

## Licence fee cost recovery principles

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We have reviewed the responses and considered stakeholder views on minor amendments to the licence fee cost recovery principles to align them to updated licence conditions. We will adopt the proposed changes to the principles and RIGs, with some small amendments, which were raised by consultation responses.

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## 1. Introduction

### Context and related publications

1.1. The licence fee Cost Recovery Principles (the “principles”) set out how the amounts payable to Ofgem under the gas and electricity transmission and distribution licences are calculated and billed. The principles were last updated in June 2021<sup>1</sup> after a consultation, dated 8 March 2021 (the “spring consultation”) <sup>2</sup>. On 14 December 2021, we published a further consultation (the “current consultation”)<sup>3</sup> setting out suggested amendments as detailed below.

1.2. Responses to the spring consultation identified that some licence conditions should be updated for consistency. We therefore proposed some minor amendments to the relevant licence conditions and a separate consultation, dated 15 December 2021, was carried out in relation to these (the “winter consultation”) <sup>4</sup>. As a result, there need to be some additional minor changes to the principles document so that the references to the relevant licence conditions continue to be consistent with the updated licences.

1.3. The way advocacy and advice services for consumers are being delivered in Scotland has changed. As a result, some services previously provided by Consumer Advice Scotland will now be provided by Consumer Scotland. The principles need to be amended to reflect this.

1.4. The current consultation also considered minor changes to the Regulatory Instructions and Guidance (RIGs) to ensure consistency between the principles, licence conditions and RIGs.

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<sup>1</sup> [Licence fee cost recovery principles 2021 | Ofgem](#)

<sup>2</sup> [Consultation on Licence fee cost recovery principles \(ofgem.gov.uk\)](#)

<sup>3</sup> [Licence fee cost recovery principles - proposed minor amendments December 2021 | Ofgem](#)

<sup>4</sup> [Statutory consultation on modifications to the RII0-2 Transmission, Gas Distribution and Electricity System Operator licence conditions | Ofgem](#)

## **Our decision making process**

1.5. We consulted from 14 December 2021 to 22 January 2022 and received two responses. The winter consultation on the licence conditions was run in parallel, and responses to that consultation have been considered alongside responses to this current consultation so that the licence drafting and the principles decisions are aligned.

## **Your feedback**

1.6. We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this decision. Please send any general feedback comments to [financialaccounts@ofgem.gov.uk](mailto:financialaccounts@ofgem.gov.uk)

## 2. Updates to the principles

**Question 1: Do you have any comments on the wording of our proposed updated principles?**

2.1. Responses covered the following areas:

- Timing of the current consultation on the principles and querying alignment to the timing of consultations relating to the price control to regulate the electricity distribution networks from 2023 (RIIO-ED2) (which will happen later in 2022)
- Some historical incorrect cross-referencing
- Clarifying the language used to refer to credit notes proposed in the winter consultation on licence conditions

### **Timing of the current consultation and interaction with RIIO-ED2**

2.2. One response suggested that:

- the changes to the Electricity Distribution regime will not be made for c.10 months;
- the changes to the principles cross reference the Electricity Distribution Licence therefore introducing the potential to mislead the reader in the interim; and
- inclusion presupposes that the changes to the Electricity Distribution Licence that actually get made reflect the paragraph numbers in the principles document.

2.3. The reference to the “winter consultation” was not, in fact, to any RIIO-ED2 consultation (which will happen late in 2022). Instead, it was a reference to our concurrent winter consultation, published on 15 December 2021, which can be accessed through the following link: [Statutory consultation on modifications to the RIIO-2 Transmission, Gas Distribution and Electricity System Operator licence conditions | Ofgem.](#)

This document sets out (amongst other things) proposed modifications to the licence conditions that:

- update references to Citizens Advice Scotland to reflect the transfer of functions to Consumer Scotland; and
- reflect changes made last year to the principles.

2.4. As both the winter consultation and the current consultation, are relevant to the principles, responses to each of them have been considered together to ensure that the licence conditions and principles align.

