



Ray O'Connor (partner, Birmingham), John Danahy (partner, London) and Rob Broom (associate, London) have advised the Association of Decentralised Energy (ADE)¹ on the establishment of a demand side response (DSR) Code of Conduct (Code) ahead of the launch of a voluntary Code Compliance Scheme (Scheme) for DSR aggregators early next year. Called "Flex Assure", the Code sets common standards for those who coordinate or "aggregate" demand response from individual consumers and will initially apply to commercial, industrial and public sector energy users. The team also advised on the establishment of a governance structure to administer the compliance scheme for the Code, as well as advising on the Scheme's contractual framework with DSR providers (being members of the Scheme).

What Is DSR and Why Is It So Important?

DSR is about intelligent energy use, through which customers are incentivised financially to turn up, turn down or shift their demand in real time. In doing so, DSR is an important tool to help manage load and voltage profiles on the UK electricity network (e.g. softening peaks in demand and filling troughs, especially during times where power is more abundant and affordable and clean). For businesses and consumers, DSR is a smart way to save on total energy costs (for example, bills can be lower due to a reduction in demand at peak time where the wholesale price of electricity is the highest) and reduce carbon footprint. The ADE calculates that 16% of the UK's peak electricity requirement – or 9.8GW, could be provided by businesses being flexible in their energy demand, which could save UK energy consumers £600 million by 2020 and £2.3 billion by 2035².

As electricity is not the customer's primary business, commercial and industrial sites that want to take advantage of these savings can choose to rely on DSR "aggregators", who specialise in coordinating or aggregating demand response from individual consumers to better deliver power system services. In essence, DSR aggregators either ramp up on-site generation or reduce or shut down energy demand at a site. By doing so, they create value by reducing consumption, avoiding peak charges, or providing balancing services. The DSR aggregator typically takes a cut of this value and gives the rest to the site owner.

What Is the Aim of the Voluntary Code Compliance Scheme?

The aim of the compliance scheme, amongst other things, is to have a common set of standards, as set out in the Code, which will enable customers to compare aggregators and their claims. Customers of DSR aggregators (who are also members of the Scheme) will attain a higher level of trust and confidence in the services provided by "Scheme Compliant" DSR aggregators. The release of the Code follows concerns raised by Ofgem back in 2016 that the DSR industry has thus far been allowed to develop without regulation. DSR aggregators will be expected to sign up (by way of membership agreement) to the voluntary Code, and any determined infringements of the Code's rules will be broadcast under a 'name and shame' approach. In addition, the Scheme's compliance panel has the power to impose sanctions including written warnings as well as suspension/expulsion from the Scheme.

The ADE, 18 aggregators and eight stakeholders from across industry, including Ofgem, National Grid and Government, have participated in the development of the Flex Assure Code. The Code is being released ahead of the Code Compliance Scheme to enable feedback and expressions of interest from wider industry³.

John Bryant, Head of Business Development at the ADE commented,

"We are delighted that Squire Patton Boggs was able to assist us on this landmark initiative that will help ensure DSR participants have confidence in the service they will receive. Our prospective aggregator members are looking forward to being part of the Scheme and showcasing their ongoing compliance to the Code as part of their commitment to delivering high customer service standards."

For queries relating to DSR and how we may support you in this area, please contact one of the team.

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¹ The ADE was founded in 1967 as the District Heating Association, becoming the Combined Heat and Power Association in 1983, and was then renamed to the Association for Decentralised Energy on the 12 January 2015.

² ADE website Announcement "[Voluntary DSR Code of Conduct will provide customer confidence and support market growth](#)" accessed 28 November 2018.

³ *ibid* 2.