that would be beneficial.
- SM noted that any changes to Supplier relationships would need to be highlighted in the Consumer Impacts section. TS accepted this suggestion.
- Dave Mitchell (DM) asked who would decide whether a derogation was making a material change. TS explained that the UNC Panel would make this decision.

- SM asked where the list of derogations would be found. TS advised this would be available on the Joint Office website. TS added a Derogations Register will also be published by the Joint Office, which will be similar to the current Modifications Register and will display the status and other relevant information for each derogation request. TS further noted that the Derogation Application form would also be published on the Joint Office website.
- SM asked whether any clarifications or explanations around derogations should be included in the Derogations Guidance Document or whether it should be included in the Uniform Network Code (UNC). TS advised that this would be included in the Guidance Document as it would be published, and it would also be more flexible as it could be updated as needed without going through the process of making a change to the UNC.
- HW asked whether when a new derogation request is made, whether a related previous request would automatically become invalid. HW further asked what would happen if a request was in flight whilst a related new request was raised. TS clarified that a derogation would only stop being valid further to a decision by Ofgem and if one request was in flight, the new request would also go to Ofgem and Ofgem would then decide which one to approve and which was no longer valid.
- SM asked whether there was an obligation on the Joint Office to update the status of the derogations. TS confirmed this was in the Guidance Document.
- SM questioned whether Panel could 'challenge' a derogation as they were not there to validate a request. TS accepted this noting the wording would be changed to reflect the Legal Text.
- SM suggesting setting out the Minimum Safety Requirement in the Use Case. TS agreed and noted she would update this.

#### Legal Text Modification 0800:

The Workgroup then reviewed the Legal Text for the Modification as TS carried out a walkthrough. Any amendments were captured by the Proposer (TS) and key points of discussion are noted below:

- Harry Brazier (HBr) asked whether, the definition of a Derogation Party, should refer to Gas as defined in the Gas Act. TS took this on board and noted she would seek a legal view and amend the text accordingly.
- Sally Hardman (SH) asked how a new Use Case could be added. TS explained the Use Cases were part of the UNC and a new Modification would need to be raised to add a new Use Case.
- SM noted that the Send Back clause suggests that Panel will advise applicants, which is contradictory to what the Modification states. TS accepted this and agreed this would be amended.
- YRH asked whether 'day' in the Legal Text referred to business or calendar days. TS noted she would clarify this and add the definition of day to the text.

#### Derogation Guidance Document:

TS carried out a walkthrough of the Derogation Guidance Document. Any amendments were captured by the Proposer (TS) and key points of discussion are noted below:

- SM noted the guidance states Ofgem can accept or deny a derogation request and questioned whether deny was the right word to use, suggesting reject instead. TS accepted this and stated she would amend this to reflect the wording in the Legal Text.
- HW noted that some of the wording under the Safety Evidence section needed to be reviewed. TS accepted this stating she would amend this to reflect the Gas Act. TS added she would add a caveat stating that unless specified, Gas was as defined in the Gas Act.
- Darren Lond (DL) identified some changes to the UNC Modification Panel assessment section. TS took this on board.

- SM asked for clarity on Panel deferring decisions. The Workgroup discussed this, and TS took on board suggested amendments.
- SM asked of additional factors impacting a derogation to include a list of MPRNs. HW agreed suggesting that there should be some flag for the Downstream Parties if they are impacted by a derogation. TS explained there will be a flag in place under system changes. TS added that the Data Enquiry Service (DES) would need to flag this and Xoserve would need to be made aware. TS noted she would work with Dave Addison from Xoserve to ensure Downstream Parties were flagged.  
HW asked whether this should be in the Modification or whether it would be a system change. TS explained this is a system change, which is different to putting it in the UNC. The Workgroup discussed this and there was some concern on whether the flag would be sufficient. TS noted that work was being done to ensure it would work.
- SM suggested that there needed to be additional information on how a derogation could have an indirect impact on a party.  
TS noted she would make sure there was sufficient information for parties who may be unaware of any impact. However, TS clarified she did not want to add a list of MPRNs as this would make the document too crowded. TS suggested adding links to other documents such as the Derogation Application form would give parties more information on the relevant information they were seeking as well as impacts.
- HW queried whose best interests were referred to in Section 12. TS explained this referred to the best interests of the industry.
- YRH asked whether it had been agreed that the Joint Office would maintain the Derogation Register. TS confirmed this has been agreed through discussions with Penny Garner (PG) the CEO of the Joint Office and Wanda Goldwag (WG) the independent Chair of the UNC Modification Panel.

TS thanked the Workgroup for their time and contributions and noted she had taken on board the suggested amendments and she would issue the amended documents for publishing as soon as possible.

YRH stated that Kate Elleman (KE) would develop the Workgroup Report based on the amended Modification and circulate to the Workgroup for approval and submit it to the March 2022 Panel if there were no challenges.

YRH asked TS how the derogation process would be assured. TS advised this would be similar to the current Modifications process.

## **2.0 Initial Discussion**

### **2.1. Issues and Questions from Panel**

None raised.

### **2.2. Initial Representations**

None received.

### **2.3. Terms of Reference**

The standard UNC Workgroup Terms of Reference will apply and is available at [www.gasgovernance.co.uk/mods](http://www.gasgovernance.co.uk/mods)

## **3.0 Next Steps**

YRH confirmed that:

- TS to amend the Modification, Legal Text, and Guidance Document further to the discussions at today's meeting,
- Kate Elleman (KE) to develop the Workgroup Report and circulate to the Workgroup for approval,
- Workgroup Report to be submitted to the March 2022 UNC Modification Panel if there are no challenges.

**4.0 Any Other Business**

None.

**5.0 Diary Planning**

None.