

DRAFTING NOTES

Please be advised that the IGT UNC Innovation Derogations Guidance Ancillary Document for IGT160¹ has been drafted based on version 0.4 for IGT154².

Further information on both Modifications can be found on the [IGT154](#) and [IGT160](#) webpages.

DRAFTING KEY

Black: Baselined version 0.4 text (as under IGT154)

Red: New version 1.1 for IGT160

Red: New version 1.2 for IGT160

¹ IGT160 - Introducing the concept of a derogation into the IGT UNC for innovation projects

² IGT154 – Introducing the concept of a derogation into the IGT UNC for Net Zero innovation project

IGT UNC Innovation Derogations Guidance

An ancillary document to the IGT UNC

Version 0.41.2

Contents

Change History	3
Document Overview	4
1. When would a Derogation be required?	4
2. Approved Derogation Use Cases.....	4
3. Application Process	5
4. Assessment by IGT UNC Panel.....	6
5. Implementation	7
6. Appeal	8
7. Amendments and Extensions to approved Derogation requests.....	8
8. Operation of Derogation.....	8
9. Closure of Derogation	8
Appendix A – Application Form.....	9
Appendix B – Supporting Information.....	15

Change History

Version	Change	Date
0.1	Draft for IGT154	1/4/2021
0.2	2 nd Draft for IGT 154	27/4/2021
0.3	3 rd Draft for IGT 154	3/6/2021
0.4	4 th Draft for IGT154	8/7/2021
<u>1.1</u>	<u>New version for IGT160</u>	<u>2/2/2022</u>
<u>1.2</u>	<u>2nd Draft for IGT160</u>	<u>2/3/2022</u>

Document Overview

This ancillary document was created set out the process by which parties request a Derogation to the IGT UNC to facilitate trials for innovation projects which are related to one or more of the 'use cases' (set out in Part ~~XO~~, paragraph [y.z] of the IGT UNC and further detailed in Section 2).

A Derogation is a permission given by the IGT UNC Panel to relieve a party from its obligation to comply with one or more paragraphs of the IGT UNC for a defined time period and in a specific location. This document sets out the process for IGT UNC parties to apply for a Derogation and the issues the Panel should consider when determining whether to approve a Derogation.

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

Every Derogation decision will be published on the IGT UNC website, regardless of the outcome of the decision.

1. When would a Derogation be required?

Continued compliance with Codes 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 IGT UNC and therefore licence for which Ofgem may take enforcement action and consequently issue an order and/or impose a penalty.

However, there may be occasions when a Party is aware they will not be able to comply with a particular part of the IGT UNC whilst carrying out innovation trials, pilots or demonstrations. In these circumstances the party should apply for a Derogation which is limited in location and timescale to allow for the testing or trial to take place. Should the trial be successful a more permanent solution (e.g. a change to the Code) should then be sought by the IGT UNC Party via the standard IGT UNC process.

2. Approved Derogation Use Cases

This section lists the Use Cases, these are defined in the IGT 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 IGT UNC definition. For the avoidance of doubt, should this document and code become misaligned, code will take precedent.

1. Delivery of the UK's target of Net Zero Carbon emissions as defined in Special Condition 1.1 of the Gas Transporter's Licence:

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

- (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.

[IGT UNC Modification required to add items to this list]

3. Application Process

A request for a Derogation should be submitted in writing to the IGT UNC Code Administrator, and should include sufficient information to enable the IGT UNC Modification Panel to make a decision, including a comprehensive, quantitative and qualitative assessment, of the impact of the proposed Derogation. The application should use the form in Appendix A with all sections completed and should include all relevant supporting information as set out in Appendix B.

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

An application should be made as soon as possible after the need for a Derogation becomes apparent and may never be retrospective.

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.

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.

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

Only one party can be named as seeking a Derogation per request, however additional parties may submit associated Derogation requests to be considered at the same time (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 may utilise evidence from the lead proposer if it is also relevant. Additional evidence will only be required if the derogation request relates to paragraphs of code which differ from the lead parties request. The IGT UNC Panel/Ofgem have discretion to consider the associated applications as a suite or individually. However each request will be voted on individually, and approval or rejection of the lead application does not automatically result in the same outcome for associated applications in the suite.

Whilst each party must apply for sperate derogations, where the derogation is in relation to specific MPRNs, any IGT UNC Parties associated with the MPRNs within the scope of the derogation will be automatically included within the derogation. (for example: in the event of a hydrogen trial, all shippers to MPRNs within the trial areas will be treated as permitted to deviate from the 'normal' code rules, but if two IGTs are collaborating on a joint trial, they will each need to submit a derogation application).

The Code Administrator will notify IGT UNC Parties and Ofgem of a new request for Derogation using the same distribution list as for IGT UNC Modifications.

