

Early Competition Plan

Appendix 10 – You Said, We Did

April 2021



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1 Introduction

This appendix provides a summary of the key stakeholder feedback received during our Phase 2 and 3 stakeholder engagement, structured by key dimensions. We have shown how these stakeholders' views have shaped the development of our Early Competition Plan ("ECP").

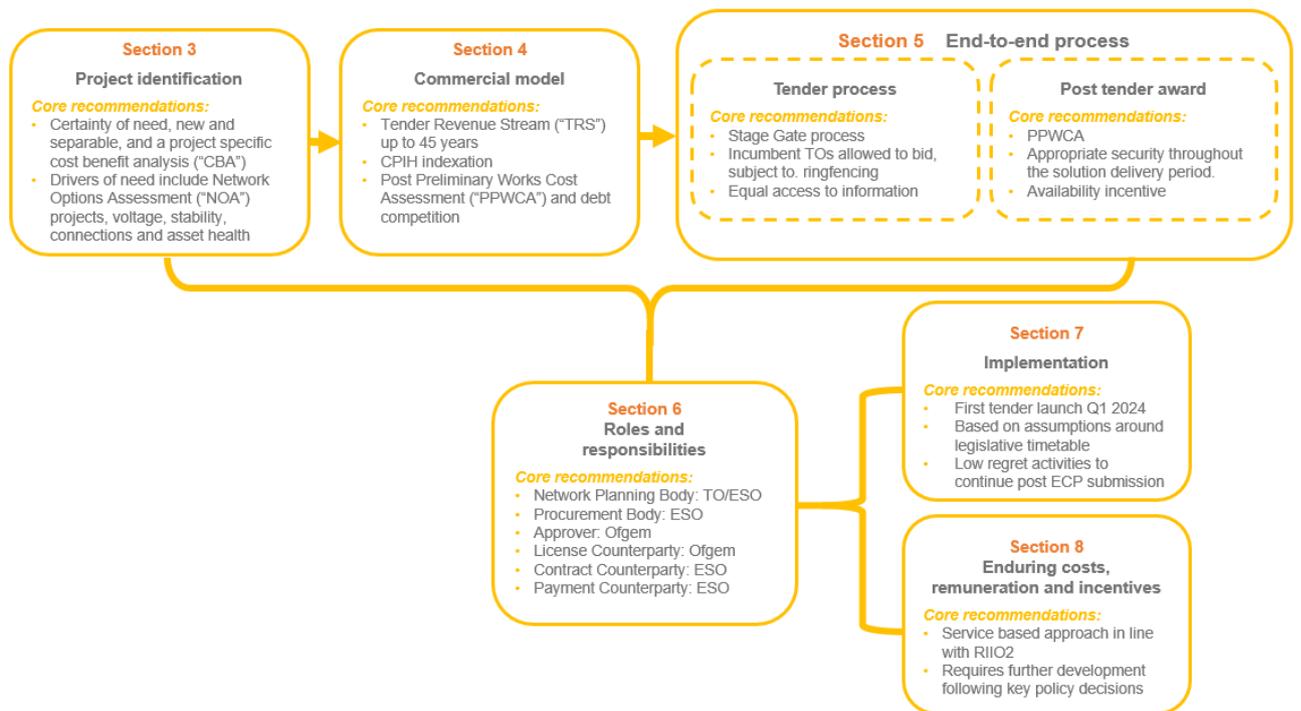
This appendix continues on from the You Said, We Did document published as part of our Phase 3 consultation in December 2020 on our website¹ which reflects work completed up to February 2021.

The purpose of this document is to provide an update to reflect stakeholder feedback raised during our series of workshops in September/October 2020 and from our Phase 3 consultation. We have updated our 'ESO position' on previously raised stakeholder feedback to reflect our latest views.

Our current views and proposals in this appendix reflect key messages from chapters of our ECP. We recommend that stakeholders refer to specific sections for further details.

We have maintained the same structure to this appendix as the previously published You Said, We Did document. The feedback summarised in this document represents one of the key inputs of early competition.

Figure 1 Key inputs of early competition



¹ <https://www.nationalgrideso.com/future-energy/projects/early-competition-plan/project-documents-early-competition>

2 Glossary

Table 1: Glossary

BEIS	Department for Business, Energy & Industrial Strategy	NOA	Network Options Assessment
CATO	Competitively Appointed Transmission Owner	NPV	Net Present Value
CBA	Cost Benefit Analysis	OFTO	Off shore Transmission Owner
CPIH	Consumer Prices Index including owner occupiers' Housing costs	OJEU	Official Journal of the European Union
CUSC	Connection and Use of System Code	PFI	Private Finance Initiative
DNO	Distribution Network Operator	PPP	Public–Private Partnership
DSO	Distribution System Operator	PPWCA	Post-Preliminary Works Cost Assessment
EC	Early Competition	PQ	Pre-Qualification
ECP	Early Competition Plan	RAB	Regulatory Asset Base
ED	Electricity Distribution	RAV	Regulatory Asset Value
EOI	Expression of Interest	RFI	Request for Information
ESO	Electricity System Operator	RIIO	Revenue = Incentives + Innovation + Outputs
ETYS	Electricity Ten Year Statement	SME	Subject Matter Expert
FES	Future Energy Scenarios	STC	System Operator – Transmission Owner Code
GCRP	Grid Code Review Panel	SWW	Strategic Wider Works
IRR	Internal Rate of Return	TCMF	Transmission Charging Methodologies Forum
ITT	Invitation to Tender	TO	Transmission Owner
LOTI	Large Onshore Transmission Investments	TRS	Tender Revenue Stream
NDA	Non-Disclosure Agreement	UCR	Utilities Contracts Regulations
NG	National Grid		
NGET	National Grid Electricity Transmission		

3 How stakeholder feedback has shaped our plans

This appendix provides a summary of the key stakeholder feedback received during our Phase 2 and 3 stakeholder engagement, structured by key dimensions. We have shown how stakeholders' views have shaped the development of our Early Competition Plan.

3.1 Roles and responsibilities

The table below presents stakeholder feedback on the roles and responsibilities and how we have used stakeholder feedback to inform and shape our proposals. The feedback has been grouped by key subject areas. For reference, we have also retained our Phase 2 - Phase 3 positions on stakeholder feedback discussed in the November version of the You Said, We Did document. These positions are highlighted in italics below.

Table 2: Roles and responsibilities

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There is a need for the process to be run by a single party from the start to finish to ensure accountability and consistency.	May workshop: <ul style="list-style-type: none"> Procurement Steps and Timelines 	<ul style="list-style-type: none"> TOs 	Agree	<p><i>In our Phase 2 consultation, we noted that we expect multiple parties to be engaged in the end to end process. For example, the Procurement Body will be responsible for the tender process and Ofgem will play the role of the Approver and Licence Counterparty. We are currently considering whether some roles can be owned by the same entities and discussing this with internal stakeholders. We also held workshops on the roles in Early Competition in September and looked at the entities we proposed during Phase 2 and in our Thought Paper.</i></p> <p><i>We continue to propose in our Phase 3 consultation that either Ofgem, a Third Party or the Electricity System Operator ("ESO") can carry out the procurement process.</i></p> <p>We would agree that having one party run the whole end-to-end process would ensure a level of consistency and accountability, however we were unsure of the need for this approach as our aim is to propose what would be in the best interest of the end</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>A ring-fenced bidding entity of a Transmission Owner (“TO”) will need stringent separation governance and reporting to ensure a level playing field.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Evaluation of Technical Elements of the Proposals 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p>consumer. Therefore, if our analysis showed a third party or another entity carry out a role it would be something we would consider. We have considered this feedback further in our Phase 3 consultation where we proposed that the ESO is minded to take on both the Contract Counterparty and Payment Counterparty roles. These roles cover the post-tender part of the process. We were still unsure as to which entity is best place to take on the Procurement Body role, however following feedback from Phase 3 (where a majority of respondents supported the ESO taking on this role), we propose that the ESO could also take on the Procurement Body role. Coupled with the ESOs role in Network Planning, the ESO could have an integral role in the end-to-end process and ensure accountability and consistency throughout. To ensure there is additional accountability and consistency throughout the process, we introduced proposals for the Approver role which will be carried out by Ofgem. This entity makes the formal decision to conclude a stage of early competition.</p> <p><i>We are exploring the role of the TO and ESO in project identification, and we held workshops with TOs to discuss the role of the TO and what conflict mitigation measures may be required.</i></p> <p><i>One of the options we are exploring in our Phase 3 consultation is for TOs to continue to have a role in planning networks with bidding teams preparing TOs' bid teams would be ringfenced with conflict mitigation arrangements to ensure they do not have access to additional information, additional bid preparation time or other bidders' information. Under this option, the ESO would also need to play a strengthened role in</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>TOs expect to have a role in the technical assessment and suggested that they could act as a party of last resort.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Evaluation of Technical Elements of the Proposals 	<ul style="list-style-type: none"> TOs 	<p>Agree</p>	<p><i>reviewing TO proposed solutions in order to ensure they've considered the full range of potential solutions.</i></p> <p>We agree that if TO ring-fencing is used it needs to be sufficiently robust. We recommend Ofgem consider this further as part of their forthcoming review of roles and responsibilities for early competition.</p> <p>In addition, Ofgem's recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind.</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address perceived conflicts of interest with TOs participating in competitions.</p> <p><i>We noted in our Phase 2 consultation, we do not anticipate that TOs (or any other party) would be required to progress a backstop solution alongside the winning bid. We are, however, exploring the circumstances with the support of stakeholders (e.g. workshops with TOs and workshops on Roles in Early Competition) in which a TO of last resort might be required and how this could work.</i></p> <p><i>We propose in our Phase 3 consultation for TOs to run connections feasibility studies as part of the ITT</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				<p><i>stage 1 bid assessment. These studies would be equivalent to the connections review under pathfinders or the optional feasibility study under the connections process. In terms of party of last resort, we currently propose for the ' Offshore Transmission Owner ("OFTO") of Last Resort' licence conditions and guidance to be extended to incorporate relevant ' Competitively Appointed Transmission Owner ("CATO") of Last Resort' provisions in respect of both tender process failures and issues with network solutions.</i></p> <p>We agree that the tender process will need to assess the impact of technical proposals on the existing network. Ofgem's recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind.</p> <p>We therefore recommend that roles and responsibilities for technical assessment of proposals for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address perceived conflicts of interest with TOs participating in competitions.</p> <p>We agree that, as a transmission licensee, a TO could be one of the parties that could act as CATO of Last Resort through the CATO of Last Resort provisions. Further details on how this provision will work will</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There is potential conflict of interest in relation to the ESO making recommendations on projects which are within the geographic responsibility of National Grid Electricity Transmission (“NGET”).	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	<p>need to be developed during the implementation stage.</p> <p><i>The ESO is a separate legal entity from NGET although both sit within the National Grid (“NG”) Group. We work independently from NGET and any recommendations on projects will be made on an objective assessment of pre-defined criteria.</i></p>
Expressed concerns regarding the incumbent TOs participating in competitions as a market player as they will be taken outside the realm of the regulatory framework in which they are designed to operate.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Disagree	<p><i>Following our Phase 2 consultation, we held a series of workshops with TOs to explore the role of TO as a bidder and how this role would fit with their current obligations under the regulatory framework.</i></p> <p><i>We continue to propose that TOs should participate in the same process as other bidders since they are well placed to deliver competitive bids which benefit consumers. Incumbent TOs also have the potential to utilise their existing assets within their bid, which would not be the case if the TO's parent company participates through a separate entity. TOs competing in their non-incumbent area will also help increase competition. We also believe that TOs participating as a 'counterfactual' would present a number of challenges, stemming from the differences between the Revenue = Incentives + Innovation + Outputs (“RIIO”) regime and potential competitive regimes.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>TOs have a significant advantage over non-TO participants including connection process, energy cost, cost of capital, user charges, and land and development rights and the ESO should not rely on them for assessing network.</p>	<p>Phase 2 consultation feedback</p>	<ul style="list-style-type: none"> Generators and other electricity market participants 	<p>N/A</p>	<p>We have held further discussions with relevant TOs to explore how an approach of TOs providing a counterfactual might work. Following this, we continue to feel that this approach would present many challenges, such as ensuring fair and transparent comparison between the winning competition bid and the counterfactual. We also identified a number of potential conflicts of interest with the TO's existing planning roles which would need to be addressed. In particular, TOs would have a role in assessing proposals which are in competition with the TO's own solutions.</p> <p>The ESO believes that TOs competing as bidders alongside other participants provides the most fair and transparent approach.</p> <p><i>Following our Phase 2 consultation, we held a series of workshops with TOs to explore the role of TO as a bidder and the potential conflicts of interest and mitigations to ensure that a level-playing field can be achieved.</i></p> <p><i>We continue to propose that TOs should participate in the same process as other bidders and that all qualified bidders should have access to the same relevant information as is available to the TO ring fenced bid teams.</i></p> <p><i>Through workshops, webinars and our Phase 2 consultation we have developed a position that the network related information used today by the ESO and TOs to develop initial desktop solutions is the right information and should be available to qualified bidders.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The ESO should have greater technical network understanding and data and not be reliant on incumbent TOs when assessing</p>	<p>Phase 2 consultation feedback</p>	<ul style="list-style-type: none"> Generators and other electricity market participants 	<p>Agree</p>	<p>We recommend that TOs should receive the same commercial deal as other bidders if they win a competition, rather than subsuming the project under their regulated framework.</p> <p>In terms of the TOs' role in assessing networks, we have explored how ringfencing of the TO bidding team could be used to address potential conflicts of interest. In addition, Ofgem's recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind.</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address perceived conflicts of interest with TOs participating in competitions.</p> <p><i>We are considering in our Phase 3 consultation whether some planning activities may need to be transferred to the ESO. Transferring this responsibility to the ESO would require a significant increase in resource and capabilities within the ESO. We also assume that TOs would continue to have planning responsibilities for connections, asset health and for progressing non-competed boundary reinforcement projects and that conflict mitigation arrangements can</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
network needs and requirements.				<p><i>be put in place to address any advantages the TO may gain from its network planning role.</i></p> <p>Having reflected on the roles and responsibilities of different parties we agree that the ESO requires additional skills and capabilities. As a minimum, the ESO needs to be able to challenge TO and other providers' proposals.</p> <p>In addition, Ofgem's recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address conflicts of interest with TOs participating in competitions.</p>
In other regions where there are multiple transmission owners embedded in the market, planning processes are undertaken by	September workshop: <ul style="list-style-type: none"> Indicative Solution Identification Process 	<ul style="list-style-type: none"> Public Sector stakeholder 	N/A	<p><i>We propose that the TOs should continue their role in network planning, with a strengthened role for the ESO to review TO proposals and seek stakeholder input. Suitable ringfencing of bidding teams would be required if TOs wish to participate in the competition. We do not think it is proportionate to establish a new organisation to undertake planning functions for the purpose of early competition.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
independent parties.				<p>Ofgem’s recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address conflicts of interest with TOs participating in competitions.</p>
<p>The Procurement Body or Approver should have the same statutory duties as a TO with respect to its licence obligation to develop an economic and efficient system.</p>	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p><i>We are having sessions with the Department for Business, Energy & Industrial Strategy (“BEIS”) and Ofgem where the roles of the Procurement Body, Approver and the legal and regulatory frameworks are being discussed. We will provide an update of these developments once they are clarified.</i></p> <p><i>The discussions with BEIS and Ofgem are still ongoing and therefore we are unable to clarify the statutory duties of the Procurement Body and Approver in our Phase 3 consultation. We have, however, developed some initial views on potential regulatory changes no matter who takes on the role of Procurement Body.</i></p> <p>We partially agree with this feedback in that there should be obligations on entities taking roles in facilitating early competition to ensure there is an</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The roles should be consistent with the ESO's licence and the existing regulatory regime.</p>	<p>Phase 2 consultation feedback</p>	<ul style="list-style-type: none"> • TOs 	<p>Partially Agree</p>	<p>economic and efficient system. However, these obligations should be made appropriate to the type of role the entity is carrying out. We are still unable to confirm the statutory duties of the Procurement Body and the Approver in the Early Competition Plan ("ECP"). Ofgem and BEIS are developing the regulatory and legal arrangements that surround early competition and should clarify roles and responsibilities for both the Approver and Procurement Body. This development will continue following the submission of the ECP and therefore, we will continue to engage with Ofgem and BEIS during the implementation period.</p> <p><i>We currently mapped out if licence and code changes may be required in order for early competition to work based on discussions with relevant code bodies.</i></p> <p><i>We started to consider the potential changes to industry codes which could be required as a result of our early competition proposals. We expect that required changes to industry codes will be 'significant but deliverable'.</i></p> <p>Roles any entity take on should be consistent with their licence and regulatory regime as far as is applicable and appropriate. Our proposals under early competition are unique, new and untested therefore we believe there will be areas that are not covered by current licence or regulatory arrangements. Where there are areas that are not covered, additional obligations/legislation needs to be introduced (as we are proposing for early competition). Also, the regulatory regime should be updated or changed to cater for any additional roles or risk the entity is taking on (as was noted by Ofgem in the ESO's RIIO-2 Final</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				Determination). Therefore, we agree there should be alignment however we believe that changes can be made. As above, Ofgem and BEIS are developing the legislative and regulatory arrangements that need to facilitate competition, however we have provided an initial view of potential regulatory changes irrespective of who takes on the role. These can be developed during the implementation phase.
Roles should fit and align with Ofgem's current statutory duties.	September workshop: <ul style="list-style-type: none"> Roles in Early Competition 	<ul style="list-style-type: none"> Public Sector stakeholder 	Agree	<p><i>We propose Ofgem carries out the Approver Role and Licence Counterparty roles (for network solutions), which also includes the role of Licence Provider. We consider these to fit with Ofgem's current statutory duties.</i></p> <p>See above.</p>
TOs are naturally best placed to undertake the Procurement Body roles as there are significant barriers and inefficiencies for a third party.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	<p>We did reflect on TOs taking on this role ahead of our Thought Paper in September 2020. We consider that TOs could create efficiencies and do have the knowledge of large infrastructure procurements. However, we believe that if the TO were to be the Procurement Body, this would create a significant conflict of interest as we are proposing that they are able to participate in the early competition. Therefore, we have not taken this feedback forward.</p>
Unclear who the Procurement Body would act on behalf of and what drivers and liabilities it would have in respect to the design of the	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Agree	<p>We agree with this feedback that at present it is unclear, and we have been unable to gain clarity on this (it has been raised previously during our September workshops). However, we have made an assumption that the Procurement Body would act on behalf of either Ofgem or BEIS. We have also made the proposal that the Procurement Body would prepare resources for the tender, however we do not</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
procurement process.				<p>know the level of liability exposure or if this will be the responsibility of the Procurement Body. We believe both of these points will be dependent on any legislation that is put in place by BEIS/Ofgem. Therefore, we note this feedback and will need to keep it under consideration during the implementation period.</p> <p>In the ECP we also proposed that Ofgem will take the lead in managing the implementation programme (which includes the design of the procurement process), with the ESO having a significant role to play.</p>
<p>The design of the procurement process should lie with the Approver. The Procurement Body should feed into the design process.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Neither agree nor disagree	<p>See above in that we have made some proposals for activities that sit under the Procurement Body. However, we believe that this specific view will be dependent on any legislation that is put in place by BEIS/Ofgem.</p>
<p>The ESO is best placed to own the Procurement Body role but will need to upskill significantly, require suitable incentives to deliver good value for consumers and demonstrate full independence from NG Group.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs Construction companies Potential equity investor 	Partially Agree	<p>We agree with the view that the ESO would need to increase existing capabilities significantly and we consider this further in the ECP. We believe that current legal separation requirements provide sufficient independence from NG Group. However, we note within Ofgem's Review of GB System Operation that further separation of the ESO is recommended. The final decision on the appropriate structure will be made by BEIS through their consultation in this area due in summer 2021.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Open to a third-party Procurement Body overseen by Ofgem.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Public Sector stakeholder 	Disagree	<p>In Phase 2 we defined a third-party as an entity other than Ofgem, the TOs or the ESO. We considered a new third-party entity further in our Thought Paper published in September 2020 and found that the costs and length of time it could take to set up would not be in the best interest of consumers. This view was not opposed by stakeholders. We have not removed the option of a third party taking on the Procurement Body within our Phase 3 consultation and asked stakeholders who they viewed would be the best entity to take on this role.</p> <p>Most stakeholders responded to our Phase 3 consultation that the ESO could carry out the Procurement Body role with the enhancement of a procurement team and increasing internal competencies/upskilling which could be significant. We reflected on these responses and we agree that the ESO could undertake the role of the Procurement Body. However, this proposal is dependent on an appropriate risk, liability and remuneration framework.</p>
Concerned with the introduction of a third-party to provide the Procurement Body role.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funder 	Partially Agree	See above.
The Procurement Body should proactively contact businesses who engaged in very early stage	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Neither agree nor disagree	<p>In Phase 3 we have proposed activities that would be undertaken by the Procurement Body at a high-level, as stakeholders fed back that our Thought Paper didn't give enough information on what the role would look like. This includes pre-tender market engagement. However, we didn't consider details of</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
discussions. It should also contact trade associations where it suspects there may be viable solutions that are not registered in the tender process.				the engagement activities or the specificities of who could be proactively engaged. Ofgem may consider implementing stakeholder proposals during the implementation stage. However, these details should be developed further during the implementation stage, therefore we will not be considering this feedback at this time.
The role of Approver, Licence Provider and Licence Counterparty must be carried out by Ofgem.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • TOs 	Agree	<p><i>We anticipate for Ofgem to carry out the Approver Role and Licence Counterparty role (for network solutions), which also includes the role of Licence Provider.</i></p> <p>We continue to agree with this position. From Phase 2 onwards we have maintained that Ofgem are the only entity that can undertake the Licence Counterparty (due to the Electricity Act 1989). Following stakeholder feedback from Phase 2 we have proposed Ofgem are the most appropriate entity to take on the Approver role. We provided more information on activities that we propose could sit under the Approver in Phase 3 and reiterated that we believed Ofgem were the best party to carry out this role. A majority of respondents agreed that Ofgem were the best party to take on this role. Please note that the role of Licence Provider was removed due to the duplication of activities with the Licence Counterparty.</p>
Expect Ofgem to be the Licence Counterparty and effectively acting	September workshop: <ul style="list-style-type: none"> • Roles in Early Competition 	<ul style="list-style-type: none"> • Potential equity investors 	Agree	<p><i>We anticipate Ofgem to carry out the Approver Role and Licence Counterparty roles (for network solutions), while the ESO is minded to carry out the Payment Counterparty role.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
as the Payment Counterparty, but the payments will be settled by an external entity (ESO).				Following our review of Phase 3 consultation feedback, we continue to agree with this view in the ECP. The ESO's role as Payment Counterparty is as per arrangements under codes and Licence today. Ofgem's role as Licence Counterparty is as per the Electricity Act.
The ESO should carry out Contract Counterparty subject to adequate liability, risk and remuneration framework and full independence.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Partially Agree	We continue to support the view in the ECP that the ESO should carry out the Contract Counterparty role. We expect that detailed work on liability, risk and remuneration framework will be completed as part of the implementation stage. However, we believe that current legal separation requirements are adequate to carry out this role.
The Contract Counterparty role should retain the same authority as the Licence Counterparty. In particular, the TO is concerned there has been no detailing of enforcement actions if a non-network solution is not delivered.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	To make sure there is fairness and transparency, there needs to be a balance in aligning contract obligations fairly versus Licence obligations. We have proposed a draft Heads of Terms, which aim to set out a non-exhaustive list of the proposed risk allocation between a successful bidder and the consumer. This is expected to be delivered via a contract with a Contract Counterparty for non-network solutions or via a Transmission Licence with Ofgem for network solutions. We also consider 'provider of last resort' provisions and believe these arrangements need further consideration.
Clarification is required that Ofgem will	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	We expect this to be the case, but we believe this will be further clarified as legislative and regulatory

