

31 May 2023

Jemma Baker
Deputy Director
Future Retail Markets
Ofgem
10 South Colonnade
Canary Wharf
London E14 4PU

Email: regulatoryaffairs@utilita.co.uk

Dear Jemma

Re: Policy Consultation on framework for consumer standards and actions to address priority customer service issues

We write in relation to the above Policy Consultation.

We are broadly in support of Ofgem's proposals to introduce a consistent and transparent framework for consumer standards. Using a minimum acceptable level for the customer service standards framework, will ensure that all customers, especially those who are in vulnerable circumstances, are treated consistently, regardless of the supplier they are with. The framework will also provide a certain level of service that customers can expect from their supplier and a right of recourse for services that fall short of this.

However, any proposed new standards should be set at a minimum level, so that suppliers can still compete on service where they choose to go above and beyond the minimum.

While we understand the time constraints faced by the industry with introducing a framework before next Winter, we urge caution on any knee jerk reaction to perceived customer detriment. It is important to guard against introducing well-intentioned (but ill-conceived) standards, that may ultimately drive poor behaviour and result in increased costs to consumers.

Most importantly, any proposals for consumer standards must be cost-effective. The solution to the cost-of-living crisis is **not** to add additional costs that are borne by suppliers which will ultimately feed into an adjustment in the price caps and thus higher costs to consumers through increased bills.

It is critical to the success of any new customer outcomes that that they provide real benefit to consumers in the most cost-efficient way. It is important to note that additional standards such as those proposed will mean that suppliers' costs – however efficient – will increase, so it is vital to complete a properly quantified, robust Impact Assessment (IA) to ensure that value for money is achieved.

For example, while most consumers may support a proposal to have suppliers open 24/7 (as it would be marginally more convenient), would they be equally in favour of this proposal where it would ultimately increase the price they pay for their energy supply, since suppliers will ultimately fund this service level under the price caps? The costs of such service provision across all suppliers will need to be assessed and then included within the operating costs for suppliers.

In establishing the needs of consumers, Ofgem has relied upon Social Obligations Reporting (SOR) data, a weighted scoring system from a third party and data from consumer surveys. The SOR data on arrears and repayments is an **unreliable measure of debt in the market** and we ask that Ofgem establish the true consumer debt levels before identifying the potential for customer harm or measures needed to remedy it. This would naturally take place as part of the IA we request above.

It is worth noting that, outside of price cap setting purposes, Ofgem have not requested data on consumer debt levels, including any changes in consumer debt during the recent cost-of-living crisis or in relation to suppliers adhering to the voluntary code of practice on prepay.

It is important that all available data is utilised in making policy, and not just one set of SOR data (which is an underrepresentation of what is happening in practice, for example, Direct Debit customers are only counted as having an arrears where they have defaulted on payment, instead of having a Direct Debit set up below forecasted consumption). However, before adding to existing reporting obligations, Ofgem should consider a total review of operational reporting requirements against the aims of monitoring overall consumer standards.

In addition to these key points, it is important to recognise that many customers do not respond to supplier attempts to reach out to them. While we agree that suppliers must offer early, effective and empathetic support, tailored to customer needs, it is also reasonable for suppliers to expect customers to pay for their energy and to engage responsibly with their supplier when they are in difficulty.

Ease of contact (or lack of) reported in the customer surveys, must be underpinned by evidence and appropriate assessment. Ofgem must establish the root cause of the customers' discontent reported within the survey, to be able to determine what issue we are collectively trying to solve. With the Government customer support being withdrawn and increasing levels of bad debt accruing, it is likely that this year will be even more challenging to support customers. Even where suppliers' increase their customer service levels this winter, it may appear that service levels are falling due to an increase in demand and longer call handling times. The use of data here will be critical to examining the success of such initiatives, suppliers should be monitored based on the contact volumes served, not based on call wait times (which can be artificially manipulated).

Where double the number of contacts is being attempted there will be an inevitable increase in pressure on standard contact routes (e.g. phone). Suppliers are successfully signposting customers to other routes of contact (such as web chat/app for example) to improve customer outcomes, and many customers engage with these routes very successfully. As previously stated, we are in favour of a set of customer standards that hold suppliers to account, but a blunt tool with little or no nuancing will not deliver the outcomes required.

