

Derogations Guidance Document  
(For the Uniform Network Code)  
Version 1.0

**Version Control**

Date	Version	Reason
<del>04/08/2021</del> 131/1/22	1.0	<del>Version for publication</del> 1st version for modification O8XX
<u>21/02/2022</u>	<u>1.2</u>	<u>Updated draft re WG feedback</u>

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**Document control:** Uniform Network Code Committee (UNCC) majority vote for amendments to this document, any necessary UNC Code changes will require a Modification. For the avoidance of doubt, should this document and code become misaligned, code will take precedent.

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## Section 1 Overview

This document should be read in conjunction with General Terms B7, Derogations.

A derogation is a permission given by ~~the Uniform Network Code (UNC) Modification Panel~~[The Authority](#) that relieves a UNC party from its obligation to comply with one or more sections of the UNC. Within the UNC, derogations can only be requested if they are required in relation to one of the specified Use Cases, as shown in UNC General Terms Annex B-1 and detailed within the Use Cases section of this document.

This document sets out the process for UNC parties to apply for a derogation from relevant sections of the UNC.

The UNC Modification Panel process requests and assess evidence and supporting documentation ~~which will then be sent, along with the Panels recommendation, to The Authority.~~ This guidance is to aid both proposers of derogations and UNC Modification Panel members with the derogation ~~request and approval or rejection~~ process.

This guidance on derogations defines the type of information expected to be included in a request for a derogation, including, where appropriate, a quantitative and qualitative assessment of the impacts of the potential derogation on, amongst other things, competition, consumers, and where relevant, impact towards net zero.

Every derogation decision will be published on the Code Administrator Website, regardless of the outcome of the decision.

If it is identified that a UNC party would gain a commercial advantage or disadvantage, from a derogation, then a derogation would not be ~~issued~~[recommended](#) without UNC Modification Panel assessing what measures might be appropriate to offset that advantage or disadvantage, the proposer should identify these impacts and include their assessment within the derogation request. Such measures may also include requirements to monitor the impact of the derogation on the both the party making the application and other parties who may be affected. Where applicable, the UNC Modification Panel may make a specific request to the Performance Assurance Committee (PAC) to monitor, and report back to the UNC Modification Panel as requested, relevant impacts which fall under their remit, however it will be expected that the applying party would already have these steps in place as part of the application.

A derogation application may be for a specific section or sections of UNC for a set period and may also be limited to a subset of a portfolio, for example a trial involving only 1 post out code. If a derogation is linked to a project with specific stages and milestones, which have to be met before the next step of funding (for example) is approved, this can be noted in any additional applications relating to future stages. The derogation will only be approved in line with relevant associated approvals (e.g. supporting ~~Health and Safety Executive (HSE) safety compliance,~~ [other code](#) or licence derogation) also being approved. For the avoidance of doubt a derogation granted by ~~UNC Modification Panel~~[The Authority](#) is not deemed valid until all associated approvals have also been granted.

~~Where a derogation is linked to a milestone, the application will also need to include an expiry time limit or date where, should the milestone not be met, the derogation or stage within will cease. All derogation applications need to contain a set start and end date or a Back Stop date.~~

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## **Section 2 What is a derogation**

UNC Parties (Shippers and Gas Transporters) are required to comply with the obligations as set out within the UNC. Compliance with codes is in the interests of gas parties and end consumers as a failure to comply can have a direct and adverse impact on the security and quality of gas supplied, and may have health and safety implications, or directly impact the cost of gas through the supply chain.

However, there may be occasions when, a party may find that adherence to a particular section or sections of the UNC may constrain, the ability to carry out steps associated with Use Cases, for example innovation trials, pilots or demonstrations to facilitate the pathway to net zero. In these circumstances, a UNC party may submit to the UNC Modification Panel, via the Joint Office of Gas Transporters (Joint Office), a request for Derogation from the relevant UNC sections to ensure overall compliance with UNC obligations.

This document sets out the information the UNC Modification Panel requires in order to assess a request for a derogation and outlines the factors the UNC Modification Panel members take into account in their assessment to enable them to provide a recommendation to The Authority. The Authority has final decision with reference to whether to grant, or deny, any derogation request.

## **Section 3 When would a derogation be required?**

Continued compliance with the UNC is not only a code obligation but also ties into parties' licence obligations and is the responsibility of each relevant party. Failure to comply, unless permitted by a derogation, is a contravention of the UNC and therefore licence for which Ofgem may take enforcement action and consequently issue an order and/or impose a penalty. However, as noted above, UNC Modification Panel recognises there may be occasions when there is a specific, justified requirement, that a UNC Party may not be in a position to comply with a particular section or sections as stated in the Use Cases. Such a derogation is likely to be limited in location and, or timescale. In this instance, should the trial be successful a more permanent solution should then be sought by the UNC party, via the standard UNC modification process

## **Section 4 Application Process**

A request for a derogation should be submitted in writing to the UNC Code Administrator and should include sufficient information to enable the UNC Modification Panel to make a ~~decision~~ recommendation, including a comprehensive, and where possible, quantitative and qualitative assessment, of the impact of the proposed derogation.

Where the Application identifies a potential cross code impact, the Code Administrator will advise the relevant code body in accordance with CACoP principles.