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
recourse to the ESO as the Contract Counterparty for non-network solutions.				arrangements are clarified during the implementation period.
The ESO should carry out Payment Counterparty roles subject to appropriate liability, risk and remuneration framework.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Agree	We agree with stakeholder feedback from Phase 3 and we have proposed in the ECP that that this role should continue to be undertaken by the ESO. However, it will also be subject to review if charging arrangements change.
More clarity is needed on what credit rating would be used should the ESO become an independent entity from the NG Group.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	N/A	We didn't consider whether the ESO should require credit rating at this stage of the early competition development, as we also do not know if the ESO will be made fully independent. In Summer 2021 BEIS will take Ofgem's proposals and consider if and how they should be implemented and publish a consultation with their own proposals. Until BEIS takes the recommendations forward and makes its own assessment of the future role of the ESO then the actual impact of the review on early competition is unknown.
Payment Counterparty credit rating issues in other schemes are addressed by the payment mechanisms	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	N/A	As per above, we haven't considered the detail around credit ratings but agree that this could be explored further.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
supported by structure of the charging arrangements. This route should be explored.	September workshop: Roles in Early Competition	<ul style="list-style-type: none"> TOs 	Agree	<p><i>We considered the need to have an acceptable credit rating to carry out the Payment Counterparty role as one of the disadvantages when looking at a Third Party to deliver this role. We propose the ESO is minded to carry out the Payment Counterparty role, subject to the appropriate remuneration, reward and liability framework.</i></p> <p>See above.</p>
It is not necessary to separate out the Payment Counterparty and Contract Counterparty roles.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>We agree with stakeholders that the Payment and Contract Counterparty roles don't have to be separated. However, for the purpose of developing the early competition model, we believe that these roles should be separated as this provides greater clarity around the required activities and responsibilities of both roles.</p>
Where the ESO does not have a strong understanding of the technical properties of a new solution, an Independent Technical Expert should be used.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Partially Agree	<p><i>Following this feedback, we worked on specifying what the Procurement Body roles would be and considered whether it may need to rely on third party advisers to complete the evaluation process. Currently we expect that the Procurement Body will have resources and capabilities held in-house to complete technical assessments.</i></p> <p>In our Phase 3 consultation we consider the types of skills needed to deliver the Procurement Body role, whichever entity were to take on the role. Following</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The ESO will need to address its capability gap in order to run the NOA process effectively and if it is selected as the Procurement Body.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Agree	<p>feedback received, in the ECP, we partially agree with this view in that the ESO will need to increase existing capabilities to cover areas of the solution assessment that we do not currently have skills to perform. However, we have not considered the use of an Independent Expert, this may be considered further in the future as proposals are refined.</p> <p>See above.</p>
Ofgem and the ESO should share the Procurement Body responsibilities.	September workshop: <ul style="list-style-type: none"> Roles in Early Competition 	<ul style="list-style-type: none"> TOs 	Disagree	<p><i>We are further exploring the role of the Procurement Body and the Approver in our Phase 3 consultation. We are considering whether the activity of independent assurance is required to carry out activities in an objective manner and in the best interest of consumers, as for example, quality assurance of the procurement process.</i></p> <p>We explored the possibility of other entities being involved in the procurement process in Phase 3, following feedback from stakeholders during our September workshops. In approaching this feedback, we considered the key activities involved in the procurement process and possible activities raised by stakeholders, then considered the practicality of these options and the entities we proposed who could take on the Procurement Body roles. Of the key activities involved in the procurement process, we found that</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Overall process could be simplified by combining some of the roles, leading to fewer interfaces and a smaller amount of parties involved in the management of the entire process	September workshop: <ul style="list-style-type: none"> Roles in Early Competition 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>other entities had responsibilities during the procurement process and there was the possibility another entity could own independent assurance activity (the ESOs analysis concluded these activities were not needed). A majority of stakeholder responses agreed that this activity was not needed and that Ofgem should take on the Approver role, with a preference for the ESO to take on the Procurement Body. If Ofgem were to take on any responsibilities of the procurement process, this would create a conflict with their role as Approver. Therefore, we have not taken this piece of feedback forward.</p> <p><i>We consider that either Ofgem, a Third Party or the ESO can carry out the role of Procurement Body. We are currently minded to propose that we take the role of Payment Counterparty and Contract Counterparty, which will reduce the number of parties involved in the process.</i></p> <p>We agree that bringing roles together could lead to efficiencies and fewer interfaces across the process. Prior to our Phase 3 consultation the Procurement Body was the only role where we had not had clear support for any one entity taking on this role. However following feedback received from Phase 3, there was majority support for the ESO taking on this role. Therefore, we considered this feedback further when considering our role and recommendation for the Procurement Body role in the ECP.</p>
The ESO should focus on stronger coordination to keep the	September workshop: <ul style="list-style-type: none"> Heads of Terms and 	<ul style="list-style-type: none"> TOs 	Agree	<p><i>We are currently proposing that all parties will deliver obligations within their defined roles and work together for the overall success of the early competition. We will consider stakeholder feedback on</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Procurement Body and Ofgem within the boundaries of their defined roles.	Industry Code Impacts			<p><i>this consultation when developing further details on the Procurement Body and Ofgem's roles in early competition.</i></p> <p>In the ECP, with the information we have today, we have tried to clearly define each role and represent where each role will work together. We agree that strong co-ordination between roles is important and that this will become clearer in the implementation phase as roles and the model are finalised.</p>
Unclear on which basis the Approver would provide approval of the need to compete at Stage Gate 1 and the extent the approved need would change between Stage Gate 2 and 3.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	N/A	<p>In the ECP we propose that the Approver will approve at Stage Gate 1 what network needs should be subject to early competition or which needs may require to be rejected at this point. However, the specificities of what the decision will be made on and the information required will be considered further during the implementation phase.</p> <p>We propose to undertake assessments of the network need that will be driving the project. This would highlight if there is a significant change that either suggests the project is no longer needed or that the required delivery date has changed. This process would be similar to the ad hoc needs assessments that take place for Strategic Wider Works projects. Please note that we do not foresee significant changes occurring in most cases between Stage Gates 1 and 2. However the iterative nature of these stage gates allows all requirements to be reviewed ahead of the start of the tender.</p>
It is not appropriate that the Approver confirms that Preferred Bidders	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>We agree that this should occur earlier and note that any large Licence changes, to facilitate early competition, will occur before stage 2. This gives bidders early sight of Licence obligations for early</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
meets all Licence requirements only at Stage Gate 3.				competition. However, we note that the Licence issue process is a separate process from our early competition proposals. We do encourage Ofgem to consider alignments between the licence issue process and early competition.
Additional approval is not required, given that key principles, checks and balances are embedded within the process and in existing regulations (referencing Utilities Contracts Regulation (“UCR”)).	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	We have received legal advice that there are a number of key elements of early competition which are inherently incompatible with existing regulations (UCR). Therefore, we believe that new tender regulations and secondary legislation would be required to facilitate early competition along with these Approver activities.
Additional approval activities include: (1) set the criteria and endorse the methodology used to identify needs and indicate solutions; (2) any policy aim impacting the network needs identification shall be covered by stage gate 1 decision; (3)	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	N/A	In the ECP we have solely focused on defining the high-level roles and responsibilities of the Approver. Stakeholder feedback will be therefore considered during the implementation stage, where we expect Ofgem to undertake detailed review of the approval activities.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>approve the evaluation criteria considering the market comments and inputs from Network Planning Body and the Procurement Body.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	N/A	See above.
<p>There is a lack of clarity on the challenge route that Ofgem, as the Approver, should follow should it not approve of certain stage gates.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>When looking at this role, we considered whether the Approver would want to approve all cost assessment outcomes. However, we felt the accountability for the outcome of the assessment sat with the respective counterparty. Therefore, we have proposed that the counterparty conducts and approves the cost assessment, but this outcome can be referred to the Approver if there is a dispute. However, Ofgem may want to consider this area of feedback further.</p> <p>We believe the activity of issuing guidance to clarify which solutions would or wouldn't require a licence is the responsibility of the Licence Counterparty, not the Approver. However, we believe issuing guidance would be beneficial. We note that Ofgem are unable to determine licence types until the formal licence</p>
<p>Additional approval activities need to be added to the current list. The Approver should approve the Post-Preliminary Works Cost Assessment ("PPWCA") documents and process as well as issue guidance to clarify what types of solutions would/wouldn't require a</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>When looking at this role, we considered whether the Approver would want to approve all cost assessment outcomes. However, we felt the accountability for the outcome of the assessment sat with the respective counterparty. Therefore, we have proposed that the counterparty conducts and approves the cost assessment, but this outcome can be referred to the Approver if there is a dispute. However, Ofgem may want to consider this area of feedback further.</p> <p>We believe the activity of issuing guidance to clarify which solutions would or wouldn't require a licence is the responsibility of the Licence Counterparty, not the Approver. However, we believe issuing guidance would be beneficial. We note that Ofgem are unable to determine licence types until the formal licence</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
transmission licence.				process has been followed. We encourage Ofgem to consider this further.
The Approver should have additional activities to: (1) check the Network Planning Body has identified and framed a need in a way to maximise fairness and transparency; (2) check the tender exercise is completed through a fair and transparent method; and (3) protect consumer value if a winning solution fails to deliver.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Public Sector stakeholder 	N/A	As per a previous comment, in the ECP we have solely focused on defining the high-level roles and responsibilities of the Approver. Stakeholder feedback will therefore be considered during the implementation stage, where we expect Ofgem to undertake detailed review of the approval activities.
Ofgem is not best placed to undertake the newly proposed other activities for the Approver as it does not have the requisite expertise.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	We do not agree with this position and are supported by a majority of Phase 3 respondents. Due to the significance of the activities undertaken by the Approver, we believe that Ofgem taking on this role will give bidders and stakeholders more comfort and confidence in the process. We also believe that Ofgem can mobilise a suitable team to undertake this role, similar to the team running the OFTO tender rounds.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Further clarity is required on how Ofgem’s review of system operation will impact the proposal of Ofgem as the Approver, as the review proposes further responsibility on the ESO in decision making.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	We did not consider how the review of the system operations and the role of the ESO may impact the proposed roles and responsibilities in the ECP. This is due to the limited time to update our proposals and that the true impacts are unknown until BEIS makes their own assessment of these recommendations and runs their own consultation.
Approval checks should be embedded into the role of the Approver without adding any burden.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Potential equity investor 	Agree	We agree with this position and believe that the time of Approver activities needs to be considered further. We do not know the exact details of what these activities will look like at the moment, but these will be developed during the implementation stage to ensure that they do not prolong the process any more than is needed to make an informed decision at each stage gate.
Additional oversight can be introduced through an independent auditor, instead of through additional checks from the Approver.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Disagree	In considering Phase 3 consultation feedback, we believe that independent assurance of the early competition process is not needed (a majority of stakeholders supported this position). We expect that the Approver role will be performing regular activities throughout the early competition process that will give confidence to bidders, and all parties involved in the process, that all requirements are being fulfilled ahead of each stage progressing. We do not know the exact details of what these activities will look like at the moment, but these will be developed during the implementation stage to ensure that they provide the

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
If stage gate checks or other approval activities were to be implemented, they should not be formalised and be no more than a tick box exercise.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	N/A	right level of assurance, transparency and do not prolong the process any more than is needed to make an informed decision at each stage gate. We have received varied feedback on this topic and some stakeholders support these activities being formalised. As per a previous comment, in the ECP we have solely focused on defining the high-level roles and responsibilities of the Approver. Stakeholder feedback will therefore be considered during the implementation stage, where we expect Ofgem to undertake a detailed review of the approval activities
Approval checks should be supported by a clear, transparent and robust framework. Requirements should be formally defined.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Agree	See above. We also agree with this statement, but this needs to be considered further by Ofgem.
Approval checks should be part of a formalised process and rules for each check should be published.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	N/A	See previous comment regarding details around checks.
The check “Does the project continue to be in the interest of	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs Potential equity investor 	Agree	We agree with this statement and have updated our roles interaction map to reflect this.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
consumers?" should extend to stage gate 4.				
Stage gates 1 and 2 are too similar to be separate gates. Having both would slow down the process.	Phase 3 consultation Q&A session: Roles and responsibilities and Distribution	<ul style="list-style-type: none"> Construction company 	Partially Agree	We have tried to detail what each stage gate include further and agree to an extent that Stage Gates 1 and 2 are similar. However, we view these as an iterative process therefore we do not think having both will slow down the process. Also, Stage Gate 2 will require additional approvals of documents and guidance for the tender process. Therefore, we do not believe these stage gates are similar enough to warrant removing one.
Unclear if approval checks are carried out on the operation of the Licence and Contract Counterparties.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	N/A	We have not considered this as an explicit activity for the Approver, however this could be considered further by Ofgem post ECP submission.
The conflict mitigation process promotes the concept of a level playing field ahead of consumer interests.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	We disagree with this feedback. We believe that seeking a level playing field will increase competition and therefore benefit consumers.
The conflict mitigation process does not enable whole system solutions, does not	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	We disagree that conflict mitigation does not enable whole system solutions. Whole system solutions will continue to be considered as part of the initial planning, prior to the competition.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
address implementation issues and inhibits TOs ability to meet regulatory responsibilities. This puts TOs at a disadvantage and will lead to suboptimal solutions.				In order to introduce a competitive regime Ofgem will need to ensure that TOs are relieved of their obligations in relation to the competed project.
Bidders should be able to ask confidential, project specific questions which are not shared widely with all bidders.	Phase 3 consultation Q&A session: Roles and responsibilities and Distribution	<ul style="list-style-type: none"> Construction company 	N/A	Noted. This will be considered as procurement processes are being developed in more detail during implementation.
The preferred option is for TOs to participate in early competitions as the counterfactual. The ESO has not sufficiently explored this option. Part of this work must include development of robust Cost Benefit Analysis (“CBA”) models to	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Disagree	<p>We appreciate that a ‘TO counterfactual’ approach, which compares regulated solutions to competitive solutions, would allow the comparison of regulated and non-regulated options. However, it is extremely challenging to run a competition where one potential option is developed and assessed outside of the main competitive process. It would present a number of challenges stemming from the differences between the RIIO regime and potential competitive regimes. These challenges would need to be addressed if Ofgem wishes to pursue this approach.</p> <p>We have held further discussions with relevant TOs to explore how an approach of TOs providing a counterfactual might work. Following this, we continue</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
determine the value created from competition.				to feel that this approach would present many challenges, such as ensuring fair and transparent comparison between the winning competition bid and the counterfactual. We have also identified a number of potential conflicts of interest with the TO's existing planning roles which would need to be addressed. In particular, TOs would have a role in assessing proposals which are in competition with the TO's own solutions. The ESO believes that TOs competing as bidders alongside other participants provides the most fair and transparent approach.
The counterfactual TO approach is central to assessing the value of the early competition process and provides a fallback option should the competition process fail. Alternative approaches could undermine the value a TO brings.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Public Sector stakeholder 	N/A	See above.
The ESO is not best placed to undertake increased network planning	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	Ofgem's recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
responsibilities, as TOs already have the expertise and are subject to the rigour of the Network Options Assessment (“NOA”).				<p>on the strategic network investment needed for 40GW of offshore wind</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address conflicts of interest with TOs participating in competitions.</p>
There is a need for a fully independent network planner. This could be the ESO.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	N/A	See above.
It is not appropriate for TOs, via network planning, to be involved in adjusting the standard bid evaluation framework, weightings of the Technical Adjusted Tender Revenue Stream (“TRS”), commercial arrangements and down selection of bidders.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Partially Agree	<p>We propose any adjustments to the standard bid evaluation framework or commercial model will be developed by the Procurement Body and assessed by the Approver. However, we believe that the Procurement Body may need some support from network owners, but, are not expected to have a decision-making role in this process.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
TOs should not identify projects suitable for competition, via a role in network planning.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Partially Disagree	<p>Ofgem’s recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address conflicts of interest with TOs participating in competitions.</p>
Ring-fence bidding teams for conflict mitigation requires further thinking. In particular, around gardening leave restrictions on those who can be part of bidding teams and refinement to the definition of network planning.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>We agree that the specific details of any conflict mitigation measures will need to be considered in further detail. We recommend Ofgem consider this as part of their work on roles and responsibilities.</p> <p>In addition, Ofgem’s recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The ring-fencing approach to conflict mitigation may be challenging to monitor and enforce in practice.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funder 	N/A	<p>whether it would be appropriate for the ESO to take on network planning responsibilities to address conflicts of interest with TOs participating in competitions.</p> <p>See above.</p>
Conflict mitigation proposals appear to favour NGET.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	N/A	See above.
Lack of clarity over how conflicts mitigation would, in practice, be run in a manner compliant with UCR.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	N/A	See above.
Propose either the option that TOs only retain planning roles on connections and asset health or the option where TOs are not allowed to compete. By doing both the TOs	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	N/A	See above.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
would likely reduce competition.				
TOs have inherent advantage when competing as they are able to make use of existing assets.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Partially Agree	From a consumer value perspective, utilising existing assets - which consumers have already paid for - could offer the best value. It will be important to consider before launching a competition whether the market feels it could compete with the TO solution.

3.2 Identifying projects

The table below presents stakeholder feedback on project identification and how we have used it to inform and shape our proposals. The feedback has been grouped by key subject areas. For reference, we have also retained our Phase 2 - Phase 3 positions noted in the November version of the You Said, We Did document. These positions are highlighted in italics below.

3.2.1 Criteria for competing projects

Table 3: Criteria for competing projects

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Certainty of the proposed needs should also be considered.	May workshops: <ul style="list-style-type: none"> Early Competition criteria, what could be competed? Construction Works and Commissioning 	Potential equity investors <ul style="list-style-type: none"> TOs 	Agree	<i>In our Phase 2 consultation, we noted that projects with greater certainty of need would be better suited to competition to avoid the risk of system needs changing during the competition process. We are therefore considering whether a meaningful assessment of certainty could be developed through our Network Options Assessment (“NOA”) process. We held Indicative Solutions and Interested Persons workshops following our Phase 2 consultation with external stakeholders and internally with our colleagues in NOA and network planning teams to</i>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Placing a lower limit is not necessary and schemes which are worth between £10m and £20m can still deliver value for customers.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> • Early Competition criteria, what could be competed? 	<ul style="list-style-type: none"> • Potential equity investors • Generators and other electricity market participants 	<p>Agree</p>	<p><i>refine criteria for identifying projects suitable for early competition. We agree with this feedback and recommend that a certainty measure is required in order to help inform participants as to whether they wish to bid, and to reduce the risk of consumers paying for a competition for something that is ultimately not required. In order to provide enough confidence that the network need will not disappear, we propose the project should be required in more than one Future Energy Scenario, but given the limitations of this measure, we recommend continuing to explore ways to gauge certainty during the implementation stage.</i></p> <p><i>In order to provide sufficient confidence that the network need will not disappear, we propose in our Phase 3 consultation that the project should be required in more than one Future Energy Scenario ("FES") scenario.</i></p> <p><i>We agree with this and are not recommending a value limit for early competition. Our pathfinder projects and examples from the US demonstrate that value can be gained from competing low value projects.</i></p> <p><i>We confirm that we do not recommend imposing a minimum value threshold in our Phase 3 consultation. However, it will be important to ensure processes are proportionate to the scale of the projects. For small projects (below £50m) a more streamlined process than the one outlined in the Early Competition Plan ("ECP") is likely to be more appropriate and we would not anticipate many small NOA projects to meet the criteria.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The Electricity System Operator (“ESO”) should not delay efficient solutions by incumbent network companies because of a lack of market appetite.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>Ofgem may also wish to consider the impact on Transmission Owner (“TO”) business planning.</p> <p><i>We are interpreting this feedback to be directly related to our Phase 2 consultation proposal which stated market appetite and urgency of need form part of the criteria for the timescales required to compete a need. Following this feedback, we have further investigated what criteria may be most appropriate, which we explored with stakeholders at the Indicative Solutions and Interested Persons workshop.</i></p> <p><i>We propose that a Cost Benefit Analysis (“CBA”) should be undertaken on each project before a decision is made to compete it. This is to help make sure consumer benefit is gained through the competition. We also propose that market appetite would help inform whether the benefits can be realised.</i></p> <p>We consider that market appetite should be considered in determining whether to launch a tender. This would be determined through stakeholder input into the NOA process and through market engagement, potentially including a Request for Information (“RFI”) or Expression of Interest (“EOI”) process, during the pre-tender stage. Needs with greater market appetite are more likely to generate benefits from competition.</p>
Absolute clarity on which parts of the network will be subject to competition and which won’t be is	September workshop: <ul style="list-style-type: none"> Indicative Solution Identification Process 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>Our Phase 3 consultation sets out our views on which projects could be competed. We anticipate most projects suitable for early competition will emerge through the boundary reinforcement planning process (i.e. the NOA process). These projects would require assessment against our proposed Cost Benefit</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
key f for potential bidders.				<p><i>Assessment approach once a competitive framework is in place.</i></p> <p>We agree that clear criteria for competing projects are required and have sought to provide this though our proposed criteria.</p>
A project value threshold is required for projects to be competed. The threshold should be at least £50m.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	<p>We have considered this feedback. However, we do not feel that there is evidence, at this point in time, to suggest there is a minimum project value at which consumer value can be gained.</p> <p>We recognise the concerns that not imposing a minimum value threshold could have implications for TO business planning and investor's perceptions of TOs. However, this is beyond the remit of the ESO to advise on. We recommend Ofgem consider this when determining whether to impose a value threshold.</p>
Unclear why the ESO anticipate most suitable projects to be large scale. If a streamlined tender process is used, many more small projects could be competed.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>We agree small projects could be competed under proportional tender processes.</p> <p>When reviewing NOA 2019/20 we observed that many smaller projects failed the 'new and separable' criteria and therefore speculated that small projects may be rarer. NOA 2020/21 did identify some smaller projects, which have been highlighted in the ECP. Additional smaller projects may arise through regional high voltage or stability assessments.</p>
Guidelines for CBA process to decide whether a project is competed should be applied by an	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>We believe that the ESO, in its Network Planning Body role, should undertake a CBA before making a recommendation to Ofgem to tender a project. We propose this would be run for all projects that the ESO</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>independent body, not TOs.</p> <p>Projects considered for early competition should exclude those likely to impact time critical projects or projects replacing existing assets.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree/ Disagree	<p>considered to meet the other proposed criteria as part of the NOA process.</p> <p>We agree with the concern about time critical projects. To address this, we propose in the ECP a new NOA recommendation that could trigger the launch of a competition. This signal would be given to projects that meet the early competition criteria and we anticipate that for most projects this signal will be given when a project has a 'Hold' recommendation, as this means that an increased delivery time due to the tender process can still be accommodated before the reinforcement is economically needed. Some projects with a 'Proceed' recommendation – meaning there is no slack in their delivery timescales – may still be competed if the likely benefit of competition outweighs the impact on consumers of delaying the delivery of the project to facilitate the tender process.</p> <p>We also believe that on occasion, some replacement projects could be made to be separable and therefore we recommend this is explored further in considering whether to compete asset replacement projects. We also set out proposals in our RIIO-2 business plan to bring some large asset replacement schemes into scope for NOA where alternative options or betterment of existing solutions may be available instead of like-for-like replacement. This would identify any projects suitable for competition.</p>
<p>Projects that are required but not identified for early competition should</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>In the ECP we do not consider how the project identification stage may be designed for late competition. However, we agree that some projects may not be suitable for early competition but may be suitable for late competition. For example, there might</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
be considered for late competition.				not be sufficient certainty of the network need at the early point.
Each project may need an indication of its certainty of continuing to be in multiple FES scenarios to enable bidders to prioritise efforts.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Agree	We agree with this feedback and recommend that a certainty measure is required in order to help inform participants as to whether they wish to bid, and to reduce the risk of consumers paying for a competition for something that is ultimately not required. In order to provide enough confidence that the network need will not disappear, we propose the project should be required in more than one Future Energy Scenario, but given the limitations of this measure, we recommend continuing to explore ways to gauge certainty during the implementation stage.
The ESO must be conscious not to impact the market by effectively making decisions around which projects are perceived to be more certain. As such, all projects would need to be treated equally.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	We have considered this feedback and agree it is important to minimise the ESO's impact on the market. However, we also want to avoid competing projects that may not be needed. We have therefore proposed an objective certainty measure whereby the project must be required in more than 1 Future Energy Scenario. Whilst recognising this is not a perfect measure it does help provide greater confidence the project will be required.
The proposed approach to identify projects does not provide enough certainty that projects will go ahead. It is at odds	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs Potential equity investors 	Partially Disagree	We understand this feedback and agree that our proposed certainty measure does not provide a guarantee that projects will be required. We have considered whether the alternative approaches would better serve the purpose. However, we continue to believe that our proposed measure is still useful in