We propose that as part of the IA, Ofgem should conduct some quantitative assessments of the types and profiles of services required. For example, there is no consumer value in a requirement for 24/7 webchat if customers do not need this after 22:00 hours. In the case of a late-night emergency, we suspect customers are more likely to use an emergency phone line, not a webchat.

The current proposed approaches are too broadly defined, and as a result are likely to lead to poor value-for-money outcomes. A better set of outcomes will be achieved by a more detailed understanding of what customers need and want, an assessment of the efficient cost of provision of the standard service agreed and adequate funding from implementation. The price cap currently does not allow for the costs of the type of service provision described. It therefore seems likely that this needs to be a two-stage process of a limited subset of immediate improvements, followed by the remainder of the broader defined suite as funded.

Equally, not all customers' needs are the same, and the effectiveness of opening hours and ease of contact will be measured differently among different customer types. For example, a smart prepay customer who benefits from extensive Friendly Credit hours and uses a mobile app to top up and access Additional Support Credit, without ever needing to pick up the phone, will not require extended opening times. This will be very different to a traditional prepay customer who doesn't have access to self-serve options and needs supplier help to stay on supply. A one size-fits-all approach to standards will not achieve the aims.

The customer survey does not take into account the self-help that suppliers offer customers, such as YouTube videos, Website Chatbot facilities and self-serve options via mobile apps. For example, our mobile app allows customers to request and immediately receive Additional Support Credit, 24/7 Top Ups, energy efficiency advice and Savings services. These are all tangible and significant (and growing) areas of customer interaction, enjoyed and supported by customers.

In addition, Utilita offers one of the longest opening times in the industry and is the only supplier to open on a Sunday. We also offer face-to-face customer support through our high-street hubs which are open across the UK. Ease of contact is therefore relative for each customer.

Last year, Ofgem shared the customer survey results on a supplier vs industry standard level, which we greatly valued as a tool to help us focus on particular areas of our own service for improvement, however this year's supplier level results have not been made available despite our repeated requests. We urge Ofgem to routinely provide a supplier specific report which can be used to understand where suppliers sit in relation to competitors. This simple measure will help suppliers to do better.

Using the Citizens Advice league table as it is currently constructed runs the very real risk of creating policy based on flawed and/or incomplete data. There are arbitrary weightings attached to the complaints metrics which unfairly affect the rating of any supplier with a disproportionate number of vulnerable customers requiring support.

The data is based on complaints made to third parties and does not use overall complaints received by suppliers. The complaints made to third parties cannot be challenged and can include customers who make an enquiry (not a complaint) to the third party without first giving their supplier the chance to help. For example, in our experience, we have external complaint cases being counted for tripped switches and boiler issues which are not the fault of Utilita. Complaints should be evaluated and compared based on resolution, and not simply counting how many are received.

Ofgem state in the consultation that suppliers carry out a lot of good practice, however we rarely see any recognition of this in Ofgem publications. Equally, Ofgem have sought a significant amount of information from suppliers in their latest round of Market Compliance Reviews and additional ad hoc Requests for Information. While the requests have required very short delivery times, suppliers may be waiting weeks or months for feedback. This has meant that a process which could have been mutually constructive has become burdensome and dysfunctional.

It is essential to promoting 'good consumer standards' that Ofgem use the information gathered from the various RFIs to publish anonymously (between suppliers or more broadly) any standard of good behaviour – so that suppliers can see what good looks like.

The consultation proposes the framework for consistent standards but has not been particularly forthcoming with how this would work in practice, and whether such a framework would be voluntary (like a code of practice or a best practice document) or mandatory within Licence. This brings into question how the framework would subsequently develop and how new rules could be added or rules updated when required. Where it is voluntary, the framework could be amended with little notice, without formal consultation and appropriate challenge; where it is in Licence, this would require formal consultation procedures and longer timelines, with room for industry feedback. Given the costs associated with these proposals, we suggest a fair lead time will be required along with consultation and effective governance of both the implementation and future changes.

