

Call for input on the Non-Domestic gas and electricity market

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We are inviting stakeholders to input their views on the state of the non-domestic retail energy market. We are concerned about the reports of consumer harm in this market. While affordability of energy is a matter for government, in this Call for Input, we set out for consumers, consumer groups, suppliers, third party intermediaries and other relevant stakeholders several market related issues we have identified.

We are exploring whether and where these are temporary or isolated to specific suppliers, or if systemic problems show that changes in regulation are needed. We are at the same time doing compliance checks on suppliers and reviewing supplier data. Your feedback will help us to prioritise the areas we focus on. Please do send us information and evidence that will help us to take action to support non-domestic market participants.

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Introduction

The wholesale gas and electricity market turbulence, along with wider economic pressures, has put an unprecedented strain on businesses and individuals across Great Britain. We engage with non-domestic customers regularly and are concerned about reports of potential detriment being experienced by customers supplied by non-domestic energy suppliers. These include concerns about increased standing charges, prohibitive contracting terms, unacceptable debt and disconnection experiences and a lack of offers from suppliers to contract with non-domestic customers.

Ofgem's role is to protect all energy consumers. We want a market where customers receive great service, fair prices, have access to services that enable the transition to net zero, and where suppliers are financially resilient. In this Call for Input, we want to hear from all interested stakeholders about their experiences in the non-domestic market, and where they do and do not meet these market objectives.

If they don't, we want to take actions where we are best placed to do so. To help us take the right actions, we want to identify if issues are temporary or supplier specific, or whether they show more systemic market issues that may need a deeper market investigation or changes to regulation.

We have had bilateral meetings and roundtables with consumer groups and suppliers and written to suppliers to get their response to the concerns that have been raised¹. We used their responses and customer group concerns to shape a formal information request to suppliers so we can look in detail at the data behind each of the issues. We will take action if we find evidence of wrongdoing.

While affordability is a matter for government, we also wrote to non-domestic suppliers to set out the good behaviours we expect them to demonstrate through any debt and disconnection pathways at this time when customers are struggling to pay². We have also

¹ [Letter to non-domestic suppliers about reports of non-domestic customer harm | Ofgem](#)

² [Open letter: Good practice expectations for non-domestic suppliers on issues surrounding debt management and disconnection of customers | Ofgem](#)

formally asked suppliers to report back to us on where they do and do not meet these standards.

We are currently reviewing both information sets and will also use feedback from stakeholders to identify areas that need a more in-depth focus. Your response to this Call for Input will inform that review and will also inform our wider consideration of any changes needed in the non-domestic sector.

We will not hesitate to act if we uncover a need for further regulatory protection for customers. This includes signalling to government where legislation or other government action may be needed that is beyond our powers to resolve, to secure a well-functioning market for non-domestic consumers.

Alongside this review, we continue to work with suppliers and consumer groups to drive actions that can help alleviate issues for customers in the very near term. This is ongoing – previous outcomes of these discussions included empowering customers through issuing updated information in handbooks to support business organisations to help their members; fact sheets explaining customer’s rights and supplier’s obligations; and providing contact information for various types of assistance³. We have also initiated compliance reviews into the rates suppliers charge their deemed customers (more information on this on page 10). Your feedback to this Call for Input will also help to prioritise where other compliance reviews should focus.

Focus and scope

The Non-Domestic gas and electricity market

This Call for Input focuses on the non-domestic energy market. There are over 60 suppliers that are active in the non-domestic market. There are a wide range of supply models in this sector, with some suppliers focused on offering gas and/or electricity contracts to smaller energy use customers, while others focus on larger energy use customers.

Non-domestic customers are very diverse, in their spend, engagement, and knowledge of the energy market. They range from small business customers with very low energy usage

³ [Energy advice for businesses | Ofgem](#)

or few employees and turnover, which we have classified as microbusiness customers⁴. These are often domestic-like customers with limited knowledge of the energy market. At the opposite end of the spectrum, there are large industrial customers. These use a huge amount of energy, are often energy intensive users and have specialist energy staff to manage their own wholesale trading activity. Between these two extremes are customers that range in energy use, energy sector knowledge and include multi-site customers.

