Decision on Guidance Documents for the SONI Price Control 2020-2025

Decision Paper

19 November 2021

About the Utility Regulator

The Utility Regulator (UR) is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.

Our vision

To ensure value and sustainability in energy and water.

Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.

Abstract

We are today publishing a decision on guidance documents pursuant to the SONI 2020-2025 price control final determination.

The 2020-2025 price control is for the NI Transmission System Operator (SONI) for the period from 1 October 2020 onwards. The price control final determination sets the amount SONI will have to run their businesses and invest in the electricity transmission infrastructure.

Audience

The licensee affected, other regulated companies in the energy industry, government, other statutory bodies and consumer groups with an interest in the energy industry.

Consumer impact

The guidance is provided to reflect regulatory decisions made in the final determination and give SONI and stakeholders an understanding of the practical implications of changes.

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1. Introduction

Purpose of this document

1.1 This document represents a final decision regarding the three associated guidance documents which were consulted upon alongside publication of the 2020-25 final determination for SONI.

1.2 The paper details the stakeholder engagement, how the UR has taken on board responses and sets out the subsequent guidance changes.

1.3 The 2020 to 2025 SONI price control final determination (FD) incorporated changes to the regulatory framework for SONI. The UR published a consultation on the guidance in December of 2020 alongside the FD. The consultation covered the following:

- Draft guidance on the new Conditional Cost Sharing (CCS) mechanism.
- Draft guidance on the new Evaluative Performance Framework (EPF).
- Draft guidance on the updated Uncertainty Mechanisms (UM) and the template used for their submissions.

1.4 We received four responses to this consultation in February 2021 including those of SONI, NIE Networks, Consumer Council (CCNI) and Renewable NI (RNI). UR responses are set out in chapter two of this paper.

1.5 In the intervening period, having reviewed the responses, UR engaged with SONI on updated versions of the guidance. UR also accepted further comments on its guidance from stakeholders as part of its September 2021 consultation on the price control draft licence modifications. UR also developed the RAB model to aid with tariff calculations. SONI responded to these updated guidance versions on 22 October 2021.

1.6 The SONI views and UR response and decisions are published in chapter two and three of this paper. Having considered the responses received, the three guidance documents and the RAB model have been updated accordingly. The finalised versions are published alongside this paper.

1.7 The guidance documents will become effective from 17 January 2022 in line with the licence modification application.

2. Consultation Responses

UN Guidance Views & Responses

2.1 In the December 2020 consultation only SONI and NIE Networks made reference to the uncertainty mechanism guidance. Their views and the UR responses are set out in the table below. Decisions are also set out with references made to the **final guidance document numbering**.

Table 1: UM Guidance Views and UR Responses

	Consultation Response – UM Guidance	UR Views	Decision
1	**Process:** Features of the original Dt guidance (March 2018) have been removed and updated by this guidance document. This hasn't been referenced nor has the UR set out reasons for and the effects of these changes. SONI request sight of the UR's perspective **Deleted Text:** SONI have highlighted the deletions/edits that concerns them. SONI feel the updated or replace elements of the March 2018 guidance that were included as a consequence of the 2017 consultation should be reinstated or equivalent safeguards inserted. **Proposed Edits to the Guidance**: SONI would like to work with the UR to ensure that the uncertainty mechanisms are defined in a way that means that they can be applied in a consistent and predictable manner. To that end, SONI have suggested edits to the guidance document at the end of their response. **[SONI Response, p3 to p4]**	UR has either re-instated text or justified why such changes were made in this decision document. We have incorporated changes to the guidance document and provided detail in this explanatory paper.	Various changes in UM guidance document.
2	SONI reference original paragraph 1.3 in the draft guidance which contains a change of wording. SONI are requesting an explanation of the change. **[SONI Response, p8, para 18-20 and comment A1]**	Wording has been changed from *"will concern"* to *"may concern costs which are by their nature uncertain."* This has been implemented as the new licence terms may include projects which are fairly certain and contain robust costings but were not adequately progressed at price control stage.	No change in guidance.

3	Text from original paragraph 1.3 has been removed. SONI ask that this text in relation to retrospective approval of Dt requests is reinstated. **[SONI Response, p8, para 18 and comment A2]**	The deleted drafting was more pertinent to the original Dt mechanism rather than the new licence terms. This explains the rationale for exclusion. However, UR agrees that the issue of retrospective approval is an important one to have clarity on. As such, the guidance has been amended to provide this assurance.	Paragraph 1.4 of final UM guidance updated to make provision for retrospective applications and approval of projects.
4	Text from original paragraph 1.4 has been removed. SONI highlight this wording on "managed pass-through" was an important part of the 2018 guidance and therefore should be reinstated. **[SONI Response, p8, para 19 and comment A3]**	Original drafting was deleted as the *"managed pass-through"* terminology is not considered to be that helpful or practical. SONI always have to ask for approval of costs even if UR accepts their necessity and uncontrollability e.g. Inter-Transmission Compensation (ITC) costs. As there is no automatic pass-through the wording could be confusing so has been removed.	No change in guidance.
5	Text from original paragraph 1.38 in relation to DIWE assessment has been removed (see comment A32). SONI ask it is reinstated unless equivalent assurances are being provided elsewhere. **[SONI Response, p8, para 20 and comment A32]**	UR accepts SONI's point with respect to DIWE. This text has been captured in the updated guidance.	This text has been re-instated at new paragraph 7.3 in final guidance.

6	**Central estimate - general** No guidance provided as to how the central estimate will be calculated nor does it address the probability that an estimate calculated close to the time of implementation is more likely to increase significantly than decrease by the same amount. **[SONI Response, p10, para 30-32 and comment A6]** **Negative bias - general** The reasons for excluding the Et/Vt mechanism from the conditional cost sharing are not fully explained. SONI suggest omission could create a scenario where they incur efficient costs that deliver clear benefits for customers and still lose money consistently across the Et/Vt mechanism. This is exacerbated by the asymmetric nature of cost estimates made close to the time of implementation and the absence of any methodology that would ensure consistency in the calculation of the "central estimate". SONI suggest this appears inconsistent with UR's duties and contradicts the approach set out in SONI's PC in March 2019. **[SONI Response, p16, para 72-73]**	**Central estimate** UR does not agree that submitting better cost forecasts somehow changes the risk profile to the detriment of SONI. We see no reason why there is little probability of underspend but still the same risk of overspend. This is particularly true where SONI can asked for amended allowances in the event of project scope changes. **Negative bias** SONI's concerns relates to matters of final determination policy which has been explained and so is not relevant for this guidance consultation. The final determination sets out the rationale for exclusion of Et/Vt costs from the CCS mechanism. Annex 3 *[see p18, para 2.76]* highlights that such costs are excluded due to the protection that customers have by virtue of the specific project deliverable which the TSO will be held accountable for. We have also justified our final determination on mechanistic cost sharing framework and see no reason why this introduces bias against SONI and so reject this assertion.	Despite disagreeing with SONI's points, UR has provided clarification on the central estimate of costs. Changes are captured in guidance document at paragraph 1.5 and Footnote 2 to explain what is meant by the central estimate.
7	In SONI's opinion a *"central estimate"* will include for a measure of contingency above the *"best available estimate",* however in our experience, the UR rarely includes provision for contingency when providing allowances, instead only providing for the *"best available estimate*". **[SONI Response, p9, para 25-28 and comment A4]**	When setting ex-ante allowances with a baseline as part of the SONI price control we endeavour to establish the best available estimate. This is premised on the idea that SONI can either under or outperform the forecasts and the sharing mechanism will adjust costs accordingly. To include contingency would ensure that electricity consumers take additional risk as SONI are more likely to outperform on average. Given that the new Et/Vt mechanisms are an extension of the price control approach (only applied between control periods) we do not consider contingency to be legitimate. However, contingency may be appropriate for inclusion in the Dt/Zt mechanisms. Contingency may be allowable for these costs in similar fashion to the TNPP approach.	Have added footnotes to paragraph 1.5 to clarify that contingency should not be included in Et/Vt submissions but may be relevant to Dt/Zt projects.

8	SONI is willing to work with UR to establish definition of central estimate, but this needs to be; • Clear, robust and repeatable; • Appropriate for projects of a range of sizes; • Capable of reflecting known and unknown risks in relation to projects; and • Simple enough to implement without overuse of resourcing. **[SONI Response, p16, para 70-74]**	UR does not disagree with the bullet points raised but do not consider that this is necessary by further defining the 'central estimate' beyond our clarification within the guidance. It is our view that Et/Vt submissions should follow the price control methodology and include the best available estimates with explanation of costs, evidence and justification for assumptions. As per response above, they should not include provision for contingency as an add-on to the central forecast.	No further change required.
9	SONI question the role of the *"final determinations policy"* document and highlight that they expect the licence to take precedence over any policy document. SONI would therefore welcome clarity around what is intended by this term and clear legal definition of it. **[SONI Response, p10, para 29 and comment A5]**	UR agrees that the licence takes ultimate precedence. The reference to the *"final determinations policy"* simply reflects the decision to exclude these costs from the CCS mechanism and the fact they will be subject to a 25% incentive rate *[see FD Main Document, p40, para 5.41].* The licence modifications will reflect this policy.	No change in guidance.
10	This response contains SONI's initial views only. SONI need to review the licence modifications to be able to assess the full effects of this guidance. SONI expect to append an updated version of this document to our response to the consultation on the licence modifications. **[SONI Response, p3]**	UR accepts that in some instances SONI may require an understanding of the licence modifications. UR has not finalised the guidance until the views on licence modifications were considered.	No change in guidance.
11	SONI reference the second bullet point under para 1.4 which states operating expenditure allowances through the Dt and RAB through Zt (this is consistent with 2018 paper). However later the wording is different where Dt is *'likely'* to be most appropriate for the remuneration of operating expenditure. SONI request clarity and internal consistency within the guidance for this point. **[SONI Response, p10, para 33-36 and comment A7]**	UR understands the point raised. The *'likely'* wording has been replaced with *'generally most appropriate'*. This provides consistency with the licence and flexibility for the UR to remunerate SONI in a different fashion. For example, UR could provide all the revenue for a large capital project in one year via a Dt if RAB treatment might create cash flow issues	Paragraph 3.23 has been amended accordingly.