It is unclear from the consultation whether the proposed consumer standards will also apply to non-domestic customers. On the one hand, Ofgem states that the consumer standards framework will "encompass both the domestic and the non-domestic markets", but then goes on to state that "any customer service issues for the non-domestic market will be considered as part of [Ofgem's] non-domestic market review". We believe the intention is for Ofgem to introduce the framework as an all-encompassing model to apply to both domestic and non-domestic suppliers and/or customers, but with a view to consulting on the standards for both markets, separately. We'd be grateful if Ofgem would confirm our understanding is correct.

We provide our comments to the consultation questions in our Appendix 1.

We hope this response has been helpful, and we would be happy to discuss our comments further in a bi-lateral with the Ofgem team, given our unique portfolio of customers.

Yours sincerely,

By email only

Faye Widdowson
Senior Regulatory Manager

Appendix 1.

Question 1: Do you agree with our assessment on what good looks like for the issues consumers are facing relating to the priority issues of contact ease and identification and support/advice for consumers struggling with their bills. Are there any issues missing?

We do not agree. Ofgem should complete a properly quantified, robust Impact Assessment (IA) to ensure that any proposals for a set of new standards achieve value for money and add real consumer benefit. The IA should encompass the suite of proposals Ofgem are looking to introduce and that those proposals are properly quantified and tested against the “do nothing” counterfactual.

The assessment for what “good looks like” in this section appears similar to what suppliers may already be doing. For example, offering suitable repayment plans, making proactive contact with customers, providing information about debt and offering support including signposting. These are all steps that suppliers will already be well versed in, and certainly will be undertaking following the Voluntary Prepayment Meter Code of Practice. Ofgem should allow time for the changes from the Code of Practice to embed before making further changes in this area.

Ofgem must establish the root cause of the customers’ discontent reported within the survey, to be able to determine what issue we are collectively trying to solve. The question of what good looks like will naturally stem from that, since it will result in more targeted requirements.

For example, customers reporting difficulty with ease of contact:

- is this because they can’t find the contact information from suppliers’ communications, from their website or other materials; or
- is it that the customer can easily find this information but has difficulty in getting through on the contact methods provided?

If the latter, what times does the customer usually call in? Have they tried on multiple attempts or just a single occasion? Do they report issues with ease of contact due to not getting swift replies to written communication? There are so many motivations behind the answer to that simple survey question. Only by really understanding customer feedback can actual issues be tackled.

This issue is equally applicable to the customers reportedly feeling that they do not get timely support from their supplier. Suppliers will have robust processes in place to attempt to establish early communication with any customer where a payment has been missed. This will likely be in the form of a polite reminder letter, which will let the customer know that a payment has been missed and what they can do to remedy this, including talking to the supplier to explain their circumstances and agreeing a suitable affordable repayment arrangement. This reminder will also include signposting to charities who can assist if the customer feels unable to talk to their supplier. Suppliers are under an obligation to frequently provide advice and information for customers struggling with their energy bills through various licence obligations.

To target actual consumer issues and produce standards that will drive up good consumer outcomes, it is vital to understand the root causes that sit behind the customer answers. Without doing so it may risk the new proposed standards falling short of the key customer outcome(s) we are seeking to improve upon, and thus affect the measure of success of that standard in later surveys.

In its assessment of what good looks like, Ofgem has failed to acknowledge a key challenge for both suppliers and consumers: that customers experiencing payment difficulties may not wish to speak to their supplier, and may ignore the situation, hoping the situation will improve on its own. Without addressing the arrears, or potential arrears by engaging with suppliers, the debt will continue to spiral. A tailored arrangement to pay will **only** work where the customer engages with their supplier. The recent unchecked media scrutiny of suppliers can serve to deter customers from reaching out to suppliers for help.

We would welcome any opportunities to work with Ofgem and consumer bodies to assure customers that suppliers are genuinely wanting to help their customers.

Additionally, Ofgem have yet to properly acknowledge the cost-of-living crisis in this consultation and the direct correlation to many if not all of the areas addressed. Suppliers have faced unprecedented volumes of customer contact in recent years, many of the contacts result from questions about the government schemes (EBSS, EBRs, AFP, NDAFP, EPG) that have utilised the supplier as the vehicle to deliver these Government schemes.

The cost-of-living crisis has resulted in more customers that cannot afford to pay for their ongoing consumption, and thus are accruing arrears. Although an Arrangement to Pay (ATP) may address the arrears, it will not always account for the ongoing consumption, which still needs to be paid for otherwise the debt will continue to grow (even with an ATP in place).