As well as energy usage, across non-domestic customers, the type of meters used to measure their energy use varies along with when they use their energy and how variable this is. A single customer can significantly change how much energy a supplier will need to supply and when. Therefore, non-domestic energy suppliers will usually purchase the energy, needed to supply a customer, on the wholesale market at the time a customer agrees to a contract. When the initial quote was made to the customer, it would have been based on (amongst other variables) how long the customer wants to contract for, how they want to structure it, and what the prevailing prices are in the wholesale market. As a result, there are usually bespoke contract agreements in the non-domestic sector, with only some of the smaller customers having general 'tariffs' like in the domestic sector.

Third party intermediaries (TPIs), also known as energy brokers, play a significant role in this sector. We estimate that there are around 2000 energy brokers. They are used to navigate the non-domestic supply market by roughly 60% of larger energy use customers and around a third of smaller energy use customers. These numbers are an estimate as we do not regulate TPIs.

Scope

Ofgem is the independent energy regulator for Great Britain. Our role is to protect consumers now and in the future by working to deliver a greener, fairer energy system. We operate in a statutory framework set by Parliament. This establishes our duties and gives us powers to achieve our objectives. We licence energy companies and make sure they stick to the rules of their licence and other duties the government sets or is in law. For example, consumer protection and competition laws.

⁴ We define a microbusiness as one which meets the following criteria: uses less than 100,000 kWh of electricity; uses less than 293,000 kWh of gas a year; or have fewer than 10 employees (or their full-time equivalent) and an annual turnover total not exceeding 2 million Euros

Our powers mean we cannot investigate or help resolve individual complaints made to energy companies (Citizens Advice⁵ and the Energy Ombudsman⁶ can, for domestic and microbusiness customers.) We regulate where necessary to protect customers' interests and we carefully consider whether any regulatory requirement we propose is proportionate. We investigate a company's behaviour when we believe they may have breached a condition of their licence, or the requirements of consumer protection or competition policy⁷. The government is responsible for setting policy for the energy sector and proposing changes to the statutory framework. Where we think there are policy gaps that affect consumers, we can call this out.

In this Call for Input, we particularly want to hear about areas that are currently within Ofgem's remit. Where we hear from stakeholders about issues that are matters for government, including affordability issues, the regulation of third-party intermediaries (energy brokers), or issues related to unlicensed supply activity, we will pass the information to the relevant government officials. We will continue to work with government to drive positive outcomes for customers.

Structure of this document

While the overall cost of energy is a matter for government, we have heard a range of concerns from stakeholders that are related to the functioning of the non-domestic retail market and the behaviour of suppliers. We set out in the following three chapters specific themes of these issues where we would value your input. These may be specific issues that have a narrow solution, and/or they may be indicators of broader structural concerns. To test whether this is the case, we have grouped the issues into three broad themes of potential harms. These are 1. Pricing and contractual behaviours; 2. Competition in the non-domestic sector; and 3. Focused regulatory support for specific groups of customers.

Each section gives contextual information before detailing concerns that have been raised to us by multiple parties. Questions we would like stakeholders to answer are highlighted in each chapter and summarised in Appendix 2. Note that if you feel there are areas of

⁵ <https://www.citizensadvice.org.uk/consumer/energy/>

⁶ <https://www.ombudsman-services.org/sectors/energy>

⁷ See our Enforcement Guidelines at: [The Enforcement Guidelines | Ofgem](#). These include descriptions of how we may use our enforcement powers and tools, how our decision-making process works, how breaches or infringements will be addressed and deterred, etc.

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concern in the market that we have not highlighted in this document, and that you feel is important we focus attention on, you are able to do this via an open question at the end.

Chapter 4 details our Next steps and how to respond to this Call for Input.

Chapter 1: Pricing and contracting behaviour

Context

There are several factors contributing to higher energy bills. The most talked about factor is the significant rise in gas and electricity wholesale prices (see Figure 1).