The application should include (where possible), an assessment by the applicant that demonstrates that there are:

- Evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded. This must (at a minimum) include the applicant's safety assessment which must, demonstrate that the derogation does not adversely impact on:
 - 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 Gas supply emergencies; and

o the arrangements for dealing with reported Gas escapes and incidents

'Gas' as defined in the Gas Act.

- No significant risks associated with the non-compliance to the applying party, other relevant IGT UNC parties or connected suppliers or end customers.
- No avoidable adverse impacts (immediately or in the longer term) on the applying party, other relevant IGT 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 IGT 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, and that are not offset by a suitable mechanism.
- No other reasonable options to address the non-compliance (that have not been considered).

4. Assessment by IGT UNC Panel

Each Derogation request is assessed by the IGT UNC Panel individually on its merits in terms of meeting the minimum requirements set out in this document and the likely effect on other IGT UNC Parties, wider industry, and consumers. It will also consider the intended outcome of the trial and project as a whole in relation to progress towards the relevant use case.

In its assessment the IGT UNC Modification Panel will consider the impact and the mitigations proposed for:

- Consumers – 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:
 - o Central Data Systems Provider (CDSP)
 - o Large distribution network operators
 - o Other IGTs
 - o Gas Shippers
 - o Any other parties (e.g. Suppliers, meter equipment managers)

For the avoidance of doubt, it is up to the proposer to confirm that it has complied with all relevant safety requirements. The Panel shall not be required to independently verify any statement or representation made by the applicant Party regarding health and safety matters contained in the Derogation Application.

Where considered appropriate by the Panel, direct contact may be made any party via the Code Administrator to seek their views on the impact of the derogation.

A representative of the Party making the Derogation request is expected to attend the relevant IGT UNC Panel meeting(s) where the Derogation is to be discussed to respond to any questions from the Panel.

The Panel will initially consider the application to determine whether it is complete and the appropriate evidence has been included and if so will vote [by majority] to issue for industry consultation. The Panel may also include additional questions within the consultation if they consider them relevant (approval of such questions will be by Panel majority). Suggested questions include:

- Do you agree with the benefits identified?
- Are there any consequences that would occur, should this derogation be implemented, on consumers, market participants or third parties that have not been mitigated or considered?

The Panel will consider any views from the both Large and Small Gas Transporters of the impact of the derogation on them being able to effectively and efficiently operate their system if a derogation were granted.

The IGT UNC Modification Panel will then, at a scheduled meeting, no less than eight business days following the closing date of the derogation consultation, ~~make a determination on the approval or rejection~~ determine whether to recommend approval of the of the derogation request to Ofgem. (The IGT UNC Panel will have discretion to consider a derogation for approval at short notice).

The Code Administrator will compile a Final Derogation Report (FDR) in which 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 in relation to approval or rejection.

The Panel will consider the derogation request and consultation responses received. If matters are raised during the consultation that were not fully considered in the initial request, they may ask the applicant to amend their proposal to include actions to mitigate the issue(s) identified. If these matters are material, then the Panel may decide (by majority vote) to send the request out for further consultation.

~~A Derogation will only be granted where there is a unanimous vote of support from IGT UNC 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. Ofgem determine whether a derogation should be approved or rejected.~~

5. Implementation

A derogation ~~will~~ may not be implemented ~~until the end of the appeals window (15 days)~~ as directed by Ofgem.

An approved derogation request will only be valid once any other required and relevant licence, or mandated body, derogation has also been granted (or determined not to be relevant). Safety related matters must be satisfactorily concluded before Panel can make a recommendation to the Authority. Where additional derogations are required, the applicant must notify the Code Administrator once they have received all required approvals and to confirm the start date. ~~Where a derogation to the IGT UNC is dependent on the approval of other derogations, the applicant must notify the IGT UNC Panel once they have received all required approvals and to confirm the start date.~~ The IGT UNC Code administrator will notify market participants and publish this information on the IGT UNC website.

A derogation must contain either a fixed end date, or contain a backstop date: at either point the derogation will cease to be valid. The Authority have the ability to impose their own backstop date, in which case this will supersede any stipulated end or backstop date provided by the proposer. ~~Where there is significant uncertainty about the start and/or end~~

~~date for a derogation, the panel may determine ‘back stop’ dates after which the derogation will lapse or cease (as appropriate). This will avoid open-ended derogations.~~

6. Appeal

~~Any Party impacted by the Derogation who wishes to appeal a Panel decision with regard to a Derogation should do so in writing to Ofgem (with a copy to the IGT UNC Panel) to be received no later than the 15th day following the IGT UNC Panel decision. Ofgem may then choose to support the Panel decision or overturn it.~~

~~In the event of an appeal, the Derogation will not be implemented until Ofgem have advised of their decision.~~

7.6. Amendments and Extensions to approved Derogation requests

Requests for amendment or extension of an existing approved Derogation request may only be made by the Party holding the original Derogation by submitting a new request for a derogation. Amendment requests must include details of why the amendment is required, a statement as to the impact if the amendment is not approved and a description of any changes to the impact of the Derogation.