12	SONI highlight the benchmark of over £1 million to indicate which projects may require more in depth justification and supporting documentation has been deleted. SONI request it is reinstated or transparency around the identification and application of the alternative approach. **[SONI Response, p11, para 39 and comment A10]**	UR accept the point raised. The £1m guidance has been reinstated.	Paragraph 3.7 amended to include the £1m guidance for large projects.
13	SONI reference Figure 1 which illustrates the Dt process but has not been updated to reflect the new mechanisms. The word 'or' has been removed. SONI have included a proposed diagram and are willing to work with the UR to define the process. **[SONI Response, p11, para 40 and comment A11]**	UR has updated to the process diagram to provide further clarity.	Figure 1 has been amended.
14	SONI reference Step 7 and highlight that there is increased reporting across the guidance documents and query the value of including Et and Vt amounts within the 3-month statement. SONI assume this will also be included under the RIGS. Requests removal of the Et and Vt line items from the scope of Step 7 (unless outturn costs are required to calculate the K factor for the year being reported on). **[SONI Response, p11, para 43, 44 and comment A14 and A28]**	As the Et/Vt spend will be subject to mechanistic sharing adjustments, the figures will be needed for K-factor calculations. It is therefore our view that the costs should be included in the 3-month statement and subject to relevant audit scrutiny.	No change in guidance.
15	SONI reference para 1.11 which states; *"All applications are subject to a materiality threshold of £40k".* SONI highlight that as drafted, this sentence contradicts SONI's licence. SONI highlight the issue that if the threshold is applied to OPEX and CAPEX separately to deliver 1 initiative, this could incentivise outcomes that are sub optimal. SONI suggest additional text to address this issue. SONI have also proposed text in their mark-up of our guidance. **[SONI Response, p12, para 46-49 and Comment A15]**	SONI is correct to highlight this contradiction. The guidance has been amended to conform to the licence i.e. Applications are subject to a materiality threshold of £40k in nominal terms in each relevant year. We agree with SONI that where a project includes both opex and capex, then the materiality should be assessed at the aggregate. This could mean for example a Zt allowance of £100k and a Dt allowance of £20k for a single project in a specific year which would be allowable. That being said, the threshold applies to each relevant year. However, we have updated the guidance to provide flexibility to accommodate ongoing opex costs below the threshold which occur as a result of an approved capital spend.	Paragraphs 2.4, 2.5 and 3.24 have been amended accordingly.

16	SONI note that paragraph 2.9 (now 3.9) is an addition to the existing Dt guidance and has been included without setting out an analysis of the potential effects of this insertion. SONI therefore request this analysis given the volume of work and the ongoing energy transition which has to be facilitated in a timely manner. **[SONI Response, p12, para 50]**	This section merely provides further insight into the expectation of the UR when receiving such submissions and is in line with our final determination decisions and reasoning. The detail requested here reflects and expands on what is already asked for in the submission template so should not be a surprise to SONI.	No change in guidance.
17	SONI reference para 2.9 and is concerned that the *“significant”* level of detail expected by the UR will not be available at the point in the project where SONI is required to commit to procurement exercises. SONI ask this paragraph is reviewed to ensure they can ‘anticipate the level of detail required and that this is both realistic and achievable at an early stage in each project.’ **[SONI Response, p12, para 51 and comment A16]**	UR does not think further change to the guidance is necessary. This drafting merely reflects the fact that SONI will need to adequately demonstrate the work to be undertaken and the corresponding deliverables.	No change in guidance.
18	SONI have stated that, *“the purpose of the uncertainty mechanism is first and foremost a cost recovery mechanism for work undertaken.”* **[SONI Response, p12, para 51]**	UR does not agree with this statement. We would generally expect SONI to be requesting monies before spend is incurred. Our view is that the uncertainty mechanism is primarily a vehicle by which activity can be properly funded which were too uncertain to be included at the price control stage.	No change in guidance.
19	SONI ask for clarity on paragraph 2.7 (now 3.7) of our guidance around the use of the word *‘may’* in relation to those projects that need supporting detail. **[SONI Response, p13, para 52]**	Use of the word ‘may’ here simply reflects that supporting information might be appropriate in certain circumstances to substantiate what is provided within the template.	No change in guidance.

20	SONI request that para 2.9 (now 3.9) part 3 is updated to include text that demonstrates that SONI may be required to deliver government policy or to achieve compliance with mandatory requirements. **[SONI Response, p13, para 55 and comment A17]**	Whilst UR understands the point raised, there may be a number of ways to achieve compliance or deliver government policy. In such a scenario, it will be for SONI to demonstrate their approach is optimal. In terms of allowances, there is already provision in the licence to recognise changes of law or legal obligations. As such, we do not think the SONI edit is necessary.	No change in guidance.
21	SONI reference para 2.19 in our draft guidance which states *"Approved expenditure is recoverable in the first instance through tariffs and/or SONI's RAB".* SONI highlight they are unaware of any mechanism whereby investments of this nature can be funded other than the SSS tariff. SONI asks that this is rectified and have proposed alternative wording on the assumption that this is not a new funding mechanism. **[SONI Response, p31, para 3.78]**	UR accepts the SONI point and have amended the wording accordingly, *"Approved expenditure is recoverable in the first instance through tariffs, either in the relevant year or over time, through the relevant licence algebra".* All revenue will be recovered through tariffs. The revised drafting just seeks to differentiate that the timing of recovery will be different depending on the uncertainty mechanism used.	Para 3.16 amended in line with revised drafting.
22	SONI reference paragraph 2.28 in our draft guidance and ask for confirmation if delivery of government targets count as obligatory or discretionary spend. **[SONI Response, p14, para 63 and comment A25]**	UR does not think the guidance can be definitive on this issue. Government policy may obligate a new outcome and hence some spend. However the nature of delivery may be discretionary if, for example, several alternative methods of approach exist. It will be for SONI to demonstrate that a legislative or policy outcome is being delivered at the most efficient cost or delivering the most value-for-money alternative.	No change in guidance.

23	**Choice of mechanism process** SONI highlights concern that this section on choice of licence mechanism does not; • Impose an obligation on UR to consult with SONI prior to changing the funding mechanism. • Provide SONI an opportunity to update its funding request to reflect any changes in risk. • Provide explanation of how any change that would move costs into a de-minimis request would be handled. SONI request the document is updated to reflect; • Consultation with SONI before the UR proposes a change in mechanism; • An opportunity to update the submission to reflect the mechanism chosen by the UR; • Confirmation that a change in mechanism would not be used to disadvantage SONI by moving some of the costs into a de-minimis category. **[SONI Response, p13, para 59 – 61 and Comments A21, A22, A23]**	UR does not consider the SONI proposals on consultation of licence mechanism to be that practical or necessary. As the guidance suggests, the chosen mechanism should align with the approach to similar costs in the price control and sets out flexibility for it to depart where there is good reason. This gives SONI a guide as to the choice of mechanism. There is nothing unusual about a regulator deciding what approach to remuneration it sees appropriate. We also note that there is provision in the guidance to consult and engage with SONI if necessary. Furthermore, within the existing licence it is the UR who decides whether the Zt will be used to remunerate special project capital costs. It would seem appropriate to follow this precedent for the new licence terms. Should the UR amend the choice of mechanism we may ask for costs to be updated accordingly to account for contingency. It is however agreed that where a project includes both opex and capex, then the materiality should be assessed at the aggregate. Wording has been added to provide assurance that SONI are not disadvantage by the split of costs.	Para 3.24 added to provide assurance that SONI will not be disadvantaged if costs are split by opex and capex. As previously explained, overall costs below the threshold in any relevant year may not be allowable. However, revised guidance provides flexibility to accommodate ongoing opex costs below the threshold which occur as a result of capital spend. Diagram updated to acknowledge potential for engagement with SONI on choice of mechanism
24	SONI reference para 2.29-2.32 in our draft guidance, and highlight concern with the scenario whereby the UR refuse a request, asking SONI to deliver outputs in customers interest under other mechanisms. SONI suggest this would be inconsistent with the UR's stated approach to this price control and this level of risk is not reflected in the associated financeability assessment. SONI highlight no reasons have been provided for the inclusion of this possibility. SONI ask that this option is unambiguously removed. **[SONI Response, p15, para 64 and Comment A26]**	SONI's objection to this drafting is not fully understood. Within the existing licence for excluded SSS/TUoS costs it states that, *"Any claim made by the Licensee pursuant to paragraph 8.1 shall…. relate only to those costs not recovered (or recoverable) under any other provision of this Licence or under the Northern Ireland Market Operator Licence or under the Transmission Owner Licence."* Revised guidance merely reflects the existing reality that claims for costs under these mechanisms cannot be processed if funded by alternative methods. Given this existing reality, we disagree with SONI's assertion that we have introduced further uncertainty and asymmetric risk.	No change in guidance.

25	SONI reference para 3.3 part 1 of our draft which is based on the April submission. SONI highlight this was superseded by the RIGs. SONI ask for a joint review of reporting to identify the appropriate info and timing of their submission. SONI have proposed edits to our text to reference the RIGs, and ask it is included instead of 'April submission'. **[SONI Response, p15, para 65 and comment A27]**	Agreed. April Submission has been removed and replaced with a reference to the RIGS.	Paragraph 5.3 amended to include reference to the RIGs.
26	SONI references section 3.12 to 3.15 of our guidance and highlights that this could be interpreted as adding more risk. They will have a better interpretation of this section when the ambiguity is removed elsewhere in the document, especially around the "central estimate". SONI would like to review once other comments are addressed. **[SONI Response, p15, para 67 and 68 and comment A29 and A30]**	UR disagrees that this adds more risk. A mechanistic framework was part of the last price control and moving to a 25% incentive rate has decreased this risk. UR has provided additional clarity on the expectations around central cost forecasts. We are also happy to accept SONI's edits as regards recovery of over and under spends.	Paragraph 6.8 updated to reflect SONI drafting.
27	In para 3.15 SONI raise a query around the timing of revenue entitlements for project variations. SONI ask for an explanation of how this feeds through into the revenue entitlement and when? **[SONI Response, A31]**	It is difficult to be definitive on this as the answer will be dependent on timing of both submissions and spend. Should an accepted project variation relate to monies already spent, it will likely need to be remunerated via the K-factor. If it relates to forecast spend, it can probably be accommodated in the tariffs of the relevant year of spend.	No change in guidance.
28	SONI refer to para 3.20 and ask the UR to set out the approach to the consultation exercise within this section. **[SONI Response, p15, para 69 and comment A33]**	UR will follow our consultation guidance where relevant to this uncertainty mechanism guidance. We made some further points of clarification about when we will do so further in the guidance.	Paragraphs 8.1 to 8.3 updated for further clarity.
29	SONI note that the four month turn around for funding approvals specified in the CMA order has been challenging to meet and ask that the UR provides sufficient priority to processing these funding requests. **[SONI Response, p3]**	SONI's point is noted.	No change in guidance.

30	SONI has raised the issue of use of the submission template *"unless bespoke arrangements exist".* SONI has queried when the bespoke arrangements would apply. **[SONI Response, Template - comment A1]**	It is not anticipated that bespoke arrangements would apply very often and UR/SONI has not had occasion to use such so far. Drafting merely gives the opportunity to amend reporting should the situation necessitate. If different detail is sought, this will be communicated to SONI via the normal query process. That being said, we do not think the submission template would be appropriate for requests to uplift network planning feasibility allowances (SFUt) or amending pension deficit payments (PTRAt). As a consequence, we have added in a new chapter to the uncertainty mechanism guidance setting out the bespoke arrangements for these requests. This has changed the layout of the document somewhat.	A new Chapter 4 in the guidance covers these two bespoke uncertainty mechanisms and their application process.
31	SONI has highlighted that a project reference is useful. SONI requests this be re-instated. **[SONI Response, Template - comment A2]**	Agreed. Reference box re-instated.	Reference box re-instated on page 3.
32	SONI will be asking for funding before entering into a situation with *"deficiencies in service provision".* These words were added as a direct result of the previous consultation. SONI consider the deletion of text as prejudicial and ask that it is reinstated. **[SONI Response, Template - comment A4]**	Agreed. Original wording re-instated.	Need box drafting on page 4 re-instated.
33	SONI has proposed some text on the assumptions underpinning timescales for delivery. SONI request this be included in the template. **[SONI Response, Template - comment A5]**	UR are content with the SONI drafting. Amendments included.	Output box drafting on page 4 updated as per SONI edits.
34	SONI has proposed some text on delivery of government policy or compliance. SONI request this be included in the template. **[SONI Response, Template - comment A6]**	UR don't think this drafting is necessary. SONI should detail any obligation or compliance target under both the need section i.e. *"Identify the obligation placed on SONI to incur these costs"* or the outputs section i.e. *"Explain and list the objectives in specific measurable terms"*.	No change in template.

