

RG008: IGT UNC Derogations Guidance Review

Purpose:

As part of the ongoing works with RG008, a review of all the existing parts in the IGT UNC is needing to be undertaken. The purpose of the review is to identify any nuances, and any housekeeping changes within Code. As Part O – Derogation Rules is being explored, it was understood that the ‘IGT UNC Innovation Derogations Guidance’ should be reviewed as well. It should be noted that this is an ancillary document to the IGT UNC. Similarly, the UNC has a ‘Derogations Guidance Document’, which the Uniform Network Code Committee (UNCC) make decisions on control with a Modification needed to amend. Commentary in red highlights housekeeping changes.

Review:

Document Overview

*(set out in Part O, **clause 2.5** of the IGT UNC and further detailed Section 2).* – Clause needs capitalising potentially if we are being consistent with Code.

Overall, the ‘Document Overview’ mirrors the ‘Overview’ that is in the UNC. The notable difference is that within the UNC document, it talks to where it is identified that a UNC party would gain a commercial advantage or disadvantage from a derogation it must go to UNC Panel for decision. UNC Panel can then also make a recommendation for PAC to monitor and report.

The UNC section also finishes its overview noting that a backstop date will need to be provided for the derogation to cease.

1. When would a Derogation be required?

The IGT UNC document matches to the UNC section titled ‘When would a derogation be required?’. Both noted that there may be occasions when there is a specific, justified requirement, that a Party may not be able to comply with a particular section or sections as stated in the Use Cases.

The only disparity between the two, is that the UNC includes ‘3a Early Engagement’, which talks to a ‘pre-derogation’ discussion at the relevant workgroup. IGT UNC guidance does not reflect this.

2. Approved Derogation Use Cases

This section matches up to ‘Section 14 Use Cases’ of the UNC document. It should be noted that in the brief introduction of the section the UNC states the following: “A derogation approved under a Use Case will also apply to IGT sites, where the same Use Case also exists in the IGT UNC.” – the IGT UNC does not have the same effect to the UNC.

Following the IGT UNC section down, we come across an example of an Approved Derogation Use Case “*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*”. This is also referred to in the UNC guidance document.

However, the UNC document provides parameters to this approved Use Case, including what the ‘Innovation pack’ must contain as a minimum.

The UNC also provides examples as to where a derogation to supersede an existing derogation under this Use Case might be submitted.

3. Application Process

The UNC ‘Section 4 Application Process’ mirrors this section. The opening paragraph is pretty similar, with the differences being that the IGT UNC defers to the Appendix for more information.

The second paragraph, the UNC makes reference to the Cross Code Steering Group (CCSG) and Code Administration Code of Practice (CACoP) principles, whilst the IGT UNC limits itself to CACoP.

The UNC refers back to the use of an ‘innovation pack’, but this is not present in the IGT UNC.

However, the IGT UNC document goes into far more detail in relation to what the proposer of the Derogation needs to do (this is because the UNC splits this across ‘Section 5 Submitting a request’, and ‘Section 6 Minimum requirements of the request’), with information being provided on what information an applicant should provide. Much of the language used is the same.

Looking to the UNC ‘Section 6 Minimum requirements of the request’, it provides a far higher level of what ‘minimum’ means in relation to this, pasted below for context:

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
 - 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).

IGT UNC – Section 3 Application Process

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 reference and text of section or sections of code that the derogation from is required in order to remain compliant.
- 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 derogation on:
 - Consumers
 - Including, where relevant, details as to how the end consumer will be impacted and any relevant mitigation
 - Competition
 - Other parties affected by the derogation, including where relevant, but not limited to
 - Central Data Systems Provider (CDSP)
 - Including, where relevant, a statement [*via ,at minimum, a Rough Order of Magnitude (ROM)*] from CDSP (as per standard 'change timeline') of their ability to facilitate any required system changes
 - Distribution Network Operators (including Independent Gas Transporters (IGT)
 - Transmission Operator(s)
 - Gas Shippers
 - Any other relevant parties affected by the derogation
 - Health and safety and the associated risk management and mitigation measures including
 - evidence that all necessary interactions with HSE have taken place and been concluded, and

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- the applicant's 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 derogation exists
 - Details of any reporting that is required, including, but not limited to, PAC.
- 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)
- Where there is not a set end date; a backstop date at which the derogation ceases to be valid or, in the case of an unused derogation, falls away.
- Any restrictions to the derogation based on locality, or other conditional factor (e.g. number of MPRNs)
- Where applicable, a description of the proposal for removing derogation including timetable of associated works.

UNC – Section 6 Minimum requirements of the request

4. Assessment by IGT UNC Panel

The UNC 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.

This is similar to the IGT UNC, albeit the IGT UNC does not clearly separate it out into these two sections. Notably, when looking at what the IGT UNC Modification Panel consider for impact and mitigations, it is limited to that of Consumers, Competition, and other parties. Whilst the UNC go further to look at alignment to strategic direction and safety (there is an avoidance of doubt statement in the IGT UNC on safety, and also the application process calls out the HSE).

5. Implementation

The UNC talks to this in 'Section 11 The Authority's powers in relation to UNC derogation requests'. It should be noted that the difference between these two Clauses, is that, the UNC is more specific to what the Authority can do in relation to the Derogation. Whilst in contrast, the IGT UNC section talks to the processes that are exercised by the IGT UNC.

Commented [AB1]: Ofgem determine whether a derogation should be approved or rejected. Implementation - The Contents page only titles this as Implementation. Not sure if it has been shortened deliberately.

6. Appeal

N/A

Commented [AB2]: The 'Appeal' Clause in the Contents page has an 'Error! Bookmark not defined'. This should be an easy formatting fix.

7. Amendments and Extensions to approved Derogations requests

Both Codes talk to submitting a new request for a derogation for any amendments or extensions. Similarly, both talk to where Ofgem does not approve the amendment then it will remain as is, and finally, where a party ceases to a valid part of code, then the derogation will fall away.

Notable difference is that the IGT UNC talks to the ability of another Party to take over the innovation project, trial or demonstration, that they then will be required to reapply for the derogation. The UNC is silent on this.

Commented [AB3R2]: Correction - this Clause does not exist in the guidance, despite being in the Content page. Presume this has been removed.

Commented [AB4]: This is Clause 6.

8. Operation of Derogation

"the party holding the derogation should send a report to the IGT UNC Panel ever **[six]** months" – does six need to be in square brackets? If so, fine.

The UNC guidance does not have a specific section on the operation of derogation. This is deferred to the UNC Derogation Application form which talks to 'Details of Any Reporting Required'.

Commented [AB5]: This is Clause 7.

9. Closure of Derogation

Commented [AB6]: This is Clause 8.

This section is mirrored by UNC 'Section 13 Ending a derogation'. The IGT UNC text is fairly straight to the point, and does not include additional commentary on Central System changes. Nor does it stipulate that the Proposed has to provide a statement to the Code Administrator confirming successful ending of the derogation and reversion to code.

The UNC section reiterates that the Authority retains the ability to revoke an approved derogation, and that, any withdrawal of an approved derogation does not need to be approved by Panel or The Authority.

Appendix A – Application Form

The template is completely different visually to the one in the UNC, and I think this proves a good opportunity to standardise this to be similar in nature. In general, I think this speaks to how little the derogation application is used in the IGT UNC, albeit there have not been many derogations in the UNC either.

The template itself does contain much of the detail which is asked for in the UNC however. The differences in the IGT UNC are the inclusion of 3. Project Benefits, and 7. Corrective Actions.

Appendix B – Supporting Information

Supporting information is not included in the UNC. So this in its own right is unique.