Parties should, where possible, include copies of any 'innovation pack' ~~or similar~~ that they may have had to put together for submission in relation to their funding application or other related applications. Commercially sensitive information may be redacted; however, this needs to have no bearing on the actual nature and impact of the derogation being requested.

Parties applying should also include the benefits of the derogation (and the outcomes of any related projects) for the both the individual party/parties but also the wider industry.

UNC Parties are asked to apply as soon as the possible after the need for a derogation becomes apparent.

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The Code Administrator will use the same distribution list (with the addition of notification to the Authority) as per new UNC Modification requests, to notify industry of a new request for derogation.

#### **Section 5 Submitting a request**

Where a UNC Party has identified that it will require a derogation from a relevant obligations in a section or sections of code in order to progress anything covered by one or more of the Use Cases, the UNC Party should make a written request using the relevant form (see appendix A) to the UNC Modification Panel care of the Code Administrator (as per email details on said form) requesting for a derogation from the UNC requirement to comply with such obligations.

All technical terms should be fully explained, and the request should be presented in as clear a manner as possible to avoid unnecessary delays in UNC Modification Panel's assessment of the request.

Evidence of safety compliance should also be included. For the avoidance of doubt, the proposer will be expected to make factual statements. Should the UNC Panel recommend a derogation request, this will not be regarded as expertise or evidence of their confirmation of any statements in relation to safety compliance.

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The Code Administrator will perform a critical friend role at this stage; however it should be noted that this is guidance in relation to the process only and is not an indication of the merit, or lack of, of any application.

#### **Section 6 Minimum requirements of the request**

The derogation request should include as a minimum:

- Details of the applicant (typically the Company Secretary), including the full name and address of the UNC Party concerned, as well as their 3 digit UK Link short code;
- A clear description of the non-compliance including reference and text of section or sections that the derogation from is required
- The reason for the derogation request including a clear description of the reasons why the non-compliance is expected to occur.
- Which Use Case the derogation is requested under
- A comprehensive and, wherever possible, quantitative and qualitative assessment, of the impact of the non-compliance on:
  - Consumers
    - Including, where relevant, details as to how the end consumer will be compensated
  - Competition
  - Other parties affected by the non-compliance, including where relevant, but not limited to
    - Central Data Systems Provider (CDSP)
      - Including, where relevant, a statement from CDSP of their ability to facilitate any required system changes.
    - Distribution Network Operators (including Independent Gas Transporters (IGT)
    - Transmission Operator(s)
    - Gas Shippers

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- Any other parties affected by the non-compliance
- Health and safety and the associated risk management and mitigation measures including ~~approved derogation from HSE or other standards as appropriate~~
  - evidence that all necessary interactions with HSE have taken place and been concluded, and
  - ↳ the applicants safety assessment as laid out in this document.
- Details of any impacts to other codes including confirmation of application timeline for derogation requests from these codes, where relevant.
- Details of actions to mitigate risks to consumers or parties while the non-compliance exists
  - Details of any PAC reporting that is required
- Where applicable, a description of the proposal for restoring compliance including timetable of works
- A description of the alternative actions that have been considered
- The proposed duration of the derogation requested including the proposed start and end dates, and whether the derogation is also to be linked to a goal outcome (i.e. the latter of time or goal)
- Any restrictions to the derogation based on locality

Any known or suspected impacts to other codes including identifying where IGT sites are also included in the derogation request.

Depending on the Use Case, some or all of the above requirements may already be met within the relevant documents, for example the Innovation Application Pack, and should be clearly referenced as such on the application form.

A derogation cannot be retrospective in nature.

Applications can only be made by the UNC party that the derogation will apply to.

Only one party can be named as seeking a derogation per request, however a second party may submit an associated derogation requests to be considered (for example joint innovation projects with trials occurring on different networks, on the same, or differing timelines). The association should be noted in the request, and the UNC Panel can choose to consider these together. It should be noted that each will be considered on their own merits, and approval of one application will not be deemed approval of associated applications.

Applications will only be considered where the derogation request relates to one or more of the Use Cases as stated in UNC and detailed in section 13b.

### **Section 7 Supporting Evidence**

Below is generic information in relation to evidence, this should be read in conjunction with the evidence listed under the relevant Use Case for a comprehensive view of the required evidence for a specific derogation request.

Should the derogation request also require derogations from other codes, licence or standards, ~~for example HSE~~, details of application timelines will be expected to be included. These must have been requested, and not rejected, prior to an application being submitted to Panel.

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~~HSE or other safety related derogations must have been granted before UNC panel is able to make a recommendation to The Authority.~~

~~Details as to how adverse impacts relating to safety of the gas network and associated items have been mitigated.~~

Whilst non UNC ~~code~~ derogations do not have to have a decision in order for the UNC Modification Panel to ~~reach a decision~~make a recommendation, any derogation granted by ~~UNC Modification Panel~~The Authority that also requires additional UNC or non UNC derogations ~~in either UNC or other standards~~ will not be deemed to be valid unless these other derogations are also granted. The party applying for the UNC derogation will be expected to update the UNC Modification Panel ~~and The Authority~~ via the Code Administrator of the approval or rejection of these additional derogations as applicable.