35	SONI note that it will not be possible to demonstrate the benefits of some projects i.e. ITC costs. SONI request that the *"if applicable"* wording be re-instated regarding costs and benefits. **[SONI Response, Template - comment A7]**	Agreed. Original wording re-instated.	Expected costs and benefits box drafting on page 5 re-instated.
36	NIE Networks agree with the UR's proposal to use two types of uncertainty mechanisms. They highlight in their response; 1) Et and Vt terms appear intended for use when forecasting costs is more certain. 2) Dt and Kt terms used for when forecasting costs is less certain. 3) These proposals give SONI flexibility to seek additional allowances using whichever of these terms that it feels is best suited to delivering the right outcomes for stakeholders. NIE Networks highlight that each of these points seem appropriate. **[NIE Networks Response, p3]**	We are in agreement with the conclusions reached by NIE Networks and that the proposed approach seems appropriate and flexible. As previously stated, we have further developed this flexibility to allow specific mechanisms for uplifting network planning feasibility costs and making amendments to pension deficit payments following a triennial review.	A new Chapter 4 in the guidance covers these two bespoke uncertainty mechanisms and their application process

Views & Responses – CCS Guidance

2.2 The table below sets out stakeholder views on the conditional cost sharing guidance and the UR responses.

Table 2: CCS Guidance Views and UR Responses

	Consultation Response – CCS Guidance	UR Views	Decision

1	**Adequacy of consultation process (general)** SONI said that the UR had made some material changes to the design of the conditional cost sharing mechanism that were not signalled within the DD and for which no reasons have been provided and for which the effects were not set out in a consultation paper. SONI said that the process followed to consult on this draft CCS mechanism guidance and the associated documentation provided fall short of the standards set by the UR for itself. **[SONI Response, p6, paras 10-11]**	UR disagree with this. The FD provided reasoning for changes from DD regarding matters of policy. We have consulted on the draft guidance. We have consulted on the materiality threshold as part of the draft guidance consultation and we deal separately with the specific point on the materiality threshold below.	No change in guidance.
2	**Interactions with consultation on draft licence** SONI raised concerns about not seeing the draft licence modifications at the same time as the draft licence modifications to implement FD. For a number of specific areas of the draft guidance, SONI said that it could not comment further without sight of the licence modifications. SONI said that it expected to append an updated version of its consultation response as part of its response to the consultation on the licence modifications. **[SONI Response, general comment]**	UR accepts that in a limited number of instances SONI may require an understanding of the licence modifications to respond fully to a particular element of the guidance (for example, scope of costs interaction with licence). To accommodate this, the UR accepted further consultation and responses on guidance when it published its licence modifications in September 2021. The finalised guidance considered all the responses to the guidance and the licence modifications where relevant.	No change in guidance.
3	**Changes made to reflect SONI comments at DD** SONI said that the UR had accepted many of SONI's responses to the DD proposals and it acknowledged and welcomed the UR's openness in developing these proposals However, SONI said that it continued to have concerns about the asymmetric nature of the burden of proof and also the level of ambiguity within the draft guidance **[SONI Response, p7-8, paras 19-25]**	UR notes these views from SONI. See below for further comments on the more specific points made by SONI.	No change in guidance.

4	**Future amendments to the guidance** SONI said that the draft guidance did not refer to the processes the UR will follow with regard to future updates of this document and that this is a fundamental omission. SONI asked that the guidance is updated to include the process for future updates, including a reference to UR's own consultation policy, or any other applicable standard to ensure that future changes are transparent and fully consulted on in line with good regulatory practice. **[SONI Response, p14, para 63]**	UR will follow our consultation guidance where relevant to this guidance. Some further points of clarification about how we will do so with regards to future versions of the guidance is incorporated in the first chapter of the guidance.	Clarification provided in paragraph 1.6.
5	**Application of conditional cost-sharing arrangements in the event of an over-spend** NIE Networks said that, in the context of the future uncertainties brought about by the energy transition, it was appropriate that SONI has a price control mechanism to fund increases in its internal costs where these costs are designed to efficiently enhance SONI's performance. NIE Networks said that the mechanism proposed by the UR in the draft guidance allows SONI to automatically recover 75% of any such increase, whilst also affording SONI the opportunity to make the case for recovering the remaining 25%. NIE Networks said that it supported this approach**. [NIEN Response, p2]**	These views from NIE Networks are noted.	No change in guidance.

6	**Application of conditional cost-sharing arrangements in the event of an under-spend** NIE Networks said that the UR had proposed that, in the event of an under-spend, SONI would need to provide detailed evidence that any underspend in its internal costs is justified rather than simply being mechanistically rewarded. NIE Networks said that, in its view, this additional requirement is unnecessary in light of the introduction of the Evaluative Performance Framework which in principle should be capable of providing a balance of incentives between SONI's cost and performance and therefore prevent the outcomes that the UR considers to be at risk. NIE also said that the approach was disproportionate and would commit the UR to a further ongoing regulatory burden to assess SONI's cost performance at a micro-level at a time when the regulator itself has recognised the general need for a more pragmatic and outcome-based regulatory approach in the context of the energy transition (NIE Networks referred to our Draft Forward Work Programme 2021-2022; Context, Page 10). **[NIEN Response, p2]**	The issues raised by NIE Networks concern our regulatory policy on the introduction of the conditional cost sharing approach for the SONI price control, which we decided on as part of our FD, rather than matters for the drafting of the guidance on the conditional cost sharing approach. UR does not agree entirely with NIE Networks' description of the conditional cost sharing approach in the event of an under-spend. The focus is not so much on SONI providing detailed evidence that an under-spend is "justified", but rather on SONI providing (if it wants to retain a financial benefit from the under-spend) evidence that the under-spend has not come at the expense of worse service quality and/or outcomes.	No change in guidance.
7	**Asymmetric risk** SONI said that the UR's proposed conditional cost-sharing mechanism which appeared to be inherently asymmetric by design and skewed against the company. SONI proposed specific changes to the way the conditional cost-sharing mechanism would work. **[SONI Response, p8-9, paras 19-25]**	UR does not consider this to be a matter for the consultation on the draft conditional cost sharing guidance. This guidance is intended to help implement the conditional cost sharing arrangements set out in FD. The issue of asymmetric risk raised by SONI reflects policy decisions taken in our FD, which we did not consider it appropriate or necessary to re-open for the purposes of consultation on the guidance. The specific changes that SONI proposed to the conditional cost-sharing mechanism in its response to the consultation on the guidance are not in our view compatible with the approach set out in FD. We gave proper consideration to the issue of asymmetric risk as part of our FD – see in particular the section on *"SONI's proposal on the burden of proof"* in FD, Annex 3 paragraphs 2.48 to 2.59.	No change in guidance.

8	**Materiality threshold (1): principle of a threshold** SONI said that it is supportive of a materiality threshold for the conditional cost sharing arrangements However, SONI said that it was not clear to SONI: • The basis on which the £300,000 threshold had been chosen; • How the threshold relates to the annual cap; • Why the threshold is on a nominal rather than real basis. **[SONI Response, p9, para 27]**	UR notes SONI's support for the principle of a materiality threshold. UR did not consider that there was, or should be, a relationship between the level of the materiality threshold and the annual cap referred to in Section 1 of the draft guidance. As indicated at paragraph 1.3, the guidance is focused on the process and approach to implement the conditional cost sharing approach, before the application of any cap on the net annual incentive position. However, following further TSO representation, the materiality threshold has been uplifted to £500k.	Paragraph 3.11 and 4.8 updated for new materiality threshold of £500k.

9	**Materiality threshold (2): impact on European Costs** SONI said that the materiality threshold was not proposed before the FD and draft guidance was published, and that it had assessed the UR's DD proposal to include licence fees, CORESO Membership and ENTSO-E membership within the baseline opex (rather than an uncertainty mechanism) on the understanding that any increase in these costs that was efficiently incurred would be recoverable through the conditional cost sharing mechanism. SONI said that these costs were £212k in 2019/20, but are expected to increase over the next five years as the role of ENTSO-E and the scope of the services provided via CORESO both increase. SONI said that the actual costs for these items is expected to be in the region of £305k, which for a business of SONI scale is already above the amount expected when the baseline opex allowance was calculated by the UR. SONI said that it has no discretion around the scope of work that these costs cover or the level at which they are set. SONI said that the increases in these costs are expected to remain within the proposed materiality threshold and therefore SONI will be expected to fund 25% of the increase. SONI also said that these increases may offset genuine efficiencies which would dilute the incentive for SONI to identify and deliver efficiency initiatives. **[SONI Response, p9-10, paras 29-33]**	We do not consider that, at the time of its DD response, it would have been reasonable for SONI to expect that under the DD proposals any increase in licence fees, CORESO membership fees and ENTSO-E membership fees that was efficiently incurred would be recoverable through the conditional cost sharing mechanism. Annex 5 to DD provided information on the proposal for the conditional cost-sharing approach. This provides no basis for the view that the conditional cost-sharing approach would allow SONI to recover additional costs so long as these were efficiently incurred. For instance, Table 1 Annex 5 said that as a matter of principle if there was ***"Bad luck from unanticipated increases in costs due to external factors not anticipated when ex ante baseline set"*** the cost-sharing incentive rate (i.e. 25%) should apply. Similarly, paragraph 6.63 described the circumstances in which SONI could fully recover additional costs under the conditional cost-sharing approach and this required that an over-spend was due to the efficient costs of justified improvement in performance. Leaving aside what we consulted on at DD in respect of the conditional cost sharing arrangements and the treatment of licence fees, CORESO membership fees and ENTSO-E membership fees, we have also reviewed the treatment of these costs, as a cross check on the guidance position on the materiality threshold. The forecasts of licence fees, CORESO membership fees and ENTSO-E membership fees used to calculate our FD were £212k per year. If, as indicated by SONI, these costs were to increase to £305k per year, then this would amount to an over-spend (all else equal) of £103k per year. This would represent less than 1% of the ex-ante allowances that are expensed in-year under our FD	No change in guidance.

		Furthermore, after allowing for the 75% pass-through under the conditional cost sharing arrangements and our assumed corporation tax rate of 19%, we estimate that such a cost increase would (all else equal) reduce return on regulated equity (RORE) by around £20k per year, which should be seen in the context of our base case modelling of the RORE for a notional efficient TSO of around £1.5m per year. We did not consider that variations in costs and RORE of this scale was sufficient to call into question our FD policy decision that the SONI price control should provide ex ante allowances for license fees, CORESO membership fees and ENTSO-E membership fees subject to cost-sharing rather than remunerating these via uncertainty mechanisms. Nor do we consider that that such variations provide a reason against the application of a materiality threshold for the purposes of the conditional cost sharing arrangements. This is especially so because even if the materiality threshold were set to zero, it is not the role of the conditional cost sharing arrangements to fully remunerate SONI for unanticipated increases in costs due to external factors. Finally, we do not see a significant link between SONI bearing small additional costs in these areas and its broader incentives to identify and deliver efficiency initiatives.	

