

Decision on the statutory consultation on proposals to modify electricity supply licence condition 47

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| Contact | Rachel Clark, Deputy Director Retail |
| Team: | Settlement Reform |
| Telephone | 020 7901 7371 |
| Email: | halfhourlysettlement@ofgem.gov.uk |

This document sets out our decision to implement modifications to Standard Licence Condition (**SLC**) 47: “Smart Metering – Matters Relating to Obtaining and Using Consumption Data” of the Standard Conditions of Electricity Supply Licence.

These modifications are required in order to introduce the necessary data access requirements for the functioning of the new market-wide half-hourly settlement (**MHHS**) arrangements. MHHS is a vital enabler of flexibility. It builds on changes already made requiring half-hourly settlement (**HHS**) for medium to large non-domestic consumers, and elective HHS for domestic and smaller non-domestic consumers. MHHS will send accurate signals to suppliers about the cost of serving their customers throughout each day. This will place incentives on suppliers to offer new tariffs and products that encourage more flexible use of energy and help consumers to lower their bills, for example time of use (**ToU**) tariffs, automation, vehicle to grid solutions and battery storage. Making best use of existing infrastructure should reduce the need for future generation and network investment. This will help decarbonise the sector cost-effectively, which will benefit all consumers and wider society.

This decision letter is in response to our statutory consultation of 6 May 2022, conducted in accordance with the Electricity Act 1989, concerning our proposals to modify the Standard

Conditions of the Electricity Supply Licence.¹ This document outlines our reasoning for our decisions, including details of feedback received in response to the statutory consultation and how this feedback has been taken into account in reaching a decision to implement these modifications to the licence conditions.

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¹ [Statutory consultation - Proposal to modify condition 47: "Smart Metering – Matters Relating to Obtaining and Using Consumption Data" \(SLC 47\) of the Electricity Supply Standard Licence Conditions | Ofgem](#)

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Executive summary

MHHS will send accurate signals to suppliers about the cost of supplying their customers throughout each day. We have estimated that the net benefit of MHHS to energy consumers will be between £1.6bn and £4.5bn by 2045. However, to deliver these substantial consumer and environmental outcomes, suppliers need to be able to access customers' smart meter data for settlement, forecasting and business readiness² purposes.

Ofgem is, therefore, modifying SLC 47 of the electricity supply licence to introduce a new framework for sharing customers' consumption data under MHHS. The data sharing framework will distinguish between 'old system' and 'new system' customers.

Old system customers are those who had their smart or advanced meters installed before the new MHHS data sharing framework comes into force and have not decided to change supplier or contract since then. New system customers will be those who have their smart or advanced meters installed or decided to change supplier or contract (excluding deemed contracts) after the new MHHS data sharing framework comes into force.

Under the new framework, the default position will be that old system domestic customers continue to provide daily data but can opt in to provide half-hourly (**HH**) data. Old system microbusiness customers will continue by default to share HH data. Both domestic and microbusiness customers will be able to opt out to monthly data sharing. In short, therefore, customers that are already on smart meters before the data handling framework changes will retain their existing rights until they switch contract or supplier. Under the new framework, new system domestic and microbusiness consumers will, by default, provide HH consumption data. Domestic consumers may opt out to daily data processing.

Underpinning all our work on the access to data framework has been a desire to maintain a fair and proportionate balance between the rights of individual consumers to control over their personal data, with the need to ensure we have granular data available to the settlement system to maximise the benefits of MHHS and of smart meters more widely. We think our policy decisions and associated legal drafting appropriately strike that balance. It is our decision that these licence modifications should now be made and shall take effect 56 days from the date of publication of this decision.

² Business readiness is defined as "undertaking preparations for the purposes of implementing and delivering [MHHS], including (a) improving forecasting techniques or processes; and (b) the development of new electricity supply products and services aimed at broad market segments."

1. Introduction

1.1. This licence modification forms part of the MHHS programme, which will reform the electricity settlement process.

1.2. We published our decision to proceed with MHHS in April 2021.³ Alongside that decision letter we also published our MHHS Full Business Case (**FBC**)⁴ and MHHS Final Impact Assessment (**IA**).⁵

1.3. We had previously published our policy decisions on the access to data arrangements for MHHS in June 2019, and provided some further clarifications in an open letter in April 2020.^{6, 7} We set out our final access to data policy decisions in our decision letter that accompanied the FBC in April 2021.⁸

1.4. The statutory consultation published in May 2022,⁹ which this decision is in response to, sought to transpose those policy decisions into the Electricity Supply Licence text.

What did we consult on?

1.5. Our statutory consultation proposed to modify SLC 47 of the Electricity Supply Licence.¹⁰ The Authority proposed this set of modifications to ensure the licence text reflects the policy decisions already made around access to data for MHHS.

Context and related publications

1.6. This decision is part of Ofgem’s MHHS programme, details of which can be found on our website.¹¹

³ See [MHHS Decision Document](#), April 2021

⁴ See [Full Business Case](#), April 2021.

⁵ See the [Final Impact Assessment](#), April 2021

⁶ See [Decision on access to half-hourly electricity data for settlement purposes](#), June 2019.

⁷ See [Open letter – clarification on issues around access to data for settlement purposes](#), April 2020.

⁸ See [MHHS Decision Document](#), April 2021

⁹ [Statutory consultation - Proposal to modify condition 47: “Smart Metering – Matters Relating to Obtaining and Using Consumption Data” \(SLC 47\) of the Electricity Supply Standard Licence Conditions | Ofgem](#)

¹⁰ [Statutory consultation - Proposal to modify condition 47: “Smart Metering – Matters Relating to Obtaining and Using Consumption Data” \(SLC 47\) of the Electricity Supply Standard Licence Conditions | Ofgem](#)

¹¹ [Electricity settlement reform | Ofgem](#)

1.7. In June 2022 the Government published their response to a consultation on “Maximising non-domestic smart meter consumer benefits: consultation on improving the data offer and enabling innovation”, which included amendments to SLC 47.17 – “Exception to prohibition on obtaining consumption data” relating to micro business premises”.¹²

1.8. We have considered the potential interactions between the Government’s decision with our own decision, and are confident there are no compatibility issues.