The applying party is required to submit a copy of the derogation request evidence as listed under the Use Case section (commercially sensitive nature may be redacted, as long as this information is not required to assess materiality of any impacts on other parties, or includes key information that would be needed by the UNC Panel in their assessment).

The application should where possible, include an assessment that demonstrates the relevant items from the following list:

- An assessment by the applicant that demonstrates that there are:
  - No significant risks associated with the non-compliance to the applying party, other relevant UNC parties or connected suppliers or end customers.
  - No avoidable adverse impacts (immediately or in the longer term) on the applying party, other relevant UNC parties or connected suppliers or end customers.
  - No additional measures that could be taken to further mitigate the impact of the non-compliance on the applying party, other relevant UNC parties or connected suppliers or end customers for the derogation's duration. (Or where there are additional measures, justification as to why they are not being used).
  - No outstanding objections from other parties who are materially affected by the derogation.
  - No competitive advantages for the applying party, arising from the derogation that cannot be addressed, that are not offset by a suitable mechanism.
  - No other reasonable options to address the non-compliance (that have not been considered).
- Where relevant the applicant has presented a robust case that supports the action that it considers necessary to address any impacts of non-compliance.
- Where relevant the applicant has presented a realistic and comprehensive implementation plan that defines, at the very least, the works required to restore compliance.
- Any measures to mitigate the risks to other parties that will be (or have been) taken until the non-compliance is restored.
- Any relevant PAC, or other reporting, is stated and has been agreed.
- Any relevant statements from Xoserve (and/or Corella) are included in relation to system impacts.
- The applicant has produced any other supporting information that is relevant to a specific request, including on the materiality of the issue.
- ~~HSE~~Safety related evidence as stated below,

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Where an applicant is unable to satisfy all the above relevant criteria, but has still met the minimum requirements to have their application considered by the UNC Modification Panel, the Panel will assess how far the applicant's ability to satisfy the criteria is deemed sufficient to justify the granting ability to vote to send a derogation request to consultation of a derogation. It is noted that a justified derogation request would not necessarily need to meet all of the listed criteria. The UNC Modification Panel would use its judgement in assessing any derogation requests and would advise any applicant of additional information requirements that were not included in the original request.

Health and Safety Executive (HSE) absolute requirements Safety evidence

Before a derogation application can be submitted to Panel it MUST include evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded. This must include the applicant's safety assessment which must, at a minimum, demonstrate that the derogation does not adversely impact on:

- a. the safe management of gas, as defined in the Gas Act, flow through a network;
- b. the arrangements to minimise the risk of a gas, as defined in the Gas Act, supply emergency;
- c. the arrangements for dealing with supply emergencies; and
- d. the arrangements for dealing with reported gas, as defined in the Gas Act, escapes gas, as defined in the Gas Act, incidents.

The application must also include a safety assessment which must, at a minimum, demonstrate that the derogation does not adversely impact on:

- (a) the safe management of gas flow through a network;
- (b) the arrangements to minimise the risk of a gas supply emergency;
- (c) the arrangements for dealing with supply emergencies; and
- (d) the arrangements for dealing with reported gas escapes and gas incidents

Where these are managed by derogation relating to any HSE, or other safety standard, this will need to have been approved before UNC Panel are able to make a recommendation to The Authority.

Where these are not managed by derogation relating to any HSE, or other safety standard, the application needs to clearly state why there is no adverse impact to these areas, including all applicable analysis and statements from HSE or other safety standards.

Should an application be made by additional parties, for the same scenario under the same Use Case, they may, with the other party's permission, duplicate the evidence from the other proposer where it is also relevant to their request. Any 'duplicated evidence' should be clearly marked as a duplication, including the originator derogation request reference number. The proposer will also be required to submit any additional evidence that relates to paragraphs of code being requested to be derogated from if this differs from the lead party's request. If these applications are presented at the same UNC Panel, then at UNC Panel's discretion, these associated applications may then be discussed as a suite. However, each request will be voted on individually, and approval or rejection whether or not to recommend approval of the lead application does not automatically result in the same outcome for associated applications in the suite. Please note, The Authority has discretion as to whether to treat these as a suite or individually, and again approval, sendback, or rejection, of one of the applications, does not automatically result in approval, sendback or rejection of the remaining.



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**Section 8 UNC Modification Panel Assessment**

The UNC Modification Panel will consider the derogation request in two stages. The initial consideration will be to confirm that the derogation request contains the minimum required evidence to allow for it to proceed to consultation. The second consideration will be to consider the merit of the derogation request based on evidence and consultation responses. It is at the second consideration where the UNC Modification Panel will ~~vote to approve, or reject, the derogation request~~ vote on their recommendation, which will then be included in the final derogation report that is sent to The Authority for their consideration.

