
Performance Assurance

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SCHEDULE 6

Performance Assurance Schedule

Version: 2.3

Effective Date: 01 April 2023

| | |
|------------------------------------------------|---------------------------|
| Domestic Suppliers | Mandatory |
| Non-Domestic Suppliers | Mandatory |
| Gas Transporters | Mandatory |
| Distribution Network Operators | Mandatory |
| DCC | Mandatory |
| Metering Equipment Managers | Mandatory |
| Non-Party REC Service Users | Mandatory |

Change History

| Version Number | Implementation Date | Reason for Change |
|----------------|---------------------|-----------------------------------------|
| 0.1 | N/A | Initial draft published July 2020 |
| 1.0 | 15 January 2021 | Version implemented as part of REC v1.1 |
| 2.0 | 1 September 2021 | Updated as part of REC V2.0 |
| 2.2 | 31 January 2022 | R0012 |
| 2.3 | 01 April 2023 | R0025 |

1 Introduction

- 1.1. This [Code](#) has been developed in a manner intended to provide robust assurance of all of the business critical processes and services which it governs. This will be provided through a [Performance Assurance Framework \(PAF\)](#) underpinned by a comprehensive [Risk Register](#) and associated mitigation. This [REC Schedule](#) defines the governance and associated processes to support the [PAF](#).
- 1.2. This [REC Schedule](#) is to be read in conjunction with the [Qualification and Maintenance Schedule](#), which defines the process to be followed by new market entrants in certain [Market Roles](#), and also the process to apply where they make material changes to their [Systems](#) or processes.
- 1.3. The key objectives for the [PAF](#) are to ensure that [Consumers](#) have a positive experience when engaging in the retail energy market; and that [Parties](#) act in a manner that is not detrimental to the effective competition between [Energy Suppliers](#) and [Supplier Agents](#).

2 [REC Performance Assurance Board](#)

- 2.1. The [REC Board](#) shall establish a [Sub-Committee](#) with delegated authority to act as and perform the functions of the [REC Performance Assurance Board \(REC PAB\)](#).
- 2.2. The [REC PAB](#) shall oversee the [PAF](#) and perform the other functions referred to in Paragraph 3.
- 2.3. The [REC Board](#) shall delegate relevant decision-making powers to the [REC PAB](#), and determine and maintain terms of reference for the [REC PAB](#) (subject to the overriding requirements of Paragraph 6).
- 2.4. The costs incurred or paid by the [REC PAB](#), shall be considered [RECCo](#) costs, and therefore recoverable under Clause 9 (Annual Budget and Cost Recovery) of the [main body](#) of this [Code](#).
- 2.5. The initial composition of the [REC PAB](#) shall be determined by the [Authority](#), and thereafter in accordance with a methodology to be established by the [REC Board](#) and set out in the [REC PAB](#)'s terms of reference.

3 Functions of the [REC PAB](#)

- 3.1. The [REC PAB](#) shall perform the functions assigned to it under this [Code](#), and as may be delegated to it by the [REC Board](#) from time to time.
- 3.2. The functions of the [REC PAB](#) shall include:

- (a) ultimate responsibility for the [Risk Register](#) and [Performance Assurance Methodology](#);
 - (b) make determinations in relation to revisions to the [Risk Register](#);
 - (c) monitor compliance with this [Code](#) through data analysis;
 - (d) make determinations in relation to the application of [Performance Assurance Techniques](#) in order to mitigate the risks to [REC Service Users](#) and/or [REC Service Providers](#) that may result from non-compliance;
 - (e) make determinations in relation to breaches of this [Code](#) and [Events of Default](#) in accordance with Clause 16 ([Events of Default](#) and Consequences of Default) of the [Main Body](#) of this [Code](#);
 - (f) consider escalations where a [REC Service User](#) or [REC Service Provider](#) fails to comply with a [Corrective Action Plan](#); and
 - (g) assess whether any change to this [Code](#) would better facilitate any activity of the [REC PAB](#) and/or further mitigate any of the risks identified on its [Risk Register](#) and instruct the [Code Manager](#) accordingly.
- 3.3. The [REC PAB](#) shall have the right at any time and from time to time to delegate or procure the delegation of all or any part of the day-to-day administration of its functions.