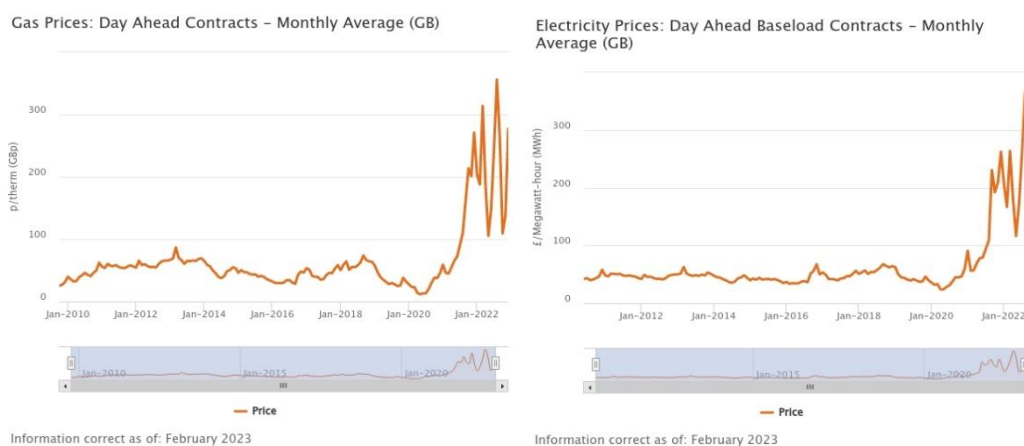


Figure 1: Gas and electricity day ahead contracts (up to December 2022)

Source: Ofgem Energy Data and research [All available charts | Ofgem](#)

In addition to this rise, energy market volatility (i.e. how much it varies over a specific time) has been very high, while wholesale market liquidity (i.e. what volumes are offered for trading) has been low. This increases the market price risk associated with any wholesale energy market purchase. One of the reasons for this is that there is less confidence about the price that will be secured in the wholesale market between making and agreeing an offer with a customer. Also, with the high and variable prices, suppliers need to post a higher level of collateral with counterparties to their trades. To manage the increased risk and costs, suppliers may either pause from making any new contract offers or increase their risk premium on any contract that is offered. We have seen both these actions take place in the market this past year.

With higher energy prices, and a challenging economic environment more generally, more customers have struggled to pay, and creditworthiness has declined across the economy. To manage bad debt risk, energy supply businesses will have credit checking processes and ways of protecting their business against non-payment. This includes requiring security deposits, up-front payments, or taking out credit insurance. Because of the high prices and economic strain, more customers will have moved into higher risk categories

as creditworthiness has declined. This has led to fewer offers to contract, for example where a supplier is not able to secure credit insurance to take on the customer, or more customers being asked for security deposits, or to pay increased risk premiums. We anticipate that the charges themselves for security deposits would also have increased, as they are priced as a proportion of expected energy contract charges, which are higher. In general, we would expect the level of the security deposit to be aligned to the time it would take a supplier to disconnect a customer for non-payment.

Industry charges have also risen. This includes from higher system balancing, increased in network costs and costs to cover suppliers who have gone out of business.

The Government introduced the Energy Bill Relief Scheme (EBRS) to help non-domestic customers with their bills⁸. The scheme gives a discount to bills for energy usage between 1 October 2022 and 31 March 2023. They have also recently announced the introduction of the Energy Bills Discount Scheme (EBDS)⁹, that will take effect from 1 April 2023 and run for a year.

Concerns

Proportionate actions

Having resilient suppliers is important, not only to reduce the burden of costs on consumers if a supplier goes out of business, but also because more suppliers bring greater competitive pressure and customers can reap the benefits of competitive prices and service. We therefore expect to see energy suppliers manage their risks and recoup reasonable costs. However, we want to see the cost of risks shared fairly across the customer base, and the use of any strategies to manage them to be proportionate.

We are concerned about reports during 2022 about unnecessarily high premiums placed on contract terms, and unreasonable requests for security deposits, up-front payments, or other obligations to secure a contract. We have requested information from suppliers about their pricing and debt management policies. While we review these, we are interested in seeing details from customers that believe the actions taken by a supplier

⁸ [Energy Bill Relief Scheme: help for businesses and other non-domestic customers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/energy-bill-relief-scheme-help-for-businesses-and-other-non-domestic-customers)

⁹ [Energy Bills Discount Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/energy-bills-discount-scheme)

were not proportionate or reasonable. We are also interested in hearing views on solutions to the issues being faced, by both suppliers and customers.

Given what is explained above about the context for suppliers who may have needed to take actions to protect against increased risk in the market, we are interested to hear whether customers have seen an improvement in their contractual terms, as market conditions this year have started to show signs of improvement.

Allegations of non-compliance with the Energy Bill Relief Scheme

There have also been allegations that suppliers have inflated prices in response to the introduction of the Energy Bill Relief Scheme. We are conducting a compliance review on this and would like to hear from stakeholders who can provide any evidence to support this allegation.

