

Health & Safety Executive Policy Re-Opener

September 2024

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SGN

Your gas. Our network.

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Given the sensitive nature of information discussed in this document, its direct implications for pay, conditions, and salary information, the technical appendix and large parts of this reopener submission must be redacted so as to not prejudice current and future negotiations.

1 Executive Summary

This document constitutes SGN's application in relation to the HSE Policy Re-opener, in accordance with Special Condition 3.17 of our Gas Transporter Licence. The claim relates to our Southern and Scotland networks, covering actual and forecast costs incurred in the GD2 period. The total claim value of £49.86m, in 18/19 prices, is set out below in Table 1.

Table 1: Total HSE Policy Re-Opener Claim Value

£m (18/19)	21/22	22/23	23/24	24/25	25/26	Total
Southern	0	0.102	9.613	9.730	10.799	30.244
Scotland	0	0.091	6.015	6.316	7.193	19.616
SGN total	0	0.193	15.629	16.046	17.992	49.860

¹ Materiality thresholds as defined in Special Condition 1.1 Part A, Southern Gas Networks: £6.11m, Scotland Gas Networks: £2.99m

2 Purpose and scope of this document

In accordance with the SGN Scotland and SGN Southern Licence condition Special Condition 3.17, SGN are applying to the authority for an adjustment in relation to Emergency and Repair costs directly arising from statutory requirements relating to the managing fatigue for shift works as enforced by the HSE (SSC 3.17.4 (f)) in relation to our Emergency and Repair workloads for both Distribution and Transmission activities.

As part of the Final GD2 determination, licence condition 3.17 was set in relation to HSE Policy with the objective of calculating the REPt (HSE policy Re-opener term) which contributes to the Totex Allowance calculation. This condition establishes a Re-opener triggered by either the licensee or the Authority in the event that there have been specified changes to Emergency and Repair Costs directly associated with statutory requirements relating to managing fatigue for shift workers as enforced by the HSE.

As set out in the special conditions, the licensee can seek a direction from the Authority for adjusting the value of the REPt term within the Price Control Period, specifically in relation to:

- (f) Emergency And Repair Costs directly arising from statutory requirements relating to managing fatigue for shift workers enforced by the HSE²

The application must³:

- (a) relate to changes to a Repex Related HSE Policy Area that came into effect between 1 April 2020 and 31 March 2026;
- (b) take account of any allowed expenditure, which can be avoided as a result of the changes;
- (c) be confined to costs incurred or expected to be incurred that exceed the Materiality Threshold; and,
- (d) relate to costs incurred or expected to be incurred on or after 1 April 2021.

We can confirm that the costs which will be incurred in RIIO-GD2 from the 1st of April 2020 to the 31st of March 2026 will exceed the materiality threshold of £6.11m for Southern Gas Networks and £2.99m (18/19 values) for Scotland Gas Networks. This document is a single submission which covers both networks. Individual networks are separated, and all values are given in 18/19 £m for costs that have been and will be incurred during GD2. This document details our proposed re-opener claim value in addition to a detailed demonstration of the methodology and inputs used to calculate and validate our claim has been provided in a supporting appendix.

This submission has been prepared in line with the Re-opener Guidance and Applications Requirement Guidance document and has been through appropriate internal assurance to ensure accuracy, completeness, conciseness, and clarity. This submission has been reviewed and approved by the SGN Executive Team and the SGN Chief Operations Office. This document sets out the re-opener submission using the following structure:

Table 3: Structure of Re-opener Submission

Section	Header	Synopsis
3	Context	Sets out the basis of the changes made by HSE since the 1 st of April 2020. We also set out the context within a broad policy of fatigue management and the approach taken by the HSE.
4	Delivering Fatigue management	Sets out the work that has been undertaken to date and that we are continuing to undertake to deliver to the fatigue management expectations of the HSE during the GD2 period, and the work to be continued during GD3.
5	Options available	Sets out the options for consideration in relation to approaching the implementation of 12-hour working requirements, discussing factors and risks in delivery.
6	Assessing the Costs	Sets out the inputs and methodology used in the model to derive headcount amendments, with additional costs associated with wider delivery, plus supporting evidence.

² Special Condition 3.17.4

³ Special Condition 3.17.7

3 Context

In the section below we set out the context of the re-opener as it applies within existing legislation and the SGN-specific context in terms of action taken by the HSE regarding SGN working time practices. We then set out the agreed principles which were reached through the joint working group on fatigue management and how these are being implemented within SGN.

3.1 Legislative Context

Scientific evidence in relation to fatigue⁴ and its potential consequences has been evolving in recent years. Specifically, the importance of adequate sleep, in addition to an understanding of the circadian rhythms, has led to a greater awareness of the associated risks, particularly in relation to industries with 24/7 operations.

Therefore, the approach to the effective management of fatigue has also been evolving over time as the HSE and companies operating safety-critical roles build knowledge and experience, sharing learnings from events which have not had the intended outcome. The basic principles of health and safety legislation are set out in Sections 2(1) and 3(1) of the *Health and Safety at Work etc Act 1974* (HSWA). This places general duties on employers to reduce risks so far as is reasonably practicable, including risks arising from staff fatigue. Section 7 of the HSWA requires employees to co-operate with their employer by, for instance, ensuring they are adequately rested to do their work safely, and by reporting any concerns.

In addition, the *Management of Health and Safety at Work Regulations 1999* Section 5 requires that “(i) every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures”⁵.

Whilst these are not new legislative requirements, they provide the contextual basis under which fatigue management should be considered, and this contextual basis is informed in part by lessons from other industries. These include;

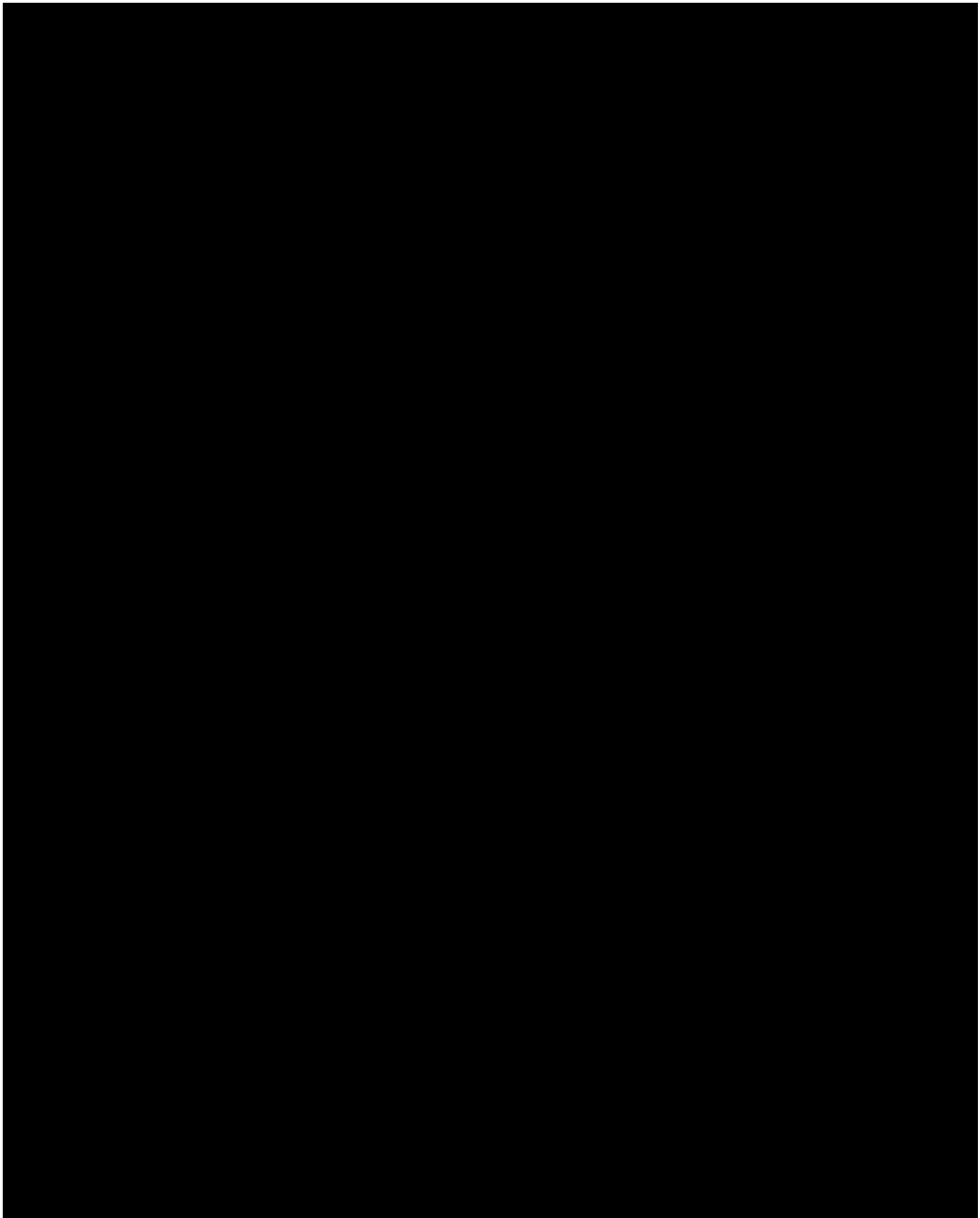
- Rail – The Railways and Other Guided Transport Systems (Safety) Regulations 2006
- HGV driving hours
- West Midlands Fire Service
- Office for Nuclear Regulation
- Police
- Airline Pilots

At the time of the GD2 business plan submission, there was a clear expectation from the HSE that it was difficult to establish how the duties set out under the HSWA and the Management of Health and Safety at Work regulations could be satisfied if safety critical staff in front line roles were working shifts of greater than 16-hours. In addition, there was an expectation that gas networks would be expected to come into line within the other industries over time, although the precise change required was not fully defined at the time of the GD2 business plan submission. It was on this basis that we submitted a request for this uncertainty to be managed through a re-opener during GD2, to enable the recovery of efficiently incurred costs necessary to adhere to the HSE expectations subsequent to the GD2 Business Plan final determination.

3.2 Specific SGN Fatigue Management Context

⁴ Fatigue is defined as “... a decline in mental and/or physical performance that results from prolonged exertion, sleep loss and/or disruption of a person's 'internal clock' Health and Safety Executive, Human Factors: Fatigue. Human factors/ergonomics - Fatigue (hse.gov.uk)

⁵ [The Management of Health and Safety at Work Regulations 1999 \(legislation.gov.uk\)](http://legislation.gov.uk)



⁶ [The right to rest - Rest and breaks at work - Acas](#)

3.3 Fatigue Risk Management System

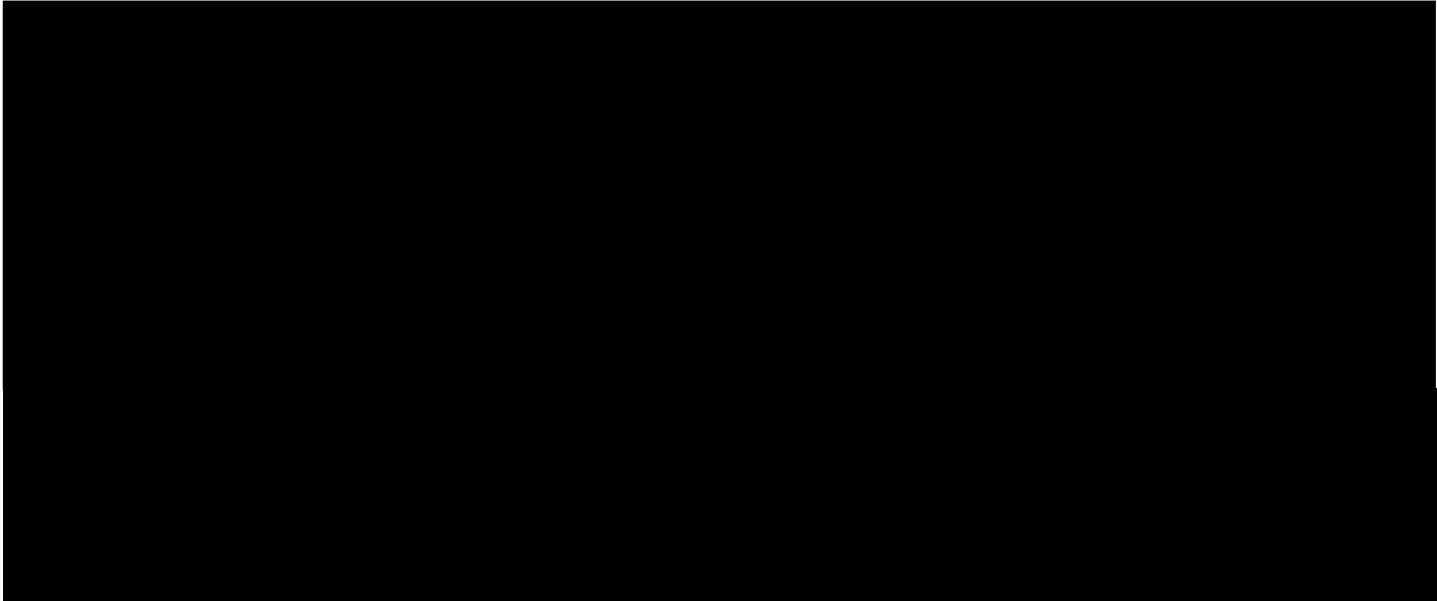
In addition to the above actions taken in response to, and beyond, the Action Legals, the SGN Executive Committee have approved an investment proposal in relation to a Fatigue Risk Management System (FRMS).

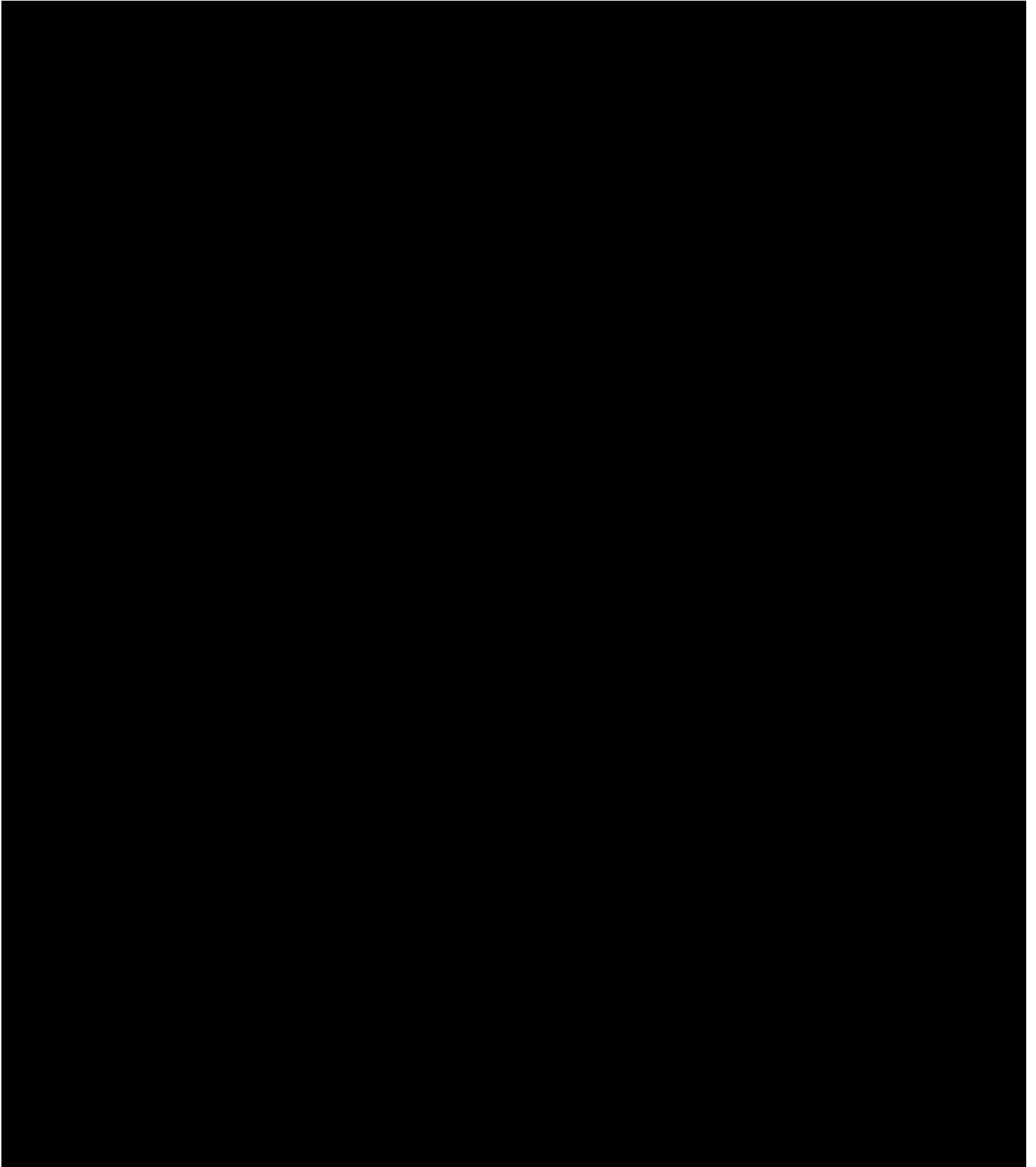
The FRMS proposal draws together preventative and protective control measures, based on a performance-based approach whereby the requirement for employees to manage fatigue risk is defined. This builds upon the Working Time Regulations⁷ which do not consider the specific context afforded by the SGN operating environment. As such, the FRMS forms an overarching system which supports fatigue management in the different operation types of SGN, enabling the development of tailored fatigue management arrangements relevant to the risks identified in individual work activities. The FRMS aligns itself with best practice.

3.4 Joint GDN Application of Fatigue Management Requirements

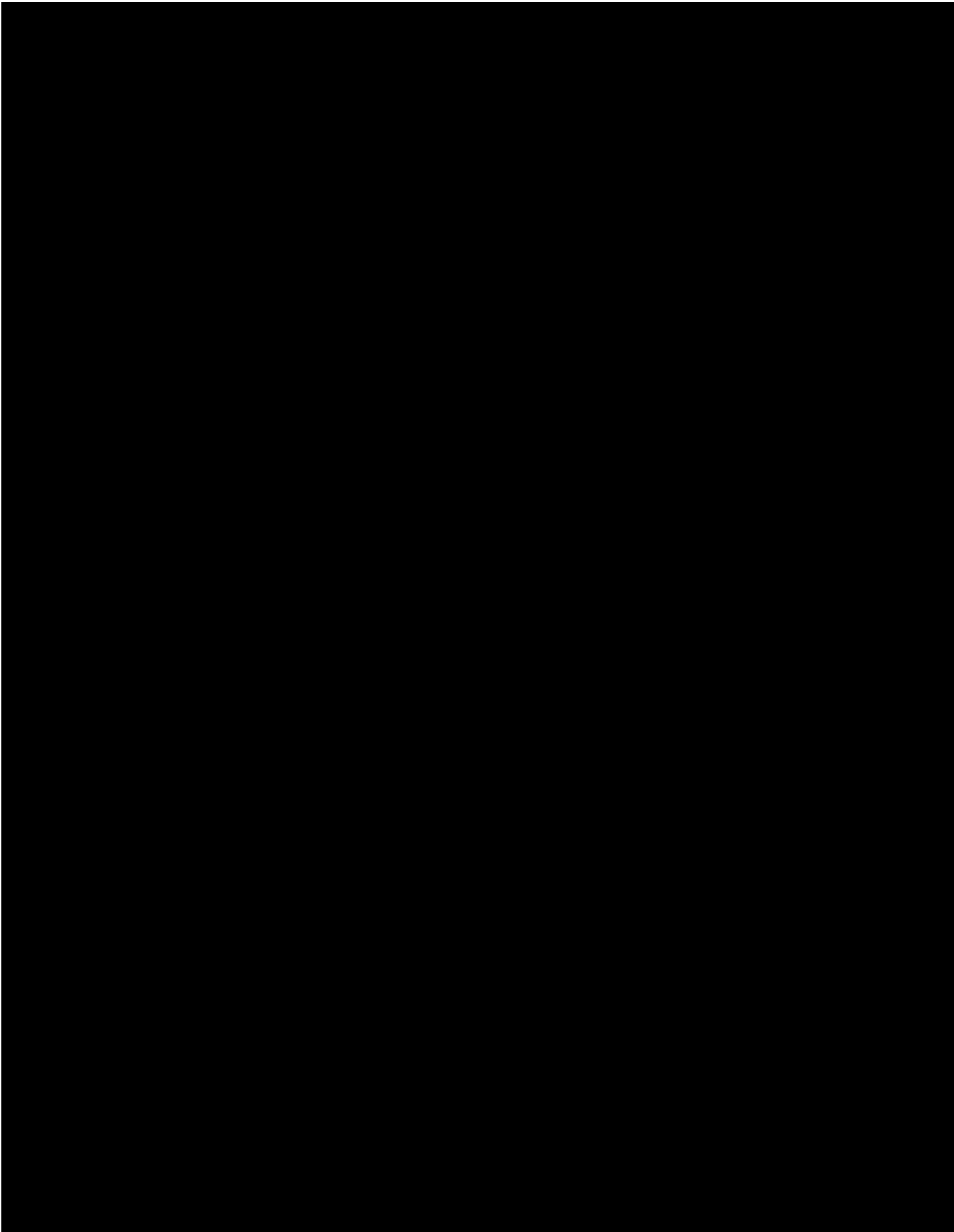
In January 2024, it was agreed with Ofgem that it would be advantageous for the re-opener window to be postponed until September 2024 to enable Gas Distribution Networks (GDNs) to work collectively to establish a consistent approach to the implementation of fatigue management requirements. Collaborative discussions have taken place between the GDNs to ensure a consistent interpretation of the HSE guidance. This approach has enabled us to align our implementation strategies and ensure consistent working practices, to assist Ofgem in their network performance comparisons and, also, to ensure a standardised approach across the industry workforce. A cross-GDN working group was established to agree on common principles considered to meet the HSE fatigue requirements and agree on a common approach to the coverage of costs within the re-opener as set out under the licence.

⁷ [The Working Time Regulations 1998 \(legislation.gov.uk\)](https://www.legislation.gov.uk)





⁸ [Standard Special Conditions - PART D Consolidated - 01 09 2021 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/standard-special-conditions-part-d-consolidated-01-09-2021)





5 Fatigue Management Delivery Options Assessment