Our decision-making process

1.9. We received eleven responses to this statutory consultation. We have carefully considered all responses before making our decision on these licence changes. The non-confidential responses have been published on our website alongside this decision.

Your feedback

General feedback

1.10. We believe consultation is at the heart of good policy development. We are keen to receive your comments about this report. We’d also like to get your answers to these questions:

1. Do you have any comments about the overall quality of this document?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Are its conclusions balanced?
5. Did it make reasoned recommendations?
6. Any further comments?

Please send any general feedback comments to halfhourlysettlement@ofgem.gov.uk

¹² [Maximising Non-Domestic Smart Meter Consumer Benefits \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

2. Stakeholder feedback and Ofgem decisions

Section summary

This section summarises the stakeholder feedback we received in response to the consultation, and sets out our decisions in response to those points.

Consultation question:

Do you agree that the proposed changes are best calculated to deliver the intent of the data access policy decisions taken by Ofgem as part of its Electricity Settlement Reform SCR, enabling effective implementation of MHHS?

Summary of Responses

- 2.1. Ofgem received eleven representations to the consultation, one of which was marked confidential.
- 2.2. The majority of respondents were supportive of the proposed modifications. Of these supportive responses, some sought greater clarity about specific elements of the proposed legal text and planned implementation process.
- 2.3. A small number of responses disagreed with certain elements of our proposals. We have addressed these views within this decision below.

Stakeholder feedback on statutory consultation

Anonymisation and aggregation of data

- 2.4. In our consultation we proposed that, alongside the legal requirement to process data for settlement, licensees may also use the data for forecasting and business readiness purposes. As part of our definition of forecasting, licensees are required to ensure that all personal data is anonymised and aggregated as early in the relevant process as is reasonably practicable.

2.5. One respondent sought more detail on what level of anonymisation and aggregation of data would be necessary, as well as clarity on what would be regarded as “as early as reasonably practicable”. That respondent also referenced research undertaken by the University College of London in 2015 which concluded that a minimum of 9 households would need to be combined / aggregated together to ensure anonymity.

Ofgem response

2.6. We note there are several varying scenarios by which data could suitably be anonymised and aggregated at different times / stages of the process. As a result we consider that the definition should not seek to be prescriptive, as it would not be suitable to define a constrained point by which data must be anonymised / aggregated. Licensees should consider their existing obligations under the UK General Data Protection Regulation (**GDPR**) and ensure they process all personal data accordingly.

Approach to regulation

2.7. One respondent queried how Ofgem intend to regulate the aspect of the data sharing framework relating to anonymisation and aggregation of data. They noted that energy suppliers are currently subject to audits of their data processing practices as a DCC user, and it would therefore appear reasonable to introduce some form of evaluation of performance against their anonymisation and aggregation obligations under the Meter Data Retrieval (**MDR**) user role.

Ofgem response

2.8. We are mindful that data controllers and processors have a number of obligations under GDPR when processing personal data. Licensees will therefore need to be able to comply with these requirements, where relevant.

2.9. We note that the data in question will not actually be collected under the new data sharing framework for some time. In the meantime therefore, Ofgem will consider what, if any, audit-style processes would be appropriate to evaluate licensee compliance with the licence conditions. To be clear, any audits would be constrained to ensuring compliance with the licence conditions, and would not extend to compliance with GDPR as Ofgem are not the data protection regulator.

Policy decisions already made

2.10. One respondent noted that the use of an 'opt-out' regime would introduce the risk that too many consumers would choose not to share their HH consumption data, and as a result reduce the overall benefits of MHHS. Another respondent detailed their concerns that suppliers would be required to obtain only monthly consumption data from opted-out old system microbusiness customers as opposed to daily, again reducing settlement accuracy.

2.11. Another respondent argued that we should move to a regime by which we collect HH consumption data from all consumers by default and adjust to a solely 'New System Customer' approach, in order to better facilitate MHHS and deliver the benefits. Other responses argued that having two consent regimes to administer for different sets of consumers (ie old system customers and new system customers) could become confusing for consumers, and difficult to administer for suppliers which could impose additional costs that would be ultimately passed on to consumers.

2.12. Another response however suggested that microbusiness consumers might be less likely to take up smart meters if they do not have the ability to opt-out of sharing their HH consumption data, as per the framework set out for new system microbusiness customers.

Ofgem response

2.13. Through our work in designing the MHHS data sharing framework, we have sought to strike a balance between protecting consumer's rights to control over their personal data with a desire to maximise the benefits of MHHS for all consumers. We consider the data sharing framework as designed achieves that.

2.14. Whilst we note the points made, we do not believe we have received sufficient evidence to justify revisiting our policy decisions, all of which were made following consultation. For detail about the reasoning for our decisions on the access to data policy framework, please refer to our 2019 decision on data access, our open letter published in April 2020 and our decision letter that accompanied the FBC in April 2021.^{13 14 15}

¹³ See [Decision on access to half-hourly electricity data for settlement purposes](#), June 2019.

¹⁴ See [Open letter – clarification on issues around access to data for settlement purposes](#), April 2020.

¹⁵ See [MHHS Decision Document](#), April 2021.

2.15. As noted in the open letter, we will be reviewing the evidence following the implementation of MHHS to understand if the data sharing framework continues to be appropriate to enable the system-wide benefits to be realised. If not, we will consult on amending the rules as appropriate. We expect the review to take place once we have had sufficient time to gather evidence of how the new system is operating in practice.

Current Transformer meters

2.16. One respondent said that customers with Current Transformer (**CT**) meters should not be able to opt-out, on the basis that these are customers with very high consumption whose HH data would be particularly valuable to settlement.