Compliance with Deemed rates obligations

In addition to exploring the pricing strategies of suppliers, we are in the process of conducting a review into non-domestic suppliers' compliance with their Deemed rates obligations¹⁰. A deemed contract relationship will normally exist where a customer moves into new premises, and starts to consume gas and/or electricity, without agreeing a contract with a supplier. It can also exist in some circumstances where an existing contract comes to an end and the customer continues to consume gas and/or electricity¹¹. We are therefore also interested in hearing from stakeholders' issues related to their deemed contracts.

¹⁰ Where a customer is supplied based on a deemed contract relationship, the supplier is required by its licence to take all reasonable steps to ensure that the terms of its deemed contracts are not unduly onerous, as set out in Standard Condition 7.3 of the gas and electricity supply licences. Standard Condition 7.4 contains a test for assessing whether the charges for the supply of gas and/or electricity under a deemed contract will be unduly onerous.

¹¹ This includes where a contract expires or is terminated (by either the supplier or customer) and the customer continues to consume energy, but the original contract does not expressly provide for what will happen after expiry (e.g. the original contract does not contain renewal provisions or otherwise provide that the original terms will continue to apply)

Key Questions

Q1. Do you have evidence of suppliers not being proportionate or reasonable regarding charges necessary to secure a contract, including security deposits? If so, please provide us with details.

Q2. Do you have suggested solutions to the concerns around high costs requested to secure a contract and manage risk?

Q3. Do you believe there has been an improvement in terms to contract as market conditions start to show signs of improvement? Please explain your answer.

Q4. Do you have evidence to support the allegation that suppliers have been inflating prices in response to the introduction of the Energy Bill Relief Scheme? If so, please provide us with details.

Q5. What issues are you aware of businesses having in relation to deemed contracts?

Q6. Are there any other matters not discussed above related to pricing and contractual behaviour that you would like us to explore? Please provide details and your reasons.

Chapter 2: Competition in the market

Context

The non-domestic market has traditionally been viewed as competitive, with over 60 suppliers offering gas, electricity, or both to non-domestic customers. As noted earlier, the high prices and volatility in the wholesale energy markets raised the risks suppliers face in the market. Low liquidity also meant greater concern that any contracted energy to supply may not be easily sourced in the market. For these reasons, together with increased collateral requirements with counterparties and rising bad debt risks, many suppliers during certain points in 2022 paused fixed-term contract offers. Some suppliers focused on offering contracts to segments in the non-domestic market and reduced their portfolio in others. Meanwhile, a rising number of non-domestic customers could not pass credit checks. Overall, customers across the non-domestic sector reported struggling to find offers to contract.

Concerns

Customers across the non-domestic sector reported struggling to find offers from suppliers to contract during 2022. We want to know if customers have seen an increase in offers to contract this year, or whether there are segments of the market that are still struggling to secure contracts. We are concerned that there may be pockets of the non-domestic sector that do not have the level of meaningful competition that would help secure good outcomes. Less competitive pressure could allow the exercise of market power, either unilaterally or co-ordinately, lead to an overall drop in standards, and less innovation in the market - including fewer products that support customers to meet their net zero targets.

Debt and disconnection actions

In December 2022 we published an open letter¹² to non-domestic suppliers, setting out good practice expectations around debt management and the disconnection of customers. This February we requested suppliers to set out how well they meet those expectations¹³.

¹² [Open letter: Good practice expectations for non-domestic suppliers on issues surrounding debt management and disconnection of customers | Ofgem](#)

¹³ [Letter to suppliers on the treatment of non-domestic customers during debt management and disconnection | Ofgem](#)

We would like to hear from customers about how they are being treated in these circumstances. We intend to review the extent to which these best practice steps are being followed, if they are supported by healthy market pressures, or if we need to make changes. These include tightening existing or introducing new licence conditions.

Contract related interactions

It is vital that consumers have confidence that there are adequate and transparent means of redress if they believe they have been mistreated. This has several elements. For example, can customers easily find contact details and supplier's complaints process on their websites. For domestic customers, suppliers are required to clearly show this information. We are also interested in hearing whether some of the ways in which contracts are sold do not meet the needs of customers and suppliers.