Each derogation request is assessed by the UNC Modification Panel individually on its merits in terms of meeting the minimum requirements set out in this document and the likely effect on other UNC Parties, wider industry and consumers, and safety impacts. It will also consider the likely effect for other UNC parties to continue to comply with their obligations under the UNC

In its assessment, the UNC Modification Panel may consider amongst other things the impact on:

- Consumers
  - UNC Modification Panel will consider the extent to which the non-compliance impacts on consumers, for example through increased costs, or risks of failure of supply
- Competition
  - for example, any competitive advantage that may arise from granting the derogation
- Other parties affected by the non-compliance, including where relevant, but not limited to
  - Central Data Systems Provider
  - Distribution Network Operators (including Independent Gas Transporters (IGT)
  - Transmission Operator(s)
  - Gas Shippers
  - Any other parties (e.g. Suppliers or other wider industry parties) impacted by the derogation
- Alignment to overarching strategic direction
  - For example, does the derogation further development of Net Zero or environmental strategy
- **Safety: That there is provided evidence or statement of ~~are~~ no adverse impacts on any of**
  - the safe management of gas, as defined in the Gas Act, flow through a network;
  - the arrangements to minimise the risk of a gas, as defined in the Gas Act, supply emergency;
  - the arrangements for dealing with supply emergencies; and
  - the arrangements for dealing with reported gas, as defined in the Gas Act, escapes gas, as defined in the Gas Act, incidents.
  - ~~the safe management of gas flow through a network~~
  - ~~the arrangements to minimise the risk of a gas supply emergency~~
  - ~~the arrangements for dealing with supply emergencies~~
  - ~~the arrangements for dealing with reported gas escapes and gas incidents~~
  - any other safety related impact as identified

Affected parties: Statements of the impact from these parties should be included in the application. Where relevant, UNC Modification Panel reserve the right to contact any of these parties to seek the views of affected. This may be done either via the standard derogation consultation stage, or where deemed appropriate by direct contact to any such party via the Code Administrator. This can also include parties not identified in the application should the UNC Modification Panel decide that there may also be an impact on these.

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UNC Modification Panel will consider any views from the relevant Distribution Network or National Transmission Systems of the impact of the derogation on them being able to effectively and efficiently operate its system if a derogation were granted.

UNC Modification Panel's assessment may, based on Use Case, also take into benefits or impacts on, for example:

- The nature of derogations already granted by UNC Modification Panel.
- The effect of the decision on future derogation requests.
- The impact of the derogation (and any associated overall project) in relation to the environment e.g. net zero.
- The impact of the derogation (and any associated overall project) in relation to potential benefits to consumers.
- **The impact of the derogation (and any associated overall project) in relation to safety.**
- Any other relevant information.

UNC Modification Panel may ask questions of the UNC Party, or their authorised agent, making the request at any of the relevant Panel meetings to clarify points relating to the derogation request and satisfy itself that there is a need for a derogation. A representative for the derogation request is expected to attend the relevant UNC Modification Panels where the derogation is included on the agenda, to facilitate this the Code Administrator will publish the UNC Panel agenda in advance of each meeting, they will also make reasonable endeavours to advise the proposer direct, outside of scheduled UNC Modification Panel meetings. The UNC Modification Panel may also contact the proposer in writing outside of scheduled UNC Modification Panel meetings, via the Code Administrator, to ask for additional information or clarity.

#### **Section 9 UNC Panel ~~Decisions~~ recommendations**

Any valid, completed requests for derogations received more than 10 business days prior to a scheduled UNC Modification Panel meeting will be considered at that scheduled meeting.

UNC Modification Panel members have discretion based on majority vote to defer consideration of any derogation request to the next scheduled Panel (or specifically convened Panel) meeting for any application(s) with a large volume of supporting documentation, or of a more complex nature.

UNC Modification Panel members have discretion to request additional supporting information, where deemed relevant, based on majority. Where this cannot be provided at the time by the proposer, this process would result in the deferral of the vote to approve the derogation request to the next scheduled Panel meeting (Panel have the discretion to manage this by extraordinary Panel meetings).

UNC Panel will assess the information provided and check that the minimum evidence level required as stated in the guidance document for both general derogation requests, and for the for the relevant Use Case ~~has~~ have been met. Once it has been agreed that the evidence level has been met the UNC Modification Panel members will vote to send the derogation request out for industry consultation. Panel members have the discretion to advise the Code Administrator where it determines that the standard time period for a consultation (aligned to the standard time period for a modification) should be deviated from in relation to the relevant derogation.

The UNC Modification Panel will then, at a UNC Modification Panel scheduled meeting, no less than 10 business days, or any longer or shorter period as deemed appropriate by panel majority,

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following the closing date of the derogation consultation, make a ~~determination~~ recommendation on the approval or rejection of the derogation request.

The Code Administrator will compile a Final Derogation Report (FDR) in which it will include any key points raised in consultation responses. This FDR will also include relevant points from the discussion at Panel and their ~~overall decision~~ recommendation to The Authority in relation to approval or rejection.

Should the UNC Modification Panel determine that they require further views or clarity in relation to the consultation responses, they have the ability to defer the matter scheduled Panel meeting (or 1st scheduled panel following receipt of requested additional information) whilst they seek the views of or clarity from the proposer or other such deemed party.

~~If UNC Modification Panel considers that the derogation request is justified, then UNC Modification Panel will issue a derogation to the applying party granting the necessary relief from the relevant The FDR, including the panels recommendation, along with all relevant supporting information, will be then be sent to the The Authority.~~

When considering whether to recommend to the Authority that a UNC Derogation be granted, the Panel shall determine whether such proposed derogation meets the eligibility criteria set out in the UNCs Derogation Guidance Document (this document).