Ofgem response

2.17. As part of industry preparing to deal with more complex meter arrangements such as CT meters, industry parties raised the P432 code modification proposal under the Balancing and Settlement Code (**BSC**) in order to help resolve any issues that may arise. If these meters are migrated before the overall MHHS transition period, suppliers will need to ensure they are able to process data for settlement from these customers.

2.18. Whilst noting the point made, we retain the approach to the data sharing framework that distinguishes domestic and microbusiness consumers regardless of meter type. This is integral to our approach to designing a framework that seeks to strike the balance between the rights of individual consumers to have control over their personal data with ensuring that we have granular data available to the settlement system to maximise the benefits of the reforms.

Deemed contracts

2.19. One respondent raised a point about the intended treatment of customers on deemed contracts. Whilst acknowledging that a simple rollover onto a default tariff such as a standard variable tariff (**SVT**) at the end of a fixed-term contract should not be considered a change of contract event, the respondent suggested that a change of tenancy at an address should be considered differently. This was on the basis that once the supplier identifies the identity of the new tenant, that tenant will then technically enter into a new contract which by definition would result in them becoming a new system customer.

Ofgem response

2.20. The definition of 'New System Customer' is predicated on a consumer making an active choice, such as agreeing to a smart meter installation or entering a new contract. We think it is important to retain this level of choice, therefore consumers on deemed contracts who have not yet made an active decision based on the new data sharing options will remain old system customers. Once they make an active choice to enter into a new contract, they will become a new system customer. Deemed contracts are therefore excluded from the definition for what constitutes as a new system customer.

Unmetered Supplies

2.21. One respondent took the view that customers with Unmetered Supplies (**UMS**) should not be able to opt out because of the lack of personal usage data derived from these supplies, and that this should be made explicit within the amended licence conditions.

Ofgem response

2.22. We note that UMS data is derived / predicted data rather than actual recorded consumption data. As such, by definition there is no personal data associated with UMS, resulting in there being nothing for a consumer to opt-out from. We do not therefore recognise the need set out any special provisions in the licence for UMS.

Meters out of communication

2.23. Some of the responses raised concerns that, while collecting data, it is possible that the most granular data may not always be available for various reasons, such as if the meter is experiencing technical issues.

Ofgem response

2.24. We recognise the views presented regarding the challenges faced in combating technical issues in order to obtain data from remote access meters. We expect suppliers to, as per their obligations under the BSC, take all reasonable steps to obtain data from a meter at the granularity that they have a legal basis to process.

2.25. We also set out in our FBC that the Target Operating Model (**TOM**) for MHHS can accommodate meters without working communications systems through estimation and

load shaping processes.¹⁶ Smart and advanced meters for which communication cannot be established will therefore be treated like traditional meters. Clearly if a meter is out of communication, data cannot be extracted, and the meter will have to be profiled instead. We expect licensees to make reasonable endeavours to collect the most granular data possible until such time as the communication is resolved.

Collecting HH data

2.26. Two responses suggested that licensees should be required to collect daily reads as well as HH where the appropriate consent for HH data processing is obtained, the aim of which being to have daily data available for settlement if the HH data was to fail validation. The point was made that this would negate the need to unnecessarily use estimated data for settlement, which would reduce the accuracy of the settlement process and impact the realisation of the benefits of MHHS.

2.27. From a legal perspective, one of the responses noted that, in their view, licensees should be able to obtain data at any granularity for settlement purposes as long as it was coarser than the granularity for which they had a legal basis to process anyway.

2.28. One of the respondents also extended this principle to export data, suggesting that it would be appropriate to require licensees to also process daily and monthly export data from the meter alongside the HH data, again in order to improve the accuracy of the settlement process.

Ofgem response

2.29. We note the points made and can see benefits to the approach of collecting “back up data” to assist with settlement accuracy. However we expect licensees to satisfy themselves as to the resolution(s) of data they have a legal basis to process, and to ensure they process data for settlement in line with their code and licence requirements. If the licensee has a legal basis to process HH data for settlement for instance, they would need to satisfy themselves that they also have a legal basis to process data for these purposes at any granularity coarser than HH.

¹⁶ See [Full Business Case](#), April 2021.

Export data

2.30. Our proposed changes to the licence include the introduction of a legal obligation on licensees to process HH export data from export meters registered for settlement from their domestic and microbusiness customers. No distinction has been made between old system customers and new system customers in relation to export data as there is not currently a data sharing framework for export data that existing customers will have signed up to when accepting a smart meter, as there is with consumption data.

2.31. One respondent sought clarity on the intent of Part C in our licence text relating to export data (conditions 47.41 to 47.43) as they considered it that, as drafted, the provisions set out in Part C applied to all customers at designated premises, some of whom may not be microbusiness customers as per the policy intent.

Ofgem response

2.32. The legal text articulates which parts of the text apply to each type of consumer, whether domestic or microbusiness. SLC 47.3 as proposed in the consultation sets out that Part C of the licence, ie SLC 47.41 to 47.43 relating to export meters, "*applies only in respect of each Domestic Premises or Designated Premises from which electricity is exported; and in respect of which the quantity of electricity exported is measured by an Export Meter registered for the purposes of Settlement.*"

2.33. After considering the representation, we agree that the drafting does not appropriately reflect the policy intent that the provisions relating to export data should be applicable to only domestic and microbusiness customers, as the condition as drafted would also include non-microbusiness customers at designated premises. We have therefore made the following change to SLC 47.3, consistent with the language used in SLC 47.2 to describe microbusiness customers (new text in yellow highlight):

*47.3 Part C of this condition applies only in respect of each Domestic Premises or **micro business premises** ~~Designated Premises~~.*

2.34. We are now satisfied that this achieves the policy intent.

Import / Export MPAN registration

2.35. Another respondent raised a concern that there was a risk of export suppliers being non-compliant due to the requirement to settle an export meter half-hourly from the point

at which the import equivalent supplier has migrated the meter to HH via MHHS. The recommended solution was to instead define the data sharing framework at MPAN level rather than meter level, as this would allow separate consideration of import and export MPANs on a single meter.