4 The role of the [Code Manager](#)

- 4.1. In relation to the [PAF](#), the [Code Manager](#) shall perform the functions assigned to it under this [Code](#), and as may be delegated to it by the [REC PAB](#) from time to time. These functions shall include those assigned to the [Code Manager](#) under its contract with [RECCo](#).
- 4.2. The functions of the [Code Manager](#) related to the [PAF](#) shall include:
- (a) maintain the [Risk Register](#) and [Performance Assurance Methodology](#) in accordance with the instructions of the [REC PAB](#), assessing the ongoing applicability of the [Risk Register](#) and highlighting where new risks should be added, current risks amended or deleted;
 - (b) assess [Performance Data](#), Key Performance Indicators (KPIs) and self-assessment declarations, and where appropriate provide a recommendation to the [REC PAB](#) in relation to compliance by [REC Service Users](#) and [REC Service Providers](#);

- (c) monitor agreed [Corrective Action Plans](#) to ensure activities focus on addressing the root cause of issues, are delivered against agreed timescales, and issues are escalated to the [REC PAB](#) where necessary;
 - (d) make recommendations to the [REC PAB](#) on changes to the [Risk Register](#), [Performance Assurance Methodology](#) or this [Code](#);
 - (e) prepare and maintain a list of [Performance Assurance Techniques](#) and how these are used to mitigate [Retail Risks](#) (by detecting or preventing their occurrence, or correcting their effects);
 - (f) prepare individual [Risk Management Determinations](#) for [REC Service Users](#) or [REC Service Providers](#) where the [REC PAB](#) determines that a [Performance Assurance Technique](#) should be applied to a [REC Service User](#) or [REC Service Provider](#), and deliver assurance activities in accordance with these determinations;
 - (g) prepare the [Annual Performance Assurance Reports](#); and
 - (h) manage correspondence and communication with organisations involved in the [PAF](#).
- 4.3. The [Code Manager](#) shall keep confidential all information that it receives in its role under this Paragraph 4, in accordance with Clause 18 (Confidentiality) of the [main body](#) of this [Code](#), unless the intention to publish it has been clearly signalled and agreed.

5 Indemnity

- 5.1. [RECCo](#) shall indemnify each member of the [REC PAB](#) in accordance with Clause 8 (Protections for [REC Board](#) and [Sub-Committees](#)) of the [main body](#) of this [Code](#).
- 5.2. Where the [Code Manager](#) provides advice or other services to the [REC PAB](#), [RECCo](#) shall also indemnify the [Code Manager](#) as if the [Code Manager](#) had the benefit of the indemnity set out in Clause 8 of the [main body](#) of this [Code](#), but without prejudice to any claim [RECCo](#) has against the [Code Manager](#) for breach by the [Code Manager](#) of its contract with [RECCo](#).

6 Proceedings of the [REC PAB](#)

- 6.1. The [REC PAB](#) shall develop, implement and amend working practices and procedures as it considers necessary for the proper performance of its functions, provided that there is no conflict with the provisions of this [Code](#) or the terms of reference determined by the [REC Board](#).

- 6.2. The quorum for a meeting of the [REC PAB](#) shall be as set out in the [REC PAB](#) terms of reference.
- 6.3. To the extent that [REC PAB](#) meetings are held to discuss the [Risk Register](#) or such other business as may appropriately be of interest to [REC Service Users](#) and/or [REC Service Providers](#), the meeting shall be held in open session. The [Code Manager](#) shall publish on the [REC Portal](#) a summary of the business conducted at such meetings, or a copy of the minutes that has been redacted to remove confidential information.
- 6.4. [REC PAB](#) meetings held to discuss or determine matters related to compliance by [REC Service Users](#) and/or [REC Service Providers](#) shall be closed meetings. For closed meetings, meeting notices need only be given to members of the [REC PAB](#) and other attendees permitted in accordance with the terms of reference or specifically at the invitation of the [REC PAB Chair](#). Minutes of closed [REC PAB](#) meetings shall be confidential and only provided to those persons entitled to attend the relevant meeting (or part of the meeting). For meetings related to compliance by a [REC Service User](#) or [REC Service Provider](#), they shall be provided with an extract of the minutes for the part of the meeting they attended, and will be invited to comment upon and/or accept the accuracy of the minutes.
- 6.5. A [REC PAB](#) member shall not participate in the consideration of any matter relating to their Related Entities. The [REC PAB](#) member shall excuse themselves from the meeting (or the relevant part of it), or may be excluded by the [REC PAB Chair](#), and shall not then count towards the quorum.
- 6.6. Each [REC PAB](#) member shall keep confidential all information received in their role as a [REC PAB](#) member, in accordance with Clause 18 (Confidentiality) of the [main body](#) of this [Code](#). In particular, a [REC PAB](#) member shall not disclose such confidential information to their employer (or other Related Entities), unless such disclosure is permitted in accordance with Clause 18 (which includes where disclosure is required by [Law](#)). In the case of any such permitted disclosure, the [REC PAB](#) member shall first give written notice of the intended disclosure to the [REC PAB](#) (unless not permitted to do so by [Law](#)).
- 6.7. Each decision of the [REC PAB](#) may be appealed by one or more of the [REC Service Users](#) or [REC Service Providers](#) likely to be affected by that decision, and/or by Citizens Advice or Citizens Advice Scotland.
- 6.8. Appeals against [REC PAB](#) decisions will be determined by the [REC Board](#), whose decision on whether to uphold or overturn the [REC PAB](#) decision shall be final.
- 6.9. The [REC Board](#) may allow an appeal where it has been demonstrated to its satisfaction that a decision made by the [REC PAB](#), or its failure to make a decision on a matter duly put to it:

- (a) is incompatible with this [Code](#) or the [REC PAB](#)'s terms of reference; or
 - (b) will cause one or more [REC Service User](#) and/or [REC Service Providers](#) to be in breach of any [Law](#), [Energy Licence](#) and/or [Energy Code](#).
- 6.10. Matters of non-compliance which are serious, systemic and/or which the [REC PAB](#) does not reasonably consider it has the ability to address, or has made reasonable efforts to address including escalation of the matter through its established procedures without success, may be referred to the [Authority](#) together with such information as the [REC PAB](#) considers relevant and/or the [Authority](#) may subsequently request.
- 6.11. In the event that the [Authority](#) refers a matter to the [REC PAB](#) (or back to the [REC PAB](#)), the [REC PAB](#) shall take reasonable steps to comply with any direction, instruction or guidance as may be included in the referral.

7 Performance Assurance Procedures

Performance Assurance Methodology

- 7.1. The [Code Manager](#) shall prepare and obtain the [REC PAB](#)'s approval of the [Performance Assurance Methodology](#). The [Performance Assurance Methodology](#) must describe the process to be used for:
- (a) identifying and evaluating the risks which are [Retail Risks](#);
 - (b) assessing the materiality of [Retail Risks](#) in relation to [REC Service Users](#) and [Consumers](#); and
 - (c) applying [Performance Assurance Techniques](#) to monitor performance, incentivise compliance and otherwise mitigate [Retail Risks](#).
- 7.2. To the extent that it would not compromise the aims and effectiveness of the [PAF](#), the [Code Manager](#) shall publish the approved [Performance Assurance Methodology](#) on the [REC Portal](#).
- 7.3. The [Code Manager](#) shall periodically (at least annually) review, and report to the [REC PAB](#) on, the [Performance Assurance Methodology](#) to ensure it remains fit for purpose.
- 7.4. Where the [Code Manager](#) considers that a change to the [Performance Assurance Methodology](#) would further the aims of the [PAF](#) and/or further facilitate the [REC Objectives](#), the [Code Manager](#) shall:
- (a) to the extent that it would not compromise the aims and effectiveness of the [PAF](#), issue a draft of the [Performance Assurance Methodology](#) for consultation with

[REC Service Users](#), [REC Service Providers](#), Citizens Advice, Citizens Advice Scotland and such other stakeholders as the [Code Manager](#) considers appropriate;

- (b) consider any comments received during that consultation and make any amendments to the draft that it considers appropriate in light of those comments; and
- (c) present the draft [Performance Assurance Methodology](#) (including any amendments following consultation) to the [REC PAB](#) for approval.

7.5. In the event that the [REC PAB](#) does not approve the draft [Performance Assurance Methodology](#), it shall give the [Code Manager](#) clear instructions on what further steps and or revisions may be required in order to achieve its approval, including whether or not a further consultation should be undertaken before the draft is resubmitted.

Risk Register

7.6. The [Code Manager](#) shall:

- (a) identify and evaluate [Retail Risks](#), by applying the [Performance Assurance Methodology](#);
- (b) prepare and obtain the [REC PAB](#)'s approval of the [Risk Register](#), setting out the [Retail Risks](#) and the significance of each such [Retail Risk](#);
- (c) publish the approved [Risk Register](#) on the [REC Portal](#); and
- (d) periodically (at least annually) review, and report to the [REC PAB](#) on, the [Risk Register](#) to ensure it remains fit for purpose.

7.7. In relation to the initial establishment of the [Risk Register](#) and each review of the [Risk Register](#), the [Code Manager](#) shall follow the same process as applies to the [Performance Assurance Methodology](#) under Paragraphs 7.4 and 7.5.

Performance Assurance Operating Plan

7.8. The [Code Manager](#) shall prepare and obtain the [REC PAB](#)'s approval of a [Performance Assurance Operating Plan](#). The [Performance Assurance Operating Plan](#) shall set out the [Performance Assurance Technique](#)(s) that are to be applied in relation to each [Retail Risk](#) identified in the [Risk Register](#), together with the forecast cost (whether to [RECCo](#) and/or to [REC Service Users](#) and/or [REC Service Providers](#)) of implementing each relevant technique.

- 7.9. The [Code Manager](#) shall review, and report to the [REC PAB](#) on, the [Performance Assurance Operating Plan](#) at least annually to ensure it remains fit for purpose.
- 7.10. Once approved, the [Code Manager](#) shall review the [Performance Assurance Operating Plan](#) at least annually. Changes may also be proposed to the [Performance Assurance Operating Plan](#) on an ad-hoc basis, for example to reflect changes to this [Code](#) that may require additional assurance provisions to be put in place, in accordance with the process set out in the [Performance Assurance Methodology](#).
- 7.11. Where the [REC PAB](#) approves a revision of the [Risk Register](#), the [Code Manager](#) shall consider whether corresponding revisions are required to the [Performance Assurance Operating Plan](#). If the [Code Manager](#) determines that changes are required, then it shall present a revised [Performance Assurance Operating Plan](#) to the [REC PAB](#) for approval.

