

To all interested parties

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Date: 25 May 2023

Dear Colleague,

### **Ending the temporary Last Resort Supply Payment claim process**

This letter is to set out and invite comment on our two proposals relating to claims by Suppliers of Last Resort (SoLRs) for Last Resort Supply Payments ("LRSPs", often referred to as a 'levy claim').

We propose to end the temporary multiple claim process<sup>1</sup> for SoLRs claiming for LRSPs and revert to the 'single claim' process as used prior to autumn/winter 2021.

Separately we are also proposing to introduce the requirement for all LRSP claims to be internally audited by the SoLR prior to their submission to Ofgem. This additional measure was introduced as part of the temporary multiple-claim process.

#### **Proposal 1: Ending the Temporary Multiple Claims Process**

We introduced the temporary multiple claim process in autumn 2021<sup>2</sup> to ensure that the SoLR process could continue to protect consumers through challenging market conditions. This process reduced the time taken for SoLRs to submit claims, for us to make decisions on those claims, and for SoLRs to recover costs through LRSPs.

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<sup>1</sup> The temporary multiple-claim process involves an initial claim followed later by a true-up. The initial claim, submitted in the period immediately after appointment as a SoLR, was primarily for significant unrecoverable energy costs. The true-up, submitted at a later stage, included requests to claim for other cost categories, in addition to any further wholesale costs incurred that had not been included in the initial claim.

<sup>2</sup> [Decision letter on supplier of last resort levy claims | Ofgem](#)

### *Why are we making this proposal now?*

In announcing our decision to introduce the multiple claim process,<sup>3</sup> we said we would communicate with industry when we considered it was no longer necessary. We subsequently stated in our policy decision on assessing true-up claims under this process that:

“We continue to see benefits in ending the temporary, multiple-claim, levy process as early as possible after winter 2022/23 in order to reduce the risk of overpayment and lessen the short-term impact of levy claims on energy bills. However, any decision to revert to the previous, single-claim, process will depend upon our assessment of the market conditions at the time.”<sup>4</sup>

### *Market conditions and Ofgem measures introduced*

Over summer 2021 wholesale prices began increasing, in contrast to the usual seasonal trend, doubling between April and August to over 100p/th and increasing further to 200p/th by the end of September. Later in 2021 and throughout 2022 there were very large price spikes and significant volatility. For example, in late August the price of month-ahead gas fell 157p/th day-on-day, and then rose by over 100p/th days later.

During this time, a large number of suppliers failed, meaning Ofgem had to manage a large number of SoLR processes in quick succession. The market dynamics at the time meant that any incoming SoLRs had to pay extremely high prices to purchase energy to serve their new customer base. They were not able to recover this cost through customer bills as the price was significantly above the price cap allowance, which meant that this cost represented a significant loss to the incoming SoLR. Our temporary process reduced the time taken to submit claims, and decide on those claims, which meant SoLRs could start recovering the cost incurred of being a SoLR more quickly. The majority of costs claimed in the initial period were for wholesale costs.

During 2023 so far prices have stabilised and started to decrease. They are now significantly lower, and less volatile, than they were when the policy was introduced<sup>5</sup> and

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<sup>3</sup> [Decision letter on supplier of last resort levy claims | Ofgem](#)

<sup>4</sup> [Decision on last resort levy claims true-up process | Ofgem](#)

<sup>5</sup> In autumn 2021, prices exceeded 300p/th and over 400p/th by late December. Prices peaked in August 2022 at over 800p/th. They have fallen throughout 2023 and in May were below 100p/th (for summer delivery) and 130-140p/th (for winter delivery onwards).

are currently below the price cap level. Due to the improved gas supply situation in Europe, we do not anticipate a return to the extreme price spikes seen previously. However, we will continue to monitor the wholesale market closely, as we are aware that the global gas market is likely to remain tight for the next two years and there could still be some increased volatility compared to historical levels.