Ofgem response

2.36. Whilst noting the point made, we are satisfied that the existing legal text does achieve our policy intent. However, we appreciate the need to offer clarity on the text.

2.37. The proposed text sets out that the licensee “*must obtain Electricity Export Data relating to half hourly periods for Settlement Purposes*” from “*Domestic Premises or Designated Premises from which electricity is exported; and in respect of which the quantity of electricity exported is measured by an Export Meter registered for the purposes of Settlement.*”

2.38. This processing is therefore only required from the point at which the export MPAN is registered for settlement. Even if the import MPAN is registered for MHHS ahead of the export MPAN on the same meter, the requirement to process the export data from the meter would only commence once the export MPAN was registered for settlement.

Seven day notice period / Consent

2.39. Within our consultation we proposed the inclusion of condition 47.16 which sets out that, if the requirements of 47.17 and 47.18 were met, the licensee must obtain electricity consumption data relating to HH periods for settlement. This is under the condition that the domestic customer has not objected to the licensee obtaining their HH consumption data within seven days of receiving the notice, as set out in condition 47.14.

2.40. One response referenced a situation whereby a consumer has explicitly given consent for the licensee to obtain their HH consumption data (ie that they do not wish to opt-out), but the licensee may understand from the existing licence text that they are required to wait seven days before lawfully processing this data.

Ofgem response

2.41. This specification in our proposed legal text is intended to ensure that these consumers, who are subject to an opt-out framework, are appropriately notified of their ability to opt-out to a coarser granularity before their data at finer granularity is processed.

We recognise the potential ambiguity that would be caused by the licensee receiving explicit consent from the consumer to process the data at finer granularity ahead of the expiry of the seven-day period specified in the legal text.

2.42. Our intention is that where a consumer has confirmed they do not wish to opt-out ahead of the expiry of the seven-day period, the licensee is able to process that consumer's data from that point.

2.43. We have now sought to make this clear in the legal text within 47.17(b) as follows. This change is set out in the table in Appendix 2.

The requirements of this paragraph are that:

(a) the Domestic Customer is a New System Customer; and

(b) the Domestic Customer has either

(i) given their explicit consent to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes; or

(ii) after at least seven days have elapsed from the date on which the Notice was given to them, not objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes (subject to paragraph 47.26(a)).

2.44. As we intend this arrangement to apply to all customers on an opt-out framework, we have also amended SLC 47.35(a) which refers to old system microbusiness customers in the same manner. Again, this change is set out in Appendix 2.

Microbusiness Customers with unconfigurable meters

2.45. One respondent raised a point around the apparent incompatibility between conditions 47.35 and 47.38. The respondent noted that condition 47.35 requires licensees to erase / not pass on to a third party any HH data they receive from an opted out old system microbusiness customer where they are unable to reconfigure the meter from providing HH data to only sending monthly readings, however condition 47.38 then requires the licensee to process that same HH data for settlement purposes. The response noted that the two conditions appear to be in conflict and called for clarity.

Ofgem response

2.46. Upon review, we agree that the conditions are incompatible with one another.

2.47. Our policy intent here is that the licensee must process that HH data for settlement in line with condition 47.38, and is permitted to use it for forecasting / business readiness as provided for by condition 47.39. This is on the basis that the meter is unconfigurable and is sending HH data to the licensee out with their control, so the licensee cannot give effect to the customer's opt-out and instead process monthly data from the meter.

2.48. If under these circumstances we instead required the licensee to enter a monthly reading into settlement, they would be required to manipulate the HH readings to obtain that monthly reading, as they are unable to reconfigure the meter to monthly readings. We think that undermines the principle of the data sharing framework being predicated on privacy rights as the HH data will still be visible to the supplier in these circumstances, so think it is reasonable that they instead process the HH data for settlement.

2.49. In order to provide for this, we agree that condition 47.35 needs amending. We are therefore removing the requirement on licensees to erase / not pass on to a third party the HH data in these circumstances, and are replacing it with a condition requiring licensees to take all reasonable steps to reconfigure the meter to only send monthly readings, consistent with the consumer's choice. Once the meter is reconfigured to provide monthly readings, the requirement on the licensee is then to process monthly data for this customer for settlement in line with condition 47.37(b).

2.50. There are two further consequential changes that need to be made elsewhere in the licence as a result of this change being made:

1) We need to remove the obligation on the licensee to process monthly data from opted out micro business customers in these circumstances. We have therefore amended condition 47.37(b) to set out that the requirement to process HH data for settlement for these customers takes precedence.

2) We want to retain the requirement set out in condition 47.31A(b)(ii) for the licensee to erase / not pass on to a third party HH data collected from opted out microbusiness customers, but making clear that the requirement to process this HH data for settlement, if required, is a separate requirement that takes precedence. We have therefore amended 47.31A(b)(ii) to that effect. The effect here is that, if the licensee is not required to process HH data for settlement for these customers, the obligation to erase / not pass on the HH data to a third party takes effect.

2.51. The amended text associated with these changes is set out in the table in Appendix 2.

Timing and Consumer Messaging

2.52. Within our consultation we set out that *“after the point at which the new condition enters into force, customers having smart meters fitted or switching supplier / changing contract must be informed how their data will be processed once MHHS goes live. We expect suppliers to decide when to collect data sharing choices for these purposes from their customers, at a time that takes into consideration their obligations relating to MHHS Implementation and the requirements relating to processing of personal data under the UK GDPR.”*

2.53. One respondent sought clarity on what information licensees will be required to provide to their customers once the new framework enters into force in the licence.

2.54. Another respondent referred to paragraph 3.1 of the consultation document where we set out that the *“date on which the new data sharing framework enters into force is defined in the licence as the New Framework Commencement Date (NFCDD)”*. The respondent noted that no such definition was included in the licence text as consulted on, and therefore questioned what this meant in terms of when provision of information to consumers about the MHHS data sharing framework must commence.