Risk Management Determinations

- 7.12. The [Code Manager](#) shall make a [Risk Management Determination](#) in relation to each [REC Service User](#) and [REC Service Provider](#). The [Risk Management Determination](#) shall be a determination (in accordance with the [Performance Assurance Methodology](#)) of which [Retail Risks](#) in the [Risk Register](#) are relevant to the particular [REC Service User](#) or [REC Service Provider](#) (based on class materiality and individual materiality), and the [Performance Assurance Techniques](#) that are to be applied (and the manner in which they are to be applied) in relation to each such [Retail Risk](#).
- 7.13. Having made an initial [Risk Management Determination](#) for each [REC Service User](#) and [REC Service Provider](#) in accordance with Paragraph 7.12, the [Code Manager](#) shall:
- (a) notify the [REC Service User](#) or [REC Service Provider](#) of the [Risk Management Determination](#) (and any revised [Risk Management Determination](#)) made for it; and
 - (b) thereafter from time to time re-assess and revise the [Risk Management Determination](#) for each [REC Service User](#) and [REC Service Provider](#) where its circumstances change or there is a change to the [Performance Assurance Operating Plan](#).
- 7.14. A [REC Service User](#) or [REC Service Provider](#) shall be entitled to request a re-assessment of its [Risk Management Determination](#) by the [Code Manager](#) where the [REC Service User](#) or [REC Service Provider](#) considers that:
- (a) the [Code Manager](#) has given undue weight to the risk or likelihood of occurrence in the [REC Service User's](#) or [REC Service Provider's](#) [Risk Management Determination](#); or

(b) there is a relevant change in the circumstances of the [REC Service User](#) or [REC Service Provider](#).

7.15. Where a [REC Service User](#) or [REC Service Provider](#) disagrees with the contents of a [Risk Management Determination](#) which applies to it, and cannot come to an agreement with the [Code Manager](#) on a suitable revision to it, then the [REC Service User](#) or [REC Service Provider](#) in question may refer the matter to the [REC PAB](#) for determination. In such circumstances, the [REC Service User](#) or [REC Service Provider](#) shall be informed of the [REC PAB](#) meeting at which the matter is to be determined and shall be entitled to submit representations to the [REC PAB](#) and/or attend the [REC PAB](#) meeting for that item of business only.

Administering and Implementation of [Performance Assurance Techniques](#)

7.16. The [Code Manager](#) shall apply and implement [Performance Assurance Techniques](#) in accordance with the [Performance Assurance Operating Plan](#) and each [Risk Management Determination](#).

7.17. The [Performance Assurance Technique](#)(s) to be applied in respect of each [Retail Risk](#) shall be techniques specified as applicable to such risk in the [Performance Assurance Operating Plan](#); but the techniques to be applied (and the manner and extent to which they are to be applied) to individual [REC Service Users](#) and [REC Service Providers](#) shall be as described in the applicable [Risk Management Determination](#).

7.18. [REC Service Users](#) of the same class may be subject to different [Performance Assurance Techniques](#) to reflect individual materiality of the [Retail Risks](#).

Annual Performance Assurance Report

7.19. Following the end of each [Financial Year](#), the [Code Manager](#) shall prepare an [Annual Performance Assurance Report](#) for the year. The Annual Performance Report shall set out the following information in respect of the relevant year:

(a) the results of the risk evaluation and risk assurance procedures, in particular, the extent to which the application of [Performance Assurance Techniques](#) mitigated the [Retail Risks](#) in the [Risk Register](#);

(b) the actual costs to [RECCo](#), and (as far as reasonably practicable) to [REC Service Users](#) and [REC Service Providers](#), of implementing the [Performance Assurance Techniques](#), and a comparison against the estimated costs set out in the [Performance Assurance Operating Plan](#) (with an explanation of any differences);

(c) any recommendations to modify existing [Performance Assurance Techniques](#) or

establish new [Performance Assurance Techniques](#); and

(d) the benefits (including any cost savings) of any modifications to [Performance Assurance Techniques](#).

7.20. The [Annual Performance Assurance Report](#) shall be published on the [REC Portal](#).

Change Proposal Recommendations

7.21. The [REC PAB](#) may, at any time, request that the [Code Manager](#) raise a [Change Proposal](#) to this [Code](#) in order to:

(a) remedy any error, ambiguity, inconsistency or deficiency which emerges as a result of the exercise of the [REC PAB](#)'s functions;

(b) remove obligations that are overly onerous or prescriptive and do not impact the [Consumer](#) experience;

(c) introduce or enhance controls for key risk; or

(d) establish a new [Performance Assurance Technique](#) or modify an existing [Performance Assurance Technique](#).

7.22. Where the [Code Manager](#) receives such a request from the [REC PAB](#) and considers that the intent of the proposal could be better fulfilled through alternative means, including through an alternative change to this [Code](#), the [Code Manager](#) shall make such recommendation to the [REC PAB](#).

