

Standard Agreement Ver 3.0 Consultation Open Networks

January 2024 | Version 1.0

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Introduction

About ENA

Energy Networks Association represents the companies which operate the electricity wires, gas pipes and energy system in the UK and Ireland.

We help our members meet the challenge of delivering electricity and gas to communities across the UK and Ireland safely, sustainably and reliably.

Our members include every major electricity and gas network operator in the UK and Ireland, independent operators, National Grid ESO which operates the electricity system in Great Britain and National Grid which operates the gas system in Great Britain. Our affiliate membership also includes companies with an interest in energy, including Heathrow Airport and Network Rail.

We help our members to:

- Create smart grids, ensuring our networks are prepared for more renewable generation than ever before, decentralised sources of energy, more electric vehicles and heat pumps. Learn more about our [Open Networks programme](#).
- Create the world's first zero-carbon gas grid, by speeding up the switch from natural gas to hydrogen. Learn more about our [Gas Goes Green programme](#).
- Innovate. We're supporting over £450m of [innovation investment](#) to support customers, connections and more.
- Be safe. We bring our industry together to [improve safety](#) and reduce workforce and public injury.
- Manage our networks. We support our members manage, create and maintain a vast array of electricity codes, standards and regulations which supports the day-to-day operation of our energy networks.

Together, the energy networks are [keeping your energy flowing](#), supporting our economy through [jobs](#) and investment and [preparing for a net zero future](#).

About Open Networks

Britain's energy landscape is changing, and new smart technologies are changing the way we interact with the energy system. Our Open Networks programme is transforming the way our energy networks operate. New smart technologies are challenging the traditional way we generate, consume and manage electricity, and the energy networks are making sure that these changes benefit everyone.

ENA's Open Networks programme is key to enabling the delivery of Net Zero by:

- opening local flexibility markets to demand response, renewable energy and new low-carbon technology and removing barriers to participation
- opening data to allow these flexible resources to identify the best locations to invest delivering efficiencies between the network companies to plan and operate secure efficient networks

We're helping transition to a smart, flexible system that connects large-scale energy generation right down to the solar panels and electric vehicles installed in homes, businesses and communities right across the country. This is often referred to as the smart grid.

The Open Networks programme has brought together the nine electricity grid operators in the UK and Ireland to work together to standardise customer experiences and align processes to make connecting to the networks as easy as possible and bring record amounts of renewable distributed energy resources, like wind and solar panels, to the local electricity grid.

The pace of change Open Networks is delivering is unprecedented in the industry, and to make sure the transformation of the networks becomes a reality, we have created three workstreams under Open Networks to progress the delivery of the smart grid.

Our members and associates

Membership of Energy Networks Association is open to all owners and operators of energy networks in the UK.

- ▶ Companies which operate smaller networks or are licence holders in the islands around the UK and Ireland can be associates of ENA too. This gives them access to the expertise and knowledge available through ENA.
- ▶ Companies and organisations with an interest in the UK transmission and distribution market are now able to directly benefit from the work of ENA through associate status.

ENA members



ENA associates

[Chubu](#)
[EEA](#)
[Guernsey Electricity Ltd](#)

[Heathrow Airport](#)
[Jersey Electricity](#)
[Manx Electricity Authority](#)

[Network Rail](#)
[TEPCO](#)

Standard Agreement Ver 3.0 Consultation

Purpose of this consultation

The purpose of this consultation is to seek views and input from stakeholders on the latest version of the [Standard Agreement for Flexibility Services](#). This feedback will be used to update and finalise the document prior to issue on 1st April 2024.

How to engage and respond

This consultation will be open for four weeks and closes on the 28th of February 2024. Please submit your responses by email to opennetworks@energynetworks.org.

All consultation responses are intended to be published on ENA's website, therefore if your response is confidential, and not for publication, please notify us clearly. Or, if elements of your organisation's response are confidential then please provide us with a full version for consideration and a non-confidential version for publication.

How we will use your feedback: Once this consultation closes and all responses are received, they will be duly considered by the technical working group for potential incorporation into the final published and implemented version of the standard agreement. We will also publish a "you said we did" document in response to the feedback received.