2.55. One response questioned the inclusion of the term *“MHHS Data Access Framework Commencement Date (MDACD)”* in SLC 47.4(c), which describes the point in time from which licensees are able to begin processing data as part of the MHHS data sharing framework. The respondent noted that this definition is then not used elsewhere in the legal text, and therefore does not serve a purpose and may be confusing for licensees.

2.56. Some responses expressed their desire for clear consumer messaging with regards settlement and data sharing. One respondent made reference to Ofgem noting in the past that they could play a role in acting as a central body in terms of coordinating customer communications around MHHS.

2.57. Some responses also raised concerns surrounding the timing of this licence modification. One response referred to a previous statement made by Ofgem that there would be a short period of time between the licence changes coming into effect and the point in time when the new framework would commence. It was noted that, assuming these changes are entered into the licence in autumn 2022, there is minimal time for licensees to prepare customer communications.

2.58. Another respondent expressed their concerns surrounding the implementation of these changes with regards other critical changes and communication pieces within the industry, such as the Price cap and Warm Home Discount. The response noted that it may be preferable to wait a period of time before engaging consumers on MHHS and the data sharing framework.

2.59. Finally, one respondent expressed concern around how the introduction of the new framework and the need to process data from the point at which a meter is migrated into MHHS interacts with the switching programme and with suppliers' own individual approaches to programme delivery / migration. They noted that it is unclear how any potential discrepancies between these new licence conditions and the requirements of the programme design will be managed.

Ofgem response

2.60. We have carefully considered the responses received, and do recognise the need to provide more clarity on the timing of the implementation of the new framework in the licence and the requirements on licensees at different stages in the process.

New Framework Commencement Date (NFCD)

2.61. Firstly, we note that we had previously set out detail in our open letter of 2019 around the timings of when the new framework would commence.¹⁷ In that letter we noted that we were keen to expedite the new framework in as timely a manner as possible, to maximise the number of consumers sharing their data for MHHS. We also noted that the licence amendment would set out a date of what we referred to at the time as the "Data Access Framework Transition Date", which is the point in time from which the new framework is in force, meaning licensees must notify their customers accepting their smart meters or changing contracts after that point as to how their data would be processed in future under MHHS. This is the same event that we then referred to in our consultation document as the "New Framework Commencement Date" (**NFCD**).

2.62. We have decided not to define a point in time for this event, and are instead setting out that these requirements on licensees will commence from the point in time that the amended conditions enter into force in the licence. As these modifications will come into

¹⁷ See [Open letter – clarification on issues around access to data for settlement purposes](#), April 2020.

effect after the 56 day statutory standstill period therefore, this date will be 3 November 2022. Given this, we do not see a need to define the NFCD, and a date for it, in the licence.

2.63. The reasoning behind our previous thinking to set a later date for the NFCD in the licence than the point at which the conditions enter into force was to allow suppliers time to formulate their consumer messaging. Our 2019 open letter¹⁸ had set out that we expected the conditions to enter into force sometime in the first half of 2021. However, this timeline was then impacted by the COVID-19 pandemic. Given these delays therefore, and the extensive notice that licensees have had that these changes are coming, we think it is reasonable that the framework enters into force immediately at the end of the 56 day standstill period, such that customers after this point having smart meters installed or existing smart meter customers changing contract will become new system customers. Any delay to these amendments coming into force increases the risk of not having a sufficient mass of consumers sharing granular data in order to achieve the benefits of the reforms.

2.64. As noted above, licensees will need to inform these customers how their data will be process under MHHS in future, and the choices they will have regarding data sharing, at the point that they are accepting smart meters / changing contract. Further details are provided in the schematic timeline set out below.

MHHS Data Access Framework Commencement Date (MDACD)

2.65. We also recognise the point made around the definition in the licence of the term ‘MHHS Data Access Framework Commencement Date (**MDACD**)’ in SLC 47.4(c). We think it is useful to set this term out in the licence to define the point in time from which licensees may begin to process data under the new framework, ie for forecasting and business readiness purposes, ahead of the point in time when meters will begin being migrated over into MHHS and the legal obligation on licensees to process data for settlement will commence. As per the licence text as consulted on, based on a date for the start of the transition period of 01 October 2024, the MDACD will be 01 October 2023 (“*or such earlier or later date as the Authority may publish in Writing, and on the basis that the Authority may publish different dates for different categories of Customer and/or for different categories of Electricity Meter*”).

¹⁸ See [Open letter – clarification on issues around access to data for settlement purposes](#), April 2020.

2.66. We have prepared the following schematic timeline to assist licensees in understanding what is required of them at different points in the process.