Ofgem cannot solve the wider economic issues which impact on energy suppliers and customers, but it is critical that Ofgem acknowledges that the far-reaching consequences of the economic climate are the **single biggest** contributor to the issues under consideration, and factors them into the IA.

Question 2: Do you have any views on potential options to address priority issues and do you agree with the extra requirements we are proposing?

We do **not** agree that suppliers should provide freephone telephone numbers to all customers as this will drive up costs. The costs need to be accounted for in a formal IA. We believe suppliers should offer a freephone telephone number to customers who are in vulnerable circumstances. This is something suppliers already do under Energy UK's Vulnerability Commitment.

Providing tailored repayment plans at the earliest opportunity will not add any new significant benefit. As explained in Question 1, suppliers already do this.

We are in agreement that contact information should be easily locatable and contact methods should extend to such mediums as webchat, social media and email. We also agree that suppliers should provide contact methods in line with accessibility, such as translation services and telecons for deaf customers.

We do not agree that requiring suppliers to simply extend the opening hours on a blanket basis for customer contact will solve the reported customer issues. We refer Ofgem back to our response in Question 1 and our comments in the covering letter where we suggest that a root cause analysis, supported by an IA should be conducted to determine a standard that will add value to the customer experience. After the root cause of the reported issues is determined, any proposals for new standards should be consumer tested to determine if the standard meets their need.

Most importantly, any proposals for consumer standards must be cost-effective. The solution to the cost-of-living crisis is not to add additional costs that are borne by suppliers which will ultimately feed into an adjustment in the price caps and thus higher costs to consumers through increased bills.

We are confused with the option 1 and option 2 approach to addressing the contact ease issue. The only difference we see between the options is whether suppliers should open between 7am-10pm Monday to Sunday or 24hours, 7 days a week. All other requirements are exactly the same.

We do **not agree** with either of the blanket extended opening times for the following practical reasons:

1. There will be a limited pool of resources that can genuinely assist a customer during these extended times. For example, a problem with the meter will likely need an engineer visit and the Guaranteed Standards operate to "working hours" under the regulation which means that any customer issue experienced after 8pm will not, by regulation, require an engineer until after 8am the next working day.

2. Suppliers offer emergency credit and friendly credit hours to prepay customers during the evening hours, which means no customer will face an off-supply issue as a result of an inability to be able to top up until the next working day. We do not see any other customer issue that is so urgent that they cannot be answered, and resolved, in the morning. There is little or no evidence of customer concerns or complaints about the absence of extended office hours until 22:00.

Ofgem should determine the motivations for requiring an out of hours service before suggesting this as a proposal. There is a lot of overlap between suppliers and the DNOs during the unsocial hours which needs better signposting and educating customers on who looks after which part (for example, 105 for power cuts). The quality of signposting and educating customers can increase customer satisfaction solely by customers being better informed about who to call so they do not feel passed around.

Suppliers are best placed to determine the needs of their customers, which can be different depending on the customers they choose to serve and the areas that they specialise in (for example, as a predominantly smart prepay provider to over 800,000 customers, we tailor our services to the needs of our prepay customers). We do so by providing the longest opening times in the industry, and we are the **only supplier** to open our call centre on a Sunday. However, Utilita cannot be compared to a new entrant that serves only 20,000 direct debit or pay on receipt of bill customers – the needs and urgency of the issues experienced by these customers will be vastly different to prepay customer needs, and applying one unified set of opening times across the industry will be disproportionate and unnecessary.

If introducing new standards, Ofgem need to ensure that competition based on service can still exist in the market. Where the price caps have removed price-based switching in recent years, and where Ofgem have recently prohibited suppliers' ability to incentivise sales (through the *Tariff Appropriateness Open Letter*, dated 31 March 2023), there is little other incentive for customers to switch suppliers.

In previous enforcement activity, Ofgem has utilised its powers to mandate suppliers to open longer to ensure customers can contact their supplier. We see no reason why Ofgem cannot continue to do this where there is clear customer demand for the service. This can be easily tracked through the contact data Ofgem is seeking to collect through the calls offered, and any calls made 'out of hours' metrics.