Development of Standard Agreement Ver 3.0

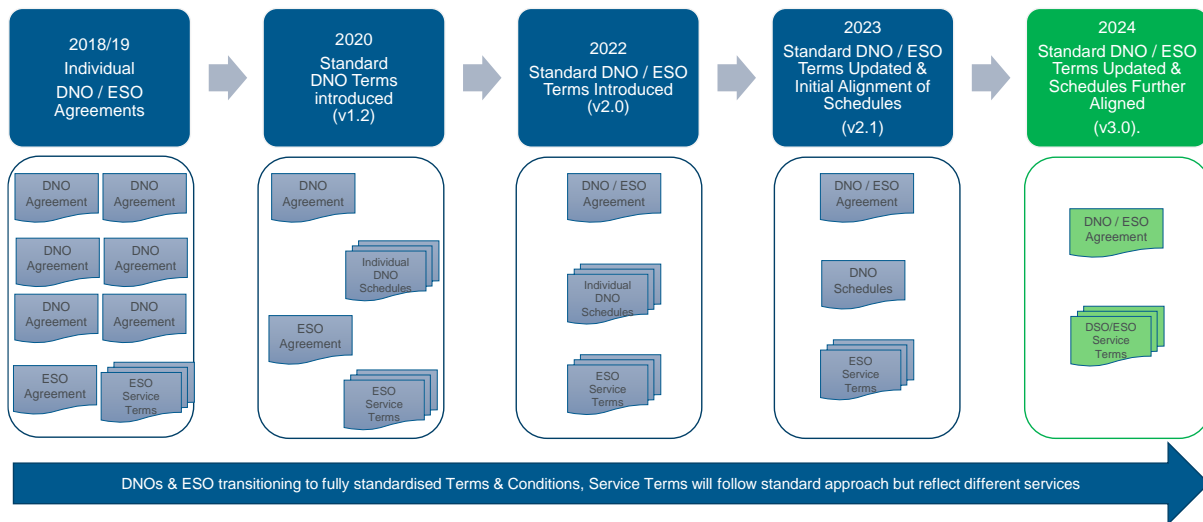
Aim of the Standard Agreement

The main aim of the Standard Agreement, used by the ESO and the individual DNOs, is to:

- **Make participation easier by offering standard terms**, especially for those who operate in multiple markets across many locations
- **Reduce resource and cost burden** in assessing contracts for different markets
- **Facilitate shorter term markets** by providing an over-arching agreement, available prior to bidding and which can be used for numerous tender rounds

Journey so far

DNOs began tendering for flexibility services in 2018/19 and initially used individually developed contractual terms. The ESO also used different contractual terms. Since then, the Standard Agreement has evolved so that this latest version now introduces standard DNO/ESO contractual Terms and Conditions plus a standard approach to the Service Terms. Whilst the Service Terms need to reflect the individual services for DNO services, where possible, standard wording has been included.



It is intended that this version of the contract will be used mainly as an overarching agreement, aligning with the ESO’s approach to contracting for flexibility services.

Review process

Feedback has been sought from stakeholders using a variety of methods, with comments on the Standard Agreement having previously been received from the following:

- Consultation responses on previous versions of the standard agreement
- Open Networks Challenge Group sessions across 2022/2023
- Focus Group meetings across 2023
- Feedback collated from individual DNOs / ESO previous tender rounds

DNO / ESO commercial and legal teams review the terms and provide feedback and legal expertise is contracted to work on the Standard Agreement with the technical working group to ensure the intent is accurately captured and that the Agreement is a robust legal document.

To date, the proposed changes to the Standard Agreement have been presented to the Challenge Group and also the Insights Forum. Following this consultation, the working group intend to present the feedback received, our response along with the finalised version of the contract to the Open Networks Challenge group and Steering group, prior to being formally issued in time for the upcoming spring tenders.

Please note any and all changes proposed as part of this consultation are subject to legal review and drafting.

Summary of changes from Ver 2.1 of the Standard Agreement

The table below highlights some of the key changes made to the standard agreement contractual terms between [Ver 2.1](#) and this new Ver 3.0. For a full list of changes made please refer to Table 2 within this document.

It is intended that this further refinement of the Standard Agreement will address barriers to participation within the flexibility markets, provide clarity, and further align wording within the service terms schedules, creating an improved contract for DNOs, the ESO and FSPs alike.

Table 1: Summary of changes from Ver 2.1 of the Standard Agreement

Identified change	Proposed Changes
Duplicate registration of assets: For situations where individual assets are registered and offered by more than one Provider for the same service at the same time.	Providers to use reasonable endeavours to ensure there is no duplication of registered assets plus provide clarity of how these will be dealt with should it occur.
Cyber Security: Will be signposted within the T&Cs to reflect individual company requirements until standard industry wording has been agreed.	All DNOs and the ESO have company specific Cyber Security requirements. Standardisation would need to be debated and agreed at industry level and not as part of the Standard Agreement work.
Voluntary participation: Current wording is more suited to longer term bilateral contracts.	In light of the move to shorter term / closer to real time procurement and using an overarching contractual approach wording on voluntary participation to be updated.
Liabilities: Assessment of current wording and how they link to service failure.	Will review following feedback and include standardised service failure wording to cover capacity and duration.
Collaboration with other TWGs: Incorporate output from: Product / Settlement / Dispatch TWGs	Incorporate standard wording related to: Definition of services; Metering; Payment Calculations; Performance Monitoring; and System Comms
Re-organisation / Alignment of Schedules: Move information into contract award notifications, remove sections as required and include further standard wording where possible.	For overarching contracts applying to many tenders, some information will be specific to individual services contracted for (e.g. service windows) and therefore will be included in the contract award notifications.