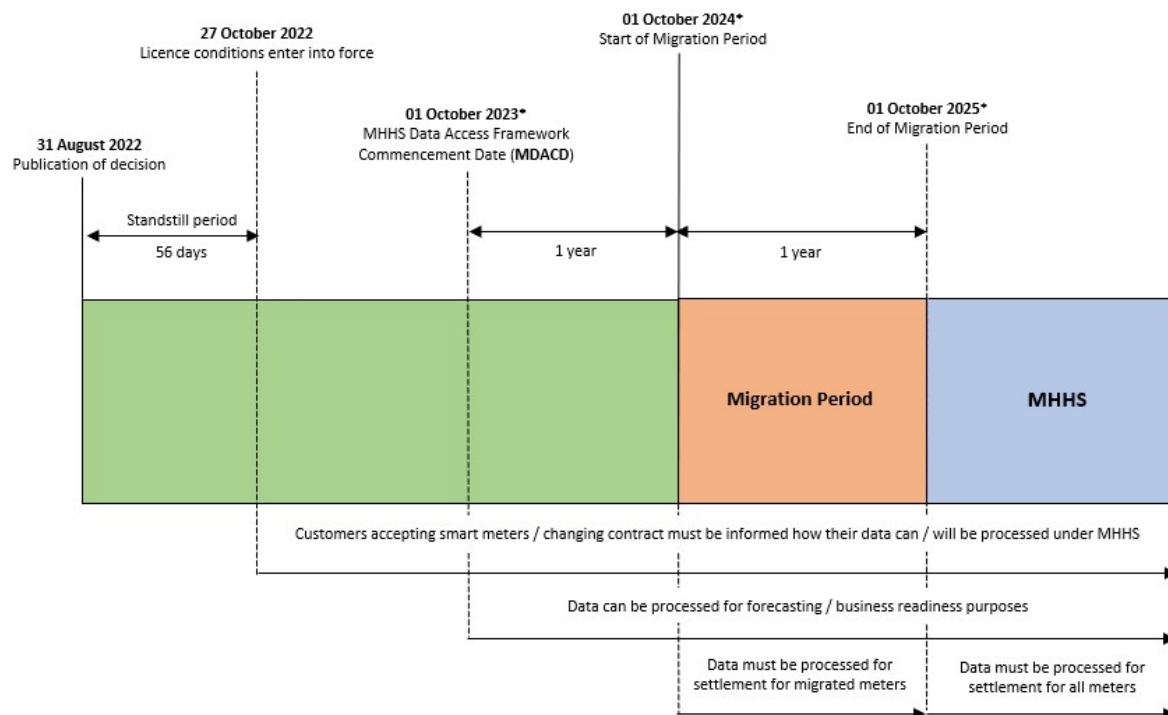


Figure 1 - MHHS data access framework - schematic timeline (* denotes dates that may change)

2.67. With regards the point around programme design, the interactions between the timings of the introduction of the new data sharing framework and the remaining requirements of MHHS implementation will be clarified once the MHHS Programme has completed its current re-baselining activity. This is expected to be completed by the end of 2022.

Customer communications

2.68. We appreciate the points made around the desire for Ofgem to take a central role in coordinating customer communications around settlement and data sharing. We recognise the value of clear consumer communications in terms of explaining the purposes for which their data will be processed and encouraging them to share granular data for these purposes. We also recognise the work that the industry is already doing to facilitate communications to offer clarity to consumers.

2.69. As mentioned in our statutory consultation, Ofgem has undertaken its own consumer research to identify what information would benefit consumers in order to help them understand the changes being made, the potential benefits of MHHS and their options around data sharing. The findings of these results have been published on our website.¹⁹ As well as setting out key findings from the research designed to assist licensees formulate their customer communication materials, the publication also includes example communications that licensees may wish to adopt.

2.70. We also intend to publish an information page for consumers on the Ofgem website setting out additional information on MHHS and consumers' data sharing options. We think this page will be useful as a tool for industry to direct consumers to if they feel they need additional information.

Time of Use Tariffs

2.71. Our policy intent, which was described in our statutory consultation, is that where a customer has agreed a tariff whereby charges are calculated with reference to their HH data, the customer must also share their HH data for settlement and associated purposes. The customer will not be given the choice to share less granular data for these purposes as they otherwise would if they were not on a tariff that required HH data. This is set out in conditions 47.26 and 47.40 of our legal text.

2.72. One respondent set out the risk that a consumer on a ToU tariff that did not require sharing HH data could opt-out of sharing HH data for settlement, resulting in the supplier being settled for that customer as though it were a single rate tariff. The respondent provided a suggested alteration to the legal text to provide that any tariff whereby charges are calculated using ToU consumption data would result in the need for the consumer to share HH data for settlement, not just those tariffs that require sharing actual HH data.

2.73. Another response questioned the inclusion of 'not object' in condition 47.40(b). The respondent questioned whether this was a potential inaccuracy in terms of achieving the policy intent, and the text should instead just say 'object'.

¹⁹ Link [here](#) to the research published on the Ofgem website.

Ofgem response

2.74. We previously set this policy decision out in our decision document accompanying our FBC.²⁰ The opt-out framework for new system domestic customers was designed to allow for privacy-minded consumers to opt to not share their HH data for settlement purposes if they had particular and significant privacy concerns. However, by sharing HH data for billing purposes, we consider that those consumers have shown that they do not have those significant privacy concerns, and it is therefore reasonable that they should share this same HH data for settlement purposes.

2.75. However, if a customer is on a tariff that does not require sharing HH data, they will retain their settlement data sharing options based on whether they are a new system customer or an old system customer. Again, we think this is reasonable as these customers may have privacy concerns which cause them to choose to not share their HH data for settlement. This could apply to a number of ToU tariffs that do not require sharing HH data, such as two rate tariffs like Economy 7 or Economy 10.

2.76. Given this, we consider that the licence text as proposed fulfils the policy intent, and will not be making the further change as suggested.

2.77. For clarity, if a customer on a tariff that requires HH data then changes onto another tariff that does not require the sharing of HH data, they will at that point regain the right to choice over their data sharing options and may opt out to daily processing in line with the framework for new system customers.

2.78. On the point made about the inclusion of “not object” in 47.40(b), upon review we agree that the text could be clearer and the phrase “not object” should instead read “object”. We have therefore amended the text accordingly, making clear that the customer under these circumstances is still free to consent or object to the collection of granular data. This change is set out in Appendix 2. Now that the change has been made, we are satisfied that it achieves the policy intent.

2.79. Finally, we have made one further small change following consultation to 47.40 to make clear that the condition only applies to old system microbusiness customers. This is on the basis that new system microbusiness customers are unable to opt-out of HH data

²⁰ See [MHHS Decision Document](#), April 2021.

processing, so the condition is not relevant to them. We have therefore added in “to *Micro Business Consumers who are Old System Customers*” as follows:

The following applies to Micro Business Consumers who are Old System Customers in respect.....”.

2.80. This change has been set out in the table in Appendix 2.

Clarity Of Legal Text

2.81. Two responses commented on the overall readability of the proposed licence modification. They observed that the text was complex and not easily readable or understandable, particularly as it contains numerous cross-references to other conditions which make it difficult to interpret. The risk was noted that licensees may not be able to interpret the text correctly and therefore not fully understand their licence obligations.