7.23. Once the [REC PAB](#) has determined, including taking into consideration any recommendation of the [Code Manager](#), to progress a change to this [Code](#), the [Code Manager](#) shall raise that [Change Proposal](#).

8 Performance Assurance Techniques

8.1. The [REC PAB](#) shall prepare, and may from time to time amend, a list of [Performance Assurance Techniques](#).

8.2. The [Performance Assurance Techniques](#) shall be the provisions of this [Code](#) and/or processes established pursuant to provisions of this [Code](#), which the [REC PAB](#) considers should be available as a toolkit for the [REC PAB](#) and/or the [Code Manager](#) to draw upon in order to mitigate one or more of the [Retail Risks](#) identified within the [Risk Register](#).

8.3. The list of [Performance Assurance Techniques](#) (including the [Table of Performance](#)

[Charges](#)), and any amendments to them, shall be published on the [REC Portal](#).

- 8.4. Amendments to the [Performance Assurance Techniques](#) (including the [Table of Performance Charges](#)) are to be made and approved by the [REC PAB](#), and to the extent provided for in the [REC PAB](#)'s terms of reference, may be changed at the discretion of the [REC PAB](#) without the necessity of a [Change Proposal](#) being raised in accordance with the [Change Management Schedule](#).

9 Provision of data

- 9.1. Each [REC Service User](#) and each [REC Service Provider](#) shall ensure that the [REC PAB](#) is provided with such data as the [REC PAB](#) may from time to time reasonably request for the purposes of fulfilling its functions. The requested data shall be provided in accordance with the format, frequency and timescales set out in the Performance Assurance Report Catalogue that may be consulted upon and approved by the [REC PAB](#) from time to time.
- 9.2. Where reasonably practicable, such data shall be obtained by the [REC PAB](#) from central sources established under this [Code](#) or any other [Energy Code](#), and each [Party](#) shall take reasonable steps within its control to ensure that such data is made available to the [REC PAB](#).
- 9.3. A [REC Service User](#) or [REC Service Provider](#) is not required to provide any data under this Paragraph 9 which it could not be compelled to produce in evidence in civil proceedings before the UK courts.

10 Sandbox

- 10.1. The [REC PAB](#) shall establish a procedure whereby a current or prospective [Party](#) may apply for the temporary derogation from any requirement in this [Code](#) for the purpose of trialling a new product, service or business model. The form of derogation may include a full derogation from the relevant provision or the setting to zero of any liability payment that would otherwise apply to the [Party](#). Such applications are known as [Sandbox Applications](#).
- 10.2. The [Code Manager](#) shall, in respect of each [Sandbox Application](#) received, add it to the [Sandbox Register](#) and prepare a Sandbox Report containing the information listed at Paragraph 10.4.
- 10.3. The [Code Manager](#) shall not be required to conduct an evaluation of a [Sandbox Application](#) or submit a draft [Sandbox Report](#) to the [REC PAB](#) until the applicant has provided all the information that the [Code Manager](#) reasonably requires in order to conduct such evaluation and prepare a [Sandbox Report](#).

10.4. The [Sandbox Report](#) shall:

- (a) be addressed and delivered to the [REC PAB](#);
- (b) specify the identity of the [Sandbox Applicant](#);
- (c) specify the [Party](#) or [Parties](#) seeking the derogation (if not the [Sandbox Applicant](#));
- (d) set out the requested derogation from this [Code](#);
- (e) set out the reason for the derogation;
- (f) as far as possible, identify any impact on [Parties](#) including applicable costs (if any);
- (g) state the period of the requested derogation (for which the maximum shall be no longer than two years from the [REC PAB](#)'s approval of such derogation);
- (h) state the reason(s) why the derogation better facilitates the [REC Objectives](#) than requiring compliance with the relevant provision(s) of this [Code](#);
- (i) make recommendations as to any conditions which the [REC PAB](#) may wish to attach to the derogation; and,
- (j) set out a reporting plan, which shall include key milestones and/or dates by which the [Sandbox Applicant](#) will report on the progress of the trial to the [Code Manager](#) and/or the [Code Manager](#) report on progress to the [REC PAB](#), as the case may be.

10.5. Following receipt of a [Sandbox Report](#), the [REC PAB](#) shall either:

- (a) identify any additional work or significant amendment to the [Sandbox Report](#) that the [REC PAB](#) reasonably requires in order to make a determination on it; or
- (b) give an indicative view on whether or not it is minded to agree to the derogation request and what if any conditions it proposes to attach to that derogation, and instruct the [Code Manager](#) to consult with [Parties](#), the [Authority](#) and other interested stakeholders in respect to the Sandbox Application.

10.6. Where representations are made pursuant to the consultation under Paragraph 10.5(b), the [Code Manager](#) shall, as soon as reasonably practicable after receipt of those representations (and unless such representations or objections have been marked as confidential), publish those representations or objections on the [Sandbox Register](#).