	Remove variations to services and discretionary services.
Governance Once issued, v3 will be subject to formal ENA governance	The TWG consider that an annual review is appropriate, at which time should any issues be identified, a working group will be convened.

Table 2: List of key changes to clauses between Ver 2.1 and Ver 3.0 of the Standard Agreement

Clause	Amendment
4.1 – 4.3 of the Service Terms	<p>Deletion of tables containing details of the Service Parameters, Service Windows and Service Requirements.</p> <p>Inclusion of signposting wording that details of the relevant parameters, windows and requirements shall be provided in the notification of Contract Award and that examples will be available within the relevant “tools and templates” schedule.</p>
4.4 of the Service Terms	<p>New definition of Contract Award included:</p> <p><i>“Contract Award: the execution and award by the Company of a contract for the provision of Flexibility Services by the Provider;”</i></p> <p>Sub-clause 4.4(b) of the Service Terms included as a new clause 3.2 of the Agreement:</p> <p><i>The Provider hereby acknowledges that Contract Award does not guarantee that any Flexibility Services will be required by the Company or commit the Company to requiring any, or any particular level of, such Flexibility Services.</i></p>
3.1.10	<p><i>“use reasonable endeavours to ensure that a DER that is pre-qualified is not registered with another Provider to provide Flexibility Services to the Company. If the Company identifies that the DER is registered with more than one Provider, the Company will notify both Providers. The DER will remain registered with the existing Provider until sufficient evidence of the Provider to which the Asset is registered has been provided to the Company’s satisfaction (acting reasonably).”</i></p>

Clause	Amendment
5.2.8 and 5.2.9	5.2.8 and 5.2.9 deleted. Former 5.2.11 and new 5.2.9 updated to read: <i>“the provision of Flexibility Services will not cause it or the DER to be in breach of the Electricity Safety, Quality and Continuity Regulations 2002 (as amended from time to time) (available from the Company on request) or any other enactment relating to <u>health and</u> safety or standards, the Grid Code, Distribution Code, any Connection Agreement, any agreement for the supply of electricity, any restrictions and conditions attaching to relevant authorisations of the Environment Agency or any other agreement or arrangement of whatever nature with any other person”</i>
15.9	Amended to read: <i>“Where applicable the Provider agrees to: pay all of its personnel who are directly employed by it in respect of the provision of the Flexibility Services used within the UK not less than the real living wage (as defined at https://www.livingwage.org.uk/ as may be updated from time to time) for the Term of the Agreement; and ensure all employees of its contractors and subcontractors performing the provision of the Flexibility Services used within the UK are paid not less than the real living wage (as defined at https://www.livingwage.org.uk/ as may be updated from time to time) for the Term of the Agreement.”</i>
General review	References to Discretionary Services and Variations to Service Windows deleted from the contract. Tidy ups and alignment of definitions within Service terms and deletion of Commencement and Expiry Dates.
Definition of Site	Definition of “Sites” generally refers to a list of Sites in the Service Terms, but this doesn’t make sense for retail aggregators given the Sites will change throughout the term of the contract. The “Sites” are generally EVs and charge points and therefore should be amended to refer to the location of the DER. Change made to the definition of Site to refer to the location of the DER.
4.3	Amended from 5 Business Days to 15, this will allow providers sufficient time to prepare for an effective audit.
5.2.9	Clause Removed

Clause	Amendment
7.4	Amended from 90 Business Days to 90 days.
8.3	Company to act reasonably in relation to obligations contained in clause 8.3.2 and 8.3.3.
10.1	Clause 10.1 is subject to stakeholder feedback
10.4	Reference to “named parties” deleted.
10.5	The reasonable endeavours obligation has been replaced with “reasonably practicable” i.e. the obligation remains but only comes into effect where it is reasonably practicable to do so.
11.3	Rights to assign without consent have been limited to assignment to an Affiliate who is the holder of a Distribution or Transmission Licence
11.5	This has been updated in line with the following principles: Due to concerns raised with the requirement for “immediate” notification, requirement has been softened by amending it to “promptly” Wording updated to reflect the need to records up to date and remove ownership and occupancy from this requirement for non-accessible sites. Carve out a section to retain the requirement for DNOs to be informed when an accessible site’s ownership or use has changed.
15.3	Drafting updated to specify that the access rights apply to Accessible Sites and Provider’s premises to allow for access in the most relevant circumstances.
16	Email notices included at 16.3 were agreed between the Parties

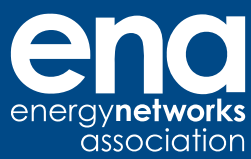
Specific feedback

The Open Networks programme strongly encourages and welcomes any feedback on the contract. In addition to your general feedback the standard agreement technical working is keen to hear your thoughts in relation to clause 10.1, which refers to liabilities.

Do our proposed terms seem reasonable? If not, could you please propose some alternative terms that you have used in previous agreements.

This consultation will be open for four weeks and closes on the 28th of February 2024. Please submit your responses by email to opennetworks@energynetworks.org.

Visit our website to find out more about [Open Networks](#)



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