2.82. One response went on to call for Ofgem to publish guidance material alongside the modified condition in order to help suppliers and consumers understand the data access framework.

Ofgem response

2.83. We agree that it is critical that licensees are able fully understand the licence conditions with which they must comply, and that the licence text must therefore be readable and as simple as possible to interpret.

2.84. However, we also recognise the challenges in transposing the MHHS data access framework into legal text given the relatively complex set of rules that set out the options for difference sets of customers. Whilst appreciating the points made and having considered the drafting further, we believe that the licence text as consulted on is as simple and clear as we are able to articulate it, and is fit for purpose in terms of setting out the framework with which licensees must comply. However, we note the call for guidance material to assist licensees interpret the text, and agree that it would be appropriate in this case for this particular condition. We have therefore sought to set out the main details of the data sharing framework at a high level in plain English below.

MHHS data sharing framework – high-level summary

Definitions of customers

New System Customers – had their smart / advanced meters installed, or have made an active choice to enter into a new contract, after the data sharing framework entered into force in the licence.

Old System Customers - had their smart / advanced meters installed before the data sharing framework entered into force in the licence, and have not made an active choice to enter into a new contract since the new framework entered into force.

Data sharing rules – consumption data

Licensees must process data for use in settlement from their customers at a particular granularity, depending on which category they fall into:

- Old System Domestic – Process daily granularity data by default, however the customer can opt-in to HH or opt-out to monthly
- New System Domestic - HH by default, customer can opt-out to daily
- Old System Microbusiness – HH by default, customer can opt-out to monthly
- New System Microbusiness – HH in all cases

Prior notice – Licensees must provide their customers prior notice explaining the choices they have over data sharing, and the benefits of sharing data for settlement.

Seven day notice period - If the customer has an opt-out available, the licensee must wait seven days after providing the notice to allow the customer the opportunity to opt-out to the coarser granularity before processing the finer granularity data. If the customer consents to

processing of the finer granularity data before the end of the seven days however, the licensee can process that data immediately.

Relationship between sharing data for billing and settlement – If a domestic or microbusiness customer is sharing their HH data for billing (ie a ToU tariff that requires HH data), they must also share HH data for settlement. They will therefore forfeit any right they have to opt-out to a coarser granularity.

Timing:

The licensee has a legal obligation to process consumption data for settlement from their customers from the point that the meter is migrated into the new settlement system. We currently expect the start of the transition period for migrating meters into the new system to be 01 October 2024.

However, licensees may process consumption and export data for forecasting / business readiness purposes from one year before the start of the transition period. We therefore currently expect this to be 01 October 2023. This date may be earlier or later – if so, we will publish that in writing. The granularity of data that licensees may process for these purposes is the same granularity as they are permitted to process for settlement for that particular customer / meter.

Export Data:

The licensee has a legal obligation to process HH data from all of their customers with export meters registered for settlement, irrespective of whether they are old system or new system customers.

3. Conclusion and next steps

3.1. This document sets out our decision on the licence changes required to introduce the MHHS data sharing framework into the electricity supply licence.

3.2. Following consideration of all of the representations received in this consultation, we are progressing with the changes as consulted on, albeit with six further minor changes.

3.3. The further changes we are making are set out in Appendix 2 below. The intent of these changes is to ensure clarity where responses highlighted text which could be misinterpreted, and to correct a small error identified in part of the licence text changes. To be clear, none of these changes in any way change our policy intent as previously set out.

3.4. The amended legal text is described in Appendix 1.

3.5. It is our decision that these licence modifications should be made and will come into effect no less than 56 days after the publication of this decision. As such, this licence modification will come into effect on 3 November 2022.

Appendix 1

The final licence modifications are available in redline version in the below subsidiary documents, available on the publication page for this document.

| Document Title |
|--------------------------------|
| Electricity Supply SLC changes |

Appendix 2

This table shows the further changes we are making to the licence following the statutory consultation. There are ten further changes in total. The new amendments are marked up in yellow highlight.

| SLC | Statutory Consultation Proposal | Final Drafting in this Decision | Rationale |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 47.3 | <u>47.3 Part C of this condition applies only in respect of each Domestic Premises or Designated Premises:</u> | <u>47.3 Part C of this condition applies only in respect of each Domestic Premises</u> or micro business premises Designated Premises: | This is to make clear that Part C only refers to domestic and microbusiness customers, as opposed to domestic customers and <u>all</u> customers at designated premises. |
| 47.17 (b) | <u>47.17 The requirements of this paragraph are that:</u> <u>(a) the Domestic Customer is a New System Customer;</u> <u>and</u> <u>(b) the Domestic Customer has, after at least seven days have elapsed from the date on which the Notice was given to them, not objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement</u> | <u>47.17 The requirements of this paragraph are that:</u> <u>(a) the Domestic Customer is a New System Customer;</u> <u>and</u> <u>(b) the Domestic Customer has either (i) given their explicit consent to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes; or (ii) after at least seven days have elapsed from the date on</u> | This is to set out that licensees can begin obtaining data from new system domestic customers before the end of the seven day notice period for opt-out on the condition that they have received explicit consent from the customer. |