- 10.7. Following the end of the consultation under Paragraph 10.5(b), the [Code Manager](#) shall, having regard to the representations received, make a recommendation to the [REC PAB](#) as to whether it should accept or reject the [Sandbox Application](#), including any revision to the conditions it considers appropriate.
- 10.8. Upon receipt of such recommendation from the [Code Manager](#), the [REC PAB](#) shall consider the [Code Manager](#)'s recommendation and any and all representations received, and either:
- (a) determine whether to approve or reject the [Sandbox Application](#); or
 - (b) direct the [Code Manager](#) to undertake additional analysis to address any new issues that have arisen as a result of the representations or otherwise.
- 10.9. Any additional analysis directed under Paragraph 10.8(b) shall be limited to the impacts that may arise from the granting of the derogation request, as would ordinarily be within scope of a [Sandbox Report](#), and should not cause the [REC PAB](#) determination to be delayed by any more than one month. Following any such additional analysis, the [Code Manager](#) shall submit an updated recommendation, and the [REC PAB](#) shall make a determination whether to approve or reject the [Sandbox Application](#).
- 10.10. In making a determination pursuant to Paragraph 10.8 or 10.9, the [REC PAB](#) may follow such procedure, and have regard to such matters in addition to those specified those paragraphs, as it considers appropriate.
- 10.11. The [Code Manager](#) shall, as soon as is reasonably practicable after the determination of the [REC PAB](#) under Paragraph 10.8 or 10.9, notify the [Sandbox Applicant](#) and shall ensure that the [Sandbox Register](#) is updated so as to indicate the decision made in relation to the [Sandbox Application](#).
- 10.12. The [REC PAB](#) may, from time to time and as it sees fit, resolve to retract any derogation, or to amend or add to the conditions applicable to that derogation.
- 10.13. In respect of each approved [Sandbox Application](#), following completion of the derogation period, the [Code Manager](#) shall submit an evaluation report to the [REC PAB](#) including:
- (a) any lessons learnt from the application process and reporting that could be applied to any future [Sandbox Application](#);
 - (b) an evaluation of the impacts and approximate cost, if any, that the derogation had on [RECCo](#), [REC Service Users](#), [REC Service Providers](#) and/or processes pursuant to this [Code](#);

- (c) an assessment of whether the derogation had a positive or negative impact on the achievement of the [REC Objectives](#); and
- (d) a recommendation on whether the derogation provided to the [Sandbox Applicant](#) should be extended to other current or prospective [Parties](#) and whether this should appropriately be done through an enduring change to this [Code](#).

10.14. The [REC PAB](#) shall consider the content of the [Code Manager](#) report and, subject to any revision that the [Code Manager](#) may agree to make as a result of discussions, shall:

- (a) confirm which if any of the recommendations in the report it determines should be taken forward and given effect;
- (b) confirm which, if any, of the recommendations it does not agree with and the reasons why;
- (c) instruct the [Code Manager](#) to include the [REC PAB](#)'s views in the evaluation report and to publish that report on the [REC Portal](#); and
- (d) where applicable, instruct the [Code Manager](#) to raise the appropriate [Change Proposal](#)(s) on behalf of the [REC PAB](#), to give effect to its determination under this Paragraph 10.14.

10.15. The derogations granted by the [REC PAB](#) pursuant to this Paragraph 10 may only provide derogations from the requirements of this [Code](#), and are without prejudice to requirements of [Energy Licences](#) or other [Energy Codes](#).

Annex A: Performance Charges

1 Introduction

1.1 This Annex A sets out the process for establishing, administering and applying the [Performance Charges](#) .

1.2 Each [REC Service User](#) and [REC Service Provider](#) acknowledges and agrees that each Performance Charge represents a genuine pre-estimate of the loss likely to be suffered by other [REC Service Users](#) and [REC Service Providers](#) and/or by [Consumers](#) (individually or collectively), as a result of the particular failure to which the Performance Charge applies.

1.3 For clarity, nothing in this Annex A is intended to limit the following:

- a) the application of other [Performance Assurance Techniques](#);

- b) in the case of [REC Service Providers](#) contracted by [RECCo](#), the liability of those [REC Service Providers](#) under those contracts;
- c) the rights, powers, duties and obligations of each holder of an [Energy Licence](#) under its [Energy Licence](#);
- d) the rights, powers and duties of the [Authority](#) or the Secretary of State; and/or
- e) the liability of [REC Service Users](#) and [Parties](#) that are not [REC Service Users](#) to one another under this [Code](#), subject to the limitations of liability set out in Clause 14 of the [main body](#) of this [Code](#).

2 [Performance Levels](#)

2.1 Each [REC Service User](#) and [REC Service Provider](#) shall, without prejudice to its other obligations under this [Code](#), comply with the [Performance Levels](#) set out in the [Table of Performance Charges](#).

