



Making a positive difference  
for energy consumers

To: The Company Secretary, Gas  
or Electricity Supply Licence  
Holders

Direct Dial: 020 7901 1883

Email: [SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk)

Date: 18 October 2019

Dear Sir or Madam,

**Supplier Guaranteed Standards of Performance for Switching - Request for Information pursuant to Standard Licence Condition 5 of the Gas and Electricity supply licences**

On behalf of the Gas and Electricity Markets Authority, Ofgem is requesting information in connection with monitoring suppliers' compliance with the regulations as set out in the Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019 (the 'Regulations').<sup>1</sup> The specific information we are requesting from you is set in the accompanying reporting template, which has been sent via email (and is displayed in Annex 3 below for display purposes).

The production of information is being compelled pursuant to Standard Licence Condition 5 of the gas and electricity supply licences (SLC 5). Relevant extracts from SLC 5 are set out in Annex 1 below.

In accordance with SLC 5, Ofgem considers that it reasonably requires the information requested in the accompanying reporting template and that this information is necessary for the performance of the following statutory functions:

- monitoring the activities of suppliers pursuant to section 34 of the Gas Act 1986 and section 47 of the Electricity Act 1989 in order to promote the interests of consumers.
- to inform the contents of information which is to be published pursuant to section 35 of the Gas Act 1986 and section 48 of the Electricity Act 1989 in order to promote the interests of consumers.

Ofgem may also use the information for any other purposes connected with our statutory functions, including (but not limited to) considering licensees' compliance with licence conditions and facilitating policy development in relation to domestic and non-domestic customers, possibly with a view to making proposals to modify the Guaranteed Standards in the future.

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<sup>1</sup> See "The Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019", at <http://www.legislation.gov.uk/uksi/2019/218/contents/made>.

We draw to your attention to the statutory provisions which create an offence of providing false information and would highlight that a failure to provide the requested information may constitute a licence breach. The relevant statutory provisions are set out in Annex 1.

### Background to this request

From 1<sup>st</sup> May 2019 all suppliers with domestic gas or electricity customers have been required to meet new Guaranteed Standards for Switching, and to compensate consumers where these Guaranteed Standards are not met.<sup>2</sup> It is our expectation that suppliers will approach the payment of Guaranteed Standards in good faith, suppliers are required to proactively identify where standards are breached and make payments to eligible consumers using an appropriate payment mechanism.

In our policy decision, published in November 2018,<sup>3</sup> we noted that suppliers should keep accurate records which enable them to identify all cases relating to breaches of any new Guaranteed Standards. Accurate record keeping by suppliers will allow Ofgem to assess how the Guaranteed Standards are being applied, and will also allow suppliers themselves to track their own performance.

In our policy consultation, published in June 2018, we noted that “we intend to make periodic requests on behalf of the Gas and Electricity Market Authority (GEMA) using our statutory and regulatory powers. The purpose of this will be to enable monitoring of how suppliers are applying the Regulations.”

This Request for Information is the second of these requests. It follows an earlier Request for Information which covered the months of May and June 2019. It remains our expectation that these Requests for Information will continue on a quarterly basis. Whilst the information that we are collecting in this RfI is the same as in the previous quarter, we are currently consulting on a Statutory Instrument which will introduce further Guaranteed Standards.

### This Request for Information

The purpose of this Request for Information (RFI) is to gather records of the number of payments made by suppliers in accordance with Regulations 6A, 6B, 6C and 6D in the third quarter of 2019.<sup>4</sup>

**Response to this RfI is mandatory for all suppliers who hold a gas or electricity supplier licence and who hold or seek to obtain domestic gas or electricity customers.** We have contacted all holders of the relevant licence as part of this RfI. Following the last RfI, some suppliers contacted us to inform us that they do not serve domestic customers. **If this is the case for your organisation, please contact us at [SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk) stating that you do not serve domestic customers for gas or electricity and we will record a nil return.**

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<sup>2</sup> The Final Decision and Statutory Instrument was published on our website on 13<sup>th</sup> February 2019. See “Supplier Guaranteed Standards of Performance for Switching - Final Decision and Statutory Instrument” at <https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-standards-performance-switching-final-decision-and-statutory-instrument>. The Statutory Instrument was made as The Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019 and is published at <http://www.legislation.gov.uk/uksi/2019/218/contents/made>.

<sup>3</sup> Suppliers should note that since the implementation date of the Statutory Instrument was 1st May 2019, this quarter’s (Q2 2019) report should will record data for May and June 2019 only. Future requests for reporting will cover three months (each quarter of the calendar year).

