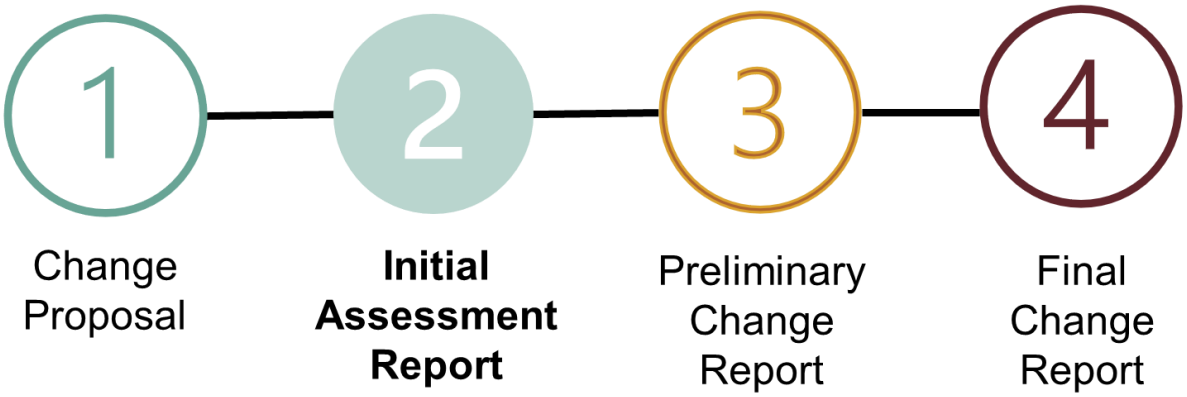
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This document is classified as **WHITE**.
Information is for public, unrestricted dissemination and publication.

INITIAL ASSESSMENT REPORT



PURPOSE:	This is a written report from the Code Manager setting out their initial assessment of the Change Proposal and planned next steps for progressing the proposal.
NOTES:	The Initial Assessment Report is accompanied by a Change Proposal Plan, which describes the Code Manager's plan for progressing this Change Proposal. The solution will not be finalised until the publication of the Preliminary Change Report.
NEXT STEPS:	The Change Proposal Plan will set out the next steps for progressing this Change Proposal. The Code Manager will either propose additional activities to develop and/or assess the solution, or immediately prepare and publish the Preliminary Change Report.

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01	Initial Assessment Report
02	Preliminary Change Report
03	Final Change Report

INITIAL ASSESSMENT REPORT

R0046A - GOVERNANCE OF DATA UNDER THE REC (ALTERNATIVE)

DOCUMENT VERSION	2.0
DATE ISSUED	09/06/2022
DOCUMENT APPROVAL STATUS	APPROVED BY REC CHANGE PANEL
RESPONSIBLE COMMITTEE	CHANGE PANEL

CHANGE OVERVIEW

This Change Proposal has been raised by RECCo and seeks to clarify and update the requirements of the REC which govern the use of data.

	High Impact: N/A
	Medium Impact: N/A
	Low Impact: Energy Suppliers, Gas Transporters, Distribution Network Operators, Metering Equipment Managers, Non-Rec Party Service Users and Data Communications Company

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1 SUMMARY

This Change Proposal has been raised by the Retail Energy Code Company (RECCo) and is an Alternative Change Proposal to R0046. This change has a reduced scope which includes only the elements which must be in place at CSS Go-Live Date to ensure data protection provisions are sufficient to enable the Data Communications Company (DCC) to submit Registrable Measurement Point (RMP) reporting information to the Code Manager, in accordance with Paragraph 8.1 of the REC Central Switching Service Definition.

The existing data protection clauses set out under Clauses 19 and 20 of the REC Main Body are being updated, to ensure closer alignment with United Kingdom General Data Protection Regulation (UK GDPR) requirements.

This Change Proposal seeks to clarify and update the requirements of the Retail Energy Code (REC) which govern the use of data. RECCo is keen to ensure that data governed under the REC is treated in accordance with the Ofgem's data best practice guidance.

2 PROBLEM STATEMENT

The current data protection and governance provisions in the REC are not fit for purpose, having the potential for ambiguity. Changes have been identified, following a legal review, which will provide more clarity for REC Parties who are Data Controllers and/or Data Processors, and to enable RECCo to maintain a comprehensive approach to the governance of data under the REC.