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
with the NOA methodology and sets a lower bar in demonstrating project need than that experienced by TOs under Strategic Wider Works ("SWW")/ Large Onshore Transmission Investment ("LOTI").				<p>helping to minimise the risk of the project need disappearing.</p> <p>We note the concerns about inconsistency with the NOA methodology. However, NOA uses a least worst regret methodology. This is to determine whether to progress a project for a further year. This is therefore aiming to achieve a different purpose to our certainty measure.</p> <p>We also note the concerns that this is different to the approach taken for Large Onshore Transmission Investment ("LOTI"). For LOTI TOs need to demonstrate how the need can most efficiently be addressed. However, under early competition, the competition process itself will partially fulfil that purpose.</p>
Request further consideration of the definition of "new", which should include modifying existing assets to the extent that the new project is separable.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	We have reflected this feedback in our proposals. We continue to propose that "new" should have the same definition adopted as for late competition, which is set out in Ofgem's Guidance on the Criteria for Competition. We also support that some replacement projects could be made to be separable and therefore we recommend this is explored further in considering whether to compete asset replacement projects.
Asset replacement projects should not be included in early competition.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Disagree	<i>We are considering whether and how early competition could be applied to asset replacement. Following our Phase 2 consultation, we held Indicative Solutions and Interested Persons workshops with external stakeholders and investigated internally with our colleagues in NOA and network planning teams the potential criteria to</i>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>It is difficult to know what replacement projects can be competed years in advance as required by early competition and should be removed as driver.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> TOs 	<p>Partially Agree</p>	<p><i>identify a potential pipeline of projects suitable for early competition.</i></p> <p><i>We do not propose to specifically exclude asset replacement projects from the scope of competition. However, asset replacement schemes will typically involve utilising existing assets in part and so suitable projects are likely to be rare in early competition as most won't be 'new or separable'.</i></p> <p>There may be occasions when they do meet the criteria. For example, there may be benefits in replacing an asset in a different way to its current form. This could result in it meeting the early competition criteria. Therefore, we do not think asset replacement projects should be explicitly excluded from competition.</p> <p>We note this point. The processes for how asset replacement projects would be identified has not yet been explored in detail. We recommend that this issue is explored further to see if it can be overcome.</p>
<p>There is no obvious useful indicator of certainty for single party connections.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> TOs 	<p>Agree</p>	<p>We are concerned that where a single party is driving a connection there is a risk that the connection either does not go ahead or is significantly delayed. Resulting in a competition being ran for the connection but then not required. We therefore propose that connection enabling works should only be competed at the early stage when there are multiple connecting parties, thereby providing greater</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				confidence the works will be required. Single party connections could still be considered for late competition.
Disagree with excluding enabling works from competition however in some instances running a late competition may be better.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	We agree that late competition may be more appropriate for projects where there is insufficient certainty that the project is required.
Disagree with TOs identifying and reporting compliance driven projects. The ESO should be the planning body for this.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree/ Disagree	<p>Ofgem’s recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind.</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address potential conflicts of interest with TOs participating in competitions.</p>
A clearer definition of these network drivers, that is connections,	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	In the ECP we have sought to ensure that no forms of network investment are missed when considering whether to compete projects. We have therefore sought to categorise different drivers. Further work

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
compliance, asset replacement and voltage/stability, is required.				will be required during the implementation stage to develop detailed proposals including specific processes for all forms of network investment and the interactions between them.
It is vital that further work is undertaken beyond NOA to understand the complexities and strength of network drivers on a case-by-case basis.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Agree	We agree that further work is required before a final decision is made on what should be considered eligible for competition. We recommend Ofgem consider this further.
Request analysis on how third parties can deliver network drivers more efficiently than TOs given TOs ability to find efficiencies across different network drivers.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	In considering the overall Cost Benefit Analysis for early competition, Ofgem should consider whether the assumptions about competition value are equally applicable to each circumstance.
Optimisation across drivers before competition is important to ensure that overall level of infrastructure build onshore is minimised.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Agree	This should be considered as part of the network planning processes, prior to a competition being launched.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There needs to be recognition that it will not be possible to easily delineate between these boundary capability and customer works as separate things.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	In future it is expected that all connections wider works will be considered through NOA, given the interaction with boundary capability.
Consideration should also be given to either expanding/changing or supplementing the NOA process to ensure that it reflects all facets of the system drivers and project requirements.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>This is beyond the scope of the early competition plan.</p> <p>In our R110-2 Business Plan, however, we set out our intention to expand the NOA to cover connections wider works and some asset replacement projects. We also set out our ongoing planning work for other system needs.</p>
TOs should have active involvement in the process of assessing the eligibility of projects as they need to ensure that the solutions are deliverable and enable them to continue to meet their licence obligations.	<p>May workshop:</p> <ul style="list-style-type: none"> Early Competition criteria, what could be competed? 	<ul style="list-style-type: none"> TOs 	Partially Agree/ Disagree	<p><i>In our Phase 2 consultation, we proposed we expect TOs to competitively bid into the process and therefore TOs involvement in assessing the eligibility of projects will be limited. Following our Phase 2 consultation, we held a series of workshops with TOs to explore the role of the TO in terms of network planning and as a bidder. We also discussed what the potential conflicts of interest and mitigations could be.</i></p> <p><i>We proposed in our Phase 3 consultation that TOs will continue their role in network planning to propose solutions and propose the ESO will make recommendations to Ofgem on whether the competition criteria have been met.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				<p>We agree it is important to assess the impact any new solutions will have on the existing network.</p> <p>In addition, Ofgem’s recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind.</p> <p>We therefore recommend that roles and responsibilities for network planning for early competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address potential conflicts of interest with TOs participating in competitions.</p>
Interaction of the Transmission Owner and the ESO during the project identification process will be critical.	May workshop: <ul style="list-style-type: none"> • Early Competition criteria, what could be competed? 	<ul style="list-style-type: none"> • Potential equity investors 	Partially Agree	<i>See above.</i>
The ESO should consider what the project pipeline will look like.	May workshop: <ul style="list-style-type: none"> • Early Competition criteria, what could be competed? 	<ul style="list-style-type: none"> • Potential equity investors • Construction companies • TOs 	Agree	<i>We set out criteria for identifying projects suitable for early competition in our Phase 2 consultation. We held Indicative Solutions and Interested Persons workshops following our Phase 2 consultation with external stakeholders to refine the criteria. We also investigated internally with our colleagues in Network Options Assessment and network planning teams to</i>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The ESO should ensure that sufficient timeframes are set in the planning exercise in order to allow new entrants to participate in the process.</p>	<p>September workshop:</p> <ul style="list-style-type: none"> Indicative Solution Identification Process 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>identify a potential pipeline of projects suitable for early competition.</i></p> <p><i>The pipeline of projects for early competition is expected to emerge in coming years. In our Phase 3 consultation, for illustrative purposes, we set out a list of projects from NOA 2019 that would meet our certainty, new and separable criteria for early competition (Table 1, Chapter 3 - Identifying Projects). Given legislation is not yet in place for competition, these specific projects may be too far progressed to be completed by the time a competitive regime is in place.</i></p> <p>We agree a pipeline of projects is important. In the ECP we therefore set out the projects in NOA 2020/21 that meet the new, separable and certainty criteria for illustrative purposes.</p> <p><i>We believe that projects should only be competed where there is sufficient time to do so without incurring disproportionate consumer costs. This includes the time taken for market engagement. Our timeframes assume that market engagement will typically take around 12 months for large projects.</i></p> <p>We propose in the ECP a new NOA recommendation that could trigger the launch of a competition. This signal would be given to projects that meet the early competition criteria and we anticipate that for most projects this signal will be given when a project has a current 'Hold' recommendation. This means that an increased delivery time due to the tender process can still be accommodated before the reinforcement is economically needed, to address constraints on the system. Some projects with a 'Proceed'</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The Interested Persons Options process requires extensive work to ensure it is attractive and useable for third parties. Currently participation in this is very low.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> • TOs • Potential equity investors 	<p>Agree</p>	<p>recommendation – meaning there is no slack in their delivery timescales – may still be competed if the likely benefit of competition outweighs the impact on consumers of delaying the delivery of the project to facilitate the tender process.</p> <p>Building on this feedback, we propose to further explore with stakeholders how their engagement with initial solution development can best be facilitated in future. Any such processes will need to ensure that stakeholders have an incentive to engage and that their input can be meaningfully utilised in the initial solution development process.</p>
<p>Further clarity should be provided on the (1) roles of TOs and the ESO in the Interested Persons process and the NOA process; (2) how the Interested Persons process fits into the current NOA process; and (3) how Interested Persons options will be accommodated.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> • TOs 	<p>Agree</p>	<p>See above.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The ESO should seek to understand why participants would benefit from getting involved in the Interested Persons process.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs • Potential equity investors 	Agree	See above.
The benefit from inputting in the Interested Persons process should not be a potential indirect advantage on network planning.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Potential equity investors 	Partially Agree	See above.
System requirements are not only identified in the FES, they are also in other network analysis documents. The ESO and TO should be open for very early stage discussion from the first appearance of need in these documents and thereafter the need can move into the early competition	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Construction companies 	Agree	We agree that stakeholder involvement in the early stages of planning is important. The Interested Persons Option process was introduced for this year's NOA (2020) and begins that journey. Further work is required with stakeholders to understand how their input can most usefully be sought whilst minimising the burden on stakeholders.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
plans at second appearance.				
The competition should not be limited to non-network solutions. Alternative solutions such as Virtual Transmission Lines can be provided by batteries.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Agree	<p><i>We are interpreting this stakeholder feedback to refer to both non-network and network solutions. Our Phase 2 consultation position was network and non-networks solutions would be able to compete for the same need, and we consider this to be our final position.</i></p> <p><i>Our Phase 3 consultation continues to support this view.</i></p> <p>We agree with this feedback and have designed processes that we believe allows both network and non-network solutions to participate.</p>
The ESO should consider how early competition will fit with stability, voltage processes and with the current pathfinders process.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p><i>Following our Phase 2 consultation we invited stakeholders to our Indicative Solution Identification Process workshop to discuss the interaction between pathfinders, interested persons process and early competition. Stakeholders expressed concerns around the interested persons process and based on this we invited stakeholders back to a further session with experts from the interested persons process.</i></p> <p><i>We propose that our pathfinder process will be merged with, or aligned to, our early competition process. The extent to which this is appropriate depends on ongoing learnings for both processes.</i></p> <p>We will aim to adopt the same processes and arrangements for both early competition and pathfinders where appropriate, to provide consistency for bidders. We are still learning from our pathfinders and so it is too early to say exactly what solutions will</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The TO bid is a counterfactual under Pathfinders while the ECP proposals requires for a level playing field. Will there be changes to align the processes?</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> TOs 	<p>N/A</p>	<p>be appropriate, but we will progress this thinking during the implementation stage. See above.</p>
<p>The current NOA process is dynamic and early competition does not appear flexible enough to run alongside this. The stakeholder questions how realistic it is for third party bidders to operate in such an uncertain environment.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> TOs 	<p>Partially Disagree</p>	<p>We recognise this concern. Early competition requires greater commitment to a particular option at an early stage than the current process. We recommend Ofgem should consider this when determining whether to proceed with early competition.</p>
<p>Worth considering if FES and NOA are fit for the purpose, in particular how to mitigate the risk of not receiving Ofgem</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p>See above. We also consider that some changes may be required to NOA to accommodate early competition. For instance, we propose to introduce a new NOA recommendation that would signal projects that meet the early competition criteria.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>approval at later stages.</p> <p>The current NOA process does not allow for network needs to be identified at an earlier stage given that the proposals imply it could accommodate early competition without delays.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	<p>We propose in the ECP a new NOA recommendation that could trigger the launch of a competition. This signal would be given to projects that meet the early competition criteria and we anticipate that for most projects this signal will be given when a project has a 'Hold' recommendation, as this means that an increased delivery time due to the tender process can still be accommodated before the reinforcement is economically needed, to address constraints on the system. Some projects with a 'Proceed' recommendation – meaning there is no slack in their delivery timescales – may still be competed if the likely benefit of competition outweighs the impact on consumers of delaying the delivery of the project to facilitate the tender process.</p>

3.2.2 Early versus very early competition

Table 4: Early versus very early competition

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Exploring the need at a very early stage should not require a substantive amount of investment and time.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Provision of Information to Allow Proposal Development 	<ul style="list-style-type: none"> Generators and other electricity market participants 	Partially Agree/ Disagree	<p><i>Our Phase 3 consultation considers how stakeholder engagement prior to the NOA might be undertaken in order to minimise the time required from stakeholders.</i></p> <p>We propose in the ECP that that competitions should be launched early rather than very early. At the very early point there is limited clarity on what is being tendered for as no option development has occurred. Any tender specification would be vague meaning</p>

bidders have less clarity on what is most desirable for the network. Under early competition, the tender will define more parameters which the bid must adhere to and this will reduce the variability of bids that can be submitted, but should still enable alternative solutions to be provided, within those parameters.



3.3 Commercial model

The table below presents stakeholder feedback on the commercial model proposals and how we have used it to inform and shape those proposals. The feedback has been grouped by key subject areas. For reference, we have also retained our Phase 2 - Phase 3 positions on stakeholder feedback discussed in the November 2020 version of the 'You Said, We Did' document. These positions are highlighted in italics below.

3.3.1 Commercial model

Table 5: Commercial model

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Financial investors' engagement at an early stage will be challenging and there may be low interest in the market if investors will be asked to hold their terms.	May workshop: <ul style="list-style-type: none"> Procurement Steps and Timelines 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p><i>In our Phase 2 consultation we set out our preferred option on which costs should be fixed at bid stage. We are currently reviewing stakeholder feedback on the funding and revenue arrangements from our Phase 2 consultation, as well as discussing our commercial model with Ofgem.</i></p> <p><i>The preferred option remains unchanged in our Phase 3 consultation.</i></p> <p>Whilst remaining mindful of this feedback, our preferred option remains unchanged in the Early Competition Plan ("ECP"). To ensure projects are deliverable we think that the involvement of equity at the bid stage is essential as debt is unlikely to hold terms for the length of the preliminary works. We recognise that this adds risk to the investment and return requirements are likely to be higher than under very late or late competition models.</p>
A licence should be in line with the existing Transmission	May workshop: <ul style="list-style-type: none"> What Winners Win and How 	<ul style="list-style-type: none"> TOs 	Partially Agree	<p><i>In our Phase 2 consultation, we noted that further consideration may be required where non-network solutions are being delivered by non-licensees under a commercial contract. Following our Phase 2</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Owner (“TOs”) situation for network solutions, but contracts may be needed for non-network solutions.</p>	<p>Risk is Allocated?</p>			<p><i>consultation, we held workshops on Heads of Terms and Industry Code Impacts.</i></p> <p><i>Based on stakeholder feedback, we agree in our Phase 3 consultation that alignment between network solutions and non-network solutions requires careful consideration, but we note that we are not seeking to fully harmonise arrangements. In some cases, it might be appropriate for non-network solutions to have different obligations under contract and code than network solutions have under licence and code.</i></p> <p>We continue to generally agree with this feedback and continue to propose in the ECP that a successful network solution would require an Electricity Transmission Licence and a successful non-network solution would enter into a contract. The terms/conditions in each would need to be aligned but we think they would not necessarily be fully harmonised.</p>
<p>The duration should be set to a term that is most financially efficient if the aim is to get the lowest financing cost.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p><i>In our Phase 2 consultation, we set out options for the length of the revenue period and we identified our preferred option. We are currently reviewing stakeholder feedback as well as discussing our commercial model with Ofgem to determine the appropriate revenue period.</i></p> <p><i>Our preferred option remains the same as in our Phase 2 consultation, which proposed to set the revenue period equal to the length of the need and to cap the length of any revenue period to 45 years, in line with Revenue = Incentives + Innovation + Outputs (“RIIO”)-2. We also consider that it would be appropriate to allow for this to be adjusted on a case-by-case basis for each tender.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Duration beyond 20 years may be challenging for banks, 25 years may be achievable for bonds and longer-term arrangements may be achievable via institutional investors.	May workshop: <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>We continue to generally agree but in the context of the network need, our basic recommendation is to set the revenue period equal to the forecast length of the network need and capped at 45 years. We believe that this will provide consumers with the best value as they are (i) not taking the risk of procuring a replacement solution during an ongoing network need, and (ii) not paying for services beyond the period for which they are required.</p> <p>The Procurement Body would be able to vary the length of the revenue period set in the tender in response to particular technical or financial market circumstances at the time, with the aim of obtaining lower financing costs.</p> <p><i>See above.</i></p> <p>We expect factors such as this would be considered in relation to financial market circumstances.</p>
The revenue period is not related to the length of network need. This could limit the introduction of new	Phase 2 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Partially Agree	<p><i>See above.</i></p> <p>We expect factors such as this would be considered in relation to technical circumstances.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>technology on the network and reduce value for consumers.</p> <p>If an asset has a longer life than the licence/contract, then it is most likely that bidders will look to recover all their costs in the licence/contract period.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p><i>There is the possibility that at the end of the revenue period the solution will have some remaining technical life. In such circumstances, it may be of value to the consumer to delay the decommissioning (or, potentially, redeployment) of the solution with an extension.</i></p> <p><i>Our preferred option proposed in Phase 3 consultation is to set out in the original contract or state as policy with regards the licence the basis on which an extension would take place. This would include agreement on the basis for calculating the new Tender Revenue Stream (“TRS”) for the extension period.</i></p> <p>We believe that for solutions whose asset life extends beyond the end of the network need there are a number of possible scenarios depending on the nature of the solution. If a solution is fully integrated in the network, we expect that there is unlikely to be an alternative use for that asset and we agree that bidders will look to recover their full costs within the revenue period. However, we think that if a solution is potentially separable from the network, bidders will need to decide what risk they are willing to take on the commercial residual value and therefore what costs they need to recover over the life of the electricity transmission licence/contract.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Extending contracts should be considered if the asset is longer than the contract life.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>See above.</p> <p>We agree that extension should be an end of revenue period option and this is further considered in the ECP.</p>
There should be a mechanism to extend the licence/contract.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs Construction companies Potential equity investors 	Agree	See above.
Any pre-agreed elements of revenue extension should allow bidders to better assess the potential residual value during the original tender stage whilst taking the risk if any extension does not materialise.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>See above.</p> <p>We agree that the mechanics of any pre-agreed elements will need further consideration in the context of any bid stage assumptions made about commercial residual value, as whilst this is proposed to be a bidder risk it may become relevant in any extension discussions.</p>
Options for extending the revenue period might be better agreed at the outset and a	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>See above.</p> <p>As we propose in the ECP to set the revenue period based on the associated network need duration we do not think it would be efficient to include unilateral extension arrangements from the outset. We think it would also be challenging to do so because inclusion</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
decision should be made nearer the time.				of unilateral extension rights from the outset could reduce the scope for residual asset value risk to be taken by bidders, or unnecessarily exclude bids where the technical asset life does not cover the extension period.
A fair balance can be achieved by pre-agreeing a process for the extension of the revenue period alongside consideration of some future cost elements closer to the point of extension.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	See above. We agree and we believe this is generally reflected in our ECP proposals in relation to end of revenue period arrangements.
Further clarity on whether anyone with a TO licence or only the incumbent TO is able to bid for projects as part of last resort arrangements.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	We agree further clarity is required and as such we expect that 'Offshore Transmission Owner ("OFTO") of Last Resort' provisions, licence conditions, and guidance would need to be extended/expanded to create relevant 'Competitively Appointed Transmission Owner ("CATO") of Last Resort' provisions in respect of both tender process failures and issues with network solutions. However, Ofgem will need to further consider how any such changes interact with existing TOs and OFTOs in respect of their own licences and regulatory arrangements, as well as what is most suitable for non-network solutions. Therefore, at this stage we do not have a view on this specific feedback.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
All new entrants should be held to the same standards as TOs in term of licence, code and statutory obligations.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	We have indicated in the ECP that in many areas we expect this to be the case, but in some areas, it may not be either appropriate or proportionate to fully align TO and CATO rights and obligations due to the different regulatory arrangements. To ensure a level playing field between network solutions and non-network solutions, the terms/conditions of the electricity transmission licence and contract (as well as the rights and obligations set out in the applicable codes) will need to be aligned but we are not recommending fully harmonising arrangements. In some areas we feel it may not be either appropriate or proportionate to fully harmonise e.g. in relation to new connection obligations. We expect that the more detailed licence/contract/code development work will need to take into this viewpoint in future.
Methodology for Post-Preliminary Works Cost Assessment ("PPWCA"), initial draft Heads of Terms and the intention to align contract obligations to transmission licence obligations require more in-depth discussion with Ofgem and other stakeholders.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	As above. We agree with this feedback and we consider that more detailed discussions (and licence/contract/code development) will be undertaken during the implementation stage. Additionally, we expect more detailed guidance will need to be created prior to a tender exercise, including on the PPWCA.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There should be a mechanism for flexing the contract to allow for changes to project requirements.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction company 	Agree	We agree and as the risk of a change in network need is entirely outside the control of the successful bidder, we recommend in the ECP that the risk should largely sit with consumers. Whether a change is identified at the preliminary works, solution delivery or operational stages, we propose that a change process would be initiated with the successful bidder as is considered within the ECP.