As noted above, there have been allegations that suppliers have unnecessarily increased prices at the time the EBRS was introduced. There can be several legitimate reasons for this. We would expect, though, that in a well-functioning competitive market, suppliers would prioritise customer service and be clear on the reasons for any significant or unexpected price rises. We are interested to hear the extent to which customer groups feel the communication they receive from their supplier is clear and transparent.

We have been hearing concerns about the process when there has been a Change of Tenancy (CoT) or Change in Occupancy (CoO). This includes reports that new tenants can face unnecessary and onerous requirements regarding the evidence that they are required to produce to show they are new tenants/occupiers. Others report on instances where new tenants/occupants have been pursued for the debts incurred by a previous occupier. Complaints have also been made about the length of time that it takes to process a change, which can be detrimental to the customer. Conversely, we have also heard reports about the CoT /CoO process being used in a fraudulent way, through illegal acts of pretending a business has changed hands, to avoid paying debts. We are interested in stakeholders' views on this. We are particularly interested in hearing potential solutions to this issue.

Key Questions

Q7. Do you believe there has been an increase in offers to contract in the past year as wholesale market conditions improved, or are there are segments of the market that are still struggling to secure contracts?

Q8. Are suppliers following the best practice steps around debt management and disconnection that we highlighted in our December 2022 letter, or do you think that licence conditions need amending? Please provide evidence for your views and details of any specific examples.

Q9. Are suppliers' complaints processes easy to find on their websites, or elsewhere? Do you believe we need to strengthen the rules around complaints processes? Please explain the reasons for your response.

Q10. To what extent do you believe the communication you receive from your non-domestic supplier is clear and transparent? Please provide examples where possible.

Q11. Do you think the issues around Change of Tenancy/Occupier are significant? What potential solutions would you suggest to address the perceived shortfalls in the existing Change of Tenancy and Change of Occupancy processes, that do not exacerbate the potential for fraud?

Q12. Are there any other issues you would like to highlight related to competition in the non-domestic supply market? Please provide detailed explanations.

Chapter 3: Focused regulatory support for specific groups of customers

Context

In the past, we have consulted on and implemented additional protections for microbusiness customers. These include standards of conduct, contracting, and billing rules. Most recently, we introduced a package of policy measures, which included the strengthening of supply licence conditions, to close a protection gap and address harms in the market that were identified by the Microbusiness Strategic Review in 2019. These were set out in Ofgem's decision in March 2022¹⁴. They included strengthened conditions around the provision of principal contract terms and a new supply licence condition that requires suppliers, when contracting with microbusinesses via a third-party intermediary or energy broker, to only work with brokers that have signed up to a Qualifying Broker Alternative Dispute Resolution scheme.

Microbusiness customers can approach Citizens Advice for confidential advice and access the Energy Ombudsman for support if they are not able to resolve a dispute with their supplier.

We define a microbusiness as one which meets the following criteria:

- uses less than 100,000 kWh of electricity
- uses less than 293,000 kWh of gas a year, or
- have fewer than 10 employees (or their full-time equivalent) and an annual turnover total not exceeding 2 million Euros.

Concerns

Extending microbusiness protections

We have received representation that other groups, for example some small to medium Enterprises (SMEs) who fall outside the microbusiness definition, also find it difficult to actively engage in the energy market and do not have the time or resources to deal with poor supplier behaviours through the courts. This may mean that there is insufficient market pressure to correct inappropriate supplier behaviours towards these groups of customers. We would like to hear from stakeholders: If you have views that we should

¹⁴ <https://www.ofgem.gov.uk/publications/microbusiness-strategic-review-decision-modify-slcs-all-gas-and-electricity-supply-licences>

extend our microbusiness definition to include other groups of customers or put in place new rules for specific groups of customers, please provide evidence and suggestions of how these could be defined. We would also like to hear from suppliers and other stakeholders about the possible impact of expanding the microbusiness definition or of creating new rules relating to a new class of customer in the supply licence.

Domestic customers behind a non-domestic supply contract

Some domestic customers have their energy supply collectively arranged for them by a managing entity that agrees a non-domestic energy contract. Examples include mobile park residents, care home residents, and residents of managed flats. Appendix 1 includes more details on the definition of a domestic customer and when a customer would be a non-domestic customer. In some situations, there is an option for a premises that is not currently, but is intended for, domestic use, to install domestic metering at their own cost to enable them to sign a domestic contract, subject to agreement with a domestic supplier. However, this is not always possible.