Should ~~IGT UNC Panel~~Ofgem not approve an amendment, then the existing Derogation will remain valid.

Should a party who has successfully had a Derogation granted cease to be a valid IGT UNC Party, the Derogation will cease and have no further effect. If another IGT UNC Party takes over the innovation project, trial or demonstration then they will be required to reapply for the derogation.

8.7. Operation of Derogation

Whilst the derogation is in effect, the party holding the derogation should send a report to the IGT UNC Panel every [six] months reporting progress and highlighting any issues.

9.8. Closure of Derogation

At the end of derogation period or once all milestones have been met, the derogation will end and operation will return to normal (subject to any enduring Modifications). The derogating party should have plans in place to revert to normal operations and should provide a report to the Panel confirming that these plans have been enacted.

Appendix A – Application Form

<p style="text-align: center;">IGT UNIFORM NETWORK CODE</p> <p>Application for a Derogation for Innovation Purposes</p> <p>This document should be completed in accordance with the Innovation Derogation Guidance Document (which can be found at)</p> <p>Completed forms, along with any accompanying evidence should be sent to: IGTUNC@gemserv.com</p>
<p>(for completion by Code Administrator)</p> <p>Date of application:</p> <p>Derogation reference no.</p>
<p>Applicant details:</p> <p>Company UK Link short code:</p> <p>Company Name:</p> <p>Company Address:</p> <p>Company Registered Number:</p> <p>Authorised signature:</p> <p>Name:</p> <p>Position within company:</p> <p>Contact details for project lead:</p> <p>Name:</p> <p>Tel:</p> <p>E-mail:</p> <p>Is this derogation part of a suite? (delete as applicable): Stand alone / Lead / Associated Lead IGT UNC Party if Associated Derogation and Reference (if known):</p> <p>Derogation Use Case to which this request relates:</p>

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

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. Project Benefits – for both the individual party/parties and the wider industry, including consumers.

4. Conditions – description of the conditions of this Derogation (i.e. location or other restrictions):

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

6. Related Derogations or similar – details of any previous or current Derogations or permissions (for example licence, ~~HSE~~, other codes) which are related to this one. *These can be pending decision, however any approval of Derogation for the IGT UNC will be subject to relevant Derogations or permissions also being granted*

7. 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*):

8. Effect on other Parties – details of the requested Derogation’s anticipated impact on the costs and operations of other parties and the proposed mitigations for those impacts:

- a) CDSP
- b) Consumers
- c) Other market participants (shippers, suppliers, other networks, meter providers)
- d) Third parties

9. Safety assessment demonstrating (at a minimum) 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

'Gas' as defined in the Gas Act.

Where there is no impact on any of these areas, an explanation of why there is no adverse impact to these areas, including all applicable analysis and statements from HSE or other appropriate regulator

10. Details of any other derogations which are required, to include details of the approving party and evidence of approval (unless Ofgem are required to approve).

9.11. Supporting documentation – description of any attached supporting documents:
(Please clearly reference and list all attachments)

(for completion by Code Administrator)

Considered at IGT UNC Panel on (1st time):

Sent for Consultation on:

No. Of Responses (indicate support / not support / comment)

Considered at IGT UNC Panel on (2nd time):

Outcome:

Date sent to Ofgem for decision:

Additional notes:

Appendix B – Supporting Information

- Copy of 'Innovation Pack' or similar that has been created to support a funding application or other related applications containing the following information relating to the overall project:
 - The overall objective of the project
 - Market Analysis
 - Project plan including key milestones
 - Funding stream evidence / approval
 - Market Analysis
 - Approval / awareness from BEIS / Ofgem

[Commercially sensitive information may be redacted; provided it has no bearing on the actual nature and impact of the Derogation being requested.]

- Communication plan, risk assessment and risk management plan
- A list of impacted parties and proposed compensation / mitigation
- Statement from the CDSP that they are able to facilitate data and systems impacts.
- Evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded. This must (at a minimum) include the applicant's safety assessment which must demonstrate that the derogation does not adversely impact on:
 - 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 Gas supply emergencies; and
 - the arrangements for dealing with reported Gas escapes and incidents'Gas' as defined in the Gas Act.
- Evidence that other, required Derogation applications have been made and not rejected (e.g. Safety Case (HSE), Licence (Ofgem) and have not been rejected.
- Evidence of any consultation with IGT UNC parties and/or affected consumers and/or affected third parties including responses to such consultation
- Plan for 'return to normal' at end of derogation