Derogation recommendation is subject to the voting as stated in the UNC , this is repeated here for clarity. For the avoidance of doubt, should this document become misaligned with the UNC, then the voting as stated in the UNC will take precedent.

~~obligations for a time period, or milestone achievement specified in the derogation. A copy will also be placed on the Code Administrator's Website and Derogations Register.~~

- ~~• Any notice will be issued as subject to appeal procedures, with the derogation only being deemed approved, after the expiry of a 16 business day window, subject to no appeal being upheld by, or remaining outstanding with Ofgem.~~
- ~~• Any approval notice issued will only be 'deemed approved', with approval subject to any additional derogations required as stated under 'Evidence' above, also being approved by the relevant bodies.~~

~~Derogation approval is subject to the voting as stated in the UNC for approval, this is repeated here for clarity, For the avoidance of doubt, should this document become misaligned with the UNC, then the voting as stated in the UNC will take precedent.~~

A derogation ~~will~~ can only be granted by The Authority. UNC Modification Panel members will vote to make a recommendation. This recommendation will be based on number of votes expedited in accordance with UNC Modification Rules 2.1. ~~where there is a unanimous vote of support from UNC Modification Panel members recorded as present. Should any vote not be unanimous the vote will be deemed to have resulted in non-support for the request, and the derogation will not be granted.~~

If UNC Modification Panel considers that the derogation request has not been sufficiently justified, then the UNC Modification Panel may

- Prior to the consultation vote, Request additional information from the applicant
  - This can be provided during the panel, or afterwards. For the later, and former where appropriate, the panel will defer the decision to a future Panel meeting.

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- ~~Prior to the recommendation vote, R~~request additional information from the applicant
  - This can be provided during the panel, or afterwards. For the later, and former where appropriate, the panel will defer the decision to a future Panel meeting.
- ~~Refuse the derogation~~Recommend to The Authority not to approve the request.
  - Should at any point, except where a Derogation Application has been approved by the Authority and is in effect, Where the UNC Modification Panel ~~refuses a derogation request and~~believes that non-compliance with the UNC is, or may still occur or that impacts to Settlement, Allocation or Unidentified Gas (UIG), they may notify PAC, who may take any action in accordance with their existing remit

UNC Modification Panel may reserve the right to ~~write to include in the FDR to~~ The Authority ~~to request that they revoke a derogation and/or may grant a derogation~~ask that The Authority grant an extension which is time limited with additional extension ~~to that an approved Dergogation Request is~~ subject to certain conditions being satisfied (e.g. interim reporting), either by the party to which the derogation applies or in respect of the wider system. Should UNC Modification Panel recommend imposing of e additional requirements, they will ~~make available to the applying party and to The Authority,~~include details as to their reasoning. The Authority is under no obligation to include these in its recommendation.

~~There is no right of appeal to UNC Modification Panel for a derogation request that has not been approved, however there is a right of appeal to the Authority, see section 10 for further information.~~

Should an approved Derogation be revoked by The Authority, ~~this will be communication to the proposer, and Panel, via the Joint Office. The Proposer will then have 5 working days to confirm that it has reverted to standard practice, or of any reason why this is delayed, along with a timeline. This will be shared with the Panel and The Authority, this will be published on their website. The joint office will also update the derogations register, as soon as is reasonable practicable following publication of this notice.~~

Should a derogation request be rejected by Panel the Authority, a new application for the same derogation cannot be submitted without it containing material changes from, or having addressed the reason for the rejection of, the original application.

~~A derogation request that has not been approve by The Authority granted may not be resubmitted to UNC Modification Panel for re-consideration unless it contains material changes.~~

- Whether changes to a resubmitted application are deemed material in nature is subject to majority vote by UNC Modification Panel.
- Should UNC Modification Panel deem that the changes are not of material nature, the derogation will not progress further and will be rejected as an invalid application without proceeding to vote.

A derogation granted to a UNC party cannot be transferred to another UNC Party, regardless of association.

Should a UNC party change name, but retain the same company number, the derogation will remain valid, however the party is required to write to the UNC Modification Panel **and The Authority**, via the Code Administrator with a minimum of 30 days advance notice of this name change.

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The Code Administrator will maintain a register of derogations that have been requested, including

- Date application received by Code Administrator
- Date Derogation ~~approved/rejected~~ voted by Panel, and the outcome of the recommendation
- Date of The Authorities determination
- Details of the The Authorities determination (Approve, Reject, Send Back)-
- UNC Section(s) the derogation applies to
- Start date
- End Date
- Duration
- Any additional restrictions (e.g. locale)
- Name of applicant party

All Derogation requests that are subject to additional derogations, or have an unconfirmed start or end date, must also include a backstop date in the application. This can either be the date at which the derogation must have started, or concluded.

Where a derogation is approved for a stated length, with an unfixed start date, or is subject to only being applicable should ~~other code or licence~~ derogations, ~~for example,~~ also being granted, ~~UNC Panel will include a backstop date as part of their approval~~ it is in the gift of the Authority to impose a different backstop date to the one requested by the proposer... After the UNC derogation has been approved, the start date of the actual ~~derogation~~ derogation ~~within this period~~ will be confirmed ~~by the UNC Panel following consultation with the applicant and proposer to the~~ Code Administrator. This date will then be communicated to all relevant parties, including Ofgem, and published on the website no later than 16 working days before it is due to commence. Should any agreed date of derogation be reached a backstop date be imposed, and the derogation remain unable to be implemented, the derogation will be deemed to have fallen away at this point and therefore may no longer be used.