2.2 Each [REC Service User](#) and [REC Service Provider](#) acknowledges that the [Performance Levels](#) represent the minimum requirements to be achieved.

2.3 The [CRS Provider's](#) [Performance Levels](#) which are subject to [Performance Charges](#) are governed by paragraph 5 below.

3 [Performance Charges](#)

3.1 A [REC Service User](#) or [REC Service Provider](#) that fails to meet one or more [Performance Levels](#) shall pay the applicable Performance Charge to [RECCo](#) (subject to and in accordance with this Paragraph 3).

3.2 Unless otherwise expressly stated, the [Performance Charges](#) are cumulative and not mutually exclusive of one another. The [Table of Performance Charges](#) may nevertheless include maximum liability caps.

3.3 The [Code Manager](#) shall report to the [REC PAB](#) on whether each [REC Service User](#) and [REC Service Provider](#) has or has not complied with each applicable [Performance Level](#) as soon as reasonably practicable after the end of the period covered by that [Performance Level](#). The [Code Manager](#) shall base its report on the [Performance Reports](#) and any additional evidence as may be available to the [Code Manager](#), and the [Code Manager](#) may include adjustments to the data as it considers appropriate to reflect specific circumstances (which adjustments must be highlighted to the [REC PAB](#)).

3.4 The circumstances referred to in Paragraph 3.3 include:

(a) any relevant derogation that may have applied during the assessment period for the [Performance Level](#); and

(b) any evidence that may have been provided demonstrating to the [Code Manager](#)'s satisfaction the existence of genuine extenuating circumstances.

3.5 In respect of each [REC Service User](#) or [REC Service Provider](#) which has not complied with an applicable [Performance Level](#), the [REC PAB](#) shall determine (without undue discrimination) whether the applicable Performance Charge shall be payable.

3.6 The [REC PAB](#) shall have discretion to determine that particular [Performance Charges](#) need not be paid (or may be suspended subject to conditions) if:

(a) the [REC Service User](#) or [REC Service Provider](#) has or has not recently and/or historically failed to meet the [Performance Level](#)(s) that are the subject of [REC PAB](#) determination;

(b) the [REC PAB](#) accepts that the [REC Service User](#) or [REC Service Provider](#) has made reasonable efforts to remedy the situation; and/or

(c) the [REC PAB](#) otherwise believes that suspension of the Performance Charge pending a further period of remedial action will better facilitate the [REC Objectives](#) than immediate application of the charge.

3.7 Following each determination under Paragraph 3.5, the [Code Manager](#) shall notify each [REC Service User](#) and each [REC Service Provider](#) of the [Performance Charges](#) (if any) due from it, with a clear indication as to which [Performance Level](#)(s) and period(s) the charge(s) relate.

3.8 In the event that the [REC PAB](#) determines to suspend a Performance Charge that would otherwise have been payable, the [REC PAB](#) shall notify the [Code Manager](#) and the relevant [REC Service User](#) or [REC Service Provider](#) of the conditions that apply to the suspension and the period in which such conditions must be fulfilled.

3.9 The [Code Manager](#) shall ensure that the Performance Charge payable by each [REC Service User](#) are included in the next invoice to be raised by [RECCo](#) for that [REC Service User](#), unless a different period of recovery has been agreed with the [REC PAB](#) (or the [RECCo](#) invoice is due to be issued in less than 3 days, in which case the Performance Charge shall be carried over to the following invoice).

3.10 [Performance Charges](#) payable by a [REC Service Provider](#) shall reduce the amount that would otherwise be payable to a [REC Service Provider](#). In the case of the [CRS Provider](#), the [Performance Charges](#) for performance during each [Quarter](#) shall be included as a reduction to the next monthly invoice issued to [RECCo](#) following the [REC PAB](#)'s decision to apply [Performance Charges](#) (to be issued under Clause 9.25 of the main body of this [Code](#)).

3.11 The [Code Manager](#) shall keep a record of all [Performance Charges](#) applied and the [Performance Levels](#) to which they related, for inclusion in the following [Annual Performance Assurance Report](#).

3.12 All [Performance Charges](#) are exclusive of VAT, which shall be payable in addition if applicable in accordance with [Law](#).

3.13 The [Performance Charges](#) for the [CRS Service Provider](#) are governed by Paragraph 5 below.

4 Table of [Performance Charges](#)

4.1 The [REC PAB](#) shall from time to time approve and publish a table setting out the [Performance Levels](#) and any [Performance Charges](#) that may be applied if such [Performance Levels](#) are not achieved.

5 [CRS Provider Performance Levels](#)

5.1 The [Performance Charges](#) for the [CRS Provider](#) are based on the [CRS Provider's](#) performance against the Service Availability and [Performance Levels](#) set out in the [Central Switching Service](#) Definition, the [CSS Certificate Authority Service](#) Definition, and the [Switching Operator Service](#) Definition. For the purposes of this Paragraph 5, references to [Performance Levels](#) shall include Service Availability requirements set out in the [Service Definitions](#).