Question 3: Do you have any evidence that suggests that we should be considering additional and/or different rules beyond what we have proposed?

Ofgem should consider a minimum standard of service for customers to allow suppliers to compete on service where they choose to go above and beyond the minimum. We do not agree with the proposed standards as set out in the consultation.

The consultation itself is not clear and it has been exceedingly difficult to determine exactly what is being proposed as rules.

This has made the specific questions difficult to answer. We have attempted to provide comment on the main proposals in our other responses to the questions and through the context outlined in our covering letter.

Question 4: Do you agree with our proposed approach of introducing reputational incentives in our priority areas?

We agree that reputational incentives can provide healthy competition between suppliers and visible positive outcomes for consumers. However, reputational incentives need to be carefully considered and balanced, focusing on praising good supplier behaviour, rather than penalising bad behaviour.

We strongly disagree that the proposal for suppliers to display details of website hyperlinks to customer service data from third parties alone will accomplish the outcome of reputational standings that consumers can confidently rely on.

This reason is two-fold; the Citizens Advice League Table has been in effect for approximately five years and up until recently, each quarter's results were widely published and received a lot of media attention – the negative press attention for those suppliers at the bottom of the table were enough for suppliers to want to drive up standards.

A hyperlink on a suppliers' website will not add more of an incentive than negative press attention and is therefore an unnecessary requirement.

Secondly, the league table complaints scores are based on an arbitrary weighting system, with more vulnerable customer cases receiving a higher score than a non-vulnerable advice cases. This means that suppliers with a larger proportion of vulnerable customers will get lower scores and appear to provide a poor service, when in fact their specialism in serving vulnerable customers would see the needs of this demographic better met within that specialist supplier.

Should Ofgem seek to introduce this proposal, we would require that suppliers are able to offer a choice/range of supplier performance comparisons, such as TrustPilot and Which? to provide a balanced view of supplier performance across a range of metrics.

Ofgem can do more with the existing rules to bring together a raft of metrics to drive up supplier performance. Suppliers are mandated to publish metrics such as complaints handling and Guaranteed Standards performance on their websites. These are often in obscure places on supplier websites which make it difficult for a customer to see a full picture of supplier performance. Perhaps Ofgem can suggest a "supplier performance" webpage which brings together all, existing mandated, published reports, in addition to any new metrics (such as call waiting times, written response times, time spent in IVR, hold times during calls etc.) together with links to third party comparisons, so that it is easier for customers to make informed choices.

Question 5: Do you agree with what we have set out in the assessment chapter? Please provide supporting evidence with your views. For evidence regarding additional costs, please provide quantitative data.

The assessment chapter has been vague as to the significant increased costs that will be faced by suppliers, and ultimately by consumers. While there is an acknowledgement that there will be a financial burden for suppliers "in relation to an increase in customer call representatives", Ofgem has not attempted to address how the increased costs to suppliers will be funded.

Ofgem should quantify the new proposals with actual costs through a formal IA. The benefits to consumers need to have real and enduring positive outcomes in the most cost-effective way possible. Ofgem should conduct some quantitative assessments of the type and profiles of services required because currently, the proposals are too broadly defined.

We do not currently see how the proposals achieve Ofgem's aims to protect consumers and promote competition. The increase in supplier costs will ultimately have a bearing on the price cap and increasing bill costs to satisfy an unidentified problem is not good for consumers.

Not only will suppliers need to fund additional resource, but the salary costs will need to account for the premium of working unsocial hours. There will also be increased costs of keeping office buildings open to staff at all hours.

The best way to solve affordability issues (which mainly drive the need for contact) is to keep bills low. Paying more staff to answer more calls about more expensive bills as a result of employing more staff is not a sound proposition.

Question 6: Using the list of prospective data items we present in the monitoring chapter as a guide, what other additional data items could we aim to collect and from what data sources? Do you consider there are any challenges you may face when collecting/providing these? If so, please provide any supporting evidence you have.

We would encourage Ofgem to conduct a review of the requests that are already in place for suppliers and determine whether a consolidation of the requests can be achieved in order to maximise the efficiency in which suppliers can turn around requests and for Ofgem to review them.