10	**Materiality threshold (3): level of threshold** SONI said that the materiality threshold should be set at an appropriate level to ensure that the conditional cost sharing calculations are applied to material amounts and the cost of the regulatory burden (on the UR and SONI) is not higher than the benefit to customers. SONI said that based on the annual opex allowances defined in the FD, our proposed threshold equates to a margin of 2.4% which SONI considers is low. SONI proposes that the UR considers a higher margin of up to £500k (4%). SONI said that it was conscious of the additional regulatory interactions that are imposed in the FD and considers that a higher threshold will allow the UR and SONI to focus on the more material aspects of the price control but will still allow for the CCS process to be invoked for the higher costs scenarios. **[SONI Response, p10, paras 34-38]**	UR does not consider that there is a single right answer to the question of the materiality threshold – this is a matter of judgement that involves a balance between different considerations such as the risks to consumers for situations that do not meet the threshold and the administrative burden from the associated processes if the threshold is met. We did not receive any consultation responses on the level of the threshold beyond that from SONI. As such, we have adopted SONI's proposal of a threshold £500k. We recognise that SONI's proposal was made on the assumption that ENTSO-E and CORESO membership fees would be funded via an uncertainty mechanism, but given then forecasts of the variance in these costs, these would be below the threshold whether the threshold was set at the December 2020 consultation position (£300k) or at this revised figure. We reviewed SONI's submissions on the treatment of ENTSO-E and CORESO fees, and did not identify good grounds from these for setting a lower materiality threshold than £500k.	Change in guidance position at paragraphs 3.11 and 4.8.
11	**Materiality threshold (4): nominal or real threshold** SONI said that the threshold should be treated as per the price control allowances and adjusted to nominal terms each year to ensure the mechanism is consistent over the lifetime of the price control. **[SONI Response, p10, para 39]**	We considered this suggestion but did not identify grounds to change the position. The use of a nominal threshold is aligned with the use of a nominal threshold for existing uncertainty mechanisms under the SONI price control. While a threshold in real terms would allow for a more consistent level in real terms of the price control period, the scale of forecast inflation means that the difference is likely to be small and this is outweighed by some advantages from a nominal threshold in terms of simplicity and presentation. Given that the threshold itself is a matter of judgement, we did not consider that the small difference between nominal / real warranted change.	No change in guidance.

12	**Definition of scope of costs within the CCS framework** SONI said that the guidance does not provide a clear view on what cost elements are within the scope of the CCS. SONI said that the scope of costs needs to be clearly defined and understood from the outset, even if this is summarising the position that is defined legally within the updated Annex to its licence. SONI said that given that this guidance document's main purpose is to underpin predictable and consistent application of the licence algebra, it asked that the guidance provides clarity on the scope of costs where the CCS applie**s. [SONI Response, p11, para 42-43]**	UR has updated the guidance document to provide a clearer explanation of the scope of costs that are subject to the conditional cost-sharing arrangements (see revised section 2), consistent with the position set out in FD and drawing where applicable on cross-references to terms defined in Annex 1 to the draft TSO licence.	Material revisions to section 2 of the CCS guidance to set out the scope of application more transparently.
13	**Differences of interpretation for costs within scope** SONI said that it had particular concerns with the drafting of paragraph 3.8 of the draft guidance. SONI said that for this mechanism to be successful, it is important that there is transparency and clarity upfront in terms of the treatment of costs under this mechanism. SONI requested that the guidance provides the level of specificity necessary to avoid such 'differences in interpretation'. **[SONI Response, p11, para 44]**	UR has amended the guidance (section 2) to provide greater clarity on the scope of costs within the conditional cost-sharing mechanism. The intention of paragraph 3.8 was to recognise that even with what seems a clear upfront definition of the costs falling within scope, there may remain a possibility that in practice differences of interpretation arise as to whether a specific expenditure item is within or outside scope. There is also a risk that costs reported by SONI are mis-allocated or otherwise inconsistent with the defined scope. We sought to include in the draft guidance a process to deal with such cases which included opportunity for SONI to respond before we took a final decision. We have amended paragraph 3.8 to clarify the intended approach.	Drafting to this paragraph has been amended.

14	**Reporting of information on costs outside of conditional cost sharing arrangements** SONI proposed deletion of the text at paragraph 3.4 of the draft guidance requiring it to provide: *"Information on its outturn expenditure on costs that are outside the scope of the conditional cost sharing arrangement".* SONI said that it would expect that these costs are included in the RIGs submission, however, they are not relevant to the CCS calculations. Similarly, SONI requested deletion of the text at paragraph 5.3 of the draft guidance concerning SONI's expenditure that falls outside the conditional cost sharing arrangements. SONI said that it would expect to present costs that fall outside the CCS arrangements as part of the RIGs submission. **[SONI Response, p20, comment A9 and p28, comment A30]**	This was originally in the draft guidance to support reconciliation across different categories of SONI expenditure to address risks of potential errors and inconsistencies. However, we agree with SONI that the text that SONI referred to could be deleted and that any additional information required from SONI on a routine basis can be sought through the RIGS. Instead, and reflective of SONI's comments, we included at paragraph 5.3 that SONI should provide a reconciliation of the information it provides on costs within the scope of the CCS with expenditure reported by SONI as part of its RIGS submission	Change to guidance position.
15	**Potential RAB adjustments** In the marked-up version of the draft guidance, SONI raised the following comment at various points in the draft that referred to RAB adjustments: *"SONI is unclear why the term 'and/or RAB' is included here. SONI welcomes further clarification on what RAB adjustments the UR anticipate occurring as part of this mechanism"* SONI also asked for further clarity on the treatment of outturn capex under this mechanism and said that the guidance would benefit from the inclusion of a worked example on this. **[SONI Response, p18, comment A2 and p27, comment A26]**	UR can confirm that it is correct that the conditional cost-sharing arrangements may lead to adjustments to the capital additions (i.e. capex) feeding into SONI's buildings and non-buildings RABs, over the 2020-25 period, and the reference to the RAB in the guidance is intentional. We have added some further text to the guidance (paragraph 2.6) to help explain the role of RAB adjustments within the overall approach. The guidance explains how outturn capital expenditure should be treated and we do not think it would be proportionate to provide a worked example.	Update to paragraph 2.6.
16	**Source of data on ex ante allowances** SONI commented on table 2 in the draft guidance, which indicated that the source for relevant information on ex ante allowances was the price control FD and/or ex ante allowances. SONI said that the allowances should be defined in the licence and requested that the reference to the Price Control FD is removed from the guidance. **[SONI Response, p24, comment A20]**	We have made changes to Table 2 so that it refers directly to specific terms which are defined in the licence. In addition, on further review we identified that what was stage 2 in Table 2 from the draft guidance document for consultation was redundant and there were no licence terms corresponding to this stage and the values would be zero in practice. We removed stage 2 from the table.	Update to Table 2 of the guidance

17	**Assessments for different categories of expenditure** SONI said that under the draft guidance potential adjustments will be assessed separately for three broader categories: 1. Operating expenditure under CCS; 2. Non-building RAB; and 3. Building RAB. SONI said that it was not clear why the UR would wish to assess costs separately against these categories, as it could potentially create wrong incentives and distort optimisation across operating and capital costs. SONI also said that the draft guidance states that the assessment would be applied to under-spend or overspend against the total ex ante allowance that is subject to CCS and not for specific subcategories of costs. SONI said that it was not clear from the guidance how the UR would envisage this assessment being undertaken in practice using only total costs in three categories. **[SONI Response, p12, paras 47-49]**	It is not the case that, under the draft guidance, the three categories of expenditure will be assessed completely separately. For instance, the materiality threshold applies to the aggregate expenditure across these categories rather than to expenditure in individual categories. Furthermore, the process set out in section 3 of the draft guidance does not constrain the assessment to a separate one for each of the three main categories of expenditure. Specific aspects of that process do refer to the use of separate figures or determinations for the three categories of expenditure, but this does not imply these are assessed in isolation. It is necessary that attention is paid to the level of expenditure within the three categories rather than simply the sum of expenditure across them. This is because, ultimately, if any adjustments are to be determined for the purposes of the conditional cost-sharing arrangements (under step 5 in the draft guidance) it is necessary to decide whether these should be made to the price control allowance remunerated in-year (e.g. opex allowances), or to RAB additions and, if they are to be made to RAB additions, it is necessary to decide which RAB they should be applied to (i.e. buildings or non-buildings RAB). Nonetheless, given SONI's concerns, we have made minor revisions to the draft guidance which are intended to make clearer that the assessment should not treat separate categories of expenditure in isolation and should recognise interactions between expenditure categories (see paras 4.16 and 4.25). We did not agree with SONI's interpretation of the guidance that it implied that the assessment would be undertake using only total expenditure in three broad categories, and not specific subcategories of costs. There is a difference between the cost categories for which adjustments are made under the conditional cost sharing arrangements (and the rules around these) and the cost categories or cost information that may provide relevant evidence as part of the assessment. However, to reduce risks of misinterpretation we clarified aspects of the guidance to make clear that the assessment may involve consideration of more granular expenditure information (see paras 4.16 and 4.25).	Updates to paragraph 4.16 and 4.25.

18	**Baseline performance (1): general** SONI said that the lack of a defined baseline within the guidance is a significant gap. SONI said that the baseline needs to be clearly defined and that it is willing to work with us to develop this. SONI said that it has raised similar concerns in its response to the consultation on the Evaluative Performance Framework guidance paper. SONI said that it considers that clear and transparent definitions of any baseline measures, which are agreed upfront, are a fundamental element of the 'regulatory contract'. **[SONI Response, p12-13, and p29, comment A32]**	UR notes SONI's stated position that a performance baseline needs to be clearly defined upfront using a series of performance metrics and baselines/targets for each of those metrics. However, this is not the position that we took for FD. This is a policy matter that we considered in detail as part of our process for the 2020-25 SONI price control. If there is a gap in the draft guidance for the conditional cost sharing, it is an intentional one. The conditional cost-sharing arrangements, and the evaluative performance framework, should be seen as a policy response to a situation in which we did not have confidence that SONI's performance, across its various roles and services, could be adequately captured and incentivised using a suite of pre-specified metrics and associated baselines. As set out in the draft guidance, the baseline level of performance is a baseline that should reflect service quality and/or performance in 2019/20 plus the aggregate of all performance improvements that have been funded through the price control framework up to and including the relevant year. It is for SONI to determine what information and evidence informs on its performance relative to this baseline, insofar as is relevant to its submission under the process specified in the guidance.	No change in guidance.