## **Cross referencing to be amended**

2.5. One response noted references in the principles document, which contained incorrect cross references:

- *"Paragraph 2.4 of the Licence Fee Cost Recovery Principles document as published in June 2021 includes the following: "All Ofgem's own costs less Ofgem's exceptional costs (see paragraph 2.6.)". We think this should reference paragraph 2.5 rather than 2.6.*
- *Similarly, paragraph 2.7 of the principles document includes the following: "The costs that will be recovered by Ofgem as defined in paragraph 2.4 will be recovered from the gas licence holders holding the type of licence identified in paragraph 2.2 based on the following proportion". We think the reference to paragraph 2.2 should read paragraph 2.3.*
- *The boxes at paragraphs 2.8 and 2.13 of the principles document incorrectly duplicate the box included in 2.7 and 2.11 respectively and needs to be corrected for application to electricity distribution licensees. We suggest that the drafting in the November 2016 version of the principles may still be appropriate."*

2.6. We agreed that these points should all be amended as suggested.

2.7. The same respondent also noted that Standard Licence Condition 3(2) makes no reference to any costs of the Scottish government, whilst the principles do reference costs of the Scottish Government. The respondent also notes that they have also made this observation in their response to the winter consultation. We will amend 2.4 of the principles to remove the words “and Scottish Government” as follows: “the appropriate proportion of the costs of Citizens Advice, Citizens Advice Scotland, **and** Consumer Scotland ~~and Scottish Government~~ which form part of the advocacy work plan related to the energy sector;”

## **Language about credit notes in the licence conditions**

2.8. One respondent suggested that the proposed drafting<sup>5</sup> that is intended to reflect the updated approach of returning surpluses to licensees through credit notes could be clearer.

2.9. The respondent also noted that they had made the same comment in relation to similar wording that has been consulted on in relation to the relevant licence terms in the winter consultation.

2.10. As noted in the [decision in relation to the winter consultation](#), we believe that “net” is a well understood term and practicalities about the approach to credit notes will be set out more fully in the RIGs.

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<sup>5</sup> The proposed wording is to state that the payments by Licensees to the Authority will be “net of any credit notes”.

## 3. Updates to the RIGS

**Question 2: Do you have any comments on the wording of our proposed updated RIGs?**

3.1. One respondent raised the following points:

- “Regarding the proposed drafting of Appendix 1 (Definitions), as we have noted in relation to proposed changes to Special Condition 6.1.3 in our response to the statutory licence consultation published on 15 December 2021, we believe it is unclear to simply add “net” to the drafting to encapsulate Ofgem’s proposed use of credit notes to reduce licence fee payments. We therefore propose the following change:

“Payments made by the licensee determined in accordance with Standard Condition 3, taking into account any deductions made for credit notes issued by the Authority in respect of such payments”.

- We note that the above change also corrects the condition reference, which is incorrect in the consultation document.”

3.2. In our Direction<sup>6</sup>, published on 1 March 2022, we updated the definition of “Transmission Licence Fee” in the RIIO-GT2 Gas Transmission Price Control - Regulatory Instructions and as follows:

- Net payments by the licensee to the Authority determined in accordance with the standard license conditions. Payments made to the Authority in respect of the

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<sup>6</sup> [Direction to make modifications to the Regulatory Instructions and Guidance for RIIO-GT2 \(version 1.13\) | Ofgem](#)

licence fee should be included net of any credit notes relating to that regulatory year<sup>1</sup>

- <sup>1</sup> Further detail on the licence fee cost recovery principles can be found in the following document available from Ofgem website:  
<https://www.ofgem.gov.uk/publications/licence-fee-cost-recovery-principles-2021>

3.3. In our Direction<sup>7</sup>, dated 11 March, we updated the definition of “Transmission Licence Fee” in the RIIO-T2 Electricity Transmission Price Control – Regulatory Instructions and Guidance as follows:

- Payments made by the licensee determined in accordance with Standard Condition A4, taking into account any credit notes issued by the Authority in respect of such payments<sup>1</sup>
- <sup>1</sup> Further detail on the licence fee cost recovery principles can be found in the following document available from Ofgem website:  
<https://www.ofgem.gov.uk/publications/licence-fee-cost-recovery-principles-2021>

3.4. Both of the hyperlinks will be replaced with the updated principles document (to reflect changes noted in section 2 of this decision) once published.

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<sup>7</sup> [Decision on Regulatory Instructions and Guidance \(RIGs\), Transmission Glossary and Regulatory Reporting Pack \(RRP\) to apply during RIIO-ET2 | Ofgem](#)

## 4. Conclusion and next steps

4.1. The updated principles document will be published in April 2022.