#### Section 10 Ofgem powers in relation to UNC derogation requests

In making a determination in respect of a Derogation Application, the Authority:

- may follow such procedure as it considers appropriate;
- may have regard to such matters, and to any representations by such Parties, as it considers appropriate; and
- shall, in any event, have regard to the recommendation made by the Panel.

• Where the Authority determines that a Derogation Application shall be accepted or rejected, or sent back, it shall direct the Panel accordingly. Any direction will be effectively given if communicated by the Authority to the Panel (which may be care of the Code Administrator). This will be published on the Ofgem website.

- The Code Administrator shall, as soon as is reasonably practicable after receipt of the direction by the Authority, notify the Derogation Applicant and shall ensure that the Derogation Register is updated so as to indicate the decision by the Authority. Any approval by the authority will only be applicable subject to any additional derogations, as stated under 'Evidence' above, also being approved by the relevant bodies. unless specifically stated otherwise by The Authority

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~~The Authority (Ofgem) have the ability to overrule any UNC Modification Panel decision within 15 days of the date of the UNC Modification Panel decision (notification of any outstanding appeal within this time frame will defer the implementation until Ofgem have advised of their decision). Any party impacted by the derogation who wishes to appeal to Ofgem should do so, in writing to Ofgem, and providing a copy to the UNC Modification Panel, to be received no later than the 15<sup>th</sup> day following the UNC Modification Panel decision.~~

### **Section 11** Amendments to existing derogation requests

Any amendment to an existing derogation request can only be made by submitting a new derogation request to supersede the original request.

Requests for superseding of an existing approved derogation request may only be made by the licenced party who the original derogation is granted to. Requests must include details of why the amendment is required along with a statement as to the impact if the amendment is not approved. Applications will also be required to confirm whether the amendment changes any of the consequential impacts, and if so, what these are.

Where a Derogation request has not yet ~~been approved~~ had a recommendation vote by Panel: The original derogation request will be superseded with immediate effect, and will be reconsidered as a new derogation request, i.e. starting the process from the beginning with a new derogation request number, and including all necessary evidence etc. It will need to clearly state the number of the original derogation it is superseding.

Where a derogation request has already been ~~approved through a recommendation vote~~ by Panel and is with the Authority, who have not yet made a determination: the original derogation request will remain ~~valid~~ outstanding until the Authority who will make a determination for each derogation request.

~~Where a derogation request has already been approved by The Authority the original derogation approval will remain valid, until The Authority give their determination in respect of both the new derogation request, and their revocations (if applicable) of the existing Panel has approved the replacement derogation, at which point the original request will cease, therefore should any part of the original approved derogation request not be included in the new request. The new request will need to provide confirmation that this has not been enacted upon or provide details of how it is being reverted back to comply with code.~~

Should ~~UNC Modification Panel~~ The Authority not approve a replacement derogation request, then the existing derogation will remain valid, unless specifically revoked by The Authority. If the original request ~~is~~ is no longer required, it should be formally closed by the proposer.

Examples of the types of where ~~an amendment superceding derogaation~~ an amendment superceding derogaation may need to be requested will be listed, for information only, under each of the Use Cases as detailed further within this document.

Should a party who has successfully had a derogation granted cease to be a valid UNC party before the start of the derogation, the derogation will fall away without being implemented.

Should a party who has successfully had a derogation granted cease to be a valid UNC party during the terms of the derogation, UNC Panel will manage these on a case-by-case basis. UNC

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Modification Panel will, with input from CDSP and PAC as relevant take into account the steps needed to reverse any system changes etc. ~~and will also consider whether any appropriate UNC Party has, or is in the process of, formally taking over any relevant works/project etc that the derogation relates to.~~

### Section 12 Ending a derogation

Whilst derogations will automatically end on their expiry date, (usually milestone or time) the proposer will need to confirm that this has been complied with.

All derogation requests should include an exit plan to advise how the proposer will ensure that they will comply with code at the end of the derogation. This also needs to include how this will work in relation to any Central System changes that were required for the derogation. A statement to the Code Administrator confirming this should be submitted on (or before) the date the derogation ends. Should this not be received it will be assumed that the party is in breach of code.

Should an approved derogation no longer be required, either before it has started or during its term, it can be ended by submission of the above statement at any time before or during the derogation period. The Code Administrator will update the derogation record and inform industry of the expiry of the derogation. For the avoidance of doubt, any withdrawal of an approved derogation does not need to be approved by UNC Panel or The Authority.