19	**Baseline performance (2): metrics that the UR intends to use** SONI raised a concern that there was a lack of information in the draft guidance (and within the FD) as to which metrics the UR intends to use to assess the performance/quality of service provided by SONI. SONI said that these metrics will need to be set out in a transparent manner so that customers and SONI understand the approach and criteria used by the UR**. [SONI Response, p12, para 52]**	Under the draft guidance, the starting point for the UR's assessment is SONI's submissions on its performance/ quality of service and/or why costs have varied significantly from the ex-ante allowances (i.e. Step 1). While the draft guidance provided some high-level guidance on the nature of information required under the process set out in the guidance, we consider that it is for SONI to identify on a case-by-case basis what specific metrics and/or other information would be most relevant to this process. SONI has (or should have) better information than the UR about the different dimensions of its performance and service quality and the extent to which its costs have been driven by changes in performance/service quality or by other factors. It is not the policy intention of the conditional cost sharing approach that it would be based on the UR making its own assessment of SONI's performance across a set of pre-specified metrics. Furthermore, we would expect that the relevant performance information would depend heavily on the circumstances behind any over-spend or under-spend that exceeds the materiality threshold, and we would not wish to pre-empt this by setting out upfront a set of evidence that may turn out not be informative for the particular circumstances of an over-spend or under-spend. Nonetheless, in light of SONI's comments, we saw a risk that it might imply that a comprehensive set of performance information is necessarily required from SONI, when in practice the relevant information may be focused on specific areas. We have revised drafting to allow for more targeted evidence where possible.	Section 5 has been updated to include a section called, *"Evidence on service performance".*

20	**Baseline performance (3): external factors** SONI said that TSO expenditure is not the only factor that will drive changes in performance and that it would welcome the inclusion of the UR's approach to separating the impact of other factors on the metrics from any change in expenditure. SONI said that it will be difficult to identify metrics that allow the isolation of expenditure impacts from other factors. **[SONI Response, p12, para 52]**	UR agrees that it may be difficult to identify metrics which isolate SONI's performance from the effects of external factors on performance. This is part of the reason why we have introduced the conditional cost sharing approach and the evaluative performance framework, rather than establishing an incentive framework for SONI that rests on mechanistic incentives focused on metrics specified in advance. Our approach to separating out these factors is to provide SONI with opportunity to explain, and evidence, the influence that external factors have had. We do not intend to provide detailed guidance on the specific metrics or information that may be relevant. We would expect this to depend on the circumstances. Nonetheless, we have added additional guidance in section 4 of the document to clarify that the concept of SONI performance that is to be used for the assessment is one which is more concerned with SONI's service quality than with outcomes (which could be heavily affected by external factors). In addition, we have provided additional guidance in section 5 of the document on the types of evidence that may be relevant to consideration of SONI's service performance, to help distinguish between SONI's own performance and external factors.	Updates to sections 4 and 5.

21	**Assumption that expenditure has an immediate impact on performance** SONI said that there appeared to be an assumption that changes in expenditure will have an immediate impact on performance /quality of service, but there may be occasions where under and over-spend could be associated with a lagged impact. SONI said that how the UR will approach this should be set out within the guidance document. Similarly, SONI highlighted that expenditure may result in a future performance improvement that may not be realised within the assessment time period indicated by the draft guidance. **[SONI Response, p12 para 52, p29, comments A33-34]**	It was not the assumption that expenditure has an immediate impact on performance. In the light of SONI's comment, we did see a risk that the word *"performance"* might be interpreted in one particular way (more like outcomes) which could imply a particularly long lag between expenditure and that interpretation of performance. This was not the intention. We have sought to deal with this issue in part through the introduction of a new sub-section within section 4 of the guidance which defines a concept of *"service performance"* which is then used elsewhere in the guidance. This concept is more focused on SONI's service quality than the ultimate effect of its service quality on outcomes (which we recognise could be a number of years later). In addition, we have sought to be clearer on the relevant time period for the assessment of service performance in the case of an over-spend or under-spend. In the event of an over-spend, where some consideration of effects on outcomes was included in the draft guidance, we have recognised more explicitly that effects of improvements in SONI's service performance on outcomes may be over a future time horizon. In relation to under-spends, we specified that the focus is on service quality and outcomes in the year of the under-spend, which avoids the need to try to assess potential impacts on service quality or outcomes in future years. Overall, we have sought to specify a practical approach, and we recognise that there may be some cases where the assessment may, in the interests of practicality within an annual assessment process, not take full account of all the interactions between expenditure and service performance/service quality over time.	Updates with section 4 on service performance.

22	**UR assessment of performance of services and outcomes** In response to paragraph 4.14 of the draft guidance, SONI said that further clarity is required in terms of how the UR anticipate assessing the performance of services and outcomes achieved, in the context of potential adjustments for the efficient costs of justified improvements in performance, in relation to SONI's services and/or the desired outcomes. SONI made a similar comment in respect of paragraph 4.22 of the draft guidance. **[SONI Response, p26-27, comments A23 & A27 and p30, comment A35]**	UR has not sought to add further clarity on how we anticipate assessing the performance of services and outcomes achieved. We have added further information to the draft guidance on the nature of the assessment we will carry out (and in particular the concept of SONI's performance to be used for that assessment) and on the types of evidence that may be relevant to SONI's submissions and, in turn, our assessment of those submissions. While there may be benefits from further clarity and worked examples in relation to the processes and arrangements set out in the guidance, we consider that, within the context of the CCS, and the 2020-25 TSO price control, it would not be proportionate to expand the draft guidance in this way, especially due to the risk that more detailed guidance may turn out to be inappropriate to the specific circumstances that arise in practice.	No further change.
23	**Evidence on the relation between costs and performance** In response to paragraphs 5.6 and 5.8 of the draft guidance SONI said that in most cases, it will be difficult to present a direct correlation between one of the three broad expenditure categories and a performance metric. **[SONI Response, p29-30, comments A33 and A35]**	UR does not consider that the parts of the draft guidance that SONI referred to had sought a direct correlation between expenditure categories and a performance metric. As reflected in the draft guidance, we are expecting SONI to have some understanding of what has driven variations in its costs over time or differences between its costs and ex ante allowances and to be able to provide evidence for this as part of its submissions (if the materiality threshold is exceeded).	No change required.

24	**Potential information on resource plans and budgets** SONI requested deletion of paragraph 5.9 of the draft guidance. This paragraph referred to potential information on SONI's resource plans and budgets as part of the overall evidence it submits in relation to an under-spend. SONI said that it considers that resource planning and budgeting are management activities and that it is unclear how this aligns with an assessment across the 3 broad categories defined in the guidance. SONI requested that this paragraph is removed from the guidance. **[SONI Response, p30, comment A36]**	UR disagrees with SONI's position on this matter. While resource planning and budgeting are management activities, this does not mean that information on them is irrelevant to the regulation of SONI's activities. We remain of the view that, as part of the overall evidence base, and in the specific context of SONI's TSO roles and services, information on SONI's internal resource plans and budgeting could be relevant to assessment under the conditional cost sharing arrangements. We did not consider that there was any inconsistency or misalignment between this drafting and the role of the three broad categories of expenditure elsewhere in the guidance. Resource plans and budgets may, for example, provide more granular or detailed information on the source of an under-spend which help to inform the assessment under the three broad categories of expenditure.	No change required.
25	**Stakeholder input and interactions with evaluative performance framework and stakeholders** In response on paragraph 4.15 of the draft guidance, SONI said that it seeks clarity from the UR on how this approach will work in practice. SONI said that it saw the CCS as a standard process and that it was unclear what role stakeholders will have in the calculation of the CCS and whether this is practical or appropriate. In addition, SONI said that it was unclear how the annual evaluative performance framework processes would feed into the CCS calculation and what evidence would be appropriate. **[SONI Response, p26, comment A24 & A28]**	In the interests of practicality and proportionality, UR did not specify a specific stage of stakeholder consultation in the process steps set out in draft guidance. The responses to our consultation have not given us grounds to change this position. As indicated in the draft guidance, we would expect SONI's submissions to draw on stakeholder views where relevant and proportionate. We may seek the views of stakeholders as part of our assessment on a targeted basis, or consider further issues that stakeholders have brought to our attention. Furthermore, the stakeholder evidence generated through the separate evaluative performance framework may also be relevant to the conditional cost sharing approach.	No change required.

26	**Timing for cost sharing calculations and processes** SONI raised several queries which concerned the timing of the annual calculations and process for the conditional cost sharing: 1) How does the 10-week period for the decision to be made on the CCS calculations align with the annual tariff process? 2) Can the UR explain the references to revenue and RAB adjustments within the guidance and how these will work in practice? 3) What process will be followed for the cap and collar calculation and when this will take place? SONI said that the calculations should be made in a timeframe that aligns with the annual tariff process. SONI said that in all cases it would be beneficial to have a flow chart or timeline for these calculations and processes which explain how these feed into the tariff cycle. SONI said that the guidance would benefit from the inclusion of timeframes for each step in the process. **[SONI Response, p13, paras 55-58]**	On SONI's specific questions, our response is as follows: 1) We have now included a timeline in the guidance. 2) The rationale for the RAB adjustments is now explained. How the revenue and RAB adjustments work in practice is determined both via the processes set out in the guidance document and the calculations for regulated revenue and RAB specified in Annex 1 to the TSO licence. Cross references to relevant terms from Annex 1 to the licence have been added to the guidance for further clarification. 3) The cap and collar calculations referred to by SONI are outside the scope of the guidance on the conditional cost-sharing arrangements. These calculations form part of the calculation of SONI's maximum regulated revenue as specified in Annex 1 to the TSO licence.	A flow chart with timelines is included under Figure 1. Other text has been included to explain RAB adjustments.
27	**Other evidence to be used by the UR** SONI drew attention to the draft guidance, under Step 4, which said that our, *"proposed decision will draw on our review of the evidence that SONI submitted in Step 1, and any other evidence, information or factors that we consider relevant."* SONI proposed deletion of *"and any other evidence, information or factors that we consider relevant".* SONI requested clarity on what the UR meant by this comment. SONI said that the guidance should be clear on how the UR plan to undertake their assessment and SONIs expectation is that it should be based on the SONI submission. **[SONI Response, p22, comment A15]**	UR has added clarification that the other relevant evidence would be evidence that is relevant to the assessment of SONI's submissions. We do not consider it necessary or appropriate to specify in detail what other evidence or forms of analysis may be used. This will depend on the circumstances.	Clarification to paragraph 3.15 under Step 4.

28	**Drafting consistency on determination of adjustments** In response to paragraphs 4.19 and 4.20 of the draft guidance, SONI said that these should be revised to ensure consistency with paragraph 4.12. SONI proposed deletion of these paragraphs and replacement with a repetition of the text from paragraph 4.12. **[SONI Response, p26-27, comment A25]**	UR reviewed SONI's comment and considered that the draft guidance could be improved. We used the relevant text from to replace that at 4.24 and 4.25 in the final guidance. In addition, to reflect the underlying issue some additional text was added to clarify that we will consider the appropriate aggregate adjustment across all three categories rather than treating each in isolation.	Update to paragraphs 4.24 and 4.25.
29	**Standard of evidence** One aspect of the concerns raised by SONI about the lack of clarity in the guidance was that about how demanding the standards for the evidence are. **[SONI Response, p13, para 59]**	We consider that standard of evidence will depend on the circumstances behind any over-spend or under-spend that exceeds the materiality threshold and we do not wish to pre-empt this by setting out circumstances in advance as they may not be informative.	No change required.
30	**Information required for establishing efficiency** SONI said that it would expect the guidance to include clarity about the information required for establishing efficiency and, if these differ from information already provided via the RIGs. **[SONI Response, p14, para 61]**	The RIGS requires SONI to provide, *"reasons for any forecast increase/decrease in staff numbers and / or costs over the price control period."* The CCS asks that SONI set out provisions within the *'Evidence in support of adjustments to an over-spend'* section of the guidance.	No change required.
31	**Worked examples of assessments** SONI said that it would expect the guidance to include one or more worked examples of information and assessments that could happen under the conditional cost sharing approach. **[SONI Response, p14, para 61]**	UR considered SONI's request for worked examples but were concerned that specific examples provided in the guidance may bear limited relation to the wide range of circumstances that may arise in practice. We were also concerned that worked examples could be time-consuming to develop in a way that limits risks from over-simplification, and that the work on such examples would not be proportionate.	No change required.

32	**Recourse if SONI disagrees with the UR's decision** SONI said that it will be important to provide clarity about what recourse SONI would have if it disagreed with the UR's decision under the conditional cost sharing guidance. **[SONI Response, p14, para 61]**	The process set out in the draft guidance said, under step 4, that before making a decision we would engage with SONI in a timely manner setting out our minded to position and reasoning, and to give SONI the opportunity to respond. If SONI were to disagree with our decision then it may have opportunity to seek judicial review of our decision. We did not consider it necessary or proportionate to create any additional appeals mechanism in relation to these decisions as part of the guidance.	No change required.

Views & Responses – EPF Guidance

2.3 The table below sets out stakeholder views on the evaluative performance framework guidance and the UR responses.

Table 3: EPF Guidance Views and UR Responses

	Consultation Response – EPF Guidance	UR Views	Decision
1	**General – Licence Modifications** This is an initial response as needs to see licence modifications to understand effects of Guidance. **[SONI Response, p4]**	There are only very limited instances where understanding the guidance is dependent on the licence conditions. We have also not identified any material responses to our guidance consultation which depend on sight of the licence modifications. However, we have not finalised the guidance until the licence modification responses were reviewed.	No change required.

2	**General and detailed - Development of Baseline** Baseline is not defined, which is a fundamental gap as progress against whole framework is measured against this. SONI seeks to develop this with UR and baseline should be subject to further consultation so stakeholders can feed in their views. Seeks further clarity on where the baseline is defined and how performance is measured against it, how to evidence baseline, how Annex 1 material feeds into assessment, whether baseline is consulted on etc. **[SONI Response, p9-10, paras 18-22]**	UR has clarified these points within Section 2 and more broadly across the guidance to make consistent with Section 2. We note that it is for SONI to determine what information and evidence informs its performance relative to this baseline, insofar as is relevant to its submission under the process specified in the guidance. With respect to whether the baseline is consulted on, we would expect that it may be useful for SONI to get stakeholders views on the Performance Baseline as part of its plan preparation, but there is no requirement on SONI to consult on the baseline before publication and we do not think this is necessary.	New drafting included in Section 2 relating to *"Understanding Performance Baseline."*
3	**General – resourcing** UR needs to provide sufficient resources to ensure that both the preparation and implementation of this framework is successful. **[SONI Response, p4 and NIEN Response , p1]**	We note SONI's and NIEN's response.	No change required.
4	**Evolution of the EPF** There are difference in price control design and other characteristics from GB (ESO cost pass through design, balancing operation and other) that need to be factored into the design of this process to ensure the framework is appropriate in a Northern Ireland context. **[SONI Response, p6, paras 8-10]**	While we have drawn on Ofgem's experience with the ESO framework in GB we have sought to adapt this so that it is appropriate to the NI context and our broader policy approach for the 2020-25 SONI price control. The design of the price control referring to 'cost pass through' relates to regulatory framework policy which is not the subject of this consultation.	No change required.
5	**Longer term initiatives** SONI cites para 8.21 of guidance does not give additional information on how longer term initiatives should be viewed and assessed. Queries how assessment of same activities from past affect future plans, how panel assess if not possible to fully display potential benefits to consumers at the beginning of a long initiative or benefits not realized until end of project. **[SONI Response, p13, para 30]**	UR has clarified further how the longer term initiatives can be taken account over time.	New drafting included in Section 2 relating to *"Longer Term Initiatives."*

6	**Stakeholder engagement – clarity on paragraph 2.10 of draft guidance** Asks for clarity from the UR on what is intended with paragraph 2.10 of the draft guidance document. **[SONI Response, p12, paras 35-36]**	This paragraph is a cross reference summary reflective of content further on down in the guidance on the EPF process. On reflection we recognise that this may add a little more confusion than clarity and so have deleted, not least as a more specific description of where we are responsible for stakeholder interactions is set out within the process steps.	Drafting removed.
7	**Stakeholder engagement - involvement logistics and detail** SONI requests clarity on who decides on stakeholder appointments, how stakeholder feedback feeds into the process and is it in advance of the publication, what level of influence do stakeholders have in the assessment process. **[SONI Response, p12, para 37]**	UR will be responsible for organising and designing stakeholder input across Steps 3,4,6,8, and 9. The guidance in steps 4 and 9 describes a combination of stakeholder submissions and meeting(s). We will in due course set out how stakeholders input is provided across these steps, the format they will feedback across these steps and further information on the exact timings. We will communicate the detail and plan for this in good time to support the process and may also share our thoughts with SONI out of courtesy before doing so. We will be mindful of stakeholder time and other priorities in designing this further. SONI also asks about the level of influence stakeholder input will have in the process. As the guidance sets out, stakeholder input is one source of evidence/views used amongst others, but it is impossible to answer this in any meaningful way as influence will depend on a range of circumstances that cannot be predicted now with any certainty. So we do not see particular value in attempting to prescribe this as requested.	No change required.
8	**Stakeholder burden and fatigue** SONI and NIE Networks cautions against stakeholder fatigue and burden given the number of stakeholder activities. **[SONI Response, p12 and NIEN Response, p1]**	As above, UR is aware of ensuring engagement is not unduly onerous whilst being meaningful.	No change required.

9	**Substitution of deliverables** Important for SONI to be responsive to stakeholders changing needs; but where their desired deliverables have superseded or prioritized over the deliverables outlined in the price control process, there is no mechanism to allow for substitution of the original deliverables. Needs guidance on how best managed and reflected in the assessment of performance. **[SONI Response, p13, para 42]**	The guidance explicitly allows for incentivisation of adaption of price control determined deliverables for deviating from or going beyond subject to it providing sound justification for doing so under the adaptability criterion. We note that if SONI wishes to replace an existing deliverable with a new one not funded under the price control i.e. it decides not to deliver a deliverable funded as part of the price control and/or uncertainty mechanisms then our FD position on accountability for price control deliverables would apply (see Section 3, Annex 2: Service and Outcomes). If SONI seeks funding for a new deliverable we would expect it to use the uncertainty mechanisms provided. We recognise that SON's ability to meet stakeholders' changing needs may in some cases be constrained by past decisions (of SONI and/or the UR). In line with the position in the guidance, we consider that this would be something for SONI to communicate with stakeholders and manage via its ongoing relationship with them.	No change required.

10	**Independent Panel** SONI asks whether the panel will briefed on the baseline, training be provided to panel on SONI functions and EPF, what the process is if panel member not acting independently, asks for UR wholesale department member to join panel in advisory capacity. **[SONI Response, p15, para 50]**	UR would expect SONI to evidence the Performance Baseline within its forward plan and performance assessment report which in turn will be assessed by the panel. So 'briefing' the panel on the performance baseline is not required or desirable. The UR will provide the panel with a short briefing before panel meetings. We do not consider it necessary for the guidance to set out what process will be followed if a panel member is not acting independently. However, panel members should seek to avoid and declare conflicts of interest. UR will consider further whether and how UR wholesale department input will support our role (for example, supporting our UR secretariat role). However, we do not consider it appropriate for a UR member to join the panel (we made a decision in the FD that the panel is independent).	No change required.
11	**Confidential information** SONI cites areas where information can be challenging to share with panel and says these are limited. Proposes and wants to input into a non-disclosure agreement. Wants to work with UR to identify instances on case-by-case basis to agree solution for panel. **[SONI Response, p15, para 54]**	We recognise that there are likely to be limited instances where SONI has confidential or commercially sensitive information (particularly around grid security activity). We agree that non-disclosure requirements will be required for panel members and we will ensure that these provisions are developed for panel members to adhere to. However, we do not feel that SONI's input is required into the NDA in this instance. We are happy to work with SONI on confidentiality instances on a case by case basis to agree solutions for the panel. This will need to be done in a timely way. We do not consider this a matter for the guidance document.	No change required.

12	**Forward Plan scoring - scoring combinations** SONI is concerned that a quarter of the possible scoring methodology combinations do not produce a resulting score for Forward Plan and has concerns around the discretion on Performance Assessment and asks UR to revisit one combination scoring type. **[SONI Response, p16, paras 56-61]**	UR has reviewed the draft scoring approach for the assessment of the forward plan and identified that this had some gaps or ambiguities. We have produced a revised scoring approach for the forward plan which addresses these issues.	Further guidance provided on *"Grading the Forward Plan."*
13	**Forward Plan scoring - Service ambition** The scoring methodology is heavily weighted towards the service ambition category meaning SONI will be penalised if it is not ambitious across each of its four roles. As a small company SONI will need to balance the need to deliver on obligations (e.g. licence requirements and deliverables under the price control) with a focus on the EPF. SONI further says that paragraph 4.31 of the draft guidance is not realistic as the UR framework does not have a cost pass through and must also deliver licence obligations and deliverables set by the UR final determination. Asks for Service Ambition wording criteria to be re-worded to reflect this. **[SONI Response, p16, paras 56-61]**	We believe that service ambition is very important in light of consumer opportunities over the next 5 years and beyond that SONI can influence. We think the emphasis is appropriate.	No change required.
14	**Performance Assessment scoring** SONI is concerned about the level of discretion in scoring and suggests a scoring scenario for consideration. **[SONI Response, p17, paras 62-63]**	The (revised) scoring approach for the forward plan is relatively mechanistic and involves less discretion than the scoring approach for the assessment of performance. We have added one scenario purely as a potential example. However, we note that the concept that there remains to be a level of discretion is appropriate and so examples must be considered and treated in this context.	Guidance revised.
15	**Cross cutting initiatives** SONI asks how framework will work where initiatives might be caught in more than one area, and where a multi-year initiative may sit if it changes to different roles in different years. **[SONI Response, p17, paras 67]**	Paragraphs 2.17 to 2.19 set out relevant guidance. SONI will have the best view of where activity will fit and will need to be clear on the interactions and interlinkages. We have added clarification in the guidance.	Paragraph 2.19 updated for additional clarity.

16	**Outstanding issues** SONI says there are outstanding issues not dealt with from engagement prior to FD. **[SONI Response, p18, Table]**	Issues have been addressed (for example, we explained to SONI how the scheme was not an annual price control. It is very clear from the FD (and our regulatory approach document) that the EPF is not an annual price control.	No change required.
17	**Timing of annual process** Timings of receipt of both feedback and a final decision on both their forward plan and the review of annual performance do not allow SONI to be responsive to the Panel's assessment of the plan and iterate appropriately. Proposes alternate dates. **[SONI Response, p19, paras 73-76]**	The timetable needs to strike a balance between allowing various parties involved to input and decision making whilst ensuring reasonably swift implementation. We have reviewed SONI's proposed amendments, but feel these risk overloading/burdening particular points of the process. SONI proposals suggest a lot of overlap of different processes and milestones within a compressed period of time. We also see a risk that SONI's proposal to provide the panel with 'initial views' may not be the best use of the Panel's time (or indeed SONI's). This could add extra work and panel time for little additional gain if this risks the panel providing feedback on something incomplete prior to full formal submission. SONI is however free to seek 'initial views' from stakeholders before it publishes its plan as a means of testing its initial views prior to plan formal submission. Overall, we think the timetable strikes the right balance. More broadly, it is worth noting that we have made significant efforts already to promote further adaptability and responsiveness to feedback, not least through having an adaptability criterion and also splitting the evaluation into two separate stages: forward plan and a performance assessment. These are material, explicit and meaningful incorporations.	No change required.

18	**Timing of EPF** SONI notes there will be 'growing pains' from implementing the process, considers the extent of further engagement expected to have on the development of the guidance, notes that having a forward plan but no performance assessment within in the transition year. SONI goes on to say that on this basis does not believe that the transition year in 2021/22 will have the desired effect of facilitating learnings and insights, and will not allow either SONI or UR to take these forward to the full framework. Proposes instead that the programme is delayed a further year so transition year does not start in 2022/23. **[SONI Response, p22, paras 88-90]**	UR has already made our FD decision on the timings of the framework. In any event, we do not consider that delaying the framework by a further year would be in consumers' interests. We would expect that the transitional year will still afford a significant amount of learning and it seems counter-intuitive that delaying a further year would help mitigate against the 'growing pains' that SONI is concerned about overcoming. We plan to implement the transition year as soon as possible after the licence modification decision has been made. We expect SONI to submit its forward plan in early March 2022.	Updated the guidance document with revised timelines for 2021 to 2022 transitional year.
19	**Justification for UR changing Panel grading** It is unclear in what circumstances the UR will deem it necessary to determine a grade that differs from the grade from the panel. SONI requests guidance on the circumstances that the UR will need to intervene and how the grades provided by the panel will be re-evaluated. The UR's assessment of the panel's evaluation should be similar to the DIWE provision. Grades recommended by panel should not be changed unless the UR demonstrates that assessment was incorrect or lacked the justification. The UR should adjust grades only when the panel's evaluation is not consistent with defined criteria. Unless this is clearly specified, there is an increased risk for SONI and may lead to risk averse behaviour, which is not in interests of consumers. **[SONI Response, p23, paras 94-99]**	SONI asks that the UR's assessment of the panel's evaluation should be similar to the DIWE provision. The EPF and DIWE are two different regulatory framework tools used in different circumstances to do very different things and it is unclear how drawing parallels is therefore comparable or instructive. In any case, we interpret SONI's comments to infer that, as a point of principle, UR should demonstrate and presume that the panel's assessment is correct. We do not agree with this as a principle. Instead it is for us to make decisions based on the evidence available, and in doing so, we will take strong account of the Panel's assessment. We disagree that the guidance, in and of itself, will increase risk for SONI and lead to risk averse behaviour.	No change required.

20	**Score determination by Panel** Unclear whether each member is expected to make their own scores or if this is done by the panel collectively 'by committee to arrive at final score. UR should raise procedural concerns. **[SONI Response, p23, para 100]**	The guidance requires the panel to provide evaluation reports on the forward plan and on performance which set out a recommended grade for each of the four SONI roles. The guidance does not require a separate grade/score from each panel member. We consider that Panel members must make recommendations in accordance with the EPF guidance on the basis of evidence available. All panel members will have equal voting rights. The Chair will support the Panel to achieve score and recommendations by consensus. If the Panel members do not agree on the scores to be awarded, the voting exercise would determine the final scores. If the votes are equally distributed then the Chair would have the final say. We have removed text in paragraph 3.27, as this leads to inconsistency with paragraph 3.14.	Some text removed from paragraph 3.27 in the final guidance document. Text added on how panel members make recommendations in paragraph 6.7.
21	**High and low grades** High or low grade effect creates a 15 point scale rather than a 5 point scale, adding complexity and further subjectivity which is in contradiction to the aim of the UR to reduce complexity and subjectively in the framework. SONI is concerned that UR will decide to award a higher grade than the panel has awarded, but may award a lower grade (if the panel indicate a 'low' assessment). **[SONI Response, p24, para 102]**	It seems very unlikely this will create more subjectivity when the intention is to allow for more precision. We also see no reason why it necessarily makes a panel members any more complex. We see no reason as to why it incentivizes us to be biased (in either direction). We do, however, think it is important that the panel is able to indicate within its report when a certain score was clear-cut or whether there was a close call between scores. We expect that if this isn't facilitated now the Panel may ask for it in time, particularly to help it support decisions which require a level of judgement for a framework of this type. However, if after the trial period we consider it is not worth pursuing further we are open to reconsideration.	No change required.

22	**Appeals Process** The guidance has no information on the appeals process. SONI does not believe that the draft EPF guidance provides the necessary clarity in this regard and proposes that this can be reached by addressing the queries and providing clarity as SONI has requested in this response. UR may wish to consider making the panel fully independent. This would allow the UR to act as the appeals body if SONI or stakeholders disagree with the panel's assessment. **[SONI Response, p24, paras 104-106]**	The guidance does not need to have information on the appeals process. Paragraph 2.147, Annex 2 of the FD sets out our position on the route to appeal. Making the panel fully independent in the way SONI infers with the UR as the appeals body is inappropriate.	No change required.
23	**SONI self-assessment** SONI is directly incentivised to submit a plan which it views as being above the baseline as well as achievable. The requirement for SONI self-assessment may introduce negative bias through an artificial 'cap' on the grades that could be determined by the panel (the panel is unlikely to award a higher grade than SONI grades itself). **[SONI Response, p24, paras 107-112]**	UR believes that the SONI self-assessment is beneficial in enabling a more targeted review by the panel and it will assist stakeholders who are interested in making submissions to the panel.	No change required.
24	**Future amendments to guidance** SONI ask that the draft EPF guidance is updated to include the process for future updates, including a reference to UR's own consultation policy, or any other applicable standard to ensure that future changes are transparent and fully consulted on in line with good regulatory practice. **[SONI Response, p25, para 113]**	We have already clarified how future updates may be made. However, we have further clarified that we would consult on any material changes to the guidance.	Paragraph 1.3 drafting updated.
25	**Scope - TNPP** Requests clarity on the URs expectations of the TNPP and whether the activities are within the scope of the TNPP. **[SONI Response, p25, para 115]**	SONIs performance under TNPP is within scope, but the internal costs incurred in SONI undertaking TNPP activity is not. We have added more explanation within guidance.	Guidance revised.

26	**Funding requests** SONI proposes that funding requests for initiatives that have been submitted to the UR for approval should be included in the forward plan, to support innovation and a flexible approach. **[SONI Response, p26, paras 116-120]**	UR has reviewed our position on this. We have clarified that SONI can include new activities not funded at the price control within its forward plan and performance assessment ahead of any uncertainty mechanism approval decisions, but only where it is prepared to do so at its own cost recovery risk. This would balance support for flexibility which SONI seeks but would protect consumers as it does not fetter UR to necessarily commit to approval of the associated spend. It is also important that the panel's assessment is limited to new initiatives and deliverables included in the plan that SONI makes a firm commitment to deliver. It would not be appropriate for it to earn financial rewards at the forward plan assessment stage for proposals that are conditional on the outcome of funding decisions yet to be made by the UR	Clarification provided that these costs can be included in the assessment in section 4.
27	**All island matters - SEMC** Concern that we are expecting SONI to act without regard for the SEMC and cites our strategic expectations. SONI infers that where the UR wishes to see a change in all island processes and decisions that are within the remit of the SEM Committee, SONI would expect the UR to progress these changes through the SEM Committee itself and in conjunction with the CRU. SONI cites a number of our strategic priorities that are SEM related, notes that we are determining SEMC matters, and asks that these are removed in line with good practice. **[SONI Response, p30, paras 130-131]**	We have not seen any evidence to suggest that our strategic priorities are inconsistent with any SEMC matters. Our guidance explicitly supports taking account of and being aware of SEMC policy making and does not seek to determine SEMC matters.	No change required.
28	**All island matters - system service/balancing costs** Fundamental issue with the draft guidance is the inclusion of the system service support and market operation (or balancing) external costs. **[SONI Response, p30, paras 132-133]**	The framework needs to include external costs relating to market operations and system services. These are a major part of SONI's TSO performance and so to not take account of them would strongly cut against consumers' interests. However, we have added further clarity on definition of how these costs should be defined.	Paragraph 2.35 has been updated to clarify the costs in question.

29	**All island matters - system service/balancing costs - P50 costs** P50 costs as means of measurement would add complexity and cost for little value. **[SONI Response, p32-34, Annex 1]**	While we are unsure that this would add more complexity and cost for little value, we have removed the requirement for P50 to avoid over prescription at this point in time. To clarify though, we expect SONI's cost estimate for these items are consistent with a central estimate and should be sufficiently robust.	Paragraph 5.14 updated to remove P50 cost estimates.
30	**Transitional year learnings** Guidance should be subject to update after transitional year given practical burdens. **[NIEN Response, p1]**	UR has designed the framework to be proportionate. But we are open to the principle of considering learnings based on the transitional year.	No change required.
31	**Metrics** Stakeholders made suggestions for a range of performance information to be included. **[NIEN Response, p2 and RNI Response, p2 to p7]**	We decided in FD that it is for SONI to engage with stakeholders in the first instance to bottom out what performance information is required. We understand that NIE Networks has issues with the System Minutes Lost (SMLs) and SONI should engage with it to understand whether it is appropriate for this to be included. We have updated guidance in Annex on performance information to reflect this specific point regarding SMLs. RNI suggested use of infrastructure delivery as a performance metric. As we set out in the DD we do think this would be useful as performance metric.	Update to metrics in Annex.

32	**EPF must incorporate more of a strategic approach** While we agree with ongoing assessment of SONI's work activities we believe the framework would benefit from taking a more strategic approach from the outset and allow SONI to adopt a 5-year plan that could be reviewed in terms of performance milestones on an annual basis and perhaps re-evaluated at specific points if necessary. **[RNI Response, p1]**	We have made decisions on the framework structure as part of the FD and so this is not the subject of this consultation. However, we feel it is worth responding to this directly. Two of the reasons we undertook the approach were to facilitate more adaptability (encouragement of new ideas over time rather than an approach which does not) and accountability (supporting SONI in adapting in a way which is consumer interests and has sufficient balances and checks to support performance) during a time of uncertain change. While it is not totally clear what the counter proposal is (or how it would be strategic) we do not think that adopting a 5-year plan that could be reviewed in terms of performance milestones on an annual basis and perhaps re-evaluated at specific points if necessary meets the above aims on adaptability or accountability during a time of significant change very well.	No change required.

3. Further Responses

3.1 As part of the September 2021 consultation on the draft licence modifications we recognised that in a limited number of circumstances stakeholders may need to further respond to the draft guidance that we had published and consulted on in December 2020. SONI responded to these updated versions on 22 October 2021. While its response was not in relation to draft licence modifications as requested we have in any case taken account of its points below.