3 USER STORIES

REF.	USER STORIES
CONSUMER USER STORIES	
C1	As a Consumer, I want to have the confidence that my data is being handled compliantly in accordance with the UK GDPR.
MARKET PARTICIPANT USER STORIES	
M1	As a REC Party, I want to have clarification on my obligations in the context of REC Services.
M2	As a REC Party/Service User, I want to understand the reporting obligations I need to meet if the event of a Personal Data Breach relating to REC Data, to ensure that RECCo Board is made aware.
M3	As a REC Party/Service User, I need to understand that I will still need to independently assess and document my respective data protection roles under the REC.
M4	As a REC Party/Service User, I need to understand the roles and responsibilities of a Data Controller and/or Data Processor to be able to carry out my obligations under the REC.

4 IMPACTS

REC PARTIES AND SERVICE USERS
Energy Suppliers
Gas Transporters
Distribution Network Operators
Data Communications Company
Metering Equipment Managers
Non-Rec Party Service Users

RECCO AND REC CODE MANAGER
RECCo
The Code Manager

REC DOCUMENTS / PRODUCTS
REC Main Body
Interpretations and Definitions

Draft legal text has been developed prior to the Change Proposal being raised. This can be found here.

Proposed changes to legal text in the REC Main Body for Clause 19

The legal text clarifies how the REC parties, when acting in their capacity as Data Controllers, will interact and comply with their data protection obligations, which includes:

- Designation of contact points so that REC parties can easily find the right point of contact to interact on data protection related issues;
- Confirmation of the obligations for each Data Controller to comply with the 7 key UK GDPR principles (Lawfulness, Fairness and Transparency, Purpose Limitation, Data Minimisation, Accuracy, Storage Limitation, Integrity and Confidentiality (security) and Accountability);
- Compliance with Data Subject access requests by each party as well as the ability to call on the CRS Provider for reasonable assistance to do so where applicable. This might be relevant, for example, where a REC party is not able to access the requested data but the CRS Provider can;
- Flow down/pass-through of data protection requirements when sharing personal data with Controllers that are not a party to the REC;
- Putting in place relevant Data Processor provisions when contracting with Processors.; and
- Respective obligations when dealing with personal data breaches, including making assessments regarding notification requirements to data subjects and the ICO as well as notification, information and assistance to be provided to the CRS Provider, and the REC Board. The REC Board would then take on a coordination role, including notifying other REC Controllers of a breach.

Proposed changes to legal text in the REC Main Body for Clause 20

The legal text covers Processor obligations where one party might be acting as a Processor for other parties to the REC, which includes:

- The addition of the obligation to make information about compliance with Clause 20 available to the REC Board. The REC Board already has the ability to audit this, but this sort of in-depth investigation might not always be necessary and simply providing information on request might be a preferred option;
- A general authorisation to appoint sub-Processors and a mechanism managed by each REC Controllers for the purpose of approving the appointment of new sub-processors; and
- Prompt notification (and, in any event, within 1 Working Day) to the REC Board and the REC Controllers in the event that the REC Processor becomes aware of a Personal Data Breach in relation to REC Data.

Proposed additions to the REC Interpretations and Definitions Schedule

Four new definitions will be added:

- Data Protection Legislation
- REC Controller
- REC Data
- REC Processor

The impacts identified are based on the Initial Assessment of the proposed solution carried out by the Code Manager. These will be validated in the Preliminary Change Report and confirmed by the Consultation.

4.1 CROSS CODE IMPACTS

No Cross Code Impacts have been identified in the development of this proposal.

5 CHANGE PATH AND RESPONSIBLE COMMITTEE

CHANGE PATH	AUTHORITY DETERMINED
RESPONSIBLE COMMITTEE	CHANGE PANEL

The Change Path for this Change Proposal has been deemed to be Authority determined, in accordance with REC Change Management Schedule, Paragraph 9.3.

This Change Proposal impacts on the REC Main Body which is under the responsibility of the Change Panel.