3.3.2 Revenues

Table 6: Revenues

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
A TRS model is a simpler and more flexible revenue model.	May workshop: <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>In our Phase 2 consultation, our preferred option was the TRS model. We are currently reviewing the arrangements under the Regulatory Asset Base (“RAB”) and TRS models.</p> <p>Based on the stakeholder feedback we reviewed the rationale for a TRS type revenue model and noted in our Phase 3 consultation that we continue to think a TRS type revenue model is best suited to early competition. Further details are presented in the Phase 3 consultation.</p> <p>After early and continued engagement on this position we continue to propose that a TRS type model is most suitable as the standard arrangement. It supports the principles of early competition by encouraging innovation, creating a level playing field for competition and protecting consumers.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				We continue to think that the alternative option of a RAB/ Regulatory Asset Value (“RAV”) payment-based model would be more complex and less suitable for the likely asset values procured via early competition. We also continue to think that an alternative market-based revenue stream model would be a fundamental departure from the current revenue arrangements.
TRS model may be more appropriate for a single/discreet asset or solution, rather than a portfolio of assets.	May workshop: <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	Agree	See above.
There is no robust justification as to why the TRS type revenue model is the appropriate approach for early competition.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	See above. Whilst we have not included quantitative information in the ECP in support of our position, we believe we have undertaken sufficient stakeholder engagement and provided sufficient qualitative information to support our TRS proposals.
Revenue model should provide cost certainty and protect against volatility and be clear enough for bidders to assess costs and anticipated rates of return.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	See above. We believe a TRS model (and our wider commercial model) can - with further development - do so in future.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Disagree that TRS is the most suitable model. The lack of any robust analysis to evaluate different models (such as Bid Weighted Average Cost of Capital (“WACC”)) is a serious flaw and requires significant work to ensure a level playing field.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> • TOs 	<p>Disagree</p>	<p>See above.</p> <p>We continue to propose that a TRS type model is the most suitable for early competition. A regulatory model has only been applied to single assets in a very limited number of cases (e.g. Thames Tideway) where it was justified by the scale and complexity of the project and we do not consider there is a more suitable alternative to the TRS type model based on our engagement and qualitative considerations.</p>
<p>All bidders, including those with an existing RAB should get the same revenue model for any successful bid to ensure a level playing field.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> • What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> • Potential equity investors 	<p>Agree</p>	<p><i>In our Phase 2 consultation, we noted the importance of level playing field for all bidders. We expect that one approach to the revenue stream will be developed and applicable to all bidders. Following our Phase 2 consultation, we are reviewing stakeholder feedback and discussing potential commercial model arrangements with Ofgem.</i></p> <p><i>Based on the stakeholder feedback we reviewed the rationale for a TRS type revenue model and noted in our Phase 3 consultation that we continue to think a TRS type revenue model is best suited to early competition.</i></p> <p>We continue to propose that a TRS type model is most suitable as it supports the principles of early competition and we consider that all bidders should compete for a TRS.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Revenue stream needs to have in-built flexibilities comparable to the TOs' regulatory models to ensure a level playing field.	May workshop: <ul style="list-style-type: none"> Procurement Steps and Timelines 	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>See above.</p> <p>Whilst not the same, some elements of in-built flexibility in our proposals are arguably comparable to the current regulatory model for TOs e.g. for some of the proposed incentives.</p>
TOs are designed to operate under the enduring framework, which influences the way they put forward their business plans.	September workshop: <ul style="list-style-type: none"> Roles in Early Competition 	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>See above.</p> <p>Further consideration is required on how our proposed model works alongside current processes, including under RIIO-2.</p>
Regular, milestone-based payments during preliminary works would help keep costs down.	May workshop: <ul style="list-style-type: none"> Preliminary Works Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors TOs Generators and other electricity market participants 	Agree	<p><i>We expect that milestone-based payments may be applied to the preliminary works. As considered in our Phase 2 consultation, one option would be to pay a fixed value or proportion set by the procurement body as part of the tender process. Following our Phase 2 consultation feedback, we held discussions with Ofgem on options for the commercial model.</i></p> <p><i>Our current preferred option is to have some form of revenue for the successful bidder during the preliminary works period. To avoid distorting the tender process, we propose that this revenue would be in a form of fixed payments (set for each tender) at set points during the preliminary works period.</i></p> <p>After continued general support on the proposals, we continue to recommend in the ECP that some form of revenue for the successful bidder is introduced during the preliminary works period. This revenue is</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				expected to be in the form of payments at set points during the preliminary works period and the size of these payments will be determined by the Procurement Body for each tender process.
A combination of fixed and flexible payments with a milestone mechanism could be beneficial to a wider range of solutions.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	See above.
Starting revenues at operation would strongly incentivise timely completion.	May workshop: <ul style="list-style-type: none"> Construction Works and Commissioning 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>In our Phase 2 consultation, we noted that TRS commencing upon commissioning of the works and the solution becoming operational is our preferred option.</i></p> <p><i>Our view remains the same in our Phase 3 consultation.</i></p> <p>After continued general support on the proposals, we continue to recommend in the ECP that the TRS only commences upon commissioning and the solution is operational, which should provide a strong incentive on successful bidders to complete the works in a timely fashion and to the required standards.</p>
It may be appropriate to make some payments during construction.	May workshop: <ul style="list-style-type: none"> Construction Works and Commissioning 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p><i>In our Phase 2 consultation, we generally do not believe that payments throughout the solution delivery/construction period are necessary. We are keeping this under review as we consider wider stakeholder feedback on the commercial model.</i></p> <p><i>While we do not think payments during construction period are necessary in most cases, we note in our</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
For non-network solutions, the bidders should be able to participate in other revenue streams.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • Construction companies • Generators and other electricity market participants 	Partially Agree	<p><i>Phase 3 consultation that for projects with very long delivery periods this may be an option to consider when a tender is launched.</i></p> <p>We partially agree but we recommend in the ECP that any revenue during the construction period should be considered as non-standard. Any such payments would be considered on a case-by-case basis as part of the preparatory work for each tender process.</p> <p><i>Following stakeholder feedback, we have held discussions with internal ESO colleagues to assess in which circumstances this scenario would be applicable to early competition.</i></p> <p><i>We continue to think that a TRS should be the default revenue model for all bidders, however we do not think adopting this model necessarily prevents bidders from participating in other revenue opportunities. As we develop the details of early competition, we recognise the desirability of the model being able to accommodate revenue stacking opportunities, to the extent possible.</i></p> <p>We do not think adopting a TRS type revenue model necessarily prevents successful bidders from using their asset to participate in other revenue opportunities. As the detailed arrangements are developed, we would support the model accommodating revenue stacking opportunities, to the extent possible. However, it will be important to ensure revenue stacking does not impact on availability obligations.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Adoption of Consumer Prices Index including owner occupiers' Housing costs ("CPIH") should be kept under review to ensure it remains the preferred index used by the wider market.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	We continue to propose in the ECP that the relevant inflation index is CPIH, given the direction of travel in the industry. However, as with many elements of our proposals we agree that the position should be kept under review in future.
Partially indexing the TRS should not be required via any commercial model as each party may adopt a different bidding or funding structure.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	For early competition we recommend partially indexing the TRS to try and achieve a natural hedge against inflation. We expect that bidders will use financial models to determine for themselves what level of indexation provides a natural hedge. We think that allowing full indexation will require inflation swaps and this will unnecessarily add additional costs.
Bidders may wish to bid an indexation % based on their costs and seek to procure index-linked debt/inflation swaps on this basis.	Phase 3 consultation feedback Phase 3 consultation Q&A Session: <ul style="list-style-type: none"> Commercial Model and Model implementation 	<ul style="list-style-type: none"> Potential equity investors Debt funders 	Agree	See above. We acknowledge bidders may have preferences in relation to a bid percentage, but we feel that determining a natural hedge would be more efficient than the alternatives we considered within the ECP. This approach would be able to accommodate use of index linked debt if its value for money is established during the debt competition.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Unclear how indexing will work in practice as the type of debt may not be determined until the debt competition. There needs to be flexibility to cover different outcomes.	Phase 3 consultation Q&A Session: <ul style="list-style-type: none"> Commercial Model and Model implementation 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	See above. We agree further work is required in future to provide more detailed information on the application of our proposals.
Certain equity investors may want more exposure to inflation than others, which needs to be recognised in setting the sensitivities for partial indexation.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	See above.
Suggest inflation can be shared between bidders and consumers through a risk sharing mechanism.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	See above.
The bidder's revenue could be assessed on the Net Present Value	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	We agree with stakeholder feedback and we propose in the ECP that NPV TRS could be used in the evaluation at Invitation to Tender ("ITT") stage 2. We propose the TRS payment forecast in each year

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
(“NPV”) of the revenue stream instead of solely on the single TRS bid.				should be discounted to calculate NPV of the total payments to the bidder over the revenue period that will be used in the evaluation process to derive the Technical Adjusted TRS.

3.3.3 Costs

Table 7: Costs

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Deciding when bidders will need to commit to final costs is key.	May workshop: <ul style="list-style-type: none"> Evaluation of Commercial Elements of the Proposals 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>We agree with stakeholder feedback and considered it in our development of the proposed fixed and variable cost elements within the TRS in our Phase 2 consultation. Following our Phase 2 consultation, we reviewed stakeholder feedback and held workshops on Risk Allocation and PPWCA.</i></p> <p><i>We continue to believe that underlying costs should remain 'indicative' (or 'adjustable') at point of award and become fixed (for the most part) through a PPWCA process.</i></p> <p>Given the nature of early competition, the final costs of the successful solution (and therefore the final TRS) is inherently uncertain at the tender stage. Therefore, we propose in the ECP to require bidders to commit to margins/overheads on construction and operating costs in their final bids, along with an underwritten equity commitment. Other costs would be updated, as necessary, following the preliminary works.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Bidders need to be incentivised to give accurate costs at bid and cannot have total flexibility to pass through cost increases.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>We agree with stakeholder feedback and considered it in our development of the proposed fixed and variable cost elements within the TRS in our Phase 2 consultation. Following our Phase 2 consultation, we reviewed stakeholder feedback and held workshops on Risk Allocation and PPWCA.</i></p> <p><i>Our current view in the Phase 3 consultation based on stakeholder feedback is that the most appropriate mechanism for the PPWCA process will be a form of 'economic and efficient' review process with some form of upward adjustment cap to contain costs. Where the economic and efficient value of a cost change is allowed there will be a test in relation to the cumulative impact of those changes. Any cumulative costs exceeding the TRS adjustment cap will not be considered and so will not result in further upward adjustment to the TRS. This will provide an incentive to provide accurate costs at bid stage.</i></p> <p>To incentivise accurate costs in bids we continue to propose that only 'permissible' costs are passed through and that these must be 'economic and efficient'. In addition, we propose that a cap is set on any upward adjustment in costs.</p>
<p>Fixing costs at an early stage of the competition will lead to risk premium as that uncertainty would be priced in the bids.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Evaluation of Commercial Elements of the Proposals 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>In our Phase 2 consultation we explored what should be the right balance between fixed and variable costs elements that will enable the procuring body to minimise the overall risk of this process. Following our Phase 2 consultation, we reviewed stakeholder feedback and held workshops on Risk Allocation and PPWCA.</i></p> <p><i>We continue to believe that underlying costs should remain 'indicative' (or 'adjustable') at point of award</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The ESO should develop clear guidance on whether potential future changes to the costs will be categorised into permissible and non-permissible costs.</p>	<p>September workshop:</p> <ul style="list-style-type: none"> Risk Allocation and Post-Preliminary Works Cost Assessment 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>and become fixed (for the most part) through a PPWCA process.</i></p> <p>Given the nature of early competition, the final costs of the successful solution (and therefore the final TRS) is inherently uncertain at the tender stage. Therefore, we propose in the ECP to required bidders to commit to margins/overheads on construction and operating costs in their final bids, along with an underwritten equity commitment. Other costs would be updated, as necessary, following the preliminary works.</p> <p>We have tried to find the right balance between fixing costs and bid stage and including flexibility via our PPWCA and Debt Competition proposals to minimise the risk premium without transferring too much risk from bidders to consumers.</p> <p><i>We agree with stakeholders that it will need to be clear up front how the PPWCA would work so that this could be factored into their bid TRS. We therefore see a need for the Contract and Licence Counterparties to develop a common methodology to publish within common guidance which would be available to potential bidders in advance of the start of a tender process.</i></p> <p>Further details and guidance are expected to be developed on the PPWCA (and other potential TRS adjustments) during the implementation stage, once a decision has been taken on early competition.</p>
<p>More detail requested on (1) what permissible costs can be adjusted at</p>	<p>Phase 3 consultation feedback</p>	<p>TOs</p>	<p>Agree</p>	<p>See above.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>PPWCA; (2) income adjusting event proposals; and (3) acquiring land rights and late delivery penalties.</p>	Phase 3 consultation feedback	Potential equity investors	Partially Agree	<p>See above. However, we acknowledge that even with guidance bidders will need to make informed judgements in relation to risks as part of the bidding process.</p>
<p>Consider the PPWCA process is complex and will not provide clarity around what will and will not constitute permissible cost increases.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Evaluation of Commercial Elements of the Proposals 	Potential equity investors	Disagree	<p><i>In our Phase 2 consultation we set out options for cost assessment and noted that we will further explore them as part of Phase 3 work.</i></p> <p><i>Whilst we acknowledge this feedback we think that the most appropriate mechanism for the PPWCA process will be a form of 'economic and efficient' review with some form of upward adjustment cap to contain costs. We are proposing a three-stage process whereby any underlying costs within the scope of the cost assessment are considered on a case-by-case basis, whether they relate to an increase or decrease to the relevant costs.</i></p> <p>We continue to support that PPWCA process which would undertake an 'economic and efficient' review of permissible changes, is the most suitable approach to consider changes in construction or operating costs</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>ESO should consider a cost cap for the construction costs, supported by a form of bid bond.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> • What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> • Potential equity investors 	<p>Partially Agree</p>	<p>identified during the preliminary works. Whilst we agree that there is some uncertainty associated with the PPWCA process, we think it can be mitigated with guidance and we think that the alternative model suggested would likely transfer more risk to consumers (as fewer cost risks would sit with bidders) than is preferred under our proposals.</p> <p><i>In our Phase 2 consultation, we discussed potential use of caps and bonds in relation to managing cost increases after the bid stage.</i></p> <p><i>Based on Phase 2 consultation feedback and comments received during Phase 3 workshops, we propose that where the economic and efficient value of a cost change is allowed, there will be a test in relation to the cumulative impact of those changes. Any cumulative costs which exceed the set TRS adjustment cap will not be considered and therefore will not result in further upward adjustment to the TRS. We also continue to believe that a performance bond or other form of acceptable security will be required up until the solution is commissioned. We do not yet have a view on the appropriate value of a performance bond, but we expect that the value could be different throughout the preliminary works stage than it would be in the solution delivery/construction stage.</i></p> <p>We continue to propose in the ECP that where the economic and efficient value of a cost change is allowed there will be a test as part of the PPWCA in relation to the cumulative impact of those changes. Any cumulative costs which exceed the set cap will not be considered and so will not result in further upward adjustment to the TRS. Whilst we have adapted our views as a result of stakeholder</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The PPWCA concept works in theory but the concept of a cap and its possible impact to investors is concerning. This is difficult to assess without more detailed analysis of how likely the changes might be on any project to trigger this cap.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> Debt funders 	<p>Agree</p>	<p>feedback, we continue to recommend that bidders should post a form of acceptable security at the point they are made the successful bidder. This would remain until commissioning, albeit potentially tapered downwards after Preliminary Works.</p> <p>See above.</p> <p>To balance consumer protection and market attractiveness we have highlighted that we think the appropriate value and mechanism associated with the proposed cap requires further consideration as part of the decision-making process.</p>
<p>PPWCA should allow for changes in factors that the bidder cannot control between tender and financial close, to avoid high risk premiums. Alternatively, the equity should be allowed to reprice</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p>See above.</p> <p>Rather than a pain/gain share we have proposed that the PPWCA process considers relevant cost changes. We have highlighted that we think the PPWCA requires further consideration as part of the decision-making process.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
(with a pain/gain share) post preliminary works. There should be no cap if bidders are 'economic and efficient' or bidders should be able to leave with no penalty after the preliminary works.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Disagree	<p>See above.</p> <p>Whilst we have suggested there may be some exceptions to the cap in exceptional circumstances, we do not consider allowing general exceptions would be possible as it would undermine the reason for the cap. However, we have highlighted that we think the PPWCA cap requires further consideration as part of the decision-making process.</p> <p>We think it important that once a tender is awarded the successful bidder delivers the successful solution.</p>
An introduction of a standardised cap, which excludes potential project's nature and complexity, would not be the right approach.	September workshop: <ul style="list-style-type: none"> Risk Allocation and Post-Preliminary Works Cost Assessment 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p><i>We consider that the cap should be uniform for all bidders and set as a percentage of the TRS amount bid to allow for the direct comparison of bids. We recognise that different potential solutions will have inherently different levels of uncertainty around their underlying costs, but we think it is of benefit to consumers to push that risk back on to bidders.</i></p> <p>We continue to recommend in the ECP that the cap should be a common cap, set by the Procurement Body as a percentage of any TRS amount bid, so as to allow for the direct comparison of bids. We recognise that different potential solutions will have inherently different levels of uncertainty around their underlying costs, but we think it is of benefit to consumers to push that risk back on to the bidders as they are best placed to manage this risk.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>It is unlikely that debt finance will hold an offer for a period of longer than 6-12 months and that it is unlikely that the supply chain would hold prices for longer than 3-6 months.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p><i>In our Phase 2 consultation we proposed that once the preliminary works are completed, and costs are fixed, a debt funding competition would be run to establish actual margins and fees.</i></p> <p><i>Our preferred option is for the Procurement Body to provide debt assumptions at the bid stage and for a debt competition (followed by Financial Close) to fix final debt terms.</i></p> <p>On debt terms, to take this into account we propose that the Procurement Body should provide debt assumptions to bidders for use in bids at ITT stage 2. Market soundings ahead of a tender could be used to establish appropriate terms based on those available in the market at the time. We expect that the Procurement Body would need to determine the appropriate level of market soundings it needs to undertake based on the size and nature of the network need.</p> <p>On underlying costs, see above regarding the proposal for the PPWCA.</p>
<p>Debt funders might be less interested in the early competition model due to additional uncertainty compared to other options.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> What Winners Win and How Risk is Allocated? 	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p>See above.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>In a review of the costs, the ESO should ensure that it is not influenced by the price/cost during the assessment of the risks.</p>	<p>September workshop:</p> <ul style="list-style-type: none"> Risk Allocation and Post-Preliminary Works Cost Assessment 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>Our preferred position is to split the technical and commercial assessments. We presented in our Phase 3 consultation that at ITT stage 1 bidders will submit a conceptual design of needs to demonstrate that it meets the need and confirm the suitability of the proposed technology. At the ITT stage 2, bidders will be expected to submit initial designs, detailed cost estimates, delivery plans and supply chain strategies based on which the quality of the plans, cost and financing efficiencies will be assessed.</i></p> <p>We continue to propose in the ECP that bidders should submit a conceptual design at ITT stage 1 which will need to demonstrate that it meets the need and is a suitable technology. At ITT stage 2, our recommendation is that the technical evaluation is an integrated approach which covers a wide range of factors and supports the commercial evaluation. We expect that bids will be scored, and a higher technical score will give more confidence that the bidder will deliver a project which offers the value for money that the commercial offer proposes. Therefore, the technical and cost elements are separately assessed so one will not influence the other in the assessment process.</p>
<p>Early competition should follow Strategic Wider Works (“SWW”)/ Large Onshore Transmission Investments (“LOTI”) approach</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> TOs 	<p>Disagree</p>	<p>We have highlighted that this feedback should be kept in mind when developing more detailed proposals, but we feel that an early competition specific approach needs to be developed due to differences in the regulatory regimes.</p> <p>For example, preliminary works overheads and margins would be fixed under our early competition proposals whereas they are not under SWW/LOTI and</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
to cost assessment.				hence a difference the cost assessment would need to address. There are other early competition model specific differences which the cost assessment process will need to address and hence why the SWW/LOTI cost assessment process is unlikely to be wholly suitable in its current form.
Cost assessment appears complex. The assessment criteria need to be simplified to ensure that this does not become a barrier to entry.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	We believe that the proposed cost assessment approach delivers a robust process that will ensure only permissible changes are included and customer value for money is maintained. While we recognise that this process may appear to be complex, we believe that robust engagement with bidders during the pre-tender stage would allow for bidders to familiarise themselves with the process.
Disagree with the approach to margins and overheads as it requires disclosure of sensitive commercial information. Many members of the supply chain may be reluctant to share their margins so far in advance.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Disagree	While we agree that the proposed cost assessment process requires more information from bidders and their supply chain than, for example, in late competition, we think it is important that this information is shared in order to protect consumers. The information will only be for the use of the bodies working on the cost assessment, which should address potential concern.
As equity Internal Rate of Return (“IRR”) is fixed,	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Disagree	We consider that overheads and margins in the final bid can reasonably be expected not to depend on the outcome of the preliminary works and therefore

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>there should be the ability to flex the cost margins to adjust the risk following the preliminary works.</p>				<p>wouldn't materially change based on the preliminary works. The reason being that the outcome of preliminary works is unlikely to materially impact (to the same scale as underlying costs) these cost items if bidders have considered the associated uncertainties when submitting their bids.</p> <p>Whilst it is possible to allow flex of margins (and overheads) these would then be additional elements of cost which would remain adjustable after the tender process concludes and this would result in more risk transfer to consumers.</p>
<p>Overheads should be flexible at ITT and then later fixed at PPWCA or alternatively they could be fixed with a reopener.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> • TOs 	<p>Disagree</p>	<p>See above.</p> <p>Whilst it is a viable option it is not our current preference. After further consideration, we continue to think that overheads and margins can be managed by bidders without the post-award flexibility which exists for some of the other cost elements within our proposals.</p>
<p>The final size and nature of the project management team is uncertain. Therefore, it may be more efficient to allow this cost to be adjusted subject to the 'efficient and economic' test.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> • Non-regulated utilities 	<p>Partially Agree</p>	<p>See above.</p> <p>Whilst we agree the final size of the project management team may be uncertain at bid stage, we continue to think that this element should be fixed at bid stage.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The performance bond should be low (£250k) and should not be required during construction. Large performance bonds favour the TO.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>We do not yet have a particular security value in mind, nor a means of setting a suitable value, so this would need to be further considered during the implementation period.</p> <p>We believe our proposals provide for a level playing field in respect of security requirements.</p> <p>We have adapted our views on security requirements as a result of feedback to the Phase 3 consultation.</p>
The cost of performance bonds is passed back to consumers through a higher TRS and should be factored into project-specific CBA.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs Debt funders 	Agree	<p>In the ECP we set out that any security and reserving requirements should be included in the financial model and therefore in the TRS at the bid stage.</p> <p>We have adapted our views on security requirements as a result of feedback to the Phase 3 consultation.</p>
Performance bond may need to be >20% of early competition and the size should reflect risk. This may price some bidders out, while other may price it into the contract, increasing the price for consumers.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs Construction companies 	Disagree	<p>We propose that security is put in place by the preferred bidder and that this tapers down following Financial Close. We have not suggested an amount, but we set out that the offshore arrangements in respect of 'OFTO Build' may not be suitable for early competition in the ECP i.e. 20% of the capital value of the solution secured via an acceptable means in accordance with the relevant industry codes. Many stakeholders have told us that 20% (or more) will lead to those costs potentially being inefficiently included within the TRS. This will need to be further considered during the decision-making process.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The level of performance bond at 20% is too high. There is little appetite from banks to provide such large securities other than at extremely high costs.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Agree	See above.
There should not be a performance bond so early in the process as risks are outside the control of the bidder.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Disagree	See above. We believe security is necessary until commissioning, especially in relation to the PPWCA as without security consumers will be at heightened risk. Risks outside of the control of the bidder are likely to be addressed via the PPWCA so the security would only relate to, or at risk of being claimed due to, risks within the control of bidders.
Grid connection risk should not sit with bidders because it is outside of their control and there are conflicts with the TOs.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	Whilst this risk could be mitigated by aligning the tender process with the connections process, we expect cost and time risk related to grid connection and system access to sit with bidders for both network solutions (even if provided by the incumbent TO) and non-network solutions. This would result in a more level playing field without transferring grid connection risk from bidders to consumers.
Procurement Body should invite other funders (development banks, export	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	Bidders will run the debt competition with oversight from the Procurement Body. We expect the Procurement Body will look to agree a comprehensive longlist of potential lenders offering competitive finance at the time.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
credit agencies) to participate in debt competitions.	Q&A Session:	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	As set out in the ECP, by the end of the preliminary works, and following the cost assessment, we expect that early competition projects and late competition projects to look very similar. The reason being that by the time the debt competition is undertaken there will likely be similar certainty for the market in respect of project delivery across both models e.g. consents will be in place at that point in time. We therefore feel our proposals are appropriate in the context of early competition.
Debt competition should only be used for projects above a certain size.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	We do not propose in the ECP to set a size threshold on the debt competition as this may impact the value for money for consumers in early competition. However, we expect that this will be considered ahead of any tender and the Procurement Body will set out their expectations for how a debt competition will be run to ensure proportionality.
Some bidders may be able to access banks not available to all and this capital can be materially more competitive and hence may need to be taken into account in bid evaluation.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funders 	Partially Agree	See above. Given the potential length of the preliminary works, stakeholders have told us that debt is unlikely to provide a commitment at the tender stage. With this uncertainty, we continue to believe that consumers are best protected by all bidders using the debt assumptions provided by the Procurement Body in bids and securing funding through a debt competition after the preliminary works period.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Structures should be set out on a consistent basis and we would advocate an indicative credit rating to be produced by bidders to support confidence that the structure is financeable.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funders 	Partially Agree	We consider that investment grade credit rating could be one of the potential 'enhanced provisions' used by the Procurement Body to manage enhanced risks. We expect that it would need to be assessed on a case-by-case and we do not propose credit ratings to be required in our base case proposals.
If debt providers impose changes on the assumed construction and operating contracts, the costs should be passed through to the TRS (outside the cap).	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Disagree	After considering this feedback, we consider that bidders should have robust provisions in their relevant contracts and in pre-agreed term sheets to mitigate such risks. We think that this should be a bidder risk and the costs would not be passed through to the TRS.
The equity IRR or commitment should not be fixed in the bid as the premium for lock-in equity is high. Preferred option is to run an equity competition alongside a debt	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Disagree	After considering this feedback, we continue to propose that equity investors be required to fix their return requirements at the bid stage based on a thorough assessment of the risks. Our proposal is consistent with the objectives for early competition set out by Ofgem. We recognise that this may lead to higher equity return requirements and the returns would reflect the fact that under early competition risk is being transferred from consumers to the bidder at an earlier stage in the project lifecycle. Ofgem may

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>competition. Otherwise, equity sales should be allowed before commissioning to remunerate risk at each stage.</p>		<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>review this position during the decision-making process as we have highlighted some of the feedback we have received in relation to equity involvement and the stage at which it is committed in our commercial model proposals.</p>
<p>Further details on PPWCA would be needed to ensure equity is suitably aligned to delivering an optimum design and delivery.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>We expect further details of the PPWCA to be developed during implementation and for the Contract and Licence Counterparties to publish information about the PPWCA ahead of the tender process.</p>
<p>Requirement to price a larger amount of equity than required to cover shortfall without the ability to restructure the financing may result in higher costs.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>In the ECP we propose that equity investors should commit a larger amount than estimated in their bids. We do not expect these higher commitments to be reflected in the bid financial models and therefore we do not expect material impact on the financing costs, albeit we agree this could be a risk in relation to the cost of equity under our proposals.</p>

3.4 End-to-end process for early competition

The table below presents stakeholder feedback on the end-to-end process for early competition and how we have used it to inform and shape our proposals. The feedback has been grouped by key subject areas. For reference, we have also retained our Phase 2 - Phase 3 positions on stakeholder feedback discussed in the November version of the You Said, We Did document. These positions are highlighted in italics below.