We have also introduced measures to help stabilise the market:

- We have increased the frequency of the price cap adjustments to quarterly and introduced shorter lead times. This means that the allowances in the price cap adjust to reflect changes in gas and electricity costs more quickly<sup>6</sup>. Therefore, should there be a SoLR event, there is likely to be less of a differential between the price cap allowance that SoLRs can recover from customers and the wholesale price that SoLRs would have to pay to purchase energy on the day of becoming a SoLR. This should result in much lower (or no) wholesale cost claims, and less requirement to recover this so quickly.
- We have introduced measures to help prevent supplier failure and better withstand volatility in the market, including the establishment of an enhanced Financial Responsibility Principle<sup>7</sup> and extensions of the Market Stabilisation Charge and Ban on Acquisition-only Tariffs.<sup>8</sup>

Based on the above, we believe that market conditions have stabilised to the extent that the temporary multiple stage claims process is no longer required. Changes to the market since 2021 mean that any incoming SoLR would not incur losses on purchasing energy immediately and would not need to recover costs rapidly through LRSPs. Under these circumstances, we consider that it is now appropriate to revert to the previous single claim process. We will continue to monitor market conditions and will consider re-introducing a temporary multi-stage process again if we consider it necessary or appropriate.

#### *Future SoLR levy claims*

We propose to end the temporary multiple claim process on **31 August 2023**. Any new LRSP claims from **1 September 2023** will be processed by Ofgem using the previous

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<sup>6</sup> [Ofgem confirms changes to the price cap methodology and frequency ahead of new rate to be announced later this month | Ofgem](#)

<sup>7</sup> [Decision on Strengthening Financial Resilience | Ofgem](#)

<sup>8</sup> [Decision to extend the MSC and the BAT beyond 31 March 2023 | Ofgem](#)

single claim process, unless those claims are made under an existing True-up Agreement between the SoLR and Ofgem.

**Where a SoLR has a True-up Agreement with Ofgem, LRSP claims for costs to which that Agreement applies will continue to be processed in accordance with the temporary multiple claim process.**

We expect to return to a scenario where, if there is a requirement for a SoLR, suppliers make competitive bids where they waive some or all of their right to make claims on the levy. Ofgem’s considerations for appointing a SoLR, and our approach to assessing any subsequent levy claim, continue to be those set out in the SoLR guidance<sup>9</sup> and previously published policy statements which can be found on Ofgem’s website.

## **Proposal 2: Internal Audit Requirement for LRSP Claims**

If we decide to revert to the single claim process, we propose to require an independent audit to be provided with each LRSP claim submitted for Ofgem’s consent. This proposal would involve an independent audit being carried out with due rigour, in accordance with the policy we published in September 2022 following consultation on the multiple-stage claims.<sup>10</sup>

This requirement was introduced as part of the temporary multiple claim process. It provides assurance of the quality of evidence submitted in support of claims and assurance that the claims are accurate and limited to additional and otherwise unrecoverable costs incurred. We consider that adopting this requirement when reverting to the single claim process will provide better consumer protection within the SoLR levy process and ensure that Ofgem’s assessments of claims are as robust as possible. As the costs of LRSPs are ultimately borne by consumers on their bills, we believe that this is an appropriate and proportionate measure.

We would not expect SoLRs to commission an external audit. An internal audit, conducted in accordance with International Standard on Related Services 4400 (ISRS 4400) – Engagements to Perform Agreed-Upon Procedures Regarding Financial Information, signed by a company director or company secretary would be sufficient. We would only request an

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<sup>9</sup> [Supplier of Last Resort: Revised Guidance 2016 | Ofgem](#)

<sup>10</sup> [Last resort levy claims true-up process consultation | Ofgem](#)

external, independent audit if we have serious concerns about any part(s) of a SoLR's claim.

**I would welcome your thoughts on the proposals set out in this letter:**

- 1. to end the temporary multiple claim process and revert to the previous single claim process for Last Resort Supply Payment claims; and**
- 2. to introduce the requirement for SoLRs to undertake and submit an internal audit with all LRSP claims.**

**Please send any responses in writing by 06 July 2023.** I would also be happy to facilitate a working level discussion between relevant colleagues. We are committed to ensuring the SoLR arrangements can continue to operate effectively, in the interests of consumers.

Yours sincerely

**Melissa Giordano**

**Deputy Director, Retail Systems and Processes**