6 PRIORITY STATUS AND URGENCY

PRIORITY STATUS	HIGH
URGENCY	URGENT

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PRIORITISATION MATRIX

Significance	Score	Weighting
Legal/Regulatory Compliance	3	30
Strategic Direction	1	20
Cost Benefits / Value	0	10
Consumer Impacts	0	30
Operational Efficiency	0	10

Urgency				
3	N/A	13	23	33
2	02	12	22	32
1	01	11	21	31
0	00	10	20	N/A
				Significance

Weighted Significance Score	1
Urgency	3
Overall Priority Score	13

Effort	0 - Minimal

Priority Score	Priority Status
23 - 33	Critical
13 - 22	High
11 - 21	Medium
00 - 10	Low

PRIORITY STATUS
High

The Priority Status for this Change Proposal is 'High' based on a 'Significance' score of '1' and an 'Urgency' score of '3'. This is broken down as below:

Significance:

- Legal/Regulatory Compliance – score of 3 reflects the need to align the current legal text in the REC Main Body with the UK GDPR.
- Strategic Direction – score of 1 reflects the link to the RECCo strategic aim relating to the maintenance of effective governance arrangements.

Urgency:

- This Change Proposal has been given an urgency score of 3 to reflect the need for this to be progressed urgently and to be released at CSS Go-Live Date. It is essential that the REC provisions are updated to ensure that DCC is able to comply with its obligation to submit RMP reporting information in accordance with Paragraph 8.1 of the REC Central Switching Service Definition from CSS Go-Live Date.

7 SUMMARY OF CHANGE PROPOSAL PLAN

Draft legal text has been developed prior to the Change Proposal being raised. The Code Manager does not consider that additional solution development is required for this change. Following discussion at the REC Change Panel on 07 June 2022 it was agreed that a 10 Working Day REC Party Impact Assessment will be issued on 10 June 2022, to enable REC Parties to assess the impacts of the draft legal text on their organisations.

A revised Change Proposal Plan setting out the remaining activity required to progress the Change Proposal will be presented to the REC Change Panel on 21 June 2022.

	FROM	TO
REC PARTY IMPACT ASSESSMENT	10/06/2022	24/06/2022
PRESENT REVISED CHANGE PROPOSAL PLAN TO THE REC CHANGE PANEL	21/06/2022	21/06/2022

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8 GLOSSARY

TERM	DEFINITION
Centralised Registration Service (CRS)	means the services to be provided pursuant to Condition 15 (Incorporation, delivery and provision of the Centralised Registration Service) of the DCC Licence, being the services to be provided under this Code by the CSS Provider (including as Core Systems Assurance Provider), CSS Systems Integrator, SI Provider and Switching Operator.
CRS Service Provider	means the DCC when performing the functions and services required by Condition 15 (Incorporation, delivery and provision of the Centralised Registration Service) of the DCC Licence.
Data Communications Company (DCC)	means the person holding the DCC Licence.
Data Protection Legislation	means: (a) EU Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (which is known as the General Data Protection Regulation, or "GDPR") as it forms part of UK law by virtue of section 3 of the European Union (Withdrawal) Act 2018; (b) the Data Protection Act 2018; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 as they continue to have effect by virtue of section 2 of the European Union (Withdrawal) Act 2018; and (d) any other laws in force in the UK from time to time applicable (in whole or in part) to the processing of personal data.
Information Commissioners Office (ICO)	means the supervisory authority responsible for enforcing Data Protection Legislation in the United Kingdom, including any successor or replacement body from time to time.
REC Controller	means a REC Service Provider or REC Service User when acting as a Controller in respect of the Processing of REC Data.
REC Data	means Personal Data Processed in connection with this Code.
REC Processor	means a REC Service Provider or REC Service User when acting as a Processor in respect of the Processing of REC Data.
REC Service User	means in respect of each rec service, either: a. a party which has become qualified for that REC Service under the Qualification and Maintenance Schedule; or b. an organisation which is not a party, that has entered into an access agreement permitting it to use that REC Service and that has become qualified for that REC Service under the Qualification and Maintenance Schedule.
Retail Energy Code (REC)	means this Code, including its Schedules and the Technical Specification, maintained pursuant to the electricity supply licences granted under the Electricity Act 1989 and the gas supply licences granted under the Gas Act 1986, as such code is modified from time to time in accordance with its provisions.

Retail Energy Code Company (RECCo)	means the company established under Clause 5 of the main body of this Code.
REC V3 Go-Live Date	means the time and date designated as such by the authority.
UK GDPR	means United Kingdom General Data Protection Legislation.