Often, the metering and commercial arrangements mean that it is more appropriate for the entity arranging supply to secure a non-domestic energy contract. They would be securing several other contracts of a commercial nature and are more easily able to secure a contract bespoke to their needs.

These end customers' have traditionally benefited from their managing entity being able to purchase energy via non-domestic contracts, as these used to have better prices than a Domestic contract. However, with the rise in wholesale energy costs, many of these customers have struggled. Government is responsible for pricing policy and is considering how to support customers facing affordability pressures. Meanwhile, energy suppliers need to meet Health and Safety requirements when taking any actions related to the supply of energy. However, we are interested in whether there are other concerns from stakeholders about needs not being met during the contract. These users do not receive many of the protections afforded to domestic customers despite often falling within the domestic "vulnerable" category. We want to know if and where they may need additional safeguards.

Key Questions

Q13. Do you believe there are segments of the non-domestic supply market, other than microbusiness customers, where there is not sufficient market pressure to correct any potential inappropriate supplier behaviours? Please provide detailed descriptions of these customers and evidence to explain your view, including what aspects of harm the regulations would need to help protect against.

Q14. If you responded yes to question 13, please suggest how these customers could be defined in the supply licence and identified by suppliers and customers.

Q15. If we expanded the definition of microbusiness customers or created a new class of customers, what are the possible implications and costs of doing this?

Q16. What additional protections do you think might need to be put in place to protect domestic customers who are supplied via a non-domestic contract? Please provide an explanation or evidence of the areas of harm any new regulation would protect against.

Q17. Do you agree with the definition of, and clarifications around, what is a domestic customer as described in Appendix A? Are there other areas where further clarification is required?

Q18. Do you have any further comments about how the non-domestic market is currently segmented?

Chapter 4: Responding and Next steps

Responding to this Call for Input

We want to hear from anyone interested in this Call for Input. Please send your response to NonDomesticRetailPolicy@ofgem.gov.uk by 31 March 2023.

We've asked for your feedback in each of the questions. Please respond to each one as fully as you can.

We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We

won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

Next steps

We will review all responses fully, considering all the feedback and evidence we have received. Alongside this feedback, we will be evaluating the data we have requested from non-domestic suppliers. We will also take into account any findings and actions resulting from our compliance reviews.

Following this, we shall consider any harm we have identified in the market arising from our analysis, and the potential options to address such harms. We aim to publish our market findings and consult on proposed next steps in early summer 2023.

We will seek to action any reforms identified that do not need licence changes from summer 2023. In the event we are provided with evidence of harms falling outside of the scope of Ofgem's Authority's powers we shall gather and present the evidence to the relevant government departments or appropriate body.

If changes to licence conditions are needed, we will publish a statutory consultation in the Autumn 2023, after considering responses to our summer consultation. After allowing for the required statutory processes, we expect changes to be implemented in Winter 2023.

In the meantime, we are working with customer representatives and suppliers to find resolutions that can be more rapidly implemented through industry initiatives, or non-licence support.

We look forward to hearing from you. All your input is sincerely appreciated.

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Appendix 1

Guidance on the classification of premises for the purposes of the standard conditions of the gas and electricity supply licences

This guidance has been written to help both suppliers and consumers better identify who is classed as a domestic or a non-domestic consumer. We reiterate the position set out in our 2002 guidance¹⁵, 2012 decision¹⁶, and 2015 guidance¹⁷ regarding the classification of premises for the purposes of the standard conditions (specifically SLC 1 and 6¹⁸) of the gas supply licence. As the definitions of domestic and non-domestic premises are the same in the gas and electricity supply licences, we consider that these clarifications also apply to electricity.

The non-commercial collective purchase of gas and/or electricity supplied to a single meter point for wholly or mainly domestic use are classified as supply for domestic purposes if the terms between end users and the entity supplied are non-commercial in nature. This includes non-standard residency structures, where:

- (a) Gas or electricity is supplied to the relevant premises by a single meter point;
- (b) the supply of gas or electricity to the relevant premises is for wholly or mainly domestic use on the proviso it is not resold;
- (c) the owners and/or tenants of the relevant premises have direct control over the entity that enters into a contract with the licensee for the supply of gas or electricity; and
- (d) the agreement between the entity that enters into a contract with the licensee for the supply of gas or electricity to the relevant premises and any other person for the provision of gas at that premises is not commercial in nature.