~~An approved derogation where the party has ceased to be a valid UNC Party can be ended by UNC Panel majority vote.~~

~~The Panel may recommend to the Authority at any time that a UNC Derogation be removed if the Panel considers that:~~

- ~~- a UNC Derogation no longer meets the UNC Derogation Use Case Eligibility Criteria; or~~
- ~~- a Derogation Party is in breach of a UNC Derogation;~~

~~in which case it may make a recommendation to the Authority by submission of an Early Cessation Report.~~

~~Before the Panel makes such a recommendation the Panel, via the Code Administrator shall prepare, and discuss, a draft Early Cessation Report which shall include:~~

- ~~• rationale on whether:
  - ~~○ a UNC Derogation no longer meets the UNC Derogation Guidance Document criteria, including the Derogation Use Case Eligibility Criteria, or~~
  - ~~○ a Derogation Party is in breach of a UNC Derogation;~~~~
- ~~• an evaluation of the risks and impacts related to the recommendation;~~
- ~~• the views of the Derogation Party, if the Derogation Party has provided such views to UNC;~~
- ~~• such other matters as shall be required by the UNC Derogation Procedure;~~

~~The Panel shall consider the draft Early Cessation Report and shall determine whether to:~~

- ~~• recommend to the Authority that the UNC Derogation be removed prior to the scheduled end of the relevant Derogation Period; or~~
- ~~• require further information in which case the Panel shall determine the timetable for receiving such information and specify its further requirements. The Code Administrator shall update the Early Cessation Report for the Panel to consider and vote on a recommendation to be contained within.~~

~~Within 7 Business Days after the Panel meeting at which the Early Cessation Report has been voted on by the Panel the Code Administrator shall:~~

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- ~~• submit such report to the Authority; and~~
- ~~• copy such report to:~~
  - ~~○ each Panel Member; and~~
  - ~~○ the Derogation Party;~~
  - ~~○ Any other relevant party as identified in the report.~~

~~If the Authority has approved a recommendation to remove a UNC Derogation prior to the scheduled end of the relevant Derogation Period then the I Period relating to that UNC~~

- ~~• Derogation, if such Trial Period is still in effect, shall immediately cease and paragraph 10.6~~
- ~~• shall apply. The Authority retain the ability to revoke an approved derogation should they become aware of any change in circumstances that would deem that the derogation is no longer in the best interests.~~

### **Section 13 Use Cases**

This section lists the Use Cases, these are defined in UNC, with additional clarity included here around the minimum requirements for application and the associated evidence to be provided.

Where a Use Case definition is provided in this document it is for clarity only and will be taken from the UNC definition. For the avoidance of doubt, should this document and code become misaligned, code will take precedent.

#### **13a Adding New Use Cases**

Where a new Use case is required, this must be requested via the standard UNC modification process which, if approved, will add the Use Case into UNC General Terms Annex B-1 of the UNC, as well as below.

Use Cases must contain a clear description of the circumstances where the Use Case may be used, along with clear parameters that any derogation applications under the Use Case must contain. Mandatory evidence to support the application must also be clearly laid out.

It is expected that the amendments to this document are included in the modification proposal, clearly marking them as amendments/additions to the Derogation Guidance Document, allowing these to be developed by workgroup along with the modification. Once the modification is approved the Derogation Guidance Document changes should be presented for UNCC to vote to approve. Please note, that implementation of the modification should not take place in advance of UNCC approval.

#### **13b Approved Use Cases**

##### **13b(i) Net Zero Innovation**

What - Net Zero Innovation is defined as facilitating net zero innovation project, trial or demonstration that is directly relating to net zero, as defined in the Gas Transporters Licence Special Condition 1.1 and are usually time bound.

Gas Transporters Licence Special Condition 1.1 states:

*Net Zero Development*

*means a change in circumstances related to the achievement of the Net Zero Carbon Targets that is:*



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- (a) a change in national government policy (including policies of the devolved national parliaments);*
- (b) a change in local government policy;*
- (c) the successful trial of new technologies or other technological advances;*
- (d) a change in the pace or nature of the uptake of low carbon technologies; or*
- (e) a new obligation arising from the agreement of a Local Area Energy Plan or an equivalent arrangement.*

When - A derogation under the Net Zero Innovation Use Case should be requested when a party may find that adherence to a particular section or sections of the UNC may constrain the ability to carry out innovation trials, pilots or demonstrations to facilitate the pathway to net zero.

Parameters:

- A. A request for derogation must be submitted on the template with all sections completed (stating N/A or none, where a field may not be relevant), and in line with the minimum requirements as set out in section 6 of the Derogation Guidance Document
- B. The request must be accompanied by the mandatory evidence (as shown below). Additional evidence may also be submitted to support the application. All evidence must be clearly labelled.
- C. A derogation request must be either
  - a. timebound with clear start and end dates for the derogation window, and where relevant also include the length of time the derogation will remain in place, or
  - b. milestone bound, with clear descriptor of milestones. With start and end milestones clearly identified and how these are to be evidenced. Milestone bound requests will also need to have an expiry date (for start and end) where they request, or derogation itself will naturally expire should the milestone not be achieved.
- D. Location relevant information, e.g. LDZs or Postal out codes
- E. Number of meter points included in derogation (can be a reasonable maximum rather than specific)
- F. A confirmation of the start of the derogation being actively used will need to be made to the Code Administrator, as will another confirmation once the derogation is complete, and everything relevant, including system changes, has reverted back to pre-derogation (or any whole system, and code, changes that may have been made in the interim)

How - The minimum required evidence (further to evidence mentioned in section 6) should consist of:

Innovation Pack, which must contain (but is not limited to):

- 1. The following items in relation to the overall Innovation project
  - a. The overall objective of the project
  - b. Market Analysis
  - c. Gantt chart or similar
  - d. Funding stream evidence/approval
  - e. Market Analysis
  - f. Approval/awareness from BEIS/Ofgem

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2. The following items in relation to the trial/demonstration etc that the derogation is to relate to
  - a. Communication Plan
  - b. Risk Assessment
  - c. Risk Management plan
  - d. Impacted parties
  - e. Mitigation/compensation plan for impacted parties
  - f. A statement from the Central Data Services Provider confirming any required system changes are known and able to be carried out (at the proposer's cost), including any exit plan.
  - g. A list of impacted parties, including statements of support where relevant
  - h. Confirmation as to whether, or not any IGT or Direct Connect sites are included in the derogation

Please also refer to Section 7, for additional evidence that is requested, included mandatory evidence in relation to ~~Safety~~safety.

Examples of where a derogation to supersede an existing derogation under this Use Case might be submitted could include:

- Increasing the number of MPRNs the derogation allows
- Changing the LDZ or postal area where the derogation applies
- Changing the start or end date of the derogation

#### [Section 14](#) Timeline and Process Map

See separate document (link to be added)

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**Appendix A (application form)**

Derogation Application Form (This form can be downloaded as a word document at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk) )

**UNIFORM NETWORK CODE**

**APPLICATION FOR DEROGATION FOR INNOVATION PURPOSES**

This document should be completed in accordance with the **Innovation Derogation Guidance Document** (which can be found at ....)

Completed forms, along with any accompanying evidence should be sent to: [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

UNC Party Applying for derogation:

Company UK Link short code: .....

Company Name: .....

Company Address: .....

.....

.....

Company Registered Number .....

Signature (Company Secretary or other Authorised person):

.....

Name (please print): .....

Position within company .....

Contact Details: Tel: .....

E-mail: .....

Date of application: .....

Applicant's Reference: .....

Is this Derogation Part of a Suite, (delete as applicable) STANDALONE / LEAD / ASSOCIATED

**DEROGATION DETAILS**

1. Summary of derogation – details of the specific obligation(s) to which you are seeking a derogation, quoting relevant UNC paragraphs

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2. Reason for Application – details of the justification for seeking this derogation (*include any alternative actions that have been considered, and reason that these are not being pursued*):

3. Conditions – description of the conditions of this derogation (ie location, or other restrictions):

4. Timescale – period of time for which the derogation is sought (please include start and end dates):

[4a Please provide a backstop date if your request is subject to other derogations, or if it is not for set start and end dates](#)

5. Associated Derogations or similar – details of any previous or current derogations or permissions (for example licence, ~~HSE,~~ other codes or standards) which are related to this one. ~~These can be pending~~  
~~Non safety related derogations~~ *These can be pending decision, however any approval of derogation within the UNC will be subject to all relevant derogations or permissions also being granted, unless specifically stated otherwise by The Authority.*

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5a Does the derogation request include meter points on one or more Independent Gas Transporter (IGT) networks

5b If this derogation is part of a suite, please advise of the UNC Party submitting the lead application.

6. Corrective Action – Where relevant, details of the action you will take to become compliant with the obligation to which you are seeking a derogation including dates of any key milestones associated with these actions (including, where relevant, consumer compensation):

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<p>7. Effect on other Parties – details of the requested derogation’s anticipated impact on the costs and operations of other parties (see guidance document for additional information):</p>  <p>7a Impact assessment or similar included from CDSP (if not included, state reason why)</p>
<p><b>8. Safety Case</b></p> <p><u>Before a derogation application can be submitted to Panel it must include evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded. This must include the applicant’s safety assessment which must, at a minimum, demonstrate that the derogation does not adversely impact on: (a) the safe management of gas, as defined in the Gas Act, flow through a network; (b) the arrangements to minimise the risk of a gas, as defined in the Gas Act, supply emergency; (c) the arrangements for dealing with supply emergencies; and (d) the arrangements for dealing with reported gas, as defined in the Gas Act, escapes gas, as defined in the Gas Act, incidents.</u></p> <p><del>Does this derogation adversely impact (a) the safe management of gas flow through a network; (b) the arrangements to minimise the risk of a gas supply emergency; (c) the arrangements for dealing with supply emergencies; or (d) the arrangements for dealing with reported gas escapes and gas incidents. Please confirm impacts or state if none (please refer to required evidence in Derogations Guidance Document).</del></p>
<p>9. Supporting documentation – description of any attached supporting documents: (Please clearly reference and list all attachments)</p>   
<p><b>FOR CODE ADMINISTRATOR USE ONLY:</b></p> <p>UNC derogation Reference Number: .....</p> <p>Date Received: .....</p> <p>Date/Reference of 1<sup>st</sup> UNC Modification Panel Meeting: .....</p> <p>Date/Reference of 2<sup>nd</sup> UNC Modification Panel Meeting: .....</p> <p>Dates/References of further (if required) UNC Modification Panel Meetings:</p>

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[Date of Final Derogation Report submission to Ofgem, and status](#)

Outcome:

Actions/Timing: