

Emailed to: NonDomesticRetailPolicy@ofgem.gov.uk

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Ofgem Call for Input on the Non-domestic gas and electricity market

Thank you for the opportunity to comment on Ofgem's Call for Input on the Non-domestic gas and electricity market. Our response includes our view firstly on extending market protections and then we have set out some of the common challenges we see in the non-domestic market.

Extending market protections

We believe there is now an opportunity to strengthen the market protections for non-domestic consumers. Set against the current economic pressures, we believe it's even more important that businesses trust their energy supplier and have confidence that they are being treated fairly.

We agree with other stakeholders that Small to Medium Sized Enterprises (SMEs) who fall outside of the microbusiness definition do find it difficult to engage with the market and may not have the time to deal with poor supplier behaviour through the courts. An article by Legal Futures in December 2022 that for small claims cases it took 51.2 weeks from issue to trial.

Equally, these businesses may also have disputes with Third Party Intermediaries (TPIs). We have worked with Ofgem, TPIs, energy suppliers and other stakeholders, as part of Ofgem's Microbusiness Strategic Review and put in place via the Energy Ombudsman free and timely redress for microbusinesses that have a complaint about a TPI. There may be merit in looking to extend this to SMEs.

We have been involved in the working groups that Ofgem has run and along with other stakeholders have identified these points. We know that SMEs and SME representative bodies would value and welcome greater protections for SMEs, including access to free and timely redress in the same way that domestic and microbusiness consumers do through the Energy Ombudsman.

A similar move was taken forward in the financial sector in 2019, where the Financial Conduct Authority (FCA) expanded its business definition (SMEs up to 50 employees) in April 2019 to enable more SMEs with a dispute to take their complaint to the Financial Ombudsman Service (FOS). An estimated 210,000 SMEs now have access to redress through the FOS.

We think there is an opportunity to build a more joined-up and consistent market for SMEs in terms of protections and helping them to get on with running successful businesses. For example, as well as redress provision in the financial sector, the Small Business Commissioner can help SMEs up to 50 employees and redress provision in the water sector helps businesses that are even larger than 50 employees. We think access to timely, free redress is critical for SMEs in essential service sectors, such as energy.

Challenges in the non-domestic market

In 2022, we helped nearly 6,000 non-domestic consumers resolve a dispute with their energy supplier. The problems that we see include:

- *Price increases on fixed term contracts.*
We have seen a number of non-domestic suppliers increased prices of fixed contracts which is something that doesn't happen with domestic consumers. Not all suppliers have done this. With the cost-of-living pressures and rising energy prices in general, it is impacting some non-domestic consumers.
- *Disputes over a switch onto a deemed contract*
We look at these disputes in relation to whether a non-domestic consumers has been inappropriately moved onto a deemed contract, rather than the contract itself.
- *Difficulties with Change of Tenancy (CoT) requests*
Non-domestic consumers have experienced delays with CoT requests, where the process has been made difficult or they have been pursued for debts incurred by a previous tenant.
- *Queries around whether the Energy Bills Relief Scheme (EBRS) benefit has been received.*
We have seen cases where non-domestic consumers are unclear as to whether they have received the EBRS benefit.
- *Domestic consumers being treated as non-domestic consumers.*
In this cases we tend to see challenges for domestic consumers who inherit a non-domestic supply with delays in being moved to a domestic supplier. This can be the result of delays in changing the registration of a property or blocking a transfer request. The consumer is then charged on a higher rate. Domestic consumers can also miss out on certain tariffs and protections due to the meter configuration of a premises. This issues arises in cases where there is **multiple occupancy (with both non-domestic and domestic occupants) supplied by one main meter**, but billed by sub-meters. This means there are domestic consumers exposed to non-domestic rates without a price cap.

Please do not hesitate to contact us if you would like further information regarding our response. Our response is not confidential.

For more information regarding this consultation please contact:

David Pilling
Senior Leader – Policy and Public Affairs
t: 07842 317974
e: dpilling@ombudsman-services.org