All four of these conditions (a) through to d)) need to be met for a supply to be considered domestic.

Due to recent consumer and supplier interest in what constitutes a domestic or non-domestic customer, we also offer additional clarity as to some of the terms used within the supply licence conditions:

- We consider “**Commercial in Nature**” (SLC 6.2) to be an activity between businesses consisting of offering goods or services in exchange for a remuneration.

¹⁵ [Ofgem’s interpretation of the definition of the terms ‘domestic customer’ and ‘domestic premises’ as they appear in the gas and electricity supply licences. | Ofgem](#)

¹⁶ <https://www.ofgem.gov.uk/ofgem-publications/38443/classofpremisesdecisionletter.pdf>

¹⁷ [Guidance on the classification of premises for the purposes of the standard conditions of the gas and electricity supply licences | Ofgem](#)

¹⁸ [Licences and licence conditions | Ofgem](#)

An activity whereby good or services are offered on the market against remuneration would be an economic or in other words commercial activity.

- We consider "**Ancillary premises**" (SLC 6.5) to be premises in support of a main premise (e.g., business); in other words, they exist to support the function of the main premise and the way they operate is directly dependant on the main premises' function.
- We consider a "**Bespoke domestic contract**" to be one that is tailored to the individual needs of the customer being supplied by the licensee and is not widely available to the open market.

In some situations, there is an option for premises that is not currently, but is intended for domestic use, to install domestic metering at their own cost to enable them to sign a domestic contract, subject to agreement with a domestic supplier.

We consider that these clarifications are necessary and consistent with our duty to protect the interests of present and future consumers. We also note that while we are clarifying our view, we are not introducing any changes to the current arrangements. We expect suppliers to treat current and future customers fairly and to follow our previous guidance and decision on this issue.

Appendix 2

Complete list of Call for Input questions

Q1. Do you have evidence of suppliers not being proportionate or reasonable regarding charges necessary to secure a contract, including security deposits? If so, please provide us with details.

Q2. Do you have suggested solutions to the concerns around high costs requested to secure a contract and manage risk?

Q3. Do you believe there has been an improvement in terms to contract as market conditions start to show signs of improvement? Please explain your answer.

Q4. Do you have evidence to support the allegation that suppliers have been inflating prices in response to the introduction of the Energy Bill Relief Scheme? If so, please provide us with details.

Q5. What issues are you aware of businesses having in relation to deemed contracts?

Q6. Are there any other matters not discussed above related to pricing and contractual behaviour that you would like us to explore? Please provide details and your reasons.

Q7. Do you believe there has been an increase in offers to contract in the past year as wholesale market conditions improved, or are there are segments of the market that are still struggling to secure contracts?

Q8. Are suppliers following the best practice steps around debt management and disconnection that we highlighted in our December 2022 letter or do you think that licence conditions need amending? Please provide evidence for your views and details of any specific examples.

Q9. Are suppliers' complaints process easy to find on their websites, or elsewhere? Do you believe we need to strengthen the rules around complaints processes? Please explain the reasons for your response.

Q10. To what extent do you believe the communication you receive from your non-domestic supplier is clear and transparent? Please provide examples where possible.

Q11. Do you think the issues around Change of Tenancy/Occupier are significant? What potential solutions would you suggest to address the perceived shortfalls in the existing Change of Tenancy and Change of Occupancy processes, that do not exacerbate the potential for fraud?

Q12. Are there any other issues you would like to highlight related to competition in the non-domestic supply market? Please provide detailed explanations.

Q13. Do you believe that there are segments of the non-domestic supply market, other than microbusiness customers, where there is not sufficient market pressure to correct any potential inappropriate supplier behaviours? Please provide detailed descriptions of these customers and evidence to explain your view, including what aspects of harm the regulations would need to help protect against.

Q14. If you responded yes to question 13, please suggest how these customers could be defined in the supply licence and identified by suppliers and customers.

Q15. If we expanded the definition of microbusiness customers or created a new class of customers, what are the possible implications and costs of doing this?

Q16. What additional protections do you think might need to be put in place to protect domestic customers who are supplied via a non-domestic contract? Please provide an explanation or evidence of the areas of harm any new regulation would protect against.

Q17. Do you agree with the definition of, and clarifications around, what is a domestic customer as described in Appendix A? Are there other areas where further clarification is required?

Q18. Do you have any further comments about how the non-domestic market is currently segmented?