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| | <u>Purposes (subject to paragraph 47.26(a)).</u> | <u>which the Notice was given to them, not objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes (subject to paragraph 47.26(a)).</u> | |
| 47.26 (b) | <u>(b) a Domestic Customer who has not agreed a Tariff whereby the Charges are calculated by reference to Electricity Consumption Data relating to half-hourly periods may still separately consent or not object to the licensee obtaining Electricity Consumption Data relating to half-hourly or daily periods for Settlement Purposes.</u> | <u>(b) a Domestic Customer who has not agreed a Tariff whereby the Charges are calculated by reference to Electricity Consumption Data relating to half-hourly periods may still separately consent or not object to the licensee obtaining Electricity Consumption Data relating to half-hourly or daily periods for Settlement Purposes.</u> | This is to address a point of clarity. |
| 47.31A (b) (ii) | ii) the Micro Business Consumer has objected to the licensee obtaining Electricity Consumption data, which relates to any one or more periods of less than one month and the licensee is unable to remotely configure the Remote Access Meter to prevent that Electricity Consumption Data being automatically sent to the licensee or a third party, but | (ii) the Micro Business Consumer has objected to the licensee obtaining Electricity Consumption data, which relates to any one or more periods of less than one month and the licensee is unable to remotely configure the Remote Access Meter to prevent that Electricity Consumption Data being automatically sent to the licensee or a third party, | This is to make clear that the requirements on the licensee to process data as set out in SLC 47.31A (b) are overwritten if SLC 47.38 applies and the licensee is required to process that data for settlement |

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| | as soon as reasonably practicable the licensee: | but as soon as reasonably practicable the licensee <u>(subject to the overriding obligation in paragraph 47.38 in respect of data obtained as described in paragraph 47.35(b)):</u> | |
| 47.35 (a) | <p><u>47.35 The requirements of this paragraph are that the Micro Business Consumer is an Old System Customer, and either:</u></p> <p><u>(a) the Micro Business Consumer has after at least seven days have elapsed from the date on which the Notice was given to them, not objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes (subject to paragraph 47.40(a)); or</u></p> | <p><u>47.35 The requirements of this paragraph are that the Micro Business Consumer is an Old System Customer, and either:</u></p> <p><u>(a) the Micro Business Consumer has, either (i) given their explicit consent to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes; or (ii) after at least seven days have elapsed from the date on which the Notice was given to them, not objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes (subject to paragraph 47.40(a)); or</u></p> | As above (47.17), this is to set out that licensees can begin obtaining data from old system microbusiness customers before the end of the seven day notice period on the condition that they have received explicit consent from the customer. |
| 47.35 (b) | <p><u>47.35 The requirements of this paragraph are that the Micro Business Consumer is</u></p> | <p><u>47.35 The requirements of this paragraph are that the Micro Business Consumer is</u></p> | This is to set out that, if the licensee receives HH data from the |

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| <p><u>an Old System Customer, and either:</u></p> <p><u>(b) the Micro Business Consumer has objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes, and the licensee is unable to remotely configure the Remote Access Meter to prevent that Electricity Consumption Data being automatically sent to the licensee or a third party, but as soon as reasonably practicable the licensee:</u></p> <p><u>(i) takes all reasonable steps to prevent the third party passing that Electricity Consumption Data to the licensee or any other third party;</u></p> <p><u>(ii) takes all reasonable steps to ensure the third party permanently erases that Electricity Consumption Data; and</u></p> <p><u>(iii) permanently erases any of that Electricity Consumption Data the licensee has obtained.</u></p> | <p><u>an Old System Customer, and either:</u></p> <p><u>(b) the Micro Business Consumer has objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes, and the licensee is unable to remotely configure the Remote Access Meter to prevent that Electricity Consumption Data being automatically sent to the licensee or a third party, but as soon as reasonably practicable the licensee</u> <u>takes all reasonable steps to reconfigure the meter;</u></p> <p><u>(i) takes all reasonable steps to prevent the third party passing that Electricity Consumption Data to the licensee or any other third party;</u></p> <p><u>(ii) takes all reasonable steps to ensure the third party permanently erases that Electricity Consumption Data; and</u></p> <p><u>(iii) permanently erases any of that Electricity Consumption Data the licensee has obtained.</u></p> | <p>customer under the circumstances as described in SLC 47.35(b) and are therefore required to process it for settlement in line with SLC 47.33, they should not be required to erase / not pass the data on to a third party, but should instead be required to reconfigure the meter to prevent the HH data being sent.</p> |
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| <p>47.37 (b)</p> | <p><u>b) the Micro Business Consumer has objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes (subject to paragraph 47.40(a)).</u></p> | <p><u>b) the Micro Business Consumer has objected to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes (subject to paragraph 47.40(a)),</u> <u>except to the extent that the licensee has obtained Electricity Consumption Data relating to half-hourly periods in the circumstances described in paragraph 47.35(b).</u></p> | <p>This is to set out that, if SLC 47.35(b) applies, the microbusiness opt-out does not apply and the licensee must process the HH data from that customer for settlement, until they are able to reconfigure the meter to prevent it sending HH data.</p> |
| <p>47.39</p> | <p><u>47.39 The licensee may also use Electricity Consumption Data obtained in respect of the micro business premises pursuant to paragraphs 37.33 and 47.36 for either or both of the following purposes:</u></p> | <p><u>47.39 The licensee may also use Electricity Consumption Data obtained in respect of the micro business premises pursuant to paragraphs 3 47.33 and 47.36 for either or both of the following purposes:</u></p> | <p>This is to address a typographical error.</p> |
| <p>47.40</p> | <p><u>47.40 The following applies in respect of the relationship between obtaining half-hourly Electricity Consumption Data for Settlement Purposes, and for the purpose of calculating Charges:</u></p> | <p><u>47.40 The following applies to Micro Business Consumers who are Old System Customers in respect of the relationship between obtaining half-hourly Electricity Consumption Data for Settlement Purposes, and</u></p> | <p>This is to clarify that 47.40 only applies to <u>old system</u> microbusiness customers.</p> |

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| | | <u>for the purpose of calculating Charges:</u> | |
| 47.40 (b) | <u>(b) a Micro Business Consumer who has not agreed a Tariff whereby the Charges are calculated by reference to Electricity Consumption Data relating to half-hourly periods may still separately object to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes.</u> | <u>(b) a Micro Business Consumer who has not agreed a Tariff whereby the Charges are calculated by reference to Electricity Consumption Data relating to half-hourly periods may still separately consent or not object to the licensee obtaining Electricity Consumption Data relating to half-hourly periods for Settlement Purposes.</u> | This is to address a point of clarity. |