5.2 The [CRS Provider's](#) maximum revenue at risk in respect of [Performance Charges](#) is determined under the [DCC Licence](#) pursuant to the Switching Incentive Regime Guidance (as defined in the [DCC Licence](#)), which sets out the percentage of the [Centralised Registration Service](#) Margin (as defined in the [DCC Licence](#)) which is at risk in respect of the [Performance Levels](#) under this [Code](#).

5.3 Before the start of each given [Financial Year](#), the [REC PAB](#) shall determine the amount of the maximum [Performance Charges](#) which can be applied to the [CRS Provider](#) in respect of each [Quarter](#) of the given [Financial Year](#) (which shall be known as the Maximum [Quarterly CRS](#) Performance Charge). The [REC PAB](#) shall determine the Maximum [Quarterly CRS](#) Performance Charge using:

- (a) the [CRS Provider's](#) forecast of its costs and margin provided under Clause 9 of the main body of this [Code](#);
- (b) the percentage referred to in Paragraph 5.2 above; and
- (c) 25% of the annual figure for each [Quarter](#) (or pro rata if the [Financial Year](#) is less than 12 months).

5.4 Before the start of each given [Financial Year](#), the [REC PAB](#) shall publish (for the given [Financial Year](#)) the Maximum [Quarterly CRS](#) Performance Charge and the [CRS Provider's](#) Performance Charges. The [CRS Provider's](#) [Performance Charges](#) shall be calculated in accordance with the following table:

| Performance | Description | Performance Charge |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| Target performance | All Performance Levels met in the Quarter (with a tolerance of one missed Performance Level per Quarter) | None |
| Minor failure | 2 Performance Levels missed in the Quarter | 15% of Maximum Quarterly CRS Performance Charge |
| Serious failure | 3 Performance Levels missed in the Quarter | 35% of Maximum Quarterly CRS Performance Charge |
| Severe failure | 4 Performance Levels missed in the Quarter | 65% of Maximum Quarterly CRS Performance Charge |
| Fundamental failure | 5 or more Performance Levels missed in the Quarter | 100% of Maximum Quarterly CRS Performance Charge |

5.5. The [Code Manager](#) shall measure the [CRS Provider](#)'s performance against the [Performance Levels](#) in each month of a given [Quarter](#) and report to the [REC PAB](#) on such performance. The [CRS Provider](#) shall co-operate with such monitoring and reporting, and provide such reasonable assistance as the [Code Manager](#) may request.

5.6 Where the [CRS Provider](#) fails against a single [Performance Level](#) on more than one occasion, each instance of failure shall be considered a separate missed [Performance Level](#) for the purposes of calculating the Performance Charge.

5.7 Where more than one [Performance Level](#) failure occurs as the result of a single issue or incident, and if the [REC PAB](#) is satisfied that the nature of the issue or incident made it inevitable that more than one [Performance Level](#) would be triggered, then the [REC PAB](#) shall treat those related [Performance Level](#) failures as one instance of a missed [Performance Level](#) for the purposes of calculating the Performance Charge. Where the [CRS Provider](#) wishes the [REC PAB](#) to combine [Performance Level](#) failures as described in this Paragraph 5.7 in relation to a given [Quarter](#), the [CRS Provider](#) shall make its submissions to the [REC PAB](#) within 20 [Working Days](#) following the end of the given month in which the [Performance Level](#) failure relates to.

5.8 Within 20 [Working Days](#) following the end of a given month, the [CRS Provider](#) may submit a request to the [REC PAB](#) (with supporting evidence) requesting that one or more missed [Performance Levels](#) during the given month are excused by reason of [Force Majeure](#). The [REC PAB](#) shall consider the evidence submitted and determine whether or not to disregard the missed [Performance Levels](#) for the purpose of calculating the [Performance Charges](#) for the relevant [Quarter](#).

5.9 The decision of the [REC PAB](#) under Paragraphs 5.7 and 5.8 shall be final and binding in relation to the [CRS Provider](#)'s performance against the [Performance Levels](#) (subject to Paragraph 5.10 below).

5.10 The decision of the [REC PAB](#) under this Paragraph 5 and the amounts of the [Performance Charges](#) applied to the [CRS Provider](#) by the [REC PAB](#) are always without prejudice to the discretion of the [Authority](#) and the application of the Price Control Conditions

(as defined in the [DCC Licence](#)). Without limitation, the [CRS Provider](#) may submit to the [Authority](#) (further) evidence concerning missed [Performance Levels](#) which the [CRS Provider](#) considers were not reasonably within its control, subject to the Switching Incentive Regime Guidance (as defined in the [DCC Licence](#)).

5.11 Following the [Authority](#)'s decision as to the [CRS Provider](#)'s allowed revenue for a [Financial Year](#), any difference in approach as compared to the [Performance Charges](#) which were applied by the [REC PAB](#) in respect of that [Financial Year](#) will be taken into account in determining the budget for the following [Financial Year](#).