3.4.1 Pre tender launch

Table 8: Pre tender launch

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There will be benefit in market engagement events run by the ESO to help bidder networking in the initial stages of the early competition.	May workshops: <ul style="list-style-type: none"> • Procurement Steps and Timelines • Evaluation of Commercial Elements of the Proposals 	<ul style="list-style-type: none"> • Potential equity investors 	Agree	<p><i>In our Phase 2 consultation, we noted that our preferred option is to run project information and networking events. Following our Phase 2 consultation, we considered large UK utility procurement precedents in evaluating the costs and benefits of pre-tender activities.</i></p> <p><i>We expect that the Procurement Body will run pre-tender market engagement for bidders to develop a detailed understanding of what knowledge they will need to prepare a quality tender submission, including project information and procurement support.</i></p> <p>We continue to propose that the Procurement Body should run project information and procurement support events for bidders. We also expect that the Network Planning Body will support the Procurement Body in presenting all the technical details of the need specification, which will include system requirements, length of the need, geographic boundaries and information from the ‘very early engagement’.</p>
Market engagement could be started at the very early stage to	May workshop: <ul style="list-style-type: none"> • Provision of Information to 	<ul style="list-style-type: none"> • Potential equity investors 	Agree	<p><i>In our Phase 2 consultation, we noted that there are benefits of running pre-tender market engagement activities, such as greater levels of participation and reduction of a financial burden on potential bidders.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
inform the tender process.	Allow Proposal Development			<p><i>Following our Phase 2 consultation, we considered large UK utility procurement precedents in evaluating the costs and benefits of pre-tender activities.</i></p> <p><i>We propose that market engagement will begin at the 'very early' stage i.e. prior to the Network Options Assessment ("NOA").</i></p> <p>We continue to support that market engagement will begin at the 'very early' stage. Further details on this process compared to the market engagement in the 'early' stage will be defined during the implementation stage.</p>
The ESO also needs to consider the balance of additional pre-tender activities and the associated time/cost with the impact of further delay to the commencement of the project.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • TOs 	Agree	<p><i>Following our Phase 2 consultation, we considered large UK utility procurement precedents in evaluating the skills and resources required for pre-tender activities. These will form part of our costing and implementation plan for early competition.</i></p> <p>We agree that it is important not to delay a project unnecessarily. This principle should be kept in mind as processes are developed further during implementation and with regard to determining appropriate timeframes for each specific project.</p>
The ESO shall consider and address the level of stakeholder engagement that early competition will entail and ensure that it is properly skilled and resourced to	Phase 2 consultation feedback	<ul style="list-style-type: none"> • TOs 	Agree	<p><i>See above. Resourcing and skill requirements for these activities will be set out in our final Early Competition Plan.</i></p> <p>We propose in the ECP that that the Procurement Body should run pre-tender market engagement with some support from the Network Planning Body to present all the technical details of the need specification. We agree the relevant bodies need to be appropriately resourced to do this engagement.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
undertake such engagement.				
Expect a detailed assessment of potential market players to be carried out prior to the pre-tender stage in the development of the tender.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p><i>We interpret this feedback to be related to our Phase 2 consultation proposal which stated market appetite will be a key criterion in assessing project suitability for early competition. Following this feedback, we hosted an Indicative Solutions and Interested Persons workshop to further develop how market appetite criteria, including detailed assessment of potential market players, could work in practice.</i></p> <p><i>We propose that market appetite would be assessed initially during the initial solution development process (prior to the NOA). Further assessment would be undertaken during the pre-tender stage.</i></p> <p>We agree that it is important to understand the potential market prior to launching a tender. We propose to engage stakeholders both during the initial solution development stage for NOA, and then again during the pre-tender stage for each project that meets the early competition criteria.</p>
ESO should consider the experience of the retail market to ensure that the pre-tender framework is suitably robust.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>Lessons learned from the retail market would be considered further during the implementation stage, once Ofgem finalise their views on early competition.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
No visibility as to what is required of TOs in relation to pre-tender activities.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	TOs are likely to need to share certain information with bidders, such as substation availability. This was set out in our Phase 2 consultation in the 'Information Provision' section. They may also need to support questions from bidders in relation to this information.
By providing information early in the process it is important that options are not limited by information provided.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	The pre-tender engagement will primarily focus on sharing key project information and procurement support. We believe that the proposed approach will promote transparency and ensure a level playing field is maintained without limiting potential options.
Flexible tender approach is appropriate but there needs to be clarity given early in the process on what the approach is and why.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	As part of the pre-tender activities, we propose for the Procurement Body, Network Planning Body and Counterparties work to collaboratively during the pre-tender period to review and adjust the standard bid evaluation framework, weightings of the Technical Adjusted TRS and commercial arrangements.
Length of the pre-tender activities could be time consuming so anything the ESO can do to reduce timescales may be beneficial to customers.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	The pre-tender timeline set out in the ECP is high-level and will require refinement. We expect that the timescales may change depending on the nature of the project.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The pretender process may be too long for some network needs.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Agree	See above.
Pre-tender activities are likely to be resource intensive for the Procurement Body.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funder 	Agree	We do not see this area being an obstacle that cannot be resolved, although we recognise that the solutions may require a new level of flexibility and service.

3.4.2 Tender process

Table 9: Tender Process

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Tender process should be tailored to the project size as 'one size fit all' may not be appropriate for all projects.	May workshops: <ul style="list-style-type: none"> Early Competition criteria, what could be competed Procurement Steps and Timelines 	<ul style="list-style-type: none"> Potential equity investors TOs 	Agree	<p><i>We agree with the feedback that the tender process needs to be proportionate to the projects being tendered, which we also discussed in our Phase 2 consultation. Following our Phase 2 consultation, we ran a series of bilateral sessions to discuss this further with potential bidders.</i></p> <p><i>We propose in our Phase 3 consultation a standardised approach to the commercial model and bid evaluation framework. We propose the Procurement Body, Network Planning Body and counterparties work collaboratively during the pre-tender period. They would work on reviewing and adjusting the standard bid evaluation framework, weightings of the Technical Adjusted TRS and commercial arrangements. This is expected to result</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				<i>in maximised consumer value, reduced inefficiencies, minimised transaction costs and maintained level playing field.</i>
				We continue to propose a standardised approach to the commercial model and bid evaluation framework which is reviewed on a case-by-case basis. The rationale for this recommendation is that the range of needs and projects under early competition will be very wide in terms of scale, time sensitivity and geographically. To ensure that early competition delivers value for customers it is important that the tender process and commercial arrangements are proportional and reflective of the underlying need.
There needs to be some standardisation in the process to build market interest, suggesting some underlying principles are set out but then a tender can be tailored as required.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	See above.
Flexible tender process approach would open the process to a larger group of bidders.	May workshop: <ul style="list-style-type: none"> Procurement Steps and Timelines Phase 2 consultation feedback	<ul style="list-style-type: none"> Non-regulated utility companies Potential equity investors 	Agree	See above.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
A two-stage ITT process with a soft boundary between the stages can allow sufficient flexibility in the process to tailor the process for smaller projects.	May workshop: Procurement Steps and Timelines	<ul style="list-style-type: none"> Generators and other electricity market participants Potential equity investors 	Agree	<i>See above.</i>
It will be extremely challenging to flex the procurement and maintain consistency and fairness in evaluation.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Disagree	We have considered whether to standardise the whole process or allow flexibility to tailor the process in light of the specific project being competed. We propose a standardised approach to the commercial model and bid evaluation framework which is reviewed on a case-by-case basis. The rationale for this recommendation is that the range of needs and projects under early competition will be very wide in terms of scale, time sensitivity and geographically. To ensure that early competition delivers value for customers it is important that the tender process and commercial arrangements are proportional and reflective of the underlying need. We believe that it should be possible to provide sufficient consistency whilst also tailoring some elements.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>'Passporting' of prequalification provides efficiency in the procurement process.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Procurement Steps and Timelines 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>In our Phase 2 consultation, we proposed to introduce passporting where efficient. Following our Phase 2 consultation, we are considering how the approach taken under OFTOs could be applied to the potential pipeline of projects suitable for early competition.</i></p> <p><i>We propose in our Phase 3 consultation that passporting should be applied where tenders are run for projects of similar scale and complexity within a close timeframe. However, the implementation of passporting should only be considered once there is a clearer view of the pipeline of potential projects.</i></p> <p>In general, we are of the view that passporting should be applied where there are tenders run for projects of similar scale and complexity within a close timeframe. This is an area that should be kept under review by the Procurement Body as early competition develops. This should also be considered during the implementation stage when there is greater visibility of the pipeline.</p>
<p>Passporting prequalification may be required for a certain period, however, passporting should reflect not project value but technology type.</p>	<p>Phase 2 consultation feedback</p>	<ul style="list-style-type: none"> TOs Construction companies 	<p>Partially Disagree</p>	<p>In general, we are of the view that passporting should be applied where there are tenders run for projects of similar scale and complexity within a close timeframe. We believe that project scale may be a valid grouping. However, this will require further consideration during the implementation stage. Tenders will not request a specific technology type. However, it could be appropriate to group by the nature of the network need being tendered (e.g. stability).</p> <p>This is an area that should be kept under review by the Procurement Body as early competition develops. This should also be considered during the</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The PQ stage needs to assess credibility but not deter innovative bids.	May workshop: <ul style="list-style-type: none"> Evaluation of Commercial Elements of the Proposals 	<ul style="list-style-type: none"> Generators and other electricity market participants 	Agree	<p>implementation stage when there is greater visibility of the pipeline.</p> <p><i>In our Phase 2 consultation, we presented our preferred option on the PQ process. Following our Phase 2 consultation, we have reviewed comparable precedents (e.g. Offshore Transmission Owner (“OFTOs”), Thames Tideway Tunnel, Leasing Round 4, Private Finance Initiative (“PFIs”) and we have considered how the tender evaluation will be proportionate to the need being tendered.</i></p> <p><i>We propose legal standing, financial and technical capability to be assessed at the PQ stage. We have provided greater detail about what we expect bidders to provide and how we will assess it in our Phase 3 consultation.</i></p> <p>Our recommendation in the ECP is that bidders are still assessed on their legal standing as part of PQ, provide evidence that they have the financial capacity to finance the reference design and provide evidence that they have the technical capacity to deliver a solution of comparable scale and complexity to the reference design.</p>
Economic and financial standing criteria should not penalise start-up companies.	May workshop: <ul style="list-style-type: none"> Evaluation of Commercial Elements of the Proposals 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>In our Phase 2 consultation, we presented our preferred options on the financial and commercial assessment at the PQ and ITT processes. Following our Phase 2 consultation, we have reviewed comparable precedents (e.g. OFTOs, Thames Tideway Tunnel, Leasing Round 4, PFIs) and we have considered how the tender evaluation will be proportionate to the need being tendered.</i></p> <p><i>Our updated preferred option is that sole bidders or consortia would be asked to provide evidence that</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Further evaluation criteria identified should include environmental and social, bonds, financial model or a TRS revenue model, risks, incentives, assessment, consultation criteria.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • TOs • Generators and other electricity market participants 	Agree	<p><i>they have the financial capacity to finance the reference design and evidence that they have financial capacity to secure equity financing solutions that are equal to or more than 120% of the value of the concept design in the NOA. This is in line with the requirements for the OFTO regime.</i></p> <p>We agree that economic and financial standing criteria should not penalise start-up companies. However, it is important to ensure that bidders have the financial capabilities to deliver the project. Our ECP recommendation is that sole bidders or consortia would be asked to provide evidence that they have the financial capacity to finance the reference design. Bidders will need to demonstrate that they have financial capacity to secure financing solutions that are equal to or more than the equity value of the concept design in the NOA using the assumed level of gearing. This is in line with the requirements for the OFTO regime.</p> <p><i>In our Phase 2 consultation, we presented our preferred options on the financial and commercial assessment at the PQ and ITT processes. Following our Phase 2 consultation, we have reviewed comparable precedents (e.g. OFTOs, Thames Tideway Tunnel, Leasing Round 4, PFIs) and we have considered how the tender evaluation will be proportionate to the need being tendered.</i></p> <p><i>We propose that ITT stage 1 should be assessed based on the following high-level evaluation criteria: meeting the need; risk to network reliability; deliverability; environmental and social impacts; and cost estimates. The ITT stage 2 is broken down to technical and commercial evaluation and our current</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
UCR might not be suitable for the competition process.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p><i>preferred option in terms of commercial evaluation is to ask bidders to provide the same financial inputs as set out in our Phase 2 consultation (i.e. bidders will submit a financial model they have developed calculating the indicative TRS). The preferred option in terms of technical evaluation is an integrated approach which covers a wide range of factors and supports the commercial evaluation.</i></p> <p>We continue to propose that ITT stage 1 should be assessed based on the following high-level evaluation criteria: meeting the need; risk to network reliability; deliverability; environmental and social impacts; and cost estimates.</p> <p>The ITT stage 2 bids will be assessed based on both the technical and commercial element using a predefined methodology and set of weightings.</p> <p><i>We have highlighted this issue to legal advisers, Department for Business, Energy & Industrial Strategy (“BEIS”) and Ofgem to determine if the Utility Contract Regulations are suitable or if new tender regulations are required as part of Competitively Appointed Transmission Owner (“CATO”) legislation.</i></p> <p><i>Our current proposals in our Phase 3 consultation are based on the assumption that the required legislation will be in place from the outset and that such legislation will appropriately facilitate our proposals, or whatever variation of these proposals that Ofgem decide should be implemented in future.</i></p> <p>We continue to support our Phase 3 consultation views in the ECP.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There should be an invitation for EOI that would negate the need to survey the OJEU.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Agree	See above.
The ITT stage 2 assessment criteria and weightings must be clearly defined.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Agree	<p><i>Following this feedback, we have investigated how large UK utility procurement precedents have clearly defined weightings and criteria. We also held a series of bilateral meetings with potential bidders to further develop our criteria.</i></p> <p><i>Our current preferred option in terms of commercial evaluation is to ask bidders to provide the same financial inputs as set out in our Phase 2 consultation (i.e. bidders will submit a financial model they have developed calculating the indicative TRS) and in terms of technical evaluation take an integrated approach which covers a wide range of factors and supports the commercial evaluation. Please refer to Section 6, Chapter 5 - End-to-End Process for EC for more details.</i></p> <p>Our recommendation in the ECP is to integrate the technical scores bidders receive based on the plans they submit and the TRS. This will result in a single 'Technical Adjusted TRS'. The bidder with the lowest 'Technical Adjusted TRS' is selected as the preferred bidder and will progress to the preferred bidder stage. The detail of this approach would be developed during the implementation stage.</p>
Sharing of a CBA tool will be beneficial to provide	May workshop: <ul style="list-style-type: none"> Provision of Information to 	<ul style="list-style-type: none"> Generators and other electricity 	Partially Agree	<p><i>We provided our view on the information we expect to be shared with bidders in our Phase 2 consultation.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
stakeholders some insight.	Allow Proposal Development	market participants		<p><i>In September, we held workshops on Information Provision and in our Phase 3 consultation we confirm that our preferred position remains that the Electricity Ten Year Statement (“ETYS”) models used by the Transmission Owners for network planning will be made available to qualified bidders.</i></p> <p><i>Where bidders are not licenced or party to the System Operator – Transmission Owner Code (“STC”), encryption and Non-Disclosure Agreement (“NDAs”) will be required.</i></p> <p>We partially agree with the comment because most stakeholders at the May workshop indicated the CBA tool offered limited value. Subsequent consultation responses have not actively supported or opposed the provision of a CBA tool. The inclusion of a CBA tool has been considered in our May workshops, Phase 2 consultation and remained part of our proposal following the Phase 3 consultation.</p> <p>It was proposed initially because a CBA tool is provided to TOs by the ESO as part of the NOA process. The TOs indicated that the main benefit of the tool is to quickly and roughly indicate which initial ideas they should allocate resource to. What we heard from stakeholders was similar and that the tool could have some value as a high-level initial indication to their internal options. However, it is not regarded as particularly important because stakeholders would perform their own more detailed CBA on their preferred option.</p> <p>The general response has been that if the CBA tool is available to the incumbent TO, then it should be made available to all bidders.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Bidders need to provide cost effective solutions and therefore it is important to bring cost analysis early in the process.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Procurement Steps and Timelines 	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p><i>In our Phase 2 consultation, we proposed that we are expecting the detailed costs information will be assessed in the ITT stage 2 and bidders will be only asked to provide initial designs and high-level cost estimates at ITT stage 1. Following our Phase 2 consultation, we discussed the approach to bid evaluation with potential bidders during bilateral meetings.</i></p> <p><i>Our preferred option is for bidders to provide robust implementation plans and undertake detailed cost estimates as part of the ITT stage 2.</i></p> <p>We continue to propose in the ECP that bidders to provide robust implementation plans and undertake detailed cost estimates as part of the ITT stage 2. We believe it is important that bidders have sufficient time to develop their proposals and costings to a point where the costs are accurate (except for unforeseeable changes). Assessing costs earlier than this would mean the costs being compared are not sufficiently accurate.</p>
<p>Exclusion of sustainability criteria from PQ is contrary to the net zero target. A minimum consideration should include science-based targets and commitments to restore nature like</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> TOs 	<p>Partially Disagree</p>	<p>We do not consider including a specific forward-looking sustainability criteria at the PQ stage. The purpose of PQ is to be a backward-looking assessment of the potential bidders. Under legal standing we consider whether they have breached environmental or social laws. We do consider forward-looking sustainability criteria in ITT stage 1 and 2 and also expect all successful bidders to adhere to relevant corporate standards. The example of assessing targets and commitments in PQ is not a robust assessment of a bidder and could be gamed.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
natural capital or biodiversity.				
As a minimum, all bidders should follow and commit to corporate responsibility principles.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	We believe that it is up to bidders to ensure that they follow and commit to corporate standards and these will be set as part of the contract or licence. We would expect these to be set in collaboratively between the BEIS, Ofgem and the Procurement Body.
At a minimum the PQ process needs to ensure unbundling rules are followed (with a fuller review prior to project award), so as not to progress through the process only to find that the winning bidder is not able to hold the licence.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	We agree that there are unbundling provisions which will interact with the early competition model as licensees will need to consider unbundling provisions when considering all solutions to make sure that their proposals would be delivered in a compliant manner.
The level of gearing at PQ should be only indicative to assess fund raising capability within the financial capacity test.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	The level of gearing set by the Procurement Body at PQ stage is indicative to assess fund raising experience and capability. However, the same level of gearing is used as part of the assessment for ITT stage 2.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
PQ should recognise that technical capabilities will not always increase proportionately with scale. It should not unduly exclude any new market players with new pools of capital.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	Our recommendation is that sole bidders or consortia would be asked to provide evidence that they have the technical capacity to deliver a solution of comparable scale and complexity to the reference design. We also recommend that a debt competition is run following the PPWCA ahead of Financial Close.
It may be more efficient to merge the two ITT stages and Preferred Bidder stage into a single step for smaller projects.	Phase 3 consultation feedback	<ul style="list-style-type: none"> DNOs 	Partially Agree	We currently do not recommend merging the tender process for smaller projects. However, the Procurement Body may decide to apply some changes to the standardised process to reflect key project information. We do not specifically rule out merging of the stages.