<sup>4</sup> See “The Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019” at <http://www.legislation.gov.uk/uksi/2019/218/contents/made>.

The template for data collection is the same as used for the previous quarter's RfI, with minor formatting changes.<sup>5</sup> We have included this template in Annex 3 of this letter.

As indicated in our consultation and elsewhere, our ultimate intention is to publish this data. We consider that the publication of data on supplier performance is likely to be a useful tool for consumers in exercising choice over suppliers based on quality of service, and will act as a further incentive for suppliers to take steps to improve performance.

### Confidentiality, disclosure and publication

Any information provided to Ofgem which relates to the affairs of an individual or a particular business will be subject to statutory restrictions on disclosure under section 105 of the Utilities Act 2000. However, you should note that there are exceptions to the statutory restrictions, including where the disclosure is necessary to facilitate the statutory functions of Ofgem (e.g. publishing information to promote the interests of consumers) or other public bodies.

You should note that Ofgem cannot provide any assurances in relation to the treatment of information which may be the subject of a request made under the Freedom of Information Act 2000 ("FOIA"). However, we can confirm that Ofgem will always consider whether the statutory restrictions on disclosure apply to the requested information and therefore whether one or more of the FOIA exemptions apply.

Ofgem intends to publish responses to this request. Before deciding whether to publish any information relating to the affairs of a particular licence holder or business, Ofgem is required to consider whether it is appropriate to redact any information on the basis that the information would or might, in our opinion, seriously and prejudicially harm the interests of that person ("confidential information"). ***In order to enable Ofgem to conduct this assessment, we would ask that you indicate in your response whether you consider any information to be confidential information and provide brief reasoning in support of your views.*** Where appropriate, we may seek further representations from licence holders at a later stage in respect of any specific information Ofgem is proposing to publish for any other purposes.

### Your response

Return of the data set out in the accompanying spreadsheet template is mandatory for all suppliers who hold a gas or electricity supplier licence and hold or seek to obtain domestic customers.<sup>6</sup>

We expect that all suppliers should either:

- complete the information contained within the template and return it to Ofgem in electronic format and using the spreadsheet template, to [SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk) by **5pm on Friday 29 November 2019**; or
- reply to [SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk) by **5pm on Friday 29 November 2019** indicating that you have not served any domestic gas or electricity customers in the third quarter of 2019.

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<sup>5</sup> Guidance of policy intent and reporting requirements was published on 10 April 2019. See "Supplier Guaranteed Standards of Performance for Switching: Record keeping requirements and clarification of Ofgem's policy intent relation to implementation" at <https://www.ofgem.gov.uk/publications-and-updates/guaranteed-standards-switching-policy-intent-and-record-keeping-requirements>

<sup>6</sup> The required data is also set out for reference in Annex 2 of this letter, and the content of the template is reproduced in Annex 3.

Any additional contextual comments provided should be in an appropriate electronic format, such as Microsoft Word or Excel. If you choose to encrypt this information, please ensure that we are provided with appropriate information to allow us to access it.

This spreadsheet has been sent to suppliers by email, using the most recent email contact that Ofgem holds for each supplier. If you are reading this as part of an email attachment, the spreadsheet template will form a further attachment to that email. We have included a hard copy in the letter sent to suppliers for convenience. The spreadsheet template can also be downloaded from Ofgem's website or by contacting [SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk).

Whilst Ofgem has issued separate information requests to each relevant company which holds a gas or electricity supply licence, we request that suppliers provide one consolidated reply on behalf of all the relevant licence holders which received the information request. Furthermore, where a licence holder is part of a corporate group with multiple licence holders, we are happy to receive a single reply on behalf of all the applicable licence holders. If you choose to do this, please indicate the basis upon which you are replying in your response.

If you have any questions concerning this Request for Information, or require a copy of the electronic form, then please contact the Switching Compensation team at the email address above. If there is anything in the RfI that you find unclear, or would like further information on, then please do not hesitate to contact us.

Yours faithfully,



**Rachel Clark**  
**Programme Director, Switching Programme**

## **ANNEX 1: Relevant extracts from supply licences and statute**

### **Text of SLC 5 of the gas and electricity supply licence**

#### Condition 5. Provision of Information to Authority and data retention

5.1 After receiving a request from the Authority for Information that it may reasonably require or that it considers may be necessary to enable it to perform any functions given or transferred to it by or under any legislation, including any functions conferred on the Authority by or under the Regulation, the licensee must give that Information to the Authority when and in the form requested.

5.2 The licensee is not required to comply with paragraph 5.1 if the licensee could not be compelled to produce or give the Information in evidence in civil proceedings before a court.

5.3 After receiving a request from the Authority for reasoned comments on the accuracy and text of any Information relating to the licensee's activities under or pursuant to this licence which the Authority proposes to publish under section 48 of the Electricity Act 1989 / section 35 of the Gas Act 1986, the licensee must give such comments to the Authority when and in the form requested.

5.4 The Authority's power to request Information under this condition is additional to its power to call for information under or pursuant to any other condition of this licence.

[paragraphs 5.5 to 5.9 omitted]

### **Text extracts from Gas and Electricity Acts in relation to making false statements**

#### Section 43 Gas Act 1986

(1) If any person, in giving any information or making any application for the purposes of any provision of this Part, or of any regulation made under any provision of this Part, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

#### Section 59 Electricity Act 1989

(1) If any person, in giving any information or making any application for the purposes of any provision of this Part, or of any regulations made under this Part, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

## ANNEX 2 – Request for Information

The purpose of this Request for Information is to provide evidence to ensure that suppliers are applying the Regulations as set out in The Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019 correctly.<sup>7</sup>

Ofgem intends to make periodic requests, on a quarterly basis, to enable monitoring of how suppliers are applying the regulations.

Further information on the Guaranteed Standards and how they should be applied can be obtained from the dedicated Switching Compensation microsite on Ofgem's website.<sup>8</sup> In particular, suppliers may refer to our Open Letter on [Guaranteed Standards for Switching: Policy Intent and Record Keeping Requirements](#), published in April 2019.<sup>9</sup>

For the purposes of this iteration of reporting, we require suppliers to provide data on the Regulations made in February 2019 and which came into force on 1<sup>st</sup> May 2019. We will expect affected suppliers to provide regular quarterly reports, and that that further Regulations will be added to future requests as appropriate. For the purposes of this report, the Regulations are:

- **Regulation 6A:** To agree whether a switch is valid or erroneous within 20 working days of identification of the possible erroneous switch.
- **Regulation 6B:** To send the Erroneous Transfer Customer Charter "20 working day letter" to an erroneously transferred customer.
- **Regulation 6C:** To return an erroneously switched customer within 21 working days of agreement of an erroneous switch between suppliers.
- **Regulation 6D:** To refund credit balances within 10 working days of sending the final bill.

For each regulation, we require suppliers to provide the following information (in the case of Regulation 6A, we require a separate entry for the instances where the supplier is the 'new' or the 'old' supplier:

- Number of Guaranteed Standards payments made;
- Number of Guaranteed Standard Payments made within required timeframe;
- Number of additional payments made;
- Total cash value of payments made under this standard; and
- Number of declined payments for exempted events.

In addition, we require suppliers to provide the number of customers who have exercised their 14-day right to cancel (or have been returned under the same process on an ex gratia basis outside the 14 day statutory window. Please provide:

- The number of customers who have exercised their 14-day right to cancel where the responding supplier is the new supplier (i.e. the customers who have switched to the responding supplier, and then returned to another supplier within 14 days); and

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<sup>7</sup> See "The Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019" at <http://www.legislation.gov.uk/uksi/2019/218/contents/made>

<sup>8</sup> <https://www.ofgem.gov.uk/publications-and-updates/switching-compensation-guaranteed-standards-performance>, accessed July 2019.

<sup>9</sup> Guidance of policy intent and reporting requirements was published on 10 April 2019. See "Supplier Guaranteed Standards of Performance for Switching: Record keeping requirements and clarification of Ofgem's policy intent relation to implementation" at <https://www.ofgem.gov.uk/publications-and-updates/guaranteed-standards-switching-policy-intent-and-record-keeping-requirements>

- The number of customers who have exercised their 14-day right to cancel where the responding supplier is the old supplier (i.e. the customers who have switched to another supplier, and then returned to the responding supplier within 14 days).

In the accompanying spreadsheet we have included further instructions for how suppliers should provide the information requested.

**Respondents should provide data for compensation payments made in Q3 (July to September) 2019 only.** Suppliers should record those payments which were actually made in the relevant months.

A copy of the template for reporting is provided in Annex 3 and a hard copy is provided with this letter. This information must be returned to Ofgem electronically using the spreadsheet template that we have emailed separately to the most relevant email contact that we hold for your company.

If you have not received this template by email, or require another copy, please contact our designated Switching Compensation mailbox ([SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk)). Please also use this mailbox if you have any questions regarding the completion of this template.



## ANNEX 3 – Guaranteed Standards Response Template for Data Returns and Explanatory Notes (to be completed in electronic format emailed separately to your company’s relevant contact)

If you have not received this template by email please contact James Crump using our designated Switching Compensation mailbox ([SwitchingCompensation@ofgem.gov.uk](mailto:SwitchingCompensation@ofgem.gov.uk)).

### Response template

TEMPLATE FOR DATA RETURNS									
reporting period	supplier name	regulation_id	supplier_relationship	customer_returners	number_of_guaranteed_standard_payments_made	number_of_guaranteed_standard_payments_made_within_required_timeframe	number_of_additional_payments_made	total_cash_value_of_payments_made_under_this_standard	number_of_declined_payments_or_exempted_events
		non_reg	As New Supplier						
		non_reg	As Old Supplier						
		6A	As New Supplier						
		6A	As Old Supplier						
		6B	As Contacted Supplier						
		6C	As 'Old' Supplier						
		6D	As Old Supplier						

### Supporting information

SUPPORTING INFORMATION FOR DATA ENTRY SHEET			
	Column Name	Purpose	Explanatory Note
This section explains the context for the submission you are making, please take note of the meanings of the column names and examples.	reporting_period	To identify the reporting period for the answers given	Reporting periods should relate to quarters of the calendar year, e.g. January to March 2019 would be Q1 2019. Reporting will start in Q2 2019. Please note that Q2 2019 will record two months' worth of data rather than three as the implementation date of the Statutory Instrument is 1st May 2019.
	supplier_name	To identify the supplier the return has come from	This should be the name used by the supplier on its supply licence. If a supplier holds more than one licence, please compile a report for each instance.
	regulation_id	To identify the regulation the query	
	supplier_relationship	To identify which perspective	
	customer_returners	To identify how many customers return to original supplier from the reporting supplier, after exercising 14 day right to cancel within a period	The number of customer service returners processed by the supplier as a gaining supplier (where the customer has returned to their original supplier from the reporting supplier, after exercising the right to cancel within a 14 day period) and as a losing supplier (where the customer has returned to the reporting supplier by exercising the right to cancel within a 14 day period, after switching away to another supplier). Where suppliers return customers using this process on an ex gratia basis but outside the 14-day period, please include these customers in these calculations. Where a customer is returned to their original supplier in a different quarter to that in which the initial switch request was made, please record customer returners in the quarter in which the customer completes the return to the original supplier.
	number_of_guaranteed_standard_payments_made	To identify the total number of payments made	In this space suppliers should record the number of Guaranteed Standard payments made by the supplier, for each of the Regulations, specifying where these payments are made as the 'old' or 'new' supplier under Regulation 6A, or the supplier with whom initial contact is made in the case of a Guaranteed Standard relating to erroneous transfers under Regulation 6B, or the 'old' (losing) supplier in the case of Regulation 6C and 6D. Suppliers should not differentiate between payments made for single- or dual-fuel switches. Where a payment is made in a different quarter to the switch event, final bill or credit refund, please record the payment in the quarter in which the compensation payment is made.
	number_of_guaranteed_standard_payments_made_within_required_timeframe	To identify the number of payments made within timeframe allowed by the Guaranteed Standard	In this space suppliers should record the number of Guaranteed Standard payments made within the timeframe as required by the Regulation. Where a payment is made in a different quarter to the switch event, final bill or credit refund, please record the payment in the quarter in which the compensation payment is made.
	number_of_additional_payments_made	To identify the number of additional payments made	In this space suppliers should record the number of additional Guaranteed Standard payments made as required under Regulation 8 of the Guaranteed Standards, where the supplier has failed to make a payment within the timeframe as required by Regulations 6A to 6D. Where an additional payment is made in a different quarter to the switch event, final bill or credit refund is due, or to payment of the initial standard payment, please record the payment in the quarter in which the additional payment is made.
	total_cash_value_of_payments_made_under_this_standard	To identify the value of payments made	In this space suppliers should record the total value (in pounds sterling) of payments made under a particular standard in a quarter.
	number_of_declined_payments_for_exempted_events	To identify the number of instances where a payment has not been made due to one of the reasons for exemptions given	In this space the supplier should record the number of rejected claims, where a Guaranteed Standard which would otherwise have been paid but where no payment has been made due to one of the exemption reasons as set out in the Regulations. Where an decision to decline a payment is made in a different quarter to the switch event, final bill or credit refund is due, please record the decision in the quarter in which the decision to decline payment is made.