We would like Ofgem to consider the relevance of some of the questions within the Social Obligations Report to narrow down the focus on data that is generally useful. It will also be critical to ensure that definitions are consistent across reports, clear, unambiguous and subject to robust governance and notice (plus minimum lead time) for all changes.

Before introducing Option 1 or Option 2 in the ease of contact proposals, Ofgem should firstly consider whether there is an actual need for extended opening times by seeking data from suppliers for demand outside of hours. This needs to be reported on for at least two quarters, which should include a summer and winter period to determine how seasonality affects consumer demand. It then needs a robust IA.

The current structure of supplier reporting to Ofgem to monitor consumer outcomes is not fit for purpose.

Adding more requests will not resolve the underlying flaws. Old Requests for Information which were designed and implemented for historic market conditions have rarely been reviewed to account for the rapidly changing market conditions and environment. Instead, Ofgem has added to the existing questions in a piecemeal fashion, creating a series of overlapping requests that are difficult for Ofgem to reconcile due to nuances in question structure (e.g. dual fuel data not equating to combined single fuel data). This creates ongoing engagement where suppliers need to provide context and information on operations and systems to different Ofgem teams on an ad hoc and often repetitive basis.

Before increasing reporting requests by supplementing existing reporting, Ofgem should consider a total review of operational reporting requirements against the aims of monitoring overall consumer standards. Ofgem should also consider how it can best align requests for information between DESNZ and Citizens Advice, so that data can be provided from a single data lake that is populated by suppliers at a frequency that is agreed beforehand.

For the existing data items available, we would strongly urge Ofgem to reconsider the definitions of 'arrears' and 'repayment plan' to adequately capture the position of most customers struggling to pay their bills, including customers making regular direct debit payments that do not cover their usage. This is not currently visible to Ofgem.

Consumer surveys should include more fact-based questions to allow the sentiments of consumers to be considered in light of supplier operations. Consumer perception of the energy market is driven by a number of factors outside of supplier control and it is important that frustrations with market conditions are not identified as supplier performance failures.

For the prospective data items, the focus should be on consumer outcomes more than supplier processes. For example, measuring training levels does not indicate whether training is being properly implemented and the number of customers using a supplier's grant funds does not account for whether the grant met the customers' needs or reason for contact.

An overhauled reporting structure focusing on key metrics for customer service, customer satisfaction, complaints handling, and debt practices would streamline the processes for both Ofgem and suppliers and allow for prompt identification and resolution of falling standards. We would also encourage Ofgem to centralise operational reporting within Ofgem teams to allow for better engagement with suppliers and allow for a cohesive picture to be created and decrease the repetitions of follow-ups.

Question 7: Do you have any comments on the factors that should be considered in determining whether to use principle-based or rule-based approach to setting standards?

We disagree with any proposals to introduce rule-based approaches to setting standards that create financial penalties when not met. Although setting arbitrary KPIs or SLAs for suppliers will be easily measurable, it risks creating perverse behavioural responses. Principles will almost always be better than rules, by following a principle, the measure is an outcome, rather than a rule-based KPI which be gamed.

For example, a KPI that reduces call wait times can be arbitrarily obfuscated by behaviour that will answer calls quickly, but place customers in departmental queues or call back lists. Quality service that truly meets consumer need cannot be measured on KPIs alone.

Rules-based KPIs will also risk penalising suppliers where exceptional circumstances occur that are beyond the control of the supplier (such as severe weather conditions or network outages which causes surges in customer demand).

There should be a minimum set of standards that are easily achievable by all business models.

Question 8: Do you agree with our early view of reputational-based incentive options for winter 2023 and the potential incentive options for development over the longer term? Please provide explanations to support your responses.

We agree that reputational-based incentives, if used properly and are balanced, will drive up service standards and will benefit competition. However, Ofgem need to remove the current obstacles to effective competition, including a standardised price cap and removal of selling incentives.

Incentives should be based on positive metrics and Ofgem should engage with suppliers to determine the main drivers for their own standards; for example, what metrics do suppliers want to compete on? What does a supplier think they are really good at and want to be measured upon? What are the main attributes they see in other suppliers that they want to be better at? By focusing on real supplier motivations, it will achieve huge strides in driving up standards much more effectively than penalizing suppliers who are seen as performing poorly.