3.4.3 Technical and project delivery evaluation

Table 10: Technical and project delivery evaluation

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Feasibility study should be allowed to be done by a wide range of specialists.	May workshop: <ul style="list-style-type: none"> Procurement Steps and Timelines 	<ul style="list-style-type: none"> Potential equity investors 	N/A	<i>We did not set out a view on feasibility studies in our Phase 2 consultation. We are currently exploring internally how feasibility studies could be undertaken with our colleagues in network and</i>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Bidders should be prequalified before they are required to complete feasibility studies.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Evaluation of Technical Elements of the Proposals 	<ul style="list-style-type: none"> Potential equity investors 	<p>Agree</p>	<p><i>NOA teams and their impact on creating a level playing field.</i></p> <p><i>We propose in our Phase 3 consultation that the ESO should conduct shadow studies in parallel to bidders undertaking their own feasibility studies at the ITT stage 1.</i></p> <p>We continue to propose in the ECP that bidders are required to undertake feasibility studies at ITT stage 1 to demonstrate that their solution can meet the need. Bidders would need to undertake their own studies and the ESO conduct shadow studies to verify these results. See section 5.2.4 of the ECP for further information on this proposal.</p> <p><i>Through workshops with stakeholders, Transmission Owners and our internal planning experts we worked on specifying detailed arrangements around feasibility studies. In our Phase 2 consultation, we noted that feasibility studies could be undertaken for proposed solutions.</i></p> <p><i>We agree with stakeholders and in our Phase 3 consultation, we propose that prequalified bidders will need to undertake their own studies at ITT stage 1 to submit output on their own service provision feasibility studies.</i></p> <p>We continue to support in the ECP that only prequalified bidders will be required to undertake feasibility studies as part of their ITT stage 1 bid submission.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Some form of technical validation/feasibility study of innovative solutions would be helpful before tender launch for smaller bidders.	May workshop: Evaluation of Commercial Elements of the Proposals	<ul style="list-style-type: none"> TOs 	Disagree	<p><i>Through workshops with stakeholders, Transmission Owners and our internal planning experts we worked on specifying detailed arrangements around feasibility studies. In our Phase 2 consultation, we noted that feasibility studies could be undertaken for proposed solutions. Our updated preferred option in our Phase 3 consultation is the conflicts and costs created by pre-tender feasibility studies are unlikely to be outweighed by the benefits of feasibility studies during the pre-tender stage. Therefore, we will not include these as part of the pre-tender activities for early competition.</i></p> <p>We continue to recommend that pre-tender feasibility studies do not form part of the early competition process, for the reasons outlined above.</p>
Timing and scope of a feasibility study will have a direct impact on the process.	May workshop: Evaluation of Technical Elements of the Proposals	<ul style="list-style-type: none"> TOs 	Agree	See above.
There are some overlaps between the design and engineering evaluation criteria.	May workshop: Evaluation of Technical Elements of the Proposals	<ul style="list-style-type: none"> Non-regulated utility company 	Partially Agree	<p><i>In our Phase 2 consultation, we proposed high-level criteria. We discussed this internally with network planning colleagues and externally with potential bidders through a series of bilateral discussions following our Phase 2 consultation. We also considered relevant precedents (e.g. OFTOs, Thames Tideway Tunnel, Leasing Round 4, PFI).</i></p> <p><i>We confirmed in our Phase 3 consultation that the ITT stage 1 high-level evaluation criteria are:</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				<p><i>bidder's ability to meet the need, potential risk to network reliability, deliverability, environmental and social impacts. The weightings of these will be set by the procurement body during the pre-tender stage. Further details are presented in our Phase 3 consultation.</i></p> <p>Our current proposals in the ECP continue to support our Phase 3 consultation position where we identified that ITT stage 1 criteria should focus on bidder's ability to meet the need, potential risk to network reliability, deliverability, environmental and social impacts. The specific detail of each criteria would be developed in more detail during the implementation stage, seeking to avoid duplication.</p>
<p>The key criteria that should be assessed is whether the solution meets the output required.</p>	<p>May workshop: Evaluation of Technical Elements of the Proposals</p>	<ul style="list-style-type: none"> • TOs 	<p>Partially Agree</p>	<p><i>We agree that it is essential to assess whether a solution meets the output required. However, given the early stage of the tender it is also important to assess whether the proposals are deliverable. There may also be other important elements to assess such as environmental impact.</i></p>
<p>The criteria should balance between innovation and reliability of designs.</p>	<p>May workshop: Evaluation of Technical Elements of the Proposals</p>	<ul style="list-style-type: none"> • Potential equity investor 	<p>Agree</p>	<p><i>In our Phase 2 consultation, we have proposed a two stage ITT, which we expect to encourage bidders to submit a wide array of innovative solutions in addition to detailed cost information and plans for delivery of the proposed solutions. Following our Phase 2 consultation, discussion with internal and external stakeholders and consideration of relevant precedents (e.g. OFTOs, Thames Tideway Tunnel, Leasing Round 4, PFI). We expect this balance to be maintained by requiring all solutions to have a technology readiness level of 8. If technology readiness levels</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				<p><i>are not available, then we may use a similar approach used in pathfinders for voltage or stability. For voltage we have a defined list of technologies with established definitions of that technology. For stability, bidders are required to undertake a feasibility study to demonstrate that their solution can provide the stability support required.</i></p> <p>Our recommendation is that the risk to network reliability is an area we should assess as part of ITT stage 1. Ensuring the confidence in the security of the network is key for assessing the concept solutions at ITT stage 1.</p> <p>To give an indication of the level of innovation we require, we would expect all solutions to have a technology readiness level of around 8 or 9 on most established scales.</p>
Technology readiness should be flexed depending on lead time. Shorter lead times would require higher technology readiness.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Disagree	Technology readiness will need to be considered at the point of tender evaluation. Therefore, the readiness will need to be applicable at that point.
Interpretation of the technology readiness levels should be flexible - these don't work for technological developments, as opposed to new inventions.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Partially Agree	We agree that this is an area that needs further development during the implementation stage to ensure that whatever definition is used is appropriate. However, some consistency will be required for evaluation purposes.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Qualitative and quantitative assessment may need to be separated to allow designs to be assessed.	May workshop: Evaluation of Commercial Elements of the Proposals	<ul style="list-style-type: none"> Non-regulated utility companies 	Agree	<p><i>In our Phase 2 consultation, we have proposed a two stage ITT, where ITT stage 1 will focus on initial designs while ITT stage 2 will focus on more detailed cost information and plans for the delivery of the solution. Following our Phase 2 consultation, we discussed this internally with network planning colleagues and externally with potential bidders through a series of bilateral discussions. We also considered relevant precedents (e.g. OFTOs, Thames Tideway Tunnel, Leasing Round 4, PFI).</i></p> <p><i>We continue to support a two stage ITT process in our Phase 3 consultation. We propose a pass / fail approach to ITT stage 1 based on a minimum threshold score for each criterion. The ITT stage 2 is broken down to technical and commercial evaluation and our current preferred option in terms of commercial evaluation is to ask bidders to provide the same financial inputs as set out in our Phase 2 consultation (i.e. bidders will submit a financial model they have developed calculating the indicative TRS). The preferred option in terms of technical evaluation is an integrated approach which covers a wide range of factors and supports the commercial evaluation.</i></p> <p>We continue to support a two stage ITT process. We propose a pass / fail approach to ITT stage 1 based on a minimum threshold score for each criterion. The ITT stage 2 will be assessed based on both the technical and commercial element using a predefined methodology and set of weightings to derive 'Technical Adjusted TRS'. The lowest 'Technical Adjusted TRS' will be selected as the Successful Bidder.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Project delivery capability should be added to technical and commercial tests.	May workshop: Evaluation of Commercial Elements of the Proposals	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>In our Phase 2 consultation, we set out how the projects delivery capability will be assessed. Following our Phase 2 consultation, we have investigated how large UK utility procurement precedents have clearly defined weightings and criteria. We also held a series of bilateral meetings with potential bidders to further develop our criteria. Our preferred option presented in our Phase 3 consultation is for commercial deliverability and delivery plan to be assessed as part of ITT stage 2 process.</i></p> <p>We continue to propose in the ECP that ITT stage 2 should assess bidders' commercial models and delivery plans of bidders in greater levels of detail.</p>
TO's network proposal should be set as the counterfactual solution against which all market bids are measured.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	<p><i>Following our Phase 2 consultation, we held a series of workshops with TOs to explore the role of TO as a bidder as well as what could be the potential conflicts of interest and mitigations. We also considered the suggested approach against our Phase 2 preferred option.</i></p> <p><i>We believe that TOs participating as a 'counterfactual' would present a number of procurement challenges, stemming from the differences between the regulated regime and potential competitive regimes.</i></p> <p>The initial solution developed for the network planning purposes will be available for bidders' reference. However, at this point, the costs of that proposal are uncertain. That solution, under the TO regulated framework, could be developed further and compared to the successful competition bid to determine which solution should be taken forward.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>The ESO’s proposals in relation to early competition should closely align with Ofgem’s proposals (a suite of three Large Project Delivery mechanisms) following the publication of Final Determinations for RIIO-2.</p>	<p>Phase 2 consultation feedback</p>	<ul style="list-style-type: none"> • TOs 		<p>We have held further discussions with relevant TOs to explore how an approach of TOs providing a counterfactual might work. Following this, we continue to feel that this approach would present many challenges, such as ensuring fair and transparent comparison between the successful competition bid and the counterfactual. We also identified a number of potential conflicts of interest with the TO's existing planning roles which would need to be addressed. In particular TOs would have a role in assessing proposals which are in competition with the TO's own solutions.</p> <p>The ESO believes that TOs competing as bidders alongside other bidders provides the most fair and transparent approach.</p> <p><i>During Phase 2, we were considering the interactions between early competition and Ofgem’s project delivery mechanisms.</i></p> <p><i>We state in our Phase 3 consultation that whilst there are similarities between our preferred position and the ‘reprofiling of allowance’ option presented within the RIIO-2 Draft Determinations, we feel it remains appropriate to develop an early competition specific approach to late project delivery whilst continuing to be mindful of the corresponding RIIO-2 proposals leading up to and at Final Determinations.</i></p> <p>There are potentially similarities between our preferred position and the 'reprofiling of allowance' option presented within the Final Determinations. However, key differences are that the Large Project Delivery mechanisms are only proposed to apply to</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Maintenance proposals should be part of the delivery assessment.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>projects over £100m and that early competition is looking to encourage solutions from a wide range of bidders including single asset owners who cannot spread risk across multiple assets as assumed under RIIO-2 arrangements. Therefore, on this basis we recommend an early competition specific approach to late project delivery whilst continuing to be mindful of the corresponding RIIO-2 proposals.</p> <p><i>We agree with stakeholder feedback, and we noted in our Phase 2 consultation that maintenance capex will be included as part of the ITT stage 2 assessment, and we consider this to be our final position.</i></p>
The qualitative part of the assessment is best done in conversation with the bidder to explain any features which the assessor is not familiar with.	Phase 3 consultation Q&A Session: <ul style="list-style-type: none"> Commercial Model and Model implementation 	<ul style="list-style-type: none"> Construction company 	Partially Agree	<p>We believe that the assessment process needs to be completed on standardised terms ensuring level playing field is maintained. The Procurement Body may however decide to clarify bidder's response through the official clarification process where relevant.</p>
Request clarification on what the ESO intends to achieve from ITT stage 1.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	N/A	<p>We clarify in the ECP that the objective of ITT stage 1 is to facilitate innovation in the market by minimising bid costs and to down select the number of bidders which progress to ITT stage 2. At ITT stage 1 bidders will submit a conceptual design which needs to demonstrate it meets the need and is a suitable technology.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
TO's are greatly advantaged due to their previous experience. ITT stage 1 should assess the proposal itself not the bidder's previous experience.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	We do not envisage that ITT stage 1 will assess bidder's previous experience but assess bidder's conceptual design which needs to demonstrate that it meets the need and is a suitable technology.
Technical requirements at ITT stage 1 should be assessed objectively against clear transparent criteria.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	Our recommendation is a pass / fail approach based on the assessment of the ITT stage 1 criteria and applied minimum threshold score against each criterion.
TOs should be not involved in the ITT stage 1 assessment if they are also allowed to be bidders.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>We recognise this is an area of concern for some stakeholders and have considered different options to address this concern. If TOs are involved in the tender process and undertaking roles in network planning, studies and connection assessments, we recommend that the TO bidding team needs to be sufficiently ring-fenced from the rest of the business.</p> <p>In addition, Ofgem's recent Review of GB System Operation considers potential enhanced and new ESO functions in network planning. This includes the possibility of the ESO taking on a new role that would require it to make binding recommendations to TOs or developers on the strategic network investment needed for 40GW of offshore wind.</p> <p>We therefore recommend that roles and responsibilities for network planning for early</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Partial solutions should not be allowed to be submitted.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>competition should be considered as part of this exploration of broader network planning roles and responsibilities. Specifically, this should consider whether it would be appropriate for the ESO to take on network planning responsibilities to address perceived conflicts of interest with TOs participating in early competitions.</p> <p>We agree with stakeholder feedback and propose in the ECP that the parameters of the tender are set as part of the project identification process and that bids are assessed on their ability to meet the entire need. Therefore, variant bids which do not meet the entire need will not progress to ITT stage 2.</p> <p>There may be times when it is appropriate to lot up the tender to facilitate different scale bids. This would need to be considered on a case by case basis.</p>
Undertaking all the various studies for ITT stage 1 will be a large resource requirement for the ESO and the TO. Request a practical plan for how the ESO will manage this and clarity on the how TOs will be compensated for their role.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>We agree that this will be a resource intensive task and that parties would need to be suitably compensated for their role. We recognise that the solutions may require a new level of flexibility and service from network owners. A practical plan for how this would be managed would be developed during the implementation stage.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Concerned about the lack of limit on bidders taken through to ITT stage 2. More than 3 or 4 would be a very strong disincentive on bidders to participate.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors Non-regulated utilities 	Partially Agree	Based on stakeholder feedback we note that this is a concern. If there are too many bidders in ITT stage 2 then bidders will not want to incur the costs associated with developing more detailed plans. We propose that the Procurement Body and the Network Planning Body take account of the market interest during the pre-tender stage and any previous early or late competitions. If there is a very high level of interest in the tender, then down selection at ITT stage 1 could be based on relative scoring of solutions. It is important that the Approver, Procurement Body and Network Planning Body have discretion over this element of the process.
A limit to the number of bidders progressing to ITT stage 2 should be published.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Partially Agree	See above.
ITT stage 1 should have some form of quantitative/qualitative assessment beyond a pass/fail.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Partially Disagree	We considered stakeholder feedback and we propose in the ECP a pass/fail approach to ensure that all solutions which meet the tender technical requirements progress to ITT stage 2. This mitigates the risk that a significantly cheaper solution is down selected at ITT stage 1 because it did not score as highly across the other criteria. However, we recognise that in some cases it may be necessary to limit the number of bidders progressing to ITT stage 2 (see answers above for more information).

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Bidders should be provided with additional information prior to ITT stage 2 including 1) impacts on connections, 2) outages, 3) programme dates, 4) constraints.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	The detailed development of the tender process will be undertaken during the implementation stage, once Ofgem has finalised their views on early competition. This stakeholder feedback will be considered as part of that process.
Do not agree that preliminary works should be undertaken after Preferred Bidder is selected. This may prompt bidders to submit an inflated risk pot which is not in the interests of consumers.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Disagree	Early competition specifically seeks to appoint a successful bidder prior to preliminary works. Competition after preliminary works is late competition, which is being considered separately by Ofgem.
Request clarification on why the assessment criteria does not include requirements for maintenance, and contingencies and liabilities in place when third party solutions fail.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	We propose to assess bidders on the deliverability of their plans, contractual arrangements, supply chain strategy and financing strategy as part of ITT stage 2. We have also set out provisions for CATO of last resort in the commercial model.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Technical evaluation should recognise that because innovations at infrastructure scale can't always be proved at small scale.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction companies 		The detailed development of the tender process will be undertaken during the implementation stage, once Ofgem has finalised their views on early competition. This stakeholder feedback will be considered as part of that process.
Non-commercial elements (e.g. environmental benefits) should be given economic value upfront and included in the commercial assessment.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	ITT stage 2 assesses non-commercial elements and are effectively given a commercial value through the assessment weightings used for the technical adjustment to the TRS. These are set by the Procurement Body ahead of the tender which bidders will be made aware of in advance.

3.4.4 Information provision

Table 11: Information provision

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The ESO should share as much information as possible and as early as possible at the start of the tender.	May workshop: <ul style="list-style-type: none"> Provision of Information to Allow Proposal Development September workshop: <ul style="list-style-type: none"> Information Provision 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p><i>In our Phase 2 consultation, we set out our position on information provision, including what information we expect to be shared with bidders. We ran two workshops on Information Provision in September and held internal sessions with technical experts on data and confidentiality requirements.</i></p> <p><i>In addition to the information specified in the Phase 2 consultation, we propose in our Phase 3 consultation to also include the impact studies conducted on</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Currently there is some data on boundary constraints, but more information is needed in order for the bidders to offer competitive bids which will drive value for customers.</p>	<p>September workshop:</p> <ul style="list-style-type: none"> Indicative Solution Identification Process 	<ul style="list-style-type: none"> TOs 		<p><i>bidders' proposals. These studies will be commissioned by the Procurement Body.</i></p> <p>We agree with sharing the right information as early as possible and this view is reflected in our proposed model. Bidders will receive the information they require to support development of their tender proposal, and where possible this information will be supplied at the start of the tender process as part of the ITT pack.</p> <p><i>See above.</i></p>
<p>More detailed technical information will be required at the point of detailed design.</p>	<p>May workshop: Provision of Information to Allow Proposal Development</p>	<ul style="list-style-type: none"> Potential equity investors Generators and other electricity market participants 	<p>Agree</p>	<p><i>See above.</i></p> <p>This comment supported a position we presented in a May workshop. The exchange of detailed technical information is covered in ECP.</p> <p>Detailed design will commence after a successful bid has been selected and the successful bidder will have either been awarded a CATO Licence, or a contract to supply a service to the ESO as a non-network solution. Existing mechanisms are in place that will allow and support the flow of information between parties.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Bidders should ideally have enough access to perform their own impact studies, or otherwise be able to progressively refine their bids based on impact study feedback.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Agree	<p>Our preferred option remains to develop a process to provide qualified bidders direct access to the ETYS models as currently used by the ESO and TOs for initial network planning, which would support bidders to perform their own impact studies. This would replicate the level and type of information used by the TOs to develop initial network solutions.</p> <p>However, ETYS models alone may not be adequate for detailed impact studies that might be required based on the type of proposal. These studies will need to be conducted by the relevant Network Planning Body due to the detailed and sensitive nature of the related data. The study outputs would be provided to the bidder to allow refinement of their bid.</p>
The Procurement Body should liaise directly with incumbent TOs in the development of impact studies at the earliest stage.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>We are recommending in the ECP that the Procurement Body will, where necessary, commission network impact studies from the relevant network owner on bidders' proposals in ITT stage 1.</p>
Impact studies are dependent on network background and this can change during the tender process. The party carrying out the study should have no liability for that risk.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Neither agree nor disagree	<p>We have not considered this feedback specifically in the ECP as we are focused on providing high level views on the provision of information. We expect to work with TOs to develop more details on liability and risk allocation during the implementation stage. As TOs already conduct similar studies as part of the connections process, we would expect to use existing precedence as a starting point.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Network impact studies must be undertaken iteratively to reflect a continuously changing network,	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>Our proposal in the ECP is that the Procurement Body will work with the relevant TO's to agree what, if any, additional studies are required based on the nature of the bidders ITT stage 1 and ITT stage 2 proposal. As well as agreeing the scope and associated parameters, this should include agreement on need for iteration or repetition of studies.</p> <p>This specific feedback will be considered in the implementation stage. TOs already conduct similar studies as part of the connections process, we would expect to use existing precedence as a starting point.</p>
Scope of studies and background need to be agreed with the Procurement Body to ensure there is a clear understanding.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	See above.
The scale of the project may require different interactions with the network and different information required from the bidders.	May workshop: Evaluation of Commercial Elements of the Proposals	<ul style="list-style-type: none"> TOs 	Agree	See above.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There is a need to protect intellectual property and the use of an incentive mechanism for market participants' engagement costs.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>Following our Phase 2 consultation, we held two workshops on Information Provision in September and held internal meetings with technical experts on data and confidentiality requirements.</p> <p>We consider that where bidders are not Licenced or party to the STC, encryption and NDAs will be required. Further details are presented in Section 3, Chapter 5 - End-to-End Process for EC.</p> <p>We continue to support that Non-Disclosure Agreements ("NDAs") and encryption of sensitive data may be required in addition to potential code and licence changes.</p>
The ESO should be responsible for all the information and tools required to identify a network constraint and run a tender process.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Partially Agree	<p>In our Phase 2 consultation, we listed information that we expect to be shared with bidders during the tender process. We expect the procuring body will be responsible for the tools and information required to run a tender process. Following the Phase 2 consultation we held workshops on Information Provision to further develop our view on this.</p> <p>Our Phase 3 consultation and the ECP continues to support our Phase 2 consultation views. The Procurement Body will run the tender process and the ESO, in its current role as part of the Network Planning Body, would be involved in identifying a network constraint.</p>
Concerns regarding the ETYS models' sensitive information can easily be solved by	Phase 2 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Partially Agree	<p>We noted in our Phase 2 consultation, our preferred option will be to only supply the ETYS models to bidders who are not licensed and/or signed up to the STC, once the bidder has signed an appropriate NDA. We ran two workshops on Information Provision following our Phase 2 consultation, we also held</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>signing NDA that is then superseded by any licence.</p>				<p><i>internal sessions with technical experts on data and confidentiality requirements.</i></p> <p><i>Our preferred position remains that the ETYS models used by the TOs for network planning will be made available to qualified bidders. Where bidders are not Licenced or party to the STC, we are exploring whether encryption NDAs are sufficient to release the full ETYS models to them.</i></p> <p>Following the Phase 3 consultation this is an area that requires more work. Where the winning bidder is awarded a CATO Licence, we agree they will have access to the ETYS models based on having a licence and being party to required codes. However, the current framework of codes and licence conditions associated with sharing detailed network information focusses on sharing such information between regulated businesses. The introduction of bidders who may not be part of the regulatory landscape introduces challenges, particularly in relation to ownership of third-party data and intellectual property. Therefore, potential code and licence changes may be required to allow bidders who do not hold a licence to access the ETYS models. NDAs and encryption of sensitive data alone may not be enough to provide such a level of access.</p> <p>We have set out in the ECP that work in this area will continue as part of implementation and have set out other alternative avenues being considered as backup options.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The ESO should consider how the data provided by bidders will be assured, quality controlled, and what course of action will be taken against parties liable and what action will be taken to protect the parties affected.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>We are interpreting this feedback as referring to the information provision at the bid evaluation stage, and we expect that the information provided by the bidders will be assessed as part of the bid evaluation process.</p> <p>Our Phase 3 consultation and the ECP continue to support this view. Liability and risks related to information will form part of the work in implementation. We would expect to take existing precedents as a starting position and will also need to consider any new legislation associated with early competition.</p>
Whether the information is adequate or not will depend on the evaluation process, bidders' access to data and the nature of reinforcement work.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>We have discussed bid evaluation and information access internally with our data, network and planning colleagues, in bilateral conversations with potential bidders, we also considered relevant UK precedents (e.g. PFI).</p> <p>Our current position is that all qualified bidders (including TO ring fenced bid teams) should have access to the same information. Through workshops, webinars and our Phase 2 consultation we have developed a position that the network related information used today by the ESO and TOs to develop initial desktop solutions is the right information and should be available to qualified bidders. Further details are presented in Section 3, Chapter 5 - End-to-End Process for EC.</p> <p>Following the Phase 2 consultation, additional workshops on the provision of information were scheduled to inform our Phase 3 consultation. This feedback was part of the decision to schedule these additional workshops. As part of the workshops we</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Data exchange obligations need to be clearly defined for all parties considering the different codes under which each would operate.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p>worked with SMEs from a range of stakeholders to understand whether additional information should be added to the initial list to be supplied with the ITT. The conclusion reached with stakeholders is that the proposed list is sufficient, and this is reflected in our proposals.</p> <p><i>We are undertaking a detailed review of code impacts as well as discussing this with relevant code bodies (TCMF, GCRP, STC). Following our Phase 2 consultation we also held workshops on Heads of Terms and Industry Code Impacts.</i></p> <p><i>We are currently producing a more detailed assessment of the sources and nature of the information contained in the ETYS models to clarify how much is already publicly available and how much is sensitive based on existing codes, Licence obligations and legislation.</i></p> <p>The current framework of codes and licence conditions associated with sharing detailed network information focusses on sharing such information between regulated businesses. We have set out in the ECP that we propose recommendations should be developed on how obligations could be incorporated into codes and licences.</p>
Provision of information should be codified and the ESO should make study datasets available in a recognised format.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>Following this feedback, we held workshops on Information Provision, and we are currently in the process of identifying what information bidders will require to develop bids and what should be the arrangements to share this information with bidders.</i></p> <p><i>We are currently producing a more detailed assessment of the sources and nature of the information contained in the ETYS models to clarify</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Some commercially sensitive data may be required to be published on anonymised basis with all parties.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Disagree	<p><i>how much is already publicly available and how much is sensitive based on existing codes, Licence obligations and legislation.</i></p> <p>We do not agree that anonymising commercially sensitive data will allow it to be shared in relation to early competition.</p> <p>As part of the ongoing work associated with providing access to ETYS models, we reviewed with ESO SMEs on network planning and the use of models and data whether anonymising data was an option. Our conclusion is that it is not viable. This is because the data required is very specific to an identified part of the network, so it would be very easy to deduce the underlying information.</p>
Some User data in the ETYS is not easily protected. The ESO should provide further detail on whether important information will be shared.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>Following the Phase 2 consultation we scheduled additional deep dive workshops in September and October and asked for subject matter support from any interested stakeholders. A key topic was to build a picture of what data is contained within the ETYS models, what is actually needed for the purpose of early competition and how much is already public. This work is complex and will continue into the implementation phase and will include working with data owners. We have set out in the ECP that our preference remains to utilise the ETYS models used by TOs for initial network planning, but that we will be investigating alternative options to ETYS models.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There may be a need for bilateral agreements in order to enable document sharing between the parties linked to the current processes.	September workshop: <ul style="list-style-type: none"> Information Provision 	<ul style="list-style-type: none"> Potential equity investors 	Agree	See above.
The penalty for breach of an NDA must be significant to ensure it is a sufficient deterrent.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	We agree there should be a sufficient deterrent to ensure data is managed correctly by participants and are proposing in the ECP that bidders will need to sign an NDA to participate. The purpose of the NDA will be to set out expectations of how data will be treated.
Punitive penalties, instead of financial penalties, should be introduced for misuse of confidential information.	September workshop: <ul style="list-style-type: none"> Information Provision 	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>We have not set out a proposal in the ECP on the nature of sanctions for misuse of confidential information.</p> <p>Views have ranged widely on this subject and we will continue to work with our legal advisors and Ofgem. The work in this area will need to align with all relevant legislation.</p>
A single process for managing pre-tender information requests and a single point of contact are easier to manage.	September workshop: <ul style="list-style-type: none"> Information Provision 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<i>We consider that limited parties will be responsible for managing information. We proposed in our Phase 3 consultation that in terms of project information, the Procurement Body, with support of the Network Planning Body, will present all the technical details of the need. In terms of procurement support, the Procurement Body would host events to ensure that bidders were appropriately prepared to develop their bids and go through the procurement process. Further</i>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<i>details are presented in Section 2, Chapter 5 - End-to-End Process for EC.</i>				
Concern that the ESO and TOs will not have resource capacity to support regular impact studies.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Noted	<p>We have set this out as a stakeholder concern in the ECP. This is area that we are proposing is investigated and resolved during the implementation stage.</p> <p>We are proposing in the ECP that the Procurement Body will commission studies in a co-ordinated manner with TOs.</p>
Concern that performing impact studies will be costly for all parties. Costs should be compensated and factored into overall benefits case.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Noted	See above.
Licence conditions significantly restricts TOs ability to share data provided by a third party or is about a third party.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Noted	<p>We have reviewed stakeholder feedback and propose in the ECP that code and licence changes may be required. NDAs and encryption of sensitive data alone may not be enough to provide the required level of access to information. We will continue to work with stakeholders on what changes may be required, in order to share appropriate information with all participants of an early competition.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Given Grid Code provisions, uncertain whether NDAs provide sufficient protection for data exchange.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Noted	See above.
Generator supplier ranking is not routinely shared with TOs and cannot be easily protected in ETYS. Further clarity on whether such important information is expected to be shared is needed.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	If information is not routinely shared with TOs then we think it is unlikely that there would be a need share this information with participants in an early competition.
The ESO needs to clarify whether it intends to tie the data exchange to a single software platform as it may disadvantage some bidders.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	We do not agree that some bidders may be disadvantaged. The ETYS models are currently created utilising different software platforms with files being exchanged in a compatible format.
Providing each bidder with the information it needs, instead of just the same	Phase 3 consultation Q&A session: <ul style="list-style-type: none"> Roles and responsibilities 	<ul style="list-style-type: none"> Construction company 	Partially Agree	We are not proposing in the ECP that all bidders will only be provided the same information. We believe a level playing field is created by bidders having access to the same information.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
information for everyone, achieves a level playing field.	and Distribution			In the ECP we propose bidders will be provided the same project information as part of the ITT pack. However, we propose that where necessary, the Procurement Body will commission network impact studies from the relevant network owner on bidders' proposals in ITT stage 1. The outputs of the studies will be provided to the bidders to enable them to improve their proposal in ITT stage 2. This should support an improved indication of the robustness of costs and potential technical risks of the proposed solution. Bidders will also have the opportunity to request additional information from the Procurement Body via the clarification question process. All questions and answers provided through the clarification questions process will be available to all bidders, unless the Procurement Body has agreed there is a genuine reason for confidentiality.
All bidders should have access to the same data and that it will be difficult to ensure TO bid teams don't have additional access/data.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 		See above. We are recommending in the ECP that the TO bid teams will be ringfenced and will have access only to the same data as other bidders.
The data to be shared should be reviewed at the time the network planning process is defined.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investor 	Agree	We agree with stakeholder feedback and we consider that such review will be completed by the Procurement Body as part of the pre-tender activities.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>ETYS models would need more quality assurance before release. Currently as part of NOA, errors in ETYS models are iteratively fixed as they are found in the process.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Disagree	<p>Based on the proposed timelines in the ECP the ETYS models would be made available to bidders after the completion of the annual NOA process. Therefore, we expect that iterative fixes will have been completed.</p>
<p>The ESO has not addressed concerns over data quality and governance. It has not set out what course of action is will take against parties that provide incorrect data.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	<p>We agree that data quality and governance are very important.</p> <p>We have set out that we expect NDAs to be used so that all bidders have a clear understanding of their obligations for how they store and treat information supplied as part of the tender process. This will be in addition to existing legal requirements.</p> <p>We have previously set out that we expect that the information provided by the bidders will be assessed as part of the bid evaluation process.</p> <p>We have also set out in the ECP an approach to how the successful bidder could and could not change their successful proposal. We believe that this creates a strong incentive for bidders to ensure they have been accurate with their proposal.</p> <p>During workshops in May the topic of how information could be shared was covered and there was a strong preference from stakeholders that a dedicated procurement portal should be utilised. As well as ease of use for bidders these systems support controlled and auditable access.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				We expect to set out a detailed approach to governance, liability and risks associated with data as part of the implementation stage. As a principle these will need to be proportionate to the issue and compliant with legislation. We would look at existing precedence as a starting point.

3.4.5 Post tender award

Table 12: Post tender award

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
A commercial contract can provide greater ability to ensure that providers deliver on their obligations as there are legally enforceable terms and conditions.	May workshop: <ul style="list-style-type: none"> Solution Delivery and Operations 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p><i>In our Phase 2 consultation, we noted that our preferred option is to ensure level playing field of terms under licence and contracts for network and non-network solutions. We are currently assessing the licence and contract arrangements applicable for the early competition based on Phase 2 consultation stakeholder feedback and discussing this with Ofgem. We continue to propose that suitable contracts and licences can be developed which will mitigate risks that are foreseen. Our views on the proposed risk allocation between a successful bidder and the consumer to be delivered through a contract or a licence are further discussed in our Phase 3 consultation.</i></p>
All parties involved in operating the onshore transmission	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p><i>As considered in our Phase 2 consultation, bidders without a CATO licence may be required to comply with other relevant industry codes. Following our Phase 2 consultation, we held workshops on Heads of</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
system must be held to an identical standard, either via codes or licence.				<p><i>Terms and Industry Code Impacts as well as undertook a detailed review of code impacts based on discussions with relevant code bodies.</i></p> <p><i>We continue to propose that suitable adaptations can be made to the industry codes and that suitable contracts and licences can be developed which will mitigate risks that are foreseen. We expect CATOs will generally have the same obligations as incumbent TOs.</i></p> <p>We continue to generally agree with this feedback and continue to propose in the ECP that a successful network solution would require an Electricity Transmission Licence and a successful non-network solution would enter into a contract. The terms/conditions in each would need to be aligned but we think they would not necessarily be fully harmonised i.e. whilst there should be alignment in many cases we do not expect there to be identical rights and obligations.</p>
CATO and TO licence regimes should be closer aligned.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • Potential equity investors 	Partially Agree	See above.
The successful party must accede the relevant industry codes.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • TOs 	Agree	<p><i>We agree with stakeholder feedback, and we set out our views in the Phase 2 consultation that the process for commissioning both network and non-network solutions should be aligned with and underpinned by the provisions outlined within existing industry codes. We also stated that code modifications may be required to account for CATO as a new type of transmission licensee.</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Do not support the requirement for bid-bonds at the point of contract award and the process can be managed through the requirement of post-tender milestones.	Phase 2 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Disagree	<p>We continue to support this view in respect of industry codes.</p> <p><i>We will take this feedback into consideration when developing further details on the post-tender award terms.</i></p> <p><i>Based on stakeholder feedback, we continue to believe in our Phase 3 consultation that a performance bond (previously referred to as a bid bond) or other form of acceptable security will be required. We now think that in addition to a performance bond being required for the preliminary works period this security will also be required for the solution delivery / construction period i.e. until the solution is commissioned.</i></p> <p>Whilst we have adapted our views as a result of stakeholder feedback we continue to recommend that bidders should post a form of acceptable security at the point they are made the successful bidder to remain until commissioning, albeit potentially tapered downwards after Preliminary Works.</p>
The proposal of the performance bonds, particularly around the extent of bidders' liabilities under the performance bonds, concerns stakeholders as this would reflect lack of trust	September workshop: <ul style="list-style-type: none"> Heads of Terms and Industry Code Impacts 	<ul style="list-style-type: none"> Construction stakeholder 	Disagree	<p><i>Whilst we acknowledge that some stakeholders have concerns about the fairness and efficiency of any requirement for a performance bond, we believe in our Phase 3 consultation that one is necessary until the conclusion of the PPWCA (and the Debt Competition and Financial Close have occurred) to reduce the risk of walking away from an unsatisfactory PPWCA outcome.</i></p> <p>As above.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
between the ESO and the bidders.				
It is unclear why commissioning would be different between a late or an early competition project that requires a licence.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>We agree with this stakeholder feedback, we are having ongoing discussions with Ofgem on their development of the late competition model to align the processes where efficient and fair.</p> <p>Our view that the process for commissioning should be aligned with and underpinned by the provisions outlined within existing industry codes remains unchanged in our Phase 3 consultation.</p> <p>Our views on commissioning remain unchanged in the ECP.</p>
The heads of terms should set out obligations in such a way that would not hinder development of new connections.	September workshop: <ul style="list-style-type: none"> Heads of Terms and Industry Code Impacts 	<ul style="list-style-type: none"> Technical stakeholder 	Agree	<p>We considered a list of proposed risk allocation between a successful bidder and the consumer which are expected to be delivered via a contract or a Transmission Licence with Ofgem in our Phase 3 consultation. A new connection to the transmission system is one of the activities considered in our head of terms and we propose that if the solution is a network solution then statutory obligations to provide a connection to third parties will exist. However, this obligation is not expected to apply in the case of non-network solutions.</p> <p>Our views on new connections remain unchanged in the ECP.</p>
Unclear under which scenario new network investment would ever be required	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>We agreed with previous stakeholder feedback that new investment obligations are less likely to be necessary in relation to non-network solutions, especially where related to the facilitation of new connections. Therefore, we adapted our proposals so</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
for a non-network solution.				that non-network solution providers should not have comparable obligations to network solution providers regarding facilitating new investment, including in relation to new connections. We have ensured that this position is clear within the ECP.

3.4.6 Risk allocation

Table 13: Risk allocation

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
It is not efficient for the bidder to carry all preliminary works risks and that it may be better value for money for consumers to take on some risks.	May workshop: <ul style="list-style-type: none"> Preliminary Works 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>In our Phase 2 consultation, we presented an initial allocation of risks between the bidder and consumers. Based on stakeholder feedback we have updated views in our Phase 3 consultation on risk allocation. We noted that Consents, Land Rights, Design, Ground Conditions and Construction Costs risks are expected to be shared at the preliminary works stage. We continue to agree that there should be some risk sharing with consumers in relation to preliminary works. Our views on risk allocation are presented within the ECP.</i></p>
The risk profile would be very different for an integrated and a radial solution to the transmission need, especially in	May workshop: <ul style="list-style-type: none"> Construction Works and Commissioning 	<ul style="list-style-type: none"> TOs 	Agree	See above.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
relation to interface risks.				
Bidders should be able to take on certain risks, including some of the consenting risk, compliance, design, subcontractor failures, commissioning process failures, and financing.	May workshop: <ul style="list-style-type: none"> Construction Works and Commissioning 	<ul style="list-style-type: none"> Potential equity investors 	Agree	See above.
Consenting is the biggest risk, as the process can take a long time.	May workshop: <ul style="list-style-type: none"> Preliminary Works 	<ul style="list-style-type: none"> Potential equity investors Technology companies 	Partially Agree	<p><i>In our Phase 2 consultation, we noted this will be a significant undertaking for the successful bidder and will involve extensive preparatory activities, including robust stakeholder engagement and consultation.</i></p> <p><i>We consider that consenting will be undertaken as part of preliminary works before a final consented design is known and before final costs of the proposed solution and the TRS are fixed via the PPWCA. From this point, the TRS will no longer be adjustable other than for prescribed reasons e.g. Income Adjusting Events.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
The land rights should be one of the potential	September workshop: <ul style="list-style-type: none"> Risk Allocation and Post- 	<ul style="list-style-type: none"> TOs 	Agree	<p><i>We consider land rights as one of the risks that could be potentially shared between bidders and consumers through the PPWCA process as they will be obtained</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
shared risks, but the ESO should also consider how much effort will be required from bidders.	Preliminary Works Cost Assessment			<p><i>as part of preliminary works before final solution costs and the TRS are fixed. However, we expect that risk allocation will need to be reviewed on a case-by-case basis in future as part of pre-tender planning and in respect of each tender process given that risk allocation may need to be adapted depending on the network need and/or solution in question.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
The key will be to understand whether there are any arrangements which could be set out in the codes or elsewhere that will help to define areas of responsibility.	September workshop: Operational Incentives	<ul style="list-style-type: none"> Public Sector stakeholder 	Agree	<p><i>We have started to consider the potential changes to industry codes which could be required as a result of our early competition proposals. We expect that required changes to industry codes will be 'significant but deliverable'.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
Bidders are expected to rebalance their risk profile through their arrangement with the contractors, however the process seeks to fix as many cost elements as possible effectively limiting this ability.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>We propose in the ECP that bidders would be required to commit to overheads and margins in the final bid as these costs are reasonably expected to not be dependent on the outcome of the preliminary works.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Bidders will not have full control of the debt competition and therefore it is not appropriate they take the whole risk of the debt service costs.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	We consider that allowing bidders to take the lead role in organising the debt competition should minimise this risk. Furthermore, we would expect consumers to take the risk of an increased TRS as the result of worse debt terms than assumed at ITT stage 2.
When defining terms of the tender, consideration should be given to items that can become critical and fall outside the control of the bidder e.g. insurance costs.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	We expect that such consideration will be undertaken by the Procurement Body during the pre-tender stage when the base case model will be reviewed on case by case and based on project specific details.

3.4.7 Rewards and incentives

Table 14: Rewards and incentives

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Incentives should be tangible and measurable.	May workshop: <ul style="list-style-type: none"> Construction Works and Commissioning 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<i>In our Phase 2 consultation, we presented high level options for potential availability incentive structures. Following our Phase 2 consultation, we are reviewing stakeholder feedback and comparable sectors (including OFTO and RII0-2) to form our view on</i>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Incentive regime must be technology neutral and not be seen to favour network or non-network solutions.</p>	<p>May workshops:</p> <ul style="list-style-type: none"> • What Winners Win and How Risk is Allocated • Preliminary Works 	<ul style="list-style-type: none"> • Potential equity investors 	<p>Agree</p>	<p><i>incentive arrangements. We are specifically looking at whether incentives will be weighted and on what basis, what should be the incentive value/penalty range and whether there will be any caps and/or collars.</i></p> <p><i>We propose four incentives in our Phase 3 consultation (stakeholder engagement, availability, environmental and timely new connections incentives). Each incentive should have tangible and measurable requirements - for example, an obligation to provide and publish a report or penalties/rewards that are below/above certain thresholds. We also propose that the specific parameters associated with these incentives (including maximum reward and penalty) would be further developed in any implementation period.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p> <p><i>In our Phase 2 consultation we expect operational incentives to apply to both network solutions and non-network solutions. We are reviewing stakeholder feedback and investigating comparable sectors as we develop further detail on incentive arrangements.</i></p> <p><i>We propose four incentives in our Phase 3 consultation (stakeholder engagement, availability, environmental and timely new connections incentives). Each incentive should have tangible and measurable requirements - for example, an obligation to provide and publish a report or penalties/rewards that are below/above certain thresholds. We also propose that the specific parameters associated with these incentives (including maximum reward and</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>Preliminary works incentives would not be required considering the same party will go on to undertake solution delivery works at the next process stage.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Preliminary Works <p>Phase 2 consultation feedback</p>	<ul style="list-style-type: none"> Potential equity investors 	<p>Partially Agree</p>	<p><i>penalty) would be further developed in any implementation period.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p> <p><i>In our Phase 2 consultation, we noted that the agreed TRS will commence upon commissioning of the works and the solution becoming operational. We believe this provides a strong incentive on the provider to complete the works in a timely fashion, but also to the required standards and therefore no preliminary works incentive is required. Following Phase 2 consultation, we reviewed stakeholder feedback and investigating comparable sectors.</i></p> <p><i>We still agree that for the most part explicit preliminary works and solution delivery incentives are not required for early competition. However, due to stakeholder concerns raised about the potential impacts on the quality of stakeholder engagement, we are now proposing a stakeholder engagement incentive. The successful bidder will be obligated in licence or contract (as appropriate) to publish a proportionate stakeholder engagement report within three months of the conclusion of the preliminary works stage.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
<p>Incentives should be around managing risk effectively during the preliminary works phase.</p>	<p>May workshop:</p> <ul style="list-style-type: none"> Preliminary Works 	<ul style="list-style-type: none"> TOs 	<p>Partially Agree</p>	<p><i>We are investigating comparable sectors and reviewing the stakeholder feedback we have received which will feed into our Phase 3 consultation.</i></p> <p><i>We still agree that for the most part explicit preliminary works and solution delivery incentives are not required for early competition. However, due to stakeholder</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Penalties similar to the RIIO-2 mechanism being considered by Ofgem for late delivery might deter bidders.	May workshop: <ul style="list-style-type: none"> • Preliminary Works 	<ul style="list-style-type: none"> • Technology companies 	Disagree	<p><i>concerns raised about the potential impacts on the quality of stakeholder engagement, we are now proposing a stakeholder engagement incentive. The successful bidder will be obligated in licence or contract (as appropriate) to publish a proportionate stakeholder engagement report within three months of the conclusion of the preliminary works stage.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p> <p><i>We are investigating comparable sectors and reviewing the stakeholder feedback we have received which will feed into our Phase 3 consultation.</i></p> <p><i>We propose that where there is a delay to the project delivery, some form of reprofiling of the TRS should be applied across the remaining revenue period.</i></p> <p><i>Where there is a delay for an unacceptable reason the TRS adjustment would ensure the successful bidder is not held whole for their lost equity return and that they do not benefit from the delay. However, where there is a delay for an acceptable reason, the TRS adjustment would ensure the successful bidder is held whole for their lost equity return but that they do not benefit from the delay.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
It may be difficult to apportion blame for a project delay.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • Potential equity investors 	Agree	<p><i>We are investigating comparable sectors and reviewing the stakeholder feedback we have received which will feed into our Phase 3 consultation.</i></p> <p><i>We propose in our Phase 3 consultation that where there is a delay for an unacceptable reason the TRS adjustment would ensure the successful bidder is not</i></p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>If projects delays are not the fault of the winning bidder or is out of their control, the full revenue period should be maintained when the TRS starts. The PWWCA stage can be used to consider risk allocation when agreeing final costs.</p>	<p>Phase 3 consultation feedback</p>	<ul style="list-style-type: none"> • TOs 	<p>Partially Agree</p>	<p><i>held whole for their lost equity return and that they do not benefit from the delay. In relation to what circumstances constitute an 'acceptable reason' for delay (e.g. Force Majeure) this will need to be further considered when developing the standard contract and licence terms during implementation. This will also need to further consider the insurance market and whether the foreseen role of insurance in relation to delay is efficient and practicable.</i></p> <p>We have maintained our views on late delivery and suggested in the ECP that the definitions of 'acceptable reason' and 'unacceptable reason' need to be defined and we agree that it may be challenging to identify and ascribe so a dispute mechanism will likely be required in relation to doing so.</p> <p>These points will need further consideration in future.</p> <p>See above.</p> <p>The revenue period will remain as it was as it is related to the network need - the readjustment will account for this reduction in revenue period where delay is for an acceptable reason.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The ESO should consider whether incentives would work as effectively as implied in the consultation where there are competing priorities between incumbent TOs/DNOs/OFTOs and CATOs.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p><i>We are investigating comparable sectors and reviewing the stakeholder feedback we have received which will feed into our Phase 3 consultation.</i></p> <p><i>We continue to believe that our proposed operational incentives are appropriate for early competition. We expect the environmental and timely new connections incentives to mostly replicate the RII0-2 proposals and the availability incentive can be based on the current offshore availability incentive.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
Any penalties and incentives that are set should ensure minimal disruptions to consumers and be aligned where possible to existing incentives.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	See above.
The operational incentive regime for early competition should be limited.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	See above.
An incentive to complete tasks early may be appropriate but bidders will also require protection	Phase 2 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>See above.</p> <p>We have not proposed any form of incentive or reward for early completion of works as we do not believe to will provide value to consumers. We agree bidders will require some form of protection where delays are</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
where delays are outside their control.	September workshop:	<ul style="list-style-type: none"> Potential equity investors 	Agree	outside of their control and we have accounted for this in the ECP.
Tender documents will need to be clear on what is the minimum performance requirement, what are the incentives in place and what is the monitoring system to track the performance.	<ul style="list-style-type: none"> Operational Incentives 	<ul style="list-style-type: none"> Potential equity investors 	Agree	<p><i>We consider tender documents to be a part of implementation plan activities that will be further developed based on stakeholder feedback to this consultation.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
Would like to see further detail on how the ESO define an acceptable reason for late delivery and what recourse is available if the preferred bidder disagrees with the decision that the delay is unacceptable.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	<p>Our ECP proposals focus on high level principles around the appropriate incentives. We expect that stakeholder feedback will be further contemplated when detailed design of the incentive regime is being undertaken in the implementation stage prior to the launch of a tender process. However, as stated in the ECP the definitions of 'acceptable reason' and 'unacceptable reason' need to be defined and we agree that it may be challenging to identify and ascribe so a dispute mechanism will likely be required in relation to doing so.</p>
PPP regime offers a good guide to relief events which can distinguish relief events from	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funder 	Partially Agree	<p>We expect that stakeholder feedback will be further contemplated when detailed design of the incentive regime is being undertaken in the implementation stage prior to the launch of a tender process.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>delay for poor performance.</p> <p>The winning bidder should be held to the same standards as the incumbent TOs as they will be connected to the incumbent TOs' networks.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>See above.</p> <p>In the context of incentives, we have proposed alignment in some cases (e.g. new connections) but not in others due to differences between obligations and the regulatory regimes e.g. in relation to the respective availability incentives.</p>
<p>Any operational incentives should ensure the same level of challenge for TOs and third-party bidders.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>See above.</p> <p>We have proposed a similar (but not the same) operational incentive regime for network solutions and non-network solutions. In some cases, we feel it will be appropriate to make a distinction in relation to incentive application and/or design between different types of solution whilst maintaining a level playing field as far as practicable.</p>
<p>Alignment with RIIO-2 is not necessarily relevant in respect of the early competition given the substantial differences of the two regimes.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>We believe that environmental incentive and a timely new connections incentive could potentially replicate those applied in RIIO-2. However, we do not believe that the full suite of RIIO-2 incentives (e.g. asset health) is needed for early competition due to inherent differences between the RIIO-2 arrangements and our early competition model proposals.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Question what incentives there are on the incumbent TOs to facilitate the timely delivery of preliminary works by the successful bidder.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	Whilst we can understand the concern, incumbent TOs already have obligations via their licences and industry codes in respect of facilitating new connections and development of the Transmission System. As such we have not proposed anything specific in the ECP to try to address this concern in addition to the existing obligations.
Limited detail is provided on the stakeholder engagement incentive, its value and what would happen if the stakeholder engagement report is delivered late.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	Through stakeholder feedback we think such an incentive will be valuable and we agree that further details will need to be developed as part of the implementation stage.
Stakeholder engagement incentive can be taken a step further to get a view of the CATO performance and include a reward/penalty provision for performance.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	See above. As we think a reputational incentive will be sufficient we have not proposed this, but we agree it would be a viable option to introduce a financial element into this incentive.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Stakeholder engagement report seems unnecessary but subject to a full alignment to normal practice could be acceptable.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Disagree	See above. Whilst we previously felt that a preliminary works incentive such as this was unnecessary we now think that the proposed stakeholder engagement incentive would be valuable in the context of early competition.
Concerned with the reporting requirements of both early competition and RIIO for TOs. The format and type of data should be aligned.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	Further consideration on reporting requirements would be required when developing a licence or licence amendments and we agree the aim should be to minimise unnecessary differences in reporting obligations or duplication.
Appropriate to align late delivery guidance for TOs with existing RIIO-2 provisions.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Disagree	Whilst this could be possible and warrants further consideration when developing the operational incentives in detail we continue to believe an early competition specific arrangement is necessary for late delivery due to differences between the regulatory regimes.
Unclear how baseline targets will be determined for bidders with no past data.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Agree	Our ECP proposals focus on high level principles around the appropriate incentives. We expect that stakeholder feedback will be further contemplated when detailed design of the incentive regime is being undertaken in the implementation stage prior to the launch of a tender process.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Detail missing around what caps and collars would apply to incentives.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Agree	See above.
Incentives should be developed on a case by case basis. It may be appropriate for network solutions to propose their own incentives as part of its licence drafting.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	See above. Whilst we agree there may be an element of adjustment to the incentive structure/calculation on a case-by-case basis or tender-by-tender basis we do not agree that bidders should be able to propose their own incentives as part of the tender process or licence grant (or contract award) process.
Some flexibility should be allowed to the timely connection depending in the licence arrangements.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Disagree	In respect of new connections, our view is there should be alignment with existing obligations and processes so that connecting customers can follow the same process in the same timescales in respect of their connection(s).

3.4.8 Operation, maintenance and decommissioning

Table 15: Operation, maintenance and decommissioning

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Decommissioning arrangements should be aligned with Ofgem's future decision on the OFTO regime.	May workshop: <ul style="list-style-type: none"> Operation, Maintenance and Decommissioning 	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	<p>We will continue to keep development in the offshore regime under review. In our Phase 2 consultation, we noted that our preferred option is a procurement framework which evaluates bidder decommissioning plans and costs as part of the tender process. It would also require bidders to maintain such plans and hold decommissioning security once operational. Based on stakeholder feedback and discussions held with our ESO colleagues and Ofgem.</p> <p>After further considering whether decommissioning obligations should be underpinned by legislation and whether there should be an obligation to decommission we have reflected on stakeholder feedback and do not believe this would be proportionate. We will continue to keep developments in the offshore regime under review.</p> <p>This is something which will need to be further explored once further information is available.</p>
The ESO should consider the option of providing handover to the incumbent TO.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>We proposed end of revenue period options in our Phase 2 consultation, i.e. handover to TOs and potential for an extended revenue period, which was our preference. We have continued to investigate this through meetings with TOs and internal planning teams.</p> <p>We think the successful bidder should remain responsible for their solution at the end of the revenue period and any process to transfer that solution to a third party at the end of the revenue period would add</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
				<p><i>significant complexity and hence we are not further considering this option.</i></p> <p>We considered this feedback, although our preferred option remains for this not to be an option for the end of the revenue period as detailed within the ECP.</p>
Decommissioning costs form part of a project life cycle and should also be considered as part of the procurement process.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • TOs • Generators and other electricity market participants 	Agree	<p><i>Our view is that bidders would be required to set out their indicative decommissioning costs as part of their bids</i></p> <p><i>Our views on decommissioning costs remain unchanged in our Phase 3 consultation.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>
As with TOs and OFTOs, early competition projects should only be subject to the decommissioning requirements of relevant landowners and consenting authorities as reserving for decommissioning can be otherwise inefficient.	Phase 2 consultation feedback	<ul style="list-style-type: none"> • Potential equity investors 	Agree	<p><i>We will take stakeholder feedback into consideration in addition to discussions held with our ESO colleagues as well as Ofgem.</i></p> <p><i>After further considering whether decommissioning obligations should be underpinned by legislation and whether there should be an obligation to decommission, we do not believe legislation is required. Whilst bidders will still be responsible for decommissioning, the existing provisions and processes will remain suitable e.g. with landowners, consenting authorities and under the codes.</i></p> <p>Our position in the ECP remains the same having considered feedback from stakeholders.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
If there is a change in law which requires the decommissioning to incur additional costs other than what was originally planned, these costs should be allowable as a pass-through cost.	Phase 2 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p><i>Our view is that change in law should be a shared risk (as detailed within our Phase 2 consultation). Following our Phase 2 consultation, we held discussions with our ESO colleagues as well as Ofgem.</i></p> <p><i>We believe that bidders are best placed to manage risks associated with solution decommissioning costs/timescales except in limited circumstance. We expect that there will be an element of risk sharing through the Income Adjusting Event proposed in relation to decommissioning obligations.</i></p> <p>Such agreement would be subject to the associated provisions in respect of the relevant Income Adjusting Event criteria once it has been developed for the contract and licence.</p>
Risk that bidders may inflate their costs to include the requirement for decommissioning securities.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>We consider that this will be a bidder risk as the inflated costs will result in potentially less competitive pricing compared to other bids. We believe that such risk will be minimised through the competitive tension in the market.</p>
Any bidder should be subject to the same decommissioning responsibilities that the incumbent TOs are currently subject to.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>We also see merit in some form of security related to decommissioning in the early competition regime to make sure that decommissioning obligations are fulfilled at the appropriate time. We also however acknowledge that any requirement for decommissioning security is likely to increase costs for bidders which will need to be factored into the TRS and this could increase costs to consumers.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
It is unclear what decommissioning security would be required in order to cover the decommissioning processes and obligations set out in industry codes.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	We have made this clearer in the ECP - we generally expect security to relate to the connection site or transmission interface site and disconnection from the transmission system. Further consideration will be required when drafting code modifications and/or standard form contracts and licences.
Any financial security for decommissioning is expected to be the same for all bidders.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Partially Agree	See above. We think that the obligation should be the same for all bidders but the security requirement (as to be related to site specifics) may be different between bidders depending on the costs associated with their decommissioning obligations.
Decommissioning liabilities will need to be factored into any investment and the OFTO regime offers a useful guide to the treatment of decommissioning liabilities.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Debt funders 	Agree	See above.
Some of the plant may be of potentially eternal life, in which case the decommissioning	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Disagree	Whilst ongoing viability will be considered in respect of end of revenue period option assessment the obligations in relation to availability (and by extension asset health) will only relate to the revenue period. Any remaining asset life (and any plans to maintain the assets for any extended period) will also be

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
plan should be replaced by a plan to ensure its ongoing viability.				considered as part of Stage Gate 5 as proposed in the ECP.



3.5 Implementation

The table below presents stakeholder feedback on the implementation plan and how we have used it to inform and shape our proposals. The feedback has been grouped by key subject areas.

Table 16: Implementation

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
The critical path and sequencing of implementation activities will need to be established.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Agree	In the Early Competition Plan (“ECP”), we have identified key decision points in our early competition high-level implementation plan, which reflect the high-level critical path. We agree that this plan will then need to be translated into a detailed programme plan with a more detailed critical path and this will need to be developed (at the appropriate time) in coordination with Ofgem and relevant stakeholders.
The list of implementation activities fails to sufficiently account for the changes that will be needed to current Transmission Owner (“TO”) duties and obligations under the licence, codes and statute. The Electricity System Operator (“ESO”) has only considered the changes required in so far as it	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	The high-level implementation plan provides time for ESO/TO conflict mitigation, amendments to the TO licence and for code changes. We propose that, as an initial activity, this plan will need to be developed into a detailed programme with Ofgem.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
facilitates the delivery of the early competition framework.				
Secretary of State can be granted powers to direct some code and licence changes to expedite implementation process.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Non-regulated utilities 	Partially Agree	<p>We agree this is a potential option but at this point in time we expect that changes to codes and licences will likely follow the appropriate standard formal change processes.</p> <p>Based on our high-level assessment and stakeholder engagement to date, we estimate that via open governance Connection and Use of System Code (“CUSC”) and Grid Code modifications would take 6-12 months and System Operator – Transmission Owner Code (“STC”) modifications (including STC Procedures) would take 12-18 months.</p>
Concerned the timeframe for implementation may be unfeasible.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	<p>The implementation plan and timeline set out in the ECP are high-level and will require refinement. We expect that the timescales may change depending on both a positive decision from Ofgem on implementation and the necessary primary and secondary legislation being in place.</p>
Implementation timeframe seems long. Consider if learnings from the US can be used to expedite the process.	Q&A Session: Commercial model and Model implementation	<ul style="list-style-type: none"> TOs 	Disagree	<p>The timeframe is largely driven by the particular statutory, licence and code change requirements applicable to the GB market. As such, the US experience has limited applicability in this instance.</p>
Early competition should be implemented	Phase 3 consultation feedback	<ul style="list-style-type: none"> Construction companies 	Disagree	<p>Given the amount of activities required to be completed and implemented during the implementation stage, it will be very challenging in to</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>quicker e.g. from Autumn 2021 following Future Energy Scenarios (“FES”) 2021 with a tender in 2022, especially to align with 40GWs offshore wind by 2030.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Disagree	<p>complete this stage in the proposed timescales. We will, however, review the activities and timeline as part of the development of a detailed programme plan.</p>
<p>The assumption in several cases seems to be that existing organisations will expand but it should be made clearer this may require whole new organisations to also be established.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Disagree	<p>The implementation plan is based on our current proposals of the roles and responsibilities reflected in the ECP. The plan and many of the activities in the plan will depend on both a positive decision from Ofgem and whether any changes to our proposals will be required.</p>
<p>Unclear why none of the implementation activities can start before legislative changes. A lot of the work could be done under current terms of the</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Potential equity investors 	Partially Agree	<p>We have identified a number of activities in the ECP which the ESO could, subject to Ofgem agreement, progress before a decision is taken and the legislation is in place. These activities are likely to be on or around the critical path, and relatively low regret if early competition was delayed or not taken forward.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
licence and driven by Ofgem.				
Recommend undertaking a scoping activity for scope changes ahead of Ofgem's decision to ensure changes are implemented without delay.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	See above.
The process for changes to different codes may not be as linear as presented.	Phase 3 consultation feedback	<ul style="list-style-type: none"> TOs 	Partially Agree	The implementation plan allows 24 months for code changes, providing additional time for potential delays. We agree there will be interaction between code change across different codes and between code change and licences and legislation so there may be elements of parallel working or iteration required in respect of code changes.
It would be useful to understand why Ofgem/ESO think that legislation is required for any of the parts of ECP.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	N/A	<p>We set out in the ECP that to fully implement the early competition process legislative changes will be needed to introduce competition in onshore transmission.</p> <ul style="list-style-type: none"> Primary legislation will be needed to allow an early competition to be undertaken which allows both network solutions and non-network solutions to compete against each other to address Electricity Transmission network needs. Secondary legislation will likely be needed to set out the early

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Licence and code changes should undergo statutory consultation processes, and that the implementation plan should not begin until primary and secondary legislation are in place.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	<p>competition criteria and/or to set out the early competition procurement process.</p> <p>In the ECP, the implementation plan begins following an Ofgem decision on early competition. We would expect this decision to take into account the progress of the necessary legislation. We also set out a number of areas that may be considered relatively 'low regret' for Ofgem to consider progressing before such a decision.</p>
Potentially advanceable activities should be undertaken with caution due to the cost of these.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Non-regulated utilities • TOs 	Partially Agree	See above
There may be to scope to enhance Pathfinders while competition legislation is being put in place.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs 	Partially Agree	In the ECP we set out how pathfinders may be more closely aligned to early competition in future.

3.6 Early competition and distribution

The table below presents stakeholder feedback on the early competition and distribution and how we have used it to inform and shape our proposals. The feedback has been grouped by key subject areas. For reference, we have also retained our Phase 2 - Phase 3 positions on stakeholder feedback discussed in the November version of the You Said, We Did document. These positions are highlighted in italics below.

Table 17: Early competition and distribution

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
There should be a periodic review of the early competition process if it is applied to distribution sector needs, and how well the system is working.	September workshop: <ul style="list-style-type: none"> ESO Role in Distribution 	<ul style="list-style-type: none"> DNOs 	Neither agree nor disagree	<p><i>We will consider stakeholder feedback in the development of further thinking on the potential Electricity System Operator (“ESO”) role in distribution level early competition. These will form part of our thought piece on distribution that the ESO will be sharing with Ofgem as part of our Early Competition Plan submission in April 2021.</i></p> <p>The application of the early competition process is not within scope of our thought piece. Therefore, we have not included this within the ECP thought piece.</p>
Network planner should have visibility of the value assessment for the proposed solutions and monitor bidder's accountability.	September workshop: <ul style="list-style-type: none"> ESO Role in Distribution 	<ul style="list-style-type: none"> DNOs 	Agree	<p><i>We will consider stakeholder feedback in the development of further thinking on the potential ESO role in distribution level early competition. These will form part of our thought piece on distribution that the ESO will be sharing with Ofgem as part of our Early Competition Plan submission in April 2021. Based on stakeholders views we have set out the key advantages and disadvantages of different parties fulfilling roles.</i></p> <p>This view is consistent with our proposal for the transmission level roles. Our proposal in the Early Competition Plan (“ECP”) is for the Network Planning Bodies roles within early competition to build on existing network planning processes. We propose the relevant network owners (Distribution Network</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
If possible, the role of contract counterparty should be taken by one entity.	September workshop: <ul style="list-style-type: none"> • ESO Role in Distribution 	<ul style="list-style-type: none"> • DNOs 	Reflected in our thought piece	<p>Operator (“DNOs”) should take on the feasibility studies for integration of potential solutions with existing network or proposals seeking to connect to the network as part of the tender process.</p> <p><i>We will consider stakeholder feedback in the development of further thinking on the potential ESO role in distribution level early competition. These will form part of our thought piece on distribution that the ESO will be sharing with Ofgem as part of our Early Competition Plan submission in April 2021. Based on stakeholders views we have set out the key advantages and disadvantages of different parties fulfilling roles.</i></p> <p>We support the view that the owner of the operational risk should be the contract counter party and set this view out in the phase 3 consultation. We have included this position in our thought piece.</p>
Contract Counterparty sits with the Distribution System Operator (“DSO”) however DNO/DSO terms must be on arm's length basis.	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Potential equity investors 	Reflected in our thought piece	<p>We have presented this view to Ofgem as part of our thought piece on the potential role of the ESO. We have set out that there is strong support for the DNO/DSO as owner of operational risk to be the contract counterparty but highlighted the potential for a conflict of interest to be created if there is not business separation.</p>
The ESO should consider who should process the payment transactions and with which entity	September workshop: <ul style="list-style-type: none"> • ESO Role in Distribution 	<ul style="list-style-type: none"> • DNOs 	Agree	<p><i>We will consider stakeholder feedback in the development of further thinking on the potential ESO role in distribution level early competition. These will form part of our thought piece on distribution that the ESO will be sharing with Ofgem as part of our Early Competition Plan submission in April 2021. Based on</i></p>

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there would be a minimum number of handoffs.				<p><i>stakeholders views we have set out the key advantages and disadvantages of different parties fulfilling roles.</i></p> <p>Stakeholders have indicated strong support for the same party currently collecting and processing payments for system charges in distribution will take on the role of the Payment Counterparty. Further work on this role and the number of handoffs will be considered by Ofgem.</p>
There is a need for independent and proportionate review and perspective of Ofgem's role (such as approver and supervisory) and decisions in order to ensure that the value for money objective is maintained.	September workshop: <ul style="list-style-type: none"> • ESO Role in Distribution Phase 3 consultation feedback	<ul style="list-style-type: none"> • DNOs • Potential equity investors 	Reflected in our thought piece	<p><i>We are seeking stakeholder views in our Phase 3 consultation on a role of an Auditor. Where stakeholders express support for this role we are also requesting views of which party they would prefer to perform the role.</i></p> <p>We envisage that the review of the process and decisions in distribution will be completed by the Approver. We have highlighted to Ofgem in the thought piece that some stakeholders expressed a view that there is a need for independent body to review/audit Ofgem decisions. We have also set out that the majority of stakeholders do not see the ESO in the Approver roles and that this is a role for Ofgem.</p>
Early competition could be more problematic for distribution than transmission. It could undermine the separation of DNO/DSO by obscuring network	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Consumer Body stakeholder 	Reflected in our thought piece	<p>We have included this concern in our thinking about which party could perform the Network Planning Body role and this is one of the reasons why we do not see the ESO in this role. The nature of any separation between DNO and DSO functions is not known at this point and will likely form part of RIIO-2 ED2 proposals due later in 2021. We will be highlighting to Ofgem that proposals on business separation will have an impact on roles and which parties may be best placed to perform roles. We will share this feedback with</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
planning responsibilities.				Ofgem for their consideration. We will also highlight to Ofgem stakeholders' views on their preferred options based on different assumptions about the level of separation between DNO and DSO functions.
Current DNO/DSO arrangements present conflicts. Without separation similar to the Transmission Owner ("TO")/ESO, DSOs cannot perform the same functions as the ESO.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Reflected in our thought piece	The nature of any separation between DNO and DSO functions is not known at this point and will likely form part of RIIO-2 ED2 proposals due later in 2021. We will be highlighting to Ofgem that proposals on business separation will have an impact on roles and which parties may be best placed to perform roles. We will share this feedback with Ofgem for their consideration. We will also highlight to Ofgem stakeholders' views on their preferred options based on different assumptions about the level of separation between DNO and DSO functions.
Conflict position may be resolved if wider energy system governance issues lead to greater separation of DSO roles within the existing DNO structure.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Consumer Body stakeholder Construction company 	Agree	See above.
Ofgem will develop the role of the DSO alongside the ED2 framework which should clarify the place of early competition in the	Phase 3 consultation feedback	<ul style="list-style-type: none"> DNOs 	Partially Agree	We have highlighted to Ofgem that developments on ED2 could impact our thinking, and that Ofgem may wish to consider aspects of our thinking in more detail in the future. However, while we continue to develop the model for transmission level early competition is seems sensible to continue to consider its potential

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
distribution sector. Any work done before this would be premature.				application in distribution and to engage with distribution stakeholders
A separate early competition model specifically designed for distribution with separate impact assessment and Cost Benefit Analysis (“CBA”) should be developed and fully consulted upon given the distinct differences between the transmission and distribution networks.	Phase 3 consultation feedback Q&A Session: Roles and responsibilities and Distribution	<ul style="list-style-type: none"> • DNOs • Construction company 	Partially Agree	In our thought piece we set out for Ofgem some key areas where a transmission early competition model would need to be modified for application in distribution. We have been clear that the transmission level process could not be "lifted and shifted". Ofgem will decide if more extensive work on this will be required which we would expect to include a decision on whether to continue to investigate modifications, or whether to develop a separate model. CBA of early competition in distribution is outside the scope of the ECP. Any decision on the value of early competition remains with Ofgem.
Early competition may not generate a net benefit for consumers in distribution as DNOs are already incentivised though the regulatory framework to look at all options when	Phase 3 consultation feedback	<ul style="list-style-type: none"> • DNOs 	Neither agree nor disagree	CBA of early competition in distribution is outside the scope of the ECP. Any decision on the value of early competition remains with Ofgem.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
<p>determining investment pathways and has lower volume and value of projects compared to transmission.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • TOs • DNOs 	Agree	<p>We currently agree with the position that there is no obvious requirement for the ESO to be directly involved in distribution early competition. Our thinking will be presented to Ofgem and will indicate stakeholder views. We will continue to discuss ESO involvement with Ofgem if they wish as ED2 plans develop.</p>
<p>If the DNO has a major role for facilitating competition at the distribution level, then it should not be able to bid into the scheme.</p>	Phase 3 consultation feedback	<ul style="list-style-type: none"> • Debt funder 	Neither agree nor disagree	<p>We have made Ofgem aware of this particular view within our thought piece in the context of potential conflicts of interest.</p> <p>The nature of any separation between DNO and DSO functions is not known at this point and will likely form part of RIIO-2 ED2 proposals due later in 2021.</p> <p>We will be highlighting to Ofgem that proposals on business separation will have an impact on roles and which parties may be best placed to perform roles.</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
Without further clarity on DNO/DSO separation, the Procurement Body role should sit with the ESO.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Disagree	<p>At a transmission level we are proposing that network owners participate as we believe they could offer consumers best value for money.</p> <p>We have included this view in our thought piece. We disagree with it because we do not see the ESO as the default alternative for this role if levels of business separation require Ofgem to consider the introduction of a third Party. We have made Ofgem aware that if perceived DNO/DSO conflict of interest is an issue, the majority of stakeholders prefer an enhanced regulatory solution rather than the introduction of a third Party.</p>
Support either the DNO being unable to compete whilst planner role remains within the DNO or the ESO taking a supervisory role to oversee the planner role until such a time as this can become a separate legal entity.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Potential equity investors 	Neither agree nor disagree	<p>We do not see a role for the ESO in the Network Planning Body role at this time due the complexity of introducing a third Party. We do not know at this point how network planning will be performed by the DNO/DSO in ED2 or what business separation will be in effect.</p>
Network planning should remain with DNOs. Forecasting may be better	Phase 3 consultation feedback	<ul style="list-style-type: none"> Consumer Body stakeholder 	Partially reflected in	<p>We have reflected that the majority of stakeholders believe that the Network Planning Body should be performed by the DNO/DSO and that we do not think there is a role for the ESO in this space. We have not</p>

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
placed within a more independent DSO or other body.			thought piece	included views on how institutional arrangements could be improved as this is outside the scope of our work.
The extent of the DNO's role in network planning should be reviewed. Ways to increase third party involvement should be investigated.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Generators and other electricity market participants 	Partially Agree	We will highlight to Ofgem that the level of business separation between the DNO and DSO is an area that Ofgem pay particular attention to as ED2 arrangements develop. Third Party involvement is one option that Ofgem may wish to consider in any further investigation.
There may be value in a distribution level Network Options Assessment ("NOA") process with a broad scope.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Consumer Body stakeholder 	Neither agree nor disagree	Changes to the network planning process at distribution level are not in scope of ECP, however Ofgem may wish to assess whether there is a value in a distribution level NOA process.
See a role for a Whole System Overview who takes a whole system view to optimise between transmission and distribution network planning. This best sits with the ESO.	Phase 3 consultation feedback Phase 3 consultation Q&A session: Roles and responsibilities and Distribution	<ul style="list-style-type: none"> Potential equity investors Generators and other electricity market participants 	Neither agree nor disagree	As described the proposed role of a Whole System Overview would sit outside of the early competition scheme and therefore is beyond our scope for the ECP. Ofgem may wish to consider this as part of the wider System Operator review or BEIS in their review of institutional arrangements.

Stakeholder feedback	Forum / Event	Feedback from	ESO view	Our journey to ECP position
It may be premature to consider additional roles until the review on energy system governance concluded.	Phase 3 consultation feedback	<ul style="list-style-type: none"> Consumer Body stakeholder 	Partially Agree	We have highlighted to Ofgem that the picture on ED2, early competition and the system operator review will evolve, and this could impact our thinking. However we believe it has been a valuable exercise to start to explore options.
The ESO could act as an independent adjudicator if it can help DNO/DSOs manage conflict positions, improve transparency and open up competition.	Phase 3 consultation Q&A session: Roles and responsibilities and Distribution	<ul style="list-style-type: none"> Construction company Generators and other electricity market participants 	Neither agree not disagree	This could be an option for Ofgem to consider should conflicts of interest become an issue with DNO/DSO. However, proposals for business separation are not clear at this time and will form part of RIIO-ED2 Business Plans due later in 2021, so whether conflicts of interest will exist or not is unknown at the moment. We have set out in our thought piece that the majority of stakeholder’s regard enhancements to the regulatory regime as a more proportional response to conflicts of interest, rather than the introduction of a third Party.
The early competition model in distribution should be subject to the UCR to ensure all entities are held to the same obligation and undertake a fair and transparent process.	Phase 3 consultation feedback	<ul style="list-style-type: none"> DNOs 	Disagree	We envisage that the early competition model will closely mimic the proposals and structure of the early competition model in transmission. At the moment it is expected that new legislation will support early competition rather than the UCR. Further detailed work will be required to consider what activities are required to make the process in distribution fair and transparent.



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