3.2 This chapter details the SONI responses, UR thoughts and any subsequent decisions. Thoughts on all the three different guidance documents and the RAB model are captured in the table below.

Table 4: Guidance Views and UR Responses

	Consultation Response – UM Guidance	UR Views	Decision
1	SONI has reviewed the guidance and requests that paragraph 3.3 is updated to be consistent with the drafting in paragraph 3.10, otherwise SONI considers it may create some ambiguity. SONI would appreciate more robust timings being advised as part of the guidance and for the wording in these paragraphs to be updated. **[SONI Response, p4, paras 2.1 to 2.3]**	UR does not consider there to be an inconsistency here. Both paragraphs refer to the possibility of resubmission being required. Para 3.10 indicates that UR will notify SONI within one month should a full resubmission be required.	No change required.
2	SONI proposed in its response paper that the RIGs are used as the main reporting route for the Et and Vt items. However, para 2.2 step 7 remains unchanged with *"SONI detail the K-factor in the event of underspend (for Dt and Zt costs) or in the event of overspend or underspend (for Et and Vt costs)".* This wording does not appear to align with the treatment of Et and Vt or K factor terms in the draft licence modifications. **[SONI Response, p4, para 2.4]**	UR agrees that the RIGs should be used as the main reporting mechanism. However, as the Et/Vt spend will be subject to mechanistic sharing adjustments, the figures will be needed for K-factor calculations. It is therefore our view that these costs should be included in the 3-month statement and subject to relevant audit scrutiny.	No change required.

3	SONI has given further consideration around paragraph 3.12, *"Where appropriate, the UR and/or SONI will publicly consult on the application, though this is unlikely to be required in most circumstances".* Although this is an unlikely scenario, it raises concerns around the potential impact this may have on the four-month guideline for the approval process. SONI would welcome the opportunity to engage with the UR on this point to seek clarity around this activity being concluded within the four month timeline for the approval process. **[SONI Response, p4, para 2.5]**	The requirement to consult is highly unlikely. If it is essential, it will inevitably lead to a delay in the approval timeline. Such a scenario is outside the control of the UR.	No change required.
4	SONI has reviewed the guidance with regard to the types of uncertainty mechanism. Paragraph 3.19 advises there are two types of general uncertainty mechanism. However, paragraph 1.17 advises *"We refer to the Dt, Et, Vt, Zt uncertainty mechanisms as general uncertainty mechanisms".* SONI considers paragraph 3.19 should be updated to reflect *"four types of general uncertainty mechanism".* **[SONI Response, p5, para 2.6]**	This is a reference to: 1) Ex-ante allowances subject to cost sharing (whether opex or capex); and 2) Up-to-cap allowances where actuals below the cap are recovered (whether opex or capex). Whilst there are four licence terms, these are the two types of general uncertainty mechanism.	No change required.
5	SONI would appreciate confirmation from the UR whether Figure 1 is the applicable reference, rather than paragraph 1.5 which advises SONI will be advised of the mechanism in the decision. SONI would anticipate the non-applicable reference (either paragraph 1.5 or Figure 1) will require an amendment to reflect this prior to finalising the documentation. **[SONI Response, p5, paras 2.7 to 2.8]**	UR does not consider the drafting to be in contradiction. It will be for SONI to propose the uncertainty mechanism in the first instance. UR will engage with SONI if there is an issue with this proposal (as per Figure 1). UR will determine the appropriate mechanism for cost recovery in the approval decision.	No change required.
6	As the licence takes precedent, SONI considers that any references to the 'materiality threshold' or the 'de minimis value' should be removed from the guidance (and refer to the licence) to avoid any confusion or misinterpretation. **[SONI Response, p5, paras 2.9 to 2.10]**	As the guidance is consistent with the licence on this issue, UR sees no obvious reason why these references should be removed.	No change required.

7	SONI would appreciate further consideration and detail provided around the appeal process for any non-approvals. In practice, the UR has recently introduced a stage where it shares a provisional decision with SONI before making a final decision. This allows SONI to respond with any concerns. SONI welcomes this approach and considers that it should be incorporated into the guidance documentation. **[SONI Response, p5, paras 2.11 to 2.12]**	For purpose of clarity, UR can confirm that there is no appeal process for non-approvals outside of the existing mechanisms i.e. judicial review. UR however agrees that the provisional decision step should be incorporated into the guidance. This may not be necessary in all instances (i.e. where a full allowance is provided or where the UR does not support the request) but guidance provides the flexibility to include in the process.	Para 3.15 updated to make allowance for the provisional determination stage.
8	SONI considers that prior to triggering a pension deficit adjustment that the UR would engage in discussions and work collaboratively with SONI before imposing a reduction in the price control allowance. Paragraph 6.13 advises that PTRAt costs are *"only subject to determination after a triennial actuarial valuation, it is only subject to one possible variation request over the five year period".* SONI anticipates that the same approach should apply to paragraph 4.6 and that this would transpire following a triennial review if the findings where appropriate in this regard. **[SONI Response, p6, paras 2.13 to 2.16]**	These points are accepted. UR has added an additional paragraph to confirm engagement and the fact that such adjustment can only be done once in the price control period following receipt of the triennial actuarial valuation.	Additional paragraph 4.7 added.
	Consultation Response – CCS Guidance	**UR Views**	**Decision**
9	SONI understands that the UR may wish to review the way SONI has determined the costs, as specified in the guidance and Annex 1. SONI notes that there is an absence of estimated timings for these activities and it is unclear what impact this would have on the timescales for the overall process. **[SONI Response, p7, para 3.2]**	The estimated timings of this verification step are detailed in Figure 1. Further detail is not considered to be necessary.	No change required.
10	Figure 1 on page 10 gives details on the timescales involved, but SONI would consider that these should be detailed within the appropriate narrative in Section 3 in order to reduce any potential risk of ambiguity. **[SONI Response, p7, para 3.4]**	This request does not seem to be required given the timelines in Figure 1 which are clear. There does not appear to be much risk of ambiguity.	No change required.

11	Process indicates a minimum of 14 weeks from RIGS submission - Guidance suggests this should be 10 weeks. This would suggest UR would have made decision by Mid-April. **[SONI Response, p9, note 1]**	SONI is correct to identify this error. The figure should read, *"UR makes its decision within 12 weeks of RIGS submission and by the end of May at the latest."* The aim is to complete the process by the end of April, but a month's contingency is available if required.	Figure 1 timing updated.
12	SONI propose that the RAB spreadsheet starts earlier and is a shorter window. End of June does not allow time for SONI internal sign off of revenue. **[SONI Response, p9, note 2]**	The official timelines are difficult to shorten as the RAB model is dependent on CCS decisions. However, as there is no capex subject to CCS in the 2020-25 price control, it would be expected that this will be shared at an earlier date.	No change required.
13	SONI note that bullet point one is incomplete and requires references to be included to the Requirement and Guidance on the Evaluative Performance Framework. **[SONI Response, p11, para 3.8]**	Accepted, reference to EPF added.	Paragraph 4.10 updated.
14	SONI's response to the UR Consultation on Conditional Cost Sharing Guidance (on 15 February 2021) highlighted that SONI believed that *"the use of performance metrics would over complicate what should be mechanistic calculations and increase the resource requirements within the UR and SONI without providing benefit for the NI consumer, and as such SONI would maintain the position that performance metrics are not included in the Conditional Cost Sharing mechanism".* We note that the UR has not adjusted the guidance to reflect this concern. **[SONI Response, p11, para 3.9]**	It will be for SONI to justify its level of over/under spend. Performance metrics may form part of this justification. UR does not see good reason for their exclusion at this time.	No change required.
15	We strongly urge the UR to further consider the interaction and timing of the two sets of guidance as the current drafting raises doubt over the roles of the UR versus the independent panel. As previously highlighted, this could be alleviated by removing the service performance assessment from the conditional cost sharing guidance and thus ensures the integrity of the independent panel. **[SONI Response, p11, para 3.12]**	Justification of service performance comprises a major part of the CCS decision. Consequently, the performance assessment is a key element of the exercise which cannot be excluded. The EPF framework is a different process to the CCS analysis and as such, will not of necessity be unduly influenced by this process. UR does not consider this to be an issue.	No change required.

16	SONI notes an inconsistency in the drafting of paragraph 3.23. We consider this should reference the 'non buildings RAB' rather than the current reference to the 'buildings RAB'. **[SONI Response, p12, para 3.13]**	Agreed. Drafting updated accordingly.	Paragraph 3.23 updated.
17	SONI notes the term 'RAB Policy' is included in this paper, but it is unclear what this term means. SONI suggests that a definition of this term should be included to avoid ambiguity or misinterpretation. **[SONI Response, p12, para 3.14]**	This is simply a reference to the 75% sharing mechanism. No further detail is required beyond this.	No change required.
	Consultation Response – EPF Guidance	**UR Views**	**Decision**
18	Paragraph's 3.17 and 3.18 relate to *"Step 5: Determination of the forward plan incentive amount"* and Paragraphs 3.33, 3.34 and 3.35 relate to *"Step 10: Determination of the performance incentive amount".* Both these paragraphs provide clarity around the decision on the forward plan incentive amount and performance amount, and around the SONI/UR engagement prior to publication of the decision. However, it does not detail the timings of when SONI can expect to recover the relevant financial incentive (positive or negative). **[SONI Response, p13, para 4.3]**	The guidance does not need to cover this. As SONI understands, it will be able to recover incentives according to the relevant tariff year as set out in the licence.	No change required
19	A minor note in the draft Requirements and Guidance on Evaluative Performance Framework document is that the updates to section 4. The Evaluation of the Forward Plan need amendments to the numbering, as following sections 4.1 through 4.7 in the draft document, instead of moving to 4.8 it reverts back to 4.1. **[SONI Response, p13, para 4.5]**	We have made this change	Numbering
20	SONI would appreciate if the same guidance can be implemented for the performance review, and a tabular format provided in the guidance for the panels reference when assessing SONI's performance. **[SONI Response, p13, para 4.7]**	We do not consider this to be necessary	No change required.

	Consultation Response – RAB Model	UR Views	Decision
21	The spreadsheet doesn't currently reference or note the increase in materiality threshold to £500,000. This should be added to the Guidance tab or reference the figure in the licence. **[SONI Response, p15, para 5.2, part 1]**	As the threshold is documented in the licence and CCS guidance, it does not seem required under the RAB model.	No change required.
22	The Guidance tab should reflect the procedural steps if the materiality threshold is not met. Should this occur it would be worth considering a second alternative timeline to expediate the now simplified annual process and issue the final model earlier (final model currently issued mid-June – Step 9). **[SONI Response, p15, para 5.2, part 2]**	This additional guidance does not seem necessary. However, given the scenario where the CCS threshold is not met or no decision is required, it can reasonably be assumed that the timelines can be brought forward.	No change required.
23	Inflation tab - RPI for 2020 onwards should be removed as it is not required. **[SONI Response, p15, para 5.2, part 4]**	Agreed, index removed.	RPI index removed.
24	RAB Inputs tab - There should be a statement in the Licence and the Guidance Tab to state that the numbers (up to the year 2019/20) in this tab are historical, are hardcoded and cannot be changed. **[SONI Response, p15, para 5.2, part 5]**	UR disagrees with this point. If there is mistakes in the hard-coded figures, UR considers it appropriate to correct for these.	No change required.